

DATE	MARCH 2 2021
TABLE BY	Chair, FINANCE & BUDGET
COMMITTEE	FINANCE & BUDGET
CLERK AT THE TABLE	M. AJIBOLA

REPUBLIC OF KENYA

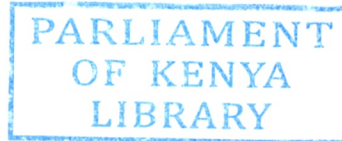


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TWELFTH PARLIAMENT – FIFTH SESSION

THE STANDING COMMITTEE ON FINANCE & BUDGET
REPORT ON
THE PETITION CONCERNING THE IRREGULAR PURCHASE OF THE
NATIONAL BANK OF KENYA (NBK) BUILDING IN ELDORET BY THE UASIN
GISHU COUNTY EXECUTIVE

CLERK CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

FEBRUARY 2021

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PREFACE

The Standing Committee on Finance and Budget was constituted by the House on Thursday, 14th December, 2017 during the First Session of the Twelfth Parliament. The Committee was later reconstituted on Wednesday, 24th June, 2020, during the Fourth Session of the Twelfth (12th) Parliament. The Committee as currently constituted, comprises the following Members-

- | | |
|--|--------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP, | - Vice Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. Kimani Wamatangi, MP | - Member |
| 5. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 6. Sen. Aaron Cheruiyot, MP | - Member |
| 7. Sen. Rose Nyamunga, MP | - Member |
| 8. Sen. CPA Farhiya Haji, MP | - Member |
| 9. Sen. Milicent Omanga, MP | - Member |

The Standing Committee on Finance and Budget is established pursuant to Section 8 of the Public Finance Management Act, 2012 and standing order 218(3) of the Senate Standing Orders and is mandated to -

- a) *Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine -*
 - i) *the Budget Policy Statement presented to the Senate;*
 - ii) *report on the Budget allocated to Constitutional Commissions and independent offices;*
 - iii) *the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments;*
 - iv) *Consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance and monetary policies and public debt, planning and development policy.*
- b) *Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments*

Acknowledgement

The Committee acknowledges the effort made by the Petitioners, residents of Uasin Gishu County, in following up the programmes been implemented by their County government. The Committee also is grateful to Sen. (Prof.) Margret Kamar, EGH, MP who presented the Petition to the Senate on behalf of the Petitioners.

The Committee acknowledges the time and considerable effort made by all parties, Uasin Gishu County Executive, The Ministry of Lands and Physical Planning and the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, who volunteered information as requested by the Committee. The Committee is also particularly grateful to the Offices of the Speaker, the Clerk of Senate for the support received as it discharged its mandate.

On behalf of the Committee and pursuant to standing order 232 (2) it is now my pleasant and honourable duty to present and lay on the table of the house the report of the Finance and Budget Committee regarding the Petition to the Senate concerning the irregular purchase of the National Bank of Kenya (NBK) Building in Eldoret by the Uasin Gishu County Executive.

SIGNATURE: _____



SEN. CHARLES KIBIRU, MP.

(CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND BUDGET)

DATE: _____ **17th February, 2021** _____

CHAPTER ONE

INTRODUCTION

The right of Kenyan citizens to petition public authorities and Parliament is a right conferred by the Constitution under Article 37 and Article 119 of the Constitution. The right to petition is an essential citizen participatory tool that allows for direct intervention by Parliament on issues relating to the promotion and protection of the rights of citizens.

The Petition to Parliament (Procedure) Act No. 22 of 2012 makes provisions for the procedure for the exercise of the right to petition and also defines the format of petitions to be addressed to the Parliament.

Pursuant to the Senate Standing Order No. 226 (1)(b) and 230 (2) (a) Sen. (Prof.) Margret Kamar, EGH, MP on 24th June, 2020, presented a public Petition to the Senate on behalf of the Petitioners, residents of Uasin Gishu County concerning the alleged irregular purchase of the National Bank of Kenya (NBK) Building in Eldoret by the Uasin Gishu County Executive.

The Petition drew the attention of the Senate to the following concerns-

- a) That Article 227 of the Constitution on procurement of goods and services, provides that a fair, equitable, transparent, competitive and cost effective system must be put in place for public procurement of goods and services,
- b) That Uasin Gishu County Executive had planned to purchase the NBK Building in Eldoret at an exorbitant price and through a procurement method which was not acceptable,
- c) That in October, 2018, the County Government in carrying out its due diligence valued the building at Kshs. 568,000,000,
- d) That the negotiating team appointed by the Ag. Chief Officer of Lands and Housing settled on Kshs. 570,000,000 as the purchase price of the building without clear reasons for the increase in the price,
- e) That public participation is a requirement by the Constitution, yet no such meetings were held to consult with the residents of Uasin Gishu County concerning the purchase of the NBK building,

- f) That the NBK building is in a poor state and that no worthy reason has been given as to why other county properties have been overlooked for the same use intended for the NBK building,
- g) That renovation and development /conversion of these other county properties offer better value for money and that such options ought to have been pursued,
- h) That given the alternatives available to the County Government for office space, it is clear that a feasibility study was not carried out and further that there is no evidence of competitive sourcing/bidding which would have involved a bid for purchase by the County Government,
- i) That the Petitioners have made efforts to have the matter addressed by relevant authorities, all of which have failed to give a satisfactory response and that none of the issues raised are pending before a Court of Law, Constitutional or other legal body.

The Petitioners therefore prayed that the Senate-

The Petitioners therefore prayed that the Senate intervenes and undertake an investigation into the matter with a view to ensure that other available options for office space by the County Government are explored before finalizing the purchase of NBK building and that requirements of the Constitution and the Public Procurement and Asset Disposal Act are adhered to with respect to a fair, equitable, transparent, competitive and cost effective bidding process.

Pursuant to Standing Order 232(1), the Petition stood committed to the Standing Committee of the Senate on Finance and Budget for consideration.

CHAPTER TWO

CONSIDERATION OF THE PETITION BY THE COMMITTEE

In considering the Petition, the Committee invited the Petitioners, the Uasin Gishu County Executive for a meeting which was held on 27th August, 2020. Following some concerns raised by the Petitioners, the Committee requested for information from the-

- a) Ministry of Lands and Physical Planning, and
- b) Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works.

The Committee also undertook a visit to Uasin Gishu County to familiarise with the building been acquired and also with concerns raised by the Petitioners concerning the available parcels of land owned by Uasin Gishu County Executive which may be used to erect office blocks.

Submission from the Petitioners

- a) That Uasin Gishu County Executive had planned to acquire the National Bank of Kenya (NBK) Building located along Uganda Road, Eldoret town. This building was 40 years old and dilapidated.
- b) The Building is a four storey building, where 2nd to 4th levels were residential houses and would require a lot of configuration in order to convert the building into an office. This would be quite expensive hence the citizens would not get value for money since due diligence had not been done.
- c) The office demand for the county executive was about 9,419 sq. metres. The building to be acquired had an office space of about 4,560 sq. metres.
- d) Notable was the arrangement that after acquisition, the NBK would lease about 2,200 sq. metres. Then County Executive would be left with the rest for their usage. This would further reduce the office space available. Thus, the main objective of acquiring the building would not be achieved.
- e) The cost of the building Kshs.570 million and cost of reconfiguring the building Kshs. 100 Million was unnecessary expenditure since the building would not meet the demand for office space.

- f) The County government had about 4 acres of land within CBD. This land should be used to accommodate the so needed office block.

Among the issues raised on the process include-

- a) **Public Participation-** The county government had planned to spend public funds on a huge project yet no public participation was done. Though the matter was included in the County Integrated Development Plans (CIDPs), the public participation done then was not adequate since it was a huge document and was difficult to scrutinise closely. There was no public consultation on this project yet it involves huge expenditure.
- b) **Value for money-** There was information that after the county's intention to acquire the building, there was negotiation on the cost of the building. However, after this negotiation, the cost of the building increased to Ksh. 570 million. Concerns were raised on why the county would acquire the building at such high cost; why not construct office block within the available land. The cost of the building was quite high yet it would not meet even half of the office space demand. There was doubt that there was value for money in implementation of this project due to the huge costs. Using such huge sums of money yet the office demand would not be met would amount to imprudent use of public funds.
- c) **Location-** There was information that the building was situated on a road reserve and would therefore in future be brought down to pave way for road expansion. Secondly, the offices should be set up outside Eldoret Central Business District (CBD) in order to decongest the town. It would be prudent for the county to construct a new building in a location outside the town.
- d) **Accountability-** the County Executive was under obligation to spend public funds in transparent manner. The valuation report indicate that the cost of the building was Kshs. 568 yet the county had indicated the cost as Kshs. 570 million. The county should cancel the planned purchase and construct a modern building that would accommodate the demand for office space.

Submission from the Uasin Gishu County Executive

The County Executive lead by the County Governor submitted as follows-

- a) The department of Lands & Housing received departmental requests for office space totalling to 9,498 Sq. meters in 2018. The county departments and offices are housed in different locations within Eldoret town and this hampers service delivery given that service points are not in a central location. For instance the Department of Trade was housed at KVDA Building and paying rent of Kshs.1.6M annually.
- b) The issue of constraint of office space had been experienced for a while and the Office of the Controller of Budget had made recommendations in its first Quarter Report FY 2014/2015 that mechanism should be put in place to stop the continuous payment of rent.
- c) These requests necessitated provision in the County Integrated Development Plan (CIDP) (2018- 2022) for creation of 10,000 Square Meters at a cost of Kshs. 1 Billion.
- d) This CIDP underwent rigorous public participation both by Executive and County Assembly that culminated in its approval and publication.
- e) The acquisition of the said property had begun in 2015. In May 2015, the National Bank of Kenya advertised for sale of Prime Commercial and Residential Property/ building located in Eldoret Town.
- f) The building is a centrally located, Ultra-Modern Commercial property along the main Uganda Road within Eldoret Central Business District (CBD), on a parcel measuring approximately 0.374 Ha. The property comprises of a Six (6) storey, L-shaped commercial property with basement and ample parking space. The building has an office space of about 5, 120 Sq. metres.
- g) The County Government bided for the acquisition of the building unsuccessfully. However, later the Chief Finance Officer of National Bank of Kenya wrote to the County Secretary informing that following the failure of the previous interested party to close the sale transaction, the bank had placed the building back to the market for sale.
- h) Vide a letter dated 13 June, 2018, the Ag. Chief Officer for Lands and Housing wrote to National Bank of Kenya expressing the interest of the County Government of Uasin Gishu to acquire the property through Direct Procurement subject to confirmation of

ownership. The Bank provided necessary documents including- Certificate of Lease, Copy of Search, Certificate of Incorporation, PIN Certificate.

- i) The National Bank of Kenya quoted an amount of Kshs. 661M. However, to ensure that the purchase price is fair, reasonable and compares well with known prices as provided in Section 103(2) (e) of PPDA, 2015, the department requested the Government Valuer to prepare a valuation report with regard to this property.
- j) Vide a letter dated 2nd November, 2018 the County Valuer gave the value of the subject property as Kshs.568 Million. The same Valuer vide letter dated 11 June, 2019 gave a breakdown of the valuation report giving the value of land Kshs.450 Million and that of building as Kshs. 118 Million.
- k) On 26th June, 2018, the Principal Secretary of the National Treasury Dr. Thugge, CBS, following a request by the county government, wrote to the CECM Lands informing him on the ownership of the National Bank of Kenya. The PS noted that the National Bank of Kenya, was a listed Company whose majority shareholders are the Government of Kenya.
- l) In the Uasin Gishu County Appropriation Act 2018, Kshs.300 million was budgeted for purchase of the building. The Uasin Gishu County Appropriation Act, 2019 provided for a Budget of Kshs.270 million for completion of purchase. During the consideration of the bill, public participation was done and the acquisition of the property was one of the projects to be funded.
- m) However, on 6th June, 2019, the County Assembly of Uasin Gishu passed a resolution to stop the purchase of the subject property. The issues raised by the Assembly include- public participation, clearance from National Land Commission, advisory from Attorney General, valuation of the property, Kenya Commercial Bank takeover and location on a road reserve. Following the above resolution, the payment was not completed and the funds were rolled over to the next financial year.
- n) Thereafter, the concerned Department supplied the County Assembly with clarification on all matters that had been raised. Having addressed the issues raised by the County Assembly, a resolution was passed on 6 May, 2020 giving the County Executive the go ahead to complete the transaction and make payment as per the applicable law.

- o) This transaction is worth Kshs.570 million which amount is way below the threshold that requires clearance from the Attorney-General. KENHA and Survey of Kenya confirmed that the property was not on road reserve.
- p) The County is yet to make any payment with regard to purchase of this property. As per the sale agreement, the amount of Kshs. 570M was to be paid in two (2) instalments of Kshs. 300M and Kshs. 270 M.
- q) The Bank had proposed that the first instalment be paid to their lawyers on stakeholder basis pending completion of the transaction and as per the Law Society of Kenya conditions of sale. However, the Chief Officer for Land and Housing responded that the Public Procurement and Asset Disposal Act is superior to Law Society of Kenya regulations in relation to matters of procurement. The Bank was informed that payment will be made through IFMIS directly to National Bank of Kenya Limited.
- r) The County noted that transaction had been entered into in strict compliance with all budgeting and procurement laws with the sole intention of securing more office space to enable render better and more effective service to the people of Uasin Gishu County.
- s) The County would be willing to construct a new building, however, there was no land available for putting up such a project. All the land that ought to be available for county to construct the office block was grabbed and was under litigation.
- t) The extra cost (Kshs. 2 million) above the actual cost were to cater for incidental and related costs in the transaction process.
- u) The County had stopped any payments following intervention by Ethics and Anti-Corruption Commission (EACC) indicating that the transactions should not proceed until otherwise advised. But the intention to acquire the office space was still in existence.
- v) The meetings the Petitioners were referring where County Executive and Assembly held a retreat was not deliberating on the matters under this Petition. The matter for consideration in the meeting was handing over management of town to the Municipal Board that had been established under the Kenya Urban Support Programme (KUSP).
- w) The Governor urged the Committee to visit the County to verify some of the allegations that were been made.

Submission from the Ministry of Lands and Physical Planning

Following a request for information by the Committee the Ministry of Lands and Physical Planning submitted as follows--

- a) The property is registered as Eldoret Municipality Block 4/88. Its registered under the name of the National Bank of Kenya Limited.
- b) At the time of initiation of the purchase of the property (2nd November, 2018) by the Uasin Gishu Executive, it was valued at 'market value' Kshs 568 million.
- c) Following the request by the Committee, the Ministry undertook an assessment and valuation of the property and it was revalued as at 20th October, 2020 and the market value was at Kshs. 570 million.

Submission from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works

Following a request for information by the Committee the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works submitted as follows--

- a) The property fence is setback from the road reserve;
- b) The assessment of the building indicated-water leakage from the concrete roof slab, roof gutters are blocked, the floor tiles are worn out;
- c) The building has ample parking;
- d) The building complies with specification and standards of planning and building in terms of setbacks from the boundary and road reserve, percentage allowed for the building coverage on a plot size.
- e) Visually the building is structurally sound.
- f) It requires repairs to the roof cover to mitigate damage to the concrete roof slab
- g) It also requires regular maintenance especially painting walls and surfaces.

Visit to Eldoret, Uasin Gishu County

The Committee undertook a visit to Eldoret on 19th November, 2020 and held a meeting with the Petitioners, County Executive lead by the County Deputy Governor and toured several properties owned/ occupied by the County Executive.

The Petitioners raised issues as follows-

- a) The process of the acquisition of the building was skewed in terms procurement requirement as provided in law- the County did not advertise and request for bidders.
- b) The cost of the property was quite high and it would be prudent for the county to build an office block within the parcels available.
- c) Value for money may not be achieved- the building is old and dilapidated. Secondly the building space available will not meet the county's demand for office space.
- d) The budgeting process for purchase of the building lacked openness and accountability as required by Article 201 of the Constitution.
- e) There was no logic in purchasing the building which is barely meeting County's office demand and thereafter lease back 50% of the space available to the Bank.
- f) The county executive should shelve the issue of purchasing the property and build a new office block within the available county government land.
- g) The road reserve beckon fixed outside the building has always been doubted. The other building along the same line were forced to move further inside to create a wider road reserve for future expansion.

The Committee toured the following properties located in-

- a) Kapsoya – This is about 10 acres of parcel of land, where County Commissioner's office is situated among other national government county offices. The land is said be under the ownership of the national government. The Committee noted that the county executive has rented some property for offices within this location. The Committee was also informed that the parcel of land was under litigation because some of its parts was grabbed and subdivided. This was evident because there was a church building and some residential houses within the same compound.
- b) Teachers' Advisory Centre (TAC) – this was a small piece of land located within a parcel which is 4 acres but accommodates a primary and a secondary school. The

Committee noted that the plot housing TAC was quite small for any other construction project.

- c) Fire station – this is a 5 acres of land, under the ownership of the county Executive but it is being utilised by district hospital, judiciary courts, National Environmental Management Authority (NEMA) regional offices, and administration police housing units. The Committee noted that there was no space which would be utilised for construction of office block.
- d) West Indies – there are several parcels of land under the ownership of the county executive. The Executive claimed that these parcels had been earmarked for several other county projects. The Committee noted there was adequate space which would be set aside for construction of the office blocks, especially the parcel which is used by the Eldoret Municipal Board.
- e) The National Bank of Kenya Building – the Committee held a brief meeting with the Branch Manager and thereafter inspected the Building. Among the issues noted by the Committee include-
 - i. The building is located within a parcel of land which is about three quarter acre;
 - ii. Most of the floors of the building were uninhabited and looks dilapidated except the ground and first floors;
 - iii. There was evidence that the roof of the building was leaking;
 - iv. The lift was non-operational;
 - v. The building paints has faded over the years;
 - vi. The drainage system for upper floors was not operational.
 - vii. The Building was well within the allowed limit from the road reserve;
- f) County Executive headquarter- the headquarter offices are located within a small parcel of land which is about one acre. The executive indicated that this parcel of was grabbed and subdivided among three individuals. The ownership of this parcel was under three different individuals. The executive indicated that they were in process of reclaiming this land.

CHAPTER THREE

COMMITTEE OBSERVATIONS, DETERMINATION AND RECOMMENDATIONS

The Committee considered the prayers of the Petitioners, submissions from the County executive, and from the respective ministries and made the following observations-

- a) A number of Uasin Gishu County Executive offices were accommodated on a rented premises. This rent payment scheme in long run would be more expensive than construction of office block.
- b) There were several parcels of land which belong to the county executive but had been grabbed and repossession process was underway. However, there were parcels of land under ownership of the county executive and there was open space which would be used to construct the office block for instance the parcel of land in West Indies.
- c) The NBK building earmarked for purchase is dilapidated, uninhabited and neglected building. The total cost of renovations and configuration of the building into offices would be higher than the cost of construction of a new office block.
- d) The arrangement that the county would acquire the building and then leaseback the ground and first floors to the NBK would be defeating the purpose of purchasing the building. This is because the remaining floors would not meet the county's demand for office space.
- e) The county headquarter has been in its current location for the last 8 years, further, the area has an open space on which an office block may be erected.

The Committee further took into account the competing interests that rising out of this inquiry. The effective delivery of services by county governments requires that certain administrative requirements such as office space are in place. On the other hand the law requires that procurement of public goods and services is underpinned by certain principles. The most important of these is set out in Article 201(d) of the Constitution requiring that public money be used in a prudent and responsible way. Further Article 201(e) which requires responsible financial management. Article 227 of the Constitution further requires that when a state organ or public entity contracts for goods or services, it shall do so in a manner that is, *inter alia*, cost-effective.

In view of the foregoing, the Committee determined/ resolved as follows-

- a) The Uasin Gishu County Executive should expedite the mechanism which would cease payment of rent for office space and provide adequate office space for its operations;
- b) Noting that there are parcels of land within the town which are owned by the County Executive and which would be suitable for the construction of office building, and further cognizant that these parcels of land may in some instances be earmarked for other projects, the Committee recommends that the county executive should prioritise construction of office building/ block.
- c) Noting that the Building (NBK Building in Eldoret) earmarked for acquisition-
 - i. requires extensive repairs, configuration into office set-up, installation of lifts and a renovation of the plumbing works. The costs associated with these repairs would be equivalent to construction of new office block.
 - ii. may take another couple of months before its ready for occupation since a lot of works are required to make it suitable for usage as offices.
 - iii. may not meet demand for office space of county executive. Since after renovation, the building has a space of about 4000 m². However, the NBK is to leaseback approximately 2000m². This would leave the county executive with about 50% of the office demand not achieved.

The County Executive should abandon the plans to acquire the NBK building and engage in process of construction of an office block on available land. Further noting that the cost of construction of office block should not exceed Ksh. 500 million as per the existing resolution.

- d) In view of the need to prioritise ceasing of rent payment for office space, the County government should construct an office block in one of the parcels which are under its ownership.
- e) The County Executive should stop any process initiated on the transactions meant to acquire the National Bank of Kenya Ltd Building in Eldoret.

Appendices

1. Minutes
2. Submissions from the stakeholders

MINUTES OF THE 163RD MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON THURSDAY, 27TH AUGUST, 2020 AT 9:00 AM, VIA ZOOM ONLINE PLATFORM.

PRESENT

- | | |
|--|---------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Rose Nyamunga, MP | - Member |
| 4. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 5. Sen. CPA Farhiya Haji, MP | - Member |
| 6. Sen. Kimani Wamatangi, MP | - Member |
| 7. Sen. Milicent Omanga, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-----------------------------------|----------|
| 8. Sen. Mutula Kilonzo Junior, MP | - Member |
| 9. Sen. Aaron Cheruiyot, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|-------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Lucy Radoli | - Legal Counsel |
| 3. Mr. Ian Otieno | - Audio Officer |

IN ATTENDANCE

-SENATOR UASIN GISHU COUNTY

- | | |
|--|-----------------|
| 1. Sen. (Prof.) Margret Kamar, EGH, MP | -Deputy Speaker |
|--|-----------------|

IN ATTENDANCE

- PETITIONERS, RESIDENTS OF UASIN GISHU COUNTY

1. Mr. Moira Chepkok
2. Mr. Willson Kwambai
3. Mr. Kipkorir Arap Menjo
4. Ms. Margaret Watunu
5. Mr. Benjamin Magerer
6. Mr. Kwambai Chesire
7. Mr. Benjamin Rop
8. Mr. Sammy Mukienei

IN ATTENDANCE

- UASIN GISHU COUNTY EXECUTIVE

- | | |
|------------------------------|-----------------------|
| 1. Hon. Jackson Mandago | -Governor |
| 2. Mr. (Eng.) Nelson Maritim | -CECM lands |
| 3. Mr. Edwin Bett | -County Secretary |
| 4. Mr. Stephen Lel | -County Attorney |
| 5. CPA Millicent Okonjo | -CO Economic Planning |
| 6. Ms. Ruth Rop | -CO Lands |

- | | |
|-----------------------|-------------------|
| 7. Mr. John Kemboi | -CO ICT |
| 8. Mr.Silas Rono | -Director Finance |
| 9. Ms. Nelly Jerotich | -Director Lands |

MIN. NO. 783/08/2020: PRELIMINARIES

The Chairperson called the meeting to order at 9.10 am and thereafter followed a word of prayer. The Chairperson welcomed the Members, the Petitioners and representatives from Uasin Gishu County Executive. Thereafter he allowed around of introductions.

MIN.NO. 784/08/2020: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. (Dr.) Ochillo Ayacko, MP, and seconded by Sen. CPA Farhiya Haji, MP.

MIN.NO. 785/08/2020: MEETING WITH PETITIONERS ON PETITION CONCERNING ACQUISITION OF THE NATIONAL BANK OF KENYA BUILDING IN ELDORET BY UASIN GISHU COUNTY EXECUTIVE

After invitation, Sen. (Prof) Kamar, EGH, MP noted that she had presented the Petition on behalf of the Petitioners, residents from Uasin Gishu County. However, there was another request in form of Petition which had been sent directly to the Committee. Since all the Petitioners relate to the same matter it was prudent that they be handled together. She thanked the Committee for giving audience to the Petitioners and expressed expectations that the matter will be handled expeditiously.

Upon invitation, the Petitioners lead by Mr. Wilson Kwambai informed the Committee as follows-

- a) That Uasin Gishu County Executive had planned to acquire the National Bank of Kenya (NBK) Building located along Uganda Road, Eldoret town. This building was 40 years old and dilapidated.
- b) The Building is a four storey building, where 2nd to 4th levels were residential houses and would require a lot of configuration in order to convert the building into an office. This would be quite expensive hence the citizens would not get value for money since due diligence had not been done.
- c) The office demand for the county executive was about 9,419 sq. metres. The building to be acquired had an office space of about 4,560 sq. metres.

- d) Notable was the arrangement that after acquisition, the NBK would lease about 2,200 sq. metres. Then County executive would be left with the rest for their usage. This would reduce the office space available further. Thus, the main objective of acquiring the building would not be achieved.
- e) The cost of the building Kshs.570 million and cost of reconfiguring the building Kshs. 100 Million was unnecessary expenditure since the building would not meet the demand for office space.
- f) The County government had about 4 acres of land within CBD. This land should be used to accommodate the so needed office space.

Mr. Menjo informed the Committee that-

- a) The county government had planned to spend public funds on a huge project yet no public participation was done. Though the matter was included in the County Integrated Development Plans (CIDPs), the public participation done then was not adequate since it was a huge document and was difficult to scrutinise closely.
- b) There was information that after the county indicated intention to acquire the building, there was negotiation on the cost of the building. However, after negotiation, the cost of the building increased.
- c) There was doubt that there was value for money in implementation of this project.

Mr. Moira informed the Committee that-

- a) There was concern why the county would acquire the building at such high cost; why not acquire land and construct the offices.
- b) There was information that the building was situated on a road reserve and would therefore be brought down to pave way for road expansion.
- c) The offices should be set up outside the Central Business District (CBD) in order to decongest the town.
- d) The cost of the building was quite high yet it would not meet even half of the office demand. It would be prudent for the county to construct a new building in a location outside the town.

Mr. Mukieni informed the Committee that-

- a) There was no public consultation on the project yet it involves huge sums of money.

- b) Using such sums of money yet the office demand would not be met would amount to imprudent use of public funds.

Ms. Watunu informed the Committee that-

- a) The county was under obligation to spend public funds in transparent manner;
- b) The county should cancel the planned purchase and construct a modern building that would accommodate the demand for office space.
- c) The valuation report indicate that the cost of the building was Kshs. 568 yet the county had indicated the cost as Kshs. 570 million.

MIN.NO. 786/08/2020: MEETING WITH UASIN GISHU COUNTY EXECUTIVE ON PETITION CONCERNING ACQUISITION OF THE NATIONAL BANK OF KENYA BUILDING BY UASIN GISHU COUNTY EXECUTIVE

After invitation, the County Governor, informed the Committee as follows-

- a) The department of Lands & Housing received departmental requests for office space totalling to 9,498 Sq. meters in 2018. The county departments are housed in different locations within Eldoret town and this hampers service delivery given that service points are not in one location. For instance the Department of Trade was housed at KVDA Building and paying rent of Kshs.1.6M annually.
- b) The issue of constraint of office space had been experienced for a while and the Office of the Controller of Budget had made recommendations in its first Quarter Report FY 2014/2015 that mechanism should be put in place to stop the continuous payment of rent.
- c) These requests necessitated provision in the County Integrated Development Plan (CIDP) (2018- 2022) for creation of 10,000 Square Meters at a cost of Kshs. 1 Billion.
- d) This CIDP underwent rigorous public participation both by Executive and County Assembly that culminated in its approval and publication.
- e) The acquisition of the said property had begun in 2015. In May 2015, the National Bank of Kenya advertised for sale of Prime Commercial and Residential Property/ building located in Eldoret Town.

- f) The building is a centrally located, Ultra-Modern Commercial property along the main Uganda Road within Eldoret Central Business District (CBD), on a parcel measuring approximately 0.374 Ha. The property comprises of a Six (6) storey, L-shaped commercial property with basement and ample parking space. The building has an office space of about 5, 120 Sq. metres.
- g) The County Government bided for the acquisition of the building unsuccessfully. However, later the Chief Finance Officer of National Bank of Kenya wrote to the County Secretary informing that following the failure of the previous interested party to close the sale transaction, the bank had placed the building back to the market for sale.
- h) Vide a letter dated 13 June, 2018, the Ag. Chief Officer for Lands and Housing wrote to National Bank of Kenya expressing the interest of the County Government of Uasin Gishu to acquire the property through Direct Procurement subject to confirmation of ownership. The Bank provided necessary documents including- Certificate of Lease, Copy of Search, Certificate of Incorporation, PIN Certificate.
- i) The National Bank of Kenya quoted an amount of Kshs. 661M. However, to ensure that the purchase price is fair, reasonable and compares well with known prices as provided in Section 103(2) (e) of PPDA, 2015, the department requested the Government Valuer to prepare a valuation report with regard to this property.
- j) Vide a letter dated 2nd November, 2018 the County Valuer gave the value of the subject property as Kshs.568 Million. The same Valuer vide letter dated 11 June, 2019 gave a breakdown of the valuation report giving the value of land Kshs.450 Million and that of building as Kshs. 118 Million.
- k) On 26th June, 2018, the Principal Secretary of the National Treasury Dr. Thugge, CBS, following a request by the county government, wrote to the CECM Lands informing him on the ownership of the National Bank of Kenya. The PS noted that the National Bank of Kenya, was a listed Company whose majority shareholders are the Government of Kenya.
- l) In the Uasin Gishu County Appropriation Act 2018, Kshs.300 million was budgeted for purchase of the building. The Uasin Gishu County Appropriation Act, 2019 provided for a Budget of Kshs.270 million for completion of purchase. During the

consideration of the bill, public participation was done and the acquisition of the property was one of the projects to be funded.

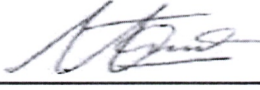
- m) However, on 6th June, 2019, the County Assembly of Uasin Gishu passed a resolution to stop the purchase of the subject property. The issues raised by the Assembly include- public participation, clearance from National Land Commission, advisory from Attorney General, valuation of the property, Kenya Commercial Bank takeover and location on a road reserve. Following the above resolution, the payment was not completed and the funds were rolled over to the next financial year.
- n) Thereafter, the Department supplied the County Assembly with clarification on all matters that had been raised. Having addressed the issues raised by the County Assembly, a resolution was passed on 6 May, 2020 giving the County Executive the go ahead to complete the transaction and make payment as per the applicable law.
- o) This transaction is worth Kshs.570 million which amount is way below the threshold that requires clearance from the Attorney-General. KENHA and Survey of Kenya confirmed that the property was not on road reserve.
- p) The county is yet to make any payment with regard to purchase of this property. As per the sale agreement, the amount of Kshs. 570M was to be paid in Two (2) instalments of Kshs. 300M and Kshs. 270 M.
- q) The bank had proposed that the first instalment be paid to their lawyers on stakeholder basis pending completion of the transaction and as per the Law Society of Kenya conditions of sale. However, the Chief Officer for Land and Housing responded that the Public Procurement and Asset Disposal Act is superior to Law Society of Kenya regulations in relation to matters of procurement. The bank was informed that payment will be made through IFMIS directly to National Bank of Kenya Limited.
- r) The County noted that transaction had been entered into in strict compliance with all budgeting and procurement laws with the sole intention of securing more office space to enable render better and more effective service to the people of Uasin Gishu County.

- s) The County would be willing to construct a new building, however, there was no land available for putting up such a project. All the land that ought to be available for county to construct was grabbed and was under litigation.
- t) The extra cost (Kshs. 2 million) above the actual cost were to cater for incidental and related costs in the transaction process.
- u) The county had stopped any payments following intervention by Ethics and Anti-Corruption Commission (EACC) indicating that the transactions should not proceed until otherwise advised. But the intention to acquire the office space was still in existence.
- v) The meeting the Petitioners were referring where county executive and Assembly held a retreat was not deliberating on the matters under this Petition. The matter for consideration in the meeting was handing over management of town to the municipal board that had been established under the Kenya Urban Support Programme (KUSP).
- w) The Governor urged the Committee to visit the County to verify some of the allegations that were been made.

After deliberations, the Committee that thanked both parties and indicate it will consider the submissions made and respond accordingly.

MIN.NO. 787/08/2020 ADJOURNMENT

There being no other business the meeting was adjourned at 11.20 am.

SIGNATURE:  _____
(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 28th October, 2020

MINUTES OF THE 190TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON TUESDAY, 16TH FEBRUARY, 2021 AT 9:00 AM VIA ZOOM ONLINE PLATFORM.

PRESENT

- | | |
|--|---------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 4. Sen. Rose Nyamunga, MP | - Member |
| 5. Sen. Aaron Cheruiyot, MP | - Member |
| 6. Sen. CPA Farhiya Haji, MP | - Member |
| 7. Sen. Millicent Omanga, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 8. Sen. Kimani Wamatangi, MP | - Member |
| 9. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |

In attendance

- | | |
|------------------------------------|--|
| 1. Sen. (Prof.) Margret Kamar, EGH | - Deputy Speaker, Senator for Uasin Gishu County |
|------------------------------------|--|

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Lucy Radoli | - Legal Counsel |
| 3. Ms. Sharon Rotino | - Research Officer |

MIN. NO. 999/02/2021:

PRELIMINARIES

The Chairperson called the meeting to order at 9.12 am and thereafter followed a word of prayer. The Chairperson welcomed the Members to the meeting and noted that the Committee had resolved to invite Sen. (Prof.) Kamar so that she may make clarifications on some issues contained in the Petition regarding purchase of NBK Building in Eldoret by Uasin Gishu county Executive.

MIN. NO. 1000/02/2021:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments as indicated below after it was proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. (Dr.) Ochillo Ayacko, MP.

MIN. NO. 1001/02/2021: CONSIDERATION AND ADOPTION OF THE PETITION REPORT ON PURCHASE OF NATIONAL BANK OF KENYA LTD BUILDING IN ELDORET BY UASIN GISHU COUNTY EXECUTIVE

The Committee considered the report and observed that-

- a) A number of Uasin Gishu County Executive offices were accommodated on a rented premises. This rent payment scheme in long run would be more expensive than construction of office block.
- b) There were several parcels of land which belong to the county executive but had been grabbed and repossession process was underway. However, there were parcels of land under ownership of the county executive and there was open space which would be used to construct the office block for instance the parcel of land in West Indies.
- c) The NBK building earmarked for purchase is dilapidated, uninhabited and neglected building. The total cost of renovations and configuration of the building into offices would be higher than the cost of construction of a new office block.
- d) The arrangement that the county would acquire the building and then leaseback the ground and first floors to the NBK would be defeating the purpose of purchasing the building. This is because the remaining floors would not meet the county's demand for office space.
- e) The county headquarter has been in its current location for the last 8 years, further, the area has an open space on which an office block would be erected.

The Committee further took into account the competing interests that rising out of this inquiry. The effective delivery of services by county governments requires that certain administrative requirements such as office space are in place. On the other hand the law requires that procurement of public goods and services is underpinned by certain principles. The most important of these is set out in Article 201(d) of the Constitution requiring that public money be used in a prudent and responsible way. Further Article 201(e) which requires responsible financial management. Article 227 of the Constitution further requires that when a state organ or public entity contracts for goods or services, it shall do so in a manner that is, *inter alia*, cost-effective.

In view of the foregoing, the Committee resolved as follows-

- a) The Uasin Gishu County Executive should expedite the mechanism which would cease payment of rent for office space and provide adequate office space for its operations;
- b) Noting that there are parcels of land within the town which are owned by the County Executive and which would be suitable for the construction of office building, and further cognizant that these parcels of land may in some instances be earmarked for other projects, the Committee recommends that the county executive should prioritise construction of office building/ block.
- c) Noting that the Building (NBK Building in Eldoret) earmarked for acquisition-
 - i. requires extensive repairs, configuration into office set-up, installation of lifts and a renovation of the plumbing works. The costs associated with these repairs would be equivalent to construction of new office block.
 - ii. may take another couple of months before its ready for occupation since a lot of works are required to make it suitable for usage as offices.
 - iii. may not meet demand for office space of county executive. Since after renovation, the building has a space of about 4000 m². However, the NBK is to leaseback approximately 2000m². This would leave the county executive with about 50% of the office demand not achieved.

The County Executive should abandon the plans to acquire the NBK building and engage in process of construction of an office block on available land. Further noting that the cost of construction of office block should not exceed Ksh. 500 million as per the existing resolution.

- d) In view of the need to prioritise ceasing of rent payment for office space, the County government should construct an office block in one of the parcels which are under its ownership.
- e) The County Executive should stop any process initiated on the transactions meant to acquire the National Bank of Kenya Ltd Building in Eldoret.

The Report was unanimously adopted having been proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. Millicent Omanga, MP

MIN. NO. 1002/02/2021 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the Chairperson adjourned the meeting at 9.56 am.

SIGNATURE:  _____
(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 17th February, 2021

ELDORET RESIDENTS CBO

P. o. Box 3755-30100 Eldoret. Cell: 0745 966653

Email: cra2019@gmail.com

09/05/2020

IRREGULAR PURCHASE OF NATIONAL BANK BUILDING BY UASIN GISHU COUNTY EXECUTIVE

As a private citizen a resident born and raised in Eldoret and a member of *Eldoret Residents CBO*, I would like to draw attention to the following flaws in the intended irregular acquisition of the above mentioned property situate along Uganda Road adjust to KVDA Plaza and the County Headquarters within Eldoret Town Municipality CBD.

1. Demand for office space by the county government is 9,498 sq. m or 364 office rooms, see Committee on Lands and Housing report titled "Office Space Demands" Annexure 1 (F). Total Plinth Area for NBK building is 4,560.2 sq. m. see Valuation report Annexure 2 (C). The entire section occupied by the bank is 1,727.4 sq. m. The bank wants to retain 2,300 sq. m or 7,000 sq. feet see annexure 3 (c) "Negotiation results", leaving a paltry 2,260 sq. m available for the County offices and a unfulfilled demand for office space of 7,198 sq. m. So, why buy it?
 - a) Plinth area is generally 10-20% more than office area or carpet area. Knock off 20% from 2,260 and you're left with 1,808 sq. m. available to the county. That only 19% of their demand for office space.
 - b) To put this into perspective, the county would still require another building twice over in plinth size and still fail to satisfy its demand for office space but want to buy it anyway. Why?
 - c) In view of (b) above why not settle for the structure within the county hqs, see Annexure 3(d) currently being used as a court (is it even legal) that can be easily improved and or converted to a similar net carpet area that they appear content with.
 - d) Strangely, the County enters into a deal with NBK to purchase the property and lease half of it 7,000 sq. feet (2,300 sq. m) back to NBK @ Ksh. 55 per sq. foot. Now are still still looking for office space or are we now doing business.....
2. The building is old and dilapidated 40 years or there about, see attached valuation report marked "State of repair and decoration".
3. The valuation report appears to have been hurriedly done to achieve a particular objective hence the Valuer's follow up letter of 11th June, 2019. Annex (2 F)
4. A private citizen expresses interest to buy NBK, pays 20 million then backs out. Why 20 million? Was the sum a 10% commitment fee of the total purchase price i.e 200 million? In comes UGCG who hurriedly offer to pay in a span of a month a whopping 570 million in two instalments of 300 and 270 million respectively. Annexure 3 (c) why? Was he induced?
5. Who owns NBK .
6. The County Government at a fraction of this amount has several developed and undeveloped properties within and without the Municipality to choose from either to develop, renovate or convert should the need arise see attached list of properties owned by the county, Annexure 3 (F)

ELDORET RESIDENTS CBO

P. o. Box 3755-30100 Eldoret. Cell: 0745 966653

Email: era2019@gmail.com

7. The Uasin Gishu County Executive has a penchant for disregarding the rule of law and as is her norm Public Participation see "CIDP" Annexure 1 (f) as enshrined in the constitution of Kenya 2010 was ignored.
8. It is on record that Members of the County Assembly initially rejected the purchase of this building in Toto, Annexure 1 (d) 06/06/2019. Seven months later from 6th - 10th Jan 2020 and 20th - 24th Jan 2020 at Weston Hotel, Nairobi and at unspecified hotel in Mombasa, a twelve (12) Member Committee on Lands and Housing deliberated and approved the purchase of the NBK building. What caused the turn around?
9. In all towns across the country and more so Eldoret which is aspiring for City status, the new normal is to establish offices outside the CBD for lack of space and ease of vehicular and human congestion, why the inverse or the contrary.
10. No proper due diligence was conducted neither was a feasibility study carry out as indicated in 7 above. A study would have revealed alternative possibilities at a way cheaper cost to the chagrin of those intent on benefiting.
11. The 12 member committee on Lands and Housing did a shoddy job for obvious reasons. They spent one (1) week in two high end hotels in Nairobi and Mombasa receiving and interrogating simple purchase and sale documents. Compromised?
12. This building was specifically designed as a bank and flat consisting of 2 bedroom units on the northern wing all the way to the 4th. floor. See Valuation report. Enormous resources would be required to renovate it for office use. The entire sum 570 million is for purchase
13. Is there a contract Sale Agreement between the Vendor and the County Government. If so payment may have already been made going by the minutes of the negotiations.

It is clear from the above that this project was not meant to benefit even the county itself nor the greater citizens of Uasin Gishu. We therefore urge you to act expeditiously and play your oversight role as enshrined in the constitution of Kenya 2010.

Thank you.

Singed

W. K. Kwambai,
ER CBO Member

3 394
26 AUG 2020

REPUBLIC OF KENYA
COUNTY GOVERNMENT OF UASIN GISHU

Tel. NOs:direct line:053-2016215
053-2016000
053-2016125

Fax: +254-053-2062884
Website:www.uasingishu.go.ke
Email:info@uasingishu.go.ke



When Replying, Please Address to:

County Secretary
Uasin-Gishu County
P.O. Box 40 – 30100
Eldoret, Kenya.

REF: UGC/ADM.1/31/SENATE/2020/VOL.I/(13)

25 August, 2020

The Clerk to the Senate,
Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

Att: Christopher Gitonga

**PETITION TO THE SENATE CONCERNING THE ALLEGED
IRREGULAR PURCHASE OF THE NATIONAL BANK OF
KENYA BUILDING BY THE UASIN GISHU COUNTY EXECUTIVE**

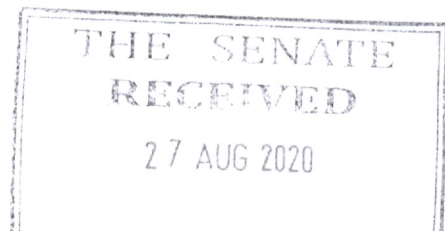
Your letter No.SEN/DCS/SCF&B/2020/040 of 20 August, 2020 addressed to H.E. the Governor of Uasin Gishu County on the above subject is in reference.

We acknowledge with thanks receipt of your communication and in response to the same, please find forwarded to you relevant documents for your perusal and further necessary action.


We trust that the information therein will suffice your concern on this matter.

Thank you for your continued support.


Edwin Bett
COUNTY SECRETARY/
HEAD OF COUNTY PUBLIC SERVICE



① DCOM
Please deal
Deputy Clerk, Senate
Date 27 / 08 / 2020

② C-Access - F&B
For the Committee -
Please deal

27/08/2020

REPORT ON ALLEGATIONS OF IRREGULAR PURCHASE OF THE NATIONAL BANK OF KENYA BUILDING THE UASIN GISHU COUNTY EXECUTIVE

Acquisition of this property began way back in 2015. In May 2015, the National Bank of Kenya advertised sale of Prime Commercial and Residential Properties including the Eldoret Building. In the Advert, it is indicated:

A centrally located Ultra-Modern Commercial property along the Main Uganda Road within Eldoret CBD on a parcel measuring approximately 0.374 Ha. The property comprises of a Six (6) storey L- shaped commercial property with a basement and ample parking space. The building measures 5,120 Square Meters. The property is fully occupied” (Copy of advertisement attached – Annex 1)

The County Government bided unsuccessfully. Vide letter dated 5th February 2018, the Chief Finance Officer of National Bank of Kenya wrote to the County Secretary informing him that following the failure of the previous interested party to close the sale transaction, the bank had placed the building back to the market for sale through the banks agents and direct sale. Further, the Chief Finance Officer of the Bank informed the County Secretary that the reserve price remains Kshs.567 million. (Copy of the letter attached – Annex 2)

Before expressing our interest, the County Executive Committee Member for Lands & Housing sought professional opinion from the director supply chain Management of acquisition of the subject property.

Vide a letter dated 30th May, 2018, the Director, Supply Chain Management gave a professional opinion and advised that more information should be sought from the Principal Secretary, National Treasury in order to determines use of Direct Procurement as stipulated in Section 103 and 104 of the Public Procurement and Asset Disposal Act, 2015 (copy of letter attached - Annex 3).

Vide a letter dated 30 May, 2018, the County Executive Committee Member for Lands, Housing, Physical Planning and Urban Development sought information from the Principal Secretary, National Treasury (letter attached – Annex 4).

On 26 June, 2018, the Principal Secretary of the National Treasury Dr. Kamau Thugge, CBS wrote back to the CECM informing him on the ownership of the National Bank of Kenya and I quote, "In response to your request on the ownership of National Bank of Kenya, we wish to clarify that National Bank of Kenya is a listed Company whose majority shareholders are the Government of Kenya (22.5%) and National Social Security Fund (48%) (Copy of letter attached - Annex 5).

Vide a letter dated 11 June, 2018, the Ag. Director, Supply Chain Management requested for confirmation of ownership of National Bank of Kenya and upon that confirmation, the department may go ahead with the procurement process using Direct Procurement under Section 103 (2) (e) of the Public Procurement and Asset Disposal Act, 2015 (copy of letter attached – Annex 6).

Vide a letter dated 13 June, 2018, the Ag. Chief Officer for Lands and Housing wrote to National Bank of Kenya expressing the interest of the County Government of Uasin Gishu to acquire the property through Direct Procurement subject to confirmation of ownership (copy of the letter attached – Annex 7)

The following documents of ownership were provided by National Bank of Kenya;

- i) Certificate of Lease - Annex 8 (a)
- ii) Copy of Search - Annex 8 (b)
- iii) Certificate of Incorporation - Annex 8 (c)
- iv) PIN Certificate - Annex 8 (d)

Section 103(2) (e) of Public Procurement and Asset Disposal Act, 2015 states;

"A procuring entity may use Direct Procurement if any of the following are satisfied, (e) for the acquiring of goods, works or services provided by a public entity provided that the acquisition price is fair and reasonable and compares well with known prices of goods, works or services in the circumstances."

Section 104 states; *"An accounting officer of a procuring entity shall adhere to the following regulations with respect to direct procurement;*

- a) Issue a tender document which shall be the basis of tender preparation and subsequent negotiations;*
- b) Appoint an ad hoc Evaluation Committee pursuant to Section 46 to negotiate with a person for the supply of goods, works or non-consultancy services being provided;*
- c) Ensure appropriate approvals under this Act have been granted;*
- d) Ensure the resulting contract is in writing and signed by both parties;*

The County Government of Uasin Gishu did comply with Section 104 to the letter. We attach the following documents;

- a) Register for collection of tender document – Annex 9
- b) Tender Document – CGU/LND/DP:05/2018/2019 – Annex 10
- c) Dully filled Tender Document from NBK – Annex 11
- d) Appointment of negotiation Committee – Annex 12
- e) Minutes of Negotiation – Annex 13
- f) Duly signed Sale Agreement – Annex 14

In the tender dully filled document annexed above, National Bank of Kenya quoted an amount of Kshs. 661M. To ensure that the purchase price is fair, reasonable and compares well with known prices as provided in Section 103(2) (e), the department requested the Government valuer to prepare a valuation report with regard to this property (copy attached – Annex 15).

Vide a letter dated 2 November, 2018 the County valuer gave the value of the subject property as Kshs.568 Million (copy of valuation report attached – Annex 16). The same valuer vide letter dated 11 June, 2019 gave a breakdown of the valuation report giving the value of land Kshs.450 Million and that of improvement as Kshs.118 Million (copy attached – Annex 17).

In bid to ensure appropriate approvals are granted as provided in Section 104 (c) the department wrote to the following Government Institutions;

- i) Survey of Kenya to ascertain the boundaries of the property - Annex 18
- ii) Kenya National Highway Authority to ascertain whether property sits on a road reserve; - Annex 19
- iii) National Land Commission to give their clearance for this Transaction - Annex 20
- iv) The Land Registrar to ascertain whether this property had any encumbrances - Annex 21
- v) National Intelligence Service Report - Annex 22

On planning and budgeting, the department of Lands & Housing received departmental requests for office space totaling to 9498 Square meters (copy of summary of office space demands attached – Annex 23). It's worth noting that county departments are housed in different locations within Eldoret town which hampers service delivery given that service points are not in one location. An instance is Department of Trade housed at KVDA Building and paying rent of Kshs. 1.6M annually.

This necessitated provision in the County Integrated Development Plan (2018- 2022) for creation of 10,000 Square Meters at a cost of Kshs.1 Billion (copy of CIDP Extract attached – Annex 24(a)). It should also be noted that the constraint of office space had been experienced for a while and the Office of The Controller of Budget had made recommendations in its first Quarter Report FY 2014/2015 (copy of extract of the report – Annex 24(b)).

The County Integrated Development Plan, (2018 - 2022) underwent rigorous public participation both by Executive and County Assembly that culminated in its approval and publishment (copy of advert for public participation – Annex 25).

The County Executive Committee vide resolution dated 24 February, 2016 passed the purchase of this property thus giving the Department of Lands the go ahead to begin the process of acquisition (copy of resolution attached – Annex 26).

In the Uasin Gishu County Appropriation Act 2018, Kshs.300 million was budgeted for purchase of the building. The Uasin Gishu County Appropriation Act, 2019 provides for a Budget of Kshs.270 million for completion of purchase of this property (copies of the Acts attached – Annex 27). We also attach our Annual Development Plan, Budget and the advertisement of public participation – (Annex 28) as well as our Procurement Plan for the FY 2018/2019 and FY 2019/2020 (Annex 29 (a) and (b)).

On 6 June, 2019, the County Assembly of Uasin Gishu passed a resolution to stop the purchase of the subject property. The issues raised by the Assembly including public participation, clearance from National Land Commission, advisory from Attorney General valuation of the property and Kenya Commercial Bank takeover and location on a road reserve. This is the reason why payment was not completed and the funds were rolled over to the next financial year.

The Department did supply County Assembly with clarification as follows: -

1. Copies of advertisement for public participation of budget – Refer to Annex 28(b)
2. Letters from National Land Commission – Refer to Annex 20
3. Breakdown of Valuation Report – Refer to Annex 17
4. Visible beacon erected by the Kenya National Highways Authority (KeNHA) on both sides of the road adjacent to the property – Annex 30

5. Letter from Paul Russo, the Managing Director of National Bank of Kenya (NBK) a subsidiary of the Kenya Commercial Bank (KCB) Group Public Limited Company is still desirous to completing the transaction and KCB Group Public Limited Company does not object to the receipt of the entire purchase price of Kshs.570 million – Annex 31.
6. With regard to the advisory from the Attorney-General, Section 134(2) of the Public Procurement and Asset Disposal Act provides that: -

“An Accounting Officer of the procuring entity shall ensure that all contracts of a value exceeding Kshs.5 billion (Five billion shillings only) are cleared by the Attorney-General before they are signed.”

This transaction is worth Kshs.570 million which amount is way below the threshold that requires clearance from the Attorney-General.

Having addressed the issues raised by the County Assembly, a resolution was passed on 6 May, 2020 giving the County Executive the go ahead to complete the transaction and make payment as per the applicable law (copy of resolution – Annex 32 attached).

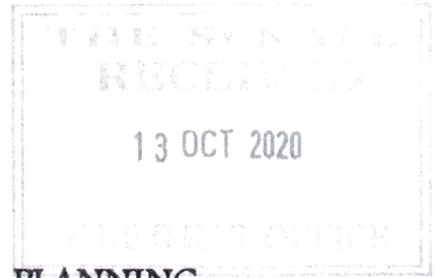
On payments, the County Government of Uasin Gishu is yet to make any payment with regard to purchase of this property. As per the sale agreement, the amount of Kshs. 570M was to be paid in Two (2) installments of Kshs. 300M and Kshs. 270M. The bank had proposed that the first instalment be paid to their lawyers on stakeholder basis pending completion of the transaction and as per Law Society of Kenya conditions of sale. (copy of letter – Annex 33) The Chief Officer for Lands and Housing responded that the Public Procurement and Asset Disposal Act is superior to Law Society of Kenya regulations as relates to matters of procurement. (copy of letter Annex -34) However, for the record, payment will be made through IFMIS directly to National Bank of Kenya Limited (copy of letter with the account details attached - Annex 35)

In conclusion, the County Government of Uasin Gishu wishes to reiterate that the above transaction has been entered into in strict compliance with all budgeting and procurement laws with the sole intention of securing more office space to enable it render better and more effective service to the people of Uasin Gishu County.



REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING
Office of the Cabinet Secretary



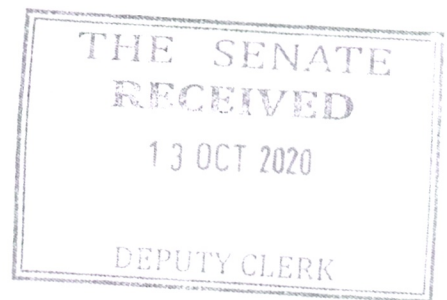
Tel: +254(0)20 2718050
Fax: +254(0)20 2724470
Email: cslands@ardhi.go.ke
Web: www.ardhi.go.ke
When replying please quote:

Ardhi House
1st Ngong Avenue
P.O. BOX 30450-00100
Nairobi, KENYA

Ref. No. MOLPP/ADM/CSO/1/446

October 13, 2020

Mr. Jeremiah M. Nyegenye, CBS
Clerk of the Senate/Secretary
Parliamentary Service Commission
P.O Box 41842-00100
NAIROBI




Dear

RE: PETITION TO THE SENATE CONCERNING THE ALLEGED IRREGULAR PURCHASE OF THE NATIONAL BANK OF KENYA BUILDING

Reference is made to your letter Ref. SEN/DCS/SCF&B/2020/O45 dated September 21, 2020 requesting the Ministry to undertake valuation of the property registered as ELDORET MUNICIPALITY BLOCK 4/88 for the purpose of purchase by the County Government.

We hereby forward our report on the current market value of the property as at October, 2020.

Yours


Farida Karoney, FGH
CABINET SECRETARY

① DCOM
Please deal
Deputy Clerk, Senate
Date 13/10/2020

Encl



② Clerk Assist - Fx Budget
Please deal
13/10/2020



MINISTRY OF LANDS AND PHYSICAL PLANNING

REPORT TO THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET CONCERNING ALLEGED IRREGULAR PURCHASE OF THE NATIONAL BANK OF KENYA BUILDING IN ELDORET

Honorable Chair,

Pursuant to a letter Ref. **SEN/DCS/SCF & B/2020/045** dated September 21, 2020, the Committee in considering a petition to the Senate concerning the alleged irregular purchase of the National Bank of Kenya Building located in Eldoret requested the Ministry of Lands & Physical Planning to assess the building to ascertain the market value.

1.0 Submission by the Ministry

1.1 Background

Honorable Chair, the Ministry received a request from the County Government of Uasin Gishu vide a letter Ref. **UGC/LHP/VALUATION/VOL.1/125** dated September 25, 2018 to undertake valuation of a property registered as **ELDORET MUNICIPALITY BLOCK 4/88** for the purpose of purchase by the County Government (**Annexure 1**). According to our records, the property is registered in the name of National Bank of Kenya Limited (**Annexure 2**).

The property was valued and the Ministry returned a market value of Kshs. 568,000,000. The report was forwarded to the County Government vide a letter Ref. **ELD/PSII/VAL./250** dated November 2, 2018 (**Annexure 3**).

Honorable Chair, following the request by the Committee, we have revalued the property and hereby return a current market value of Kshs. 580,000,000 as at October 20, 2020 as provided in our report marked **Annexure 4**.

Honorable Chair, we hope that the information is sufficient.

I submit.


Farida Karoney, EGH
CABINET SECRETARY

October 12, 2020

MINISTRY OF LANDS & PHYSICAL PLANNING

Telephone & Fax: Kitale 053-2033641
When replying please quote

Ref. No. ELD/PSH/VAL./250
and date



DEPARTMENT OF LANDS,
UASIN GISHU COUNTY,
P.O BOX 173- 30100,
ELDORET.

DATE 2nd November 2018

The Chief Officer,
Lands, Housing, Physical Planning & Urban Devt,
County Government of Uasin Gishu,
P. O. Box 40-30100,
ELDORET.

Dear Madam,

**RE: REPORT AND VALUATION- PLOT NO. ELDORET MUNICIPALITY BLOCK
4/88**

Pursuant to your instructions vide your letter referenced **UGC/LHP/VALUATION/VOL.1/125** dated **25th September, 2018** to assess the market value of the above mentioned property for PURCHASE purpose, we have inspected the above property and now submit herewith our Report and Valuation for your attention.

Based on the aforementioned as contained herein, we are of the opinion that the Market Value of subject property is **Kenya Shillings Five Hundred and Sixty Eight Million (Kshs 568,000,000)** only.

We enclose herewith our full Report and Valuation.

Our Valuation fees at one half of the Valuers (Forms and Fees) (Amendment) Rules of 2011 is **Kenya Shillings Seven Hundred and Seventeen Thousand Five Hundred (Kshs 717,500)** only. Kindly prepare a Bankers Cheque for this amount payable to the "**Principal Secretary Ministry of Lands & Physical Planning**", and forward the same to the undersigned for my onward transmission.

Yours faithfully,


Francis N.P. Kariuki,
COUNTY LANDS VALUER- UASIN GISHU, NANDI & ELGEYO MARAKWET

c.c.
Director Land Valuation
P. O. Box 30089,
Nairobi.

REPORT AND VALUATION

ELDORET MUNICIPALITY BLOCK 4/88

INSTRUCTIONS	: Pursuant to instructions from the chief Officer, Lands, Housing, Physical Planning and Urban Development, we have inspected the subject property with a view to advising on the current market value for purchase purpose. We have accordingly carried out an actual physical inspection of the subject property and do now submit our Report and Valuation hereunder.
DATE OF INSPECTION	: 19 th October, 2018
DATE OF VALUATION	: 19 th October, 2018
TITLE NUMBER	: Eldoret Municipality Block 4/88
SITUATION AND ACCESS	: The property fronts Uganda road to the south and Oloo Street to the west. It is opposite the Divisional Police Headquarters and borders the KVDA building to the north.
NATURE OF INTEREST	: This is a leasehold interest for a period of 99 years from 1st May, 1979 at an annual revisable ground rent of Kshs 22,000 , and is registered at the Eldoret Land Registry under the Registered Land Act Cap 300 of the laws of Kenya (now repealed) in the name of the National Bank of Kenya Limited .
ENCUMBRANCES	: The leasehold interest in the property was unencumbered as at the date of official search on 1 st November, 2018.
AREA	: The property extends of an area of Naught Decimal Three Seven Four Three (0.3743) of a Hectare approximately.
DESCRIPTION	: This is a rectangular shaped commercial corner plot with boundaries marked by precast concrete slabs fixed onto pre-cast concrete poles. Access is via wrought iron gates. The plot has a fairly level gradient while soils are red loams.
DEVELOPMENTS	: The plot is developed with multi-storey commercial building generally known as National Bank Building which is custom designed and built to serve as a bank to the basement, part of the ground and mezzanine floors, and offices to the rest of the building except to the northern wing which was initially designed to the first floor as a flat.

ELDORET MUNICIPALITY BLOCK 4/88



Front Elevation- view from Uganda Road & Oloo street junction.



Building view from across Uganda road



Rear view from KVDA building

ELDORET MUNICIPALITY BLOCK 4/88



Building view from across Oloo street

CONSTRUCTION AND ACCOMMODATION

: The building is constructed of a Reinforced Concrete (R.C.) frame in-filled with concrete block claddings externally rendered and colour washed, internally plastered and painted. Windows are glazed aluminum casements fitted with burglar proofing to the ground level. External entrance doors are double glazed aluminum casements while internal doors are glazed aluminum casements, burglar proofed metal casements and light flush to the banking section, and light wooden flush to the rest of the building. The internal partitions to the banking wing of the building are constructed of Aluminum frame covered in gypsum boards and fitted with checker plates to dado in part. Partitions to the rest of the building from first floor are generally either timber frame or aluminum frame clad to tenant specifications but mostly with timber block boards. The ceiling to the bank wing of the building is acoustic decorative aluminum suspended panels, double volume in part and plastered concrete elsewhere except to the northern residential wing which is fitted with chip board ceiling. The building floor is variously finished in cement screed to the basement, terrazzo to stairways and parts of ground floor, granito tiles to the banking area, ceramic tiles to all wet areas and PVC tiles to the rest of the building. The roof is R.C. covered in galvanized corrugated iron sheets on timber frame.

ELDORET MUNICIPALITY BLOCK 4/88

Accommodation Comprises:

BASEMENT LEVEL

- ENTRY RAMP
- 2 NO STORES
- STRONG ROOM
- POWER ROOM
- HOIST to ground floor

GROUND FLOOR

- RECEPTION LOBBY
- Main STAIRWAY
- LIFT (non-functional) and STORE (empty LIFT WELL)
- PHARMACY & CLINIC
- REAR ENTRY FOYER
- GENERATOR HOUSE
- BANK WING comprising ENTRY FOYER, BANKING HALL (section with double volume ceiling), 18 NO. Aluminum partitioned TELLER CUBES and 3 NO. OFFICES, 5 NO. open plan block board-partitioned SIDE OFFICES, open plan BACK OFFICE, Amana (Muslim) BANKING HALL, KITCHEN with marble work-top, built-in cabinets and double drainer stainless steel sink unit, ABLUTION SECTION fitted with tiles to dado and 6 NO high level pan WCs, 5 NO. WHBs and 3 NO. Urinal bowls, SERVER ROOM, ATM booth section with CUSTOMER LOBBY, Premium BANKING HALL with RECEPTION area, 1 NO Aluminum partitioned OFFICE and 3 NO. TELLER CUBES,

MEZZANINE FLOOR

- LOBBY
- Main STAIRWAY
- LIFT (non-functional) and STORE
- Residential flat comprising LOUNGE, DINING, KITCHEN, 2 NO BEDROOMS with built-in wardrobes, MASTER ENSUITE with bathroom cum toilet, common BATHROOM cum TOILET and BALCONY (residential flat currently entirely converted into OFFICES),
- ABLUTION section comprising 5 NO high level pan WCs & 1 NO Urinal bowl,
- Private OFFICES with temporary timber frame and block board partitions,

ELDORET MUNICIPALITY BLOCK 4/88

- Amana (Muslim) BANKING HALL with 2 NO SIDE OFFICES, open plan BACK OFFICE and 1 NO. TELLER CUBE.
- 2 NO STAIRWAYS to banking Hall below

FIRST FLOOR

- Main STAIRCASE LOBBY
- LIFT (non-functional) and STORE
- ABLUTION section comprising 4 NO high level pan WCs, WHB & 1 NO Urinal bowl,
- OFFICE LOBBY
- 2 NO KITCHENS with wooden work top and sink unit
- OPEN PLAN OFFICE SPACE currently partitioned to tenant specifications but mostly timber frame clad in wooden block boards.
- FIRE ESCAPE STAIRWAY
NB: The main outer walling is fitted with built-in under-cabinets

SECOND TO FOURTH FLOORS

- Accommodation is similar to that on first floor. The internal partitions to second floor is similar to that on first floor above. The third floor is entirely vacant hall. Fourth floor is partitioned with aluminum frame clad in chip board laminated with PVC. Doors are mostly light wooden flush.

Plinth Area: 4560.2 Sq. m

NB: The Bank section of the building comprises the whole basement, the entire ground floor except the pharmacy/clinic on the northern wing, and part of the mezzanine floor. This section of the building is custom build to bank specifications and is finished to very high standards. The entire section occupied by the bank extends to 1727.4 Sq. m

ELDORET MUNICIPALITY BLOCK 4/88



Main Banking Hall on ground floor



Part of the section with teller cubes



Side open-style offices within the Banking Hall

ELDORET MUNICIPALITY BLOCK 4/88



Amana (Muslim) Banking Hall on mezzanine floor

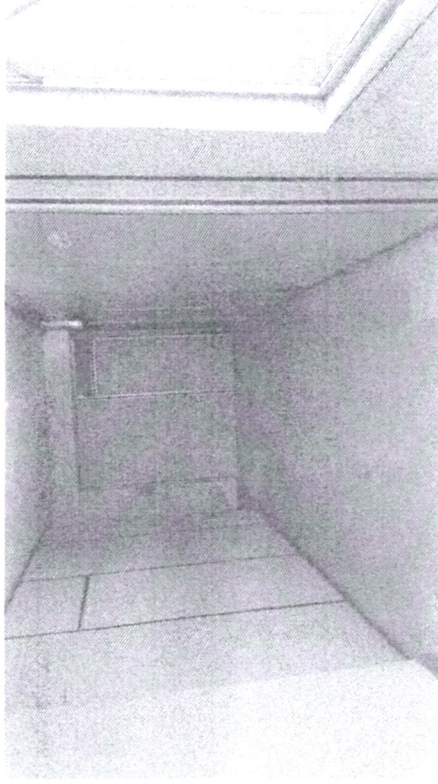


Sample partitions to First and Second Floor

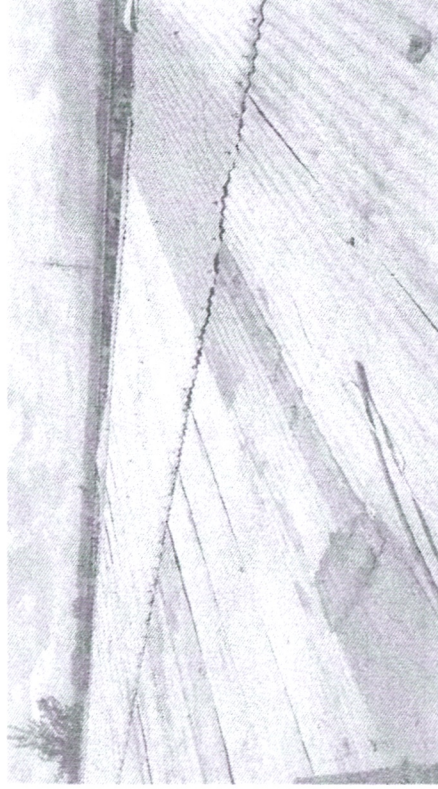


Third Floor- vacant

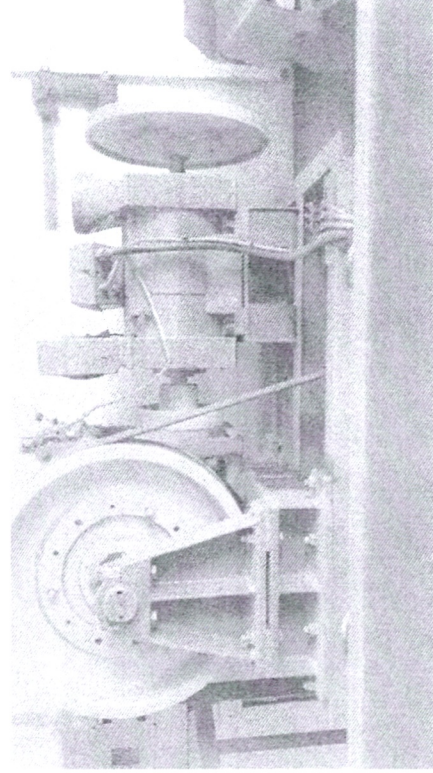
ELDORET MUNICIPALITY BLOCK 4/88



Partition to Fourth floor



Roof Covering



The Lift gears and pulleys on roof top- not working

ELDORET MUNICIPALITY BLOCK 4/88

TENANCY STATUS

: The building is entirely occupied on the mezzanine, ground and first floors, about 90% on second floor, entirely vacant on third floor and only about 15% on fourth floor.

SERVICES

: Mains water and electricity are connected to the property. A power back-up generator is installed (its ownership not established). Drainage is to main municipal sewer line. The building has ample secure and paved parking space.

STATE OF REPAIR AND DECORATION

: The building is in good structural condition but except for the Bank wing, the rest of the building is in poor state of repair. The lift is not functional while there are signs of rain water leakage through the roof slab.

BASIS OF VALUATION

: The valuation below is based on the depreciated replacement cost method for the building and the market comparison approach for the land.

The valuation below does not include any chattels.

REMARKS

: This is a very prime property especially given its location at the intersection of two busy streets within the CBD and also give its size which accords it versatility of development and use.

VALUATION

: In my opinion, considering the current property market within Eldoret town and the factors peculiar to this property, the current market value of the subject property for **Purchase purpose** is **KENYA SHILLINGS FIVE HUNDRED AND SIXTY EIGHT MILLION (KSHS. 568,000,000/=)**

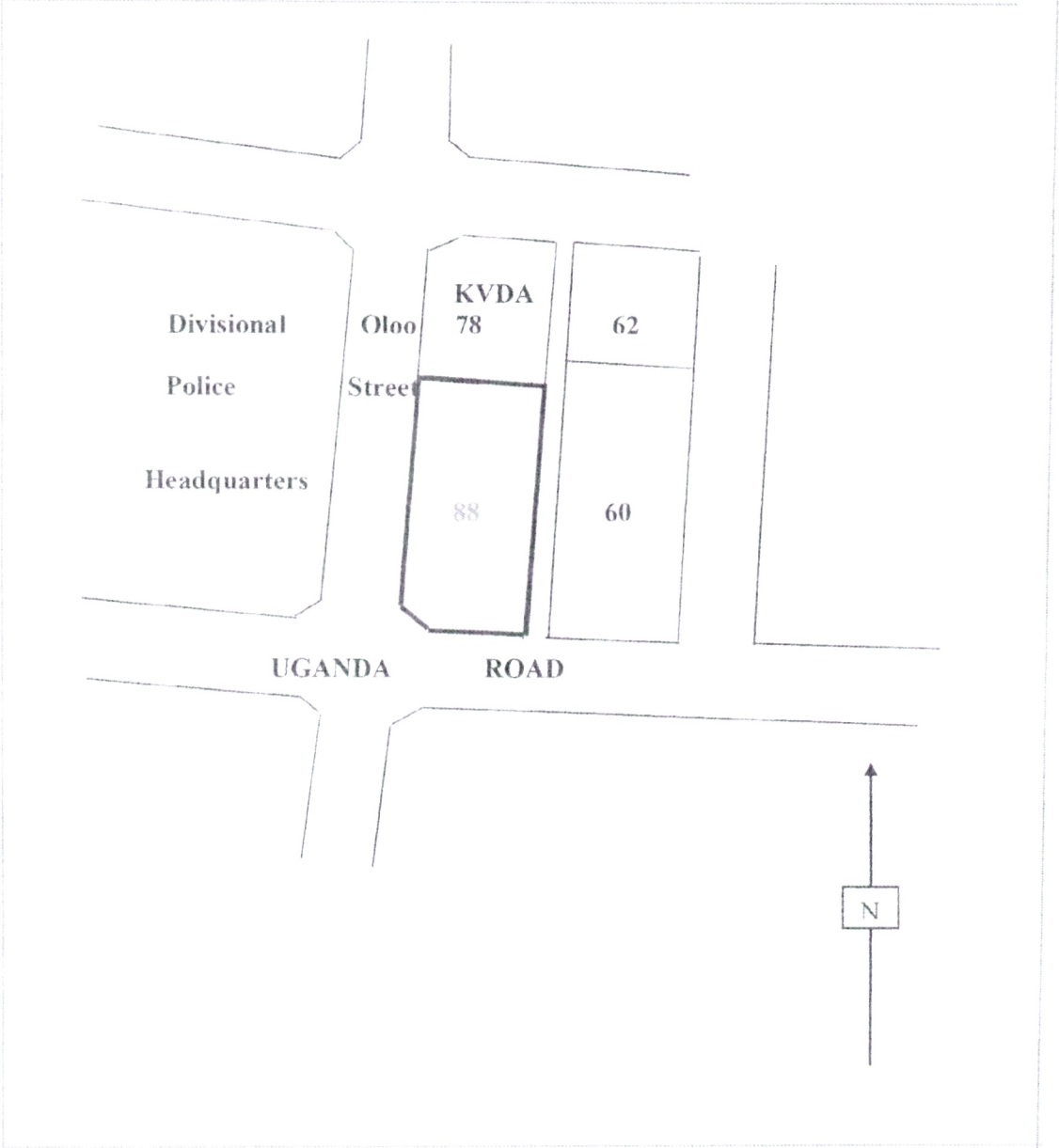

FRANCIS N.P. KARIUKI
COUNTY LAND VALUER

UASIN GISHU, NANDI AND ELGEYO MARAKWET COUNTIES

Dated this 2nd day of November, 2018

ELDORET MUNICIPALITY BLOCK 4/88

LOCATION SKETCH MAP



ELDORET MUNICIPALITY BLOCK 4/88

Form LRA 85

LS/600

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017

CERTIFICATE OF OFFICIAL SEARCH

Eldoret Municipality Block 4/88
TITLE NO.

SEARCH NO.

On the 17 day of November 2019 the following were the subsisting entries on the register of the above-mentioned title:
Plot 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Part A — Property Section (easements, etc.)

Nature of title *Leasehold*

Approximate area *(0.77 x 0.11) 2000 sqm*

Part B — Proprietorship Section

Name and address of proprietor *Plot 1-100 - National Bank of Kenya Ltd
2017-2018 - Eldoret Home of Eldoret 11th St*

Inhibitions, cautions and restrictions */*

Part C — Encumbrances Section (leases, charges, etc.)

The following applications are pending:

- (a)
- (b)
- (c)
- (d)

The following entitled copies are attached as requested:

- (a)
- (b)
- (c)
- (d)

Date 17 day November 2019

Signed by the Registrar
Name *S. C. Muri 339*

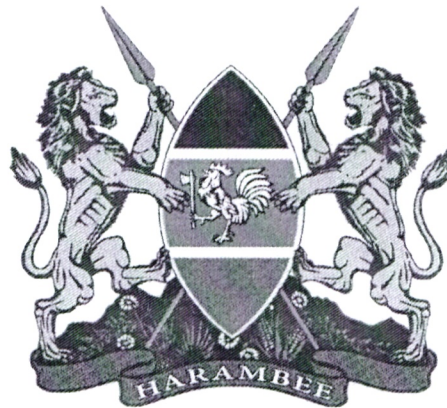
Seal

Signature: *[Signature]*

ELDORET MUNICIPALITY BLOCK 4/88

LIMITING CONDITIONS

1. This Report and Valuation is Confidential to the client for the specific purpose to which it refers, hence any liability arising there from is limited to the client only.
2. The opinion of value expressed in this Report shall be used for the purpose of this Report only. The valuer is not responsible for any consequence arising from the valuation being quoted out of context.
3. Neither the whole nor any part of this Report and Valuation or any reference thereto may be included in any published document, circular or statement nor published in any way without the written approval of the valuer as to the form and context in which it may appear.
4. While due care is taken to note significant building defects in the course of inspection, this is a Report and Valuation and hence no structural survey is made nor any inspection of wood work or other parts of the structures which are covered or inaccessible and the valuer cannot therefore account for the same.
5. No investigation was carried to determine any latent defects including lot and inherently dangerous or unsuitable materials and techniques used in the construction of the buildings, or has since been incorporated and the valuer is therefore unable to report for such in this Report.
6. A search certificate for the title is included in the report. The valuer cannot therefore accept any responsibility regarding the legal ownership or for any liabilities against the property either recorded or unrecorded as at the date of inspection.



**MINISTRY OF LANDS AND PHYSICAL
PLANNING**

NATIONAL BANK BUILDING - ELDORET

ELDORET MUNICIPALITY BLOCK 4/88

VALUATION REPORT

TERMS OF REFERENCE

We received instructions from the **Senate Committee on Land** vide a letter to the Cabinet Secretary for the Ministry of Lands and Physical Planning **Ref.: SEN/DCS/SCF&B1/2020/045** dated **21st September 2020** to advise on the Market Value of National Bank Building – Eldoret Town.

We submit our Report and Valuation as follows:

ELDORET MUNICIPALITY BLOCK 4/88

LIMITING CONDITIONS:

This Report and Valuation is subject to the following limiting conditions:-

1. Neither the whole nor any part of this Report and Rental or any reference to it may be included in any published document, circular or statement nor published in any way without the prior written approval of **Director of Land Valuation** of the form and context in which it may appear.
2. This Report and Valuation is Confidential to the Senate Committee on Lands for the specific purpose to which it refers, hence any liability arising there from is limited to the client only.
3. The Market Value expressed in this Report shall be used for the purpose of this Report only. The Director of Valuation is not responsible for any consequence arising from the valuation being quoted out of context.
4. Neither the whole nor any part of this Report and Valuation or any reference thereto may be included in any published document, circular or statement nor published in any way without the written approval of the Director of Valuation as to the form and context in which it may appear.
5. While due care is taken to note significant building defects in the course of inspection, this is a Report and Valuation and hence no structural survey is made nor any inspection of wood work or other parts of the structures which are covered or inaccessible and the valuer cannot therefore account for the same.
6. No investigation was carried to determine any latent defects including rotand inherently dangerous or unsuitable materials and techniques used in the construction of the buildings, or has since been incorporated and the valuer is therefore unable to report for such in this Report.

ELDORET MUNICIPALITY BLOCK 4/88

REPORT AND VALUATION

DATE OF INSPECTION: 2nd October 2020

DATE OF VALUATION: 9th October, 2020

TITLE NUMBER: Eldoret Municipality Block 4/88

SITUATION AND

ACCESS:

The property fronts Uganda road to the south and Oloo Street to the west. It is opposite the Divisional Police Headquarters and borders the KVDA building to the north.

NATURE OF INTEREST: This is a **leasehold interest** for a period of **99 years** from **1st May, 1979** at an annual revisable ground rent of **Kshs 22,000**, and is registered at the Eldoret Land Registry under the **Registered Land Act Cap 300** of the laws of Kenya (now repealed) in the name of the **National Bank of Kenya Limited**.

ENCUMBRANCES: The leasehold interest in the property was unencumbered as at the date of official search on 2nd October 2020.

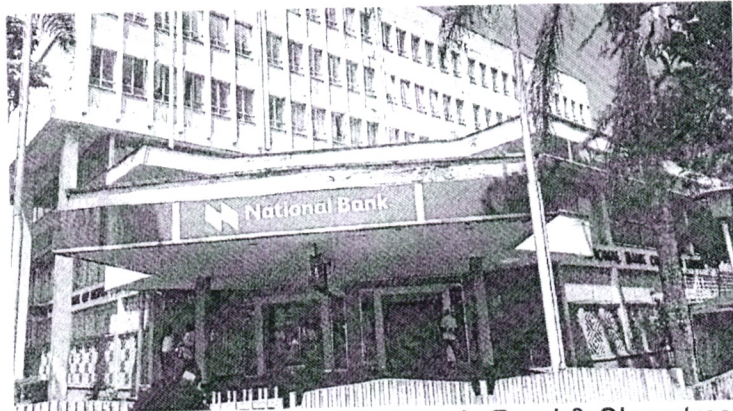
AREA: The plot extends of an area of **Naught Decimal Three Seven Four Three (0.3743)** of a Hectare approximately.

DESCRIPTION: This is a rectangular shaped commercial corner plot with boundaries marked by precast concrete slabs fixed onto pre-cast concrete poles. Access is via wrought iron gates. The plot has a level gradient while soils are red loams.

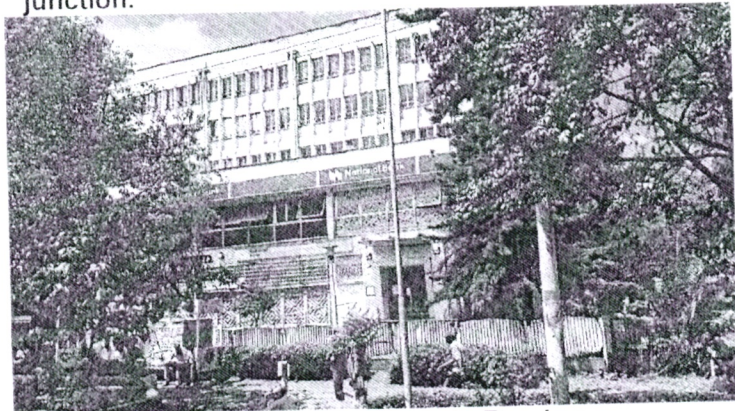
DEVELOPMENTS: The plot is developed with multi-storey commercial building generally known as **National Bank Building** which is custom

ELDORET MUNICIPALITY BLOCK 4/88

designed and built to serve as a bank to the basement, part of the ground and mezzanine floors, and offices to the rest of the building except to the northern wing which was initially designed to the first floor as a flat.



Front Elevation- view from Uganda Road & Oloo street junction.



Building view from across Uganda Road

ELDORET MUNICIPALITY BLOCK 4/88



Rear view from KVDA Building



Building view from across Oloo Street

ELDORET MUNICIPALITY BLOCK 4/88

CONSTRUCTION AND ACCOMMODATION:

The building is constructed of Reinforced Concrete (R.C.) frame in-filled with concrete block claddings externally rendered and colour washed, internally plastered and painted.

Windows are glazed aluminum casements fitted with burglar proofing to the ground level. External entrance doors are double glazed aluminum casements while internal doors are glazed aluminum casements, burglar proofed metal casements and light flush to the banking section, and light wooden flush to the rest of the building.

The internal partitions to the banking wing of the building are constructed of Aluminum frame covered in gypsum boards and fitted with checker plates to dado in part.

Partitions to the rest of the building from first floor are generally either timber frame or aluminum frame clad to tenant specifications but mostly with timber block boards.

The ceiling to the bank wing of the building is acoustic decorative aluminum suspended panels, double volume in part and plastered concrete elsewhere except to the northern residential wing which is fitted with chip board ceiling.

The building floor is variously finished in cement screed to the basement, terrazzo to stairways and parts of ground floor, granito tiles to the banking area, ceramic tiles to all wet areas and PVC tiles to the rest of the building. The roof is R.C. covered in galvanized corrugated iron sheets on timber frame.

Accommodation Comprises:

BASEMENT LEVEL

- Entry Ramp
- 2 No Stores
- Strong Room
- Power Room

ELDORET MUNICIPALITY BLOCK 4/88

GROUND FLOOR

Hoist to Ground Floor

Reception Lobby

Main Stairway

Lift (Non-Functional) And Store (Empty Lift Well)

Pharmacy & Clinic

Rear Entry Foyer

Generator House

Bank Wing Comprising Entry Foyer, Banking Hall (Section With Double Volume Ceiling), 18 No. Aluminum Partitioned Teller Cubes And 3 No. Offices, 5 No. Open Plan Block Board-Partitioned Side Offices, Open Plan Back Office, Amana (Muslim) Banking Hall, Kitchen With Marble Work-Top, Built-In Cabinets And Double Drainer Stainless Steel Sink Unit, Ablution Section Fitted With Tiles To Dado And 6 No High Level Pan Wcs, 5 No. Whbs And 3 No. Urinal Bowls, Server Room, Atm Booth Section With Customer Lobby, Premium Banking Hall With Reception Area, 1 No Aluminum Partitioned Office And 3 No. Teller Cubes.

MEZZANINE

Lobby

Main Stairway

Lift (Non-Functional) and Store

Residential Flat Comprising Lounge, Dining, Kitchen, 2 No Bedrooms with Built-In Wardrobes, Master Ensuite With Bathroom Cum Toilet, Common Bathroom Cum Toilet and Balcony (Residential Flat Currently Entirely Converted Into Offices), Ablution section comprising 5 no high level pan WCs & 1 no urinal bowl,

ELDORET MUNICIPALITY BLOCK 4/88

Private offices with temporary timber frame and block board partitions,

Amana (muslim) banking hall with 2 no side offices, open plan back office and 1 no. Teller cube.

2 no stairways to banking hall below

FIRST FLOOR

Main staircase lobby

Lift (non-functional) and store

Ablution section comprising 4 no high level pan WCs , WHB & 1 no urinal bowl,

Office lobby

2 no kitchens with wooden work top and sink unit

Open plan office space currently partitioned to tenant specifications but mostly timber frame clad in wooden block boards.

Fire escape stairway

NB: the main outer walling is fitted with built-in under-cabinets

SECOND TO FOURTH FLOORS

Accommodation is similar to that on first floor.

The internal partitions to second floor is similar to that on first floor above.

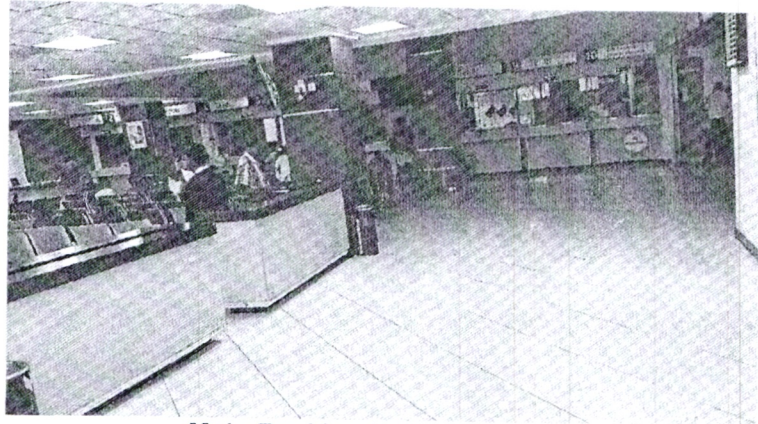
The third floor is entirely vacant hall. Fourth floor is partitioned with aluminum frame clad in chip board laminated with PVC. Doors are mostly light wooden flush.

Plinth Area: 4560.2 Sq. M.

ELDORET MUNICIPALITY BLOCK 4/88

NB: The Bank section of the building comprises the whole basement, the entire ground floor except the pharmacy/clinic on the northern wing, and part of the mezzanine floor.

This section of the building is custom build to bank specifications and is finished to very high standards. The entire section occupied by the bank extends to 1727.4 Sq. M



Main Banking Hall on ground floor



Part of the section with teller cubes

ELDORET MUNICIPALITY BLOCK 4/88



Side open-style offices within the Banking Hall



Amana (Muslim) Banking Hall on mezzanine floor

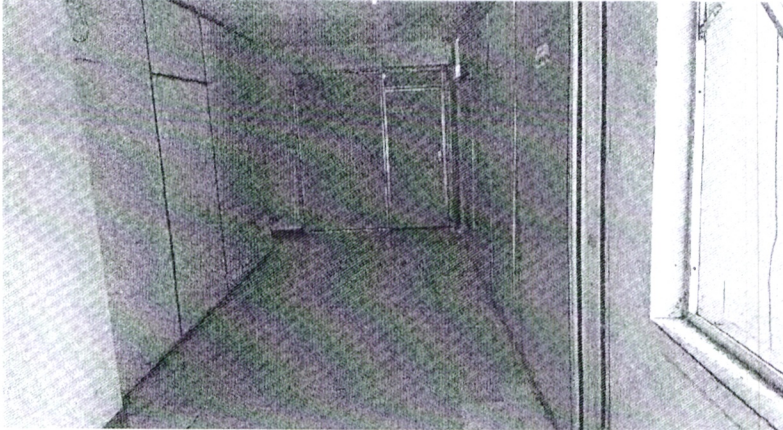


Sample partitions to First and Second Floor

ELDORET MUNICIPALITY BLOCK 4/88



Third Floor- vacant

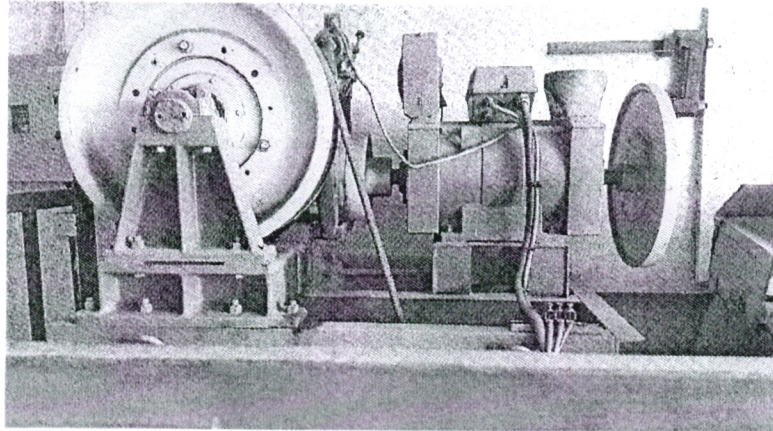


Partition to Fourth floor



Roof Covering

ELDORET MUNICIPALITY BLOCK 4/88



The Lift gears and pulleys on roof top- not working

SERVICES:

Mains water and electricity are connected to the property.

A power back-up generator is installed (its ownership not established). Drainage is to main municipal sewer line. The building has ample secure and paved parking space.

STATE OF REPAIR AND DECORATION:

The structural stability of the building should be established by the purchasers. The building required repairs and decorations at the time of our inspection.

The lift is not functional while there are signs of rain water leakage through the roof slab.

BASIS OF VALUATION:

In determining the Market Value of the property, we relied on the Depreciated Replacement Cost method for the building and the Market Comparison approach for the land.

The valuation below does not include any chattels.

REMARKS:

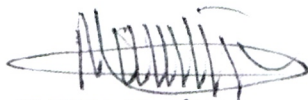
This is a very prime property especially given its location at the intersection of two busy streets within the CBD and also

ELDORET MUNICIPALITY BLOCK 4/88

give its size which accords it versatility of development and use.

VALUATION:

In our opinion, considering the current property market within Eldoret Town and the factors peculiar to this property, the current market value of the subject property for is **KENYA SHILLINGS FIVE HUNDRED EIGHTY MILLION (KSHS. 580,000,000/=)**



NICHOLAS OWINO
DEPUTY DIRECTOR LAND VALUATION

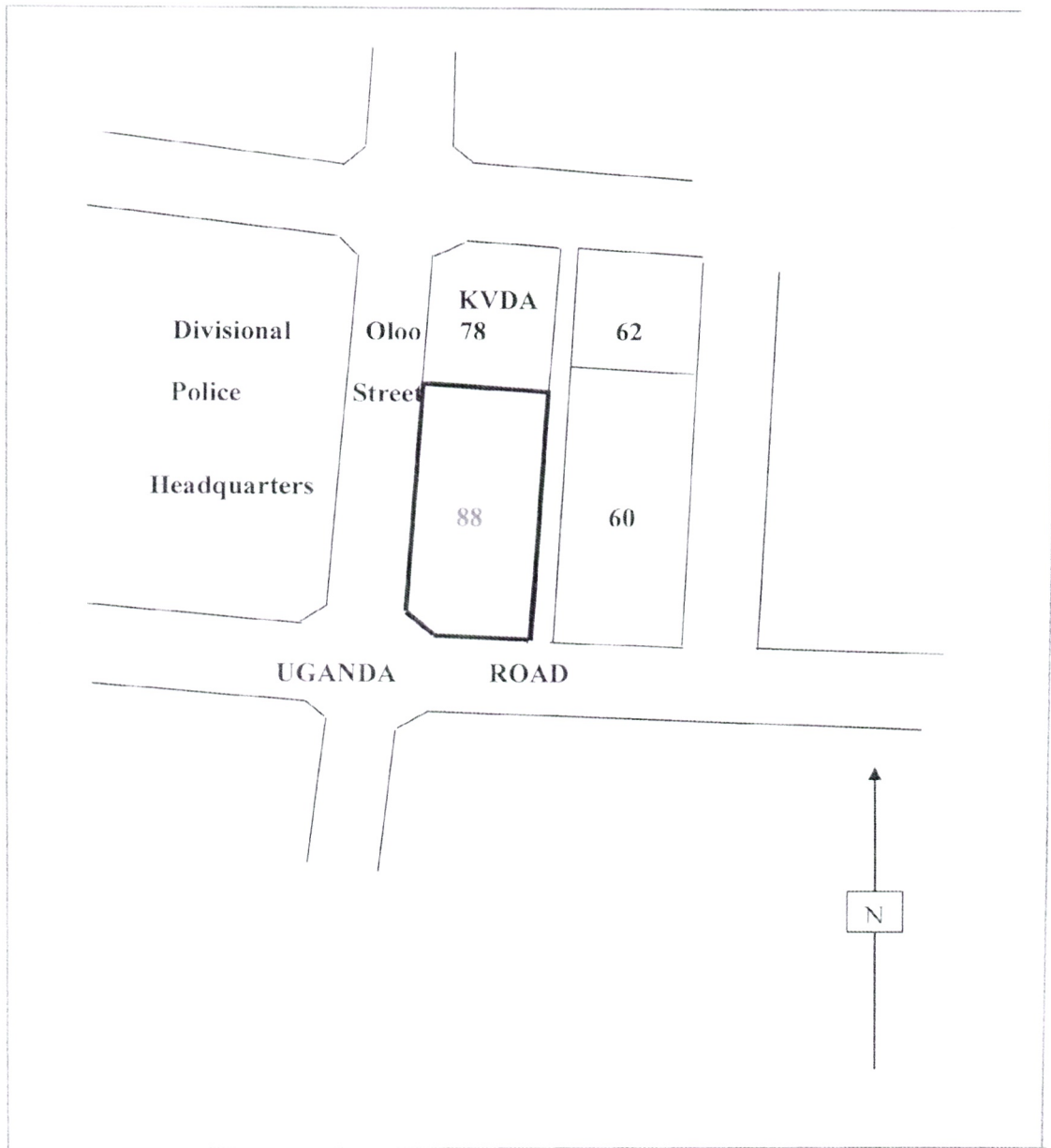


CHARLES MOEMI
DIRECTOR LAND VALUATION

Dated this 9th day of October, 2020

ELDORET MUNICIPALITY BLOCK 4/88

LOCATION SKETCH MAP



ELDORET MUNICIPALITY BLOCK 4/88

COPY OF CERTIFICATE OF SEARCH

Form LRA-85 (r.84(3))

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017

CERTIFICATE OF OFFICIAL SEARCH

TITLE NO. ELDORET MUNICIPALITY Block 4/88

SEARCH NO.

On the 9th day of October 2020 the following were the subsisting entries on the register of the above-mentioned title:

Part A — Property Section (easements, etc.)

Nature of title LEASEHOLD Term: 99 years from 1.5.79 Rent: 22,000/-

Approximate area 0.3743 Hc (2000 Original Thence 5000 New Thence 100000)

Part B — Proprietorship Section

Name and address of proprietor 1. 17.3.94 NATIONAL BANK OF KENYA LTD

Inhibitions, cautions and restrictions 2. 17.3.94 CO-OPERATIVE OF LEASE ISSUES

Part C — Encumbrances Section (leases, charges, etc.)

Nil

The following applications are pending:

(a)

(b)

(c)

(d)

The following certified copies are attached as requested:

(a)

(b) 1

(c)

(d)

Date 9th day October 2020

Signed by the Registrar S. C. Muriuki 339 Seal

Name:

Signature: [Signature]

CPK/L/1082-4000-1/15



MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN
DEVELOPMENT & PUBLIC WORKS
Office of the Cabinet Secretary

Telephone (020)342203
Fax (020)2730330
Email: communications@transport.go.ke
Website: www.transport.go.ke
When replying please quote

TRANSCOM HOUSE
NGONG ROAD
P.O. Box 52692 - 00100
NAIROBI

Ref: PW/A/200/204/104

10th Sept 2020

Sen. Charles Kibiru
Chairman
The Senate Standing Committee on Finance and Budget
Parliament Buildings
NAIROBI

Dear *Hon Senator*

**RE: PETITION TO THE SENATE CONCERNING THE ALLEGED
IRREGULAR PURCHASE OF THE NATIONAL BANK OF KENYA
BUILDING IN ELDORET**

Reference is made to a letter from the The Senate Standing Committee on Finance and Budget Ref. **SEN/DCS/SCF&B/2020/040** dated 24th August 2020 on the above subject matter.

The State Department for Public Works within my ministry constituted a team of professionals who travelled to Eldoret to investigate this important matter. The team was led by the Secretary, Administration in the State Department for Public Works, and carried out their enquiry under the supervision of Maj. Gen. (Rtd.) Dr. Gordon Kihlangwa, CBS., the Principal Secretary in the State Department for Public Works.

The two issues that were investigated were:

1. Whether the building complies with the specifications and standards of planning and building.
2. Determine the market value of the building.

Whilst item 1 above falls within the purview of my ministry, I wish to advise you that valuation of buildings is carried out by the Chief Valuer in the Ministry of Lands. The Ministry of Land is, therefore, best placed to advise the Committee on the market value of the building.



**MINISTRY OF TRANSPORT, INFRASTRUCTURE,
PUBLIC WORKS, HOUSING, URBAN DEVELOPMENT**
STATE DEPARTMENT FOR PUBLIC WORKS

**REPORT OF VISIT AND INSPECTION OF NATIONAL BANK BUILDING
IN ELDORET TOWN MADE ON 3RD SEPTEMBER, 2020 BY
SECRETARY ADMINISTRATION ACCOMPANIED BY TECHNICAL
STAFF FROM THE DEPARTMENT**

**PETITION TO THE SENATE CONCERNING THE ALLEGED IRREGULAR
PURCHASE OF THE NATIONAL BANK OF KENYA BUILDING**

The visit to the National Bank Building in Eldoret Town was occasioned by a letter Ref: **SEN/DCS/SCF&B/2020/040, dated 24th August, 2020** from The Office of the Clerk of the Senate requesting the Cabinet Secretary, Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development to conduct an assessment of the National Bank of Kenya Building located in Eldoret County to ascertain;

- 1. Whether it complies with the specifications and standards of planning and building;**
- 2. The market value of the building.**

Brief

- We visited the National Bank Building in Eldoret town on 4th September, 2020 and were received by the Bank's Branch Manager Mr. Patrick Chenigin.
- He took us through the Bank Building and the compound within the property boundaries.
- He reported that the sale process of the building was ongoing,
- That the building's sale was under investigation by Ethics and Anti-Corruption Commission (EACC),

OBSERVATIONS

1. **Whether it complies with the specifications and standards of planning and building;**
 - The said building is located at the junction of Eldoret - Malaba Road and Ronald Ngala Street. Neighboring KVDA Plaza on one side and The County Government Headquarters on the other.
 - The property fence is setback from the road reserve as observed from the Kenya National Highways (KeNHA) beacon.
 - Building line is above the allowable minimum planning bye law's requirement of 6.0 meters from the boundary fence.
 - The building meets the allowable plot coverage area of 50% of the plot.
 - The building consists of a basement floor, Ground Floor, Mezzanine floor, 1st - 4th floors and a flat roof slab covered with timber trusses and iron sheets roofing, and ceiling boards in some areas.
 - The building is a framed structure as observed from the basement floor,
 - No defects or signs of failure were noted on the structural elements/members (columns, beams, slab and walls)
 - The building's wall paint externally and internally is faded except in the areas occupied by the Bank.
 - Noted cuttings of plaster layer on columns and beams which was reported to have been cut by EACC investigators during testing.
 - Noted that some floor tiles on corridors and offices are worn out,
 - Noted water leakages from the concrete roof slab,
 - Noted worn out and fallen ceiling boards and timber blundering at the roof level,
 - Noted the roof gutters are blocked by silt and debris.
 - There is an ample parking for staff and visitors,
 - The access road and parking area is in tarmac finish, noted potholes on some areas,

2. The market value of the building.

The assessment of the market value was not carried out by our officers, for lack of capacity and mandate.

CONCLUSION


From the above observations;


1. The building is found to comply with the specifications and standards of planning and building in terms of setbacks from the boundary and Road reserve, percentage allowed for building coverage on a plot according to its size.
2. From visual observations the building is found to be structurally sound.

RECOMMENDATIONS,

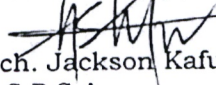
1. The building requires repairs to the roof cover to mitigate damage to the concrete roof slab and property which may be caused by the presence of leaking waters,
2. Regular maintenance of the building by painting external and interior walls surfaces.
3. Repair of worn out floor tiles.
4. We do recommend that the assessment of the market value of the building be handled by Estates Department in State Department for Housing and Urban Development who have the mandate to carry out the same.

Report prepared by;

 9/9/2020
Eng. Peninah Mwangi
S.S.E (Structural)

 9/9/2020.
QS. Kenneth Nganga
C.S.Q.S

Confirmed by;

 9/9/2020
Arch. Jackson Kafuna
S.P.S.A

Photos



Photo showing frontage of the National Bank building, and the area of road reserve to boundary fence.



Photo showing the KeNHA beacon near the boundary fence along Eldoret-Malaba Road.



Photo showing the area between the boundary fence along Eldoret-Malaba Road and the building.



Photo showing the view of the building from Ronald Ngara Road.



Photo showing entrance gate to the parking area from Ronald Ngara Road and the potholes on the access road and parking.



Photo showing view of the building from KVDA side and the state of external walls.



Photo showing access to the basement parking.

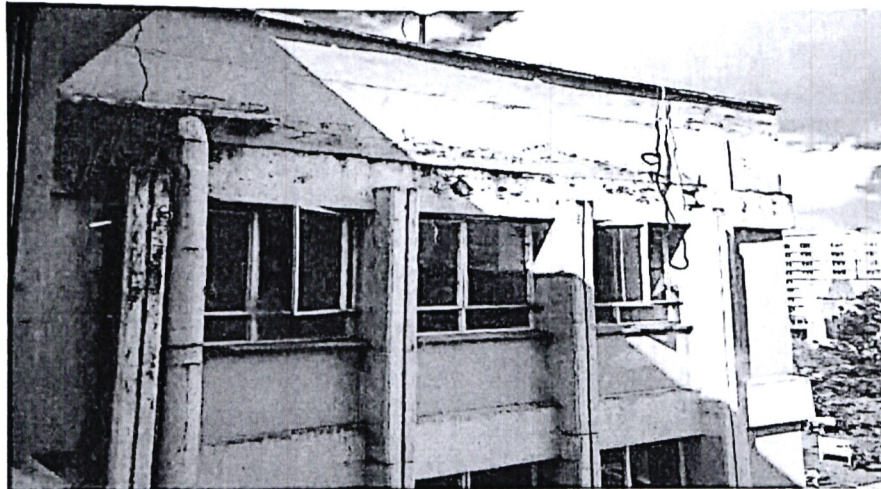


Photo showing state of external wall.



Photo showing worn out floor tiles on 1st and 2nd floors.

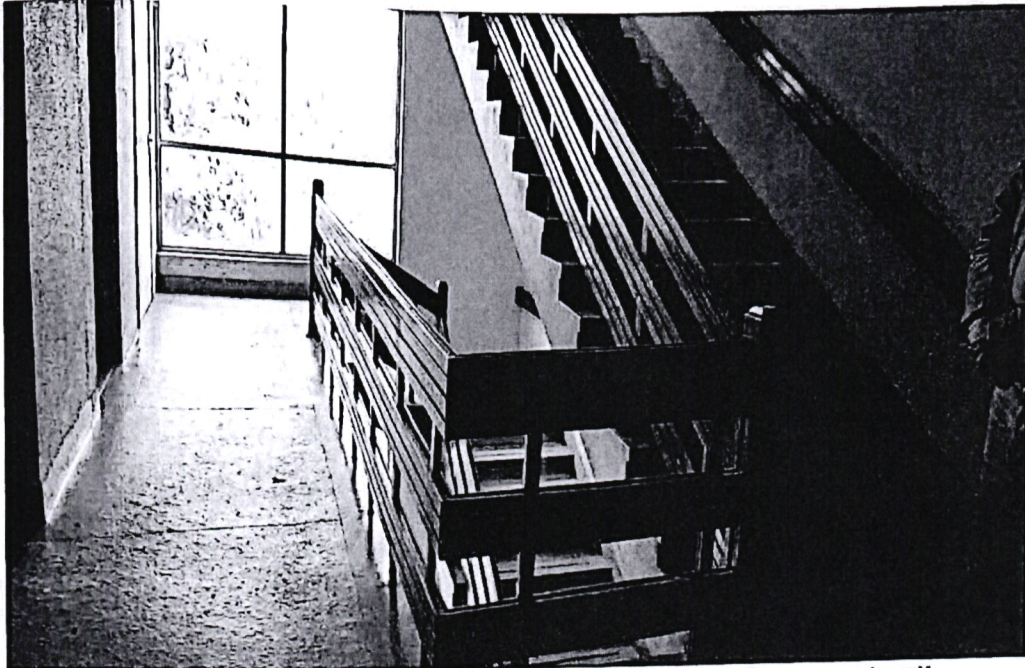


Photo showing stair case floor in terrazzo finish and the guard rails.



Photo showing plaster cuttings on columns and beams reported to have been done by EACC officers for during their investigations.



Photo showing state of the washroom doors.



Photo showing water leakage from the concrete roof slab.

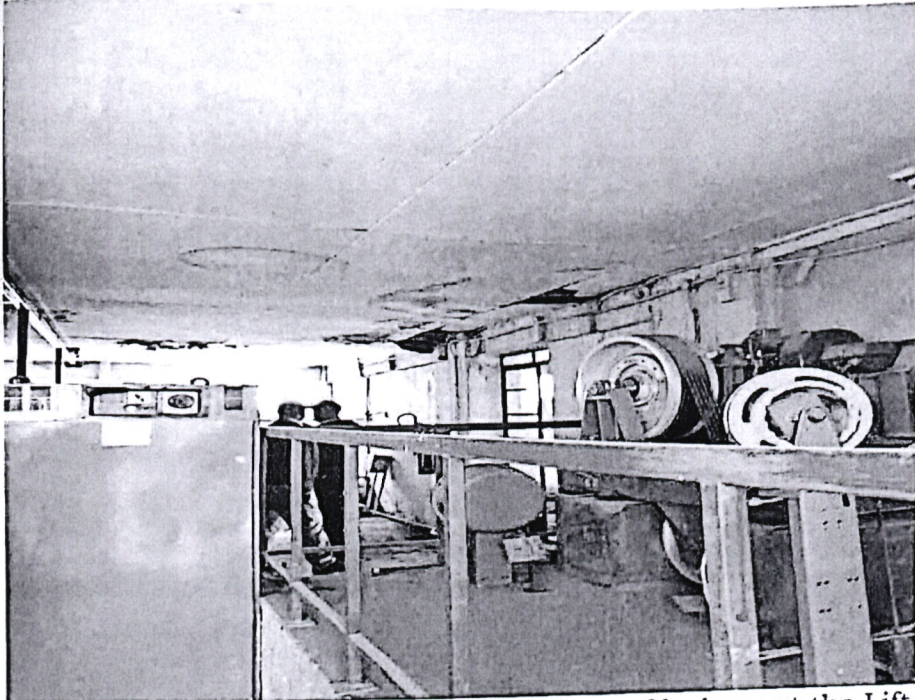


Photo showing damaged ceiling boards by roof leakage at the Lift equipment area.

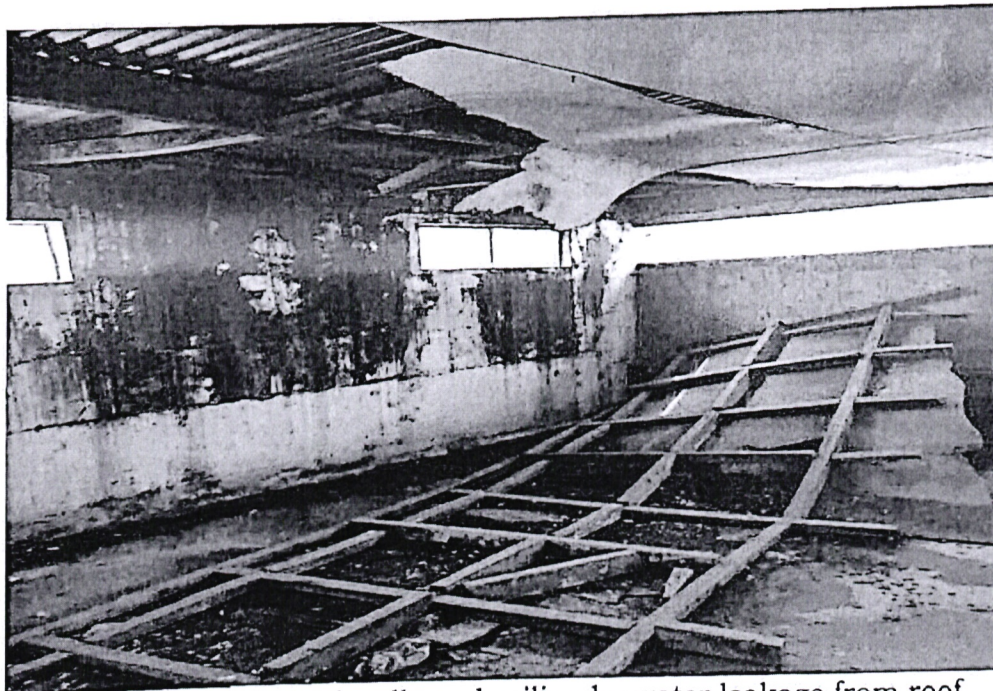


Photo showing damaged walls and ceiling by water leakage from roof.

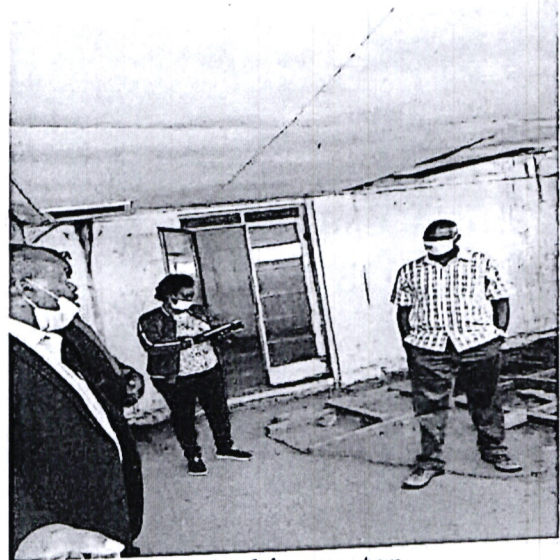


Photo showing damage caused on ceiling and walls by leaking water.



Photo showing state of existing iron sheets roofing.