



KENYA – January 2022

CONTENTS

RELIEF FOR KISUMU RESIDENTS - GOVERNMENT DECISION TO INCREASE LAND RATES QUASHED	1
---	----------

RELIEF FOR KISUMU RESIDENTS - GOVERNMENT DECISION TO INCREASE LAND RATES QUASHED

A court has stopped an attempt by the County Government of Kisumu to increase land rates multiple times after ruling that the devolved unit did not follow the law when developing the Draft Valuation Roll 2017 that was to effect the new charges in a process that cost the taxpayer a whopping Sh70 million.

However, this was before Mr John Michael Obure, a resident of Manyatta estate in Kisumu, moved to court to challenge the county government's decision terming the proposed new land rates illegal.

And the judgment, on Friday, by Justice Anthony Ombwayo, of the Environment and Lands Court sitting in Kisumu, is a major relief for landowners who were facing the prospect of shouldering the weight of an increase in annual rates of up to 7,277 per cent on freehold land and 5,343 per cent on leasehold land, according to Obure.

The increments were part of the Draft Valuation Roll 2017 that Governor Anyang' Nyong'o's administration developed to boost locally generate revenue.

The orders by the court prohibit the county government from commencing, instituting, undertaking, continuing, or proceeding with all or any proceedings and processes concerning the Draft Valuation Roll 2017.

Justice Ombwayo's order also means the county government may have spent Sh70 million in public funds developing a Valuation Roll that detailed the proposed increments in vain.

In his suit, Obure sought several orders, including an order quashing a gazette notice the county government had relied on in its attempts to effect the changes.

He told the court that he became aware of the increased rates after the county government notified him through the Draft Valuation Roll 2017 it had developed.

The petitioner told the court that the process used violated the law and urged the judge to trash it, arguing the new rates would hurt landowners.

International Property Tax Institute

IPTI Xtracts- The items included in IPTI Xtracts have been extracted from published information. IPTI accepts no responsibility for the accuracy of the information or any opinions expressed in the articles.

“The proposed increases in property rates have been undertaken by a process that breaches the law since there was no public participation,” said Obure.

The petitioner accused governor Nyong’o and his administration of failing to conduct public participation before arriving at the decision.

Obure said the move was also insensitive at a time the country was struggling to regain its footing following the outbreak of the Covid-19 pandemic that battered the economy.

He also told the court that increasing land rates would also affect property rates, levels of rent, and the price of commodities.

In its defence, the county government denied violating the law in increasing the land rates and claimed the process of developing the new rates and the Valuation Roll followed the law.

Moses Orege, the Chief Officer for Land, Housing, and Urban Development told the court that the process consumed about Sh70 million and insisted that it was lawful.

He denied that the county had planned to raise the rates by 7,277 per cent on freehold land and of up to 5,343 per cent on leasehold land, arguing that the rates were pegged on the value of the property.

“The applicant’s allegations that the draft Valuation Roll 2017 will affect the prices of property in Kisumu and lead to increase in rent is false and meant to mislead the court,” he said.

Orege said the process of developing the valuation roll started in 2017 and was also budgeted for in 2017/2018 and 2019/2020 fiscal years.

In his judgment, Justice Ombwayo noted that public participation was not done and that the devolved unit failed to confirm if sensitization, as advised by the Ministry of Lands, was also done.

“Although the respondent has alleged that public participation is yet to take place on the Draft Valuation Roll, 2017, there was no public participation in the process of development of the Draft Valuation Roll, 2017,” said Ombwayo.

The court also declared that the county did not follow the law that is involved in the process of increasing property rates

International Property Tax Institute

IPTI Xtracts- The items included in IPTI Xtracts have been extracted from published information. IPTI accepts no responsibility for the accuracy of the information or any opinions expressed in the articles.