Articles

Property Taxation in Southern and East Africa: Lessons from South Africa and Kenya

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1 Introduction

Over the years the ability of local authorities in many countries in southern and east Africa to direct and sustain urban development in their respective areas of jurisdiction has declined. Urban management tends to be little more than an academic exercise and urban service delivery is in many instances in a state of disarray. Countering this downward spiral requires financial stability, which, in turn, implies good governance and an improved and sustainable flow of revenue. Property taxation is widely viewed as a necessary instrument in any strategy to enhance local revenues and so to ensure more efficient urban land management and service delivery. But attempts at introducing or reforming a property or land tax regime in many African countries have until now met with limited success.

Despite the fact that many countries in southern and east Africa have a long history of using property taxation (called ‘rating’ in most former British colonies) as a source of revenue for local authorities, many policy and administration-related problems are still being experienced. In some instances these problems can be traced to the retention of inappropriate legislation enacted by former colonial powers, and the unwillingness of present-day governments to adapt these inept systems to the realities facing especially urban jurisdictions. We shall discuss in more detail South Africa and Kenya, probably the two countries with the longest history of property taxation in the region.

South Africa has experienced far-reaching local government reform since 1993. From a property tax perspective, the primary challenge facing government is to reform and extend the rating systems that functioned

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well in former white urban local authorities during the pre-1994 era to all urban and rural properties within the new, non-racial local government dispensation. A further important issue is achieving uniformity across a country where municipalities have for more than a century had the freedom to choose one of three possible rating systems.

Despite its significant contribution to local authority revenue, the operation of Kenya’s rating system has been clouded by neglect and poor administration since its inception more than a century ago. Ordinarily, it would be expected that a responsible government would modify or reform its property tax in the light of the increased responsibilities and diversity of operations at local government level. In the case of Kenya, however, the rating system has not been improved substantively or administratively in any significant manner.

But before we discuss the particular issues facing South Africa and Kenya, we shall discuss some basic features of the property tax systems of ten countries in southern and east Africa in the context of the following key areas: coverage, tax base, assessment, tax rates, and collection and enforcement.

2 A Brief Overview of Property Taxation in Ten Countries in Southern and East Africa

Data ranging from rather detailed to rudimentary have been collected on property taxation (‘rating’) in these countries: Botswana, Kenya, Lesotho, Malawi, Namibia, South Africa, Swaziland, Tanzania, Uganda, and Zambia.

2.1 Coverage

The property coverage ratio (the number of properties taxed as a percentage of the total number of properties) is one of the key problem areas in southern and east Africa. In some of the countries in this region (such as Botswana, Kenya, Lesotho, Tanzania, and Uganda), property tax has to date only been introduced and levied in some of the larger urban jurisdictions; in other words, in many small urban jurisdictions property taxes have never been levied. Ignoring for the moment capacity

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constraints, there is a huge potential for introducing or extending property taxation to presently untaxed urban jurisdictions in, for example, Botswana, Kenya, Lesotho, and Uganda.

In many urban jurisdictions where property tax is currently levied, the rating system is in an advanced state of disrepair. Amongst the varied reasons for this unsatisfactory state of affairs is poor property coverage. Vast numbers of ‘new’ urban properties (for example, as a result of urbanization or subdivision, or both) are not reflected in relevant valuation rolls or property registers. Dar es Salaam, Kampala, Maseru, 5 and Nairobi 6 are typical examples.

Rural properties have generally been excluded from rating in all the countries in the region. The following reasons should suffice: an absence of municipal structures in rural areas, lack of public services and resources to introduce a tax on rural land, and legislative limitation of rates to formally declared ‘rating areas’. Legislation in some countries (such as Kenya, South Africa, and Uganda) provides that rural properties may, in principle, be taxed.

Even where untaxed properties could be included in the tax net from a practical point of view, wide-ranging legislative exclusions or exemptions, or both, in some countries further erode the tax base. For example, some countries exclude ‘vacant sites’ (for example, Uganda), or exempt unoccupied properties (for example, Tanzania), and government-occupied properties (for example, Tanzania).

2.2 Property Tax Bases

It is noteworthy that a wide variety of tax bases are used throughout the region. Legislation in some countries (such as Kenya, Malawi, Namibia, South Africa, and Swaziland) provide for a choice from a variety of tax bases within these countries.

Presently, South Africa and Malawi seem to be the only countries in the region in which various systems are still extensively used, although urban jurisdictions in Tanzania and Zambia use a ‘flat rate tax’ (a tax charged without reference to size or value of the property) for properties not yet on any valuation roll. In passing, note that a flat rate tax was recently held to be unconstitutional in South Africa. 7

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7 Fransen & Ohmu op cit note 3.

Table 1 presents an overview of the property tax bases in the ten southern and east African countries under discussion.

Table 1: Property Tax Bases Provided for in Legislation and Used in Practice

<table>
<thead>
<tr>
<th>Country</th>
<th>Land value only</th>
<th>Improved value</th>
<th>Land and improvements only</th>
<th>Improvements only</th>
<th>Annual rental value</th>
<th>Area</th>
<th>Flat rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botswana</td>
<td>XX</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kenya</td>
<td>XX</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lesotho</td>
<td>XX</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malawi</td>
<td>XX</td>
<td>XX</td>
<td></td>
<td></td>
<td>XX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Namibia</td>
<td>X</td>
<td>X</td>
<td>XX</td>
<td></td>
<td>XX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Africa</td>
<td>XX</td>
<td>XX</td>
<td>XX</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Swaziland</td>
<td>X</td>
<td>X</td>
<td>XX</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tanzania</td>
<td>XX</td>
<td></td>
<td></td>
<td></td>
<td>XX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uganda</td>
<td>XX</td>
<td></td>
<td></td>
<td></td>
<td>XX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zambia</td>
<td>XX</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2.3 Assessment

Currently, legislation in all ten countries mandates an ad valorem property tax system with discrete values for each rateable property. Not surprisingly, then, an area of major concern in all ten countries is the capacity to prepare valuation rolls and supplementary rolls for all of the current rating jurisdictions at regular intervals. Table 2 provides information on the numbers of registered valuers who, in terms of the legislation currently in place in all ten countries, have to play a pivotal role in the preparation of general valuation rolls and supplementary rolls.

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8 See Franzen op cit note 5; Franzen & Olina op cit note 3.
9 In Botswana the rate is levied on the (total) improved value, although that value is the aggregate of the value of the land and the value of the improvements on the land.
10 XX indicates the tax base or tax bases actually used in practice.
11 In Lesotho tax is levied on the value of site plus the value of improvements. A ground rent (collected by national government) may be payable for the use of land.
12 In Namibia, s 79 of the Local Authorities Act of 1992 states that, with the approval of the Minister, a town council or village council may determine a rate 'upon a basis other than that of valuation'. In practice, local authorities use site and improvements (as separate taxable objects) as tax base, with a higher rate on land than improvements.
13 Although legislation in Swaziland provides for four options, it is not clear whether more than one of these options is actually used. The cities of Mbabane and Manzini both use land and improvements.
Table 2: Number of Registered Valuers and Responsibility for Valuation Rolls

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of registered valuers</th>
<th>In-house Valuers</th>
<th>Government valuers</th>
<th>Private valuers</th>
<th>External quality control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botswana</td>
<td>&lt; 60</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Kenya</td>
<td>&lt; 400</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Lesotho</td>
<td>&lt; 6</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Malawi</td>
<td>&lt; 25</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Limited</td>
</tr>
<tr>
<td>Namibia</td>
<td>&lt; 10</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>South Africa</td>
<td>&lt; 2,030</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Swaziland</td>
<td>&lt; 6</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Tanzania</td>
<td>&lt; 110</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Limited</td>
</tr>
<tr>
<td>Uganda</td>
<td>&lt; 25</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Zambia</td>
<td>&lt; 50</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Limited</td>
</tr>
</tbody>
</table>

As Table 2 clearly indicates, the capacity properly to assess properties for property tax purposes is often non-existent. With the exception of South Africa, and to some extent Kenya and Botswana, the number of registered valuers is very low. Even in South Africa it has been argued that the valuers’ profession will probably not be able to cope with the implementation of the proposed new dispensation when the proposed Local Government: Property Rates Bill is enacted. But others argue that the South African valuers’ profession will be able to cope with the challenges of a new rating dispensation for South Africa. Lack of capacity is stated as a serious problem in Kenya, Tanzania, Uganda, Zambia, and Malawi.

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14 See Fransen op cit note 5; Fransen & Olima op cit note 3.
15 In Uganda, the office of the Chief Government Valuer is responsible for the preparation of valuation lists. This office currently employs three valuers.
19 See Fransen et al op cit note 4; Kelly & Masuni op cit note 3; Masuni op cit note 4.
Uganda,\textsuperscript{20} and Zambia.\textsuperscript{21} It is not surprising that, given the number of registered valuers in Uganda, some valuation rolls are more than 40 years old.\textsuperscript{22}

Clearly, a property tax system that prescribes a discrete value for each rateable property, as is currently the case in all ten countries, is neither practicable nor sustainable. Such a system presupposes sufficient accurate property data as well as the necessary capacity and skills to analyse that data. In the majority of these countries the data and capacity, generally, do not exist to give effect to the law. In the short- to medium-term alternatives ought to be considered seriously. Moving away from discrete values should not be viewed as a step backward but rather as a quantum leap forward. Various forms of 'mass valuation' (systems that do not require discrete market-related values) have been implemented successfully in developing countries in Latin America and south-east Asia.\textsuperscript{23}

The rather unique system in the United Kingdom of value banding could also be reviewed for possible adaptation to and application in African countries.\textsuperscript{24} South Africa and Uganda are presently contemplating changes to their property tax legislation that, if enacted, will allow for the introduction of mass valuation systems.

In the long term, the critical shortage of skilled valuers and technical staff requires urgent attention. Presently, there are no proper training facilities in Botswana, Malawi, Namibia, Lesotho, Swaziland, and Uganda. Kenya, South Africa, Tanzania, Zambia, and Zimbabwe offer, to a lesser or larger extent, appropriate academic programmes at university or technical college level, or both levels. Regional co-operation (such as regional training facilities) seems to be the way forward.

We suggest that national professional institutions (such as the Tanzanian Institution of Valuers and Estate Agents (TIVEA), the Institute of Kenyan Surveyors (IKS), and the South African Institute of


\textsuperscript{22} Nsamba-Giyaya op cit note 20.


Valuers) should also work towards closer co-operation. International professional institutions (such as the Royal Institute of Chartered Surveyors (RICS), the International Association of Assessing Officers (IAAO), the International Property Tax Institute (IPTI), the Institute of Revenues, Rating and Valuation (IRRV), and Lincoln Institute of Land Policy) could also play an important role in building capacity through the provision of technical and professional assistance as well as appropriate practical training programmes. But it is important to note that any international assistance must indeed be appropriate for the relevant country or countries, and the goals set and systems introduced must be sustainable.25

In some countries (like Botswana, Malawi, South Africa, and Swaziland) there is pressure to move towards privatizing property assessment; in others (like Lesotho and Tanzania), to appoint in-house municipal valuers. Presently some of the larger municipal councils in Kenya, Namibia, South Africa, and Zambia have in-house departments responsible for valuations, whereas smaller councils make use of private valuers. In Kenya, Malawi, Uganda, and Zambia, government valuers are, generally, responsible for municipal valuation rolls in respect of smaller councils. In Tanzania, the municipal valuers are, in practice, responsible for supplementary rolls only. Instead of doing mostly valuation-related work, they are inappropriately largely involved in tax collection.26

3.4 Tax Rates

As different tax bases are used in different countries, an accurate comparison of 'effective tax rates' (tax as percentage of capital improved value) is not possible. But if it is accepted that the international norm for effective tax rates generally range between one and two per cent of capital value, then the tax rates encountered in, especially, Tanzania (where the rate is as low as 0,15 per cent in Dar es Salaam),27 and, to some extent, Uganda, are noticeably low.

If the amounts actually collected were to be compared with the potential amounts that could be collected if there were more extensive property coverage and regular revaluation, the situation in most countries, especially in Tanzania28 and Uganda,29 is obviously much worse.

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25 See Nsamba-Gayiya op cit note 20. See also RCD Fransen 'Property Taxation Within the Southern African Development Community (SADC) and British Commonwealth', paper delivered at the David C Lincoln Fellowship Workshop, hosted by the Lincoln Institute of Land Policy, Cambridge, Massachusetts, 20-21 October 2002.
27 See Fransen et al op cit note 4.
28 Muma op cit note 3.
29 See Strategic Framework for Reform: Overview of SFR and Progress to Date (Kampala City Council) (July 2002).
3.5 Collection and Enforcement

This is probably the most critical problem area in all ten countries under discussion. If the tax billed is not collected, the investment in proper coverage and assessment is largely wasted. In Tanzania, for example, municipal valuers are often involved in collection, delivering manually prepared tax bills to the most important taxpayers (those with the largest tax bills).

Apart from serious deficiencies in property tax administration practices, one of the key issues that will have to be addressed if property tax revenues are to increase significantly, is political interference in one or more of the necessary steps (coverage, assessment, billing, collection, and enforcement) that ensure a successful property tax system.

Although legislation provide for an array of enforcement procedures against defaulters (usually, including seizure of property), in some countries these are rarely used effectively. Municipalities often lack the financial resources to take civil action against defaulters (for example, in Tanzania and Uganda), whereas political support for tax officials to go after defaulters is often lacking.

In Malawi and Uganda central government is reportedly often in arrears, which sets a poor example for other taxpayers.

3.6 Key Problem Areas

Key problem areas that are common to the majority of these ten countries can be summarised thus: (a) Rating legislation is inappropriate and does not take realities in the countries into account, which makes it difficult or impossible to put the law into practice in an equitable and sustainable manner. (b) The property coverage within jurisdictions that do assess properties and levy rates is often incomplete, especially with regard to informal settlements and peri-urban developments. This is the case in Nairobi, Kenya, Kampala, Uganda, Tanzania, and Zambia. In Tanzania and Zambia, many local authorities operate a dual system, charging a flat rate on those properties not (yet) reflected in valuation rolls. The extension of the rates base to include communal land and land occupied under traditional forms of land tenure is on the cards in South Africa and Malawi, and has been mooted in other countries too. This will present new challenges to the valuation profession. (c) There is a

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30 Fransen et al op cit note 4.
31 See Nsambe-Gayaysa op cit note 20.
32 See Masuva op cit note 3.
33 See Chiwa op cit note 21.
shortage of qualified and skilled professionals to survey land, record and maintain an accurate deeds register (proper cadastral information), assess properties and prepare proper valuation rolls, do interim valuations, and do regular general re-valuations, all of which are usually prerequisites for a legitimate and efficient property tax system. The retention of properly qualified (registered) valuers within the civil service is a serious problem, for example, in Botswana, Kenya, Tanzania, and Zambia. All ten countries lack appropriate practical training programmes for municipal valuers and property tax administrators. To ‘save costs’, statutory valuation cycles are often not adhered to and re-valuations postponed. The inevitable result is that in many instances valuation rolls are hopelessly outdated (such as in Maseru, Nairobi, and throughout Uganda, generally). Assessment for rating purposes is not a priority for government valuers in countries such as Kenya, Lesotho, and Uganda. There is little, if any, regional co-operation between professional associations across national boundaries. In countries such as Lesotho and Swaziland, there are no professional associations for the valuation profession. In Uganda, the professional association is presently dormant. (d) Apart from human resource capacity, there is also a lack of physical and financial capacity to underpin a sustainable property tax administration system, as is clearly illustrated in Tanzania and Uganda. Often there is no, or only limited, access to technical and logistical support (such as computer hardware and software, telephone and fax lines, and vehicles). Examples are Kenya, Tanzania, Uganda, and Zambia. (e) Collection and enforcement leave much to be desired in all ten countries. Political interference that inhibits proper enforcement is widely encountered in countries such as Botswana, Tanzania, and Uganda. (f) Taxpayers have to be educated to improve public knowledge and perceptions regarding assessment, rating, and the provision of local government services, in South Africa, Tanzania, and Uganda.

4 Current Property Tax Reform Initiatives in South Africa

4.1 Background

Rating was first introduced in South Africa in 1836. After the Union of South Africa was established in 1910, the four provinces each introduced their own rating ordinances. Almost ten years after the creation of the new constitutional dispensation in 1994, the nine new provinces are still levying rates in terms of the provincial ordinances.

37 See Chirwa op cit note 21.
38 Nsamba-Gayiya op cit note 20.
from before 1994. But the government is in the process of finalizing the Local Government: Property Rates Bill, a process that started as long ago as 1997. In August 2000, the Department of Provincial and Local Government published the eleventh draft of the Property Rates Bill in the Government Gazette. It invited public comment. Many submissions were received from a variety of stakeholder groups. After further negotiations with interested parties and refinement in the context of various government policies, the eighteenth draft of the Bill was again published for public comment in March 2003. We expect that the Bill will be enacted early in 2004.

4.2 Coverage

In terms of the Bill, property rates will be extended to all property within the areas of metropolitan or local municipalities, or within district management areas within district municipalities. ‘Property’ has been given a very broad definition, as has ‘owner’. But certain property is excluded, such as ‘public service infrastructure’, ‘state trust land’, ‘mineral rights’, and land owned by the government where its rating will prejudice national economic policies, and the like. In short, almost all property, urban and rural, will be taxable. So the coverage will be extensive.

All exemptions, reductions, and rebates that a municipality decides to introduce must be disclosed in its annual budget. These must also be justified in its annually revised ‘rates policy’.

4.3 Tax Base

Currently, three different rating systems apply in South Africa. Municipalities generally have a choice between ‘site rating’ (land value only), ‘composite rating’ (land and improvements at separate rates), and ‘flat rating’ (capital improved value). Flat rating (taxing the capital improved value of a property) must not be confused with a ‘flat rate tax’ (as levied in Malawi, Tanzania, and Zambia), where a flat tax is levied on property, irrespective its size or value.

One of the most far-reaching policy changes that will be introduced when the Bill is enacted will be the introduction of a uniform, single tax base. The Bill mandates capital value (the value of land and improvements collectively). For those municipalities (more than half of them) that currently use composite or site rating, this will entail a

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40 See MI Bell ‘Property Tax Structure and Practice’ in Bell & Bowman op cit note 39 at 64–67; Franszen & McCluskey op cit note 1 at 212.
material shift in tax incidence and require carefully structuring the rates on various categories of property.

4.4 Assessment

A valuation roll must be prepared every four years. With the consent of the provincial Member of the Executive Council (MEC) responsible for local government it could be extended for one more year. So a valuation cycle will have a lifespan of at most five years. Only registered valuers may be appointed as municipal valuers.

The Bill makes it possible to opt for a ‘mass valuation system or technique’, where ‘available market related data of any category of rateable property is not sufficient’ for the use of techniques to determine discrete values.

4.5 Tax Rates

The Bill retains the current law — municipalities may determine their own tax rates. But the Minister may cap annual rate increases. The Bill provides for municipalities to use different rates for different categories of property within certain limits.

4.6 Collection and Enforcement

Collection and enforcement provisions are primarily contained in Chapter 9 of the Local Government: Municipal Systems Act. It provides for mechanisms to be used in respect of all of the various municipal taxes, levies, duties, and charges.

5 Property Tax Legislation and Practice in Kenya

5.1 Background

Rating was introduced in Kenya in the 1900s in conformity with systems that then existed in Australia, New Zealand, Canada, South Africa, and the United Kingdom. Since colonial times, the central government has levied three categories of wealth-based taxes: estate duty, stamp duty, and capital gains tax. Estate duty and capital gains tax have been abolished but stamp duty is still levied.

Rating was first introduced in Mombasa at the beginning of twentieth century, and was based on annual rents. Nairobi introduced Annual Value Rating in 1901, and unimproved site value (USV) Rating in 1920. Two Acts of Parliament have subsequently been promulgated to empower the local authorities throughout Kenya to effect rating on

land values — the Valuation of Rating Act (cap 266), and the Rating Act (cap 267).

The Valuation of Rating Act empowers local government authorities to value land for purposes of levying rates. It provides for methods for rating valuation and the procedures to be followed in the preparation of valuation rolls, including the process of undertaking the valuation exercise, and the appointment of a Valuation Tribunal.

The Rating Act provides for the imposition of rates on land and buildings in Kenya. It enables the Council as a rating authority to cause a valuation roll to be prepared, choose a rating system, and appoint the valuer for the purposes of rating. Section 5(1) stipulates the forms of rating to be adopted by rating authorities: an area rate (a flat rate or graduated rate, depending on size of land, or a differential flat rate or differential graduated rate depending on the land’s actual or potential use) for rural areas, an agricultural rental value rating for rural areas, and a site value rate, or a site value rate in combination with an improvement rate (where the improvement rate is assessed by deducting the value of the unimproved land from the total value of the land including any improvements on, in, or under it).

The Act also states that only one of these forms of rating can be applied to any one area. The type of tax used, and the area within which it applies, must be approved by the Minister of Local Government.

For example, section 5 of the Act states that the rating authority may, with the approval of the Minister, adopt one or more of the following methods of area rating: a flat rate upon the area of land; a graduated rate upon the area of land; a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable or being put, or for which it is reserved; an industrial rate upon the area of land used for other than agricultural or residential purposes; a residential rate upon the area of land used for residential purposes; or such other method of rating upon the area of land or buildings or other immovable property as the rating authority may resolve.

The rating authority may adopt different methods of area rating for different parts of a rating authority area and may from time to time vary the method or methods adopted. The percentage rate charged using the various forms of rating as mentioned above should not exceed four per cent of the unimproved value of land unless consented to by the Minister of Local Government.

In practice, urban local authorities have traditionally adopted an unimproved site value (USV) rating system. The value of unimproved land is the market value of the unencumbered freehold in possession, ignoring any improvements on it but accounting for comparative land and factors and statutory restrictions that influence the land value. The USV system of rating is said to discourage land speculation and hoarding, as taxing unimproved land increases the cost of holding that
land in that state. So owners will be encouraged to develop their land. Also, a USV system is certain in its revenue generation, as all land plots are rated, whether or not they are occupied.

5.2 Property Tax Issues in Kenya

Local government is faced with a growing number of responsibilities, which results in a growing need to mobilize resources at the local level. There are several difficulties and problems with the administration of property tax. In practice, the problems that hamper the optimization of rating as one of the major sources of revenue for local authorities may be described as technical, social and administrative, and legal. The property tax issues revolve around appraisal, rating, billing, collection, and other administrative functions. Property tax administration concerns four key areas — coverage ratio (property actually captured in tax base), assessment ratio (the accuracy of the overall valuation level), tax rate ratio (the average tax payable per property), and collection ratio (revenue collection as a percentage of collectable revenue).

Property tax remains the predominant option for raising revenue to finance major property related services delivered at the local government level as well as municipal improvements to specific communities. Generally, property tax is essential in its role in recovering revenue, providing public services, and financing and promoting social development. But its administration should be fair to avoid inefficiency and inequity in the distribution of tax burden. Conversely, valuation or assessment requires uniformity and short valuation cycles, and should not be used for political purposes. Transparency in the valuation exercise is fundamental to guaranteeing the taxpayer confidence in and acceptance of the tax payable.

Apart from own taxes, councils have always relied on the central government for service delivery and financing through the Local Authority Transfer Fund (LATF). The increasing dependance on central government has not been the only negative consequence. Whereas in the early years the yield was sufficient to fund property related services, over time the rapid increase in the urban population and too long intervals between adjustments to the property tax rates have led to a decline in real terms.

Despite an adjustment of the tax rate in 1982, property taxes are still insufficient to provide the level of services required. One contributing factor to the increasing gap between the cost of these services and the financing available is the absence of timely adjustments to the property tax. Another major factor is the cost of expanding these services to meet the demands and needs of an ever growing urban population.

Currently, Nairobi is facing the challenge of imbalances between its revenue generating and mobilization capacity, on the one hand, and the growing need for public expenditure in the provision and production of
adequate infrastructure and services, on the other. The local economy and the revenue share of Nairobi City Council can hardly cope with the continued rapid increase in population size and the horizontal expansion of the city.

These are some of the inherent challenges that Kenya faces: (a) poor property coverage throughout the country, as many properties are out of the tax net; (b) poor quality and unreliable property data because of the lack of an efficient land information system. Revaluation becomes very difficult due to the failure to maintain up to date maps and records; (c) valuation rolls are outdated. For example, in Nairobi the current roll is more than twenty years old and hopeless out of date, which complicates the smooth introduction of the new valuation roll (as a result of shifts in incidence and not addressing the much higher values properly through sufficiently reduced tax rates); (d) the unwillingness of financial institutions to assist with the financing of tax roll revisions, because of a lack of creditworthiness and corrupt practices in the councils; (e) taxpayer morale is low and the culture of non-payment rife. There is general unwillingness of urban residents to contribute through the property rates for services that do not exist or are of poor quality; (f) poor administration (billing, collection, and enforcement of liability) is the order of the day. Even where property tax bills are served, they are often not paid, as enforcement is virtually non-existent; and (g) the political will to make proper use of rates is generally absent. Political interference is common as local politicians try to avoid taxing themselves and their constituents if they have alternative sources of funding for local expenditure.

Although the economic case for the property tax is highly persuasive, the experience in Nairobi is that it is extremely difficult to utilize. So it generates very little revenue. The main reason appears to be the poor quality of property tax administration. The low yield of property tax is, therefore, the combined result of inappropriate policies and poor tax administration.

6 Possible Lessons for Property Tax Reform in Southern and East Africa

There are some lessons to be learnt from current and past tax reforms in southern and east Africa.

Before any reforms are implemented, it must be clear that the goals set can be attained. The capacity to assess property and to collect and

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enforce the tax must exist and be maintained. It presupposes the availability of sufficient and accurate property data. In some countries, the data is apparently available but difficult to access, as land records and assessment of property may be the responsibility of different ministries or government departments.

Successful property tax reforms are usually 'collection-driven' rather than 'valuation-pushed'. Reforms in Tanzania since 1993 have been valuation-driven. It is probably correct to say that proper valuation and efficient collection are prerequisites for successful reform. State-of-the-art valuation rolls are worthless if the tax is not properly billed, collected, and enforced.

Political control or intervention, especially in assessment-related matters, should be limited or, where practicable, avoided.

Legislation should not be too detailed, for example, by listing valuation methodologies (as in South Africa), or the interest rates to be paid on arrears (as in Malawi, Tanzania, and Uganda).

The tax base should be as inclusive as is practically possible. Exclusions should be avoided and exemptions kept to a minimum. In spite of the chronic shortage of skilled valuers, ideally, valuation rolls should reflect all property, even property excluded from the tax base or exempted from paying tax.

Valuation rolls should not be too detailed. In Botswana, Lesotho, Malawi, Namibia, South Africa, and Swaziland valuation rolls must reflect three values (land value only, improved value, and the value of improvements), irrespective of the actual tax base used. This is unnecessarily costly and time consuming.

To realize the untapped potential revenue from a more efficiently administered property tax requires a determined commitment of human, physical, and financial resources. National and local politicians must appreciate this. It may also be necessary for local authorities to rethink how they generate revenue. In many jurisdictions there are too many minor taxes, duties, licences, fees, and charges that are often times costly and difficult to collect and enforce.

Broaden the revenue base and improve the councils' access to loans. The local councils should establish creditworthiness and lay the basis to sell municipal bonds. This would reduce their over-reliance on property rates for infrastructure development and providing basic services.

Develop and initiate ratepayer education and media programmes that emphasize the role and purpose of property taxation, the obligations and responsibilities of taxpayers, and the link between local revenue and services. This will raise public awareness about revenue collection and its

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44 See Ahone op cit note 35.
45 See Kelly op cit note 000; Kelly op cit note 43.
46 See Kelly & Mazuka op cit note 3.
47 See Chirwa op cit note 21; Namba-Gayiya op cit note 20.
role in urban development. Also, it will encourage the creation of local financing mechanisms for service delivery and local projects. Balance the conflicting desires of the electorate for better local services with its wish to minimize the tax liability. Apply a ‘one-stop shop’ solution for the efficient collection of municipal revenues.

Reasses and revise tax base and budget autonomy. This includes synthesizing and integrating the cadastral surveying system with the valuation system, improving coverage, considering indexation, and exploring possibilities of privatizing some of the valuation services.

Mass valuation may produce a more equitable spread of the tax burden in a more transparent, cost effective, timely, and sustainable manner. Property banding or other systems of mass valuation rather than discrete values for each property may present a solution to the acute shortage of valuers in many of the countries. As we have indicated, South Africa and Uganda are considering mass valuation as part of their property tax reform programmes.

7 Conclusion

With respect to the key areas in property tax administration in South Africa and Kenya, as well as in other countries in southern and east Africa, the following trends seem to emerge. In the first instance, there is a general acknowledgement of the potential of property tax to be a (or the) major source of own revenue for local authorities. Secondly, there are initiatives to extend property taxes to previously untaxed properties (such as peri-urban areas, traditional housing areas, and rural property). Thirdly, there is some experimentation with privatizing valuation or tax collection, or both, with varying degrees of success. Fourthly, there is a realization that alternatives to a discrete-value tax system need to be explored, and that mass valuation may, in the short- to medium-term, provide a more comprehensive tax roll and sustainable revenue stream.

Although rational policies regarding appropriate tax bases, exclusions and exemptions, valuation standards and methodologies, as well as collection and enforcement provisions are important, the overall efficiency of property tax administration is equally, if not more, important. An up-to-date valuation roll with proper data on all rateable property is, from a municipal revenue point of view, practically worthless if the tax is not properly billed, or, if properly billed, not collected. Put differently, although it is important for local authorities to ensure that all rateable properties are on the tax roll and properly valued (the coverage and assessment ratios are improved), that tax rates or rates are set rationally at realistic levels (the assessment ratio is improved), it is at the end of the day of paramount importance that the revenue billed is collected (the collection ratio is improved). Generally, too little attention is paid to billing and collection.

Achieving and maintaining higher levels of property tax efficiency
requires a national and local political environment that will allow tax administrators to perform their functions in an unfettered, uncompro- 
mising, but even-handed manner. Such efficiency also depends on proper levels of managerial and institutional support, minimum administrative skills levels, sufficient physical resources, and well-informed taxpayers. Achieving all of these is a tall order.

The education of all stakeholders (local politicians, officials, and taxpayers) about the nature of property taxation is essential. The link between increased tax revenues and improved levels of service delivery should be stressed. Taxpayer education is essential to ensure that the rationale for a property tax is fully understood. A more efficient and equitable tax administration, coupled with visible improvements in service delivery levels should raise ratepayer confidence and appreciation for the benefit reaped from paying rates. In the absence of proper service delivery, tax collection is politically and practically problematic.