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2 The Nakuru County Housing Estates Tenancy and Management Bill,
**THE NAKURU COUNTY HOUSING ESTATES TENANCY
AND MANAGEMENT BILL, 2023**

A Bill for

AN ACT of the County Assembly of Nakuru to provide for Tenancy and Management of Nakuru County Housing Estates, and for connected purposes

ENACTED by the County Assembly of Nakuru as follows—

PART I—PRELIMINARY

Short title

1. This Act shall be cited as the Nakuru County Housing Estates Tenancy and Management Act, 2023.

Application

2. The provisions of this Act shall apply where the County Government has established residential premises for the purpose of renting.

Interpretation

3. In this Act, unless the context otherwise requires—

"accounting officer" means an accounting officer of a County Government;

"county executive committee member" means the County Executive Committee Member responsible for matters relating to housing;

"chief officer" means the chief officer responsible for matters relating to housing affairs;

"county government entity" means any department or agency of the county government, and any authority, body or other entity declared to be a county government entity under section;

"landlord" means the County Government or its representative in the management of the housing estates;

"renewal and regeneration" means upgrading of housing estates through reconstructions, renovations or by way of new developments;

"tenancy" means a relationship created either by a lease, agreement or Assignment;

"tenancy agreement" means a written agreement between a tenant and the County Government of Nakuru for occupancy of a residential or business premises;

"tenancy notice" means an express notice in writing given by either party to a tenancy in accordance with the terms of the tenancy or in accordance with the provision of this Act;

"tenant" in relation to a tenancy means the person for the time being entitled to the tenancy whether or not the tenant is in occupation of the holding, and includes the tenant's family.

Objective of the Act

4. The objective of the Act is to ensure that—

(a) There is progressive realization of Article 43(1)(b) and clause 8(d) part II of the fourth schedule to the Constitution;

- (b) county housing estates are managed in accordance with the principles set out in the Constitution and other relevant Legislations;
- (c) there is a clear structure in place for tenancy and management procedures to allow for equity and fairness in the management of county housing estates;
- (d) there is a clear procedure for the refurbishment, redevelopment and renewal of existing county estates; and
- (e) there is a clear procedure for the development t of new county housing stock.

The County Housing Status Report

5. (1) There shall be prepared at the close of each financial year a County Housing Status Report.

(2) The County Housing Status Report shall include the current status of all existing housing estates and any new ones proposed for development.

(3) The County Executive Committee member shall, from time to time, and not less than once each year table in the County Executive Committee the County Housing Status Report

(4) The County Housing Status Report shall be submitted to the County Assembly.

PART II—COUNTY ASSEMBLY OVERSIGHT OF MANAGEMENT OF COUNTY HOUSING

County Assembly Oversight of Management of County Housing

6. The committee of the County Assembly established to deal with housing matters shall have responsibility for the following matters—

- (a) Deliberate and review the budget estimates for the housing sector and make recommendations to the County Assembly on the adequacy of the budget;
- (b) provide general direction on housing management matters;
- (c) monitor all housing matters falling within the competence of the County Assembly under this Bill and report on those matters to the County Assembly; and
- (d) from time to time offer policy guidance on housing management matters as presented in the County Housing Estates Status Report prepared by the County Executive Committee member responsible for housing.

PART III—ADMINISTRATION

Office of County Director of Housing

7. (1) There is established the office of County Director of Housing.
- (2) The County Director of Housing shall be competitively appointed by the Nakuru County Public Service Board and such other officers as the board may deem necessary for proper functioning of the housing section.
- (3) The Director shall be the chief county advisor on all matters relating to housing and human settlements and shall in addition perform such functions as are conferred by this Act.
- (4) The office of the Director shall be located at the County Headquarters.

Directorate of Housing

8. The Directorate of housing shall be responsible of the following functions

- (a) planning and development of Housing Infrastructure;
- (b) capacity building on appropriate building materials and technologies
- (c) improvement of informal settlements;
- (d) preparation of schedules of dilapidation for all county housing ;

- (e) maintenance of existing housing;
- (f) development of new housing ;
- (g) preparation of the Annual County Housing Status report;
- (h) management of tenancies for County housing estates;
- (i) rent enforcement within County Housing estates.

PART IV—COUNTY HOUSING ESTATES RENEWAL, REGENERATION AND STOCK IMPROVEMENT PROCESS

Renewal and Regeneration criteria.

9. The Criteria for selection of the Renewal and Regeneration process shall include—

- (a) an estate already condemned by a Board of Survey set up for that purpose and declared as unfit for human habitation;
- (b) an estate which is deemed not to be realizing its optimal returns; and
- (c) establishment of a new housing estate.

Methods of renewal and regeneration.

10. The Methods of renewal and regeneration of county housing estates shall include—

- (a) general refurbishment and renovations of existing housing estates in accordance with schedules of dilapidations there before prepared;
- (b) construction of new stock as infill in existing estates;
- (c) establishment of a new housing estate; and
- (d) acquisition of existing property.

PART V—COUNTY HOUSING ESTATES TENANCY AND MANAGEMENT COMMITTEE

Establishment of the Housing Estates Tenancy and Management Committee

11. (1) There is hereby established the Nakuru County Housing Estates Tenancy and Management Committee.

(2) The County Housing Estates Management Committee shall consist of the following—

- (a) director of Housing as the chairperson ;
- (b) sub-county Administrator;

- (c) respective Ward Administrator;
- (d) a Public Health Officer;
- (e) a Disaster Management Officer from Department of Public Works;
- (f) a representative from the Department of Finance;
- (g) a representative from the Department of Social Services; and
- (h) a representative from a registered bona fide county housing estates tenant association;

Functions of the Nakuru County Housing Estates Tenancy and Management Committee

12. (1) The functions of the Nakuru County Housing Estates Tenancy and Management Committee (NCHEMC) include managing the following development of county estates by—

- (a) making proposals for the redevelopment of county estates through densification and reconstruction;
 - (b) development of new houses.
- (2) Maintenance of county housing Estates by—
- (a) preparing schedules of dilapidation as contained in the status report;
 - (b) preparing renovation estimates for existing and new housing .
- (3) Housing Tenants dispute resolution by way of a dispute resolution committee to resolve or arbitrate over disputes.
- (4) Housing allocation by way of an allocation committee to declare houses vacant, receiving applications and placing tenants in houses declared vacant.
- (5) Enforcement of evictions as set out in the Second Schedule of the Act—
- (a) of tenants in default of rent payment where a notice so issued has expired;
 - (b) of tenants who act contrary to tenancy agreements with the County Government and where issued infringement notices having expired.
- (6) Proposals forwarding to the County Board of survey for condemning of inhabitable houses.
- (7) Process of vacation of county housing estates in accordance with tenancy regulations .

PART VI—BOARD OF SURVEY

Establishment of the Nakuru County Housing Estates Board of Survey.

13. (1) There is hereby established the Nakuru County Housing Estates Board of Survey.

(2) The Board shall consist of such number of persons appointed by the County Executive Committee Member—

- (a) an officer from the housing section;
- (b) an Engineer from Department of Public Works;
- (c) a Public health officer;
- (d) a representative from a bona fide tenants association;
- (e) a disaster management officer from Department of Public Works;
- (f) a representative from the County Physical Planner's office;
- (g) a representative from the Department of Finance.

Chair of the Board of Survey

14. (1) The County Executive In-Charge of Housing shall appoint a chairperson and vice-chairperson of the Board from amongst the members.

(2) A quorum of the Board shall be the chairman and three other members, and in case of an equality of votes the chairman or vice-chairman, as case may be, shall have a casting vote.

(3) The representative of the Housing department shall act as the secretary to the Board.

(4) The Board may co-opt to serve person(s) whose assistance or advice it may require, but a person so co-opted shall neither be entitled to vote at any meeting of the Board nor be counted as a member thereof for the purpose of forming a quorum.

Duties and functions of the Board

15. (1) The Board shall perform the following duties and functions—

- (a) secure the greatest possible safety in the housing and habitability of the county estates;
- (b) review proposals from the county estates management committee on condemning inhabitable houses;
- (c) set out the procedure of condemning houses; and

- (d) review the safety of houses that the tenants have done alterations and offer recommendations.

PART VII—THE RENT ENFORCEMENT UNIT

Establishment of rent enforcement unit

16. There shall be established a Rent Enforcement Unit.

Composition of the unit

17. The unit shall comprise of officers from the revenue department assisted by enforcement and housing officers.

Functions and duties of the unit

18. Duties and functions of the unit will be—
- (a) enforce rent collection;
 - (b) maintain records of rent enforcement;
 - (c) enforce eviction notices;
 - (d) conduct house inspections;
 - (e) any other duty that may be assigned.

PART VII—THE DISPUTE RESOLUTION COMMITTEE

Establishment of county housing estate dispute resolution committee.

19. There shall be established a county housing estate dispute resolution committee.

membership of the committee

20. (1) The membership shall be drawn from the members of the Nakuru County Housing Estates Tenancy and Management Committee, NCHETMC.

- (2) The committee may co-opt other to serve person(s) whose assistance or advice it may require as determined by the nature of the dispute.

Responsibilities of the committee

21. The responsibilities of the dispute resolution committee shall be to—

- (a) adjudicate over disputes between tenants in occupancy of county houses or county owned business premises;
- (b) recommend penalties applicable to tenants found to be in default of county tenancy regulations.

FIRST SCHEDULE

Management of Rent Payment

1. Payment of rent in full shall be due by the 5th day of every month.
2. Payment after the due date shall attract a 5% penalty.
3. Rent arrears shall recovered through various means including —
 - (a) locking of houses;
 - (b) auctioning the properties of the defaulters;
 - (c) bonding/charging of the rent defaulters in court to recover the rent default and the penalties;
 - (d) confiscating properties of the rent defaulter until that time the arrears are settled; and
 - (e) deduction from the salary in the case of county member of staff.

SECOND SCHEDULE

Enforcement of Evictions

1. The Director of Housing in conjunction with the NCHETMC shall be spearhead the eviction of tenants after three (3) consecutive months of rent default by the respective tenants.

2. The evictions shall be implemented in conjunction with the subcounty administration, the revenue department and the **county enforcement unit**.

THIRD SCHEDULE

Vacation of a County House

(1) Any tenant wishing to vacate his/her house will have to declare it in writing to the Director of Housing and fill the relevant vacation form.

(2) The Housing maintenance section will carry out an inspection of the respective house and offer its recommendations;

(3) For avoidance of doubt, the tenants will be responsible for making good defects recorded. .

(4) The county revenue section shall give clearance by confirming that the tenant has no arrears due.

FOURTH SCHEDULE

Allocation of a County House

(1) A potential tenant shall apply in writing to the Director of Housing to be allocated a vacant county house and fill the relevant application form.

(2) The Nakuru County Housing Estates Tenancy and Management Committee shall evaluate all applications received and allocate a house to the most deserving person in accordance with the evaluation criteria contained in the application form in (1) above.

(3) A successful tenant shall have their record entered in the Housing inventory and in the revenue computer records for the purpose of billing.

(4) A successful tenant shall be issued with a tenancy card as well as a copy of the tenancy rules and regulations.

MEMORANDUM OF OBJECTS AND REASONS

Provisions of Article 43 (1)(b) of the Constitution – (Bill of Rights) provides for accessible and adequate housing as an economic and social right for all citizens. It further mandates and empowers the County Governments with the housing function under the Schedule Four. The purpose of this Bill is to therefore ensure that the function of housing is progressively and effectively implemented at the county level and that mechanisms are provided for in county legislation.

The objects of the proposed law as set out in clause 3 are—

- (a) give further effect to paragraph 8 of the fourth schedule to the constitution which mandates the county government with the housing function;
- (b) to ensure that the National Government policy on housing is implemented at the county level in accordance with the requirements of the Constitution to the effect that Government at either level shall among other things, as appropriate, implement the legislation of the other level of government; and
- (c) to provide for the county institutions and for procedures applicable to the housing sector in the county such as urban renewal and revenue generation.

The County Government is at liberty to establish its own institutions that will manage its housing function which are also expected to implement the national and county government policy on housing as they become effective.

This Bill provides for County Housing Estates Management Committee and a Board of Survey who shall be appointed by the County Executive Committee Member in Charge of Housing Matters. In addition, it provides for a Rent Enforcement Unit that reports to the Revenue Director. These entities are meant to ensure efficient, effective, sustainable and well-coordinated management of Nakuru County Housing Estate matters.

PETER PALANG'A,
Chairperson, Land, Housing and Physical Planning Committee.

