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NATIONAL ASSEMBLY**

ELEVENTH PARLIAMENT - SECOND SESSION

DEPARTMENTAL COMMITTEE ON LANDS

**REPORT ON THE BUDGET ESTIMATES FOR THE MINISTRY OF LANDS,
HOUSING AND URBAN DEVELOPMENT AND THE NATIONAL LANDS
COMMISSION**

5th Report of the 2nd Session – 2013/2014

May 2014

THE DEPARTMENTAL COMMITTEE ON LAND

The Departmental Committee on Lands was constituted on 16th May 2013, pursuant to the provisions of Standing Order no. 216 (1) and (5) of the National Assembly. The functions and mandate are outlined in the SO and House Rules.

The Committee oversees the operations of the Ministry of Lands, Housing and Urban Development on the following matters: Land Policy and Physical Planning, Land Transactions, Survey and Mapping, Land Adjudication, Settlement, Land registration, Land Valuation, Administration of community and Public Land, and Land Information and Management System.

Committee Membership

The Committee comprises of the following Members:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. John Kihagi, M.P.
5. The Hon. Francis W. Nderitu, M.P.
6. The Hon. Kipruto Moi, M.P.
7. The Hon. Hellen Chepkwony, M.P.
8. The Hon. Sarah Korere, M.P.
9. The Hon. Benson Mbai, M.P.
10. The Hon. Mpuru Aburi, M.P.
11. The Hon. Gideon Mung'aro, M.P.
12. The Hon. Suleiman Dori, M.P.
13. The Hon. George Oner, M.P.
14. The Hon. Mathew L. Lempurkel, M.P.
15. The Hon. Shakila Abdallah, M.P.
16. The Hon. Dr. Paul Otuoma, M.P.
17. The Hon. Thomas Mwadeghu, M.P.
18. The Hon. Joseph Magwanga, M.P.
19. The Hon. Ali Shariff Athman, M.P.
20. The Hon. Francis Njenga, M.P.
21. The Hon. Hezron Awiti Bollo, M.P.
22. The Hon. Benard Bett, M.P.
23. The Hon. Kanini Kega, M.P.
24. The Hon. Eusilah Ngeny, M.P.
25. The Hon. Esther Murugi, M.P.
26. The Hon. Oscar Sudi, M.P.
27. The Hon. Onesmus Ngunjiri, M.P.
28. The Hon. Julius Ndegwa, M.P.
29. The Hon. Patrick Makau, M.P.

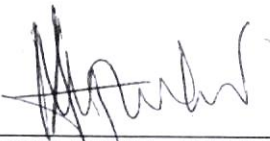
Acknowledgement

Mr. Chairman,

The Committee extends its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to it in the execution of its mandate. Let me take this opportunity to thank members of the Committee for their dedication and hard work in discharging the mandate of the Committee. On behalf of the Departmental Committee on Lands and pursuant to Standing Order 200, I have the honour and pleasure to present this report of the Committee to the Budget Appropriation Committee.

Thank you.

Signed



HON. HON. ALEX MWIRU, M.P
(CHAIRPERSON)

Date

22/5/2014

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1. Introduction

1. The second schedule of the Standing Orders for National Assembly mandates the Departmental Committee on Lands, to consider matters relating to Lands and Settlement. It is according to this provision that this Committee is now mandated to scrutinize the Printed estimates under the Ministry of Lands, Housing, and Urban Development and the National Lands Commission for the 2014/15 FY.
2. The Committee held 4 meetings to deliberate on the issue of the Printed Estimates and was briefed by the Parliamentary Budget office¹. Further, the Committee met with the Cabinet Secretary, Ministry of Lands, Housing and Urban Development² and the National Lands Commission³. The two government agencies tabled their submissions as attached in appendix 2 and 3.

2. Committee findings

2.1 EVIDENCE

3. The Committee commenced deliberations on the annual estimates on 14th May 2014 in accordance with the Standing Order No. 232 (4) which provides that:-

Upon being laid before the House, the Budget Policy statement shall be deemed to have been committed to each Departmental Committee without question put, for each such committee to deliberate upon according to their respective mandates and make recommendations to the Budget and Appropriations Committee.

2.2 MEETING WITH THE PARLIAMENTARY BUDGET OFFICE

4. The Committee was taken through the budgetary estimates for the Ministry of Lands, Housing and Urban Development together with those of the National Lands Commission by Mr. Benjamin Ngimor a Senior Fiscal Analyst. The Committee was informed that the Government's total budget for the financial year amounted to Kshs.1, 765.2 trillion compared to

¹ Appendix 1; Brief from the Budget office.

² Appendix 2: Brief from the Ministry of Lands, Housing and Urban Development

³ Appendix 3: Brief from the National Lands Commission

1,695.2 trillion for the previous year. The overall expenditure for the year 2014/2015 comprised recurrent, development, consolidated funds services and county transfers.

5. In summary, the overall Ministry's and the National Lands Commission's budget has deviated from the resolutions of the National Assembly. The table 1 below presents a comparison of the budget estimates for the two MDAs to the House Resolutions and the BPS Ceilings.

Table 1: Comparison of Printed Estimates and House resolutions (Kshs. millions)

Ministry	2013/14	2014/15		Printed Estimates	<i>Deviation from House Resolutions</i>
	Revised Estimates	BPS Ceiling	House resolution		
Ministry of Lands Housing and Urban Development	22,612	15,882	15,569	21,716	6,147
o/w recurrent development	4,006	3,925	8,634	4,140	(4,494)
	18,606	11,957	9,100	17,576	8,476
National Land Commission	606	493	1,992	652	(1,340)
o/w recurrent development	606	353	1,092	534	(558)
	-	140	900	118	(782)

2.2.1 Linking Budget Priorities to the National Development Agenda

2.2.2 Ministry of Lands, Housing and Urban Development

6. The ministry is mandated to manage land resources in the country, facilitate access to adequate housing, maintenance of quality government buildings, construction of public works and development of sustainable infrastructure and policies in urban areas.
7. The mandate of the Ministry is linked to the Land Reforms in the Vision 2030. The goal of the country under the Second MTP is to ensure secure access to land, sustainable land use planning and equitable distribution of land to ensure food security and improve the socio-economic development of the country. The Second MTP proposes the following flagship projects and reforms:
 - i. Development of the National Land Information Management
 - ii. Development of a National Land Title Register

- iii. Modernisation of Land Registries
- iv. Development of National Spatial Plan
- v. Developing a framework for preparation of County Spatial Plans
- vi. Development of the Kenya National Spatial Data Infrastructure
- vii. Land Adjudication and Tilting of community land
- viii. Legal Reforms – enactment of survey act, community land bill, spatial planning bill, eviction and resettlement bill.
- ix. Operationalization of the National Land Commission and County Land Management Boards

8. The following are the priority projects have been proposed for implementation by the Ministry in its 2014/2015 budget:
- i. Issue more title deeds
 - ii. Development and toll out of the National Land Information Management System
 - iii. Establishment of a digital linkage with the Kenya National Spatial Data Infrastructure

2.2.3 National Land Commission

9. The NLC is mandated to facilitate sustainable land use and management, ensure equitable access to land, undertake comprehensive land registration and management of land disputes.
10. The Vision 2030 proposes to undertake Land Reforms which included the establishment and of the National Land Commission and opening up of County Land Management Boards. The NLC has been established but the County Land Management Boards have not been set up.
11. The following are the priority projects have been proposed for implementation by the NLC in its 2014/2015 budget:
- i. Unregistered public land
 - ii. Development and implementation of the National Land Information System
 - iii. Development of the Land use policy

2.2.4 Detailed Budget Analysis

12. The Ministry of Lands, Housing and Urban Development has been

allocated Ksh 21.7 billion which includes Ksh 4.1 billion for recurrent and Ksh 17.6 billion for development. **This is over and above the House Resolutions of the ceiling for the Ministry by Kshs. 6 billion. However, it is relatively similar to the allocation in 2013/14.**

13. The National Land Commission has been allocated Ksh 652 million of which Ksh 534 million will be for recurrent and Ksh 118 million for development. **This allocation falls way below the recommendations by the National Assembly. The House resolved that the NLC be allocated Kshs. 2 billion.**

2.2.5 REVIEW OF PROGRAMMES

2.2.6 Ministry of Lands, Housing and Urban Development

14. The Ministry proposes to undertake 6 programmes in the 2014/15 fiscal year compared to 9 programmes it was undertaking in 2013/14. A comparison of the two subsequent budgets indicate that although some of the programmes for 2013/14 have been merged, one programme 'devolution support services' cannot be traced in the 2014/15 budget. An analysis of the programme allocations and performance targets is presented in Annex 1.

2.2.7 THE FOLLOWING ARE SOME OF THE SALIENT ISSUES IDENTIFIED

15. The budget allocation for the ministry is significantly different from the ceilings proposed by the National Assembly. Its allocations should be revised to conform to the resolutions of the House.
16. The formulation of the programme based budget by the National Government is quite weak. This might lead to huge difficulty for the National Assembly to undertake its budget oversight role.
17. The 'Devolution Support Services' programme was introduced in the supplementary budget for 2013/14 and allocated Kshs. 3.5 billion. However, the supplementary budget did not indicate the outputs for the programme. There is need for the Ministry to indicate how these funds were utilized.

18. There is evident duplication of functions between the Ministry of Lands, Housing and Urban Development and the National Land Commission. Both of them target to issue title deeds, the ministry aims at issuing 750,000 while the NLC plans to issue 1.8 million. They both also plan to automate land information through development and implementation of the National Land Information System.
19. The performance targets for the Ministry for 2013/14 seem not to have been fully attained. The Ministry had indicated that it would complete 80% of the National Land Information System yet in the current financial year, it proposed to complete only 20% indicating that it requested for funds for the project last year yet it has not delivered.
20. The Ministry may be implementing a number of projects that are county functions and county governments may be duplicating them. Clarifications should be sought on the outputs of the 'urban and metropolitan development' programme, the 'housing development and human settlement' programme, and the 'coastline infrastructure and pedestrian' programme.

2.2.8 The National Land Commission

21. The NLC proposes to implement one programme in 2014/15 fiscal year similar to the one proposed in the 2013/14 budget. The NLC was setup in 2013/14 and given its own vote during the supplementary budget for 2013/14.

2.2.9 THE FOLLOWING ARE THE SALIENT ISSUES IDENTIFIED

22. The budget allocation for NLC is significantly different from the ceilings proposed by the National Assembly. Its allocations should be revised to conform to the resolutions of the House. The National Assembly had proposed Ksh 1.9 billion to be allocated to the Commission.
23. The NLC is supposed to establish County Land Management Boards. However, this seems not to have been factored in their outputs. This being a key flagship project of the Vision 2030, the NLC should allocate funds in its budget for this exercise.
24. There is evident duplication of functions between the Ministry of Lands,

Housing and Urban Development and the National Land Commission. Both of them target to issue title deeds, the ministry aims at issuing 750,000 while the NLC plans to issue 1.8 million. They both also plan to automate land information through development and implementation of the National Land Information System.

2.2.10 POLICY OPTIONS

25. The budget allocation for the two spending agencies should be revised to conform to the House Resolutions.
26. The NLC should be allocated funds for the establishment of the County Land Management Boards.
27. The outputs for the NLC and the 'Computerization of Land Paper Records in Land Registries' unit of the Ministry of Land Housing and Urban Development are quite similar. The National Land Information System is quite crucial to the country and its completion is necessary for the economic growth of the country. The unit had been allocated funds to implement the project to 80% completion in 2013/14 but it seems this hasn't been done since it is requesting for additional funds to complete only 20% of the project in 2014/15. The funds should be allocated to a body that will ensure this project is hastened and completed in record time.
28. The Ministry should indicate the outputs of the Kshs. 3.5 billion it was allocated in 2013/14 for 'devolution support services'.
29. The ministry should clarify on the projects it is proposing to undertake and are similar to the functions of the county governments to ensure no duplication of functions by both levels of government.

2.3 MEETING THE NATIONAL LAND COMMISSION

30. The Commission's Chairperson Dr. Muhammad A. Swazuri, PhD, OGW accompanied by The C.E.O Mr. Chavangi Aziz – Tom gave a brief on the mandate of the Commission as per Article 67 of the Constitution and also under the National Land Commission Act No.5 of 2012. They also enumerated additional functions which were provided for under the Lands

Act of 2012.

31. The Committee was also informed that the Commission had taken over the following functions of the Ministry of Lands, Housing and Urban Development:
 - a) The Department of Land Administration and Valuation
 - b) The Department of Land Adjudication and Settlement
 - c) National Land Information System
 - d) Survey and Adjudication Section of the Department of Survey
32. Further, during the 2013/14 FY the Commission was allocated Kshs.241 Million of which some projects/programmes had been budgeted for by the parent Ministry and funds amounting to Kshs.241million allocated. These functions are;
 - a) conversion of existing land registers as per the new Land Registration Act and transfer of land records to the counties
 - b) finalization of land adjudication sections
 - c) finalization of ongoing settlement schemes for registration and issuance of title deeds
 - d) resolution of land adjudication disputes
 - e) processing of land development applications which was a shared activity with the parent Ministry.

2.3.1 THE COMMITTEE WAS FURTHER INFORMED THAT;

33. The National Treasury ignored the recommendation of the parliamentary Budget Committee and reduced its allocations by Kshs. 1,340 Millions leaving the NLC with no funds to implement its key flagship project of establishing the 47 County Land Management Boards (CLMB's).
34. The County Land Management Boards (CLMB's) will cost Kshs. 1.6 Billions to implement during the 2014/15 FY.
35. The NLC inherited from the Ministry of Lands, Housing and Urban Development approximately 7,000 ongoing Court cases which have since increased to 9,000 Court Cases; they noted that Section 5 (1)(F) of the NLC Act mandates the Commission to establish alternative Dispute Resolution Mechanism Methods; this requires Kshs. 365 Million to settle the 9,000 Court cases by engaging external advocates in support of the resolution of

the cases.

36. In view of the forgoing the NLC in requesting for more funding to perform its Constitutional Mandates especially those transferred to it from the MOLHUD; funds for such functions should be systematically transferred to the Commission to enable it undertake the prioritized programmes in the course of 2014/15 FY and such include:
37. **Adjudication and Settlement Services as per Section 134 and 136 of the Lands Act 2012;** the function has in the MOLHUD's Recurrent Expenditure Budget allocated Kshs. 397 Millions.
38. **Land Information Management System (NLIMS)** entire allocation of Kshs. 528 Million under the Recurrent Budget (Computerization of the Land Paper Records in Land Registers) and Kshs. 808 Million under the programmed Budget should be transferred fully to the NLC.
39. **Land Use Programme and some budget as per Section 5(1)(h) of the NLC Act 2012** be transferred.
40. NLC should be considered as a stakeholder in the **implementation of the Land policy** especially in the initial stages of recommending an appropriate Land policy for the Country therefore should be allocated Kshs. 20 Million for the function.
41. **That the National land Commission requires approximately Kshs. 4, 471 Millions in the 2014/15 FY to enable the Commission perform its Functions effectively.**

2.4 THE MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

42. The Cabinet Secretary for Lands, Housing and Urban Development appeared before the Committee and she presented the estimates of the Ministry and informed the Committee as follows:

2.4.1 MANDATE

43. The Ministry was charged with the mandate of providing the policy direction and coordination of all matters related to Land, Housing and

Urban Development as directed by the Executive Order No. 2/2013 of May 2013. She noted that though not captured in the Executive Order the following functions have been transferred to the Ministry and they include:

- a) Market Development Department
- b) Nairobi Metropolitan Development and Urban Development
- c) Slum Upgrading and Informal Settlement upgrading

44. The Cabinet Secretary further stated that the Executive Order recognizes the following Institutions under /or with the Ministry:

- a) National Housing Corporation (National Housing Corporation Act No. 2 of 1990)
- b) National Construction Authority (National Construction Authority Act, 2011)
- c) Kenya Building Research Centre
- d) Settlement Fund Trustees

2.4.2 Total Net Budgetary Request from the Exchequer

45. That in the 2014/15 FY the Ministry requested Approximately 58, 431 Millions to implement its programmes but was allocated Kshs. 19, 641, 791,087.
46. That out of the amount allocated 21% will cater for recurrent expenditure whereas the rest (79%) was meant for the Development.
47. That of the recurrent approximately 65% will be utilized for personnel emoluments, and 35% shall be used to finance operations and maintenance.
48. That of the Development vote 75% is GOK funded and the remainder is donor funded.
49. On the Comparison of Allocations of the previous five year it was noted that the funding of the Ministry had declined steadily because most of the functions were devolved to the County government inline with the New Constitution.

50. The Cabinet Secretary gave an over view of mandate of the Ministry and highlighted the achievements made in the Financial year 2013/2014 as follows:
1. A total of 284,135 title deeds issued with 281,411 others awaiting collection
 2. Establishment of the National Bulk Titling Centre at the Survey of Kenya Ruaraka
 3. Preparation of the National Spatial Plan were at 75% complete
 4. 387 out of 595 units of West Park Police Housing Project completed
 5. Kenya Municipal Programme was at 40% complete
 6. Development of 183 markets, spread all over the country, completed,
 7. 100 cameras installed in Nairobi under the Integrated Urban Surveillance system
 8. Under the Slum Upgrading Programme, 17 out of 21 blocks comprising 744 out of 812 housing units under construction, with roofing and other finishes on-going. The project was 80% complete.
 9. Award of tenders for the following programmes already completed:
 - a) Ruiru sewage works at Kshs. 2.5billion
 - b) Nakuru, Mombasa, Eldoret Sewerage works, non-motorized transport and street lighting in the informal settlements (already launched)
51. The Committee directed that additional information be provided to it indicating the concurrence of counties for the Ministry to complete the Kenya Municipal Programme as well as the construction of markets countrywide.

2.4.3 Ministry's Absorption Capacity

52. The Cabinet Secretary informed the Committee that absorption rate for Government funded capital projects was 90.2% while that of donor funded capital projects was 33%. The low absorption rate was attributed to slow disbursement of donor revenue

2.4.4 Projects Left Out In the 2014/2015 FY

53. The Cabinet Secretary informed the Committee that the current allocation of Kshs21, 716,471,937, was only about 35% of the total amount requested and was inadequate to cater for all programmes and projects in the sector. She further highlighted the following projects, among others, which were partially funded:
- a) Stalled Projects – out of a request for Kshs. 5.9 billion, only Kshs. 1.2 billion was allocated;
 - b) Economic Stimulus Programme – out of Kshs. 1.2 billion requested, only 90million was provided;
 - c) Pending Bills – Out of Kshs1.4billion requested, only Kshs. 290.5 million was provided;
 - d) Loans to Civil Servants – Only Kshs. 200 million was allocated out of the Kshs600million requested;
 - e) Construction of Sirisia Social Hall, Olenguruone and Narok Stadia – Out of the Kshs. 683.3 million requested, only Kshs. 380 million has been allocated;
 - f) Kshs. 800 million has been allocated for digital mapping for 16 urban towns and resort cities.
54. The Cabinet Secretary further highlighted projects/programmes which were not funded and which entailed works in counties. The Committee was also informed that many counties were reluctant to take over the projects. The Committee noted the lack of clear policy guidelines on whether the projects ought to be transferred to the counties on completion or whether allocations had been made to the counties for their completion.
55. The Committee was also informed that Kshs. 36 million was allocated for devolution support services and which amount was transferred directly to the counties.

2.4.5 Allocation of Funds Per Programme

56. The Cabinet Secretary provided details on the six programmes funded for 2014/15 – 2016/17 MTEF period where the Land Policy Planning and Housing Development and Human Settlement were allocated Kshs. 5, 706,648,744 and Kshs. 4, 993,117,489, respectively. The Committee

noted that the two programmes overlapped with the functions of the National Land Commission.

3. Committee Observation

The Committee made the following observations

1. That the Committee noted that the National Lands Commission were indeed underfunded and could not perform its functions considering the resources allocated to it.
2. That the overall Ministry's and the National Lands Commission's budget has deviated from the resolutions of the National Assembly with the Ministry getting Kshs. 6 Billion More whereas the Commission receiving Kshs. 1,342 Billion Less.
3. That the National Land Commission should be adequately funded for it to be operational and execute its constitutional Mandate.
4. The Ministry of Lands, Housing and Urban Development has been allocated Ksh 21.7 billion which includes Ksh 4.1 billion for recurrent and Ksh 17.6 billion for development. **This is over and above the House Resolutions of the ceiling for the Ministry by Kshs. 6 billion. However, it is relatively similar to the allocation in 2013/14.**
5. The National Land Commission has been allocated Ksh 652 million of which Ksh 534 million will be for recurrent and Ksh 118 million for development. **This allocation falls way below the recommendations by the National Assembly. The House resolved that the NLC be allocated at least Kshs. 2 billion.**
6. The NLC inherited from the Ministry of Lands, Housing and Urban Development approximately 7,000 ongoing Court cases which have since increased to 9,000 Court Cases; they noted that Section 5 (1)(F) of the NLC Act mandates the Commission to establish alternative Dispute Resolution Mechanism Methods; this requires Kshs. 365 Million to settle the 9,000 Court cases by engaging external advocates in support of the resolution of the cases.
7. Members raised concern over the allocation of Kshs.10 million to temporary staff. The Cabinet Secretary clarified that the expenditure arose out of the need to expedite the issuance of titles as the small number of staff at the Ministry could not handle the exercise. She further informed the Committee that 200 university students had been hired to work in two shifts round the clock to clean up the registries and assist in digitization of records.
8. That the titling function is the role of the Ministry of Lands,
9. That the development of the National Land Information Management System should be conducted by the two spending Agency.

4. Recommendation

The Committee Recommends as follows;

- That a of total 1.246 Billion be reallocated from the Ministry of Lands to the National Lands Commission from the following two programmes; The Land Policy and Planning and General Administration Planning and Support Services. The sub-programmes to be affected are the following;

1. Land Policy and Planning

Kshs. 743 million for the National Bulk Tilting Centre under the Land Survey sub programme will be reallocated to the NLC for the following functions: Kshs. 260 M for County Land Management Boards, Kshs. 365 million for setting up alternative dispute resolution Mechanism and Kshs. 118 million for adjudication of Land, Ksh 27 million for Land Policy Formulation under the development planning and land reforms sub programme be reallocated to the NLC for land policy, Ksh 424 million for National Land Information System under the Land Information Management be reallocated to the NLC for NLIMS because it is a shared function

2. Administration Planning and Support Services

Ksh 52 million be reallocated to the NLC for administration

LIST OF APPENDIXES

1. Appendix 1; Brief from the Budget office.
2. Appendix 2: Brief from the Ministry of Lands, Housing and Urban Development
3. Appendix 3: Brief from the National Lands Commission
4. Minutes



PARLIAMENTARY BUDGET OFFICE
Parliament of the Republic of Kenya

**Brief on the 2014/15 National Budget to the Committee on
 Lands**

1. Preamble

The Kenyan Parliament has made significant strides in exercising budgetary oversight over the last five years, due to extensive reforms in the management of public finance. The Constitution and the Public Finance Management Act (section 38 and 39) give Parliament the mandate to review the budget estimates and make recommendations before the budget is approved.

Section 39(3) of the Public Finance Management Act empowers the National Assembly to alter the budget estimates provided that an increase in expenditure is balanced by a reduction elsewhere.

This brief presents an analysis of the 2014/15 budget proposals for the following two MDAs for which the Committee has a mandate to oversight:

- i. Ministry of Lands Housing and Urban Development
- ii. National Land Commission

2. The Overall Expenditure

The proposed 2014/15 Budget (including the share to county governments) that was submitted to the Assembly amounts to Ksh 1,765 billion. This is a 4% increase from 2013/14 revised budget of Ksh 1,695 billion.

Table 1: Summary of the Overall Expenditure (Ksh billions)

	2013/14	2014/15
Ministerial Recurrent	670.6	689.1
Ministerial Development	450.0	487.0
CFS	364.3	362.5
County Transfers	210.0	226.7
Total	1,695.0	1,765.2

*Tabled to the
 Committee 19/5/14*

The budgeting for 2013/14 and 2014/15 has shifted from the traditional itemised approach to the programme based approach in line with the constitution. This implies that each entity should develop programmes that focus on outputs. The outputs and performance targets should be Specific, Measurable, Achievable, Realistic and Time-bound (SMART). These outputs will form the basis for oversight of allocated resources, performance review of the spending agencies and future allocation of resources to the entity.

3. Linking Budget Priorities to the National Development Agenda

Ministry of Lands, Housing and Urban Development

The ministry is mandated to manage land resources in the country, facilitate access to adequate housing, maintenance of quality government buildings, construction of public works and development of sustainable infrastructure and policies in urban areas.

The mandate of the Ministry is linked to the Land Reforms in the Vision 2030. The goal of the country under the Second MTP is to ensure secure access to land, sustainable land use planning and equitable distribution of land to ensure food security and improve the socio-economic development of the country. The Second MTP proposes the following flagship projects and reforms:

- i. Development of the National Land Information Management
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- iv. Development of National Spatial Plan
- v. Developing a framework for preparation of County Spatial Plans
- vi. Development of the Kenya National Spatial Data Infrastructure
- vii. Land Adjudication and Tilting of community land
- viii. Legal Reforms – enactment of survey act, community land bill, spatial planning bill, eviction and resettlement bill.
- ix. Operationalization of the National Land Commission and County Land Management Boards

The following are the priority projects have been proposed for implementation by the Ministry in its 2014/2015 budget:

- i. Issue more title deeds
- ii. Development and toll out of the National Land Information Management System

- iii. Establishment of a digital linkage with the Kenya National Spatial Data Infrastructure

National Land Commission

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The Vision 2030 proposes to undertake Land Reforms which included the establishment and of the National Land Commission and opening up of County Land Management Boards. The NLC has been established but the County Land Management Boards have not been set up.

The following are the priority projects have been proposed for implementation by the NLC in its 2014/2015 budget:

- i. Unregistered public land
- ii. Development and implementation of the National Land Information System
- iii. Development of the Land use policy

land adjudication

4. Detailed Budget Analysis

The Ministry of Lands, Housing and Urban Development has been allocated Ksh 21.7 billion which includes Ksh 4.1 billion for recurrent and Ksh 17.6 billion for development. This is over and above the House Resolutions of the ceiling for the Ministry by Ksh 6 billion. However, it is relatively similar to the allocation in 2013/14.

The National Land Commission has been allocated Ksh 652 million of which Ksh 534 million will be for recurrent and Ksh 118 million for development. This allocation falls way below the recommendations by the National Assembly. The House resolved that the NLC be allocated Ksh 2 billion.

In summary, the overall Ministry's budget has deviated from the resolutions of the National Assembly. The table 2 below presents a comparison of the budget estimates for the two MDAs to the House Resolutions and the BPS Ceilings.

16.4 - bargain - 19. →

Table 2: Comparison of Printed Estimates and House resolutions (Ksh millions)

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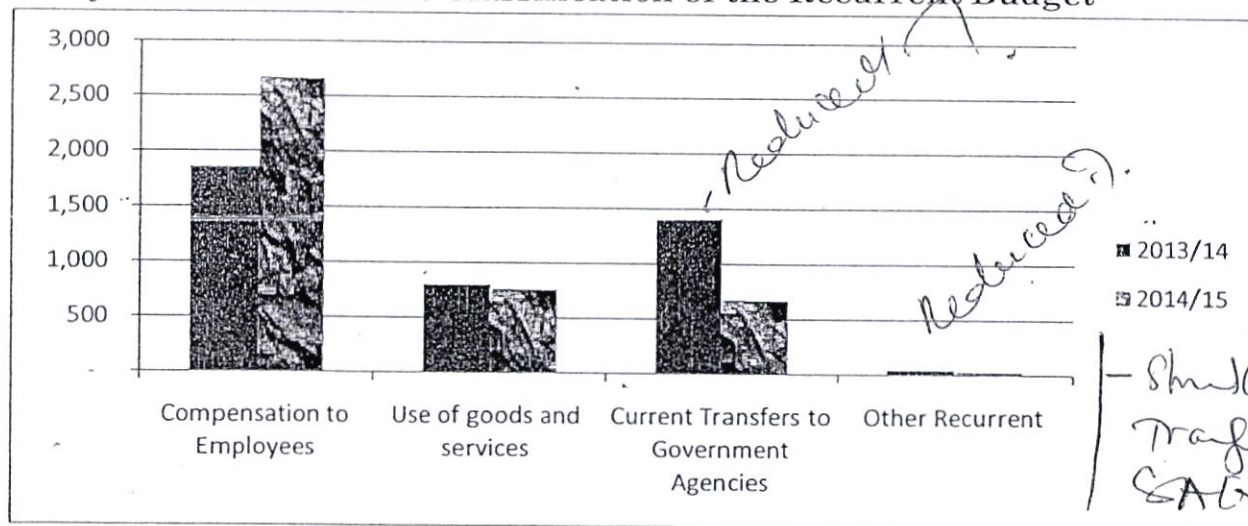
577 - House Resolution
 - LC
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Analysis by Economic Classification

Ministry of Lands, Housing and Urban Development

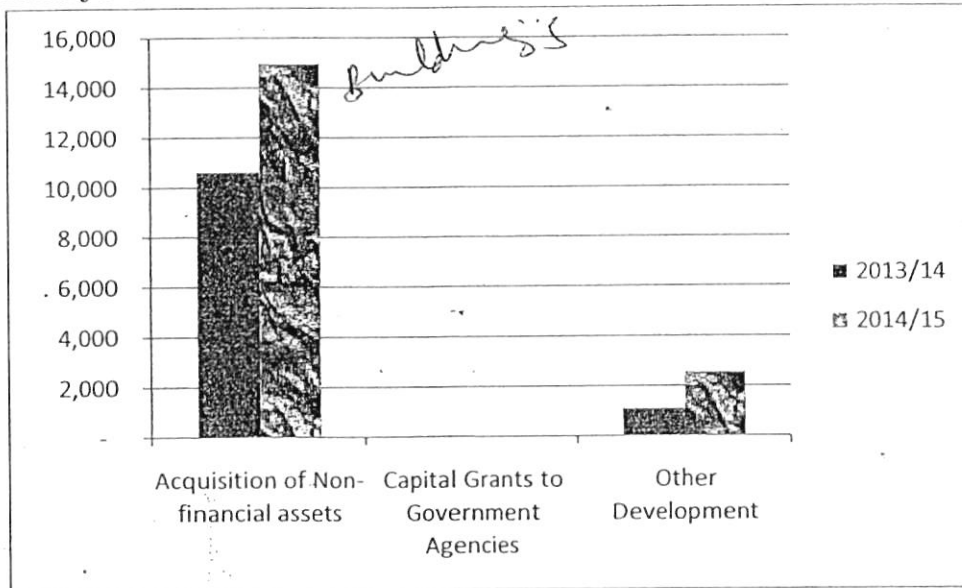
Out of the Ksh 4.1 billion proposed for the recurrent budget of the Ministry, 64% of it will be used for compensation to employees while 19% for use of goods and services. 16% of it will be used by SAGAs.

Analysis of the Economic Classification of the Recurrent Budget



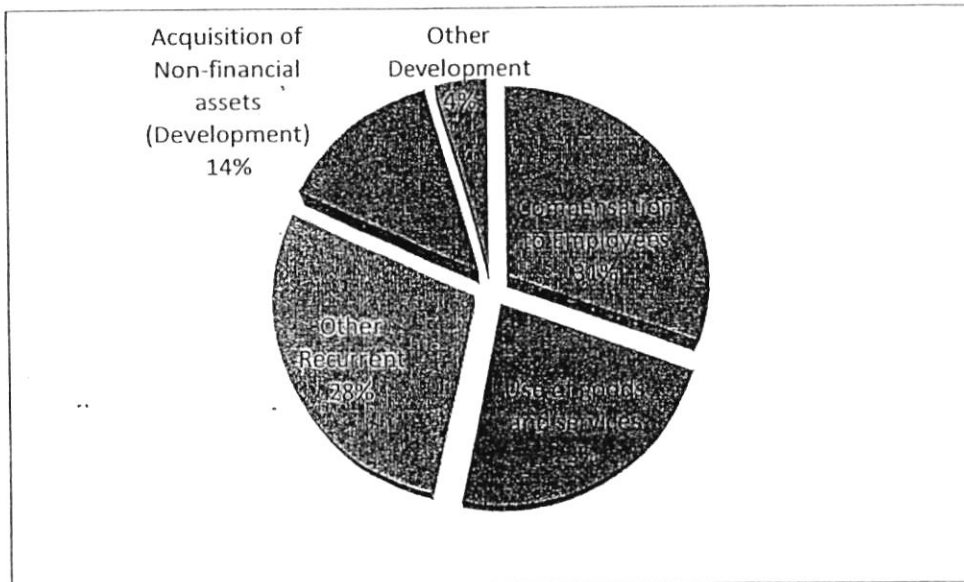
85% of the Ksh 17.6 billion for development expenditure by the Ministry will be used for acquisition of non-financial assets. Other developments will take about 15% while grants to SAGAs will amount to less than 1%.

Analysis of the Economic Classification of the Development Budget



National Land Commission

The NLC has been allocated Ksh 652 million. The funds are evenly distributed across all broad economic classifications.



Review of Programmes

Ministry of Lands, Housing and Urban Development

The Ministry proposes to undertake 6 programmes in the 2014/15 fiscal year compared to 9 programmes it was undertaking in 2013/14. A comparison of the two subsequent budgets indicate that although some of the programmes for 2013/14 have been merged, one programme 'devolution support services' cannot be traced in the 2014/15 budget. An analysis of the programme allocations and performance targets is presented in Annex 1.

The following are some of the salient issues identified:

- i. The budget allocation for the ministry is significantly different from the ceilings proposed by the National Assembly. Its allocations should be revised to conform to the resolutions of the House.
- ii. The formulation of the programme based budget by the National Government is quite weak. This might lead to huge difficulty for the National Assembly to undertake its budget oversight role.
- iii. The 'Devolution Support Services' programme was introduced in the supplementary budget for 2013/14 and allocated Ksh 3.5 billion. However, the supplementary budget did not indicate the outputs for the programme. There is need for the Ministry to indicate how these funds were utilized.
- iv. There is evident duplication of functions between the Ministry of Lands, Housing and Urban Development and the National Land Commission. Both of them target to issue title deeds, the ministry aims at issuing 750,000 while the NLC plans to issue 1.8 million. They both also plan to automate land information through development and implementation of the National Land Information System.
- v. The performance targets for the Ministry for 2013/14 seem not to have been fully attained. The Ministry had indicated that it would complete 80% of the National Land Information System yet in the current financial year, it proposed to complete only 20% indicating that it requested for funds for the project last year yet it has not delivered.
- vi. The Ministry may be implementing a number of projects that are county functions and county governments may be duplicating them. Clarifications should be sought on the outputs of the 'urban and metropolitan development'

programme, the 'housing development and human settlement' programme, and the 'coastline infrastructure and pedestrian' programme.

The National Land Commission

The NLC proposes to implement one programme in 2014/15 fiscal year similar to the one proposed in the 2013/14 budget. The NLC was setup in 2013/14 and given its own vote during the supplementary budget for 2013/14. An analysis of the programme allocations and performance targets is presented in Annex 2.

The following are some of the salient issues identified from the budget proposals:

- i. The budget allocation for NLC is significantly different from the ceilings proposed by the National Assembly. Its allocations should be revised to conform to the resolutions of the House. The National Assembly had proposed Ksh 2 billion to be allocated to the Commission.
- ii. The NLC is supposed to establish County Land Management Boards. However, this seems not to have been factored in their outputs. This being a key flagship project of the Vision 2030, the NLC should allocate funds in its budget for this exercise.
- iii. There is evident duplication of functions between the Ministry of Lands, Housing and Urban Development and the National Land Commission. Both of them target to issue title deeds, the ministry aims at issuing 750,000 while the NLC plans to issue 1.8 million. They both also plan to automate land information through development and implementation of the National Land Information System.

Policy Options

- i. The budget allocation for the two spending agencies should be revised to conform to the House Resolutions.
- ii. The Committee should further seek clarification on the progress of outputs for 2013/14 budget in order to make informed decision on the sufficiency of the funds allocated in 2014/15. Specifically, the Ministry should indicate the outputs of the Ksh 3.5 billion it was allocated in 2013/14 for 'devolution support services' and the National Land Information System

- iii. The NLC should allocate funds for the establishment of the County Land Management Boards.
- iv. The outputs for the NLC and the 'Computerization of Land Paper Records in Land Registries' unit of the Ministry of Land Housing and Urban Development are quite similar. ~~The National Land Information System is quite crucial to the country and its completion is necessary for our economic growth. The Ministry of Lands had been allocated funds to implement the project to 80% completion in 2013/14 but it seems this hasn't been done since it is requesting for additional funds to complete only 20% of the project in 2014/15. The funds should be allocated to a body that will ensure this project is hastened and completed in record time.~~
- v. The ministry should clarify on the projects it is proposing to undertake and are similar to the functions of the county governments to ensure no duplication of functions by both levels of government.

Annex 1: Analysis of programmes for the Ministry of Lands, Housing and Urban Development

Programme 1: Land Policy and Planning			
Objective: To ensure efficient and effective administration and management of land resources			
2013/14 Revised Estimates	Performance Target	2014/15 Printed Estimates	Performance Target
2,769	<ul style="list-style-type: none"> • 4 land legislations enacted • Ksh 23.4 billion AiA collected • 320,000 titles issued • 80% of the National Land Information System Developed • 12 land registries constructed • 100% completion of Kenya National Spatial Data Infrastructure Centre • 80% of National Cadastral and Geo-referencing centre constructed 	5,707	<ul style="list-style-type: none"> • 3 land legislation enacted • Ksh 14 billion AiA collected • 750,000 title deeds issued • 600,000 title deeds migrated to county land registers • 20% of National Land Information Management System • 40% land records digitized • 4,500 deed plans prepared • 40 National Spatial plans prepared
Programme 2: Government Buildings			
Objective: To develop and maintain cost effective government buildings and other public works			
2013/14 Revised Estimates	Performance Target	2014/15 Printed Estimates	Performance Target
2,243	<ul style="list-style-type: none"> • 8 stalled projects completed • 35 county works offices completed • 5 sub-county headquarters completed • 20 buildings made accessible for people with disability 	1,758	<ul style="list-style-type: none"> • 5 government stall buildings completed • 25 district headquarters completed
Programme 3: Coastline Infrastructure and Pedestrian Access			
Objective: To protect land and property from sea wave action, flooding and erosion and enhance accessibility between human settlements in and out of water			
2013/14 Revised Estimates	Performance Target	2014/15 Printed Estimates	Performance Target
121	<ul style="list-style-type: none"> • 2 jetties completed • 5 footbridges completed 	347	<ul style="list-style-type: none"> • 1 jetty constructed • 1,450M seawall constructed

	• 1,300M constructed	seawall		• 40 footbridges constructed
Programme 4: Urban and Metropolitan Development				
Objective: To improve infrastructure development, connectivity and accessibility, safety and security within Urban Areas and Metropolitan Regions				
2013/14 Revised Estimates	Performance Target		2014/15 Printed Estimates	Performance Target
6,827			8,313	<ul style="list-style-type: none"> • 15km bitumen roads constructed • 8 bus parks constructed • 400 street lights installed • 4 fire stations constructed • 9,000 CCTV cameras installed • Kenya Municipal programme implemented in 15 areas • 3 dumpsites developed • 100 ESP flagship stalled markets completed • 10 jua-kali markets constructed
Programme 5: General Administration, Planning and Support Services				
Objective: To provide efficient and effective support services for delivery of ministry's programmes				
2013/14 Revised Estimates	Performance Target		2014/15 Printed Estimates	Performance Target
939	• Level of employee satisfaction		599	• Provision of financial, procurement and support services to the Ministry
Programme 6: Housing Development and Human Settlement				
Objective: To facilitate the production of decent and affordable housing as well as enhanced estates management services and tenancy relations				
2013/14 Revised Estimates	Performance Target		2014/15 Printed Estimates	Performance Target
6,086	<ul style="list-style-type: none"> • 400 housing units completed in Kibera Soweto Zone A • Ksh 15M mobilized from housing cooperatives • 100 acres of trunk land opened • 70KM Access roads constructed 		4,993	<ul style="list-style-type: none"> • 65% completion of Kibera Soweto Zone A • 55% completion of Mavoko Sustainable Neighbourhood project • 70% completion of Mukhaweli Primary School Project • 100 households connected with piped water in 14 counties • 75km access roads constructed in 14 counties • 80 highmast lights constructed in 14 counties

			<ul style="list-style-type: none"> • 40% completion of housing units in Kisumu, Nyeri, Mombasa, Nairobi • Ksh 400 million for civil servants home ownership loans disbursed • Refurbishment of 1,800 government houses
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Annex 2: Analysis of programmes for the National Land Commission

Programme 6: Land Administration and Development				
Objective: To facilitate access and use of land for socio-economic and environmental sustainability				
Programme	2013/14 Allocation (Ksh Mlns)	Actual Performance 2013/14	2014/15 Budget Proposal (Ksh. mlns)	Key Performance Target 2014/15
	606	<ul style="list-style-type: none"> • Land use regulations for land planning • Identified grabbed land • Issued 600,000 title deeds in Mombasa • Recalled all leases for assessment • Setting up of offices 	652	<ul style="list-style-type: none"> • 1.8 million title deeds issued • 20% automation of land information

Appendix 2

URGENT.

REPUBLIC OF KENYA



MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

PRESENTATION OF 2014/15 FINANCIAL YEAR PRINTED ESTIMATES TO THE
DEPARTMENTAL COMMITTEE (K) ON LANDS

PRESENTED BY:

HON. CHARITY NGILU, EGH

CABINET SECRETARY, MINISTRY OF LAND, HOUSING AND URBAN
DEVELOPMENT

WEDNESDAY 15TH MAY, 2014

Filed to the
Committee 14/5/14

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1.0 Introduction

Mandate and Structure of the Ministry

The Ministry is mandated to provide policy direction and coordinate all matters related to land, housing and urban development. In discharging its functions, the Ministry is guided by detailed mandate through Executive Order No. 2/2013 of May 2013 notably:

Directorates as follows:

Land Directorate functions are;

- Land Policy Management
- Physical Planning
- Land Transactions
- Settlement Matters
- Rural Settlement Planning i.e. Eco-Village
- Land Reclamation
- National Spatial Data Infrastructure
- Land Registration
- Land and Property Valuation Services
- Administration of Public Land as Designated by the Constitution
- Land Information System

Housing Directorate functions are;

- Housing Policy Management
- Development and Promotion of Affordable Housing Policy
- Public Office Accommodation Lease Management
- Management of Building and Construction Standards and Codes
- National Secretariat for Human Settlement
- Management of Housing for Civil Servants and Disciplined Forces
- Management of Civil Servants Housing Scheme
- Development and Management of Government Housing

Public Works Directorate functions are;

- Public Works Policy and Planning
- Development and Management of Public Buildings
- Public Works Planning
- Maintenance of Inventory of Government Property
- Overseeing the Provision of Mechanical and Electrical(Buildings)Services to Public Buildings
- Supplies Branch and Co-Ordination of Procurement of Common User Items by the Government Ministries
- Registration of Contractors and Materials Suppliers
- Registration of Civil, Building and Electro-Mechanical Contractors
- Registration of Architects and Quantity Surveyors
- Other Public Works

However, the following functions are not captured in the Executive Order but have been transferred to the Ministry:

- **Market Development department;**
- **Nairobi Metropolitan Development and Urban Development;**
- **Slums Upgrading and Informal Settlement upgrading.**

The executive order further recognizes the following institutions under/or with the Ministry:

- National Housing Corporation (National Housing Corporation Act No.2 Of 1990),
- National Construction Authority (National Construction Authority Act, 2011),
- Kenya Building Research Center
- Settlement Fund Trustees
- National Land Commission (Article 67(1) of the Constitution of Kenya,2010 and National Land Commission Act, 2012)

Vision

‘To be a globally competitive organization in sustainable management of land and the built environment’.

Mission

‘To facilitate efficient land administration and management, access to adequate and affordable housing, social and physical infrastructure for national development’.

Core Values

In its endeavor to execute its Mandate, the Ministry will be guided by the following Core Values/ Principles:-

- Team spirit
- Prompt customer responsiveness
- Integrity – honesty, accountability and transparency
- Patriotism
- Consultative
- Professionalism
- Gender equity and equality

Strategic Objectives

- i. To formulate and coordinate implementation of policies and legal framework for sustainable land, housing and urban development.
- ii. To ensure efficient and effective administration and management of land resource.
- iii. To facilitate access to adequate housing.
- iv. To improve livelihoods of people living and working in slums and informal settlements.
- v. To develop and maintain cost effective public buildings and other public works.
- vi. To develop and coordinate implementation of integrated strategic urban development and capital investment plans.
- vii. To ensure efficiency in the procurement of common user items for government institutions.

To support its mandate, the Ministry was allocated **Ksh. 17.4 Billion** in the financial Year 2013/14.

2.0 Total Net Budgetary Request from Exchequer

In the Financial Year 2014/15, the Ministry has requested for Kshs. **58,431,000,000** to implement its programmes and projects as indicated in the Agriculture and Rural Development Sector Report. However, only **Kshs. 19,641,791,087** was provided. This implies that the Ministry will only receive thirty four percent (34%) of the required funds to implement its activities.

Out of the Kshs.19, 641,791,087, Kshs. 4,093,846,962 (21%) is for recurrent expenditure while Kshs. 15,547,944,125 (79%) is for development. In the recurrent vote 65% (Ksh. 2,665,723,132)

shall be utilized for personnel emoluments, leaving only 35% (Kshs.1, 428,123,830) to finance operations and maintenance. Out of the Development Vote Kshs.10, 957,000,000 is funding from GOK and Kshs. 4,590,944,125 is Donor Revenue.

3.0 Actual Performance for the FY 2013/2014 as at April, 2014

The following is a summary of the achievements of the Ministry in the FY 2013/14.

1. 284,135 title deeds have been issued and 281,411 are pending in land registries awaiting collection;
2. National Bulk Titling centre is established at Survey of Kenya at Ruaraka.
3. Preparation of National Spatial Plan is at 75% complete;
4. 387 out of the 595 units of West Park Police housing project Completed.
5. Kenya Municipal Programme is at 40% complete
6. Development of 183 markets completed. These markets are spread all over the country
7. 100 cameras installed under integrated urban surveillance system (CCTV) in Nairobi CBD.
8. Under Slum Upgrading Programme, 17 out of 21 blocks comprising of 744 out of 812 housing units are under construction with roofing and other finishes on-going. The project is 80% complete
9. The Ministry awarded the following projects in;
 - I. Ruiru sewerage works in October 2013 at a cost of Ksh. 2.5 Billion
 - II. Nakuru, Mombasa, Eldoret sewerage works, none motorized transport and street lighting in the informal settlements at tendering stage.

Table 1: Details of the achievements in the Ministry projects/Programmes are as tabulated below;

Flagship Projects/Outcome targets		Performance Target 2013/2014	Achievement 2013/2014	Remarks
Lands Directorate				
1.	National Land Information Management System (NLIMS)	<ul style="list-style-type: none"> Design and develop the integrated GIS based NLIMS Upscale safeguarding and digitization of land paper records 	<ul style="list-style-type: none"> National bulk titling established at Ruaraka Land records digitization centre set-up in Mombasa 	Inadequate funding for the programme has hampered the development of NLIMS
2.	National Land Title Register/ Increased access and security of tenure	Finalize registration and issue 540,000 titles	284,135 title deeds were issued 24,851 plots geo-referenced	<ul style="list-style-type: none"> There was Delay in disbursement of funds to the field stations by county governments. 281,411 titles are ready for collection countrywide Conversion of existing land under various land registration statues to the land registration Act 2012 will be done once preparation of subsidiary legislation is finalized

3.	National Spatial Plan	Complete the Draft National Spatial Plan.	Draft National spatial plan in place	Preparation of National Spatial Plan is at 75% complete
4.	County Spatial Plans	<ul style="list-style-type: none"> • Developing a framework for the preparation of 47 county spatial and urban development plans • Reviewing and finalizing physical planning manuals, guidelines and standards 	<ul style="list-style-type: none"> • Draft manuals, guidelines and standards developed • Capacity building in county governments on Integrated Development Plan done • manuals, guidelines and standards finalized and submitted to Transitional Authority 	
5.	Kenya National Spatial Data Infrastructure (KNSDI)	<ul style="list-style-type: none"> • Acquisition of satellite imagery for the whole country and aerial photography for urban areas (Standardized spatial data infrastructure) • Construction and equipping of 7 geodetic reference point • Map digitization software (creation of cadastral databases accounting to 10% of the Country's geospatial data) 	<ul style="list-style-type: none"> • Acquisition of satellite imagery at tendering stage • Constructed 7 (seven) Geodetic reference point (pillars) in Kwale, Wundanyi, Bondo and Koibatek 	The project Involves construction of the KNSDI Centre which is at 95% complete and Acquisition of satellite imagery for the whole country and aerial photography for urban areas (Standardized spatial data infrastructure), Construction and equipping of 7 geodetic reference point- and Map digitization software (creation of cadastral databases
6.	Land Adjudication and Titling Programme	<ul style="list-style-type: none"> • Finalization and operationalization of Community Land Bill • Finalization of 254,000 land and 	<ul style="list-style-type: none"> • 168,606 parcels have been finalized • Draft Community Land Bill finalized 	The finalization of adjudication and survey work has been hampered by delay in the release

		adjudication parcels for registration	<ul style="list-style-type: none"> • Titling Centre at 30% completion level 	<p>of Ksh. 85 Million that had been approved by the cabinet for the Coast region titling project.</p> <p>Delay in disbursement of funds to the field stations by county governments has slowed field operations</p>
Housing				
7.	Installation of physical and social infrastructure in slums and informal settlements in selected urban areas	<p>a) Construction of physical and social infrastructure in Kibera Soweto East village Zone A.</p> <ul style="list-style-type: none"> • Construction of 812 housing units • Construction of youth vocational community centre, Jua Kali sheds and market centres, nursery school, garbage collection points emphasizing on green water harvesting, solar power for lighting and hot water (green economy). <p>b) Slum upgrading projects in Eldoret, Mombasa and Nakuru</p>	<ul style="list-style-type: none"> • 17 out of 21 blocks comprising of 744 out of 812 housing units are under construction with roofing and other finishes on-going. • The project is 80% complete 	<p>There has been delay in the construction of market stalls due to semi-permanent structure occupying part of the site of which security has been sought from the Nairobi County government to assist in the clearance of the site. 4 No. Residential Block (72 units) have also not started due to a private school occupying the location. Mitigation measures have been put in place.</p>

8.	Implementation of Kenya Informal Settlement Improvement Programme (KISIP) in Nairobi, Mombasa, Kisumu, Nakuru, Eldoret, Malindi, Naivasha, Kitui, Machakos, Thika, Nyeri, Garissa, Kericho, Kakamega and Embu	<ul style="list-style-type: none"> • Construction of access roads and footpaths • Installation of floodlighting masts • Installation of sewerage and storm water drainage systems • Construction of sanitation facilities (Ablution block) 	Construction of infrastructure works in Nakuru, Mombasa and Eldoret has been commissioned.	Lack of counter-part funding to facilitate absorption of donor funds
9.	Facilitation of production of 200,000 housing units annually through various initiatives	<ul style="list-style-type: none"> • Spearhead delivery of 120,000 housing units in collaboration with private sector and initiate construction of housing units through partnerships. • Develop 6,200 social housing units in old government estates. • Installation of housing infrastructure to open up new land for housing development 	<ul style="list-style-type: none"> • Locations of development for delivery of 120,000 housing units have been identified, • locations for development of the 6,200 social housing have been identified and ring-fenced (Starehe, Park Road and Shauri Moyo) • 55 Kms of access roads constructed across the country 3Km of sewer line installed 	

		<ul style="list-style-type: none"> Design and construction of Mavoko regional (Appropriate Building Technologies) ABT centre Phase II 	5% of Centre completed	
Public Works				
10.	Improvement of Living and Working Conditions in Government Buildings	<ul style="list-style-type: none"> Completion of West Park housing, Kenya Institute of Business Training, Kericho Ardhi House and Voi PTTC. under the stalled Government Buildings Programme 	<ul style="list-style-type: none"> 387 out of the 595 units of West Park housing project Completed. KIBT is at 85% complete Mitihani House is 60% complete 	<ul style="list-style-type: none"> Out of the 225 stalled government building projects identified in the FY 2005/06, 171 have since been completed. 19 projects have been completed but not handed over due to non payment to contractors 17 projects ongoing Funds for construction of Mitihani house were transferred to Ministry of Education in the Supplementary estimates
11.	Development and Maintenance of Coastline Infrastructure and Inland Water Transport	This entailed the construction and maintenance of jetties and seawalls along the coastline and inland river protection works and pedestrian access	-	<p>Funds for these projects were devolved to the counties thereby incapacitating the ministry to undertake these functions.</p> <p>The Ministry has pending bills amounting to Ksh. 1.2 Billion</p>

million for Recurrent Expenditure and Kshs.118 million for Development Expenditure totally to Kshs.652 million.

8. The National Treasury has, therefore, reduced the National Assembly's allocation by **Kshs.1,340 million** leaving NLC with no funds a key flagship project of establishing the 47 County Land Management Boards (CLMBs).
9. County Land Management Boards (CLMBs) implementation is estimated to cost circa Kshs.1.6 billion in 2014/15 FY. NLC intends to utilize the Kshs.1,340 million that was allocated by the National Assembly, Land Committee, to establish the CLMBs. This would still leave a gap of Kshs.260 million from the estimated project cost of Kshs.1.6 billion. Therefore, NLC requests for **Kshs. 260 million enhancement** to enable full implementation of the CLMBs in all the 47 counties.
10. The allocation to **NLIMS** indicated in the itemized National Treasury budget for NLC has since been reduced from Kshs.298 million to Kshs.276 million in the printed estimates. This, therefore, calls for an **additional funding of Kshs.424 million** to make up the Kshs. 700 million for 2014/15 FY that NLC requires to implement the project.
11. NLC **inherited 7,000 ongoing court cases** from the Ministry of Land Housing and Urban Development (MOLHUD). These cases have since **grown to 9,000**. Section 5 (1) (F) of the NLC Act recommends that dispute mechanism be developed as well as Alternative Dispute Resolution methods. This item requires circa Kshs.365 million to set up and settle the 9,000 court cases in and out of court. The Attorney General's (AG) office has since advised that NLC should engage external advocates to help us resolve these cases as the AG does not have enough personnel to handle them on behalf of NLC. NLC, therefore, requires an **enhancement of Kshs.365 million** for 2014/15 FY for this purpose.

12. NLC will be fully functional within the first quarter of 2014/15 FY and will require Kshs.1,630million for Personnel Emolument (PE) of which currently the Commission is allocated Kshs. 200 million. Therefore,NLC requires **an enhancement of Kshs. 1,430 million for PE.**

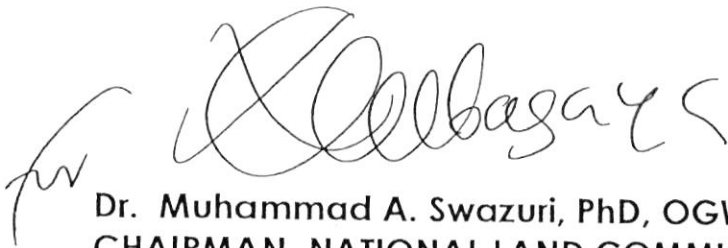
Functions and Budget AllocationsthatNEED to be Transferred FROM MOLHUD to NLC

NLC is requesting that functions that were to be transferred to the Commission from MOLHUD be effected by transferring the allocated budget funds to NLC to enable the Commission undertake its prioritized programmes in the course of 2014/15 FY. These functions include:

- a) **Adjudication and Settlement Services** as per section 134 and 135 of the Land Act 2012. This has been allocated **Kshs. 397 million** under MOLHUD's Recurrent Expenditure Budget.
- b) Land Information Management System (**NLIMS**) entire allocation of **Kshs.528 million under Recurrent Budget (Computerization of Land Paper Records in Land Registries, page 447) and Kshs.808 million under ProgrammeBased Budget, page 293** should be fully transferred to NLC.
- c) **Land Use Programme** and some budget should be transferred to NLC as per Section 5(1) (h) of the NLC Act 2012.
- d) NLC is required to recommend a **Land Policy** to MOLHUD. Therefore, NLC should enjoy part of the allocated funds to Land policy programme so as to enable it undertake the preliminary task for it to be able to recommend an appropriate Land Policy, say **Kshs.20 million.**

In summary, NLC is requesting for an **enhancement of a total of Kshs.3,819 million**, over and above what the National Treasury has allocated to NLC (Kshs.652 million) or Kshs.2,479 over and above what the National Assembly's, Land Committee had allocate to the Commission amounting (1,992 million). Therefore, for NLC to effectively discharge its mandate, it requires an initial minimum of Kshs. 4,471 million in 2014/15 FY.

Given the foregoing, the National Assembly's Land Committee is requested to consider and recommend an additional (enhancement) of Kshs.3,819 million, over and above what the National Treasury has allocated to NLC (Kshs.652 million) in the printed estimates.

A handwritten signature in black ink, appearing to read 'Dr. Muhammad A. Swazuri', with a small 'fw' mark to the left.

Dr. Muhammad A. Swazuri, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

Appendix 4.

MINUTES OF THE 66TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 22ND MAY, 2014 IN THE BOARD ROOM 4TH FLOOR, PROTECTION HOUSE AT 10.00 AM.

PRESENT

1. The Hon. Alex Mwiru, M.P. (Chairperson)
2. The Hon. Francis Nderitu, M.P.
3. The Hon. Eusilah Jepkosgei, M.P.
4. The Hon. Kipruto Moi, M.P.
5. The Hon. Benson Mbai, M.P.
6. The Hon. Onesmas Ngunjiri, M.P.
7. The Hon. Sarah Korere, M.P.
8. The Hon. Mathew L. Lempurkel, M.P.
9. The Hon. Kanini Kega, M.P.
10. The Hon. Francis Kigo Njenga, M.P.
11. The Hon. Shakila Abdallah, M.P.
12. The Hon. Joseph Magwanga, M.P.
13. The Hon. Benard Bett, M.P.
14. The Hon. Thomas Mwadeghu, M.P.
15. The Hon. George Oner, M.P.

ABSENT WITH APOLOGY

1. The Hon. Moses Ole Sakuda, M.P. (Vice Chairperson)
2. The Hon. Dr. Paul Otuoma, M.P.
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. Suleiman Dori, M.P.
5. The Hon. Hellen Chepkwony, M.P.
6. The Hon. Julius Ndegwa, M.P.
7. The Hon. A. Shariff, M.P.
8. The Hon. Hezron Awiti Bollo, M.P.
9. The Hon. Gideon Mung'aro, M.P.
10. The Hon. Oscar Sudi, M.P.
11. The Hon. Esther Murugi, M.P.
12. The Hon. Lawrence Aburi, M.P.
13. The Hon. Kingola Patrick, M.P.
14. The Hon. John Kihagi, M.P.

IN ATTENDANCE

1. Mr. James Ginono - Clerk Assistant 1

MINUTE NO. DCL/LN/2014/59

ADOPTION OF THE AGENDA

The Agenda of the Meeting was adopted after a proposal and secondment from The Hon. Eusilah Jepkosgei, M.P. and The Hon. Mathew L. Lempurkel, M.P. respectively as hereunder:

1. Adoption of the Agenda
2. Confirmation of minutes
3. Matters arising
4. Consideration of the Printed Estimates Report for the 2014/15 FY
5. Any other Business
6. Adjournment

MINUTE NO. DCL/LN/2014/60

CONFIRMATION OF MINUTES

The Minutes of the 64th Sitting held the 21st May 2014 were Proposed by The Hon. Kipruto Moi, M.P. and seconded by the Hon. Francis Nderitu, M.P. as a true record of the Proceedings and signed by the Chairperson.

MINUTE NO. DCL/LN/2014/61

CONSIDERATION OF THE REPORT ON THE PRINTED ESTIMATES FOR THE 2014/15 FY

Upon deliberations the Committee made the following Observations and Recommendations

Committee Observation

The Committee made the following observations

1. That the Committee noted that the National Lands Commission were indeed underfunded and could not perform its functions considering the resources allocated to it.
2. That the overall Ministry's and the National Lands Commission's budget has deviated from the resolutions of the National Assembly with the Ministry getting Kshs. 6 Billion More whereas the Commission receiving Kshs. 1,342 Billion Less.
3. That the National Land Commission should be adequately funded for it to be operational and execute its constitutional Mandate.
4. The Ministry of Lands, Housing and Urban Development has been allocated Ksh 21.7 billion which includes Ksh 4.1 billion for recurrent and Ksh 17.6 billion for development. **This is over and above the House Resolutions of the ceiling for the Ministry by Kshs. 6 billion. However, it is relatively similar to the allocation in 2013/14.**
5. The National Land Commission has been allocated Ksh 652 million of which Ksh 534 million will be for recurrent and Ksh 118 million for development. **This allocation falls way below the recommendations by the National Assembly. The House resolved that the NLC be allocated at least Kshs. 2 billion.**
6. The NLC inherited from the Ministry of Lands, Housing and Urban Development approximately 7,000 ongoing Court cases which have since increased to 9,000 Court Cases; they noted that Section 5 (1)(F) of the NLC Act mandates the Commission to establish alternative Dispute Resolution Mechanism Methods; this requires Kshs. 365 Million to settle the 9,000 Court cases by engaging external advocates in support of the resolution of the cases.
7. Members raised concern over the allocation of Kshs.10 million to temporary staff. The Cabinet Secretary clarified that the expenditure arose out of the need to expedite the issuance of titles as the small number of staff at the Ministry could not handle the exercise. She further informed the Committee that 200 university students had been hired to work in two shifts round the clock to clean up the registries and assist in digitization of records.
8. That the titling function is the role of the Ministry of Lands,
9. That the development of the National Land Information Management System should be conducted by the two spending Agency.

Recommendation

The Committee Recommends as follows;

- That a of total 1.246 Billion be reallocated from the Ministry of Lands to the National Lands Commission from the following two programmes; The Land

Community.

- f) Mr. Alexander Kyriazy later took over the farm and buildings owned by Mar. Rezene and there was a peaceful co-existence between the Local community and the Farm management. It is only after Kyriazy's sons took the farm that the conflicts begun and residents started being harassed by the area Chief for constructing houses on the land.
- g) The Secretary for Mwasima Mbuwa was taken to Court on 25th September 1998 by Teita Sisal Estate for constructing a house on the land but later the case was dismissed over non- attendance by the prosecution on 14th November 2006. The Court ordered Teita Estate to pay the cost of the suit which has not been honored to date. The secretaries together with 90 other families were later sued for trespass by the Teita Estate Management.
- h) A court order for a joint survey was issued on 11th May 2011 but the Estate management failed to bring their surveyor. Mr. Kyriazy later went to court for further orders for survey but the survey never took place.
- i) Alternative land of 400 acres was identified in Maganga when Hon. Marsden Madoka was the M.P for the area so that residents of Singila Majengo could be moved but the group formally rejected the offer by the government and refused to move since Singila Majengo is their ancestral land, and because Maganga residents were also against the moving of Singila Majengo residents to their land.
- j) Maganga and Teita Sisal Estate farms are not adjacent to each other.
- k) The lawyer for Singila Majengo residents has never been invited nor involved in any negotiations regarding the sale of land to the government
- l) The farm in Maganga is LR no.3880/4 and is 257.97 acres and was surveyed in 1951.

The Committee was further informed that:

- a) Taita and Taita Sisal Company Limited sold Land to Teita Estate (1972) Ltd.
- b) According to a gazette notice of 9th February 1973, the acreage is as follows:

LR 3380/5	16875 acres
LR 6924	10010 acres
LR 94876(Dam)	55 acres
LR 11378	3344 acres
Total	30284 acres
- c) Taita and Taita Sisal Company gave the same acreage for the land, now owned by Teita Sisal Estate.
- d) LR No.3880/3 is not titled (is Community land) and is part of the Land that Teita Sisal Estate has encroached on.
- e) A memorandum of registration of transfer of land in exchange for a new grant was issued on 14th August 1963 from Teita Sisal Estate (LR No.3880/4/1) to the Regional Assembly of the Coast region (LR.No.11378) for 3344 acres. The Airstrip used by the Estate is part of the LR NO.3880/4/1 which was surrendered in 1963
- f) The management was supposed to surrender the transferred land but is still holding on both lands.
- g) The acreage of the encroached land by Teita Sisal Estate is 2,997.66 acres (LR 3880/3), while the land that was supposed to be surrendered is 3,344 acres (LR 3880/4/1) bringing the total acreage under illegal occupation by Teita Sisal Estate to 6341.66
- h) LR No.3380/4/2 was later renumbered to LR 3380/5 which is 16,873 acres. It is not

clear how LR no. 3380/5 was created. The renumbering to 3380/5 created an extension which included Singila Majengo area.

- i) The LR No. 3380/4/2 once renumbered should have ceased to exist. Investigations however also show that the Sisal Plantation has not gone up to Majengo Singila area and that the area is a reserve.
- j) LR No.3380 initially was the number for the Land that belonged to Ex Major Goldman and that when /3 and /4 were excised; there was a remainder which is not accounted for.
- k) Original records are required to re-establish the LR No's on the ground.
- l) The local community has been denied access to the railway station since the access road which is public is within the estate gates. The dam is also within the estate and is manned by estate security denying the local residents free access.
- m) Mwandisha Primary school, also within the estate (LR Nos. 3380/5) was constructed by the Taita and Taita Sisal Company in 1952 but is run by the government (has government teachers). Access to the school by residents who are not employees of the sisal estate has however been limited by the Taita Sisal Estate management and the access road blocked.
- n) Orders for a joint survey should be given to establish the boundaries.
- o) Evidence from the Attorney General's office shows that only Mr. Alexander Kyriazy is a Kenyan Citizen and the rest of his children are not citizens.

MINUTE NO. DCL/LN/2014/116 A.O.B

The following matters arose:

1. The Committee noted a story that ran in a local media house, NTV claiming that the entire Committee Membership had taken a foreign visit to Zimbabwe to learn about Land matters at a cost to the taxpayer of Kshs.20million. It was resolved that the Chairman should respond to the allegations through a statement on behalf of the Committee.
2. Invitation by the National Land Commission for a workshop on Historical Injustices
The Committee noted the invitation letter for a workshop to be held in Naivasha in August 2014, and resolved that a confirmation of the Committee's attendance in the first week of August be made to the NLC.

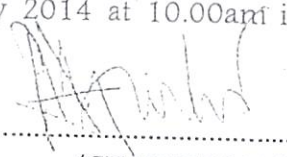
MINUTE NO. DCL/LN/2014/110 PROGRAM FOR THE NAROK VISIT

The Committee considered and adopted the program for the Narok Visit subject to amendments to be made on the ground.

MINUTE NO. DCL/LN/2014/111 ADJOURNMENT & DATE OF THE NEXT SITTING

And the time being Twenty five Minutes past twelve O'clock, the Chairperson adjourned the Sitting until Thursday 3rd July 2014 at 10.00am in the Fourth Floor Board Room, Protection House.

SIGNED


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(CHAIRPERSON)

DATE

12/8/2014
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