

NAIROBI CITY COUNTY

PARLIAMENT
OF KENYA
LIBRARY

Governor's Office

Telephone +254 20 344 194
Email: governor@nairobi.go.ke
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City Hall,
P. O. Box 30075-0010
Nairobi
KENYA

NCC/CA/GA/32/040/2017

26th April, 2017

The Clerk of the Senate

Parliament Buildings

P.O Box 41842 – 00100

NAIROBI

Email: csenate@parliament.go.ke

RE: PETITION TO THE SENATE CONCERNING SETTLEMENT OF MISCELLANEOUS DEBTS OWED TO THE NAIROBI CITY COUNTY GOVERNMENT BY THE NATIONAL GOVERNMENT AND ITS AGENCIES

I, the undersigned citizen of the Republic of Kenya, resident in and Governor of Nairobi City County;

On my own behalf and on behalf of the Nairobi City County Government;

DRAW the attention of the Senate to the following:

1. **THAT** the Nairobi City County government is currently facing cash flow challenges and is unable to meet its financial obligations which include payment of salaries, remission of statutory deductions and fulfillment of service delivery obligations to the residents of Nairobi including garbage collection, street lighting and provision of health care services;
2. **THAT** the Nairobi City County, with a population of over 4.5 million (4.5 million during the day and 3 million at night) contributes over 50% of the National Gross Income and it is not the Capital City of Kenya, but also the seat of the National Government, the business hub and financial center for the whole of Eastern Africa and the Horn, the headquarters of a major United Nations agency, and the home of head offices for numerous multi-lateral organizations, diplomatic missions, non-governmental organizations and multinational business;

3. **THAT** it is important therefore, and long overdue, that Nairobi is transformed into a world class city, compliant with modern international best practices in the services of transport, water and sanitation, security, cleanliness and public health, among many other;
4. **THAT** the Nairobi City County has finalized the county Development plan (which is a statutory requirement) as well as a strategic plan for the next 10 years. These two plans, now anchor its clear vision and mission, and provide guiding framework for its activities and operations in the coming years;
5. **THAT** the Nairobi City County faces quite a number of challenges and obstacles, which I would wish to, bring to the attention of the Senate in this petition. These include and but are not limited to those which we present here, in summary form;
6. **THAT** section 6 of the Urban Areas and Cities Act requires that the capital city shall provide infrastructure necessary to sustain the seat of the National Government; offices of diplomatic missions; efficient transport network connecting to rural areas, towns and other local, regional and international cities; and commerce and industry;
7. **THAT** the Nairobi City County is currently facing cash flow challenges and is unable to meet its financial obligations which include payment of salaries, statutory deduction and service delivery to the residents of Nairobi the most crucial being garbage collection, street lighting and provision of health care services;
8. **THAT** the problem is compounded by the huge outstanding debt that remains uncollected and the bulk of the debt is from the Government of Kenya and some few State corporations as highlighted below;

NAIROBI CITY COUNTY RECEIVABLE FROM GOVERNMENT	
SOURCE	AMOUNT(KSHS)
RATES	
Contribution in Lieu of Rates (CILOR)	2,923,308,762
Kenya Railways Staff Retirement Benefit Scheme	808,519,669
Kenya Culture Centre	1,482,159,246
Kenya Railways Corporation	221,330,285
National Assembly	48,663,742
Kenya Broadcasting Corporation	2,671,837,068
SUB TOTAL	8,155,818,772
Kenya Power-Way Leaves	605,301,420
Parking fees/Government Reserved parking	154,000,000
GRAND TOTAL	8,915,120,192

9. **THAT** part of the issues canvassed in this petition are currently the subject of Court proceedings and that the defunct City Council of Nairobi filed a case *City Council of Nairobi –vs- The Attorney General (Commissioner of Lands) (RMCC NO. of 2003)*

where it sought to compel the National government to pay contribution in lieu of (rates) on properties owned by the National government within Nairobi;

10. **THAT** additionally the defunct Nairobi City Council borrowed Kshs. 5 Billion from Equity Bank;

11. **THAT** our creditors' position is as summarized below:

NAIROBI CITY COUNTY LIABILITIES		
As at 30th June, 2016		
	ITEM DESCRIPTION	30th June, 2016
1	Statutory Bodies	
	KRA (PAYE)	3,025,243,399.22
	KRA(VAT)	103,430,489.50
	Subtotal KRA	3,128,673,888.72
	NSSF	509,097,305.00
	LAPTRUST-Principal	5,296,304,468.16
	LAPTRUST-Penalties & Interest	1,904,323,121.18
	LAPFUND-Principal	2,031,894,744.82
	LAPFUND-Penalties & Interest	4,784,252,953.60
	Sub-total Statutory creditors	17,654,546,481.48
2	Merchants	
a)	Development	
i)	Construction of civil works/Construction of roads and drainages & Overhaul and Refurbishment	1,394,238,914.39
ii)	Construction of Buildings	385,267,361.31
	Sub-total Development	1,779,506,275.70
b)	Recurrent	
	Supply of services	285,451,052.62
	Supply of goods & Acquisition of Assets	651,878,482.07
	Hospital creditors	125,856,713.48
	Sub-total Recurrent	1,063,186,248.17
	Total Expenditure on Suppliers/Contractors	2,842,692,523.87
c)	Legal Creditors	2,088,543,409.62
	TOTAL	4,931,235,933.49
3	Utilities (KPLC)	401,480,119.70
4	Loans	
	Co-op IPF Loan/KCB Long-term loan	3,420,867,845.00
	Overdraft	13,642,040.15
	Sub-total Loans	3,434,509,885.15
5	Contingent Liabilities	
	LAPTRUST(actuarial deficit & Interest)	2,624,372,573.00
	Sub-total -Pensions	2,624,372,573.00
6	Other loans	
	Government guaranteed loans	3,815,640,000.00
	On lent Water (Foreign Loans)	15,328,285,000.00

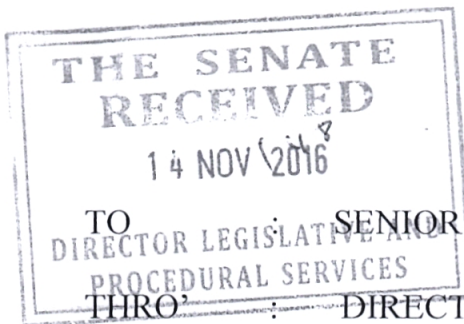
	Sub-total-other Loans	19,143,925,000.00
7	Employee benefits- Retirees/ Deceased	107,548,846.28
	TOTAL DEBTS	48,297,618,839.10

SUMMARY OF INCOME AND EXPENDITURE			
ITEM	Financial Statements 2013/2014 (Kshs 000)	Financial Statements 2014/2015 (Kshs 000)	Actual Revenues & Expenditure Commitments 2015/2016 (10 months)
Revenues	18,542	22,782	20,399
Expenditures			
Employee costs	9,067	12,465	10,222
Operations & Maintenance	8,254	8,194	4,519
Development	1,725	1,903	3,511
Transfer to other government entities	1,387	2,334	1,089
Total	20,433	24,896	19,341
Deficit	(1,891)	(2,114)	1,058

12. **THAT** in general our collections are lower than our expenses;
13. **THAT** the Nairobi City County is now implementing the new Collective Bargaining Agreement which would increase its personnel costs to approximately Kshs. 812 Million per month. This will increase its monthly deficit even further;
14. **THAT** the effect and collective Bargaining Agreement is further compounded by the huge workforce inherited from the National government;
15. **THAT** the failure to pay creditors coupled with the economic pressures has led the County to financial distress making it unable to neither provide services nor embark on planned development projects. Some of the major development projects that the Nairobi City County had planned to carry out include;

Major Projects	Kshs.
Rehabilitation of Pumwani Maternity Hospital	406,000,000
Roads and Infrastructure	2,210,000,000
Automatic Process	2,464,000,000
Staff Rationalization	4,400,000,000
Total	9,480,000,000

16. **THAT**, I and the Nairobi City County Government have made the best efforts to have these matters addressed by the relevant authority all of which have failed to give satisfactory response.



MEMO

The Senate

② DKPs

Please deal with
14/11/16

Forwarded for
your consideration
14/11/16

TO : SENIOR DEPUTY CLERK, (M.A.)
THRO : DIRECTOR, COMMITTEE SERVICES – SENATE

FROM : CLERK ASSISTANT II

DATE : NOVEMBER 11TH, 2016

SUBJECT : STATUS OF PETITION TO THE SENATE CONCERNING
SETTLEMENT OF MISCELLANEOUS DEBTS OWED BY THE
NATIONAL GOVERNMENT AND ITS AGENCIES, TO THE
NAIROBI CITY COUNTY GOVERNMENT

Following the presentation to the Senate of a petition by Hon. Dr. Evans Kidero (Governor of Nairobi City County) alleging “a dispute between Nairobi City County Government and the Department of Defence (DoD) over payment due on account of a parcel of land in Embakasi allocated to the Department of Defence”, the petition stood committed to the Standing Committee on Legal Affairs and Human Rights pursuant to Standing Order 227 of the Senate Standing Orders.

The Committee at its sitting held on Thursday, 10th November, 2016 at 9.00 a.m. in Committee Room 5, 1st Floor main Parliament Buildings met with the petitioner, Hon. Dr. Evans Kidero to substantiate the allegations raised in the petition. The Petitioner requested the Committee also consider another petition concerning settlement of miscellaneous debts owed by the national government and its agencies, to the Nairobi City County Government submitted to the Senate together with the petition before the Committee. The Petitioner submitted a letter dated 6th June, 2016 acknowledging the receipt of the two petitions.

The Committee resolved that the said petition on settlement of miscellaneous debts is not formally before the Committee and therefore tasked the Secretariat to ascertain the status of the said petition.

The purpose of this memo is to request for a response on the status of the said petition concerning settlement of miscellaneous debts owed by the national government and its agencies, to the Nairobi City County Government received on 20th May, 2016. Please find attached copy of the letter forwarding the two petitions and an acknowledgement thereof.

M. H. ABDULLAHI,
COMMITTEE CLERK, COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS

② Charles
Please deal as
discussed.
14/11/16

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: csenate@parliament.go.ke



Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2016

6th June, 2016

Dr. Evans Kidero,
Governor, Nairobi City County,
City Hall, City Hall Way,
P.O. Box 30075 - 00100,
NAIROBI.

Dear *Hon. Governor,*

RE: PETITIONS TO THE SENATE CONCERNING SETTLEMENT OF MISCELLANEOUS
DEBTS OWED BY THE NATIONAL GOVERNMENT AND ITS AGENCIES, TO THE
NAIROBI CITY COUNTY GOVERNMENT

I acknowledge with thanks receipt of your two petitions on the above subject matter.

Upon reviewing the petitions in terms of Senate Standing Order 220 (3), it has been noted that the petitions, though they bring out important issues for consideration by the Senate, are not admissible in their present form.

This is for reasons that they do not comply with various provisions of the Petition to Parliament (Procedure) Act (No. 22 of 2012) and Part XXIV of the Senate Standing Order, on the form of a public petition to Parliament.

In the circumstances, it is requested that you amend the petition to comply with the said requirements. Attached in this regard are the applicable provisions of the Petition to Parliament (Procedure) Act and the Senate Standing Orders, on the form of a public petition, as well as a template which you may adopt in redrafting the petition.

You may also consider referring the matters to the Senate by way of a Message, as provided for under Senate Standing Order 43 (*Messages to and from County Governors*).

Mrs. Serah Kioko, Director, Legislative & Procedural Services (Tel No. 0722881777 and Email, skioko@parliament.go.ke or kiokoserah@gmail.com) is the officer responsible for facilitating this matter.

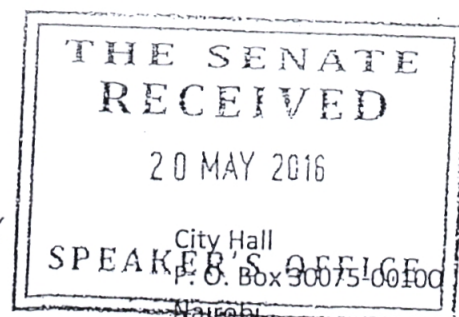
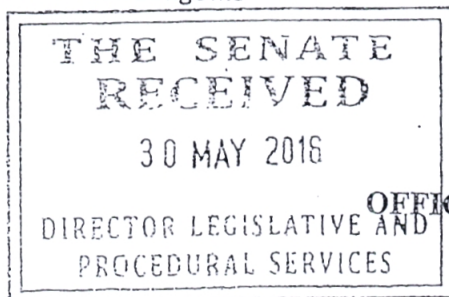
Yours *Kidz*

J. M. NYEGENYE, CBS
CLERK OF THE SENATE

Ends.

Telephone: +254 20 2221349
Website: www.nairobi.go.ke

NAIROBI CITY COUNTY



OFFICE OF THE GOVERNOR

NCC/CA/GA/SENATE/32/19/2016

9th February, 2016

Hon. Ekwere David Ethuro
The Speaker of the Senate
NAIROBI

Mr. C. Mungu
Please deal.
30/05/16

Dear Sir,

RE: PETITION BY NAIROBI CITY COUNTY TO SENATE UNDER SENATE
STANDING ORDER NO 223 ON-

- (1) SETTLEMENT OF MISCELLANEOUS DEBTS
AND
(2) SETTLEMENT OF OUTSTANDING PAYMENT OWED
BY DoD

I wish to present the attached Petitions in accordance with Standing Order No. 223 of the Senate Standing Orders.

Sir, my Petitions on behalf of Nairobi City County, are premised on the role of the Senate set out in Article 96(1) of the Constitution of Kenya to the effect that *the "Senate represents the counties and serves to protect the interests of the counties and their governments"*.

We have longstanding and unresolved issues with the national government. It is my sincere belief and faith that the intervention of the Senate would result in conclusive and long lasting solution to these issues and other challenges faced by the county government in its delivery on its mandate as set out in the Constitution.

Our Petitions are based on Part 5 of Chapter 11 of the Constitution which in its three powerful Articles (*Article 189 on Cooperation between national and county governments, Article 190 on Support for county governments and Article 191 on Conflict of laws*). Nairobi City County is a

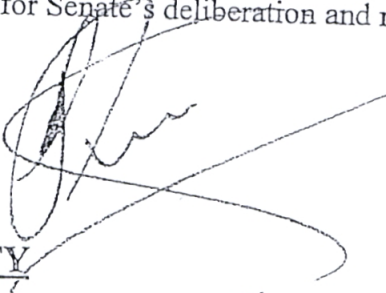
unique county by dint of its being the capital city of Kenya and the economic hub of the Republic. Recognition is given to this fact by section 6(5) of the Urban Areas and Cities Act, 2012. The National government is expected to settle its obligations and liabilities to the county government to enable the County government provide services, establish and maintain infrastructure in the City.

On the 10th December, 2014, the Nairobi City County government signed an agreement with the National government pursuant to the said Urban Areas and Cities Act, 2012. This agreement has been rendered ineffective due to reluctance by the Ministry of Devolution to implement it.

Unless Senate intervenes, the City County will continue operating at suboptimum to the detriment of the nation and citizens residing in Nairobi.

I humbly submit the attached Petitions on behalf of the Nairobi City County government and people of Nairobi City County for Senate's deliberation and resolution.

DR. EVANS KIDERO
GOVERNOR,
NAIROBI CITY COUNTY



CC. Senator Prof. Kithure Kindiki,
Senate Majority Leader.

Senator Amos Sitswila Wako
Chairperson, Legal Affairs and Human Rights Committee,
Senate.

Senator Moses Wetangula
Senate Minority Leader.

Senator Dr. Boni Khalwale
Chairperson, County Public Accounts and Investments Committee,
Senate.

Senator Mike Gideon Mbuvi Sonko
Senator, Nairobi City County

Mr. Jeremiah M. Nyegenye
Clerk of the Senate.

NAIROBI CITY COUNTY

Governor's Office

Telephone: +254 20 344 140
Email: governor@nairobi.go.ke
Facebook: Nairobi City County
Twitter: @county_nairobi



NCC/CA/GA/32/155/2016

The Clerk of the Senate

Parliament Buildings
P.O Box 41842 – 00100

NAIROBI

Email: csenate@parliament.go.ke

RE: PETITION TO THE SENATE CONCERNING SETTLEMENT OF MISCELLANEOUS DEBTS OWED TO NAIROBI CITY COUNTY BY VARIOUS NATIONAL GOVERNMENT INSTITUTIONS

I/we, the undersigned,

Governor, Nairobi City County

DRAW the attention of the senate to the following:

(PURSUANT TO ORDER 223 OF THE SENATE STANDING ORDERS)

The Nairobi City County government, represented by the Governor of the Nairobi City County, Dr. Evans Kidero, wishes to draw the attention of the Senate to the following state of affairs at the Nairobi City County and to request action of the SENATE as follows:

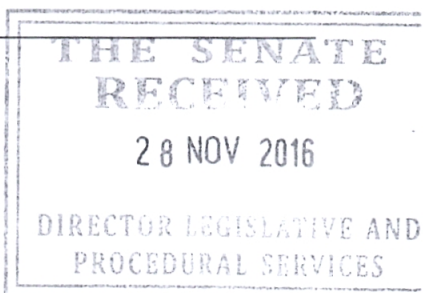
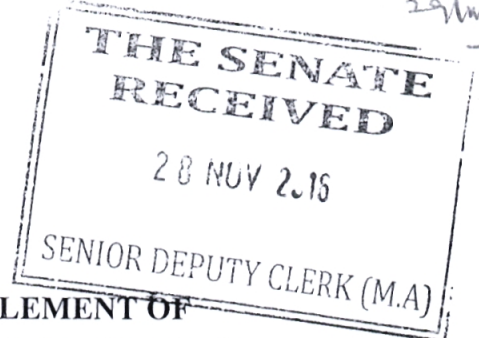
1. SETTLEMENT OF MISCELLANEOUS DEBTS

1.1 THAT the Nairobi City County government is currently facing cash flow challenges and is unable to meet its financial obligations which include payment of salaries, remission of statutory deductions and fulfillment of service delivery obligations to the residents of Nairobi including garbage collection, street lighting and provision of health care services;

1.2 THAT the Nairobi City County, with a population of over 4.5 million (4.5 million during the day and 3 million at night) contributes over 50% of the National Gross Income and it is not the Capital City of Kenya, but also the seat of the National Government, the business hub and financial center for the whole of Eastern Africa and the Horn, the

DLB
Please deal with
28/11
City Hall
P.O. Box 30075-1001
Nairobi
KENYA

Mr. Charles Mungai
As review and report
on this Petition ASAP
24th November, 2016
SENATE
29/11/16



headquarters of a major United Nations agency, and the home of head offices for numerous multi-lateral organizations, diplomatic missions, non-governmental organizations and multinational business;

1.3 THAT it is important therefore, and long overdue, that Nairobi is transformed into a world class city, compliant with modern international best practices in the services of transport, water and sanitation, security, cleanliness and public health, among many other;

1.4 THAT the Nairobi City County has finalized the county Development plan (which is a statutory requirement) as well as a strategic plan for the next 10 years. These two plans, now anchor its clear vision and mission, and provide guiding framework for its activities and operations in the coming years;

1.5 THAT the Nairobi City County faces quite a number of challenges and obstacles, which we would wish to, bring to the attention of the Senate in this petition. These include and but are not limited to those which we present here, in summary form;

1.6 THAT section 6 of the Urban Areas and Cities Act requires that the capital city shall provide infrastructure necessary to sustain the seat of the National Government; offices of diplomatic missions; efficient transport network connecting to rural areas, towns and other local, regional and international cities; and commerce and industry;

1.7 THAT the Nairobi City County is currently facing cash flow challenges and is unable to meet its financial obligations which include payment of salaries, statutory deduction and service delivery to the residents of Nairobi the most crucial being garbage collection, street lighting and provision of health care services;

1.8 THAT the problem is compounded by the huge outstanding debt that remains uncollected and the bulk of the debt is from the Government of Kenya and some few State corporations as highlighted below;

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Kenya Power-Way Leaves	605,301,420
Parking fees/Government Reserved parking	154,000,000
GRAND TOTAL	8,915,120,192

1.9 THAT additionally the defunct Nairobi City Council borrowed Kshs. 5 Billion from Equity Bank

1.10 THAT our creditors' position is as summarized below:

NAIROBI CITY COUNTY LIABILITIES		
As at 30th June, 2016		
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	Hospital creditors	125,856,713.48
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	Total Expenditure on Suppliers/Contractors	2,842,692,523.87
c)	Legal Creditors	2,088,543,409.62
	TOTAL	4,931,235,933.49
3	Utilities (KPLC)	401,480,119.70
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	Sub-total-other Loans	19,143,925,000.00
7	Employee benefits- Retirees/ Deceased	107,548,846.28
	TOTAL DEBTS	48,297,618,839.10

SUMMARY OF ITEM	INCOME AND Financial Statements 2013/2014 (Kshs 000)	EXPENDITURE Financial Statements 2014/2015 (Kshs 000)	Actual Revenues & Expenditure Commitments 2015/2016 (10 months)
Revenues	18,542	22,782	20,399
Expenditures			
Employee costs	9,067	12,465	10,222
Operations & Maintenance	8,254	8,194	4,519
Development	1,725	1,903	3,511
Transfer to other government entities	1,387	2,334	1,089
Total	20,433	24,896	19,341
Deficit	(1,891)	(2,114)	1,058

1.11 THAT in general our collections are lower than our expenses;

1.12 THAT the Nairobi City County is now implementing the new Collective Bargaining Agreement which would increase its personnel costs to approximately Kshs. 812 Million per month. This will increase its monthly deficit even further.

1.13 THAT the effect and collective Bargaining Agreement is further compounded by the huge workforce inherited from the National government.

1.14 THAT the failure to pay creditors coupled with the economic pressures has led the County to financial distress making it unable to neither provide services nor embark on planned development projects. Some of the major development projects that the Nairobi City County had planned to carry out include;

Major Projects	Kshs. Million
Rehabilitation of Pumwani Maternity Hospital	406
Roads and Infrastructure	2,210
Automatic Process	2,464
Staff Rationalization	4,400
	9,480

2 THAT, I/we have made the best efforts to have these matters addressed by the relevant authority all of which have failed to give satisfactory response.

WHEREFORE, my humble petition pray to the senate-

1. THAT the national government accelerates the settlement of all its debts to the Nairobi City County including those of state corporations which currently amount to Kshs. 8,915,120,192 (Eight Billion Nine Hundred and Fifteen Million, One Hundred Twenty Thousand, One Hundred Ninety Only). (This excludes the 61,500,000,00 (Sixty One Billion , Five Hundred Milion) owed on account of the Department of Defence land and which is a subject of another petition before Senate.
2. THAT the two governments should undertake a debt swap and settlement of the balance either by cash guarantee financial instruments.

NAME	FULL ADDRESS	ID. NO.	SIGNATURE
DR EVANS ODHIAMBO KIDERO	Governor's Office City Hall Nairobi	48 29 645	