

“MANSIONS UNOCCUPIED”

POLICIES AND REGULATIONS



A PRESENTATION TO THE KENYA INSTITUTE OF PLANNERS ANNUAL CONFERENCE, 2019

VENUE : DIANI REEF BEACH RESORT AND SPA

KWALE COUNTY

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THE LAND ACT, 2012

THE LAND REGISTRATION ACT, 2012

COMMUNITY LANDS ACT, 2016

THE PHYSICAL AND LAND USE

PLANNING ACT, 2019

URBAN AREAS AND

CITIES (AMENDMENT) 2019

COUNTY GOVERNMENT ACT, 2012

RELEVANT POLICIES



THE LAND ACT, 2012

AND GOVERNING REGULATIONS- 2017

Introduction



- ▶ This Act gives effect to **Article 68** of the constitution which talks about land laws in an attempt to consolidate a bouquet of laws that previously governed land administration, land use and land management in the country; and which inherently was the basis of the land question in Agenda 4.
- ▶ The purpose of the act is to provide for a sustainable administration and management of land and land based resources and for connected purposes.
- ▶ The act is divided in eleven parts, each explaining management of land and institutions responsible for each outcome
- ▶ We shall be exploring the **Physical planners place** in this law and the opportunities therein.

PART 2: MANAGEMENT OF PUBLIC LAND

- ▶ Public land is managed by **The National Land Commission**, this is on behalf of the National and county government.
- ▶ According to Section 8(a), land data base is prepared, evaluated and georeferenced for potential **land use planning**.
- ▶ Section 9(2b) on the act prescribes regulations on conversion of public land to private land for the purpose of public safety, Public Order, Public morality, public health, **Land use Planning** and **land being converted to community land**.

Continuation

- ▶ According to Section 12(1) of this Act, the Commission is prescribed to **allocate land** on behalf of the National and County Government.
- ▶ Section 12(7) of this act states that no public land shall be allocated unless it has been **planned, surveyed and serviced**.
- ▶ The allocated land should be developed according its strategic purpose for which it was allocated.

Continuation

- ▶ Under section 17 and 18 of act demands that land **vested under public bodies** shall be managed in accordance with **an approved development plan**.
- ▶ The preparation of and implementation of such development plans shall be in accordance with the **physical planning regulations** and any other written law.
- ▶ The First Schedule of the regulations demands that the NLC shall maintain an inventory of land held by public agencies, statutory bodies and state corporation.

Note: The Institutions Shall undertake to prepare long term Landuse and management plans for the land and deposit the plans with the commission

(Who is the expert here?)



PART 3 :ADMINISTRATION OF PUBLIC LAND, LEASES, LICENCES AND AGREEMENTS

- ▶ Section 20(1) of this act, states that the Commission may grant a person a licence to use unalienated public land for a period not exceeding five years subject to **planning principles**.
- ▶ Section 34(1b) of this act, states that if the commission proposes to resurvey boundaries or subdivide any leased public land, it should incorporate a **survey plan** and a **proposed subdivision plan** approved under the law relating to **physical planning**. ([PLUPA](#))

PART IV: ADMINISTRATION AND MANAGEMENT OF PRIVATE LAND

- **Freehold**

- ▶ Regulations 16(2017) demand that application for land subdivision, amalgamation, Partition, and reparation of freehold land be submitted to the county Government and approved in accordance with the **laws relating to Physical planning(PLUPA)**
- ▶ Regulation 16(6) THE CHIEF LAND REGISTRAR SHALL DECLINE TO REGISTER A DOCUMENT UNLESS A DEVELOPMENT PERMISSION HAS BEEN GRANTED AS REQUIRED UNDER THESE REGULATIONS
- ▶ Approval timelines is **30days** under these regulations, while PLUPA allocates **90 days** to approval period beyond which the application is deemed approved.

contd

- **Leasehold**
 - ▶ Procedure Same as in freehold
 - ▶ CS Lands to prepare subdivision , amalgamation, Partition and reparation approval letters and forwards to the commission for preparation of new leases together with cadastral map and plan.
- **Change or extension of user on freehold land**
- Application to be submitted to county government
- Upon granting development permission , the county government shall forward the application to the Cabinet secretary for processing - **Noting the new user in the register and in the original title deed**

CONTD

○ **Change or extension of user on Leasehold Land**

- ▶ Application for change or extension of user on lease hold land shall be submitted to county government
- ▶ Upon approval, the county government shall forward the application to the CS to do the following;-
 - ▶ Cause the land to be re- surveyed and geo-referenced where applicable,
 - ▶ Cause the land to be revalued to determine the payable land rent and other requisite fees
 - ▶ Cs will communicate to NLC in writing of new conditions to be entered into the lease
 - ▶ NLC will prepare the new lease and forward to Chief Land Registrar for registration
 - ▶ Applicant to submit old lease in exchange of new one

NOTE; In processing these **applications** county Government shall seek the comments of the **OFFICER REPRESENTING THE NATIONAL DIRECTOR OF PHYSICAL PLANNING IN THE COUNTY** among other authorities

PART V: COMPULSORY ACQUISITION

- ▶ This part outlines the process of acquiring interests on Land. Though not critical to planners, a requirement in the regulations invites planning attention;
- ▶ Reg. 22(3) requires the NLC to do a background check on the land proposed for acquisition.
- ▶ Among the data required on such land is **Whether the proposed land use is in the national, regional or county spatial plans.**

Note: **In this context therefore, no acquisition of land for any entity shall be done outside a planning framework.**

PART VI: SETTLEMENT PROGRAMMES

- ▶ Section 134(2) of this act states that settlements programmes shall provide land to squatters, persons displaced by **natural causes, development projects, conservation, internal conflicts** or other causes that may lead to movement and displacement.
- ▶ Reg. 32 grants the **Board (Land Settlement Fund Board of Trustees)** mandate to manage settlement programmes on behalf of county and National government .
- ▶ Upon reservation of land for settlement purposes the Board shall **request the Authority responsible for Surveys to prepare a base map of the reserved land**
- ▶ **Upon receipt of the base map The Board shall cause the land to be planned, Surveyed , geo referenced and serviced.**
- ▶ Thereafter the land shall be registered in favour of the Board

PART VII:EASEMENT AND ANALOGOUS RIGHTS

- ▶ Section 137(3) refers to **analogous rights** as an access order made under 140 (Access order on landlocked land).
- ▶ Section 143(1) the commission may create a right of way known as the **public right of way**.
- ▶ According to section 147(1) If the cabinet secretary has made an order to create a public right of way, the Commission shall cause the necessary documents, **plans**, demarcations and survey of the route to be delivered to the registrar for registration.
- ▶ Reg.54 allows the commission to receive public representation before creating a public right of way. . Where there are objections to the creation of the public Right of way , the cabinet secretary shall constitute **a Public Enquiry Panel**

CONTD

Members of the Public Enquiry Panel are representatives of;-

- ▶ Institution of Surveyors of Kenya
- ▶ Ministry of Lands and Physical planning (secretary)
- ▶ Law Society of Kenya
- ▶ National Land commission
- ▶ County Government
- ▶ **Kenya Institute of planners**

Extension or renewal of leases

- ▶ Applications for extension/ renewal of lease to be made to the commission
- ▶ Within **Seven days** of receipt of application the commission shall forward to national or county government(respective head lessor) for review . If approval is granted by the head lessor, the commission shall prepare new lease and forward to the registrar for registration

Renewal of leases

- ▶ Renewal of leases presumes that the interest on land are not yet extinguished
- ▶ The application for renewal of leas shall be done to the commission **through the office of the commission in the county in a prescribed form**
- ▶ Within **seven days** the commission shall forward the application to the relevant head lessor for consideration.

Contd

- ▶ *Reg. 5 dictates that; **Where the national or county government needs land for public purpose in accordance with ss 13 of the act an upon satisfying themselves that the land is included in the National or County spatial plan and cities and urban area plan under county Government act 2012 and urban areas and cities act act 2011 respectively, the National or County Government shall notify the commission of its intention not to renew the lease.***

Appeals to independent appeal committee

- ▶ *A Person aggrieved by a decision of the county government not to extend or renew the lease may within 30 days of receipt of decision appeal to the commission*
- ▶ *Within 30 days of receipt of appeal , the commission shall refer the matter to an **ad hoc Independent Appeals committee** established by the commission*

Appeal committee

- ▶ The members of the appeal committee shall be drawn from;
- ▶ NLC
- ▶ **KIP**
- ▶ ISK
- ▶ LSK
- ▶ Kenya Bankers Association
- ▶ Kenya Private Sector Alliance

The decision of the committee is binding and any aggrieved party may go to court

Regularising of allocation of plots in urban Areas by defunct Local Authorities

- ▶ Reg. 32 of subsidiary Legislation(2017) allows allocation of land made under any of the repealed Acts to be regularized by the commission at the request of the county government pursuant to ss 162(1) of the Act. Once the commission satisfies itself that the occupier of such land was lawfully allocated land by any of the defunct Authorities, the commission shall
- ▶ Require that the land to be **planned , surveyed , geo-reference and serviced** among other requirements. Thereafter the commission will issue such occupiers with letters of allotment

Summary of opportunities under The lands act 2012

1. Management of public land-

Preparation of long term Land use and management plans for the lands held/reserved for public institutions, and alienated public land for temporary use,/ occupation(TOL)

2. Private land

- ▶ Preparation of plans and briefs for Land subdivision , amalgamation, partition, reparation for issuance of development permission by county governments
- ▶ A planner to represent the Director of physical planning in every county

3.Compulsory Acquisition

Preparation of national, regional and county spatial plans to support acquisition

contd

4. Extension and renewal of leases

- Prepare briefs in support of justification for renewal of leases
- Member of **ad hoc** appeals committee

5. Settlement programmes

Prepare plans for settlement schemes

6. Easements and analogous rights

Member of the public **Enquiry panel**

Prepare plans in support of public right of way / wayleave

7. Regularization of plots in urban areas

Commission to call for planning of all urban centres allocated by former local Authorities



THE LAND REGISTRATION ACT, 2012

AND SUBSIDIARY LEGISLATIONS

Introduction

It's an act of parliament to revise, consolidate and rationalize the **registration of titles of land**, to give effect to the principles and objects of devolved government in land registration.

Section 6 of this act states that land registration units shall be established at the **county level**.

Note; *The act is basically a procedural law*

Organisation and administration

- ▶ A maintained land registry for each registration unit, must contain; a **land register, cadastral map, parcel containing the instruments necessary, plans** to be geo-referenced, the presentation book, index containing **name of proprietors** and a file of **powers of attorney**.
- ▶ Section 16(1) prescribes that any **Authority responsible for land survey** may rectify the line or position on the cadastral map based on an **approved subdivision plan**.
- ▶ Approved subdivision plan necessitates the alteration of boundaries and it should be **in accordance with any law relating to subdivision** at the time in force. **(PLUPA)**

Boundaries

- ▶ **Reg. 43** requires that an application to the registrar for combination or subdivision under ss. 22 shall be supported by a copy of an **approval of development application** from the relevant county Government for the subdivision or combination

NOTE :Currently the instruments and the procedure of obtaining development application approval are in **PLUPA**.

The New land Register

- ▶ Whenever the registrar is generating a new register for **Absolute Titles and lease Hold properties** , there is provision for indicating the **user** of the land in the register, (Form LRA 2,3 and 20)

NOTE : The process for determination of land use can only be guaranteed under the PLUPA.

MUTATION FORM- LRA 27

The mutation has new features that are in favour of planning

- ▶ A requirement that an approved scheme plan be attached to the mutation form
- ▶ The person certifying the mutation form be a surveyor or an advocate of the High court or a **licensed physical planner**

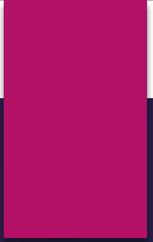
Creation of easement and analogous rights

- ▶ As stated in section 98(1) of act, an owner of land or a lessor, by an instrument, may grant an easement over land to the owner of another parcel of land.
- ▶ In accordance with Section 98(3) the instrument creating an easement should specify; nature of easement, period of time for which its granted, specific part of land burdened by the easement and the land to benefit from the easement.
- ▶ In addition to the above specifications, **a plan that clearly defines the easement is required.**

Emerging Opportunities

- ▶ The registrar is curtailed by his own law against registration of any boundary related mutation without approval of county government
- ▶ The instruments that defines **land use** must accompany any new register
- ▶ The planner has the opportunity to **enforce compliance** by endorsing the mutation form





COMMUNITY LANDS ACT

2016

and Governing
regulations

Organization of the Act

- ▶ 9 Parts
- ▶ 48 Sections
- ▶ 1 Schedule with 8 Transitional Clauses

Organization of Regulations

Regulations

- ▶ 9 Parts
- ▶ 5 schedules
 - ▶ 1st Schedule – Procedure for election of members of CLMC
 - ▶ 2nd Schedule – Guidelines on preparation of Rules & Regulations
 - ▶ 3rd Schedule – Model Rules & Regulations for CLMCs
 - ▶ 4th Schedule – Procedure for conducting hearings by ad hoc committee on dispute resolution
 - ▶ 5th Schedule – Prescribed forms CLA 1 to 12

What is community land?

- ▶ CLA is an ACT of Parliament to give effect to Article 63 (5) of the Constitution; to provide for the **recognition, protection & registration** of community land rights; **management and administration** of community land; to **provide for the role of county governments** in relation to unregistered community land and for connected purposes

Interpretation

- ▶ **Community** - A consciously distinct & organized group of users of CL who are **citizens** attributed to; **common ancestry, culture or unique mode of livelihood, socio-economic or other common interest, geographical or ecological space & ethnicity.**
- ▶ **Community Land** – Land declared as such under Article 63(2) of the Constitution; land converted into community land under any law
 - ❑ Definition (b) in the Act expunged through orders of Nairobi ELC Petition No. 35 of 2017 -**Kelly Malenya vs AG and Others** in the judgement delivered on 7th June, 2019
- ▶ **Community Assembly** - A gathering of registered adult members of a community convened in accordance with this Act
- ▶ **Adjudication team**- A working team comprising of **land adjudication officers, surveyors, physical planners** and **the Committee** with the mandate of ascertainment of rights, demarcation and survey of community land

Ownership and Tenure of Community Land

- ▶ CL shall vest in community under **customary, freehold, leasehold or any other tenure system** defined by written law- Sec.4 (3)
- ▶ As much as CL vests in Community, State may regulate its use in relation to Art. 66 – Sec. 4(2)

REGISTRATION OF COMMUNITY LAND

Registration process comprises of seven steps:

- i. Establishment of an Inventory of Unregistered Community Land
- ii. Gazettement of Community Registration Units
- iii. Designation of Community Land Registrars
- iv. Submission of claims by communities over community Land
- v. Registration of Communities
- vi. Adjudication of Community Land
- vii. Registration of Community Land

Gazettement of community lands units and designation of community land registrars

- ▶ CS shall in consultation with CGs and NLC gazette Community Land Registration Units as per Sec. 8 of LRA,2012 – Sec. 10 &11 and Regulation 10 of CLA.(How many planners in these teams)
- ▶ Chief Land Registrar shall designate Community Land Registrars (CLR) – Sec. 9

Registration of Communities – Sec 7 & 15

- ▶ CLR shall publish a notice inviting members of community with communal interests to a public meeting to elect 7-15 members of Community Land Management Committee (CLMC) in relation to Sec. 7(5) &15
- ▶ Notification by CLR shall be in a newspaper of national circulation and a radio station of national coverage in official and local language – Sec. 7(2)-(4), Reg. 3(4) &(5)
- ▶ CLR or a public officer appointed by CLR in writing for the purpose shall preside over the meeting – Reg. 3(7)

Functions of CLMC – Sec.15 (4)

- ▶ Running day to day functions of the community
- ▶ Manage & administer registered CL on behalf of community
- ▶ **Coordinate development of land use plans in collaboration with relevant authorities.**
- ▶ Promote cooperation & participation of community members in matters of CL
- ▶ Prescribing rules & regulations for governing operations of the community

Adjudication of Community Land

- ▶ CS in consultation with CGs and Communities shall develop and gazette a comprehensive adjudication programme for registration of CL – Sec. 8
- ▶ CS shall appoint a Land Adjudication Officer in every community registration unit and form **Adjudication Teams** in line with Sec. 11(2) and Reg.12(6)
- ▶ CS shall publish notice of intention to adjudicate and register CL in Form CLA 7 (*Notice of Intention to Survey, Demarcate and Register Community Land*)
- ▶ Any person with claim on the adj. programme shall present it to Adjudication Team in Form CLA 8 (*Application for Recognition and Adjudication of Claim on Community Land*)
- ▶ CS shall cause adjudication of CL excluding public purpose parcels & already adjudicated private land – Sec. 13

Land Use & Development Planning of CL – Sec. 19

- ▶ A registered Community, **on its own motion or at request of CG may submit to the CG a plan for development, management & use of CL for approval**
- ▶ Submission of such a plan shall be accompanied by evidence of consideration & conservation of environmental issues, adherence to values & principles of Constitution, **adherence to approved physical development plans & Consensus of Community Members**
- ▶ **Approved plan for CL shall be the basis for development, management & use of the land(every CL must have a plan)**

Protection of Natural Resources (part)

Requirements for Investor Partnerships – Reg. 22

- ▶ Geo-referencing and planning of the land;
- ▶ Representations by members of public upon conducting public consultations and feedback from relevant authorities and technical experts
- ▶ Details of envisaged investment including accruing benefits of the investment to the community

Gen. Provisions (part)

- ▶ Existing adjudication programmes shall be concluded within 3 years of enactment of the Act. However, the CS may gazette new completion dates to finalize the registration vide a Gazette Notice— Sect. 46(6)
- ▶ Land held by former Land (Group Representatives) Act shall be registered in accordance to this Act - Sec. 47
- ▶ The CS shall cause to be prepared an inventory of all land held under the repealed Land (Group representatives) Act, Cap 287 indicating their status and forward it to CLR- Reg. 26

Transitional Provisions

- ▶ Notwithstanding any provision of the Act, all agreements established between community for the use of community land in the interest of defense, public safety, public order, public morality, public health, or land use planning shall continue in force [Clause 2(2)].
- ▶ CS shall prescribe procedures for determination of all pending appeals to the to the Minister brought under any of the repealed Acts (Clause 5)

Repealed Acts- Sec. 45

- The Land (Group Representatives) Act, (Cap 287)
- The Trust Land Act (Cap 288)

How prepared are we in the implementation of CLA?

- ▶ **The Ministry has set out the following steps towards implementation of CLA**
- ▶ Formation of a **joint Working Group** on Implementation of the Act comprising of technical officers from MOLPP, NLC, COG
- ▶ Identification of **24** Counties where there is unregistered community land. Civic education to be undertaken in the counties.
- ▶ Designation of **16** Community Land Registrars **Identification of 6 additional Land Registration Units to facilitate registration of Community Land**

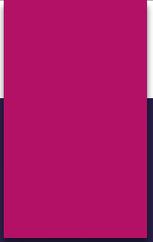
Implementation continued

- **Existing Reg. Units:** Kajiado, Garissa, Isiolo, West Pokot, Narok, Lamu, Kilifi, Kwale, Laikipia, Kitui, Tharaka Nithi, Taita Taveta, Embu, Ngong, Transmara
- **Additional Reg. Units:** Marsabit, Maralal, Hola, Wajir, Mandera, Lodwar
- ▶ In consultation with AG with regard to extension of adjudication period for existing adjudication programmes beyond 21st September 2019 in line with Sec. 46 (6) of the Act.
- ▶ Roll out of Demarcation and Adjudication of CL in F/Y 2019/2020 – **(45 Adjudication Teams?)**

EMERGING OPPORTUNITIES

- ▶ Planners must be designated to all the newly gazetted adjudication units – A possible of 45 adjudication teams with each team having a planner.
- ▶ Upon commencement of registration of Community land , it sets in motion preparation of community land physical development plans. *This process will be governed by the law responsible for physical planning.*
- ▶ ***How ready are we to take up these mansions as planners?***





THE PHYSICAL AND LAND USE PLANNING ACT, 2019

Introduction

- ▶ This is an act of parliament to make provision for the **planning, use, regulation** and **development** of land for connected purposes.
- ▶ The preparation for the governing legislations are ongoing
- ▶ The instruments under the repealed act have been adopted with modification to assist in the operationalization Act, while regulation necessary to give effect to ss 69 have been prepared .

Physical and Land use planning institutions

1. **National Physical and Land Use Consultative forum comprising of;**
 - a) The Cabinet Secretary for the time being responsible for matters related to physical planning
 - b) The **Director of Physical and Land use planning**
 - c) Three governors
 - d) Chairperson of the National Land Commission
 - e) A person nominated by **Kenya Institute of Planners**
 - f) A person nominated by the AAK
 - g) A person nominated by the Kenya Private Sector Alliance and appointed by the CS
 - h) A person nominated by the registered associations representing residents
 - i) A person nominated by the National Council for persons with disability
 - j) Any person co-opted by the forum for that persons special skills, interests and knowledge.

contd

2. County Physical And Land Use Planning Consultative Forum

Among its membership is -

- ▶ A person residing and working or conducting business in the respective county nominated by the **Kenya Institute Of Planners**

3. COUNTY Director of Physical and Landuse Planning

An officer in the County Public Service Board (**47 in No**)

4. Physical and Landuse Planning Liaison Committees

- ▶ ***National Physical and landuse planning liaison committees***
- ❖ Its membership include a registered physical planner nominated by the Kenya Institute of planners

contd

5. County physical and land use planning liaison committees for Each county

Its membership include a registered physical planner with seven years post qualification experience nominated by the **Kenya institute of Planners and appointed by the CEC Member**

Roles of the National Land Commission

- ▶ As set out in Section 9 of this act, the NLC shall;
 - a) Monitor and oversee land use planning
 - b) Prepare reports on status on land use planning and forward it to the parliament
 - c) Develop monitoring and formulate oversight parameters
 - d) Publish and publicise the national land use planning report

Note ;**This role is best performed by planners in the NLC establishment**

Physical and Land use Development Plans

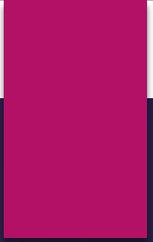
1. National physical and Land use plan
2. Intercounty Physical and landuse Development plan
3. County Physical and Land use Development plan (47 No- to be revised after 8years)
4. Local Physical and land use plan (to be revised after 3 years)
5. Special area plans(as need arises)
6. **All plans formulated under the urban areas and cities Act 2011.... to be prepared and approved in accordance with PLUPA.**
(Who is the professional here?)

Development control

- ▶ **Ss,59(1)** A person applying for development permission shall ensure that any documents, plans and particulars that are provided to the respective county executive committee member while applying for development permission have been prepared by the **relevant qualified , registered and licensed professional**

(The pending PLUPA Regulations should substantiate this requirement)

Note ;Refer also to obligations set out in the **lands act 2012 and Land Registration act 2012**



COUNTY GOVERNMENT
ACT 2012.

URBAN AREAS AND
CITIES (Amendment) 2019

KEY HIGHLIGHTS ON EMERGING OPPORTUNITIES

Opportunities Under The URBAN AREAS AND Cities(amendment) 2019

- ▶ Its an act of parliament to give effect to Article 184 of the constitution.
- ▶ Its purpose is to provide for the **classification, governance and management of urban areas and cities to provide for the criteria of establishing urban areas.**
- ▶ The act also provides for the principle of governance and participation of residence and for connected purposes.

Classification and establishment of urban areas and cities

- ▶ Section 5 of this act classifies an area as a city if;
 - a) It has a population of at least 250,000 residents
 - b) It has an **integrated urban area development plan**
 - c) Has demonstrated capacity to generate sufficient revenue to sustain its operation
 - d) Has a good records of prudent management
 - e) Has the capacity to efficiently deliver essential services to residents
 - f) Has institutionalised active participation by its residents in management
 - g) Has adequate infrastructural facilities

Delineation of City and Urban area boundary

- ▶ SS. 8 outlines the process of Conferment of status of urban areas
- ▶ The process involves appointment of an **ad hoc** committee to drive the process
- ▶ The membership include among others, representation from professional Association of;-
 - ❑ Institute of Surveyors of Kenya
 - ❑ **Kenya institute of planners**
(how many cities are likely to pop up after the census)

Urban Boards

- ▶ The management of a city and a municipality shall be vested in the county government and administered on its behalf by;
 - a) A board constituted in accordance with section 13 and 14 of this act
 - b) Membership to board include among others;-
 - ▶ A person nominated by” **an umbrella body representing professional associations in the area”**
(In this context we read APSEA in which KIP is a member)

Governance and Management Functions of the Board

- ▶ **The physical planning** related functions of the board as indicated in section 20 of this act include among others;-
 - i. Formulate and implement an Integrated Development plan
 - ii. Control land use, land sub-division, land development and zoning by public and private sectors for any purpose e.g. residential areas
 - iii. Develop and manage schemes, including site development

(The board can best deliver this function with a resident planner in its establishment, an equivalent of former City /Municipal planner)

Integrated Development Planning

- ▶ Ss 36 of this act, demands that a City or a Municipality **SHALL OPERATE WITHIN THE FRAMEWORK OF INTEGRATED DEVELOPMENT PLANNING**
- ▶ **PLUPA 2019 SS. 54 requires**” *all plans formulated under the Urban Areas and Cities Act , 22011, shall with necessary modifications, be prepared and approved in accordance with this Act”*

**(How many municipalities will be eligible for formulation of integrated plans?-
SPECIAL MUNICIPALITIS INCLUDED)**

(How many Municipal resident planners to be hired?)

OPPORTUNITIES IN COUNTY GOVERNMENT ACT 2012, AND DEVOLUTION

- ▶ SS 104, counties are prohibited from appropriating public funds allocated to them **outside a planning framework**, developed by the county and approved by the county Assembly. County plans shall be the **basis for all budgeting and spending**.
- ▶ **Every settlement of 2000 people must be planned**
- ▶ County planning involves
 - **Ensuring Linkages between county plans and national planning Framework**
 - **Preparation of county Spatial plans**
 - **Cities and urban area plans**

(Is the National spatial plan ready for consumption under county planning?)

County Planning Authorities

- ▶ SS 104,(3) The county Government shall designate the following as **PLANNING AUTHORITIS;-**

1. COUNTY DEPARTMENTS,
2. CITIES AND URBAN AREAS,
3. SUB- COUNTIES
4. AND WARDS

(planning has been devolved to the ward level and so are planners)

Opportunities in policy Documents

1. CONSTITUTION OF KENYA 2010

- ▶ Article 66 gives the state powers to regulate the use of any land or any interest in or right over any land in the interest of defence public safety, public order, public morality, public health or land use planning.
- ▶ Article 68 establishes the National land commission. One of its key functions as spelt out in article 67(h) is;
To monitor and have oversight responsibilities over land use planning throughout the country.
- ▶ The constitution compels NLC to ensure planning authorities undertake planning and ensure that plans are implemented.
- ▶

Contd

3. SESSIONAL PAPER NO. 1 OF 2017 ON THE NATIONAL LAND USE POLICY

The policy thrust **identified inadequate planning in both rural and urban areas** as key contributor to the haphazard development, underutilization and inappropriate settlement systems, characterised by **urban sprawl and gradual transformation of prime agriculture land into urban areas.**

Reason:-

Institutional limitations characterised by **weak mandate** or **duplication of planning function, enshrined with poor resource allocation.**

Solution

Implementation of **physical planning Legislation and regulations** to govern urban and rural planning.

Cond

▶ 3. NATIONAL SPATIAL PLAN-2016(Nsp)

Kenya vision 2030 flagship project to deliver on highlights of sustainable land use planning up to 2045(30year). The sole objective of the project was to **PROVIDE A STRATEGY FOR LAND DEVELOPMENT IN THE COUNTRY.**

A look into the plan, one notes robust **development corridors** and nodes well spelt out to guide future human settlements and investment, well-crafted to enhance the country's global competitiveness.

In this regard the **metropolization agenda** is further addressed by the plan in which **6 metropolitan regions** are outlined for planning and development, as **single economic development areas.**

These are **Nairobi, Mombasa, Kisumu- Kakamega ,Nakuru –Eldoret,Wajir- Garissa-Mandera, and Kitui – Mwingi- Meru** ‘.

contd

- ▶ Put in planning terms, the regions listed would form the first bunch of Regional Developments plans, demanding urgent action in readiness for the urbanization scenarios envisaged in Kenya vision 2030. What have we done so far to actualize the metropolization Agenda of vision 2030 as set out in the NSP?
- ▶ Could these be our **first charge in regional planning?**
- ▶ Have we budgeted for them?

Parliament – “missing link”

- ▶ Parliament is charged under article **68 (c) to enact legislation** for purpose of;
- ▶ **Prescribing the minimum and maximum land holding acreage in respect of private Land .**
- ▶ *As late as 2016, same parliament charged the cabinet secretary for land with the responsibility of regulating **ss 159 of The land laws amendment Act 2016**, in spite of nonexistence of a principal act governing the Minimum and maximum Land Holding Acreages.*
- ▶ *This was not regulated under the land regulation on land laws 2017*

contd

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- ▶ The policy is out of keeping with constitutional requirements
- ▶ **the national land policy committed government to “put in place a system to determine economically viable minimum land sizes for various zones” Could this be a task left for planners?**

(Is it time for planners to arise to the occasion and spear head the enactment of this missing link legislation?)

Or is it

Work in progress?

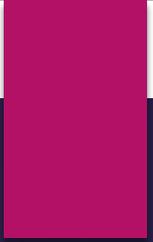
WAY FORWARD

- ▶ Planning Institutional re-engineering
- ▶ Work without the box, we cannot satisfy the requirements of planning in this country unless we consciously re - invent our manner of doing business.
- ▶ we need a robust Non state actors platform in planning- **AN OMUTATA for planners to lobby for the mansions keys.**
- ▶ The mansions identified cannot remain unoccupied any more!!

“Nature Abhors a vacuum”

THE END





THANKYOU FOR YOUR
PATIENCE