

Site-Value Rating in Kenya

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THE LEVYING of an annual rate charge based on unimproved site value has been in operation in municipalities in Kenya for nearly forty years, but before describing the administrative arrangements for this levy it is necessary to outline the history of land development and the resultant conditions that exist.

When the Colony government took over this largely undeveloped country at the turn of this century all land outside the native reserves vested in the Crown came under the Government's control. As survey proceeded all land was allocated reference numbers, and a system of registers was set up to record the history of each plot. All initial transactions stemmed from the Government, which sold or leased parcels of land at its discretion, and in this way encouraged and controlled the development of the country. The statutory requirement to register all subsequent land transactions with the Government Lands Department has ensured that the record remains comprehensive, and any municipality by reference to that record knows precisely who owns the various parcels and plots of land within its area.

The preparation of the municipal valuation roll is the responsibility of the local authority, and to assist them in this task details of all land transactions within each authority's area (including the price paid) are notified to it by the Lands Department as they occur. In this way municipal records of each plot can be maintained, sub-divisions noted for dealing with by supplementary roll, and the changing picture of land development and ownership kept constantly under review.

The basis of valuation is generally that of market price between willing buyer and seller and the figure appearing in the roll is the capital value of the land. The roll is completely revised fairly frequently, and until recently in Nairobi it was re-cast every three years. Since there is no new land, unless local authority boundaries change the only variations in areas are in the division of the land as the result of sub-division, which would normally be by the selling by commercial interests or by the Crown of large plots into smaller portions for development. In such cases the valuer includes the new smaller plots in a supplementary roll and expunges the entry for the original plot from the main roll. This enables action to be taken at the time of the change instead of waiting for the next revaluation. In all cases of revaluation the legal process so far as the ratepayer is concerned is similar to that operative in this country, commencing with a proposal to amend the roll, the right to object

to a valuation court and to appeal if aggrieved to the magistrates court, and so on.

Prior to the coming into effect of the new roll the local authority fixes a "valuation date," normally falling some months before the end of the preceding year, and all the valuations appearing in the new roll are calculated as at that date. Since the price that a plot of land can command is governed to a large extent by the type of development permitted it follows that an element of the value of planning permission is included in the value of a plot. Thus a piece of land situated in an area zoned for residential flats will be rated higher than a similar plot in a zone designated for house development, regardless of the actual type of development in existence. In cases of this nature it can be considered that the rating system encourages the implementation of planning decisions that alter the density or type of development in that it acts as a positive encouragement to owners to redevelop.

The valuer, having amassed his evidence and information on values of land in the various areas and zones, will probably reduce them to a rate per square foot to apply to plots in each section. In cases of commercial land, for example shop plots, he will use more than one rate and reflect frontage value as well as overall size. Also, where there is a contingent liability for private street or sewer works he will calculate this and allow the amount as a reduction in value on the grounds that the theoretical market value would reflect this liability. Similar allowances will be made for inherent characteristics of the land such as a sloping plot which, due to drainage or other considerations, is only capable of partial development.

Land vested in the public as open space, cemeteries, road reserves, etc., are not rateable and no charge is levied. Remission of rates is optional to the local authority in a number of other cases, such as churches, schools, charitable institutions, sports clubs and grounds, etc., but in the case of Nairobi these have been dealt with by payment of a grant in aid of rates instead of by remission.

Liability for rates is determined rather differently from practice here in that the local authority fixes a "due date" for rating purposes each year. In Nairobi this has been June 15 for many years (the financial year is the calendar year) and the person registered as the owner of the plot on that day is the person responsible for the full year's rates. There can be no voids on land, of

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is impossible. When values depend upon so many factors which cannot be measured, then it is almost inevitable that a fixed rate must cheat one of the parties to every exchange transaction.

Not only is there a day-to-day change in the value of currencies, but since the days of the gold standard there is constantly proceeding a more fundamental change in their values which we shall consider later. The exchange values fixed by governments since the war have only recognised these fundamental changes long after they have progressed to a considerable extent. For example, the change in the dollar-pound exchange rate effected by Sir Stafford Cripps in September, 1949, recognised a real change in values which had taken place long before, and this tardy recognition of the fact of change did immense harm to Britain's export trade.

The only way to arrive at a true and just rate of exchange, and such a rate is also the expedient one, is to allow currencies to be freely converted into some real value such as gold; failing that the only way to arrive at a realistic rate of exchange between currencies is to allow them to be freely exchanged in the market.

Only in the free market can the true values of currencies be decided. The free rate is therefore the only just rate.

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course, and the only apportionment of a year's rates that can arise is on a change of ownership. This division of liability is a matter for adjustment between the purchaser and the vendor and is of no concern to the local authority.

The local authority is required by statute to publish notices informing the public of the amount of the rate (which is expressed as a percentage of the unimproved site value), due date, etc., before the commencement of the financial year, and rates remaining unpaid after the due date attract interest until payment is made, the statutory maximum interest rate of one per cent per month being applied in Nairobi. The Rating Ordinance states categorically that the responsibility for making payment by the due date rests with the ratepayer and there is no requirement on the local authority to issue a demand note. Nevertheless demands are issued, but proof of posting is not necessary, nor is non-receipt an acceptable excuse to the courts. Recovery procedure is by summons to a magistrates court, and further action on non-payment may be by application for committal to prison (rarely used) or by application for court permission to sell the plot by public auction and recover from the proceeds. Of substantial assistance to local authorities in the recovery of rates and many other charges is a statutory provision whereby a transfer of ownership is not registered by the Lands Department without the production of a clearance certificate from the local authority stating that all accounts are clear. A further aid to rate collection is a procedure whereby a local authority may by notice require the tenant(s) of

property constructed on the land to pay rent to them in settlement of outstanding rates.

From the preceding paragraph it will be seen that the recovery of rates is far less arduous a task administratively than is the case in this country. The absence of void periods, of the need for apportionment, the penal rate of interest and the other avenues that may be taken to obtain payment result in few bad debts. These do arise, of course, in occasional cases, such as where a plot is heavily indebted to the Crown with a claim preferential to rates, or where the owner is deceased and his estate is not worth the task of administration, etc., but these are few in number.

Lest the reader at this juncture should conclude that a system such as that outlined above could be the panacea for the shortcomings of the British rating system, it is as well to make several points on local government finance generally in Kenya in order to put the position into perspective. First, until this year education was administered nationally and no cost fell on local authorities. Secondly, residents have been charged for specific services (at least in Nairobi and probably elsewhere) to a far greater extent than in this country, thereby reducing rate-borne expenditure considerably. Examples include a monthly sewerage charge based on water consumption (all water supply is by meter — there is no water rate), similar charges for non-sewered property, refuse removal charges wherever more than one dustbin is emptied, parking meter fees, fees for the service of the fire brigade at fires, fees from persons attending clinics, medical dispensaries, etc., charges for anti-malarial measures at private premises, vaccination, inoculation, and many others.

Although these charges are individually small, in total they are quite substantial, and many of them indicate that the policy of the first administrators of a new town in a new country was to require the inhabitants to pay according to the individual services they enjoyed, particularly as many of these services in the early days were not available to everyone. In fact, it could be said that the bulk of the rate charge represents permanent services provided by the local authority, for which the owners of vacant land must pay their fair share. Thus all owners pay for the construction of major roads, the maintenance of public roads, the construction and maintenance of main sewers, street lighting and cleaning, etc., while as far as other rate-borne services are concerned at least some contribution is gathered from residents in proportion to the use they make of them. Whether this policy is pertinent to a more sophisticated society living in far more established conditions is possibly open to question. It may be that a more suitable solution in urban areas of a country where land is scarce rather than undeveloped is a site-value rate to recover the costs of services provided so as to make the development of the land possible, plus an improvement rate to meet expenditure on services arising out of the construction of buildings and their occupation.

In conclusion it should be stressed that the bulk of the foregoing notes have been compiled from memory