



# THE NAIROBI SPECIAL HOUSING FUND

Identifying Opportunities, Unlocking  
Informality and Leveraging Assets to  
Create Sustainable Housing for Nairobi's  
Majority Population

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## 1. INTRODUCTION

The Mukuru Kwa Njenga and Mukuru Kwa Reuben informal settlements occupy 525 acres of land, which are informally valued at approximately Kshs. 45 billion. Mukuru has approximately 138,000 households who pay approximately Kshs. 3.4 billion for rent, Kshs. 596 million for water and Ksh. 255 million for electricity every year. Over the next 15 years, over Kshs. 89.09 billion will be paid by slum-dwellers to informal service-providers for low-quality and high-cost services. This situation is replicated in almost all informal settlements within the city of Nairobi.

The following concept note on the Nairobi Special Housing Fund is intended to explore the possibilities of unlocking the above funds and leveraging on current legal, financial, technical and institutional linkages, so as to establish sustainable low-cost housing and mortgage products for the urban poor.

### 1.1. Policy Openings and Persistent Challenges in Housing for Kenya's Urban Poor

**African cities' vital need for affordable housing has begun generating innovative financing strategies and greater policy attention, but pro-poor housing finance has remained elusive.**

Africa is the world's fastest-urbanizing continent, and expanding access to housing will be crucial to Kenyan and other urban areas seeking to ensure sustainable growth. The majority of Africans will live in urban areas by 2030, and over 60% of African city-dwellers now reside in informal settlements (UN-Habitat 2010a). To date, mortgages are scarce and have only benefited high-income households, excluding the urban poor majority. In African nations, the number of mortgages "is rarely more than a few thousand" and loans are "often limited to the wealthiest segment of the population" (Walley 2013: 113). For instance, Tanzania's mortgage market totalled just 2,784 in December 2013 and Kenya's was 19,879 (CAHF 2014: 2).<sup>1</sup> While Kenyan mortgages have increased from 18,587 in 2012, the Central Bank reported that outstanding mortgage loans represented just 3.53% of GDP in 2013.<sup>2</sup> In response, a wider array of initiatives by banks, micro-finance institutions, and government agencies have emerged in order to promote affordable housing finance (World Bank 2011, also below). Addressing the stubborn obstacles to low-income housing finance will still require more equitable and creative strategies, including new funding opportunities at the County Government level.

**The Constitution and recent policies have all recognized the importance of affordable housing and its key role in promoting sustainable economic transformation in Kenyan cities.** The Kenyan Constitution expressly provides for the right to "accessible and adequate housing, and to reasonable standards of sanitation" in article 43(1)(b). Additionally, the Second Medium-Term Plan (MTP) has embraced the Sustainable Development Goals, including the elimination of extreme poverty and hunger and making cities productive and environmentally sustainable

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<sup>1</sup>In the Global South more generally, "mortgage finance as a share of GDP has remained negligible," at less than 1% of GDP, and "in most sub-Saharan African countries, less than 1,000 mortgages are originated each year" (Ferguson *et al.* 2014: 43 and 45).

<sup>2</sup>For Kenyan data from the Housing Finance Information Network (HOFINET), see [www.hofinet.org/countries/country.aspx?regionID=8&id=86](http://www.hofinet.org/countries/country.aspx?regionID=8&id=86)

(GoK 2013: 6). In the Jubilee Coalition's Manifesto, pledges are made to offer lower mortgage rates and micro-finance loans for new home construction targeted to low-income Kenyans (CAHF 2014). The Manifesto also encouraged the establishment of local housing co-operatives and savings unions to enhance access to credit.<sup>3</sup> Counties are required to formulate 5-year housing plan proposals that ensure adequate homes are built in their area, with an audit follow-up, and these will be funded by grants from the local CIF and National Housing Corporation (*ibid.*). Finally, the Nairobi Metro 2030 Strategy paper states that housing represents a key element in improving not only the quality of life in the region, but also a major component of its economic growth plan. The latter is significant given the multiplier effects of investing in housing: according to Nairobi Metro 2030, every Kenyan shilling invested in housing yields *nine more shillings*.<sup>4</sup>

**Underscoring these commitments to pro-poor urbanization, Kenya's Vision 2030 and Nairobi's master plan similarly support affordable housing, youth employment, and inclusive urban development.** Drafted in 2014, the Integrated Urban Development Master Plan for Nairobi (NIUPLAN) includes the objective of "enhancing quality of life and inclusiveness in the region" through improved housing and addressing challenges in informal settlements (JICA *et al.* 2014: 125). NIUPLAN recognizes the need for improved infrastructure provision and supports Vision 2030, when Kenya is projected to emerge as a middle-income nation. As part of the Social Pillar of Vision 2030, GoK prioritized housing and urbanization, sanitation and health, labor and employment, and youth, including the key target of producing 200,000 houses annually by 2012.<sup>5</sup> To this end, two flagship projects are proposed: 1) creating a housing development initiative to increase annual production of adequate housing, emphasizing equity in access and beginning with low-income housing; and 2) a mortgage finance initiative establishing a national housing fund while introducing housing and infrastructure bonds. The Second MTP affirmed the goal of raising housing production to 200,000 units per annum, alongside improving the livelihoods of 1 million slum-dwellers under KENSUP and KISIP (GoK 2013: 168). In particular, the construction and building sectors will benefit from infrastructure projects; related strategies also aim to combat youth unemployment and improve skills training (*ibid.*, pp. 11 and 92). Thus, affordable shelter construction can simultaneously promote the housing, infrastructure, and employment objectives contained in Vision 2030 and NIUPLAN, as well as advancing the Constitutional guarantees to adequate housing and other fundamental human rights.

**But in spite of these supportive policies and ongoing devolution reforms, there are few examples of affordable housing funds and resources for slum upgrading at the urban level.** Shelter funding is still allocated overwhelmingly to national agencies like the National Housing Corporation, while the 2013-4 budget made "no attempt to allocate any funding for housing

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<sup>3</sup> See *The Harmonized Jubilee Coalition Manifesto: Agenda for Kenya 2013–2017 and Beyond*, pg. 61

<sup>4</sup>Nairobi Metro 2030 Strategy, quoted in Von Noppen 2013, page 7.

<sup>5</sup>For the relevant targets and strategies, see <http://www.vision2030.go.ke/index.php/pillars/index/social>

delivery at the devolved levels" (Hakijamii 2013: 13). Resources for housing are already insufficient and projected to decrease over time, according to this recent report.<sup>6</sup>

**Thus, existing funds for housing and slum upgrading will decline in the coming years, even in the face of rapid urbanization and proliferation of informal settlements in Kenya.** Other challenges include the lack of appropriate incentives and scarce affordable housing units constructed in Nairobi.

The strategic plan for the National Housing Corporation (NHC) has targets of directly developing 2,000 housing units annually and another 22,000 units via partnerships or facilitation, yet these houses are "considered unaffordable for the poor" and are usually located on the outskirts of Nairobi, Thika, or Kitengela (Hendriks 2014: 374). In 2013, Nairobi's City Council approved just 15,337 new homes, comprising 13,914 apartments, 795 semi-detached houses, and 628 detached houses (CAHF 2014: 88). Furthermore, the draft Housing Act of 2011 does not require private developers to provide social housing, missing a key opportunity to promote affordable shelter (Hendriks 2014: 377). In the absence of supportive interventions, Nairobi has suffered from a lack of affordable units and highly inaccessible mortgage finance. The minimum annual income to receive a Kenyan mortgage in 2011 was Ksh. 1.28 million or \$15,823, and just 8% of the urban population had sufficient earnings to afford a mortgage loan on the cheapest available property (World Bank 2011: 12).<sup>7</sup> The cheapest housing options in Nairobi would be as much as \$11,170 for a 16m<sup>2</sup> bedsitter, while a two-bedroom house would be at least \$33,500 (CAHF 2014: 88).

Not only are such units unaffordable to the poor, but most of Nairobi's residential construction has targeted wealthy households, leaving insufficient supply of low-income housing where the needs are most urgent (*ibid.*) **Developing affordable shelter for the urban poor, and thereby realizing the Constitutional right to housing, will require new forms of pro-poor shelter finance and supportive policies at the urban level.**

**This paper argues for a County-level affordable housing fund that can benefit residents of informal settlements, helping to fulfill the promise of the Constitution and key urban policy priorities. Moreover, recent findings from Mukuru are utilized to illustrate how such a fund can amplify the significant resources already present in Nairobi's informal settlements.** We begin by reviewing Nairobi's acute need for affordable shelter and proliferating informal settlements; local government's pivotal role in promoting affordable housing; and recent initiatives that have promoted access to shelter in African cities. Although we acknowledge the multiple challenges in reaching the urban poor, we still note the encouraging precedents of Moroccan and Ethiopian housing interventions (see also appendix). Finally, we offer legal, financial, and

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<sup>6</sup> In 2013-14, governmental allocations to the Ministry of Lands Housing and Urban Development (MOLHUD) were just 0.18% of the total budget (Hakijamii 2013: 3). MOLHUD's Slum Upgrading and Housing Development program was allocated Ksh. 3.435 billion for 2013-14, but its funding will fall by 39% to Ksh. 2.111 billion in 2014-15 and Ksh. 2.133 billion in 2015-16 (*ibid.*, p. 25).

<sup>7</sup> "[It] is assumed that the mortgage is a regular amortizing, monthly repayment loan. [For] a loan of Ksh 3.2 million would mean 180 monthly installments of Ksh. 42,615, equivalent to \$527. Based on a 40% payment to income, it implies a minimum annual income of Ksh 1.28 million or \$15,823. In addition, any prospective borrower would require the down payment to purchase a property, as well as sufficient cash to cover taxes, stamp duty and fees which can be as much as 10% of the property value" (World Bank 2011: 12).

institutional proposals for a pro-poor housing fund in Nairobi, drawing upon recent data from Mukuru kwa Reuben and kwa Njenga (AMT *et al.* 2014, also below). We argue that Mukuru's residents often suffer from a *poverty penalty* of low-quality, high-cost housing and infrastructure compared to wealthier citizens in Nairobi.

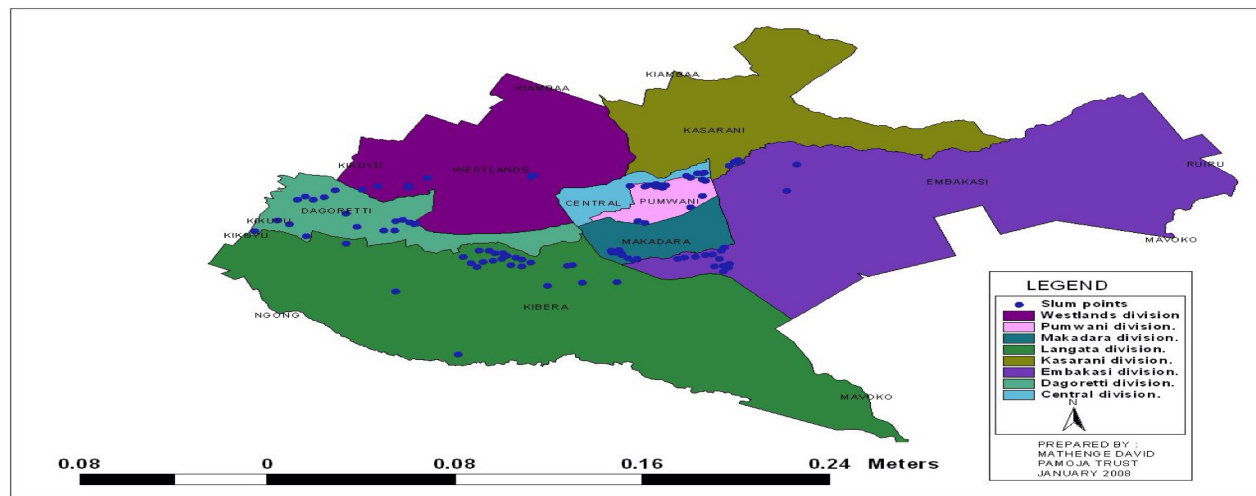
**But slum-dwellers can also represent a major consumer base: we argue that residents already pay considerable sums to informal providers and may be transformed into formal customers of housing or utilities providers in the future.** As analyzed below, the Constitution and ongoing devolution reforms can provide vital entry-points for offering innovative housing finance products at the County level. **By maximizing the emergent policy opportunities and latent resources in informal settlements, Nairobi's Special Housing Fund will be unusually capable of supporting affordable shelter. In turn, this housing fund can provide the foundation for more inclusive economic and social development policies in Kenyan cities.**



## 1.2. The Nairobi Context:

**Widespread Informal Settlements and Unmet Needs for Affordable Housing:** Expanding access to affordable shelter is particularly vital in Nairobi, with its extensive informal settlements and the limited focus upon housing the poor. Nairobi and other Kenyan cities face multiple challenges including “exceptionally high unemployment rates, overcrowding, and widespread – and acute – lack of access to basic services” (Ngau 2013: 9). Nearly 60% of Nairobi’s population lives in dense informal settlements, which occupy a total of just 5% of the land (Butcher and Frediani 2014, Mwangangi and Simiyu 2014). Nairobi has an estimated 158 informal settlements,<sup>8</sup> and these areas are home to over 1 million people (Pamoja Trust 2008). Estimates from KENSUP suggest that the greatest number of slums are located in Dagoretti, while Langata division “has the highest number of people living in informal settlements (42.36%) [And] informal settlements in Kasarani cover the largest land area” (Omwamo 2013).<sup>9</sup> Informal settlements are found across Nairobi (see Map 1 below) and although they are highly heterogeneous, many slums suffer from tenure insecurity as well as minimal housing and services. Over 90% of residents are tenants, who can only afford low-quality accommodation with meagre services (Gulyani *et al.* 2010, also below). Even as “urban centers will play a critical role in Kenya’s future,” existing urbanization patterns have led to “centers of destitution, rather than hubs of prosperity” (Ngau 2013: 13 and 18). Below we review key concerns in shelter provision for the urban poor and highlight the pressing need for expanding access to affordable housing in Nairobi.

### NAIROBI PROVINCE: DISTRIBUTION OF INFORMAL SETTLEMENTS



Map 1: Distribution of Nairobi’s slums by Division<sup>10</sup>

<sup>8</sup>Accurate data on African informal settlements are difficult to gather, and estimates are therefore highly contested. For instance, the estimated total of Nairobi’s slums varies from 158 settlements (see Pamoja Trust’s 2008 inventory and Muungano Support Trust’s 2014 inventory) to 206 settlements, as reported by KENSUP in 2012 (Omwamo 2013).

<sup>9</sup>However, given the difficulties regarding data collection in informal settlements (see footnote 7 above), we cannot definitively conclude which division of Nairobi has the most slums.

<sup>10</sup>Mathenge, David (2008). Nairobi Province: Distribution of Information Settlements. Pamoja Trust.

Basic services are extremely deficient in Nairobi's slums, leaving few households with adequate housing, sanitation, water, or electricity. Shelter in Nairobi's slums is usually 10-by-10-foot or 10-by-12-foot one-room shacks built of mud, iron sheets and other impermanent materials (Must, 2014; Mwangangi and Simiyu, 2014). Each of these tiny shacks is still home to 3-4 persons on average, often 2 adults and 1-2 children (APHRC 2014). According to the recent Nairobi Cross-Sectional Slums Survey (NCSS), the level of educational attainment in Nairobi's slums increased by almost 20% between 2000 and 2012 (APHRC 2014). Despite this increase in schooling, unemployment in informal settlements still remains extremely high; for instance, 50.7% of women living in slums are unemployed (*ibid.*).

With high rates of unemployment, these residents inevitably struggle to pay for their housing, basic services and daily needs. In Mukuru, residents spend about 31% of their income on rent, which ranges from Ksh. 1,500 and Ksh. 3,000 per month (AMT *et al.* 2014, see also below). Furthermore, most structures in informal settlements lack adequate basic services such as water, toilets, electricity, or garbage collection.

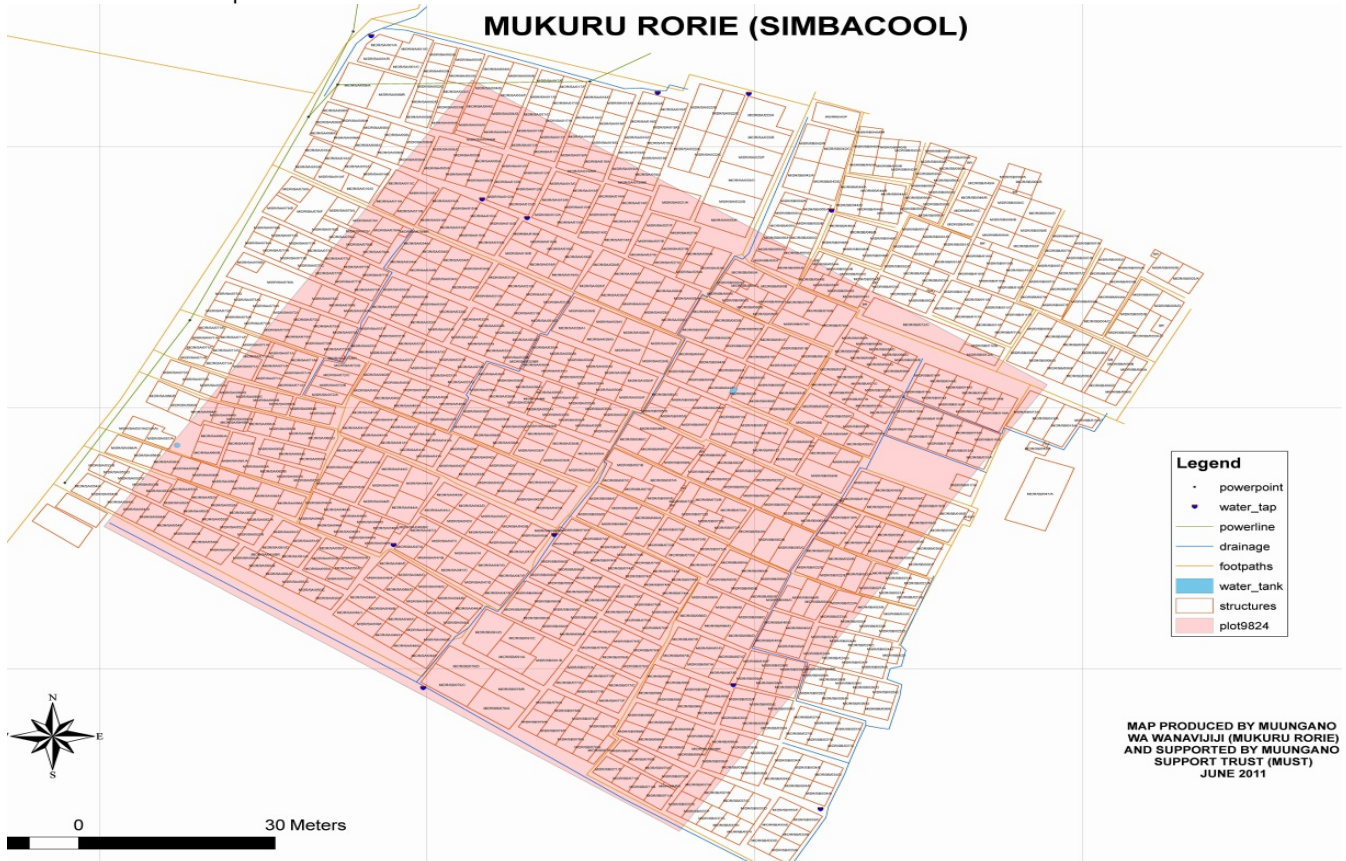
In 2012, the proportion of slum households with electricity was just 19.5% (presumably formal) and an estimated 28% of slum-dwellers in Nairobi had piped water in their residences, while 59.3% relied on public taps and another 11.4% must buy water (APHRC 2014: 14). Furthermore, the NCSS found that 44% of slum-dwellers rely upon traditional pit latrines, as against 3.3% with a ventilated pit latrine and 46% with a flush toilet (presumably a *public* flush toilet). These toilet facilities are often pay-per-use, costing between 2 to 5 shillings, leaving those who cannot afford these facilities (about 6% of the population) to openly defecate or use "flying toilets" (Gulyani and Talukdar, 2008).

However, perhaps the biggest concern for Nairobi's slum-dwellers is insecure land tenure and the resulting marginalisation from essential services, infrastructure, or urban governance processes. Nairobi has a long history of "land grabbing" where illegal land titles were selectively given to a select group of individuals for political gain (Dafe, 2009, Klopp 2000). This arbitrary grant of government land, without due consideration of the interests of the urban poor, has led to unprecedented levels of conflict and contestation over land rights in the city.

A 2014 inventory by Muungano wa Wanavijiji mapped the boundaries of 158 informal settlements in the city of Nairobi, establishing that settlements occupying approximately 1,777.4 acres had active contestations over the ownership of land. The contestations included court cases, eviction threats or attempts at demolition.

Typically, the main cause of conflict arose when title-holders attempted to obtain possession of lands that were already occupied by informal settlements. This dire situation is further aggravated by the extremely high population densities prevalent in most of the city's slums, where densities can be as high as 254 households per acre. Yet slums occupy a miniscule amount of the city's land.

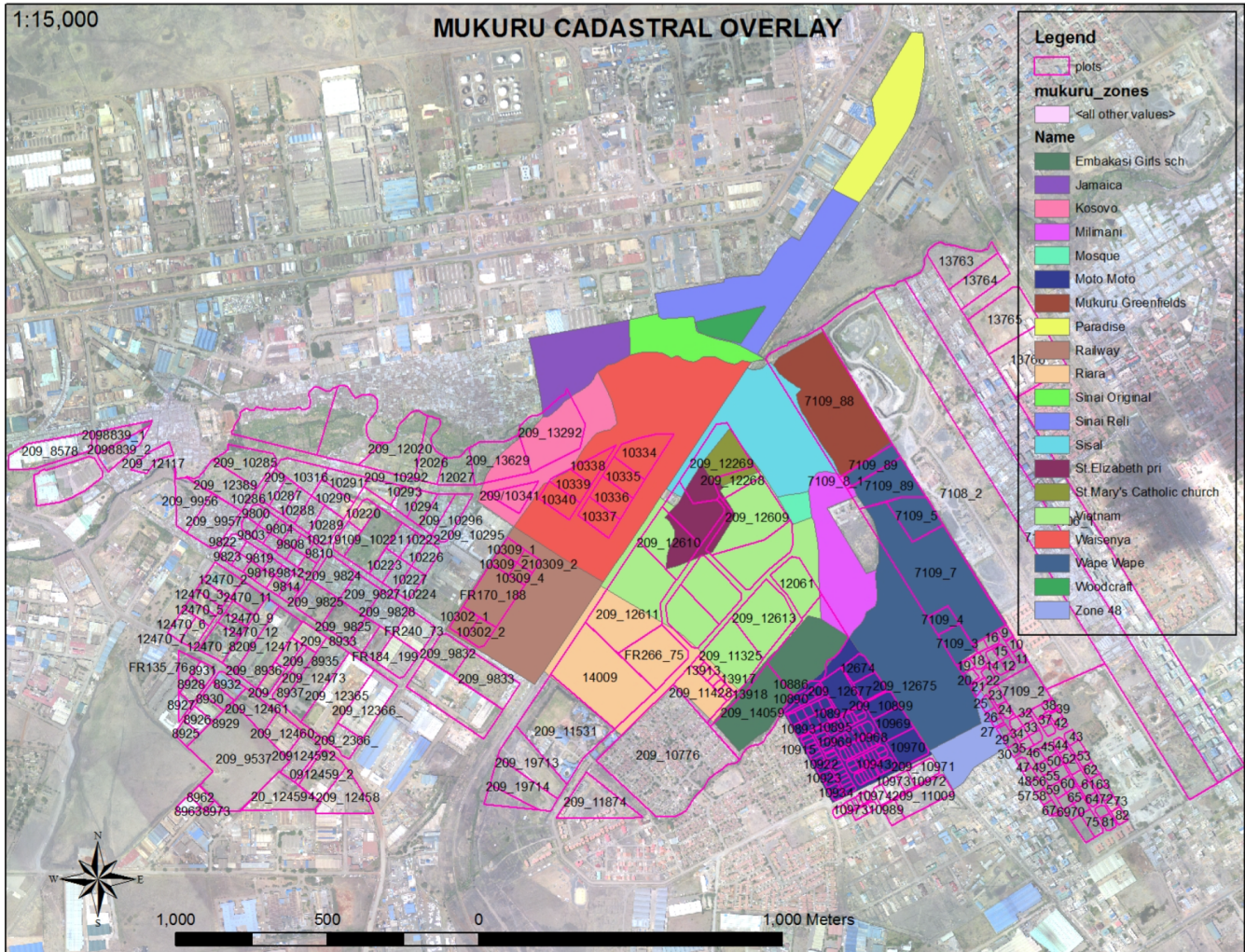
For instance, Lab & Allied is a 2.65-acre plot with 674 households in Mukuru. This is an organically-formed settlement, with a dendritic street layout and a density of approximately 254 households per acre.



Almost all of the city's informal settlements are situated on either public or private land, with a large majority of the settlements occupying private land. Most of the private lands on which informal settlements sit were granted by the state to title-holders under 99-year leaseholds for a specific purpose (e.g. the development of light industries). At the time the grants were made, the lands were already occupied or were taken up by slum-dwellers after the issuance of titles to the grantees. Four main typologies can be identified in slums that occupy lands held under leasehold titles, as follows:

- Settlements situated on lands that are still held by the original grantees;
- Settlements located on lands that have been transferred to third parties, either by the original grantees or subsequent purchasers;
- Settlements in which the land has been used as collateral to acquire loans for the development of other portions of land; and
- Settlements that were occupied after the special conditions of grant had been fulfilled.

Many of the settlements in Mukuru, Mathare and the Viwandani areas experience at least one of the above characteristics. A small number of the settlements in Nairobi are situated on private lands with freehold titles. Most of these freehold titles have no development conditions or any restrictions on use. In the Dagoretti area, settlements occupying private lands that were originally trust lands are also a common occurrence.



A major contributing factor to the formation of slums is the scarcity of affordable, serviced land for the development of low-cost housing. This scarcity is, to a large extent, created by the hoarding of land for speculative purposes by title-holders. In Mukuru, for instance, many of the grantees of government land left their lands idle and undeveloped for over ten years. This was despite the existence of special conditions in their grants, which required them to develop the land within a period of 2 years or it would revert to the state. The hoarding of prime land has far-reaching consequences for the whole city as it creates land scarcity that, in turn, pushes up the cost of serviced land and inevitably raises the cost of housing. This scarcity leads to urban sprawl as developers buy affordable unserviced land on the city's periphery for housing development. Meanwhile, the lack of municipal infrastructure forces developers to

put in their own infrastructure, which further raises the cost of housing. High prices make housing unaffordable to the majority, leading to a downward raid and the rapid gentrification of neighborhoods initially developed for the urban poor (as witnessed in the KENSUP decanting site in Kibera).

A recent report by the McKinsey Global Institute<sup>11</sup> observed that the lack of serviced land is one of the greatest barriers to housing development in most cities worldwide. It noted that about 40% of residential land in Nairobi is not built-up, and documented various strategies used by cities to deal with this challenge (McKinsey 2014, pg. 58). The report observed that in various cities, the levying of punitive idle land taxes has encouraged land-holders to develop or sell idle land. In China, regulations authorizing the state to reclaim undeveloped land after two years were imposed by the government when developers failed to develop over 40% of lands granted. Cities like New York have used tax incentives to encourage the development of vacant land (McKinsey 2014, pg. 60)

In Kenya, the Land Act of 2012 seeks to control speculation by providing that public land shall not be allocated unless it has been planned, surveyed, serviced and guidelines for its development have been prepared. Any public land allocated after the year 2012 shall not be disposed of or sub-divided unless it is developed for the purpose for which it was allocated. The Act provides that where allocated land is not developed in accordance with the terms stipulated in the lease, that land shall automatically revert to the County or National Government.

For pre-2012 grants, the courts have provided guidance on how to address this challenge. Case law indicates that the special conditions of grant are critical and ought to be adhered to. In the case of **Shree Visa Oshwal Community Nairobi Registered Trustees versus the Attorney General and 2 others, Petition 262 of 2013**, where the petitioner sought to assert their right to property under article 40 following the forceful takeover by the Nairobi City Council of a lease issued under the Registration of Titles Act in 1961. The Court ruled that there was no violation of the right to property, as the Nairobi City Council was acting in accordance with the special conditions of grant, which the petitioners had failed to meet.

Some of the city's largest slums, such as Kibera and Korogocho, are situated on public lands. public lands occupied by informal settlements fall into 4 broad categories, as follows:

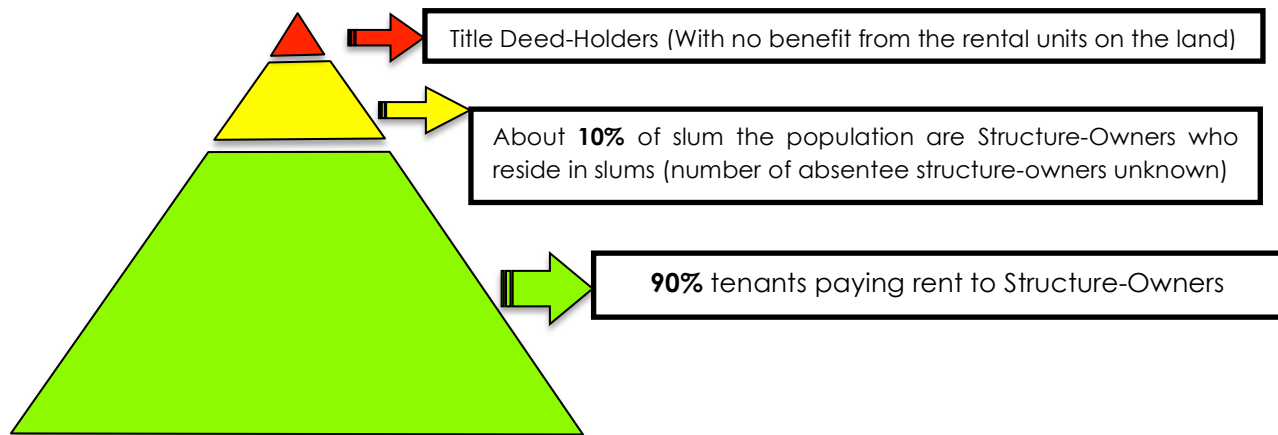
- a. Settlements on public lands that are not fit for human habitation (e.g., settlements that occupy lands under high-voltage power lines or flood-prone riparian reserves);
- b. Settlements on public lands that are fit for human habitation but have an overriding public use (e.g. lands required for the expansion of road and rail infrastructure);

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<sup>11</sup>McKinsey Global Institute (2014), A Blueprint for Addressing the Global Affordable Housing Challenge.

- c. Settlements located on lands that are fit for human habitation and where the designated land use can be changed to accommodate housing development for poverty alleviation (e.g. SEPU); and
- d. Settlements upon public lands that have been designated for upgrading and title regularization (e.g. Huruma, Kahawa Soweto, Korogocho).

To add to this complexity, informal settlements situated on both public and private lands usually have very high tenancy rates. For example, the Riara area of Mukuru kwa Njenga has a tenancy rate of 94% (Muungano 2015). Almost all of the owners of these rental units have no legal title and are often absentee structure owners who are well connected politically (Fox 2014). It is therefore not surprising that the ownership of structures in informal settlements is obscure and shrouded in secrecy. In Riara, for instance out of 2,566 households enumerated by Muungano only 1,376 provided information on structure-owners. 371 structure-owners were identified, but only structure-owners for 606 structures were known by their full names, while structure-owners for 605 structures were known only by their first name and 165 by a nickname.



Some of the structure owners in informal settlements hold a substantial stock of rental units. One of the largest structure-owners along the railway reserve in the Kibera Soweto and Maili Saba areas, for instance, held more than 200 rental units with a monthly rental income of about Kshs. 300,000 (MuST – Muungano Support Trust).

Structure-owners' deeply vested financial interests often result in contestations during slum upgrading projects. In 2009, 83 structure-owners filed a petition in the High Court of Nairobi being **HCCC 498 Of 2009 Joseph Mwaura and 82 others Vs. the Attorney General, the Minister for Lands and the Commissioner of Lands (2013 ECLR)**, opposing the KENSUP programme in Kibera on the grounds that the proposed redevelopment of Soweto Kibera amounted to a contravention of their fundamental rights and freedoms under the Constitution. Interim orders restraining the government from interfering with their structures in Kibera Soweto were granted in favour of the structure-owners. These interim orders were dismissed after full hearing and the

judge ruled that the respondents did not have any property rights under section 75 of the former constitution and they were consequently not entitled to any compensation.<sup>12</sup>

Given the above situation, it is not surprising that land was perhaps the most contentious issue during the formulation of Kenya's Constitution of 2010. To address the numerous conflicts and injustices pertaining to land and to give effect to the objects and principles of land management in devolved government, a National Land Commission was established. Broad guiding principles are provided by the Constitution on how these complex and often recalcitrant land challenges should be addressed. The Constitution under Article 40 (2) provides that Parliament shall not enact a law that permits the state or any person (a), *“To arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description...”* Section 40 (6) proceeds to qualify this provision by stating that *“the rights under this article do not extend to any property that has been found to have been unlawfully acquired.”*

To assist in the realization of Article 40, the National Land Commission was, under Section 14 of the National Land Commission Act, mandated to review all grants of public land to establish their propriety or legality. Furthermore, the Act gave the Commission powers to direct the Registrar to revoke any titles found to have been acquired in an unlawful manner.

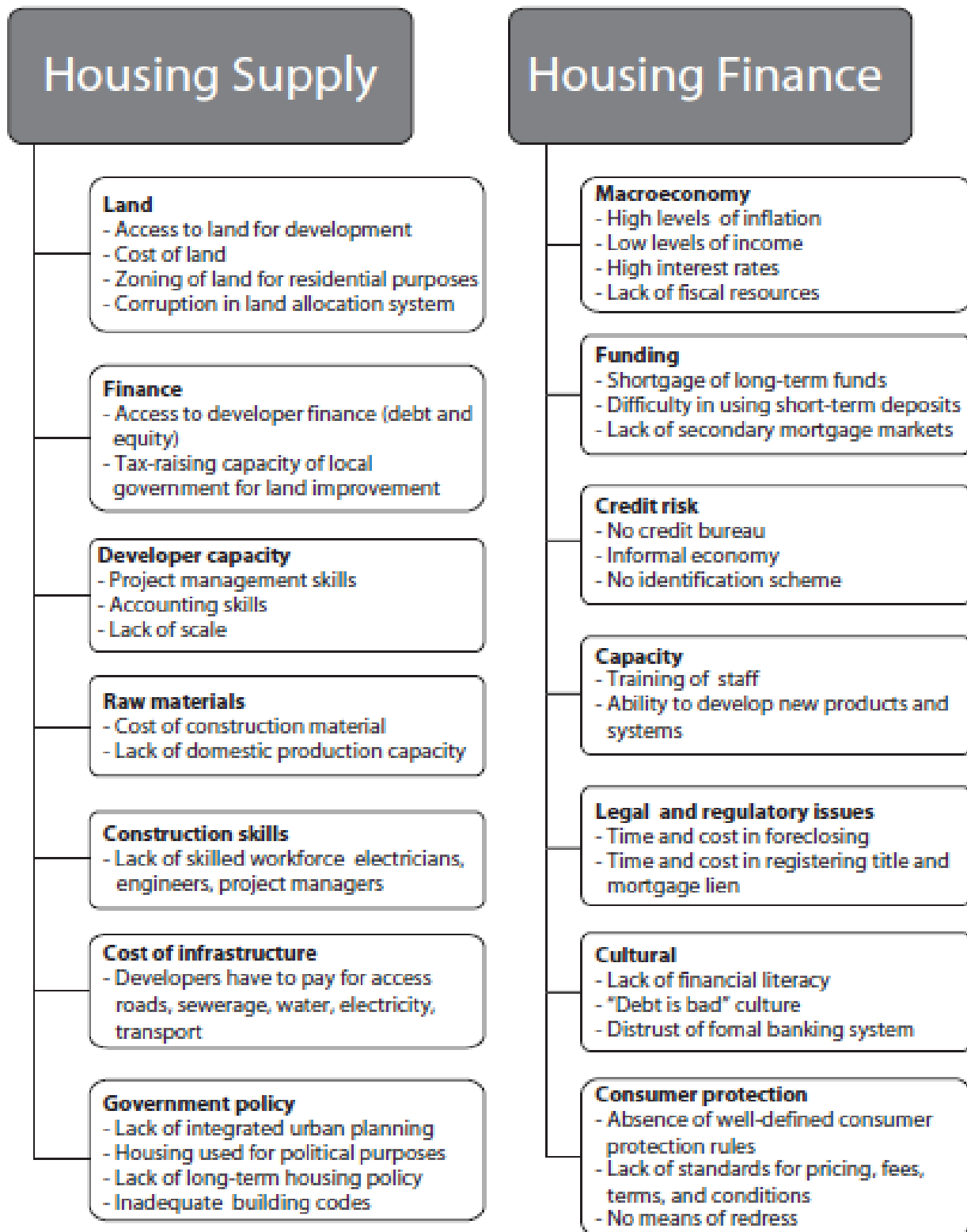
An important role of the National Land Commission is to manage public land on behalf of the National and County Governments. The Commission is authorized to alienate public land with the consent and on behalf of both the National and County Governments. As all grants of public lands are required to be made in the name of the Commission on behalf of the National and County Government (Section 23 (2) of the Land Act), it is again critical that the county works closely with the Commission in order to address the challenge of settlements situated on public land, and to further identify additional lands for low-cost housing development.

Despite the many challenges, an immediate opportunity for slum upgrading and tenure regularisation exists where settlements are situated on public lands that have or can be designated for slum upgrading.

Multiple obstacles to housing finance are pervasive in African cities, such as macroeconomic instability; shortages of long-term funding and non-existent secondary mortgage markets; and the perceived credit risks stemming from informal livelihoods and a lack of identification schemes for mortgage recipients (see figure below). With Kenya's urbanization rates exceeding 4% per year and Nairobi's longstanding shortages of affordable housing, new strategies are essential to promote access to housing finance.

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<sup>12</sup> Joseph Mwaura and 82 others Vs the Attorney General, Minister for Lands and the Commissioner for Lands 2013 EKLR



Obstacles to Housing and Housing Finance in Africa (from Walley 2013, page 137)



### 1.3. Local Government's Crucial Roles in Promoting Affordable Housing

To address these obstacles, local governments can play several supportive roles by encouraging low-cost construction techniques and housing standards appropriate for the urban poor. For instance, municipalities can provide free advice centres and construction support for self-builders; develop approved sample house plans (helping households to avoid the costs of hiring architects); introduce more realistic, flexible building standards; and encourage appropriate technologies and standardized building components (UN-Habitat 2011a: 49-51). Kenya's National Housing Corporation recently began producing a new construction material utilizing a special type of Styrofoam between two thick cement panels; originally made in Italy, the new material is projected to reduce the time and cost of construction by 30% (Van Noppen 2013: 15). Interlocking bricks have also been utilized in Kenya, although mainly in rural areas (*ibid.*), and additional support for alternative construction materials and techniques will be needed to reach the urban poor.

Local governments can again play a critical role in pro-poor shelter finance by developing holistic strategies that combine housing, infrastructure, and land policies. An AfDB analysis of Kenyan housing markets recently recommended improving land registration and regulations; offering technical assistance to developers and contractors; and providing local government support for trunk infrastructure and land servicing (Arvanitis 2013: 10). Local governments can also provide guarantees, subsidies, or tax incentives to increase availability of finance for low-income housing (Walley 2014: 5, also below). Furthermore, municipal officials can develop enabling legislation (as in Morocco); provide revolving funds for housing finance (as in South Africa); offer subsidies to counteract the higher administrative costs of working with low-income clients; and partner with NGOs or community-based groups to share data on these households with lending institutions (UN-Habitat 2011a: 52-54). Local governments should develop their capacities to promote housing *and* infrastructure, as **"the relationship between healthy housing markets and infrastructure is intimate"** (Kihato 2012: 6). In particular, local governments will need to continue improving revenue-collection; strengthening their capacities to fund infrastructure; and attracting housing funds from diverse actors including the private sector, foreign investors, and poor households themselves (*ibid.*, pp. 27-9). Thus, housing finance from several sources should be complemented by proactive land and infrastructure strategies at the municipal level.

Government incentives are particularly crucial in promoting low-income housing, alongside creative initiatives by local governments and a clear division of roles between central/local officials. Central government can promote housing markets for the poor utilizing a range of tactics, such as the 'stick' of "conditional withholding of housing-related subsidies and transfers" or the 'carrot' of "capacity building support to local land and property institutions or subsidies for [developing] residential serviced plots or multi-family housing for low-income households" (Hoek-Smit 2011: 66). Central government policies are also a necessary precondition for local governments to develop enabling policies for pro-poor housing (*ibid.*). Moreover, state incentives will be "especially important where the aim is to promote access to housing for low-

income populations", since housing developers usually shy away from these groups (Bigourdan and Paulais 2014: 10). These incentives should be carefully designed and foster housing developments in well-located areas, with designs that appeal to low-income households.<sup>13</sup> Above all, affordable housing delivery will be contingent on local government action and partnerships. Rather than central government mortgages, subsidy systems, or national policies, housing affordability "now depends much more on *local responsiveness*, collaboration among stakeholders, and incremental building and finance" (Ferguson *et al.* 2014: 52, emphasis added). Below we review recent lessons from African cities, before proposing a housing fund that can at last support affordable housing for Nairobi's low-income majority.

#### 1.4. Emerging Lessons and Innovative Strategies from Kenya and Other African Nations

To date, few private-sector developers or commercial banks in Kenya are currently engaged in affordable housing delivery and incentives have not proved successful. The Kenyan Ministry of Housing developed incentives in 2007 to encourage private-sector participation, but they are rarely utilized. These incentives include exemption from VAT tax for any "low-income housing project" (defined as at least 20 housing units at a construction cost of no more than Ksh. 1.6 million) and tax deductibility for housing loans up to Ksh. 150,000 per annum (Van Noppen 2013: 8). While some Kenyan banks have begun targeting low-income households, the typical mortgage recipient is still a salaried, formal-sector employee with a clear credit record (*ibid.*). The average Kenyan real estate developer in 2012 built 2-3 bedroom units for sale and averaged 200-250 units per project, but affordability remains a "key constraint" (Arvanitis 2013: 8, 10). Even as Kenya has a well-developed housing sector relative to other African nations, the market has failed to meet the pressing need for low-income shelter and has catered for only a small minority of wealthy households.

Although micro-financing initiatives are proliferating within and beyond Kenya, it remains highly challenging to reach the poor and achieve sufficient scale. Across African nations, there are "no deliberate policies" for housing micro-finance (HMF), "very unlike the general microfinance sector" (Kihato 2013: 27). Despite this policy vacuum, an array of HMF providers have recently emerged offering loans for home improvement or new construction. For example, the Angolan microfinance agency KixiCredito has successfully developed a housing loan for groups of 3 to 5 people, who can receive up to \$2,500 per year to complement their incremental building processes (Walley 2013: 143). But many micro-finance projects remain small-scale, as evidenced by CLIFF and NACHU's initiatives in Nakuru and Nairobi, with just 33 to 124 units per project:

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<sup>13</sup> In a cautionary tale, developers in Angola, Brazil, and Mexico were granted fiscal incentives and subsidised land to build housing on the urban periphery; these developments quickly proved unpopular and were often abandoned (Bigourdan and Paulais 2014: 9).

**Table 3: CLIFF projects in Kenya through NACHU as a partnering organisation (as of 2012)**

(Source: CLIFF Annual Review 2012)

	Location	Cost (US\$)	Capital Funds	Number of Units
<b>Ngumo Mbegwa and Mutindwa Settlement Project</b>	Nairobi	462,325	283,319	59
<b>Faith Foundation Phase 1 Ruiru</b>	Nairobi	382,623	257,280	52
<b>Semba Moto Resettlement Project</b>	Nairobi	1,836,677	1,836,677	124
<b>Alfa Mwandwa Housing project</b>	Nakuru	325,478	325,478	33
<b>Royal Housing Project</b>	Nairobi	350,679	350,679	50

From Kihato 2013: 15

To date, there is still a “major gap” in offering housing micro-finance to low-income Kenyan residents (Hendriks 2014: 376). Still, these challenges of affordability and scale are hardly unique to Kenyan housing microfinance. More generally, housing microfinance usually reaches only the ‘upper poor’ or ‘near poor,’ with incomes 120%-150% of national poverty line or above 50% of national poverty lines (Porteous 2011: 36). Given such persistent shortcomings of housing micro-finance, alternative models will be needed to reach scale while still benefiting the low-income majority in African cities.<sup>14</sup>

The Ethiopian experience offers an encouraging recent precedent of large-scale affordable housing construction, which utilised solely local resources rather than donor support. Since 2006, under the Integrated Housing Development Programme (IHDP), Ethiopia's government has constructed 78,000 condominium units with target of 400,000 in total (CAHF 2014: 74-5). Although the project initially built on the urban periphery, it has increasingly constructed five- to eight-storey condominiums in central Addis Ababa (UN-Habitat 2011b). Affordability was a challenge from 2006-2010, but in the ongoing second phase the poorest households are asked to contribute only USD 9 per month and a down payment of just 10% (*ibid.*). The lowest-cost units were offered for purchase at just \$2,000, and costs were contained by official provision of land and infrastructure; prioritising locally-available materials; and utilising local SMEs (AUHF 2015: 1-2). Even in the second phase, there were still challenges of inadequate construction quality, downward raiding, and inefficient SMEs (*ibid.*). Nevertheless, Ethiopia's initiative distinguished by its scale, rapidity, and utilisation of local funds to develop housing (see Appendix 1 for further information on funding).

In another best practice, the Government of Morocco has not only rehoused slum-dwellers but also offered incentives for developers and created several sources of funding for affordable shelter. Morocco's *Villes Sans Bidonvilles* (VSB) has sought to rehouse slum-dwellers in social housing at a large scale, having already benefited 154,000 by 2010 (UN-Habitat 2010). A winner of UN-Habitat's Scroll of Honour in 2010, the VSB is coordinated by Al Omrane, a

<sup>14</sup> It “is urgent to move beyond familiar models and innovate – both in terms of the construction itself and the way the sector is financed. The challenge [is] to facilitate the production of affordable housing on a massive scale – and in a way that is sustainable over the long term” (Bigourdan and Paulais 2014: 12).

state-controlled agency that is financially autonomous (Toutain 2014, Appendix 2). Additionally, the Moroccan government's FOGARIM provides a mortgage guarantee fund for households with low or irregular incomes (Appendix 3). FOGARIM guarantees 70-80% of a loan to households seeking to purchase units below USD 28,153, and from 2004-2013, it has offered guarantees to 75,000 individuals (Mutero 2014:27). There is also a subsidy fund for social housing *Fonds de Solidarite de l'Habitat* (FSH), generated by a 10% tax on cement sales; FSH provides a purchase subsidy of 30% to former residents of informal settlements (*ibid.*, 26). The project enjoys multiple funding sources including VSB beneficiary contributions, Al Omrane's cross-subsidies, donors such as World Bank, AfD, or Cities Alliance; the Government provides 40% of funding through the general budget and FSH tax (UN-Habitat 2010).

Additionally, Morocco has developed some successful mechanisms to encourage private-sector involvement in housing. Developers receive tax breaks and subsidised land for committing to build at least 500 houses over 5 years (this has been reduced to 150 social houses to encourage small-scale developers) and since 2011, "agreements have been signed with developers for the production of almost 1 million social units" (CAHF 2014: 125). There are two types of social housing units,<sup>15</sup> but production of the lowest-cost units has consistently struggled to stimulate developer interest and meet its targets (Mutero 2014, CAHF 2014). Just 9,000 of the lowest-cost units were completed in 2012 and 2013, half of the target (CAHF 2014: 125), and incentives should be redesigned so that developers will not avoid lower-cost segments of the market (Mutero 2014). However, another innovative mechanism has successfully involved the private sector in housing production, with parallels to Mumbai's principle of 'additional development rights' (Toutain 2014: 26-7). Two slum families benefiting from the VSB are allocated 1 plot and able to enter into a contractual partnership with a third party (such as a developer, investor or home-buyer).<sup>16</sup> The third-party is allocated the 2 remaining storeys, thereby benefiting from "heavily subsidised land costs," and it has proved highly successful, with 2/3 of households in Casablanca's two largest VSB projects utilising this arrangement (*ibid.*, p. 26). By adjusting the plot allocation and encouraging higher-density development for both low- and middle-income households, Morocco has successfully incentivised housing production. Although not without its challenges, the country's multi-pronged housing initiatives are making a major impact on a large scale.

GoK funding has already supported enterprises among women or youth, but efforts need to be expanded in the future and penetration of loans may still remain quite low in slums. From 2008-2012, the Women Enterprise Fund (WEF) disbursed Ksh. 1.55 billion from the Constituency Women Enterprise and another Ksh. 1.85 billion through financial intermediaries, with 704,026 beneficiaries nationwide (GoK 2013: 89). Additionally, by 2012 the Youth Enterprise Development Fund (YEDF) had disbursed Ksh. 6.5 billion to 141,316 youth enterprises (*ibid.*). However, the MTP also acknowledges the challenges of rising unemployment among youth, who still have low access to capital and assets, and persistently low levels of awareness of

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<sup>15</sup> The Moroccan government defines two types of affordable housing units: one with a capped price of US\$16,300 and another capped at US\$28,153 (CAHF 2014).

<sup>16</sup>This party will undertake a 4-storey residential building that will house both families, as well as covering the cost of land usually payable by slum-dwellers (or 6,200 Euros).

gender equality and women's empowerment (*ibid.*, pp. 90-1). In response, the Government of Kenya has committed to creating 1 million new jobs annually to address youth unemployment; implementing the Uwezo Fund to expand access to funds among youth and women; and re-launching the WEF and the Youth Enterprise Fund (*ibid.*). Although such initiatives can foster more secure livelihoods, they may struggle to reach households in informal settlements. For instance, in a recent survey with 660 respondents from Mukuru, just 7.5% were currently servicing a loan, with two-thirds of these residents receiving loans through informal *chamas* (AMT *et al.* 2015: 61). Household-level loans and enterprise trainings will need to extend their penetration among the urban poor; such funds should also be supplemented by shelter interventions across informal settlements. In the following section, we analyse the legal and institutional framework for our proposed housing fund at the county level in Nairobi.

## 2. THE LEGAL BASIS FOR ESTABLISHING A HOUSING FUND AT THE COUNTY GOVERNMENT LEVEL

In August 2010, Kenya enacted a new Constitution that embodied the hopes and aspirations of its people for a better, more just society. The 2010 Constitution was a response to the deep malaise resulting from decades of institutional decay, massive corruption, economic stagnation and a general sense of societal discontent. It created a new legal framework, which was intended to address the following main challenges:

- a. The profound dissatisfaction amongst marginalised and minority groups, due to their exclusion from decision-making and the allocation of national resources
- b. The centralisation of power in the hands of a small political elite, leading to unprecedented levels of corruption, impunity and a general lack of accountability to the citizens of Kenya.

In response, the Constitution sought to address these two challenges by enacting a Bill of Rights that creates a framework for the nation's social, economic and cultural policies. The Constitution also aimed at creating greater public-sector accountability through the separation of powers and the reduction of executive authority by devolving power to 47 County Governments.

The resultant transfer of many functions that were previously the mandate of Central Government was intended to enable County Governments achieve the various objectives of devolution. Key goals of devolution include the promotion of social and economic development and the delivery of services accessible to all Kenyan citizens. Additionally, communities' rights to self-government and to participate in decision-making on matters affecting them are vital to the existence of County Governments.

In the conduct of their duties, County Governments are obliged under the Constitution to protect and promote the interests and rights of minorities and marginalised people. Finally, County Governments are obligated to ensure equitable sharing of national and local resources throughout Kenya. Below we discuss in greater detail the legal basis for creating a county-level housing fund, as well as its governance, targeted beneficiaries, and other administrative aspects of the proposed fund.

### 2.1. Power to Establish the Fund

Housing for the urban poor remains a major challenge, yet huge opportunities exist in the vast untapped resources found in Nairobi's informal settlements. The establishment of a housing fund, targeted at releasing these existing resources through the development of appropriate housing finance products for the urban poor, would go a long way in resolving this challenge.

Section 97 of the County Government Act provides the basis upon which such a fund would be anchored. The section provides for the inclusion and integration of minorities and marginalised groups through "special measures of affirmative action," in order to ensure their enjoyment of equal rights with the rest of the population. Such a fund, if created, would in essence be a special measure of affirmative action that would ensure the urban poor can enjoy their basic right to housing. The housing fund's objective would be to mobilise resources for developing housing and infrastructure for the residents of informal settlements in Nairobi County. More specifically, the proposed fund would engage in the following core activities:

- a. Provide **technical assistance** such as architectural, engineering and other professional services for the development of technical designs and project management for housing and infrastructure projects
- b. Enter into partnerships with private- and public-sector institutions in order to mobilise resources and develop appropriate **housing and basic infrastructure** for the urban poor
- c. Establish partnerships with both private- and public-sector institutions to provide affordable mortgages and other relevant **financial services** to low-income households

### 2.2. The Nature of the Fund

Section 176 of the Constitution establishes a County Government for every county. Each County Government is comprised of a County Assembly and a County Executive. Under the County Government Act, County Governments are constituted as body corporates with the power to enter into contracts, acquire, purchase or lease any land. They are also authorised to delegate any of their functions to their officers, decentralised units or other entities within the county. Under their constitutional mandate, County Assemblies are empowered to make any laws necessary for the realisation of the functions designated to them under Schedule 4 of the Constitution.

County Governments are under Section 6 of the County Government Act more specifically given the power to enter into partnerships with any public or private body for any work or function for which they are responsible. Under this section, County Governments are further authorised to establish any company or body for the delivery of a particular service or the performance of a particular function to help realise their obligations. Furthermore, Schedule 4 of the Constitution places the provision of housing, solid waste disposal, street lighting, electricity reticulation, and the development of county roads under the mandate of County

Governments. Therefore, County Governments have the duty to ensure that all Kenyans enjoy the constitutional right to accessible and adequate housing and to reasonable standards of sanitation. County Governments may, in the pursuit of this obligation, set up quasi-independent institutions to ensure their fulfilment.

Three different quasi-independent bodies can be designated as County Government entities (Section 2 & 5 of the Public Finance Management Act), which are as follows:

1. A **Department or Agency** of a County Government;
2. A **County Authority**, which is a county corporation that has been declared to be a county authority through gazettelement; and
3. A **County Corporation**, which is a body corporate created through county legislation.

**As discussed below, it is proposed that the Nairobi Special Housing Fund be created as a County Corporation.**

### 2.3. The Procedure for Setting-up the Fund

The County Government Act provides for the creation of a County Executive Committee whose members are appointed by the Governor. Under the Constitution, the executive authority of the county is vested in the County Executive Committee. This committee consists of the Governor, the Deputy Governor and no more than ten members appointed by the Governor with the approval of the County Assembly. The main functions of the County Executive are 1) to implement county and national legislation in the county and 2) to prepare proposed legislation for consideration by the County Assembly.

Section 5(1) of the Public Finance Management Act (PFMA) provides that a County Executive Committee Member for finance may, with the approval of the County Executive and County Assembly, by order in the Gazette create a county corporation, an authority or any other body to help the county in achieving any of its constitutional functions. County corporations can, however, only be established through county legislation. Section 183 provides that the precise procedure to be followed when setting-up or dissolving a County Government corporation shall be laid down by regulations. Such regulations therefore need to be developed before a county corporation can be established.



## 2.1. The Governance and Management of a County Housing Fund

The PFMA provides for the effective management of public finances by County and National Governments. County Assemblies are under the act, given the responsibility for oversight over County Governments and their entities. Section 148 of the Act provides that the County Executive Committee Member for finance shall, except as otherwise provided by law, designate an accounting officer to be responsible for managing the finances of a county government corporation.

Given the above discretion, It is proposed that the legislation that creates the fund, specifically places the power to appoint the accounting officer in the hands of the fund's board. The count's partners are authorised under the PFMA to invest in a county corporation as shareholders and to share in any profits made from the corporations operations. As only one representative of the county is required to sit on the fund's board, an opportunity for investors and other stakeholders to participate in the governance of the fund exists.

A key responsibility of the accounting officer is to prepare a strategic plan for the entity, in conformity with the medium-term fiscal framework and the financial objectives of the county government. The accounting officer is required to ensure that money held in the entity is spent only for the purpose for which the entity was established. All procurement and disposal of goods shall, according to the Act, be conducted in accordance with the Public Disposal and Procurement Act.

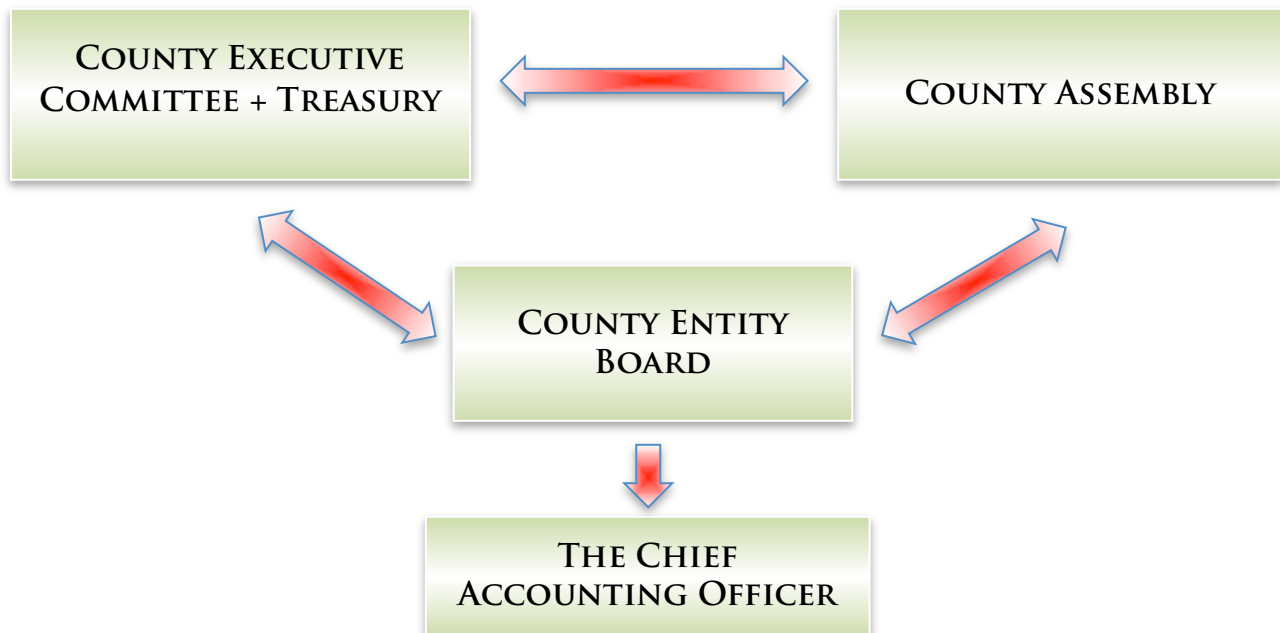
A key responsibility of the Accounting Officer is to prepare a strategic plan for the entity, in conformity with the medium-term fiscal framework and the financial objectives of the county government. The accounting officer is required to ensure that money held in the entity is spent only for the purpose for which the entity was established. All procurement and disposal of goods shall, according to the Act, be conducted in accordance with the Public Disposal and Procurement Act.

The accounting officer shall further ensure that the earnings of, or accruals to, the entity are retained in the entity, unless the County Executive Committee Member for finance directs otherwise. Section 120 of the PFMA requires every County Government entity to submit an annual cash-flow plan and forecasts to the County treasury. It shall be the responsibility of the the accounting officer to prepare the fund's accounts for each financial year and to ensure the accounts are submitted to the Auditor General and the County Assembly. An accounting officer for a County Government entity shall not cause a bank account of the entity to be overdrawn beyond the limits authorised by the treasury or by its board. Under Section 119, an accounting officer who authorises an overdraft shall be personally liable. The accounts and usage of money through the fund are required to be published and publicised.

2.2. The Oversight of the County Housing Fund

The PFMA provides for the creation of a Treasury in each county, which shall be headed by the County Executive Member responsible for finance. It is the County Treasury's duty, under the Public Finance Management Act, to monitor County Government Entities in order to ensure their compliance with the Act. On them is placed the responsibility of ensuring the proper management, control and accounting for the finances of the county and its entities, so as to promote the efficient and effective management of their funds. The County Treasury is also expected to manage the County Government's public debt and assist County Government entities in developing their capacities for efficient, effective and transparent financial management. Under Section 119, the County Treasury is responsible for authorising the opening, operating and closing of bank accounts for County Government entities.

In the conduct of their responsibilities, County Treasuries are empowered to access the premises of a County Government entity and inspect all records or access any system of public financial management relating to the financial affairs of the entity. They may also require County Government entities to comply with all applicable norms of public financial management. County Treasuries may require any officer employed by a County Government entity to provide information or explanations in respect to matters relating to the entity's finances. The relevant County Executive Committee Member shall be responsible for monitoring the performance of a County corporation. County Treasuries are required under Section 185 to submit an annual report to the County Assembly that shall include the objectives of the corporation; the amount of County Government shareholding; the amount of funding provided by the county; the amount of any loans made by the government to the corporation; and any profits or losses made by the corporation.



### 3. THE FINANCIAL BASIS FOR SETTING-UP THE SPECIAL HOUSING FUND

The Nairobi Special Housing Fund will be established through identifying legal, technical, political and institutional opportunities, unlocking financial informality and leveraging land and human assets. It seeks to establish a long-term source of affordable housing funds at the County level, so as to benefit residents of Nairobi's informal settlements. By administering the fund at the local level, it will support flexible, tailored solutions and increase accountability to the city's urban poor majority. We identify the sources for financing the fund and recommend the use of subsidies and various incentives to help bridge the affordability gap for housing by the urban poor. Recent data from Mukuru is also utilized to illustrate the existing resources for housing and the need for further support in Nairobi's informal settlements.



Mukuru kwa Njenga and Mukuru kwa Reuben are situated on a 525-acre parcel of land approximately 8 km southeast of Nairobi's Central Business District. The settlement is strategically located between Kenyatta International Airport, Nairobi's Central Business District, and the Industrial Area and near the main Nairobi-Mombasa highway. Collectively, tenants in Mukuru pay approximately Ksh. 335,555,280 monthly or Ksh. 4,026,663,360 annually. By 2030 (in the next 15 years), approximately **Ksh. 60.4 billion** will have been paid as rent.

The average mortgage term in Kenya is also 15 years, in sync with the development blueprint in Kenya's Vision 2030. In the following sections, we demonstrate how funds currently circulating in the housing, services and land markets in Mukuru can be harnessed and leveraged to housing at scale for all citizens. We argue that residents of informal settlements already pay significant sums for low-quality housing and services.

### 3.1. Funding the Nairobi Special Housing Fund

County Government entities can, under the PFMA, mobilise resources from the following three main sources: grants or donations, funds appropriated from the County Government, and loan or debt capital.

#### 3.1.1. Funds Appropriated from County Governments

All County Governments are expected to prepare Long and Medium-term Integrated Development Plans. Every year the County Treasury is required, under Section 117 of the PFMA, to prepare a County Fiscal Strategy Paper and submit it to the County Executive Committee for approval. This strategy paper establishes the broad strategic priorities and policy goals that will guide the County in preparing its budget for the coming year and over the medium-term.

Once approved by the County Executive, the Treasury is required to submit the paper to the County Assembly for approval. After the strategy paper is approved, the Treasury prepares a County Budget Review and Outlook Paper which is presented for approval to the Executive Committee and County Assembly. The budget paper is guided by the approved strategy paper.

The County Executive Committee is required, amongst other things, to present to the Assembly, a list of all County Government entities that are to receive funds appropriated from the budget of the county. Each County Treasury is required to open a bank account through which payments of money to and by the various County Government entities are made. Therefore, a crucial source of financing for County Government entities is comprised of County appropriations

#### 3.1.2. Loan and Debt Capital

County Governments are, under Section 140 of the PFMA authorised to raise loans for a county's needs. Counties may raise loans for two different purposes: loan capital for development projects and loans for short-term operational use. County government entities are, however, only permitted to raise loan capital for their short-term operational needs.

This short-term borrowing must be approved by the County Assembly and should not exceed 5% of the entities' most recently-audited revenues. A county government entity that has borrowed money shall ensure that the money is paid within a year of borrowing (Sec 142 of PFMA).

County Governments may with the approval of County Assemblies raise loan capital for the development projects of county government entities. The PFMA accordingly authorises the County Executive Committee Member responsible for finance to pay the proceeds of any loan raised into the county revenue fund or any other fund established by the County Government. Any expenses incurred in connection with borrowing by a County Government shall be charged to the public fund or to county entities that benefit from the loan.

Loans may be raised by County Governments from either within or outside Kenya (Sec 140 PFMA). In borrowing money, a County Government shall ensure that its financing needs and payment obligations are met at the lowest possible cost in the market. Thresholds for the borrowing entitlements of both National and County Governments and their entities shall be set by Parliament (Sec 50 PFMA). County Governments are authorised to contract advisers, agents, and underwriters for the purpose of raising loans.

The Cabinet Secretary responsible for finance may guarantee a loan of a County Government or any other borrower with the approval of Parliament (Sec 58 PFMA). Government guarantees can only be given by the Cabinet Secretary if the loan is for a capital project and the County Government's financial position is strong enough to enable it to repay the loan, together with the interest and any other payments in respect of the loan.

County Governments may further raise debt capital through the issuance of securities such as treasury bills, treasury bonds, treasury notes, government stock, or any other debt instrument they may choose (Sec 2 PFMA). Any County Government securities issued shall be within the borrowing limits set by Parliament and the County Assembly and shall be issued in the County Government's name.

### 3.1.3. Grants and Donations

Section 138 of the Public Finance Management Act provides that a County Government entity may receive a grant or donation from a development partner with the approval of the County Executive Committee Member for finance.

## 3.2. Sources of Housing Development and Mortgage Capital

Housing and Infrastructure development finance for the fund may be raised from government appropriations, loan/debt capital, and grants. Section 145 of the PFMA authorizes County Government entities to lend money. Restrictions are, however, placed on the source from which capital for lending can be drawn. The following are the sources authorized by PFMA:

1. Appropriations for development expenditure or
2. From some other authority approved by the County Assembly.

Two types of authorities exist under the act namely, National and County authorities. A National authority is created when a state corporation is declared by Parliament to be an authority while, a county authority is created when a county corporation is declared by a County Assembly to be an authority (Sections 4 & 5 PFMA).

Given the above restrictions it is clear that capital for mortgage finance, may only be raised through government appropriations in cases where the fund acts as an onward lender.

### 3.2.1. Alternative Sources of Development Capital

A possible additional source of capital for the fund could be cross-subsidies and the transfer of development rights. These strategies could be used where sufficient land and an opportunity for making profit through market sales of either land or housing exist. Providing developers with conditional opportunities for densification where land costs are exorbitant creates a further opportunity for the development of low cost housing. New York for instance permits developers in specific zones of the city to build 33% more space by increased building heights, if 20% of the units developed are set aside for low cost housing (Mc Kinsey Pg 69). Profits made from the sale of land and housing in a cross subsidy scheme, could greatly assist in reducing housing costs and help foster mixed-income neighborhoods.

It is, however important that increased densities and building heights do not compromise the livability and sustainability of neighborhoods. Care should therefore be taken to ensure that commensurate levels of infrastructure, social services, and open spaces are provided when densities are increased. A major concern in Mumbai, for instance, is the construction of high-rise buildings that are too close to each other, often compromising on lighting and ventilation.

### 3.3. Beneficiaries of the Nairobi Special Housing Fund

The main purpose of the Nairobi Special Housing fund, as earlier indicated, is to ensure greater equality amongst the citizens of the county by acting as a special measure of affirmative action for the most marginalized.

With over 90% of the city's slum-dwellers being tenants living in deplorable conditions, it is crucial that the County protect their interests by giving them priority in its upgrading projects.

This would help spread the benefits of upgrading and tenure regularization to a large portion of the city's population by improving their living conditions. It would also enhance the asset base of the most marginalized through home ownership.

To ensure the county's investments benefit the most marginalized, restrictions on disposal would be placed on all properties granted. This would help guard against rapid gentrification and the privatization of public subsidies. It is however appreciated that not all tenants will be interested in home ownership and a number may chose to remain as tenants. It is proposed that resident structure owners be given an opportunity to develop rental units for this category of residents.

#### **"Vulnerable Group (VG) Housing in Ethiopia**

*This is a housing program where needy vulnerable families get houses with full subsidy as a giveaway. The target families are those families with little or meager income usually sourced from households that beg or ask for alms and suffering from some kind of illness and/or disabilities.*

*The disabilities can be physical, mental or visual impairment. In addition to this, to qualify for housing support, the VG families must live in absolute poverty and poverty housing or temporary shelter (settlement) in poor or no sanitation facility, poor or no kitchen facility. The families must have a minimum of three family members with no other conventional means to get or build their own houses. The family members (those who are not limited by disability) must also demonstrate willingness to partner, contribute labor.*

*The average cost of a VG house with an average size of 26 square meters with a VIP latrine and a kitchen is Birr 48,000 (US\$ 2800)"*

*Source: <http://habitatethiopia.org/what-we-do>*

## THE NAIROBI SPECIAL HOUSING FUND

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A small number of the very poorest may also not be able to service a mortgage or to pay market-rate rents for their homes. For this small minority, it is recommended that some form of social housing be developed by the county for their benefit. All beneficiaries of the fund must meet certain basic criteria. The following are the proposed criteria for home ownership.

The proposed home owners must be residents of Informal settlements that are in occupation of public land that has been designated for upgrading by the County Government of Nairobi and who:

- a. Have been Identified as beneficiaries of a County Government upgrading project through an enumeration and GIS mapping process;
- b. Are members of a registered co-operative or a corporation under the Community Land Act;
- c. Are actively saving for their houses.

Informal settlement dwellers that have jointly purchased land within the county of Nairobi for the development of their own housing and have further:

- d. Registered as a co-operative or as a corporation under the Community Land Act and;
- e. Have a minimum registered membership of 50 members, with a maximum household income to be determined;
- f. Are actively saving for housing

### 3.4. Estimating the Mortgage Ceiling

Determining mortgage affordability levels is a major challenge for most informal settlement dwellers as many do not have a formal monthly salary and are employed either partially or wholly in the informal sector. Different levels of household incomes were therefore used to estimate what would be an affordable mortgage for different income brackets in Mukuru. The proxy for affordability was the house price to household income multiple, a widely-used measure of housing affordability that is recognised internationally (in UN frameworks as well as World Bank briefs). The median multiplier averages 3.0, indicating that the majority of Mukuru households can afford a mortgage 3 times their *annualized* income.

According to the household budgets recently generated during AMT's research, rent in Mukuru constitutes 31% of expenditure. This is applied to the base housing amount by dividing by 0.31 to estimate the household monthly income. This result is multiplied by 12 to obtain the annual income and thereafter by 3 to estimate the affordable housing range. With this base, we therefore generate the affordability range of Ksh. 174,194 to Ksh. 522,581.

	<b>Low-income (30% of residents)</b>	<b>Median income (56% of residents)</b>	<b>High income (14% of residents)</b>
<b>Average monthly rental</b>	1,500	2,643	3,500
<b>Estimated solidarity group monthly contributions</b>	-	200	1,000
<b>Total base value</b>	<b>1,500</b>	<b>2,843</b>	<b>4,500</b>
<b>Estimated monthly household income</b>	4,839	9,171	14,516
<b>Estimated annual household income</b>	58,065	11,052	174,194
<b>Estimated value of affordable house</b>	<b>174,194</b>	<b>330,155</b>	<b>522,581</b>

Assuming there exists a mortgage loan with monthly repayments that can be extended to a Mukuru household, we iterated standard loan aspects of term and interest rate to estimate the optimal term that would closely match the existing base value.

The assumption is that the most acceptable plan is one in which residents' housing costs do not change significantly in monetary terms (i.e., rent costs become mortgage repayments). Generally, the longer the term and the lower the interest rate, the lower the annuity repayment amount will be. Using standard excel functionality, the optimal iteration is indicated in the table below.



## THE NAIROBI SPECIAL HOUSING FUND

Logically, with small loan amounts, the computation is more sensitive to the interest rate than the term. In this case, we set the term to 15 years, the maximum term typically offered in Kenya.

Cohort	Mortgage Amount	Current Rent	Optimal Term	Optimal Interest Rate	Computed Monthly Repayment
<b>Low-income (30% of residents)</b>	174,194	1,500	15 years	3%	<b>1,202.95</b>
<b>Median income (56% of residents)</b>	330,155	2,643	15 years	3%	<b>2,279.99</b>
<b>High income (14% of residents)</b>	522,581	3,500	15 years	3%	<b>3,816.02</b>

Muungano has for a number of years been working with slum dwellers to develop housing and finance micro loans for home ownership. Below are details of some of the housing loans given in two different projects.

Settlements	Cost of Construction	Interest rate (Reducing Balance)	Monthly Repayments
<b>Ghetto site (22.5 m<sup>2</sup>)</b>	161,000	6% for 8 Years	2,116
<b>Ghetto site (22.5 m<sup>2</sup>)</b>	270,850	6% for 12 Years	2,643
<b>Katani (22.5 m<sup>2</sup>)</b>	338,110	8% for 15 Years	3,300

It is clear from a comparison of the two tables that the loan products proposed for Mukuru are realistic. It is however evident that AMT's housing projects have not reached the poorest and a need for special measures for this group is necessary.

Currently, the minimum mortgage rates in Kenya are about 12.9%. The recomputed 3% indicates a need for government intervention, so as to offer a special plan that can aid affordability and ease of repayment. In order to raise sufficient and affordable capital for mortgage finance the Nairobi Special Housing Fund could partner with private lenders, who would raise their own capital for mortgages. These private lenders would then charge acceptable market rates to the borrowers. Two main strategies could be adopted:

- An **interest rate subsidy** would be provided to the borrowers, by explicitly paying a portion of the market rate interest charged by the private lender. For instance, if the market rate charged by private lenders is 12.9%, the fund could pay 9.9% and therefore reduce the effective rate paid by Mukuru beneficiaries to 3%. The present value of the total buy-down would be calculated and the money deposited in an escrow account in the bank (Hoek-Smit, 2009).
- **Government guarantees** could further help leverage low-cost private-sector capital for mortgage lending. However, a major challenge of this model is the high cost of interest subsidies on the county. (AMT et al)

The fund could also adopt the women and youth funds financing model. In this case the government provided interest free capital to the two funds for onward lending to their clients. The funds were mandated to directly provide loans to their clients or alternatively channel their loans through approved intermediary banks and micro finance institutions at an interest rate of 8%.

A major challenge faced by the funds was the reluctance of private lenders to lend at concessional interest rates therefore reducing their spreads. The availability of sufficient funds from Government appropriations and grants for onward lending would be another major impediment in the implementation of this model.

#### 4. THE COST OF BUILDING IN NAIROBI

How much a building will cost to construct usually depends on several factors, like the size and type of building, its location, the size of land, specification of materials, wall-to-floor ratio, floor-to-ceiling heights, site topography, types of joinery and fittings, and quality of electrical and mechanical installations. The table below illustrates the typical cost structure for a single unit across housing typologies in Kenya.

	Central region (incl. Nairobi)	Coastal region (incl. Mombasa)	Western Region	Unweighted average across regions
High class single units (maisonettes)	479	515	515	503
High class high rise flats	539	515	515	523
Low cost, low rise flats	371	335	335	347
Low cost, high rise flats	419	407	407	411
Site and service scheme	204	228	228	220
Rates are general rates for building works excluding site works. Care should be taken in using the prices without considering elements such as location, specification of building materials, wall to floor ratio, floor to ceiling heights, site topography, type of joinery fittings and quality of electrical and mechanical installations. Data gathered from the Institute of Quantity Surveyors of Kenya for December 2011. Table initially in Kenyan Shillings. Exchange rate used: KSH 83.5 to the USD.				

Source: Institute of Quantity Surveyors of Kenya (2011).

In general, most hard construction supplies such as steel, sand and cement or plaster are produced locally. Fittings such as tiles and kitchenware are usually imported. Building costs per square-meter are based upon data from the Institute of Quantity Surveyors of Kenya, as presented in the table below. These findings indicate that the lowest cost of construction per m<sup>2</sup> for low-cost, low-rise flats constructed in the Central region including Nairobi is USD 371 or approximately Ksh. 30,978.50.

**These construction costs per square-meter are largely unaffordable by the urban poor. However, Muungano wa Wanavijiji has been able to develop houses at various sites countrywide at half the rates charged by the market, making it both affordable and sustainable for the urban poor.** In most cases, the houses allow for incremental improvement either in terms of the structure or the finishes. The table below illustrates the Ksh. cost per m<sup>2</sup> based on the experience of Muungano Wa Wanavijiji, the federation of Kenya's slum dwellers

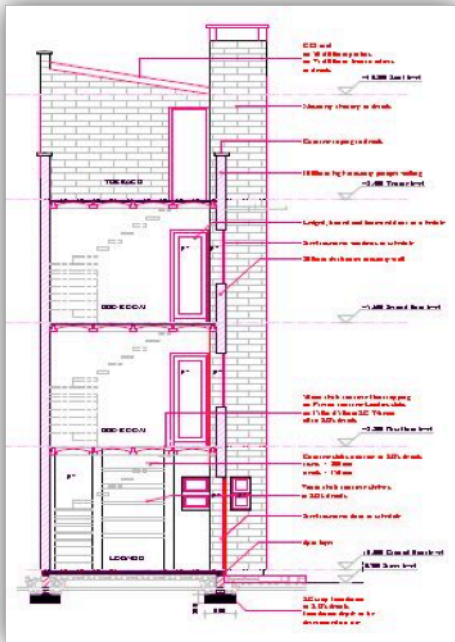
22.5 m <sup>2</sup> House	CONVENTIONAL	KATANI	GHETTO
<b>Substructure</b>	84,500.00	68,400.00	62,550.00
<b>Reinforcement, Formwork &amp; Substructure Wall</b>	70,400.00	60,000.00	49,100.00
<b>Superstructure</b>	201,700.00	166,960.00	117,000.00
<b>Doors &amp; windows</b>	35,400.00	27,650.00	17,200.00
<b>Finishes</b>	87,750.00	15,000.00	25,000.00
<b>Totals</b>	<b>479,750.00</b>	<b>338,110.00</b>	<b>270,850.00</b>
<b>Total House Size</b>	<b>22.50</b>	<b>22.50</b>	<b>22.50</b>
<b>Cost of Construction per Square Meter</b>	<b>21,322.22</b>	<b>15,027.56</b>	<b>12,126.66</b>

NB: As shown below, the Ghetto house does not have a floor finish and the electrical wiring has not been done. The cost of these two elements would be approximately Ksh. 40, 000. This would bring the cost of construction to Ksh. 13,777.77 a square meter.

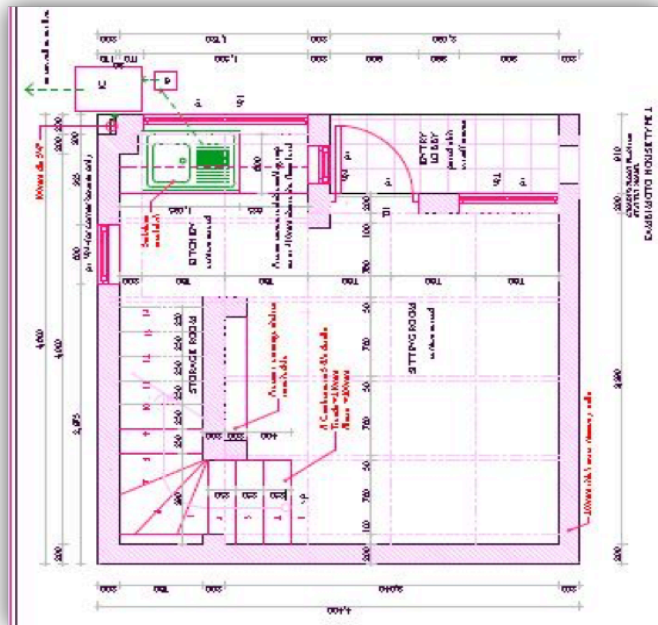
The table below illustrates the Ksh. cost per square-meter, level of finish and monthly repayment rates, based upon the experience of Muungano wa Wanavijiji:

Settlement	Cost of Construction	Construction Cost/m <sup>2</sup>	Level of Finish
Ghetto site 1 22.5 m <sup>2</sup>	161,000	7,155.56	Wall Plaster, No Paint, No Floor Finish, No Wiring, no doors, no windows
Ghetto site 2 22.5 m <sup>2</sup>	270,850	12,126.66	Wall Plaster, No Paint, No Floor Finish, Electrical Conduits, No Wiring
Katani 22.5 m <sup>2</sup>	338,110	15,027.56	Wall Plaster, Paint, Red Oxide Floor, Electrical Wiring, Water Connection

#### 4.1. The Ghetto House Designs (Illustration)



Cross section showing the interior –  
Detail of Complete Unit



Floor Plan of Starter Unit

The ghetto house is ordinarily incrementally built in three phases. The first phase of construction is normally a starter unit (shown above) which comprises of the first floor and a shower and toilet on the second floor. The first floor space has a footprint of 19.36 square meters and is commonly used as a kitchenette and living area, The total space occupied by the starter house is 22.5M<sup>2</sup>.

#### 4.2. The Construction Costs – An Obstacle to Housing

The cost of construction is the main expense in any housing development and ordinarily accounts for 60% of the cost of a house. If housing is to be affordable to the large majority of city dwellers around the world, the cost of construction, must be reduced by 30% to 50% (Mc Kinsey Pg 75).

Affordable building costs of \$150 to \$1,500 per square meter, with varying amounts for different cities within this range, are recommended by the institute. In Mumbai for instance, a cost of \$150 is proposed. This is a similar amount as that proposed for the city of Nairobi as indicated above. It is however observed that the \$150 cost of construction for both Mumbai and Nairobi has yet to be achieved at scale.

Various strategies are proposed to help overcome this obstacle, the first is the use of value engineering, which is defined as approaches which assist in savings through design, efficiencies in procurement and lean processes. (Mc Kinsey Pg 75) Towards this end the fund should be efficient in its project management cutting down on delays and the risk of attracting penalties.

Existing subsidies and incentives should be explored and utilized where appropriate. Alternative building materials and technology that save on costs should be encouraged. While the use of incremental construction should be explored where appropriate.

## 5. ASSESSING THE MUKURU INFORMAL LAND VALUES

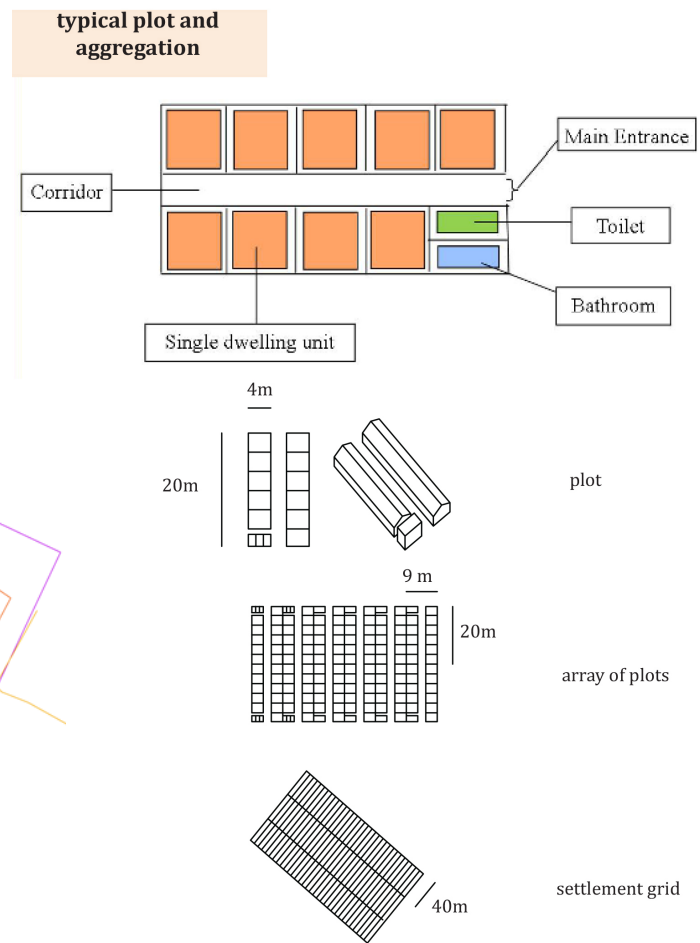
Land in Mukuru is not traded in the formal market, but is actively traded in the informal market. The informal land market in Mukuru is both buoyant and lucrative. Unlike the formal sector where various concepts are used to determine the values of land, the informal land valuation is quite different. In the formal sector, land is measured in acres or hectares; in the informal market, the main unit of measurement is square feet. 1 acre of land is equivalent to 43,560 ft<sup>2</sup>. The main unit of reference to land is the "Plot".

### 5.1. Unpacking an Acre of Land in Mukuru

AMT's research has showed that an acre of land in Mukuru accommodates 20 to 30 plots, each measuring approximately (30ft x 60ft) = 1,800ft<sup>2</sup>, depending on the settlement layout.

An average plot has 12 housing units, each measuring 10 x 10 ft<sup>2</sup>. The 12<sup>th</sup> unit is usually split into two to provide for a bathroom and a toilet that is shared by all the residents living in the plot.

These plots cover (1,800 ft<sup>2</sup> x 20) = 36,000 ft<sup>2</sup> of space. With this density 85% - 95% of the acre of land is used for housing, leaving just 10% -15%of the land for circulation and services (5,160 ft<sup>2</sup>).



Other parts of Mukuru have plots that measure approximately (30ft x 60ft) = 1,800 ft<sup>2</sup> plots. These plots are longer and have 18 (10 x10ft) shacks each.

## 5.2. The Informal Value of Plots in Mukuru

Due to the absence of title deeds, all sales are based upon the space above the plot, not the land itself. Higher-value plots are those closest to roads and services, such as water and electricity, while lower-value plots are near the railway line or within riparian reserves (especially due to insecurity and flooding). Plots in older, more established settlements are also more expensive than plots in newer and less established settlements.

On average, a **Vacant** 30 x 60ft (1,800ft<sup>2</sup>) plot is sold for between Ksh. 250,000 – 300,000. Using these figures, an acre of vacant land in Mukuru would be priced at between Ksh. 5,000,000 – 6,600,000 e.g. [20 plots x Kshs 250,000=5,000,000]

On average, a **Built-Up** 30 x 60ft (1,800ft<sup>2</sup>) plot is sold for between Ksh. 500,000 – 600,000. Using these figures, an acre of land occupied by shacks in Mukuru would be priced at between Ksh. 10,000,000 – 13,200,000 ( $43,560 \text{ ft}^2 \div 1,800 \text{ ft}^2 = 24.2[\text{plots}] \times \text{Ksh. } 500,000 = 12,100,000$ ).

## 5.3. Unlocking the Land Value

Technically, Mukuru Kwa Njenga and Kwa Reuben are zoned for the construction of light industries. Almost all the leasehold titles in Mukuru gave the grantees a 6-month period to provide technical drawings for the factories, which had to be constructed within 2 years of receiving the grant. Most of these grants were given in the early 1990's. However, almost all recipients violated the special conditions of grants but still retained the title to the land, waiting for the value to appreciate to the point where it could be sold at a premium. This practice of hoarding land contributed to the informality that has now led to the growth of slums in Mukuru.

Currently, unbuilt plot measuring 1,800 ft<sup>2</sup> (167M<sup>2</sup>) in Mukuru is sold at between Ksh. 250,000 and Ksh. 300,000. These amounts have informed our analysis of informal land values in Mukuru, as shown in the table below;

Informal Land Value Analysis	Lower	Upper	Average
Size of Land in Acres (Mukuru Kwa Njenga & Kwa Reuben)	525.00	525.00	525.00
Size of Land in Square Meters (Mukuru Kwa Njenga & Kwa Reuben)	2,124,596.25	2,124,596.25	2,124,596.25
Value of 167 square meter Plot	250,000.00	300,000.00	275,000.00
Total Number of 167 square meter plots in Mukuru	12,722.13	12,722.13	12,722.13
<b>Total Value of Land in Mukuru</b>	<b>3,180,533,308.38</b>	<b>3,816,639,970.06</b>	<b>3,498,586,639.22</b>

Once these parcels of land are released into the formal market, the Nairobi Special Housing Fund can explore the best options for leveraging almost **Kshs. 3.5 billion** worth of assets. In particular, **we argue that this prime land should be designated for low-income housing development and investment.** For title-holders that the National Land Commission finds to have obtained their land legally, it is proposed that the state pays the informal value of land as compensation. **The unlocked land value will be treated as an in-kind subsidy, which will greatly increase the affordability of the housing units for the urban poor.**

### 5.4. Unlocking the Rental Poverty Penalty

Mukuru Kwa Njenga and kwa Reuben are home to approximately 138,000 households and a population of over 690,000 people. On average, Mukuru has over 1,300 people per acre of land.

Nearly 92% of all households pay between Kshs. 1,500 and Kshs. 3,000 as rent to structure-owners for a 10 x 10 foot or 12 x 12 foot shack made from corrugated iron sheets, wood, wattle or mud.

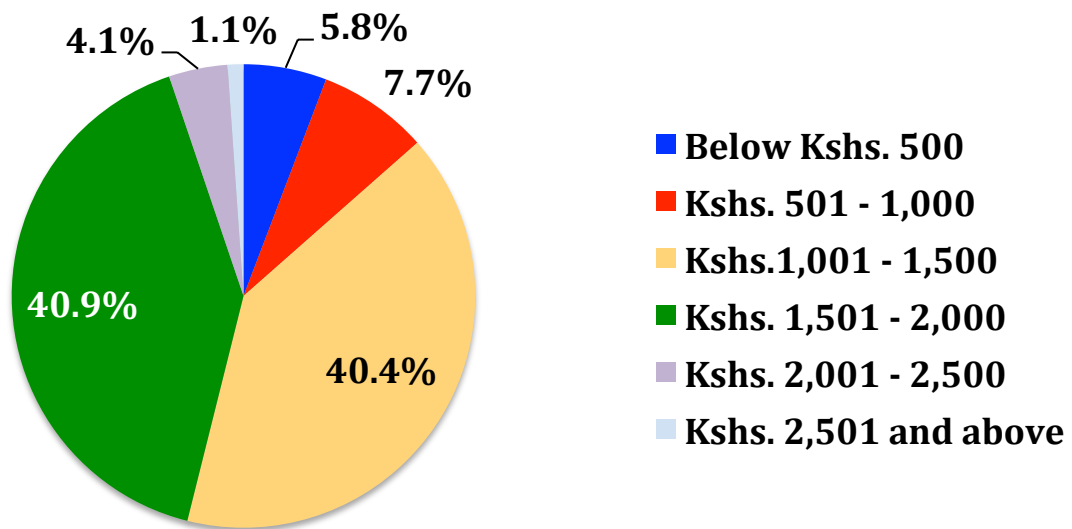
In mid-2015, Muungano enumerated a village in Mukuru called Riara. Rents in Riara ranged from below Kshs. 500 to above Kshs. 2,500, with 40.4% of residents paying between Kshs. 1001 – 1,500 and 40.9% paying Kshs. 1,501 – 2,000.

**Poverty Penalty:** Relating to both quality and price, Poverty Penalty can be defined as *the relatively higher cost shouldered by the poor, when compared to the non-poor, in their participation in certain markets* (Mendoza, 2008).

The **'Quality Penalty'** refers to the provision of a facility, product, or service of low quality, which is still offered at a price similar to that of higher-quality provision.

The **'Price Penalty'** exists where a poor person pays an above-average price per unit of the facility, product, or service.

### Mukuru Rent Analysis - Percentages





## THE NAIROBI SPECIAL HOUSING FUND

A study carried out with 800 residents across Mukuru Kwa Njenga and Mukuru kwa Reuben established the following rental figures across three income groups.

	Low-income (30% of residents)	Median income (56% of residents)	High income (14% of residents)
Average monthly rental	1,500	2,643	3,500
Estimated solidarity group monthly contributions	-	200	1,000
Total base value	<b>1,500</b>	<b>2,843</b>	<b>4,500</b>
Estimated monthly household income	4,839	9,171	14,516
Estimated annual household income	58,065	11,052	174,194
Estimated value of affordable house	<b>174,194</b>	<b>330,155</b>	<b>522,581</b>

Rental costs may vary tremendously from one settlement to the other in the same locality. For instance the settlement of Ghetto in Huruma has rental costs of between Kshs. 700 - 1,500 per room. While Mahira has rental costs of between Kshs. 2,500 - 3,000 per room.

Residents of Mukuru suffer a housing 'poverty penalty' per square-foot ranging from **10.7% to 25.8%**, when compared with residents of Imara Daima Estate, a middle-income residential area adjacent to Mukuru (AMT *et al.* 2014). The table below analyses the informal rent market in Mukuru and projections over the next 15 years.

<b>ANALYSIS OF THE (INFORMAL) MUKURU RENT MARKET</b>	
<b>Total Number of Households</b>	138,000.00
<b>Total Number of Rent Paying Households (92%)</b>	126,960.00
<b>Monthly Rent per Household</b>	Kshs. 2,643.00
<b>Total Rent Collected Monthly</b>	Kshs. 335,555,280.00
<b>Total Rent Collected Annually</b>	Kshs. 4,026,663,360.00
<b>Total Rent Collected in 15 Years (2030)</b>	<b>Kshs. 60,399,950,400.00</b>

All things constant, over the next 15 years, structure-owners will conservatively collect **Ksh. 60.4 billion** as rental income from tenants in Mukuru. This steady cash-flow can be harnessed to produce a high-quality housing unit for all residents of Mukuru.

### 5.5. Unlocking the Water Poverty Penalty<sup>17</sup>

An average household of 3 persons will purchase about three 20-litre containers per day at Kshs. 3–5 per jerry can. This translates to 1,800 liters of water per month or 1.8 cubic meters of water, an estimated expenditure of Kshs. 270 - 450 per month and a minimum charge of Kshs. 150 per cubic meter. The approved prevailing tariff is set at an average standing rate of Kshs. 330 for consumption of below 6 cubic meters.

As compared to formal water customers, Mukuru residents pay **172.72%** more for water reticulated using spaghetti pipes that run through filthy trenches and along dirty, narrow pathways (AMT *et al.* 2014). Once the housing sector in Mukuru is regularized, the residents will collectively save approximately Kshs. 36.01 million monthly, Kshs. 432.21 million annually, and over **Kshs. 6.48 billion** over the next 15 years. See the table below for further analysis.

ANALYSIS OF INFORMAL WATER SERVICE PROVISION					
	LOWER RATE	UPPER RATE	AVERAGE RATE	UNLOCKING 172.72% POVERTY PENALTY	POVERTY PENALTY
<b>Total Number of Households</b>	138,000	138,000	138,000	138,000	138,000
<b>Average rate paid per Household Monthly</b>	270	450	360	99	261
<b>Total collected per Month</b>	37,260,000	62,100,000	49,680,000	13,662,000	36,018,000
<b>Total collected Annually</b>	447,120,000	745,200,000	596,160,000	163,944,000	432,216,000
<b>Total To be Collected in 15 Years</b>	<b>6,706,800,000</b>	<b>11,178,000,000</b>	<b>8,942,400,000</b>	<b>2,459,160,000</b>	<b>6,483,240,000</b>

It is anticipated that most of this saving will go towards improved quality and increased consumption of water. This will be a standard of living benefit, rather than a cash savings.

<sup>17</sup>See <http://www.wasreb.go.ke/water-tariffs>

### 5.6. Unlocking the Electricity Poverty Penalty

To access electricity, Mukuru residents typically pay an initial set-up fee of Ksh.1,000 to 1,500 and an average monthly household charge of Ksh. 300–500. For this price, the residents receive a wire that connects just one electricity bulb for lighting. For the purpose of this report, 94% of the lowest rate of Ksh. 300 has been used (Ksh. 282). On average, a 60-watt bulb utilized by the household continuously for 24 hours consumes approximately 1.44 Kilowatt hours (KWH) per day, translating to 43.2 KWH per month. We contrast this with the tariff set by KPLC for energy charges, which are comprised of Ksh. 120 standing fee and Ksh. 2.00 per KWH for consumption below 50 units.<sup>18</sup>

As compared to formal electricity customers, residents of Mukuru pay **45.35%** more for unreliable electricity that is supplied using unsafe, informal connections (AMT *et al.* 2014). Once the housing in Mukuru is regularized, the residents will collectively save approximately Ksh. 17.68 million monthly, Ksh. 212.26 million annually, and over **Ksh. 3.18 billion** over the next 15 years. The following table indicates the values of electricity that can be unlocked per month, year, and 15 years:

<u>ANALYSIS OF INFORMAL ELECTRICITY SERVICE PROVISION</u>		<u>UNLOCKING 45.35% POVERTY PENALTY</u>	<u>POVERTY PENALTY</u>
<b>Total Number of Households</b>	138,000.00	138,000.00	138,000.00
<b>Average rate paid per Household Monthly</b>	282.65	128.18	154.47
<b>Total collected per Monthly</b>	39,005,700.00	17,689,084.95	21,316,615.05
<b>Total collected Annually</b>	468,068,400.00	212,269,019.40	255,799,380.60
<b>Total to be Collected in 15 Years</b>	<b>7,021,026,000.00</b>	<b>3,184,035,291.00</b>	<b>3,836,990,709.00</b>

It is anticipated that most of this saving will go towards improved quality and increased consumption of Electricity. This will be a standard of living benefit, rather than a cash savings.

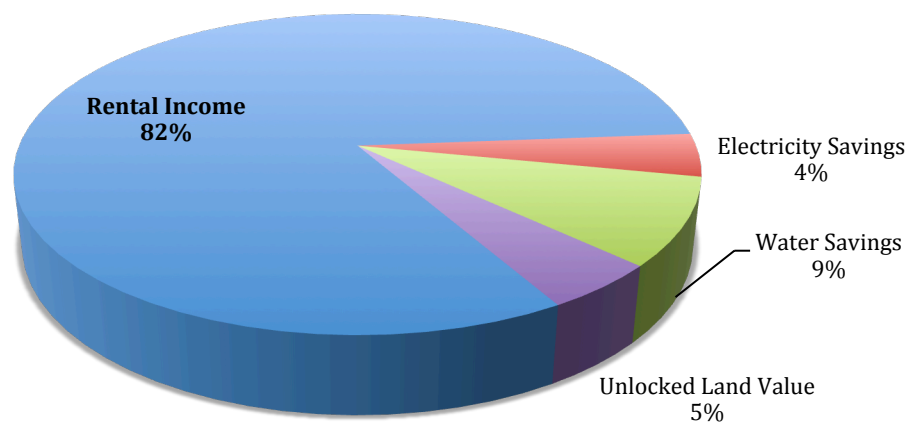
<sup>18</sup> See <http://www.kenyapower.co.ke/mplan/Prepaid%20power%20user%20guide%20rev1.pdf>

### 5.7. Total Funds Unlocked

The Nairobi Special Housing Fund will be a critical tool for unlocking a total of approximately **Ksh. 73.11 billion** that would be circulating within Mukuru's informal housing and services economy **over the next 15 years**. As indicated in the table below, these vast resources amount to almost **Ksh. 4.904 billion per year**. The chart also shows that 82% of Mukuru's informal services economy is comprised of rental income.

	RENTAL INCOME	ELECTRICITY SAVINGS	WATER SAVINGS	UNLOCKED LAND VALUE	TOTAL
Total Number of Households	138,000			<b>3,045,000,000</b>	<b>73,112,225,691</b>
Total Number Households	126,960	138,000	138,000		
Monthly Payment per Household	1,500	128	261		
Total Collected Monthly	190,440,000	17,689,084	36,018,000		
Total Collected Annually	2,285,280,000	212,269,019	432,216,000		
Total Collected in 15 Years (By 2030)	<b>60,399,950,400.00</b>	<b>3,184,035,291</b>	<b>6,483,240,000</b>		

### Analysis of Mukuru's Informal Service Economy



### 5.8. Converting Unlocked Rental Income for Low Cost Housing

From the rent collected by structure owners alone, a total of **Ksh. 60.339 billion** can be unlocked in Mukuru over the next 15 years for the provision of decent, affordable and sustainable housing.

The table below illustrates the Ksh. Cost per m<sup>2</sup> based on the experience of Muungano wa Wanavijiji, the Kenyan Federation of slum-dwellers. The average cost per m<sup>2</sup> achieved by the federation was Ksh. 15,000.00. It also illustrates the total numbers of housing units that can be constructed in Mukuru, just by tapping into the resources hidden within Mukuru's informality. These latent resources include rental income, land value, electricity savings and water savings (as explained above).

#### HOMES THAT CAN BE BUILT IF THE VALUE OF MUKURU'S RENTAL INCOME IS UNLOCKED

<u>House Size</u>	<u>Average</u>	<u>Rental Income</u>
<b>Construction Cost Kshs. 15,000/m<sup>2</sup></b>	15,000	<b>60,399,950,400.00</b>
<b>25</b>	375,000	<b>161,067</b>
<b>30</b>	450,000	<b>134,222</b>
<b>35</b>	525,000	<b>115,048</b>
<b>40</b>	600,000	<b>100,667</b>
<b>45</b>	675,000	<b>89,481</b>
<b>50</b>	750,000	<b>80,533</b>
<b>55</b>	825,000	<b>73,212</b>

## 5.8 The Mukuru Land Budget

Land budget analysis is a critical tool to evaluate the feasibility and practicality of providing safe, accessible and adequate housing for Mukuru residents with little or no displacement.

According to the City Council of Nairobi Regulations, a plot ratio of 75% and plot coverage of 50% is recommended for ImaraDaima and Villa Franca estates, which are the two main residential areas bordering Mukuru Kwa Njenga and Kwa Reuben.

<b>MUKURU LAND BUDGET</b>	
<b>Size of Land in Acres (Mukuru Kwa Njenga&amp; Kwa Reuben)</b>	525.00
<b>Size of Land in m<sup>2</sup> (Mukuru Kwa Njenga&amp; Kwa Reuben)</b>	2,124,596.25
<b>15% Roads &amp; Streets in m<sup>2</sup> (Inc. Power &amp; Sewage Reserves)</b>	318,689.44
<b>8%Community Facilities in m<sup>2</sup></b>	169,967.70
<b>70% Residential + Commercial in m<sup>2</sup></b>	1,487,217.38
<b><i>(Less 20% of Residential + Commercial for Walls &amp;Common Spaces) in m<sup>2</sup></i></b>	<b>1,189,773.90</b>
<b>Total Number of Households</b>	138,000.00
<b>House size if all units are on Ground Level (m<sup>2</sup>)</b>	8.62
<b>House size if units are built G+1 (m<sup>2</sup>)</b>	17.24
<b>House size if units are built G+2 (m<sup>2</sup>)</b>	25.86
<b>House size if units are built G+3 (m<sup>2</sup>)</b>	34.49
<b>House size if units are built G+4 (m<sup>2</sup>)</b>	43.11

According to the table below, it is possible to provide various house sizes for all 138,000 households depending on the settlement layout adopted and the number of storey's built.

## 6. THE SUBSIDY STRATEGY

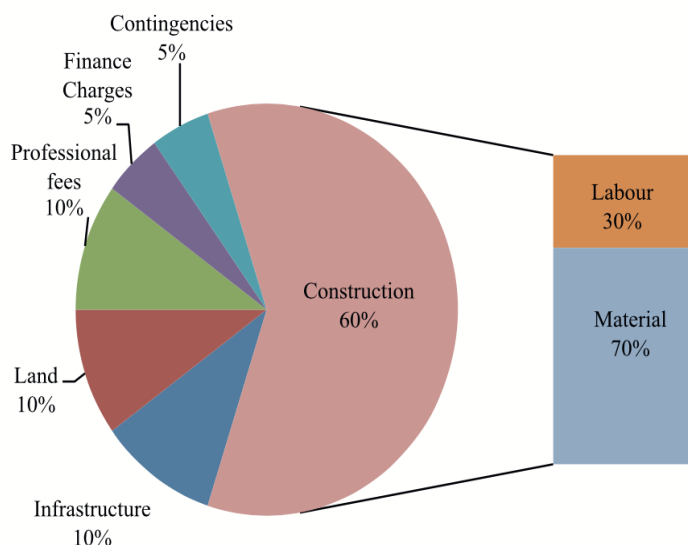
Housing units can be built in many configurations, from detached houses to high-rise apartments. Each type has special requirements in terms of planning and implications for building costs. According to a 2012 report published by the African Development Bank, the typical cost structure for a single unit across housing typologies in Kenya is roughly as follows:

- Construction represents 60% of a unit's cost (of which 70% is materials and 30%labour),
- Professional fees are 10% (architects, engineers, required public permits etc.),
- Infrastructure is 10%
- Financing is 5%
- Contingencies are 5%.

Such a breakdown is based on prevailing market preferences from buyers: cement-built, 1 to 3 bedroom houses (detached or semi-detached) of 80m<sup>2</sup> to 100m<sup>2</sup>.

With regards to construction materials, all basic hard supplies such as steel and cement are produced locally, although production does not always meet local demand.

Fittings such as tiles, kitchen and sanitary ware are usually imported.



Source: AfDB Informal Survey of Developers 2012, Shelter Afrique Information to the Authors 2012.

**'Subsidized housing' can be defined as a government-sponsored economic assistance program aimed towards alleviating housing costs and expenses for people with low incomes.**

As discussed below, the Nairobi Special Housing Fund will utilize the following subsidies to help ameliorate the cost of construction.

### 6.1. Finance (Interest Rate) Subsidy

The Salaries and Remuneration Commission (SRC), in fulfillment of its constitutional mandate and in exercise of the powers conferred to it under Article 230 of the Constitution and Section 13 of the Salaries and Remuneration Commission Act (2011), established Mortgage benefits for all State Officers and other public officers.

It is proposed that the interest rate applicable to the Mortgage Scheme be three (3%) per annum on a reducing balance for the duration of the loan. The commencement date was set

at 1<sup>st</sup> January 2015. The duration of the scheme shall be a maximum of twenty (20) years for mortgage<sup>19</sup>.

**It is further proposed that the Nairobi Special Housing Fund provide 80% mortgage financing at 3% interest rate for a term of 15 Years. Based on the precedent above, we similarly propose utilizing a 3% interest rate and offering 80% mortgage financing for a term of 15 years.** Low-income residents will thereby have ample time to repay their loans and can finally enjoy the benefits of affordable, high-quality housing.

HOUSE SIZE	COST OF HOUSING UNIT	20% DEPOSIT	80% MORTGAGE FINANCING	MONTHLY REPAYMENTS AT 3% INTEREST FOR 15 YEARS	TOTAL PAYMENTS	TOTAL INTEREST
Construction Cost per M <sup>2</sup>	15,000					
25 M <sup>2</sup>	375,000	75,000.00	300,000.00	2,071.74	372,913.20	72,913.20
30 M <sup>2</sup>	450,000	90,000.00	360,000.00	2,486.09	447,496.20	87,496.20
35 M <sup>2</sup>	525,000	105,000.00	420,000.00	2,900.44	522,079.20	102,079.20
40 M <sup>2</sup>	600,000	120,000.00	480,000.00	3,314.79	596,662.20	116,662.20
45 M <sup>2</sup>	675,000	135,000.00	540,000.00	3,729.14	671,245.20	131,245.20
50 M <sup>2</sup>	750,000	150,000.00	600,000.00	4,143.49	745,828.20	145,828.20
55 M <sup>2</sup>	825,000	165,000.00	660,000.00	4,557.84	820,411.20	160,411.20

## 6.2. Infrastructure Subsidy

Infrastructure accounts for approximately 10% of a housing project cost and therefore have a significant impact on the cost of housing. Substantial amounts of both loan and grant capital have been raised by the government to develop infrastructure for marginalized communities in Kenya. For instance, the government through KISIP has committed to improve slum-dwellers' living conditions in selected Kenyan cities through enhanced tenure security and infrastructure provision. A total of 100 million dollars was raised by the government through a loan facility from the World Bank, to be utilized by KISIP over a five-year period. Additional resources are also available from the Water Services Trust Fund. The fund is a Kenyan State Corporation mandated to finance water and sanitation services for poor and underserved communities in rural and urban areas. The fund's objective is to provide conditional and unconditional grants to counties for the financing of infrastructure development and management of water and sanitation services. By June 2014, the fund had raised Kshs. 7.8 billion to finance investment programmes in counties. The Kenya Power and Lighting Company also has a slum electrification programme that targets 150,000 connections in slums. Qualifying residents will each pay a subsidized rate of Kshs. 1,160 while KPLC and the World Bank will jointly contribute Kshs. 32,480 as a subsidy. (sourced from the internet)

<sup>19</sup> Salaries & Remuneration Commission Circular Ref: SRC/ADM/CIR/1/13 Vol. III (128) Dated 17<sup>th</sup> December, 2014



Given the above opportunities It is proposed that the fund, as far as possible, raise financing for infrastructure development through collaboration with government ministries or state corporations that have funds for infrastructure development for informal settlements. Funds raised from county appropriations or loan capital should therefore be used as a last result.

### 6.3. Land Subsidy

Additionally, land is a major contributor to the cost of housing. It is estimated that in Kenya, 10% of the cost of a house is taken up by the value of land (World Bank). Recognizing this, the government has in all its upgrading projects routinely provided a land subsidy to the residents (e.g., KENSUP upgrading in Soweto Kibera and Kahawa). One of the key components of the KISIP programme, for instance, is to plan for pro-poor growth through the provision of serviced land for housing. It is therefore crucial that the County Government work closely with the National Land Commission, in order to obtain land for housing development.

### 6.4. Technical Cost Subsidy

As noted above, the County Government can offer free advice centres and construction support for Nairobi's self-builders to help reduce their technical costs. Other planning interventions can include developing pre-approved sample house plans (so that the poor do not need to hire architects); more flexible building standards; and appropriate technologies or standardized building components (UN-Habitat 2011a: 49-51). Government support for alternative construction materials and techniques, drawing upon low-cost housing initiatives by Muungano wa Wanavijiji or other initiatives, can again help to reduce technical costs.

### 6.5. Tenant Purchase Schemes

The National Housing Corporation has developed tenant purchase schemes where they develop houses for sale after clients pay a 10% deposit and the balance is in form of a loan to a tenant. The tenant then pays it within 20 years through monthly remittance. The Tenant Purchase Scheme has two types of development categories, namely the Starter Units and High-rise Flats;

#### 6.5.1. Starter Units

This type of scheme is intended to cater for low-income groups. To enhance affordability levels, it is the current trend to provide expandable, complete 1 or 2 bed roomed housing units with all services provided. The owners will, at their own time, extend the houses to complete the extra rooms according to the approved plans.

#### 6.5.2. High Rise Flats

Because of shortage of land in the urban centers, NHC changed the trend from horizontal to vertical development. This kind of development affords an individual to own 2 or 3 bed roomed complete units in a high-rise block. This necessitated amending the housing policy so that owners can have Title Deeds of their flats above the ground floor without necessarily owning the land on which it is built (**Sectional Properties Act of 1987**).

## 7. RECOMMENDATIONS

In order to promote clarity and reduce conflicts, it is important that the county government develops guidelines that clearly establish criteria for identifying beneficiaries for tenure regularisation in upgrading projects and low-cost greenfield housing projects.

1. *That the County Government expeditiously prepares cadastral overlays of all informal settlements in Nairobi, in order to determine whether land occupied by slum settlements is public or private. The County Government should further determine the title-holders of all private lands occupied by informal settlements. This would greatly assist the city in planning for future development.*
2. *That the County Government work closely with the National Land Commission and the Ministry of Lands in order to establish the lawfulness of all titles of private lands that are occupied by informal settlements. After listening to all the affected parties in each case, the Commission should determine the question of legality and thereafter reach a decision on whether to cancel or confirm these titles. It is further proposed that compulsory acquisition or land swaps be applied to all lands that are found to be lawfully owned.*
3. *That all lands occupied by informal settlements and acquired by the state be designated for housing development for Nairobi's marginalized residents.*

## 8. CONCLUSION: THE TRANSFORMATIVE POTENTIAL OF AFFORDABLE HOUSING FINANCE IN NAIROBI CITY COUNTY

**The meagre housing and services in Nairobi's slums already generate major profits for informal providers, but creating a County Fund can better harness these resources and support affordable shelter.** Our data revealed that Mukuru residents currently make sizable payments for housing, water, and electricity, which are associated with a significant *poverty penalty* as compared to wealthier residents in Nairobi (AMT *et al.* 2014). Yet by the same token, these payments for low-quality, high-cost shelter can also be redirected and channelled into mortgage payments or formal utility bills in the future. Furthermore, we identified the legal framework for establishing a County-level housing fund under Kenya's 2010 Constitution and devolution reforms. With additional funding available in Nairobi County, local government will be able to develop tailored housing solutions and better reach the intended beneficiaries (in particular, low-income residents of Nairobi's informal settlements). Our proposals have discussed the fund's legal framework and outlined its institutional design, including the establishment procedures, oversight, and staffing by County Government officials. Additional input from local stakeholders can help to determine its precise administrative or financial operations, and there is already a compelling legal basis for creating the fund. **We thus suggest that establishing a County Government fund can amplify the resources in informal settlements and help to promote appropriate, inclusive housing solutions for Kenya's burgeoning cities.**

As argued above, the Nairobi Special Housing Fund will:

- Protect slum-dwellers from punitive market mortgage rates, which range between 11.25% and 22.50%.
- Provide the National and County Government with the financial, legal, technical and institutional framework for providing affordable housing at scale.
- Provide a sustainable community-led process that will ensure job creation and provision of decent affordable housing, and
- Insulate the poor from the crushing poverty penalty through a process that provides accountability and transparency at all levels.

**The vast scale of slums in Nairobi, combined with residents' regular payments for informal shelter or services, all suggest that the city has an extensive untapped market for adequate shelter. Such a fund would not only promote social policy objectives, but also foster economic growth and sustained urban development.** Housing construction is a key mechanism for bolstering youth employment and supporting local development more generally, as every Kenyan shilling invested in housing yields *nine more shillings*.<sup>20</sup> Extending access to affordable shelter finance can advance national and local development goals such as the Constitutional right to housing and housing strategies contained in Kenya's Vision 2030, NIUPLAN, and the

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<sup>20</sup>Nairobi Metro 2030 Strategy, quoted in Von Noppen 2013, page 7.

second MTP. There are already several promising opportunities to improve access to housing, thanks to opportunities under Kenya's devolution and building upon recent precedents in Ethiopia or Morocco. The rapidity of urbanisation, depth of poverty, and scale of Nairobi's informal settlements only underscore the critical need for prompt action. If urbanisation continues apace without pro-poor housing delivery, the shortage of affordable shelter will only grow more acute and it will prove ever more challenging to fulfil economic and social objectives in Kenyan cities. But via housing finance at the County level, a vital opportunity will be created that can transform the entrenched poverty penalties into affordable, accessible, and dignified shelter for all urban citizens.

## 9. APPENDIX 1: ETHIOPIA'S LOW COST HOUSING PROJECTS

Ethiopia's IHDP has received limited coverage in academic or grey literature, but details are available through the following websites:

Development Workshop, Angola, visited IHDP projects in February 2015:  
<http://www.dw.angonet.org/forumitem/learning-integrated-housing-development-program-addis-ababa>

"The projects are financed nationally by issuing Municipal Bonds through the state Commercial Bank. End-user purchase is through three subsidized housing mechanisms:

- a. 10% down payment, 90% 20-year mortgage at 9% interest for studio and one-room unit 25 – 40 m<sup>2</sup>
- b. 20% down payment to own through 15 year mortgage for two bedroom units of 60 m<sup>2</sup>.
- c. 40% down payment, 60% mortgage over 10 years for three bedroom units of 100 m<sup>2</sup>

Unit prices were set in 2009 at the original estimate (\$87/ m<sup>2</sup>), many units may be occupied by higher income households who can afford to pay full price (\$3,590-\$6,154 or more). Current prices adjusted to inflation and today's market were not available... The Integrated Housing Development Programme is entirely financed by public resources. The programme was originally funded by the city government's own account. Municipal administrations purchase bonds from the Commercial Bank of Ethiopia, secured under a Bond Agreement and paying them back over five years.

The CBE is the only independent financial resource for the housing programme in Ethiopia and had in 2011 provided USD 246 million in bonds to the government, receiving a return of USD 153 million. Up to this date, the housing programme had not received any donor funding. The IHDP is solely financed by CBE bonds and the city administration's own budget. The returns are used to pay back the bank bonds where once they were invested into new schemes.

A proportion of the Addis Ababa city budget is allocated to condominium building construction costs, labour costs, and infrastructure costs. (The infrastructure works include the water supply, the electricity, the roads and the drainage system). Within each project the relative weight of these are 60, 20 and 20 per cent respectively. The government secured a tax exemption on the import of loaders, crushers and other machinery for the construction industry. The government has also guaranteed exemption from the lease payment for land up to 50m<sup>2</sup> per unit.

Commercial Bank of Ethiopia (CBE) The Commercial Bank of Ethiopia is a government owned bank, whose mandate is to provide finance for commercial purposes allowing municipalities to purchase bonds in order to finance the implementation of the IHDP. The city of Addis Ababa sells bonds to the CBE to finance construction costs. The Bank provides funding for the total cost of the programme's implementation in Addis Ababa and in the regions. The Bank

also provides a loan-service to all condominium beneficiaries, whereby the Bank pays 60, 80 or 90 percent of the unit price on behalf of the beneficiary at the handover of the property (the beneficiaries, depending on economic level, pay the remaining per cent down payment themselves) and the families enter into a loan-agreement with the CBE to pay back this amount subject to interest.

The construction cost of a condominium housing unit (in 2011) on the private market is estimated to be USD 154/m<sup>2</sup>. The cost on the pilot project, was USD 68/m<sup>2</sup>. 12 per cent of this reduction in construction costs was due to the type of technology used, and 38 per cent of this reduction was due to the management and level of internal finishes - in other words, the phasing strategies and the absence of floor tiles, the floor screed finish and absence of wall plaster all contributed towards increasing the affordability of the scheme. In the long-term, the programme is structured to be 100 per cent cost-recoverable. Beneficiaries will eventually pay for the full construction cost of their condominiums and the land and infrastructure cost will be recovered through the sale of commercial units."

Elias Mesert "Ambitious Housing Project Revamping Ethiopian Cities", 11 Feb 2015 <http://www.urbanafrika.net/news/ambitious-housing-project-revamping-ethiopian-cities/> "Up to January 2014, over 800 million dollars was earmarked for the housing projects in cities across Ethiopia. Some 22,000 condos were handed over to beneficiaries in 2014 alone, according to the Ethiopian Housing Development Agency. And the government expects to transfer 76,000 houses to individuals this year. The construction of 65,000 houses commenced in 2013 and construction of the same number of houses will begin this year.

Addis Ababa has received priority due to the high demand for housing. Close to one million individuals that seek condos have been registered since 2012 in Addis Ababa only, according to the Ministry of Urban Works and Development. And in the last few years, the city administration has completed thousands of condos in the central part of town, although most of the big condo compounds have been built on the outskirts. The city's current housing project has a goal of constructing 400,000 condominium units between 2010 and 2015. Although the program has not met its original targets it has built 171,000 housing units to date.

There are, however, a number of unanticipated challenges facing the program. "The most pressing [challenge] is the affordability of the units for low-income households, with the cost increases in the price of condominium houses deeming them no longer an option for many low-income households," said Wube, the urban planner. "Furthermore, the inability to pay the monthly mortgage and service payments forces many households to move out of their unit and rent it." In addition, many condominium sites are located at the periphery of the city, sometimes up to eight kilometres from the city centre. This places further financial strain on beneficiaries in the form of daily transport costs. The quality and design of condominium blocks and the post-occupancy management are also other critical factors, according to a review by the Integrated Housing Development Agency's 2013 report to the House of Peoples Representatives."

## 10. APPENDIX 2: MOROCCO'S VILLES SANS BIDONVILLES (VSB)

### 10.1. From CAHF *Housing Finance Yearbook 2014*, p. 125:

There is widespread use of public-private partnerships between government and private sector, to facilitate housing production. Morocco has also been assertive in providing tax breaks and guarantee funds to attract the private sector into affordable housing development. To qualify for the tax breaks and subsidised land, developers must commit to at least 150 social houses over five years; this amount has reduced recently from 500 in order to encourage small-scale developers into the market place. Since 2011, agreements have been signed with developers for the production of almost one million social units. Another supply incentive has been delivered through the Cities Without Slums programme that was launched in 2004, and has continued past the proposed end-date of 2012. The programme has been improving housing for over 300,000 households, financed notably by a tax on cement.

Until 2016, the aim is to reduce the housing shortage by 400 000 units, yet the government is struggling to reach its targets and will need to investigate ways to be more effective in stimulating housing. In 2012, only 114 200 units were completed, 55 800 short of the 170 000 Ministry of Housing target with only 137 147 units in 2013. Of the lowest cost units, priced at MAD140 000(US\$16,300), only 9,000 were completed in 2012 and 2013, half of the target. Meanwhile, less than 26 000 units for the new middle class housing programme were built, well below the target of 40,000.

### 10.2. From Mutero (2014), p. 26:

Al Omrane (AO) is the main driver of government's Villes Sans Bidonvilles (VSB) programme whose focus is the phasing out of slums through social housing. AO started operations in 2004, following the amalgamation of ten government agencies with overlapping mandates. This institutional consolidation was anchored on new legislation. AO's development of social housing, and even new towns, is complemented by private developers who obtain free land from government and local authorities. Such developers are then expected to procure construction finance and build social housing...

p. 27 Government policy has set three tiers of affordability which provide a framework for determining incentives to developers. For each tier, there are clear price and quality benchmarks that must be met by a developer and these were most recently reset by the 2013 Finance Law. With government subsidies, houses in the lowest tier sell for not more than \$16,600 and are affordable by households that earn less than 1.5 times the minimum monthly wage. These dwelling units have a floor area of 50 – 80 m<sup>2</sup>. Houses in the next tier, also with an area of less than 80 m<sup>2</sup>, sell for not more than US\$ 31,000 and are affordable by households earning between 1.5 and 2.5 the minimum monthly wage. The third tier, comprising middle income housing, has a price ceiling of US\$ 714 per m<sup>2</sup>, including value added tax, and a floor area of 80-100 m<sup>2</sup>. This type of housing is meant for people with a monthly income not exceeding US\$ 2,380.

Whilst developers have accelerated house production, on the back of tax reliefs, they have neglected the lowest-priced housing tier as it does not enable them to optimize their profits. This means that many households that would otherwise qualify are excluded but they have the alternative of purchasing subsidised residential plots under the VSB programme or continuing to reside in informal settlements.

Developers have also been reluctant to build at prices above the highest tier as doing so would deny them tax reliefs. Although this developer behaviour is a rational response to the incentives on offer, it has constrained product diversity. Moreover, most units have been bought by the middle class. Yet another downside is that in spite of existing housing deficits, there are many vacant houses, pointing to the need for adjustments in programme design.

### 10.3. [Appendix 3: Morocco's FOGARIM](#)

From Walley 2013, p. 144

“Created in 2004, FOGARIM (Guarantee Fund for Irregular and Modest Earners) targets primarily low-income households with irregular earnings. It provides guarantees covering 70 percent of losses on mortgage loans. Because of the type of income of the borrowers, the main selection criteria are prices (limited to US\$25,000) and the level of monthly instalments, capped at about the equivalent of US\$200 (at the upper-income threshold) and 40 percent of the households 'income (at the lower threshold).

Guarantee can be enforced after nine months in arrears, once the foreclosure process has been initiated. After an initial phase where guarantees were granted for free, FOGARIM switched to a risk-linked premium system, where the amount of premiums is inversely linked to the size of the down payment.

In 2009, FOGARIM was merged with another guarantee fund that targeted the moderate-income civil servants, middle-class independent workers, and non-resident Moroccans buying or building houses worth to US\$100,000. The consolidated fund, DamaneAssakane, was guaranteeing DH 9.3 billion at the end of 2010 (US\$1.2 billion), while its own funds amounted to DH 0.95 billion.”



10.4. Appendix 4: The Procedure for establishing the proposed housing fund is as follows:

- a. The County Executive Committee prepares a bill for the establishment of a County Housing Corporation.
- b. The County Executive Committee presents the bill to the relevant County Assembly Committee for approval, after taking into account the views of the County Executive Committee member responsible for finance (as this is a money bill). The relevant County Assembly Committee thereafter recommends the bill for presentation to the County Assembly.
- c. The bill is then introduced by any member or committee of the County Assembly.
- d. The bill is published in the County or Kenya gazette.
- e. The bill is debated, passed or rejected by the County Assembly.
- f. If passed, the bill is presented by the speaker to the Governor within 14 days of being passed.
- g. The Governor, within 14 days of receipt, assents the bill or refers it back to the Assembly with a memorandum of proposed amendments.
- h. The County Assembly passes the bill without amendments or amends the bill, taking into account the issues raised by the Governor.

10.5. The Target Group and Criteria

The intended beneficiaries in Nairobi County include the following residents:

- a. Residents of informal settlements who have purchased land for the development of their own housing
- b. Informal market traders who occupy public land that has been designated as a public market
- c. Residents of informal settlements on public land and whose settlement has been designated for *in situ* upgrading

The criteria for qualification for this group are as follows:

- a. Residents must be registered as a co-operative or as a corporation under the Community Land Act
- b. The co-operative or corporation must have a minimum registered membership of 50 people, with a maximum income to be determined
- c. The proposed land for development must be registered in the name of the co-operative or the community corporation

## 11. GOVERNMENT SUBSIDIES

Delivery of housing to the poor and low-income citizens is exacerbated by the disparity and imbalance in housing demand mitigation among income groups. Currently, more than 80 per cent of new houses produced by developers and financed by mortgage lenders are for high and upper middle-income earners yet 83 percent of the demand is for low income and lower middle income.

This has been mainly due to low investment by the Government through exchequer funding while the private sector has tended to concentrate on the development of high and middle-income housing. This has left huge supply gap in low cost housing.

In this connection, the Government recognized that if supported with the right incentives, the private sector has the capacity to invest more in housing and particularly low cost housing. It is for this reason that the Government gave the following incentives to the sector:

### 11.1. TAX DEDUCTIBILITY FOR HOUSING LOANS

The interest paid by a person on money borrowed to purchase or improve premises (house) occupied by him is a tax-deductible expenditure against his taxable income up to a maximum of Ksh 150,000 per annum. However, the money must be borrowed from either:

- A bank or financial institution licensed under the Banking Act
- An insurance company licensed under the Insurance Act
- A building society registered under the Building Society Act

### 11.2. CONTRIBUTIONS TO HOME OWNERSHIP SAVINGS PLAN (HOSP)

- A depositor who operates a registered home ownership savings plan is entitled to deduct from his taxable income an equivalent of Kshs. 4,000 per month i.e. maximum of Kshs. 48,000 per annum for a maximum period of ten years i.e. No tax (PAYE) on amounts saved to a maximum of Kshs 4,000 per month or Kshs 48,000 per annum.
- The income of such Home Ownership Savings Plan is exempt from tax.
- No withholding tax on interest earned for balances up to Kshs 3 million

### 11.3. LOWER TAXATION OF HOUSING BONDS

The HDB is an account for individuals that allow a fixed amount of money to be saved for a period of time. The account holder declares the amount to be saved as a lump sum, which is then fixed for an agreed period. It is designed for the individual saver who will not need to access the funds for the duration of the savings plan. The lower taxation of housing bonds has the following key benefits;

- Withholding tax of only 10% compared to the 15% rate normally charged,
- Special considerations when applying for a mortgage,
- Flexible investment periods for as short as 1 month to suit your investment plan.

### 11.4. PRESCRIBED DWELLING HOUSE

A prescribed dwelling house is a house constructed for and occupied by employees of a business carried on by the person owning the dwelling house and which conforms with prescribed conditions.

A prescribed dwelling house qualifies as an Industrial Building as defined under the income Tax Act and hence the employer is allowed a deduction against his taxable income at the rate of 1/40 of the capital expenditure per annum. The purpose of this incentive is to encourage employers to give decent housing to their employees

### 11.5. TAX DEDUCTIBILITY FOR EXPENDITURES FOR SOCIAL INFRASTRUCTURE

Expenditure of a capital nature incurred by a person on the construction of a public school, hospital or any similar kind of social infrastructure and is given prior approval by the Minister for Finance is tax deductible.

### 11.6. TAX DEDUCTIBILITY OF INTEREST FROM INFRASTRUCTURE AND SOCIAL SERVICE BONDS

Interest income accruing from all listed bonds used to raise funds for infrastructure and social services is exempt from tax provided that the bonds shall have a maturity of at least three years.

Expenditures of a capital nature incurred with a prior approval of the Minister for Finance, by a person on the construction of a public school, hospital, road or any similar kind of social infrastructure is tax deductible.

### 11.7. INDUSTRIAL BUILDING

Industrial Building deduction on capital expenditure incurred on the construction of an industrial building to be used in a business carried on by a person or the lessee for any year of income in which the building is so used.

- One-tenth per annum (w.e.f. January, 2007)-for a hotel which the commissioner has certified to be an industrial building
- One-tenth per annum (w.e.f. January, 2007)-For a hostel or an educational building certified by the commissioner.

- Five per cent per annum (w.e.f. January 2008) for residential rental building constructed in a planned development area, approved by the Minister responsible for housing.
- One-fortieth per annum-For other industrial buildings-includes a prescribed-dwelling-house- i.e. a dwelling-house constructed for and occupied by employees of a business carried on by the person owning the dwelling-house

**Note:**

Industrial Building does not include a building used as a retail shop, show-room or office. "Building" includes any building structure and where the building is used for purposes of manufacture it includes the civil works and structures deemed to be part of an industrial building.

### 11.8. ASSIGNMENT OF RETIREMENT BENEFITS

It is now possible for members of the retirement schemes to assign their benefits for Mortgages as per legal Notice No.85 of 2009. The following are some of the important issues contained in the new regulations.

- The regulations have prescribed a proportion of 60% of the benefits accruing to a member of a Pension scheme to be assigned and used by the member to secure a mortgage loan from Institutions that are approved for purposes of providing banking, non banking institutions or those approved by RBA.
- A member of a retirement benefit scheme can assign up to 60% of his accumulated benefits to the scheme which in turn will issue a guarantee for a similar amount to the financial institution. If the member remains in employment, the accumulated savings continue to grow through contribution and investment and so the member can, at three year intervals, revalue the amount assigned so as to allow re-financing or borrowing for home improvements and extensions.
- No funds shall be transferred from the scheme, but the trustees of the pension plan, upon receiving instructions from the member, will issue a guarantee to the financial institution for the amount being secured. However, the house being purchased or constructed (unless it is a rural house) will remain the primary security for such lending and that the role of such a guarantee is merely credit enhancement to enable the member access the mortgage. Guarantees are transferable from one scheme to another.
- Guarantees shall be given for loans for four specific purposes:
  - To acquire property outright;
  - To construct a home;

- To carry out repairs, alterations and improvements or
  - To secure financing for deposits, stamp duty, valuation fees and other incidentals associated with home ownership (excluding arrangement fees, commitment fees etc)
- Married couples should be able to pool their retirement savings for this purpose in order to buy a family property.

Care must be taken to ensure that access to the member's benefits while she or he is in employment is only a last resort in the event of default, AND if the accumulated benefits will make good the balance if the realizable collateral property securing the mortgage is insufficient to repay in full the borrower's outstanding debt.

The double jeopardy of a member losing both pension benefits and the house as well is to be avoided as much as possible. The scheme member should be allowed to continue building their fund for the future. The introduction of these rules allows an individual to both acquire property as well as save for retirement simultaneously

### 11.9. INCENTIVES UNDER THE VAT ACT

The Minister of Finance may remit (exempt) VAT payment in respect of:-

- Construction or expansion of private universities (excluding student hostel and staff housing) on the recommendation of the Minister responsible for education.
- Construction of not less than twenty housing units for low income earners on the recommendation of the Minister responsible for Housing in line with regulations set –out under legal notice No. 115 of 2008 (The legal notice is annexed).
- Capital goods (excluding motor vehicles) exceeding Kshs. 1,000,000 for new investment or the expansion of investments may be exempted from tax and
- Official aid funded projects are also tax exempt.

### 11.10. INCENTIVES UNDER IMPORT DUTY

The East African Community Gazette of 29<sup>th</sup> June 2010, zero-rated the following:

- Petroleum coke which is a raw material used in the production of cement
- Pigments dispersed in non aqueous media, in liquid or paste form, of a kind used in the manufacture of paints

### 11.11. INCENTIVES UNDER STAMP DUTY

- The Stamp Duty Act was amended so that the rate of penalty on the principal amount of duty was reduced from 25% to 5% in 2010. This was done in order to reduce the penalty burden on new property owners and also encourage others who have not been able to effect transfers within stipulated period to come forward.
- The Stamp Duty Act was also amended to reduce the Stamp duty fees on mortgages, charges and debentures from 0.2% to 0.1%.

### 11.12. INCREASE IN THE MORTGAGE FINANCE PROPORTION

In the Finance Act, 2010 The Banking Act was amended to allow:-

- Mortgage finance companies to operate current accounts so as to attract higher customer deposits that would allow them to increase mortgage-lending capacity and expand their operations.
- Raising of the threshold of core capital that banks are allowed to invest in mortgage finance from 25% to 40%.
- The Central Bank may authorize an institution to exceed the percentage specified above up to a maximum of 70%.

The Ministry of Housing continues to work with the sector stakeholders to lobby for more incentives aimed at enhancing development of affordable housing.

## 11.13. LEGAL NOTICE NO 115 OF THE VALUE ADDED TAX (CAP 476)

### THE LEGAL NOTICE NO 115 OF THE VALUE ADDED TAX (CAP 476)

*IN EXERCISE* of the powers conferred by section 23 of the Value Added Tax Act, the Minister for Finance makes the following Order:-

#### **THE VALUE ADDED TAX (REMISSION) (LOW INCOME EARNERS HOUSING PROJECTS) ORDER, 2008**

1. This Order may be cited as the Value Added Tax (Remission) (Low Income Housing Projects) Order, 2008
2. In this Order, unless the context otherwise requires-

**“Applicant”** means a person making an application under paragraph 3 of this Order;

**“Low income earner”** means a person whose monthly gross earning amounts to thirty five thousand shillings or less;

**“Low income house”** means a house put up at a construction cost of not more than one million six hundred thousand shillings and of plinth area of not less than thirty square meters;

**“Low income housing project”** means a project of not less than twenty housing units intended for low income earners;

**“Minister”** means the Minister for the time being responsible for finance.

3. **An application for tax remission under section 23 (3) (1) of the Act shall be made in writing to the Minister through the Minister for the time being responsible for housing. An application under this paragraph shall-**

(a) Be submitted together with the detailed certified list of goods and services to be rendered in respect of which the application is made;

(b) Include the following –

- (i) The location of the project;
- (ii) Evidence of construction cost;
- (iii) Approved designs of the project;

- (v) The approval of the development by relevant authorities;
- (vi) The Personal Identification Number (PIN) of the applicant; and
- (vii) Tax compliance certificate.

**4. The Commissioner may require an applicant to-**

- (a) Furnish such further information as the Commissioner may consider necessary; and
- (b) Allow and facilitate the inspection of the goods or services rendered to which the application relates by a person authorized by the Commissioner.

**5. (1) Except as provided in sub-paragraph (2) below. Only one application shall be made with respect to a given project.**

(2) A second application in respect of the same project may be made if the applicant demonstrates that the additional application relates to a separate phase of the project or an expansion thereof.

**6. A person granted tax remission under this Order shall –**

- (a) Construct low income houses;
- (b) Allow and facilitate the Minister for the time being responsible for housing or the Commissioner to inspect the projects, including the goods and services rendered;
- (c) Avail the records of such goods and services rendered for purposes of inspection and audit to the Minister for the time being responsible housing or the Commissioner;
- (d) Sell, rent or lease the houses to low income earners;
- (e) Sell the housing units at a price which is not more than thirty per cent of the construction cost;
- (f) Ensure the rent charged for the houses constructed under the scheme reflect the reduced cost of construction as a result of tax remission.

**7. Where the Commissioner and the Minister for the time being responsible for housing is satisfied that an applicant granted tax remission under this Order has failed to comply with the provisions of paragraph 6 above, the Commissioner shall require the applicant to refund the tax remitted.**

**8. An applicant shall, if he sells, leases, rents or converts a house for uses other than as provided under paragraph 6(d), before the expiry of five years from the date the construction was completed be required to refund the tax remitted or such portion thereof as the Minister may determine relating to the construction of the part so converted.**

**Legal Notice is Dated the 2<sup>nd</sup> September, 2008**

**Note: Kshs 1,600,000 for a low income house of no less than 30m<sup>2</sup> works out to Kshs. 53,333.33 construction cost per M<sup>2</sup>.**





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