

**LAND MANAGEMENT FOR HOUSING
THE URBAN POOR IN AN AFRICAN
METROPOLIS:
THE CASE OF NAIROBI**

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2/8/91
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**THESIS SUBMITTED
IN PART FULFILLMENT
FOR THE DEGREE OF —
MASTER OF ARTS
IN THE UNIVERSITY OF NAIROBI.**

1991

THIS THESIS IS MY ORIGINAL WORK AND HAS NOT BEEN
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To My Family

Mr and Mrs P. arap Maina,
Kipnetich, Cheruiyot and Kipkoech

Thanks for being there when I needed you most.

Acknowledgements

I wish to express my sincere gratitude to several people and institutions who have made this work possible.

I am particularly grateful to my supervisors who have advised and guided me throughout the period of the study. Their comments and instructions have contributed a lot to this work. To both Mr M. Swazuri and Prof. Yahya, I am greatly indebted.

I am grateful to people who were willing to give of their time to provide information that contributed much to my knowledge in the area under study. These include Mr. E. Chessyna, Mr. Somba Mr. Thogo, Mr. Muthembwa, Mr. Makunda, Mr. Amaya, Mrs. Karia, Mr. Kanja, Mr. Musau and Mr. Mutua.

I am also grateful to my colleagues Nana, Muthoni and Kioni who were supportive group as well as members of the faculty who showed an interest in the work. I am also grateful to Dr. Kiamba and Dr. Syagga for the interest they showed and help they gave me during the study.

For help with typing and typing facilities I will always be grateful to Pastor John Muehleisen.

I am grateful to many friends for prayer support, encouragement and inspiration. There were so many people that I dare not enumerate them for fear that I may forget some.

Very Special thanks go to Mr. Patrick McAuslan for reading the manuscript and very helpful comments in the last stages of the study.

My family offered immense support for which I am and will always be grateful

Above all, I am grateful to God for strength and grace without which this work would not have been possible.

SUMMARY

This Thesis is an examination of the role of land management in the housing process. In it we examine the contribution of land management to the availability of land for the purposes of housing and accessibility of this land to the urban poor.

Land has been found to be central to housing along with other development and lack of it has been found to be one of the causes of the housing problem. It is therefore important how it is administered being so central a resource.

Land ought to be managed in a way that it is available when and where needed for development and especially for housing by most of the population who may wish to solve their problem of housing. Unfortunately, this is not always the case. The housing problem still persists, despite efforts in the past to alleviate them. What is worse is the subjecting of an important resource like land to machinery that is unable to make it available to a large part of the population.

This Study is therefore an examination of the mode of land management adopted in Nairobi and how this has affected the availability of land for the purposes of housing

Data for the study was collected from interviews with Personnel in Government departments charged with land administration as well as members of the Private sector who are participating in the housing process. This along with examination of literature and reports that emanate from such persons was the primary source of information.

From this we realise that reliance on the formal land market for allocation of land is wrought with inequalities and is not able to distribute land equitably. Other tools of Land management e.g planning need re-examination alongside the stated goals of land management to be sure that they are not contradicting each other.

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CHAPTER ONE:

BACKGROUND AND PROBLEM STATEMENT

Shelter along with other physical needs like health and food, forms the first level of Man's hierarchy of needs. It affords dignity, security, as well as privacy to an individual and his family and the larger community within which he lives. Apart from this social function, housing also has an economic function of income generation through creation of employment for many.

In recognition of the social and economic importance, governments all throughout the world have developed housing strategies especially in the light of housing deficits that are growing at increasing rates in many cities and urban areas (Rondinelli (1987), Yahya (1982), Worldbank (1988), UNCHS IYSH (1987), UNCHS (1983)a and b, Stafford (1978), and Jorgensen (1975).

The problem continues to persist despite the efforts by many countries to alleviate it. Provision of adequate shelter in the cities of the developing world has been a fundamental problem for national and municipal governments for quite sometime. The rapid pace of urbanisation has been generating a greater demand for shelter and especially among lower income families and disadvantaged groups of people.

Adequacy of information on housing conditions of the urban poor is usually questionable. Data collection is often fragmentary, unreliable and often statistics are suppressed or manipulated for political reasons. On average more than 20% of the urban population in Latin America was living in absolute poverty in 1980. Africa and the Middle-Eastern countries had four times as many (USAID, 1983).

The World bank estimates that eight hundred (800) million people in the world live in poverty, meaning that they have insufficient resources to meet even

minimal needs for food. Most of these are rural dwellers, but a significant number are to be found in the urban areas. The Bank estimates that by the end of the century more than half the poor in the developing countries will be living in urban areas and will be about 743 million (World Bank, 1980).

When the housing problem was first realised and solutions sought, governments were inclined towards provision of whole units. While this was noble and commendable, it was soon noticed that this was barely making ripples. The housing problem persisted and the rate of homelessness continued to increase.

Almost all third world urban areas have serious housing deficiencies that worsen the problems of the poor. In Central and South America, the shortfall is over 30% of actual investment required for new housing. Guatemala and Honduras have a 56% and 78% short fall in required investment for new housing for families in the bottom 3 quartiles of income distribution respectively (USAID; 1983). Deficiencies of similar magnitudes can also be found in many African countries. (World Bank (1981), Rondinelli (1987), Lufadeju (1988), MOWHPP (1987).

Kenya has at present a shortfall of at least 280,000 units and estimates in 1984 indicated that 30,000 additional units would be required annually to meet existing urban housing deficiencies by 1990 (MOWHP, 1984). In 1981 Morocco had an estimated shortfall of over 722,000 units and about 55% of this was for the urban poor. The estimated that they would need an additional 86,000 units to accommodate new households by 1986 (USAID;1981).

Governments have pursued a variety of options in order to provide adequate housing to urban residents. These have included:

- slum clearance and public housing
- site and service schemes and slum upgrading
- assisted self help housing construction
- private and in formal sector housing construction
- housing cooperatives.

In addition to the above and hand in hand with them have been:

- innovative designs and technology
- creation of new housing authorities
- creation of new financial institutions
- international lending agreements

Despite all these strategies, the housing problem persists. The short fall noted above are figures from the last decade. This points at a possibility of another factor that reduces the effectiveness of the strategies that governments have adopted. It is likely that this additional factor is basic to the housing process. It is the contention of this study that there is such a factor and thus a reason for the study. The issue is LAND and particularly the manner in which it is administered and the way in which it is made both available and accesible for the purposes of housing.

During the 1981 United Nation Commission on Human Settlement (UNCHS) fourth session in Manila, Philippines, Canada suggested that more emphasis should be accorded to the role that land plays in human settlement development. The Canadian Delegation suggested that work on the area of land should be focused and concentrated on goals such as learning from the experiences of other countries in resolution of problems of land tenure in squatter settlement and facilitation of effective decision making in the management and conversion of land in the urban fringe from agricultural to settlement use. They also called for an understanding and appreciation of the nature and causes of inflation in land prices and its impact on low income groups in order to develop appropriate policies (Oberlander, 1982; p.1).

Canada's pointer must have provoked a lot of thought because the theme of the Commission's sixth session in Helsinki, Finland two years later in 1983 was the aspect of land in relation to human settlement. The UNCHS contended that in a large number of cities low income earners and disadvantaged groups are denied access to land and consequently housing in sufficient proximity to income

earning opportunities (UNCHS 1983 a and b). The Executive Director stated succinctly: "Land is becoming the main obstacle in the housing crisis facing growing cities " (UNCHS, 1983c).

Land is the basic denominator in all housing projects (and indeed in all urban development), but the provision of adequate land is one of the most complex and unresolved bottlenecks in the entire development process. The UNCHS is convinced that the continuing exclusion of the low income groups from legitimate access to land is a complex as well as critical issue. It needs to be brought to the attention of governments and Non-Governmental Organisations as well as international agencies for appropriate action. This should be seen as part of the whole process of alleviating the housing problem.

It is by no means intended to create the impression that there is only one cause of the housing problem. Finance, Infrastructure, Building standards and technology still pose considerable hindrances to any housing solution. These will be addressed in the course of the study, but the major aim of the study is an examination of the problem related to land availability and accessibility of land to the low income population to use for housing. The subject is so wide that isolation of only one cause would not be a fair treatment of so complex an issue, but the main focus of this study is the role of Land and its management in relation to human settlement. Other studies have focused on the other contributory factors to the housing problem (Karirah, 1987; Choka, 1987; Kiamba, 1989; Tackie, 1989 and many others).

An issue that emerges in the focus on land is that of management. Government efforts on innovative building technologies and finance for low income groups, while commendable may be rendered unsatisfactory and not as effective as intended if the land issue is not resolved and particularly the issue of management. Land is the physical basis of all development. Whereas the poor have in the past been able to construct housing below 'standard', or to mobilise finances for

building from informal sources, currently their efforts at housing themselves are being thwarted by the non-availability of land. One cannot build without access to land.

Bombay, in India has an estimated 3.5 million squatters and people housed in substandard accommodation or those who are homeless. It is also estimated that Bombay has 20,000 hectares of surplus land - almost ten times the amount that would be needed to house the poor population (UNCHS, 1983c). In Manila while 2 million people live in squatter settlements, 64% of the metropolitan area was still open space in 1973 and 40% of urban land in Bangkok is either undeveloped or agricultural (ibid).

The issue of availability of land in absolute quantities is rarely the problem. The system of delivering this land to the poor in terms that make it legally and financially accessible may be where the problem lies. Indeed a major constraint in the housing process has been identified as that concerned with the availability and accessibility of the urban poor to land (UNCHS (1983), Oberlander (1985), Angel et al (1983), McAuslan (1985), and Somba (1988)

In Kenya, there is no explicit inventory on urban land. The unavailability of concise information on urban land reserves hamper initiatives to formulate not only a national strategy but also modes of government intervention especially in view of the fact that total annual land requirements would be 168,000 hectares in all urban areas. Open land in Nairobi alone must exceed this by at least five times¹. In Mexico while 50% of the residents of Mexico City live in illegal settlements, such settlements are usually lucrative ventures for entrepreneurs. This has been encouraged by the profit motive turning squatter settlements into rentals. There is also evidence of land monopolisation as investors hold land in speculation in the urban fringe. This is also true in the case of Kenya. Studies have shown that unauthorised housing in Kenya has become commercialised turning squatters into tenants (Amis (1984), Andreasen (1987), Etherton (1971),

Lee-Smith (1990).

While seeking to deal with the problems, governments globally are faced with at least four factors.

- (a) Reliance on the formal housing market for housing provision is unsatisfactory. The cost of the cheapest legal house excludes a large proportion of urban dwellers. The studies by Amis (1984) and Andreasen (1987) expose an informal housing market operating in the squatter settlements of Nairobi and Thika.
- (b) The needs of those households excluded from the formal land market are not being met. A reliance on the formal land market for availing land has led to this situation.
- (c) Serviced land (even minimally) and sites that would be affordable to the poor are unavailable in many cases even to the government itself.
- (d) Many of the urban households lack stable employment and as such they cannot conform to conventional land purchase and development requirements.

Land availability would form the crux of the housing problem. While there are in existence vehicles for overcoming these difficulties what is note worthy is the lack of government commitment in the land delivery process as noted at the UNCHS seminar of experts that:

most governments are still far from being able to solve the problems of the poor who are attempting to acquire appropriately located serviced land in the city. They cannot act quickly enough or on a sufficiently large scale to meet even minimal land delivery needs. Furthermore few of them have solved the financial problems associated with the scale of program required (1983 c; p. 41).

OBJECTIVES OF STUDY

In Kenya's housing strategy for the year 1987-2000 and sixth development plan (1989-1993), it is suggested that problem of housing is getting worse because of inadequate supply of serviced land for housing. This study seeks to indicate the possible causes of the housing problem in Nairobi and particularly to identify

the role that land plays in the housing process.

1. The study seeks to evaluate the existing methods of land management practiced in Kenya and to establish a link between the inadequacy of supply of housing and the management of urban land.
2. Suggest ways of resolving the issue of land and especially ideas for management of land for housing the urban poor.
3. Recommend areas for further work in issues of housing development.

HYPOTHESIS.

The contention is that land management is a major contributory factor in the land problem and thus in the housing process. The study seeks an evaluation of the practice of urban land administration. It is hypothesized that:

LAND ADMINISTRATION AS PRACTICED IN KENYA TODAY IS A MAJOR CONTRIBUTORY FACTOR TO THE LACK OF SUITABLE LAND FOR HOUSING THE URBAN POOR IN NAIROBI.

METHODOLOGY.

Information for the study was collected in four phases. The first phase involved library research. This preliminary reading helped establish that the housing problem had multiple causes and of these causes, land was isolated for the study. Further reading brought to light the process of land management and its control over availability and use of urban land. From this land management in Nairobi and its role in the housing process became the object of study.

Further Literature review helped to concretize the issues in relation to land management and provided a framework for evaluation of Land Management policies. This was important as it laid out the theoretical framework for analysis of the instruments of Land Management that are in use in Nairobi.

The next phase in the research was to find information regarding evolution

of and land Management practice in Kenya and particularly in Nairobi. This was done in order to establish how the present practice evolved. For this phase of the study, the National Archives in Nairobi along with a few papers and theses proved useful.

The third phase of the study was to find out from primary material, the nature of land management in Nairobi. For this the Macmillan Library in Nairobi was quite useful because of its collection of Minutes of the Nairobi City Commission (and Council before that). The Town Planning and Architecture department of the Nairobi City Commission also proved to be a very resourceful place.

The fourth phase of the research was conducted by interviews with personnel in various government departments that are charged with land administration. This included personnel in the Land administration and Valuation Sections of the Ministry of Lands and Housing. Personnel in the department of Physical Planning of the same Ministry were also interviewed. Personnel within the department of Architecture and Town Planning as well as the Valuation department of the City Commission were also interviewed. Later on different members of the private sector who are involved in Estate development were interviewed. These included estate developers and financiers. Some valuers and management agents were also interviewed alongside personnel from the National Cooperatives of Housing Union (NACHU).

Information regarding tools of land management from all these sources was later analyzed vis a vis the provision of housing for low income persons as well as the goals of Land Management. With these several suggestions were given as to ways of meeting the stated objectives of land management.

ORGANISATION OF THE WORK.

This first chapter of the study focuses on the statement of the problem of housing and narrows down to the role that land plays in the process.

Chapter two deals with a review of related literature which places land in a central position in analysis of the housing problem along with the stated objectives of land management practice.

Chapter three focuses on Kenya and in Nairobi in particular and the main causes of the housing problem i.e infrastructure, building material, standards, finance, and land. From here we trace the evolution of housing policy in Kenya as well as Land policy.

Chapter four traces the evolution of land management practice in Nairobi, from the first designation of Nairobi as a Railway town to its present status as a Metropolis. This is further developed in chapter five with more discussion on selected Land Management tools in use and how these affect the efforts of the poor to acquire land and house themselves.

In the last section we measure the practice against the stated goals of Land Management and make some suggestions to help correct the situation. These are then followed by a conclusion of the findings from the study. At the end we have some appendices and the Bibliography.

SCOPE OF STUDY.

Kenya has many urban centres with a large population. Nairobi, Mombasa and Kisumu top the list. Other centres are growing at rapid paces and the problems that beset Nairobi will also beset them in the near future. Nairobi offers a great opportunity for different approaches to alleviation of the housing problem as it is in the city where the housing problem is most acute. The study focuses on Nairobi but the findings will in no doubt be similar to those of other towns and suggestion of solution will also apply to other towns in Kenya as well as other towns who have a land administration mode similar to Nairobi.

1. This conclusion is based on calculations from figures presented for land in Nairobi by Saad Yahya Associates; 1983.

Chapter Two

LAND: THE CENTRAL ISSUE IN HUMAN SETTLEMENTS

The increase of urban population in the developing countries has grown at such increasing rates that it has reached explosive conditions. When this is set against the scarcity of resources to provide housing, employment, schools, roads, water supplies and the other requirements of urban life, the conflict is quite clear (Dunkerley; 1983; p3). The effect of this is lack of adequate supply of acceptable dwellings. This has continued to increase over the years despite the growing concern that has been shown by governments all over the world.

Documented evidence clearly shows that Kenya's government has come to perceive the growing housing deficiencies but she has further recognised the fundamental hindrances to the prompt eradication of the problem. There is a limit of resources in relation to the need. Vast amounts of capital are needed for expansion of food resources to sustain the rapidly increasing population - thus housing competes with other sectors for public and private investment.

In view of such a situation a reasonable attempt at a solution starts at an appreciation of the possible causes. In Kenya's case it will be shown that housing policy is increasingly being viewed as part of social and economic policies as shown in development planning papers e.g. the Sessional paper No. 1 of 1986. It will also be shown that housing continues to be enmeshed in the problem of resource allocation regardless of whether the allocation is subject to deliberate public control or it is left to the invisible hand of the market forces. In the case of housing such an important resource happens to be land.

As mentioned in the last chapter, in 1981, while in Manila for the UNCHS fourth session, Canada suggested that more emphasis should be accorded to the role that land plays in human settlements. She also suggested that work in this

area should be focused on goals that would include learning from countries experiences in resolution of problems of land tenure in squatter settlements and facilitating of effective decision making in land management. Further Canada suggested that attempts should be made to understand the nature and causes of inflation in land prices along with its compounding implication for finance for housing and its impact on low income groups in order to develop appropriate policies.(Oberlander, 1982, pVII).

In Helsinki,Finland two years later, the theme for the Commission's sixth session was "Land for Human Settlement". Availability of land for housing low income and disadvantaged groups had been identified by the Commission to be a key issue that faced these groups. Here the conclusion of Habitat '76 were recalled:

That Land because of it's unique nature and the crucial role that it plays in human settlement, cannot be treated as an ordinary asset controlled by the individual and subject to the pressures and inefficiencies of the market, and that social justice, urban renewal and development, the provision of decent dwellings and healthy conditions for the people can only be achieved if land is used in the interest of society as a whole. (HABITAT INTERNATIONAL, VOL 41, 1980, p373).

The Commission contended that in a large number of cities, low income and disadvantaged groups are denied access to land and consequently housing in sufficient proximity to income earning opportunities (UNCHS; 1983a; p3). Oberlander establishes the fact that land lies at the centre or the heart of the shelter problem and believes that the best way to deal with the problem of poverty is to ensure the provision of land and its proper management to meet the needs of the urban poor. The urban poor face countless problems in attempts to find a solution of affordable land to settle on and be secure in occupancy and be able to use land for appropriate shelter and economic activity (1985; p 72).

Ramachandran said: "Urban land policy is one of the most important human settlement issues" (1982, p55). He was of the opinion that to a large extent, the

poor are denied access to land and this has socioeconomic costs which need legal, social, and economic policies to counter them (ibid).

A study of the housing situation in many African countries reveals that it is characterised by inadequacies arising from a combination of social, economic, demographic and technological factors (Somba; 1988; p). Nevertheless Somba suggests that the focal point of most governments concerned with the housing problem should be what Acquaye identifies as:-

An aspect of the problem which is of current significance and priority in the developing countries of Africa, namely:- land policies for housing development for the low income groups (Acquaye et al 1986 p. 128).

The focus on land is clear.

In view of this the Commission On Human Settlements was convinced that special emphasis should be paid to the problems and needs of the low income and disadvantaged groups. The continued exclusion of these groups from legitimate access to land is a complex and critical issue to be understood and brought to the attention of those involved in the housing process. The problem of housing low income and disadvantaged groups particularly in the cities of the developing countries, and the centrality of the issue of land have to be seen in the historical development of the housing crisis and the response it has generated to date.

The recent focus on the land issue must be seen as an escalation of response given the inadequacy of past responses. While governments have put great hopes in innovative building material, industrialised buildings, highrise flats, new housing authorities, new financial institutions, and international lending agreements, the great bulk of housing for the low income group continues to be produced on land acquired through the informal process. Most of this land remains outside the orbit of legality and reach of planned public initiatives. Many of the above mentioned instruments can and do assist in efforts to meet housing

needs but none can be expected to meet the challenge on a sufficiently large scale unless the land question is settled.

The Commission on human settlement concludes that :-

If adequate land can be made accessible in proper locations, then low income and disadvantaged groups can gradually house themselves with appropriate assistance from governments and N.G.O.s where it is needed. (UNCHS; 1983 b; para 9 p5).

After making an analysis of the two important public responses to the housing crisis: - public housing projects widely publicised between 1945 and the mid 60s, which were accompanied by bull-dozing and razing down of squatter settlements, and the housing assistance programmes initiated in some countries in the late 60s and early 70s, Shlomo Angel et al conclude:-

It is difficult to imagine how significant progress in housing can be made in the future without a more fundamental resolution of the land issue. (1982; p533).

Refusal to confront the land issue earlier and insistence on the more harmless and less fundamental technocratic solutions i.e public housing or sites and service schemes have led to loss of valuable time(ibid). Shlomo Angel further note that the issue of land for housing the millions of low income earners in the case of most of the developing countries is the most critical among all the issues of housing the urban poor. Finance and technology have began to appear second to the whole question of adequate supply of land for housing the poor (1982 pl6).One cannot over stress the problem of land for human settlement. Land forms the basis of all development as well as facilitates and actualizes the process of development. The situation is made worse by the fact that the supply of land is limited despite the number of uses it is required for.

While we agree that the land issue is most serious in the market economies and not so serious in the centrally planned economies, it is much worse in the developing countries. Governments have accepted the fact that the state has an

important role to play in the provision of housing but despite all this housing remains a major problem area of social and economic policy (Lansley, 1979; p13). If this can be worrying in a developed country how much more will it worry the governments of the developing world where the level of development is low and poverty is great as evidenced by the low per capita incomes. As per the 1989 Statistical Abstract, Kenya has a Gross Domestic Product Per Capita of K£ 289.15 which translates into Ksh 5782.80 p.a or Kshs. 481.91 per Month.

Penalosa, while agreeing that land is an important issue anywhere in the world and at any time, further says that: "it acquires an even keener relevance in the context of the developing world" (1980, p16).

The land problem in perspective

The current land problem especially in urban areas can be viewed to be as a result of the process of urbanisation. It is estimated that a large number of the earth's population will be urbanised by the year 2000. The process of urbanisation is closely linked with the origins of capitalism. From the middle of this century, the process has been gaining momentum and has reached heights hitherto unknown. At the end of the 19th century only 250 million people were urbanised. By 1960 the world urban population was 3 times as much. Rapid urbanisation has led to greater economic strides in our metropolitan areas as well as a growth in the amount of wealth in the cities. The distribution of this wealth however has been less satisfactory and has led to the growth of squalid settlements.

Attempts at housing the population through public housing programmes has produced much less housing compared to the existing need. Most of the critics of public housing led by John. F. Turner have advocated abandoning of the government programmes and an adoption of assisted programmes. The assistance programmes attracted considerable attention from a large number of governments who were faced with the impossible task of housing their nations. Housing assistance promised virtual cost recovery and this implied that there would be

reduction in the public subsidies as well as an increase in the possibility of housing at a large scale.

The major forms of housing assistance programmes were slum and squatter settlements improvements and site and service schemes. The former consisted of regularization of the tenure in squatter settlements and provision of vital services. The latter consisted of servicing vacant sites so that allottees could carry out their own construction. The two methods were largely supported by international lending institutions especially the World Bank. After more than a decade of experience with the Turner alternatives (as the two approaches came to be known), the prospects of meeting housing needs on a sufficiently large scale remain evasive.

Slum upgrading and squatter settlement improvement are based on the premise that land invasions by the poor still take place and that governments intervene at a later stage to provide improved services and regularise land tenure. It is presumed that this informal settlement generates sufficient land as well as housing for the poor. This does not take place anymore. What has occurred is that assembling of land for housing the poor has become a much more commercialized and organised process. Talk of squatters no longer implies squatters in the old sense of the word as people who have taken land illegally (Amis, 1984). Land developers usually go in and develop sites, mark them up and sell this at affordable prices to those coming into the city. In the case of Nairobi, this interests in land in squatter settlements usually consists of the development of rentals to be let to the immigrants and the poor (ibid). Market systems have developed to take care of the demand for housing making the squatter phenomenon less spontaneous (Angel, 1982, p.11)

Site and service schemes have also suffered a similar fate. They were slow to materialize (as it usually takes about 10 years from conception to materialization of the project) and only produced a handful of house plots and rarely achieved

cost recovery. Many local governments interfered in the projects by prescribing standards that apart from stalling the project for periods of 3 years or more also increased the price of plots beyond the reach of the target population. Payment of installments regularly proved to be a woesome burden for many of the poor who needed to construct while the price of building materials rocketed. Where governments had to purchase land at prevailing prices, distant locations were adopted which put the poor far from income earning opportunities (Rondinelli, 1987; p6). The few site and service schemes that were successfully implemented provided very few attractive housing opportunities to the poor who continued to resort to the remaining cheaper and usually lower standards of housing alternatives.

Slum improvements in publicly owned lands hit a snag as well when it came to regularisation of tenure. Several claims to one plot were not infrequent and especially with introduction of new layouts. Privately owned land had its own problems associated with compensation. The provision of legitimate access to land by the poor in housing assistance programmes proved considerably harder than was initially envisioned.

Not facing the issue has led to considerable loss of time and land along with creation of more problems. Agricultural land has passed into the hands of speculators and private land developers. Customary lands have become commercialised while the price of land and construction has continued to increase. There is no option but to address the issue of land if steps are to be made in the area of housing the nation.

Land and National Policy

Land has been at the centre of discussions of the political economy of settlements. It even formed a section in the recommendations of Habitat '76 in Vancouver, Canada. It follows therefore that decisions should be taken at the uppermost level of society. Studies however have shown that whereas many

countries agreed with Habitat's recommendations, there remains a large gap between word and deed. By 1982 only four out of seventeen countries surveyed by Habitat had policies that seriously addressed the land and housing shortages. The other countries had not even taken the first step of formulating an urban land policy and to affect the prevailing patterns of land ownership and land use rights that were considered unfavourable to the majority of the population (UNCHS, 1981).

A report of studies in eight South East Asian countries addressing the issue of housing notes that the main problem is:

the availability of land and its planning as well as regulation of its use. This is especially true in large urban areas where land is at a premium (UN (ESCAP); 1985; p52-53).

Most of the countries in the region (S.E.Asia) have not adequately coordinated low cost housing with an adequate land policy. There is a lack of comprehensive land policy that can make possible the smooth execution of a low cost housing policy. There is need to support the land acquisition policy with appropriate land prices, land banking, taxation, land administration, land valuation and town planning. Quite a few of the countries in the region have been hesitant to acquire land for housing and other development purposes with the exception of socialist Burma. Many countries hold to the sanctity of private ownership of land and have resorted to legal measures only when forced by demands for urban housing and the high cost of land due to its scarcity (ibid p.4).

Despite pressures on it few developing countries have yet challenged the withholding of land from use and even fewer have thought of tapping the land value increment (Abrams; 1964; p27). This is as a result of private ownership of urban land which makes land prices high.

The urban land question in Nairobi does not stem from a lack of availability of land per se though it would be naive to rule out the possibility altogether.

However it seems to stem from a lack of adequate land at the right locations, right time and at the right price (Somba; 1988; p30). This is an issue of public management (or lack of it) of land that is desired for use by the whole community.

When we look at documents and reports it becomes clear that many national and local leaders are finding it difficult to implement policies and plans that improve the living condition of the poor. Oberlander concludes that a major reason for this is that regional and local land and settlement policies continue to be at odds with national development policies (1982; p15). The land issue has to be addressed nationally and appropriate policies enacted. This is regardless of race, creed or political ideology because the land question or problem is universal. Land everywhere and at all times is limited in quantity, immobile and permanent. By its very nature it really is a public good and like water in dry places or the atmosphere it calls for public management and control. Further more urban land is uniquely public in the sense that its value is heavily dependent on socially created demand and publicly provided services. The case is even more compelling for strong public intervention (Doebele; 1987, p7).

The Kenyan traditional view of land is in stark contrast with the feudalist view. Justice Maxwell while delivering a judgement had this to say:-

Like the sea and air the land is placed where it is by God (for some it is God) for the good of man individual man is no more capable of owning land, than owning so many gallons of the sea and so many kilometers of the firmament (in C.C No. 379 of 1919 cited in Land Enquiry Commission, 1933, Colony and Protectorate of Kenya).

With the imposition of alien property laws, promotion of private land ownership, the management of land cannot be left to the market as it would be impossible to ensure equity in distribution of wealth if this were the case.

Since land has always been at the centre of human activities, it is important that the formulation of urban land policies be done on the basis of an understanding of the role that land plays in the urban economic process. Many claims

for the supply of serviced land exist. Because of its non-transferability, the choice of use to which land will be put is of decisive importance. What is done now in land policy will determine the basic pattern of development and structure of a city over a long period of time. This means that the uncertainties of the future economic and social urban life have to be taken into account.

While agreeing that land for the poor is unavailable, the ESCAP report points a finger at the institutional conditions:

The formulation of a land policy is also a political issue and any significant change in government policies regarding the distribution and use of urban land will have to be supported by strong political commitment as it may profoundly affect the political power balance of the existing society (ESCAP; 1985).

Urban land value is the creation of the society. The whole process of settlement has in itself created wealth and value. In the coming together of people in one place is wealth and value created and this is particularly true of land values. Land values increase as a result of the increased demand for plots brought about by migration and natural increases in population or construction of infrastructure and whole lot of public actions. This value needs to be shared and this calls for public management of land.

Penalosa emphasised the need for public management and control of land for the sake of equity and efficiency in urban development (1980; p.16). The benefits of the capitalist market are dubious when it deals with a resource whose supply cannot be augmented. Obstacles posed by private ownership of land are insurmountable. They dictate the pattern of growth of too many cities regardless of rationally planned consideration (ibid). An attempt at participation in land appropriation by the poor results in squatting.

Decisions about eradication of squatting or minimization are wholly dependent on public attitudes to land. Solutions to the human settlement problems are dependent on the land issue. Therefore governments (if committed to housing

the nations) must develop institutional means to dispose of all urban and suburban lands as they see fit. Just as means of appropriation of land for infrastructure are, means of appropriation of land for other societal needs must be available to the government (ibid, p.17). We cannot talk of solving societal needs if the very base on which any societal solution is to be founded is managed with interests that are contradictory in practically every respect with those of the society as a whole. Land management should be compatible with other stated development policies if progress must be made in housing the urban poor.

Land Prices

Abrams attributes the soaring land prices to:-

- a). Failure to provide easier access to nearby sites.
- b). Freedom from land taxation.
- c). Installation of public utilities and roads which enhance value without equivalent assessment of benefits.
- d). Excessive concentration of ownership in one place and fragmentary ownership in others such that it is impossible to assemble land, and,
- e). Defective policies governing land titles or lack of adequate compulsory purchase procedures that could increase supply of land (Abrams; 1964; p29).

Abrams contends that governments have the power to guide the use of land, curb misuse, prevent its abuse, regulate its non-use or disuse and guide its re-use. Whereas land is the key to environment, housing, public works and growth, governments have failed to use the key to open the door to more rational land uses (1964; p.29-30). In the case of private land being in the way of infrastructure projects, there are usually relatively adequate mechanisms to acquire the land. In the case of need that is incapable of measurement in terms of cost benefit, governments are usually unable to acquire i.e land for housing. This need not be the case. Where political will exists, legal measurements like acquisition can be strengthened so that they can serve as a viable tool for land management as it has

been done in Singapore.

Institutional means to dispose of all urban and suburban land as well as acquisition for societal needs, need to be developed.

The Land Market and the Poor.

A peculiar problem is emerging in squatter settlements these days. Land invasions take place infrequently but what has been observed is rather intriguing. In Mexico city, what is referred to as squatters are really tenants in squatter settlements. Some could also be landowners (Angel; 1982 b; p.16). The squatting problem has ceased to be as spontaneous as in the past. There are market systems that have developed to take care of the demand for land. The informal process which inspired the Turner alternatives is not quite evident now.

Angel is of the opinion that the informal activity was probably part of the historical period which lacked expertise in managerial matters of urban development (1982 {b}; p.12). Where governments have become strong land has often been withdrawn from the poor and allocated to other uses.¹ In some cases, governments in developing countries have behaved like large private corporations i.e by acquiring land and then after some time selling this in the speculative market.² The land market is getting quite formalised. Within the cities of the developing countries is growing a large commercial interest which is acquiring vast amounts of land in the periphery and within the city. This reduces the scope of further informal activity. Angel urges governments to gain control over land as it may be too late in a few years time (ibid, p12). Within the last 10 years up to 170 square kilometers of the land around Bangkok, Thailand has been acquired in this way.

Landlords who previously catered for the poor in slum areas are capitalists who are beginning to venture into higher and middle income markets thus further reducing the amount of land available to the poor. Apart from the land market

making the process of housing provision difficult, there has been a misconception about the duration of the stay of the poor in the cities. Many policy makers think it is of a temporary nature and this explains the numerous attempts at eviction and “Rudi Mashambani” campaigns.³ In many countries the urban poor are more than 40 per cent of the population yet they occupy less than 20 per cent of the land. This makes them more efficient users of the land.

The increase in supply of land is one of the things most necessary if we are to solve the problem of housing. There are methods suggested though the two listed below sum them up :-

1. Regularization of existing slum and squatter communities.
2. Creation of new land supply for new settlement formation.

These two methods will be further expanded below and ways and means of realisation articulated.

Tenure regularisation is mainly for security of income generating opportunities and an incentive for improving dwellings naturally. The problem of land supply achieves another dimension in discussion of low income settlements. Settlements are not just spontaneous settlements but institutionalised and organised occupations of land. This land supply side is the one that will help in solving the issue because once land is available and tenure secured, uncertainties about length of stay disappear and beneficiaries could commence work on their housing.

Land Management as a Solution

Public land management is therefore a must if any progress is to be made in resolving the conflicts outlined above. The government has to ensure allocational efficiency because the market is incapable of doing this equitably. The government also has the responsibility to ensure the redistribution of such a scarce

resource so that the disadvantaged are given greater opportunity to partake of the national product. The market is unable to effectively deal with and manage a commodity so central to development and yet limited in supply like land is.

Land management by definition implies national or state action. It is the administration of interests in land so that there would be efficiency in production of goods and services both public and private and the search for greater equity in the distribution of the product. Capitalist economies may lean more towards efficiency of production, while socialist or centrally planned economies may lean toward equity and social justice. The two must both be concerned with efficiency and social justice in the final analysis. Because of its socio-economic interest and dimension, land management is a national or state affair. The fundamental economic case for public land management is the imperfection to be found in the market i.e non homogeneity of the product, which creates not a single market but several quite distinct sub-markets. Another factor that leads to imperfection is the inability to increase supply. Perhaps supply could be increased i.e renewal exercises but this would transfer the commodity into another sub- market whose pricing affects other sub-markets (Button; 1976; p.148). Land (and housing for that matter), is an economic good with certain characteristics that pose difficulties in the conceptualization of optimal allocation. This gives rise to distributional problems of such extent as to cause the market mechanism to fail and necessitate government intervention (Stafford; 1978; p38). The aim of the intervention is to supersede the operations of the market in pursuance of community objectives (Somba; 1988; p100).

Control by government should not be viewed in the static sense because public control on land use, transfer and development are subject to political pressures which change over time. It could serve the less represented groups in the market by the initiation of processes capable of distributing land more equitably to the poor. However public control should not be over done as it may lead to lack of efficiency in development i.e keeping the price too low leads to

intensified demand but not intensive development which has accompanying costs to the government. Land price control should aim at inducing the right price to prevail in the market so that adequate land should be supplied at the right locations (Somba; 1988; p101). Such controls should not be such as to lead to the emergence of a black market in land as well.

Policy objectives of Land Management

Land management has distinct goals that have been mentioned above and which underlie the use of any land management technique or tool. Talk of land management in its idealistic stance is reference to tools of land use administration and their capacity to ensure both efficiency and equity in the use and distribution of products from land use. Reference to efficiency refers to whether there is a smooth functioning land market that permits maximum productivity of land when it is viewed as a resource for all uses at all places at all times. It also refers to the flexibility of the tool in response to rapid increases in demand which really implies the ability to assemble land as needed to meet demand. Another consideration that comes into the picture is its ability at being flexible i.e in response to major changes in urban form. These changes may be caused by market forces and intervention by external factors i.e government policies. Reference to equity is the whole question of ensuring access to all groups to land for housing and other needs and particularly those members of the society who earn a low income.

Other goals of land management are the compatibility of an instrument with other policy tools that also deal with economic development and urban land i.e. the economic development plans, and continually referring to the ability to respond to forces of development that led to existing instruments.

The obligation of the state to intervene in the land market having been established, questions arise regarding the nature and extent of involvement and have to be addressed :-

1. Will the government assume a neutral position, merely policing bargains and providing the forum for settling of disputes?
2. Will the government play a more active role by providing a system for registration of land ownership?
3. Will the government play a regulatory role laying down terms and conditions at which transfers shall be made ?
4. Will the government finance buyers through banks mortgage corporations, public or private? (McAuslan; 1985; p32).

Many countries have abandoned neutrality in private market land transactions having realised that in the implementation of an urban land policy, one cannot separate private market transactions from public action. Urban land owes its value (as earlier noted) to public action thus warranting public control. Methods of intervention could be regulation, taxation, subsidies, land development and government land ownership. Through these means the operation of the market could be modified in pursuance of community objectives (Whitehead; 1983; p.108).

Appropriate management instruments

Many policy suggestions have been made from all over the world. It is quite improbable that a set of recommendations for action will be relevant and acceptable globally. Usually a wide array of possibilities are presented and individual countries could adopt whichever are the better ones for them. In as far as it is apparent that the kind of intervention in use in Kenya has failed to produce intended results, suggestions will be made at a later stage. This suggestion will address the unresolved issues in the housing and land process. An Asian conference addressing the issue of housing for the urban poor came up with forty six (46) recommendations but Angel has been able to condense these into fifteen (15) possible policy options (Angel; 1982; p.21). Oberlander concurs with Nathaniel Lichfield in suggesting a classification of possible government actions that can roughly be divided into 3 classes of control:

1. direct government control
2. Fiscal control over development
3. General influence on the land market These consist of :-
 - Control over specific development without taking land
 - Control over specific development by taking land
 - Control over specific development by direct public authority participation
 - Fiscal control over development by influence over general development
 - Influence over specific development by fiscal means
 - General influence on the land market (Oberlander; 1982;p.31).

UNCHS has identified five broad areas in which government could involve themselves in availing land. The variety of the suggested policy instruments can be grouped under five broad categories.

- 1). Increase of the supply of land
- 2). Public participation in land development
- 3). Improving land supply for housing by formal and informal market.
- 4).Legitimizing and improving existing informal settlements.
- 5). Financing land development. (UNCHS; 1983b; p.4).

These come with various suggestions and some are highlighted below:

Increase of supply of land

This can be done by acquisition of vacant public land for housing low income earners or by the purchase of land through the market. Compulsory acquisition and land purchase based on prevailing productivity is a possibility as well. Land rights could be traded in alternative locations or land prices frozen in specific locations in anticipation of future purchase. Land could also be preempted when the declared value i.e for taxation is below the market value or purchase of land in lieu of taxes. A development gains tax could be introduced and this could lead to appropriation at less than market value. Land could also be nationalised.

Increase of Public Participation in Land Development.

This could be by public involvement in land development for the appropriation of development gains, initiation of infrastructure networks with the land assembly schemes for settlement development. Land pooling and readjustment fall into this category and so does cross subsidization. Cooperation between the public and private sector could also do and these could increase efficiency and reduce risk in implementation.

Land supply by formal and informal market.

There must be an assessment of the formal and informal sectors capabilities. Standards of land subdivision ought to be readjusted to meet the needs of the poor along with upgradeable standards in infrastructure construction. New infrastructure technology can be introduced to reduce site development costs whereas performance standards can be established for private sector delivery of serviced flats. While granting building permits, they could be coupled with conditions for the production of serviced sites or low income housing units (in the case of building permits for higher income units). Increase in floor area ratios could be granted but this could be coupled with production of serviced sites. At the same time regulations and incentives for directing informal subdivisions and cooperative land development schemes could be worked out.

Legitimizing and organisation of existing settlement

This would involve the organisation of communities so that they can articulate need for secure tenure and improved infrastructure. Those who have been inhabitants for along time could have their legal rights established by use of land use maps (to establish legitimacy of using land that is occupied by squatters). There is need for regulation against bull dozing of settlements. Change of land use in squatter settlements (i.e from residential to commercial) should be preempted. After improvements are made, tenure security should be granted. This

calls for use and encouragement of community participation.

Land development Financing

This could take the form of acquisition of land without government subsidies and establishing of various savings and loan schemes. This should be ingrained in the law. Improvements of recovery of loans from beneficiaries should be undertaken alongside the establishment of cooperative to increase access to credit and facilitate recovery of the loans. Taxation of development gains to create funds for limited land acquisition should be adopted. Short-term/long-term credit for land development can be obtained through government allocation through commercial banks, and international banks. Less reliance should be based on resources generated by international lending institutions.

The above suggestions have been forwarded by UNCHS. It is up to a particular country to see if it can adopt any of the suggested measures as she deems most suitable and appropriate for her particular conditions. UNCHS takes the problem of land in human settlements seriously and desires that governments address themselves to resolutions of land issues if they are committed to housing their populations. From the UNCHS suggestions those that may be suitable for Kenya will be isolated for special mention towards the end of the study. Not all of them will be found relevant and it is important to avoid global application of suggestions regardless of the peculiar political, economic and anthropological situations that prevail in different societies.

Having thus established the centrality of the land issue in human settlement, we will go ahead in the next sections to find out about the relationship between land and housing in Nairobi and the role that land management plays in the housing process. It is the contention of the author that the housing problem is a result of several factors i.e finance, infrastructure (or the lack of it), the cost of building materials and the standards that are demanded by the local authorities. In addition to this in the recent past there has emerged a further inhibiting factor

and this has been identified as the issue of land for housing. Land is an essential ingredient for any development and particularly for development of shelter. Such a resource ought to be managed with the whole society in mind and with a desire to ensure equity and efficiency. Land management therefore assumes an important role in the question of shelter. In the study we shall focus on this role and the way in which land management could be improved so as to more decisively affect the housing process especially in the large urban areas.

Notes

1. The Nairobi City Council used to raze down or bulldoze squatter settlements and replace them with commercial use or recreational use like public parks.
2. This has usually been revealed during appraisal of site and service schemes as well as cases of acquisitions of land for housing i.e. Villa Franca in Nairobi.
3. Kiswahili for "back to the land." Popular in Kenya in the mid Seventies as a way of urging slum dwellers to go back to the rural areas. Such calls formed the lyrics of political songs.

CHAPTER THREE

HOUSING AND LAND POLICY

The housing problem is not peculiar to Kenya or the developing countries as acute as it may be. It has been with man since creation and causes great concern to governments all over the world.

Developed countries acknowledge the fact that housing still remains a problem of 'social and economic concern'(Lansley; 1979; p.13). In the less developed countries the problem is of a worrying nature in view of the prevalence of poverty. A lot is expected of post -independence African governments in terms of social responsibility but whereas they may be committed to this governments find themselves unable to rise to the challenge because of the poor economic performance. There is therefore insufficient housing to match the demand.

Urbanization and housing problems.

As was mentioned in the previous chapter the housing problem has been caused by rapid urbanization and decreased mortality rates due to improvements in health care and living conditions. According World Bank, over 500,000,000 people are expected to be living in urban areas by the year 2000. When this is set against the scarcity of resources to provide housing, employment, schools, roads, water supplies and transport, the conflict between urbanisation pressures and means available to counter them becomes clear (Dunkerley, 1983. p3). According to Louis Menezes :

The political will to challenge the adverse consequences of urbanisation is yet to emerge. Urbanisation is one of the most powerful socio economic movements to arise in the history of man - its problems can only be met by equally powerful responses. An adequate response to the challenge of housing low income groups and gradual improving of housing conditions over time will only emerge as such movements are brought into being.(UNCHS; 1983 c p.61).

A large number of people have moved to the urban areas and land is not so much as it was in the rural areas. One finds land stalked out into small lots to be bought or rented. Those that may afford to buy land may not be able to build a house. Whereas in the rural areas one relied on his own strength to construct shelter, he realizes he doesn't have the time to do it and secondly materials strangely enough have to be bought. Laws prescribe where people may and may not build and standards prescribe how they may build. A recent development has been the commercialization of housing in the urban areas. Whereas previously or in the rural areas, land and housing was seen as affording shelter, in the urban scene economics enters the picture transforming housing into a commodity to be bid for in the market. Its attractiveness lies in its ability to weather the ravages of inflation. Abrams contends that the problem has been complicated by the fact that people have been pouring into the cities much faster than they can be absorbed (Abrams, 64; p3). This results in homelessness evidenced by street sleeping, overcrowding and squatting. These are an indicator of the struggle for shelter and an aspect of the land problem (Abrams; 1964; p25).

Many governments have recognised to a greater or lesser extent the gravity of the housing situation in the cities and have responded in a variety of ways. These range from violent destruction of slum communities, construction of highly subsidized flats to the introduction of environmental improvements in squatter settlements, but the problem of housing inadequacy persists. Syagga points out that:

the world is currently under the siege of a severe housing crisis which is monumental in dimension and disturbing in perception. Monumental because of the large numbers of the homeless and those living in extremely poor and unhealthy neighborhood: Disturbing because it is recurrent in the national lives of many countries whose efforts at eliminating the scourge appear to be diminishing as we move towards the 21st century (Syagga; 1989; p1).

Housing Need In Nairobi

Assessment of housing need refers to computation and analysis of housing required given the population as well as the state of the existing housing stock. In Nairobi the current housing output of the formal sector is below (much below) what will be needed to meet the projected housing need. This formal sector has hardly produced 50,000 units in the whole country in the last five years and is unlikely to do anything different in the future.

The housing need in Nairobi has several elements i.e the element that emanates from population increase, obsolescence or demolition as well as backlog of need due to the number of the people who are inadequately housed or without housing of whatever kind. Nairobi's population has been growing at an estimated rate of 5.3% per annum since 1969. It is however hoped that this will drop to 4.7% between 1995 and 2010. This is based on the assumption that the government's policy of decentralisation, the District Focus For Rural Development will stimulate growth in other towns and thus discourage rural urban migration. Population projections for Nairobi are in the table 3.1 below.

The Western Shamba and Ruiru are the outlying areas that the NUSG predicted would absorb most of Nairobi's growth. The study group predicted that Nairobi would grow in a corridor form stretching up and linking with Thika on one end and Athi River on the other. Ongata Rongai and Ngong would be outlying satellite towns.

In the 1983 housing survey, it was also estimated that as of then, Nairobi had 5,279 dwelling units that needed immediate replacement as well as a total of 60,232 inadequate housing units. The estimated housing need then is represented by the figures in table 3.2.

The figures indicate that there is a need of at least 50,454 units for the period 1988 and 1990 and this is not counting the unmet need from previous years. A

Table 3:1
POPULATION OF NAIROBI

	1969	1979	1985	1995	2010
Present Boundary	509	859	1102	1715	2710
Western Shamba	0	0	0	75	400
Ruiru	0	0	0	160	750
TOTAL	509	859	1102	1950	3860

Source: Nairobi City Council, Nairobi Metropolitan Growth Strategy, 1973, Vol.2., Nairobi City Commission

Table 3:2

ESTIMATED HOUSING NEED IN NAIROBI

HOUSING NEED FACTOR	YEARS		
	1983-88	1988 - 90	1990 - 2000
A	70440	32810	187020
B	26395	10558	52790
C	17715	7086	35439
TOTAL	114550	50454	275241

Source: Urban Housing Survey; 1983, MWHPP.,
Government Press

Key

- A New Population
- B Depreciation
- C Innadequate housing.

recent survey by the department of housing indicates an annual need of at least 60,000 units with the needs of new households representing 63% of this. However the total dwelling produced are not enough and this leads to an annual deficit of 20,000 units.

This situation leaves a majority of the Nairobi population unable to meet their housing requirements. The formal sector hardly produces 10,000 units a year. This means that the bulk of housing provided is by the informal sector. The Department of housing estimates this to be 32,670 units a year :- 82% of the total number of units produced. The lack of a pragmatic approach by the government has not helped much at all, but only aggravates the problem. In the recent years housing has hardly featured noticeably in the national budget as can be seen in the Table 3.3. With such a poor standing by housing it is no wonder that there is a large housing need.

Housing Demand

This is defined as housing along with the ability and willingness to pay for the housing. This calls for a correlation of income that households are willing and able to spend on housing either in rent or mortgage repayment and the cost of housing. Demand is therefore based on income, proportion of income devoted to housing as well as the monthly cost of housing.

A failure to establish appropriate affordable levels in project designs and standards have necessitated either the incorporation of large subsidies in housing schemes with remote prospects of replicability or with beneficiaries being drawn from groups other than target groups. Table 3.4 below indicates income distributions in Nairobi as at 1988.

There has been an increase in the percentage of households categorized as very low income group from 13,2% in 1984 to 22.08% in 1988 whereas there has been a decrease in the middle, upper middle and high income groups from 21%

Table 3:3

Gross Financial allocations for Public Housing

Year	Gross Allocation	Actual Spending	National Budget	%
84/85	15,605,000	12,101,443	343,430,327	3.4
85/86	15,100,000	8,500,000	338,771,293	2.2
86/87	10,740,000	8,275,000	488,910,115	1.7
87/88	8,417,800	6,167,150	613,665,344	1.0
88/89	12,576,590	11,648,442	806,144,409	2.2
89/90	10,914,000	11,180,000	922,079,201	1.0
90/91*	7,259,000	9,167,000	898,632,482	1.0

* Provisional Figures before actual approval.

Figures in Kenya Pounds

Source: Annual Development Estimates 1984 - 1990

Table 3:4

Income Distribution In Nairobi
1984 and 1988

Income group	income range	1984	1988
very low	< 1000	13.2	22.08
Mid low	1000 - 2000	39.2	36.76
Upper low	2000 - 3000	13.3	15.54
low middle	3000 - 6000	13.3	15.1
middle	6000 - 8000	12.8	
upper middle	8000 -11000		
high	>11000	8.2	

Source: Ondiege., 1989.

to 10.51%

Housing Problems: Contributory Factors

Before talking of the strategies that governments have taken to combat the housing problem, we ought to first briefly mention the factors that contribute to the housing problem. Housing intervention strategies abound but what leads to the adoption of a particular strategy is an identification of the basic problem in the situation. The major causes of the housing problem are listed below.

Lack of infrastructure.

Provision of infrastructure in many cities is not commendable. Many parts of an African city are not serviced making construction and subdivision uneconomical in some cases (nevertheless because of great pressure, subdivision goes on inspite of this). In many cases, low income housing schemes are poorly situated, far from the town centre . Some countries have gone as far as locating squatter settlements as far as 30 - 50 kilometers form the city in areas unserviced and inadequately served by public transport (Rondinnelli, 1987; p5). When the cost of infrastructure is added to the cost of the site and construction, the scheme often gets out of the reach of the intended target group. Among other things, the high cost of infrastructure is due to the ambitious standards set by municipal governments.

The provision of housing is tied up a lot with the provision of infrastructure. Unserviced plots and sites do not fetch as many inquirers as do serviced ones and when sold fetch very little as compared to those that are serviced. Minimum allowable plot sizes also depend a lot on provision of services particularly sewers and water connections. The flurry of building activities in some sections of Nairobi i.e Dagoretti have a direct link with the recent provision of sewers which encouraged subdivision. Between 1979 and 1985, Kenya has spent at least K 161 million on urban infrastructure. The breakdown is shown in Table 3.5.

Table 3:5

Spending on Urban Infrastructure: 1979 - 1985

year	Amount (Kf Mln)
1979/80	27.97
1980/81	29.41
1981/82	33.42
1982/83	27.82
1983/84	18.32
1984/85	24.62

Source: Development estimates 1979 - 1985

Several years of financial mismanagement and mismanagement of the urban infrastructure development program under the 1979-85 period have led to a situation where the urban infrastructure program is in a state of financial crisis. The program is unable to meet its obligations to the urban population and the government. The program is unable to meet its obligations to the urban population and the government. The program is unable to meet its obligations to the urban population and the government.

At the same time, the urban infrastructure program is unable to meet its obligations to the urban population and the government. The program is unable to meet its obligations to the urban population and the government. The program is unable to meet its obligations to the urban population and the government.

Building Materials

The urban infrastructure program is unable to meet its obligations to the urban population and the government. The program is unable to meet its obligations to the urban population and the government. The program is unable to meet its obligations to the urban population and the government.

While this may represent a sizable amount of money it is not considered sufficient (Urban Housing Survey; 1983). As the population has grown, increase in capital expenditure will be experienced due to rising expectations by urban residents for improved services. The figures above indicate that given the increase in population and the growth of urban centres, the conclusion is that there has been a marked decline in investment per urban resident. This has led to postponement of projects awaiting funding and an increase in the backlog of unmet demand for house supplies, sewerage and other urban infrastructural work (Urban Housing Survey; 1983; p.15).

Several areas of Nairobi are unserviced or inadequately serviced yet have substantial part of the population living there. Development District No. 18 which occupies most of Eastlands area stretching from Embakasi to Dandora has one of the highest populations per region in Nairobi estimated at 149,000 in 1985 with 124,000 falling under the low income category (about 83%). Estimates for 1995 put the population at a staggering 326,000 for the area with 84% being in the low income category.

Another poorly serviced District is No. 15 which covers Dagoretti, Riruta and Kangemi also houses a large part of Nairobi's population estimated to be 260,000 in 1995 with about 86% being in the low income category. There needs to be not only a distinct policy on infrastructure but an enabling environment set up as well.

Building Materials.

Apart from land, building materials are the single most expensive item in housing construction. Exploitation of the poor by capitalist merchants has tended to drive up the price of materials. More inflated than actual prices, building materials purchase really represent a substantial amount of money. Building Materials contribute up to 70% of the total cost of building, therefore if the cost of materials could be reduced, the cost of building could be reduced substantially.

National Expenditure on building materials represents 4-6% of the Gross National Income. In 1985, expenditure on Building Materials in the housing sector was in the range of Ksh 57.42 to 66.99 Million. To add on to this conventional building materials have a large import content of up to 30%. This renders most of the conventional building materials unaffordable. It has been estimated that building materials account for 5.8% of the total value of imports (Agevi; 1988; p.2). In pecuniary terms, this is astounding. For the Umoja 2 project in Nairobi, imports of materials cost Ksh. 30.96 mln (Agevi & Syagga; 1988; p.70).

Over the last few years building materials that have a large percentage of local input have been developed or improved. These include traditional burnt bricks, stabilized soil blocks, fibre concrete roofing tiles but uptake of the same in the building industry has been disappointing. Several reasons have been advanced for the lack of widespread application of building materials made of locally available resources. This includes:

- a). Public prejudice against the technology
- b). Lack of pragmatic policy options on production of the materials.
- c). Presence of prohibitive planning codes and bylaws
- d). Lack of standards that cover the technology
- e). Conservatism in the building industry
- f). The absence of promotional campaigns by the key actors in the field of appropriate technology.

It is however hoped that things will be different following the recommendations of the low cost housing by-law study that made recommendations relating to low cost housing. Following HRDU's innovations and encouragement one entrepreneur at Wanyee near Dagoretti has been producing houses using stabilized soil blocks. Shelter Sure on Limuru Road and the Mathare women's group

have also been producing fibre concrete roofing tiles. These are currently being used in the Kenya Building society project on Komorock Road. It is hoped that more developers will pursue the idea of using these locally available alternatives still cheaper than the formal sector materials. It is about time that institutions of government led the way in supporting innovative building materials.

Building standards.

In Kenya there are Acts of Parliament and bylaws that set the basic standards and requirement to be met when building residential houses in urban centres. These include the Land Planning Act (1968), the Public Health Act, the Town Planning Act (1931), the Kenya Building Code (1968), and Local Authority by laws.

Standards prescribed by municipal governments are by and large inappropriate. They add significantly to the cost of houses, are often unrealistic and if we are to be honest they are unenforceable. Since pre-independence days most of the standards have not been changed and thus they portray the colonialist attitude and the desire to keep the poor out of the urban areas. The standards in use at the moment favour the middle and high income strata leaving the low income out. Between 1974 and 1979 only 8% of the total low income housing units planned were completed and the main culprit identified was the design standards and requirements which instead of reducing the problem added on to it. The standards require an adherence to certain building materials and certain standards of workmanship and finish that are not in keeping with low cost housing. Projects have been delayed for long periods because of insistence by local authorities on adhering to these standards. The presence of so many low incomers in a town like Nairobi and the kind of housing they can afford is therefore unlawful and subject to unfavorable action from the local authority, like demolition. Use of appropriate local materials is also not approved to any great extent. In early site and service schemes (Kariobangi South site and service

scheme) concession was made but on condition that the houses would be upgraded over a period of 10 years up to "standard".

There is an expectation of high standards of housing expected in Nairobi and this is reflected in the current grade 1 and grade 2 building by-laws. These call for sophisticated designs and techniques. The application of this strict formal designs to low income housing is unrealistic - some expectations include construction of strip foundations with mass concrete and foundation footing made of either stone blocks or concrete blocks. The standards also prescribe that floor slabs be constructed out of mass concrete with minimum thickness of 75 mm and have to be at least 150mm above ground level. On the construction of walls for instance the standards demand that the construction be at least 150mm thick and made of the same material as the foundation footing.

Finance.

Finance is a key component of housing development but its scarcity has impeded the supply of housing. In Nairobi, there are four main financing institutions. These are Banking systems, Public financial Intermediaries, Non-Banking financial institutions and other institutions and Ad Hoc sources of finance i.e relatives, employers, insurance companies etc. Table 3.6 indicates the percentage contribution of these sources to housing finance in Nairobi.

Whereas there exists in many countries a housing finance system, this is usually not tailored to serve the needs of the urban poor (Kiamba; 1989; p.15). Existing housing finance arrangements employ a conventional approach which is not suitable to the low income earners. On the whole existing finance schemes employ a restrictive as well as prohibitive nature of their criteria and terms in granting loans. Of these prohibitions, eligibility is one of them. Usually based on a certain level of income and its stability and a required down payment (Usually a substantial amount) it disqualifies the low income earner whose income is neither that high nor stable. The short amortization periods is another prohibitive

Table 3:6

SOURCE OF FINANCE FOR HOUSING (percentages)

Source	Percentage
Commercial banks	6.25
NBFI	23.12
Public Institutions	36.24
Other Sources	34.32

Source: Urban Housing Survey: 1983.

Table 3:7

MEAN MORTGAGE PERIODS AND MEDIAN MONTHLY
REPAYMENTS IN NAIROBI

SOURCE	AVERAGE MORT. PRD (years)	MEDIAN REPAYMENT (per month)
COMMERCIAL BANKS	10.1	1,200
HFCK	14.5	1,300
NHC	13.3	1,200
OTHER FINANCIAL INSTITUTIONS	8.0	3,000

Source: Compiled from Urban Housing Survey, 1983.

factor. These conditions and others make it quite difficult for the poor to gain access to housing finance and unless innovative non-conventional approaches are made, finance will not be readily available to the poor for a long time to come.

The Public institutions i.e the National Housing Corporation (NHC) and the Housing Finance Company of Kenya (HFCK) jointly contribute 36.24 % of housing finance but because they operate like any commercial bank and have strict conditions, the arrangements suit the higher income groups a lot more than the low income groups. The repayment of loans made out by these two institutions will show the bias against the low income groups. This is indicated in Table 3.7.

It is clear that conditions stipulated by the formal financial institutions do not favour the poor and are not quite in keeping with the current housing policy being pursued by the government.

Land.

The situation with respect to land is particularly complex and most cities are faced with the challenge of increasing the supply of land for housing the low income households. The general problem of an inadequate supply of serviced land is probably the most serious impediment to expanded production. "Land for housing the low income is a key issue facing Human settlements"(UNCHS; 1983c; p.61) In the Kenyan case the problem does not seem to lie in the inadequate supply of land in absolute quantities, but seems to be that of management. "The supply of public land within urban areas which has been the main source of land for government sponsored housing projects appears to be dwindling rapidly. We say appears because there is no comprehensive urban land inventory" (MOW H&PP; 1987; p21). This coming from a government department (of Housing), is an indicator of where the problem might lie. This is the case in most of the third world countries. World Bank believes that the problem is not one of inadequate land per se - but the problem is of delivery of land

particularly to persons of low incomes for use in the construction of shelter (1980; p.4). A further pointer at management is the stringent public control that land for housing development is subjected to through laws and regulations that govern land transactions, change of use and subdivisions along with all other development.

Administration of land is over-centralized resulting in slow responses to requests, meanwhile, development cost are rising along with the prices of materials etc. Addressing the UNCHS seminar of experts, Yahya pointed out that:

in the third world countries all the major decisions tend to be taken in the capital city with its accompanying concentration of top officials, competent personnel and available data. In some cases, an indication of this over centralization is the case of a chief executive having to make some rather minor decisions. (UNCHS., 1983c; p.81)

These are the main problems or factors that have contributed to the monumental and disturbing housing crisis. As governments continue to address the issue and to experiment on projects aimed at housing the poor, certain things become clear. A resignation to failure would hardly solve the problem. The indifference expressed by public officials to the plight of the urban poor and their expression of an inability to help any more raises questions about management of resources in the country. This issue we pointed out earlier is not peculiar to Kenya alone. An assessment of the urban housing problem in many developing countries frequently begins by a definition of standards of adequacy in terms of space, structure and services at levels that are comparable with those of middle income housing but beyond the ability of the poor people today. Estimates of housing needs based on such standards imply huge investment required which cannot be met by private and public resources and implementation of public housing projects based on such standards readily confirms the impression of urban housing needs as a bottomless pit and thus spearheading the governments resignation to indifference and lack of incentive in housing solutions. The World

Bank was of the opinion that investment in housing with these standards in mind have often aggravated the housing deficiencies of majority of the urban poor households since they tie up scarce resources in a small number of housing units usually for the better off (1979; p.81). In his Phd thesis, Kiamba establishes that between 1965 and 1985, 65% of the total land allocations in Nairobi was for high income low density housing development. (1986; p.131).

As result of research championed by the World Bank, a more appropriate view of the housing problem has began to emerge. Housing shortages, overcrowding, poor infrastructure services and steeply climbing housing prices are seen to result from the failure of the supply of land , services and shelter to expand in step with rapid increase in housing demand. The most disadvantaged are the poor because they do not have the resources to influence or bid for scarce housing supplies. This is where the crux of the problem lies because “the supply of land and services and finance is critically influenced by public policy” (World Bank; 1979; p. 81).

Frequently more unused urban land could be made available for residential use were it not for institutional constraints. The subdivision of urban land and assemblage of small central city plots and the conversion of land for different uses are impeded by restrictive zoning regulations, cumbersome land registration requirements, high land transfer taxes and disputed land titles - in this case the poor are least able to overcome these institutional barriers.(ibid).

The Nairobi Urban study group estimated Land needs in Nairobi for housing. The estimates are presented in Table 3:8:

Nairobi has in the recent past recognised building standards that appreciate the plight of the poor. Appropriate building technology is beginning to take root. There is currently a middle-income housing project in Nairobi that is utilizing Fibre Concrete Roofing materials. Non conventional finance systems are being encouraged though success will have to depend on several factors that need to

Table 3:8

Residential Land Needs

Year	Amount of Land Required By different Density Groups (hectares)			
	Low	Middle	High	Total
	high Y	middle Y	low Y	
1972 - 1979	1230	200	150	1580
1979 - 85	1850	570	450	2870
1985 - 2000	4600	6800	1630	12430
Total	1630	7570	1630	16880
Densities pp/ha	30	100	25	

(As suggested by the Nairobi Urban Study Group)

Source: Nairobi City Commission., Nairobi Metropolitan Growth Strategy. 1973 Vol 2. Nairobi City Commission

Evolution of housing policy.

Throughout the 1950s, the role of the state in the housing process has increased markedly during the 20th century. Before first intervention in the housing market during the First World War (1914-1918). Governments have since then been to and fro of the housing market with frequency, success and with boundaries established in free housing and urban as a private operation which the government wanted to pursue.

The Kenyan housing policy has been influenced by the national objectives. A major objective is to Kenya in 1962 of the process is housing. The national policy of the government has been the available resources and the national conditions and this has necessarily, involved other related strategies like the national development and the general development.

It has followed as part of Kenya's housing policy was to emphasize on private housing to solve the problem. The housing policy has not been very successful in

be addressed before. Either special incentives to offset the risks faced by conventional financiers or new institutions with different mandates and priorities be created. Only one financial institution had been involved in loans to construct houses on land whose assemblage is considered unlawful - yet the level of default has been very low. The private sector is being encouraged to participate in urban development. Infrastructure provision could be one area of involvement.

Along with addressing the issue of finance and infrastructure, the Kenya national housing strategy (1987- 2000) has addressed the issue of land use and administration. In this study, emphasis shall be put on land administration and its relationship with the housing process but we shall not lose sight of the contribution of the other factors mentioned above.

Housing and land use policy

Evolution of housing policy.

Throughout the world, the role of the state in the housing process has increased enormously during the 20th century. Britain first intervened in the housing market during the First World War (1914-1918). Governments have since then been in and out of the housing market with temporary controls and with incentives calculated to lure interest and action in a certain direction which the government wanted to pursue.

The Kenyan housing policy has been influenced by international agencies. A United Nations mission to Kenya in 1965 set the process in motion. The mission pointed out the contradiction between the available resources and the ambitious standards and this was particularly evident when viewed alongside the demand for housing and the levels of affordability.

What followed as part of Kenya's housing policy was an emphasis on projects to alleviate the problem. The mission pointed out that housing need and demand

was elusive in research with difficulties arising from a confusion over the difference in the two concepts. Theoretically housing need would usually be expressed in terms of housing and sanitation standards without prices and ability to pay entering the computation. However the most important element of demand would be prices at which housing is or may become available, ability of families to pay as well as the proportion of income that they would willingly devote to shelter. In almost any situation housing need at even the the lowest standards of adequacy greatly exceeds that for which there is demand. After pointing this out the mission thereafter recommend that utmost attention be directed to development of site and service projects as well as environmental improvement (Abrams and Bloomberg; 1965; para. 225).

Before this, public policy had consisted of demolitions of slums and public housing which was unable to produce housing in sufficient quantity to meet the need. The slum demolition soon came under attack by both the politicians and academicians with constant help from journalists and international finance institutions. During the early 70s, the World Bank championed a policy shift in relation to improvements of urban shelter and took a stand against bull dozing. The President of the Bank pointed out the perspective of the bank thus:

The deprivation suffered by the poor is no where more visible than in the matter of housing - squalid slums and ramshackle shanty towns that ring the periphery of every major city.... but there is something worse than living in a slum or squatter settlement and this is having ones slum or settlement bulldozed away by the government which has no shelter whatsoever to offer in its place... it is not squatters who are obscene... it is the economic circumstances that make squatter settlements necessary that are obscene (World Bank Board of Directors Meeting; 1975).

As squatter settlements had grown in number, so had commercial interests to take care of the demand. What ensured was a proliferation of slums rented out to poor immigrants. During demolitions, these commercial interest did not seem to suffer as much as those that were occupied by the constructors themselves.

About the same time international lending institutions led by The World Bank, were promoting an owner occupancy scheme through site and service schemes. Owner occupancy in urban areas is in keeping with the American dream and attitudes in South America, but that may not necessarily be the case in Kenya and several other African countries.

Because of the financial aspect, Kenya allowed herself to adopt site and services schemes as promoted by the Bank. In the case of slum areas, demolitions were no longer encouraged but environmental improvements and upgrading was preferred. Upgrading really brought hope to the land lords in squatter settlements (not a few were city council politicians!) and more woe to the tenants. This is the beginning of a high commercial interest in the informal housing sector (Standard newspaper; 11.8.80; ed).

In 1973, the Nairobi Urban Study Group recommended that a realistic housing program be formulated geared to the anticipated growth as well as income distribution of the population based on affordable standards for each group. They also advised that subsidies be limited to the lowest income groups and use of inexpensive local building materials be encouraged.

In the 1974-79 development plan the housing issue is dealt with at length in a national development manual. Unfortunately it sets for itself an approach that could be considered static. It gives the indication that the housing problem could be dealt with once and for all by a determined program promptly enacted. There was the basic assumption that a program would solve the problem of lack of housing and this program was site and service schemes projects. (Development Plan; 1974; p124). This belief in the ability of site and service schemes to meet the housing problem and challenges is evidenced by the fact that besides Nairobi other towns like Kisumu and Mombasa soon had site and service schemes under the Second Urban Project to be joined by the secondary towns under the Third Urban Project. These are all projects heavily supported by the World Bank.

During this period there was a drastic reduction in construction of public rentals and the production of formal housing also dropped thus increasing the annual deficit.

Five years later a hitch seemed to come to light. While assessing the previous plan period, it came to light that “ Over the last five years only 8% [ranging however from 5% in Nairobi to 96% in western Kenya of the low cost housing units planned were infact completed and they cost on average five times the expected cost” (Development Plan, 1979- 1983; p50). The plan also highlights an issue that had began to surface namely land availability:- @Quote = The government will look into methods of controlling the use of urban land to ensure that sufficient land at reasonable prices is reserved for housing development (p50).

This seems to indicate an intention of the government to deal with the land issue but one wonders if this was to really be the case. To realise this objective there doesn't seem to have been much change in urban land management practices. What is clear is the commitment of the central government to having land as a trading commodity subject to allocation by the market in keeping with the capitalist mode of production. Kiamba is of the opinion that allocation of land has taken into consideration the Capitalist Mode of Production and this is indicated by the insistence of allocation through the market. The government has striven towards methods dictated by the market with it dubious claims to openness, reliability, fairness and equality of access, participation and opportunity (1986; p.136). The State basically sought to institute procedures to uphold the legitimacy of the Capitalist Mode of Production (p.141).

The first ever large scale site and service project in Nairobi The Dandora Community Development Project seems to have opened up peoples eyes to the invaluable asset to be found in urban housing. Finance was mobilized from money lenders and relatives who wanted a share in this and knew that their investment would bear much fruit.

There has not been much evidence that Kenyans consider themselves urban dwellers, and would like to settle in town forever. Quite a few of the allottees in Dandora sold their plots for higher priority purposes i.e buying rural land or starting a business. Those that had constructed were letting the entire house and not only one room as had been intended. Some were infact letting the whole house and living elsewhere.

To enhance owner occupancy a new concept of condominiums was designed in relation to Umoja phase two project in Nairobi. The design was meant to discourage middle income groups as well as transfer of plots. The project was financed by USAID. The project is the ultimate farce in clinging to owner occupancy as a policy in Kenya. Many Kenyan urban residents being migrants have not displayed the intention to remain as urban dwellers (Exhibited by annual migration upcountry especially at Christmas time). Many of these urban dwellers are migrants without any intention of remaining urban dwellers. Their requirement seems to be for inexpensive rental accomodation. They do not seem to have much interest in investing in an urban house. Andreasen therefore concludes that the issue of promoting homeownership in urban Kenya is not very appropriate today, a fact which is still not recognised by all agencies (1987; p.49). Promotion of homeownership in Kenya's urban areas today is leading to an increased commodification of the product. One wonders if this is needful as according to the World Bank, only 4% of Kenya's urban population are owner occupiers (1983; p76 cited in Andreasen; 1987; p.49).

Housing supply and ownership and its relationship to land is intimately associated with its function as a means of income production and as such it will remain a core issue in the social and political struggle (Andreasen; 1987; p49).

Land policy

As stated in the 1979-1983 development plan, Kenya was going to pursue ways of public management of land that would ensure that land was available for

public housing development. It has been rather hard to achieve this objective and at present it seems apparent that the government may not be largely committed to ensuring that land remained in its control or that its distribution was equitable. There is a respect and support of private landownership and control that evidences this a lot. Land held by speculators has been kept out of the market. This confounds urban growth with unplanned considerations and unless radical changes take place in peoples attitudes and government action, urban land will probably not be fully under government control in the near future. These particular constraints seem to have legal and constitutional backing and thus are incompatible with other policies. Nevertheless it remains an objective of the Kenya government to ensure that there is sufficient land for housing development.

This is paradox that emerges as we look at housing and land policy. Whereas a housing policy has been set in motion with an apparent commitment to housing the urban poor, there is no clear indication that a land policy with similar objective exists or a land policy at all. In the formulation of a program of land policy, the main objective is deemed to be the achievement of equity in distribution and efficiency in the growth of cities. Equity implies access to land both in physical and pecuniary terms. Efficiency implies access to land in terms of planned urban development as well as efficiency in production of goods and services both public and private. The capitalist mode of production has a leaning towards efficiency in production, whereas the centrally planned economies may have more leaning towards equitability in distribution. The two objectives should not be made indications of ideologies but guide that can both be used.

There doesn't seem to be a distinct written Kenyan land policy but there exists a dearth of land policy instruments or a "working Land Policy" (Nyadimo, 1990). What can be said about land policy is through these instruments gathered from several Acts which in itself is a problem because it is cumbersome. These Acts are the Land Control Act, Town Planning Act, Land Control Act, Government

Lands Act, Public Health Act and subsidiary legislation like The Kenya Building Code.

There seems to be a prevalent thought that land problems can be solved through technical means i.e planning instruments and through economic measures - the case of applying bureaucratic solution to non-bureaucratic problems (Oberlander; 1980; p353). Urban planning has along history, but it is a history centred on physical and architectural planning. Only recently has the focus changed substantially to incorporate the economic as well as social objectives constraints and inter-sector linkages in the context of dynamic growth (World Bank, 1972; p.49). It has been pointed out that lack of adequate attention to restraints in resources as well as implementation capacity greatly reduces the utility of most of the "comprehensive" town plans because they lack the explicit consideration of policies for pricing as well as land use for example and specific short and intermediate run realistic programs limit their effectiveness (ibid). In a number of instances, the matter has bogged down to a question of ownership, but Oberlander wonders if the question of ownership is tied down with the collective will to use the land in a certain fashion or is it because ownership seems to have legal and constitutional backing that frustrates efforts at land use regulation?.

Land is an important issue in human settlements and all national development but this importance should not be let to wane by abandoning its management to technical strategies. Because land is central to society, all questions relating to land are political questions. Any commitment to improving the quality of life in human settlements must exhibit the political will to conquer the land issue. The UN seminar of experts was convinced about the role of government when they reviewed the stat of the habitation of the poor of the world. They believed that the problem cn be solved 'if governments marshal the political will to carry out necessary measures'. They therefore urged:

That governments and the international community identify and con-

concentrate on strategic priority actions to create institutions, devise programs and simplify decision making and procedures for land delivery to the poor (UNCHS; 1983; p.7-8).

They also recommended that governments concentrate their efforts on acquisition or mobilisation of land supplies... and delivery of land rather than on building shelter structures (ibid).

Looking at Land in economic terms has also contributed to the lack of a pragmatic policy on its usage. Reference to land as real estate demonstrates such value and especially highlighting its ability to weather the effects of inflation and depression which is unrivaled. All governments have recognized the appreciation of land and its essential monetary value to state enterprises. Its finite nature and productive capacity demonstrates the fact land is value. With her direct experience in increasing value in land, it is not surprising that the government is less willing to act in the way she knows she ought to. Land policy instruments in use in Kenya (or applied), while making land available within the community, do not seem to recognise and provide for the special circumstances of the poor who constitute a bulk of the population. The governments major role in facilitating the provision of shelter ought to be to ensure that land is available at appropriate locations and serviced to receive a wide range of housing units. This implies less reliance on negative controls i.e Zoning and meeting minimum housing standards.

Experience has shown that any approach in the solution of land issues in settlement has to take into consideration 3 pre-conditions:

- a). Land aspects must be viewed in the context of other broadly based social and economic development.
- b). Reconciling national goals and local objectives for a livable environment.
- c). Governments and their administration must exercise political will to act on documented successful experience in providing access to land for shelter for the urban poor.

This will lead us to the next section where we look at forms of land management instruments and their role in the housing process.

Notes

1. Land that had been acquired for land reserves or banks has recently been alienated to various uses i.e. dwelling houses for high and middle income as well as commercial and industrial uses. Currently, the City Commission is valuing land she owns for alienation at a later date.

CHAPTER FOUR

EVOLUTION OF LAND MANAGEMENT PRACTICE IN KENYA.

Having noted the evolution of the housing problem in Kenya in the last section, we noted some of the strategies that the government has adopted in order to deal with the problem. With the development of modern forms of government, new expectations of the social responsibility of governments as well as the apparent complexity of modern social organisations, we note that the housing problem has assumed a new dimension especially in the developing world and is now a matter of concern.

The problem can be described as a need to ensure an adequate supply (both in quantity and quality) of houses to match the ever increasing demand while also taking into consideration the resources of the various income groups within the community. This should also consider equity in terms of returns to investors in housing. A study of the housing situations in most African countries reveals that it is characterized by an inadequacy for which a combination of social, economic, demographic, and technological factors are responsible. Since it will not be realistic to attempt to cover whole wide range of factors that are relevant to the problem, it is intended to focus attention on an aspect of the problems which is of current significance and priority not only in Kenya but in most developing countries, namely the issue of land management for housing development for the low income groups.

The housing situation is particularly acute in urban centres so land management policies in urban centers will be brought under close scrutiny. In many countries in Africa and the world over, it has been shown that urban dwellings are generally overcrowded and lack elementary facilities. Urban populations has also continued to rapidly increase. Nairobi's population increased by almost

6.91% between 1962 and 1969 and has continued at similar rates since then.

Availability and Accessibility of land

There is an extremely high concentration of the population on the available urban land. This has led to subdivision of land into uneconomic units for distribution and utilisation. Land speculation in accessible locations has resulted in high prices. But when one pits the overall land available and the population, the availability of land per se cannot be said to be a problem. It seems however that the problem arises from the fact that not enough land has been made accessible for housing. It may be true that there are no conscious efforts to restrict accessibility to land of the poor, but it is equally true that there are at the same time no positive policies for channeling sufficient land into low income housing even though considerable portions of this land are actually used by the poor. Therefore the availability of land is conditioned by and related to the issue of accessibility that there is need for such management as will make land accessible at reasonable cost to improve the housing condition of the low income groups.

We may posit then that land management can have significant impact on the accessibility to land, leading to provisions of housing for the low income. We must however appreciate the nature of the historical and political and socio-economic and technological changes that have affected land ownership and management. This is so that we may put the land factor into a proper perspective when formulating policies and suggesting management strategies for the provision of housing for the low income groups.

Traditional View of Land

The fundamental principle upon which ownership of land in many African countries is based is that land is communally owned. This group or community could be represented by a symbol (i.e 'stool' in several West African countries)

In cases where no such identity is to be found, ownership is vested in the family or tribe but still as an entity. Whereas there may be unused or vacant land, there is no land in the African context without an owner (Isaac Ofori, 1980; p24).

In Kenya as in most African countries, land was communally owned and ultimate decisions as to land rights vested in the King or Chief of the region. For the rest of the people, rights to land were usufructuary with private or individual enjoyment of the profits. Under Kikuyu customary practice, there was no such thing as absolute ownership as it is understood in the English sense. Custom as administered by the Kiama* embraced a lot more than occupational rights. The head on a household held land in a manner similar to an estate in fee tail. He could not be called the owner of the land as it was not his to sell or give away. He simply could not alienate land even to members of his tribe much less to foreigners (Kenyatta J.; 1978; pp20-52).

Land, because of its close relationship to life, acquired a relationship with the divine. This made individual ownership of land all the more unfathomable. The imposition of English understanding of property rights brought this out clearly.

Thus land was communally managed and was always available to whoever needed to use it. In the case of strangers, certain conditions governed allocation of land i.e a recommendation by an older and respectable member of the community. The assessment of usufructuary rights over a certain piece of land were delineated by extent of cultivation. In many communities a minimum period which a piece of land could lie fallow was used to indicate when land could be reallocated again: usually after the effluxion of such a period of time. In the case of pastoralists, private enjoyment of certain fields of grazings was occasioned by a guiding principle to the effect the one should not "graze his cows where the teeth of another's cows have" (i.e among the Kipsigis). This was usually a guide for a season at a time. When the grass grew again, another persons cows could

graze and thus delimit extent of usufructuary rights and principle.

This attitude to land and the position of the divine in relation to it led to a situation where land usage and administration was not inkeeping with the economic concept of land as a means of production along with capital, labour and entrepreneurship. It did not encourage full exploitation of land and allowed no efficiency in production as it did not allow for the transfer of the land out of the clan or tribe. Yahya has clearly captured this:

“African land usage and land distribution did not conform with economic conception of land as an economic asset transferable to optimum user or highest bidder outside the clan. Land was not regarded as an instrument of economic production either, but it was valued more as a means of subsistence production, to be guarded covertly and at no price however high to be transferred” (Yahya; 1982; p12).

Even though they may seem good, customary land tenure attitudes to land are difficult to fit into the context of a whole country. The many tribes, clans and families have many differing attitudes that are hard to reconcile with one another. Conflicts that arise make judicial work insurmountable. Kenya has more than 20 tribes which held land under peculiar customary land usage practices. These traditional patterns are in conflict with the economic aspiration of modern African governments:

who regard land as a means of survival in a world of competitive economic development (ibid).

A process that began during the time of colonialism has evolved so as to subject more and more land to central government control. This control spells out the procedures in land distribution and management. In view of the diverse interest of different groups, this move has been an attraction for harmonising procedures of land use. In order to do this, Kenya has allowed herself to retain laws inherited at independence which certainly reflect European ownership attitudes that prevailed during the colonial period.

FROM CUSTOMARY TO ALIEN LAND LAW

Changing patterns of land tenure have been central elements in the colonial and post independence experience of nearly every African country and Kenya has not been exempted. The impact of colonialism has been felt particularly in issues that relate to land and rightly so as land conquest was a major objective of the early colonial governments. In few cases of policy making is the colonial legacy as clear and tenacious as in that of urban land policy (McAuslan; 1982; p546). This is evidenced when one looks at the built environment, services, infrastructure as well as the legal framework that governs land. During colonial times, cities and towns used to be divided along racial lines. This division still remains but corresponds with economic class separation. Decisions are made that still bear much resemblance to those in the past.

Colonial beginnings

The Imperial British East Africa company (IBEAC) which held a charter from the Crown dated 3.9.1888 entered into a number of treaties with chiefs of various tribes. Such treaties with chiefs recite that the chief has placed himself and all his territories and all his people and subjects under the protection, rule and government of the company. When a protectorate was established, her majesty's succeeded to the benefit of these treaties vide E.A Order in Council 1897.

Land alienation proper started with land regulations of 1897. This was proclaimed after cessation of operations of IBEAC company and in this case native rights over land are protected and prescribed. The clear government attitude towards the native rights was based on the assumption that according to native law and custom, the individual owned no more than rights of occupation. If he was willing to dispose of his rights to a non-native he sold only occupational rights and the freehold remained the property of the Common Wealth.

In 1901 the use of the expression "Crown Lands" began with East Africa

(Lands) Order in Council (which defined crown lands as all Public land within East African Protectorate which are subject to the control of his majesty under the Land Acquisition Act 1899. This order vested in the Commissioner control of all crown lands on such terms and conditions as he thought fit. This set off the process, which Kenya inherited where the commissioner of lands is the final land administrator and has an ability to make decisions that affect land allocation, use and general administration. His position as the chief planning authority was ensured as early as 1901 but at the moment is being challenged by the Physical Planning Bill currently under discussion.

With the Land Order in Council, 1901, land settlement in E. Africa as a definite policy commenced. Land grants were made to approved applicants who could show what was regarded as sufficient means to develop the property. In 1902 a Crown Lands Ordinance was enacted repealing all E.A land regulations enacted previously and making provision for the sale of crown lands. The land earliest on demand was in the vicinity of Nairobi with the first allotments being in Ngong, Kabete, Karura, Kiambu and Ruiru areas. At this point it appears that reasonable care was taken to safeguard native occupational rights who for all practical purposes ought to be regarded as the low income group then. A condition was placed in CLO 1902 which had the effect of safeguarding the rights of natives thus:

In all dealings with Crown Lands, regard shall be had to rights and requirements of the natives and in particular the commissioner shall not sell or lease any land in actual occupation of the natives.¹

There is evidence of a misunderstanding of the nature of native land holding at the particular time. Ownership rights over land stretched further than actual occupation by the natives. By constraining itself to land only in occupation, the government was actually creating a squatter problem for itself in view of demographic factors. In 1902, a deputy Commissioner of Ukamba province

suggested that in view of the looseness and irregularity of land holding among the natives:

D.Os should be instructed to gradually bring into force a system by which each headman of a village shall distinctly mark out the agricultural land belonging to the village. As it is marked out it would be surveyed and all holdings numbered. After this the D.O. would issue a certificate which would show the name of the occupier, extent of land, location and a proper register would be kept detailing all these particulars.²

This was an attempt to bring all land under a uniform registration system. This was felt to be necessary because of the scarcity of population and the alleged loose claims they had on the rich cultivable land. The influx of new settlers in 1903 also posed other land management problems for which the government had not made adequate provisions i.e.

- the unavailability of a map of the Kikuyu country which would show native villages, cultivation and grazing to be reserved and show the unoccupied lands.
- The effect of letting and selling of land on natives was unknown e.g those alienated, disposed or squatterized.
- The need to preserve certain areas for townships.

It was expressed that there was a need to have an inventory of land especially the holding of land whether by natives or by others. There was also the need to know which land could be set aside for townships. There emerged therefore a need to carefully plan land use in the face of future development.

The multiplicity of people or actors involved in land management owes its origin to this early period as well. Apart from the land office, the Sub Commissioner and a collector were involved.

By the end of 1903, the whole issue of land was far from settled. Prospective settlers were clamouring for land and no accurate maps were available. Information as to its availability or the availability of any particular area was scanty.

The administrative staff were quite inadequate for the task of investigating applications and it really was impossible to keep pace with the demands. Every effort would be made by the land officer to satisfy applications without infringing on natives rights. Shortage of staff created a major hitch. In an effort to iron out the issue, a committee was appointed to inquire into several questions relating to land management i.e.

- general terms and conditions upon which sales and leases of land should be granted
- prices of land
- desirability of preserving land for natives, Europeans and others
- survey of land and the working and organisation of the land office
- the right of natives to or over land
- rights of the crown and individuals to or over land within the Sultan's domain and elsewhere

As has been said earlier, the natives represented the low income group at the time and it was deemed desirable and a moral duty to reserve land for them. A Sub Commissioner then was convinced that:

the safeguarding of the native rights and interests in this connection is practically our first duty when dealing with the land question.³

Should we now neglect the low income groups?

Crown Land Ordinance 1915

The enactment of Crown Lands Ordinance 1915 introduced an addition to the old definition of Crown Land by including all land occupied the natives tribes of the colony and all lands reserved for the use of members of any native tribes. The CLO allowed land to be taken up in 99 and 999 year leases over urban and agricultural land respectively. After 1919 there was not much large scale alienation of land.

With alien land laws fully entrenched in the colony, the crown went ahead to lead Kenya in a course of development that was in keeping with other colonies

i.e India.

Having thus managed the control of all land in Kenya, the colonialists also sought to develop the urban areas in keeping with the British towns.

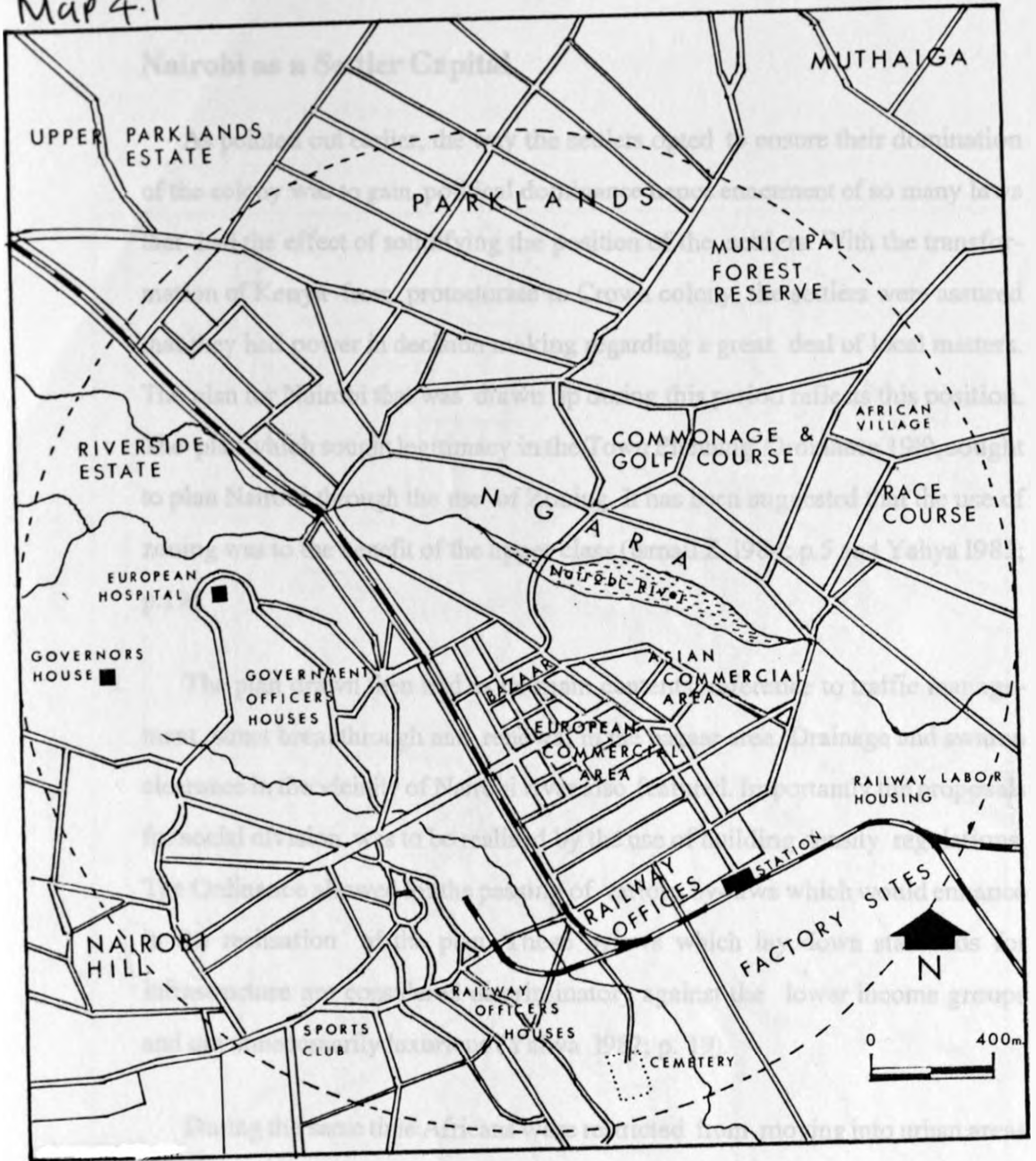
TOWN PLANNING

Urban planning in Kenya commenced with the advent of the railway line. The site chosen for the first town had clear advantages for the purpose of the railway i.e ample level land for tracks and sidings and yet close to an elevated cooler area which was deemed suitable for the houses of senior officials. The plan for Nairobi as a railway town, which was in keeping with a Capitalist Mode of Production took into consideration the European employees of the railway as well as the Asian traders. The Asian labourers (coolies) and the Africans were not catered for and this had to find a place outside the boundaries of the plan. This began the alienation of the poor from rightful occupation of land. This was occasioned by the Capitalist Mode of Production which saw land as a means of production to be assigned to the highest and best economic use. The plan for a Railway town (as Nairobi was first called) segregated residential areas for different races and economic classes. Social services as well exhibited a separation of the poor from the wealthy. Along with this, it is felt that the plan exhibited a political ideology reigning at the time and operated within the framework of imperialist expansion. Ismail captures this when he says:

The urban arrangement proposed by the engineers constitutes a clear cut picture of divide and rule ideology: not only is one class/race favoured and others neglected, the layout itself depicts ideology of master attitude and strong willed political control (Ismail Z. 1984; p4).

By 1905 a definite pattern of land use and class/racial segregation had appeared in the colonial period such that it largely underlies the present day pattern of land use and ownership in the city. Map 4:1 indicates the pattern of land use during the period.

Map 4.1



Nairobi: A Railway Town. 1917

Nairobi as a Settler Capital

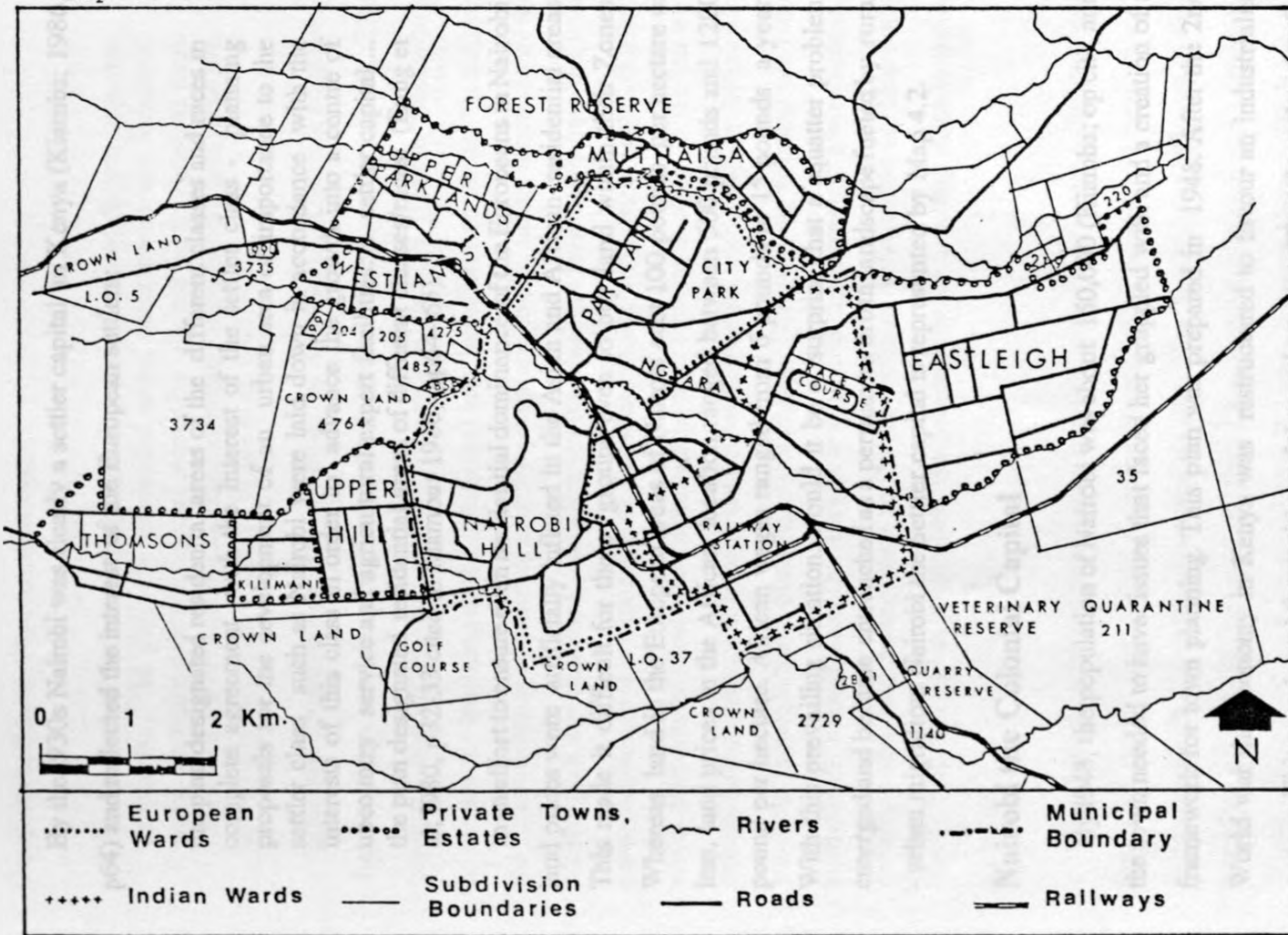
As pointed out earlier, the way the settlers opted to ensure their domination of the colony was to gain political dominance hence enactment of so many laws that had the effect of solidifying the position of the settlers. With the transformation of Kenya from protectorate to Crown colony, the settlers were assured that they had power in decision making regarding a great deal of local matters. The plan for Nairobi that was drawn up during this period reflects this position. The plan which sought legitimacy in the Town Planning Ordinance 1919, sought to plan Nairobi through the use of Zoning. It has been suggested that the use of zoning was to the benefit of the upper class (Ismail Z. 1984; p.5 and Yahya 1982; p.19).

The plan drawn then had as its main contents reference to traffic management, street breakthrough and renewal in the bazaar area. Drainage and swamp clearance in the vicinity of Nairobi river also featured. Importantly the proposals for social division was to be realised by the use of building density regulations. The Ordinance allowed for the passing of various by-laws which would enhance in the realisation of the plan. These bylaws which lay down standards for infrastructure are considered discriminatory against the lower income groups and are unnecessarily luxurious (Yahya 1982; p. 19).

During the same time Africans were restricted from moving into urban areas except for domestic workers whose families however were not allowed to join them. Whereas domestic workers were provided with living quarters, the casual labourer in the industrial sector were left to fend for themselves.

In the 1920s a major local government commission was set up to look into all the aspects of the Municipality (as Nairobi then was). This was the Feetham Commission. The Feetham report prayed for an increase of the European community's share of responsibility in Nairobi following recommendations for extension of boundaries and also prayed for a department to be in charge of

Map 4: 2



NAIROBI AS A SETTLER TOWN

African affairs to be called the Municipal Native Affairs Department. The town plan prepared then reinforced the racial class segregation already taking place. Map 4:2 is a representation of Nairobi in 1925 as a settler town.

By the 1930s Nairobi was clearly a settler capital in Kenya (Kiamba; 1986, p64) and reflected the interest of the European settlers:

the plan designated residential areas of the different classes and races in complete agreement with the interest of the settler class - planning proposals for the development of an urban area of importance to the settler class such as Nairobi were laid down in accordance with the interests of this class in order to advance the growth into a centre of upcountry service and agricultural expert facilities: a settler capital ... the plan designated residential areas of different classes/races. (Emig et al; 1980, p32-33 cited in Kiamba; 1986, pp64- 65).

In an effort to ensure even residential dominance of the Europeans in Nairobi, land prices were artificially inflated in the Asian and African residential areas. This made it difficult for these groups even to buy land within their Zones. Whereas land in the European areas of Nairobi cost 100 pounds per hectare or less, land prices in the African location ranged between 500 pounds and 1200 pound per hectare. African wages ranged from 6 pounds to 15 pounds a year. With this prevailing situation, would it be a surprise that a squatter problem emerged and became entrenched as a permanent urban landscape fueled by rural - urban migration. Nairobi the Settler capital is represented by Map 4.2.

Nairobi the Colonial Capital

By 1948, the population of Nairobi was about 150,000 (Kiamba; op cit), and the town needed to have issues that faced her grappled with and a creation of a framework for town planning. This plan was prepared in 1948. After the 2nd World war the economy in Kenya was restructured to favour an industrialist system. This weakened the position of the settlers a lot. Therefore the plan for Nairobi that came out in 1948 was with the strong influence of the industrialists. "The Master plan for a Colonial Capital" in 1948 came out in an era of

consolidation of political rule by economic power. The difficulty in planning for development realistically was captured, thus exposing the fact that technical instruments like the plans have shortcomings as well. The technical team that prepared the Master Plan confess that:

the content of future development is not easy to work into concrete proposals.... the plan for residential areas, commercial and industrial parts, circulation of traffic and recreation should be designed to meet the objectives of raising economic standards and cultural quality of life effectively and economically (White et al; 1948, p.3).

The plan sought to respect the Multi-racial dimension of Nairobi suggesting that the “plan may have to particularise for each community” (ibid). This suggested that in the eventuality of divergent and complex interests there would be needed the breaking of the municipal area into different zones. To achieve the consolidation of political rule by economic power, urban functions in the Master plan are classified according to functionalist ideology where the road network also plays a major role in delimitation and separation of the different areas. Residential areas were clearly separated from each other. The Plan was considered an attempt at solving the towns functional and social problems and conflicts through town planning principles. This was in keeping with the attitudes in Britain then that sought to correct and address all town planning problems and land management problems through technical tools. This could hardly help things as it involves the prescription of a wrong remedy in the situation.

The Plan gave the industrial area a special status. This seems to indicate that Industrial capital had gained a foothold over settler capital and beginning to dictate national development as well as rule. The position of industry is thus respected after 1948 because by then “it presented a major and immediate planning problem” and suggested that “a new industrial area which can be extended as occasion demands must be found, one which links up conveniently with the rest of the city.”(ibid).

Entrenching zoning, the Master plan concludes that since Nairobi has no slum clearance problem and land was in the hands of the public authority, "essentially therefore the Nairobi plan will be a Zoning plan" (p4). Functionalism was clearly advocated as it was felt that the plan to meet the needs of the town, will have to give form and assign function to the different areas to which the new road system would act as a firm skeleton to the whole body (ibid).

The Master plan also laid a strategy that sought to minimise distance between dwellings and workplaces for the African factory worker (low income group then), suggesting that:

no African factory worker should live further than 2 miles from work places and that the great majority should reside within the one mile radius of the industrial area (1948; p52).

Nairobi the Metropolis

The Master plan for a Colonial Capital went into operation in 1948 and was in use till after Kenya got Independence. It was however realized that there was a need to formulate a plan that would reflect the path that independent Kenya was pursuing in her urban development. In 1973 following a study by experts (the Nairobi Urban Study Group), Nairobi City Council came up with the Metropolitan Growth Strategy. The Strategy endorsed residential patterns and other land use patterns as they were. It also gave room for further concentration in the lower class residential area.

The Nairobi Metropolitan Growth Strategy builds on the functionalism advocated by the Master Plan of 1948. Though Urban functions are spread out, there isn't of necessity any kind of integration of urban functions and it only results in multiplied functional and social separation. The needs of the lower class in relation to recreation, social and public transportation are not catered for. This framework is still in use today.

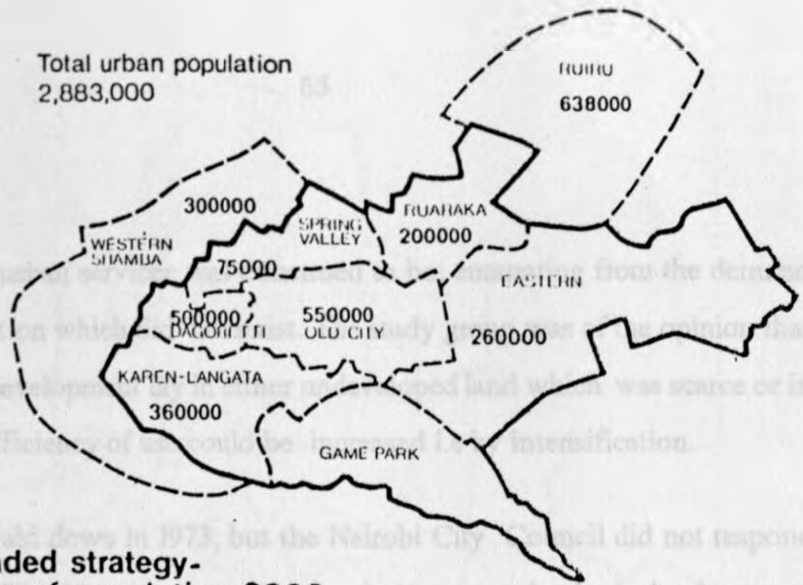
The Nairobi Metropolitan Growth Strategy recommended boundary extensions to the west and north east as and when required. Map 4:3 indicates the nature of the extension and the population in the city as estimated to the year 2000. This are the areas which were felt to have much development potential and available land. It also recommended that there be restriction placed on the growth of the CBD and the industrial zone linked with a policy for development of additional commercial centres at strategic locations throughout the expanded city and of additional industrial employment centres at Dagoretti, Karen/Langata, Wilson airport, Dandora, Ruaraka and Kasarani. The nature of Extension is shown in the Map 4.3 which also indicates the population that was expected to be living there. The strategy maintained the suggestion by the Master plan the workers be housed near the employment centres, and need for minimising capital investment on movement by restricting growth of car ownership and development of cheap and efficient public transport service. Regarding housing, the Nairobi Metropolitan Growth Strategy suggests that a realistic housing program be formulated geared to anticipated rate of population growth and income distribution of the population based on affordable standards for each group, limiting subsidies to the lowest income groups and maximising use of inexpensive local building materials and of unskilled labour particularly in self-help schemes. Regarding land, it was suggested that a land reserve be created well in advance of development needs for low and moderate income housing. The residential land needs estimated in the Nairobi Metropolitan Growth Strategy are indicated in Table 3.8.

Land Management in the Metropolis

The Nairobi Urban Study Group(NUGS) sought to work at adoption of strategies that promised to exploit full potential for the available land in its accomodation of new urban development and an increase in the density of that already in existence. Land tenure was felt to be of constraining importance i.e the freehold system was viewed as imposing limitations on further development.

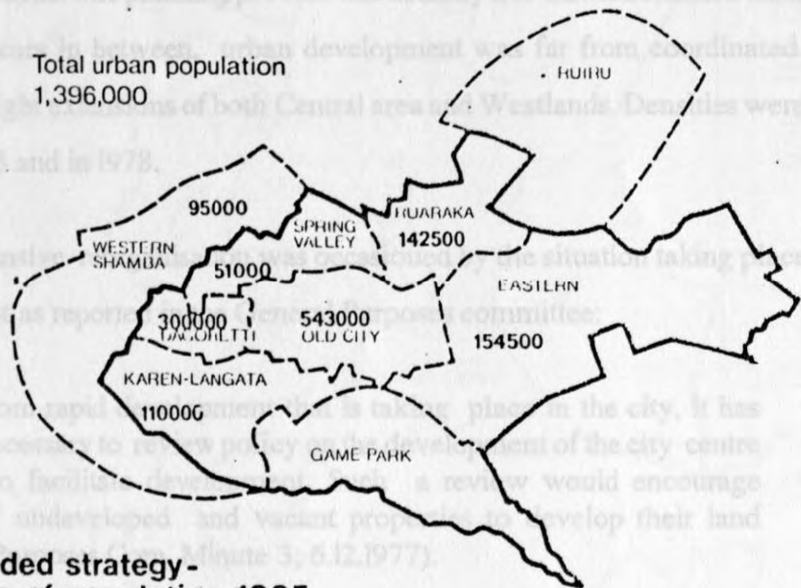
Map 4.3

Total urban population
2,883,000



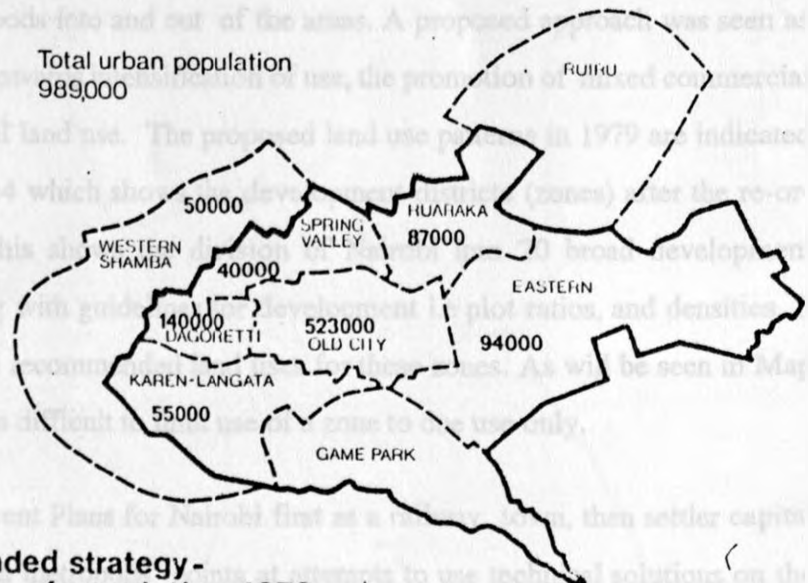
**Recommended strategy -
distribution of population 2000**

Total urban population
1,396,000



**Recommended strategy -
distribution of population 1985**

Total urban population
989,000



**Recommended strategy -
distribution of population 1979**

Source: NCC
Nairobi Metropolitan Growth Strategy 1973

Pressures for urban services was construed to be emanating from the demand for accommodation which did not exist. The study group was of the opinion that more urban development lay in either undeveloped land which was scarce or in land whose efficiency of use could be increased i.e by intensification.

This was laid down in 1973, but the Nairobi City Council did not respond visibly till 1979 when attempts were made to reorganise basic land-use and Zoning restrictions. The planning process was actually not institutionalised until 1979. In the years in between, urban development was far from coordinated. There were slight extensions of both Central area and Westlands. Densities were revised in 1975 and in 1978.

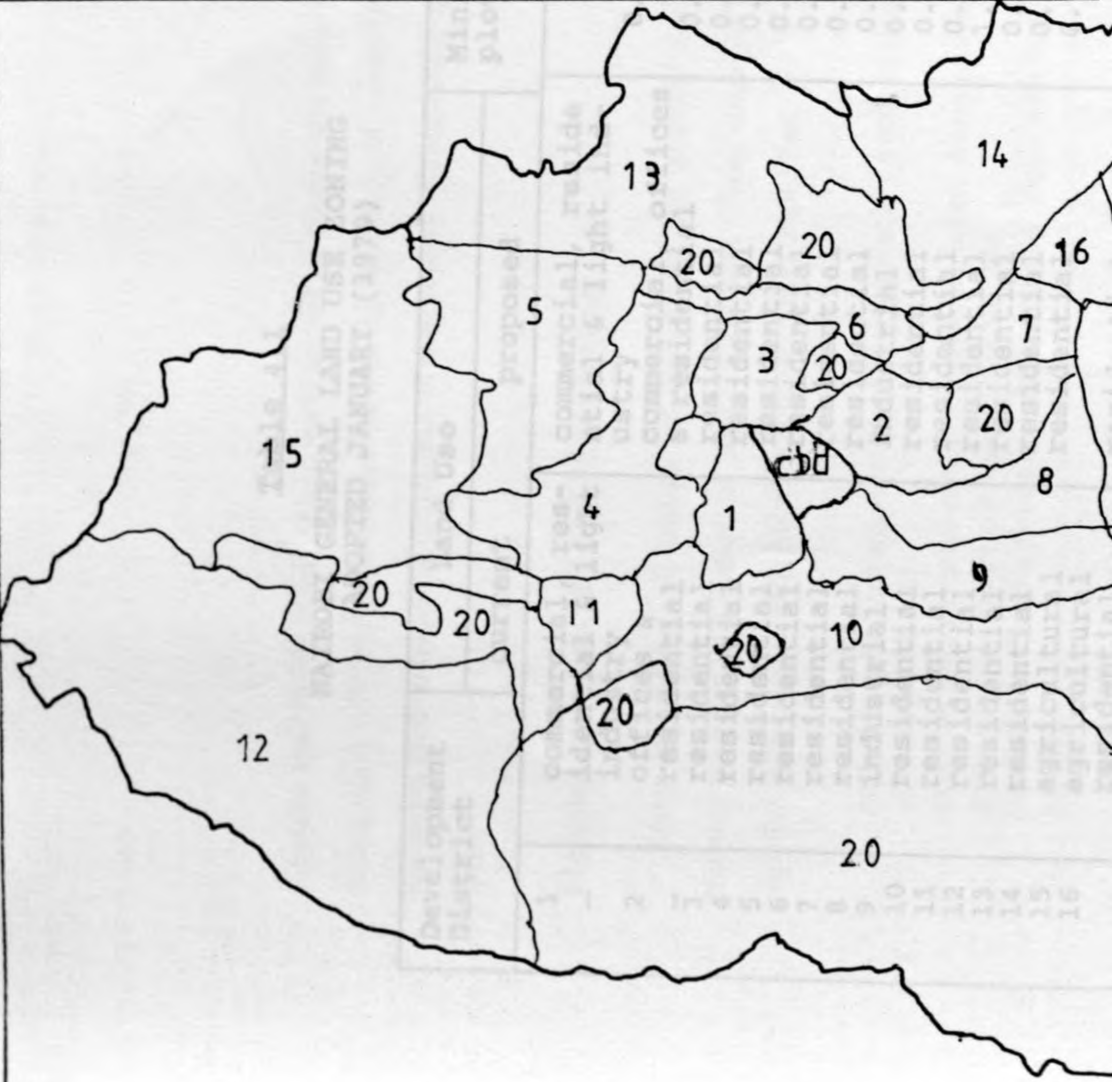
Comprehensive reorganisation was occasioned by the situation taking place at that moment as reported in the General Purposes committee:

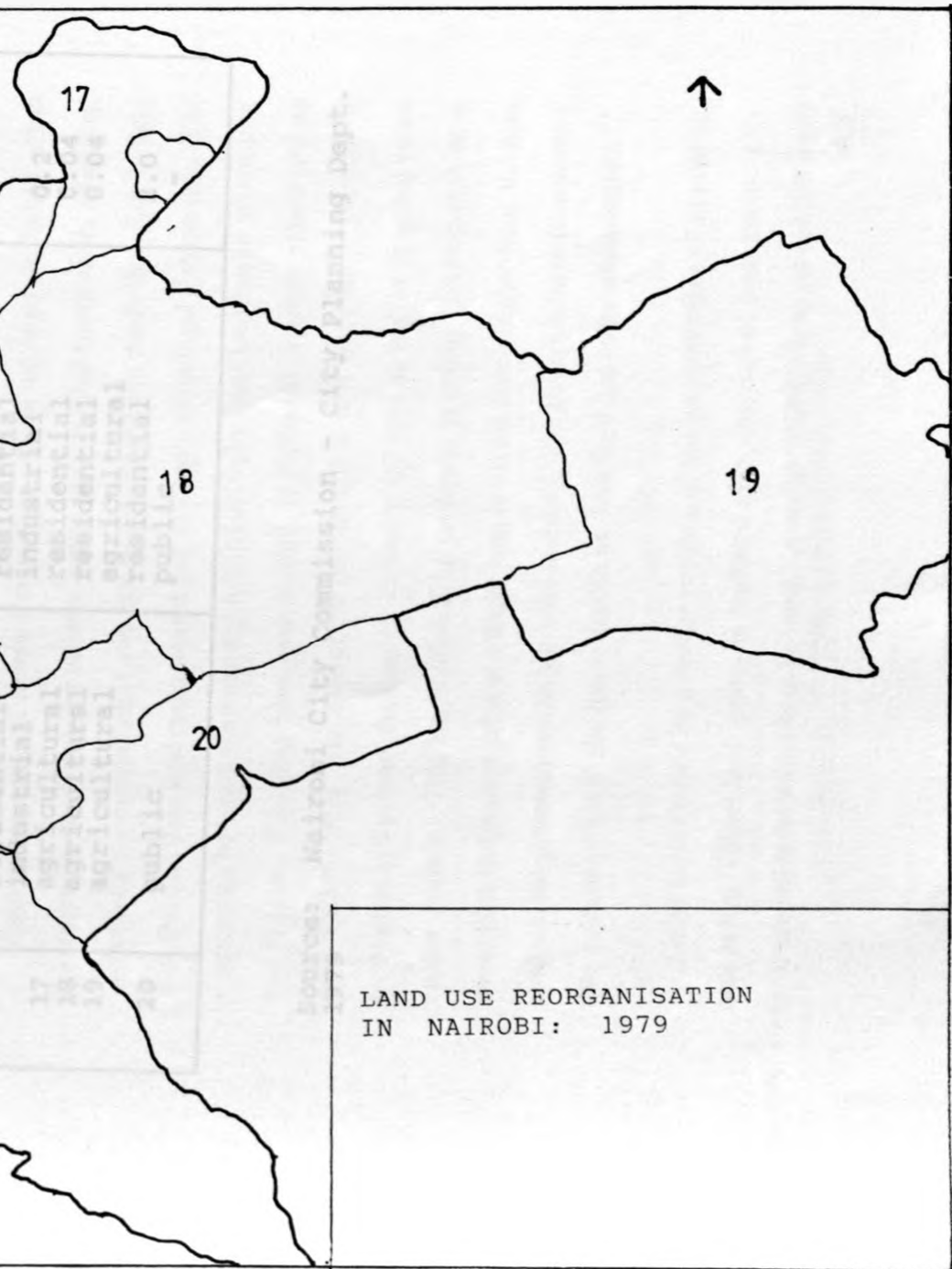
Arising from rapid development that is taking place in the city, it has become necessary to review policy on the development of the city centre in order to facilitate development. Such a review would encourage owners of undeveloped and vacant properties to develop their land (General Purposes Com. Minute 3; 6.12.1977).

The need for reorganisation was seen as an enabler of efficient movement of people and goods into and out of the areas. A proposed approach was seen as one moving towards intensification of use, the promotion of mixed commercial and residential land use. The proposed land use patterns in 1979 are indicated in the Map 4:4 which shows the development districts (zones) after the re-organisation. This shows the division of Nairobi into 20 broad development districts along with guidelines for development i.e plot ratios, and densities. It also indicated recommended land uses for these zones. As will be seen in Map 5.3 it has been difficult to limit use of a zone to one use only.

The different Plans for Nairobi first as a railway town, then settler capital and lately as a metropolis points at attempts to use technical solutions on the resolution of largely social and economic problems. In this case the technical

LAND USE ZONES IN NAIROBI: REORGANISED IN 1979





17



18

19

20

LAND USE REORGANISATION
IN NAIROBI: 1979

Table 4.1

NAIROBI GENERAL LAND USE ZONING
'ADOPTED JANUARY (1979)

Development District	Land Use		Minimum plot size
	current	proposed	
1	commercial, residential & light industry	commercial, residential & light industry	0.04
2	offices & residential	commercial, offices & residential	0.04
3	residential	residential	0.1
4	residential	residential	0.1
5	residential	residential	0.2
6	residential	residential	0.2
7	residential	residential	0.04
8	residential	residential	0.04
9	industrial	industrial	0.04
10	residential	residential	0.04
11	residential	residential	0.04
12	residential	residential	1.0
13	residential	residential	0.2
14	residential	residential	0.2
15	agricultural	residential	0.04
16	agricultural residential industrial	residential industrial	0.2
17	agricultural	residential	0.04
18	agricultural	residential	0.04
19	agricultural	agricultural residential	2.0
20	public	public	-

Source: Nairobi City Commission - City Planning Dept. 1979

solutions used were plans. Plans have served as means and tools of land management all throughout the period with the assistance of several by laws and regulations to help in achievement of the properly planned built environment.

Planning as a tool of Land Management

Kenya has adopted all through the years to use the technical strategy of planning the town as a means of land management. These strategies can be regarded as leading to and rendering support to institutions that:

- control how land is used, developed, bought or sold i.e control all manner of dealing with land
- assemble land and other capital resources for urban developments
- prepare land to ensure suitability for settlement
- distribute land and services or information that deals with land to the people

Plans are also meant to monitor private actions as well as dictate urban development. Such popular actions could include land speculation, squatting, and unlawful construction. Laws and bylaws have been made that seek to deal with this and thus land management has as its basic tools legal instruments. The relationship between the plans and urban land value has also been an interesting one to note. The plans have been unable to influence property values and as such market forces take care of the problem. It is as if there are 2 systems of land values in the town, the legal or valuation roll price as well as its actual value on the market. This has confounding problems in urban development as it means that the market price at which land is sold is much higher than the rate at which the government charges rates and duty. The government is thus thrown into a situation where she has to decide on how land has to be administered.

Kenya is confronted by a further problem of the non-existence of an explicit land policy. Urban land policy is scattered over a myriad of legal instruments set to establish how land is to be used. A major strategy is to set out different

land uses (current and future) by Zoning. The last three plans strengthened the position of zoning as a major land policy tool aimed at realization of planned urban development.

Urban Policy and access of the poor to land

The current urban policy (If that is what it may be called as is made clear in the many Acts of Parliament that refer to land) seems to be based on an implicit assumption that it is the state that takes care of the equity objectives not addressed by the market. On the contrary, we find that urban land policy is highly sub-ordinated to the market forces. Tied to urban policy instruments are standards which are more functional to the interests that operate within the market than to the poor themselves. Absolute access to land is rarely provided by sources other than the housing market or the state promoted housing programmes. If one is to get a piece of serviced, accessible and secure land, one has to be placed within the sectors that are able to exercise economic demand for housing.

The whole set of urban standards, legislation and design is embedded in the concept of housing as a finished product. The mass of the urban poor are below the line that separates those able to exercise economic demand for housing from those who cannot. Unlike what might be expected the government promoted programmes never pushed the line down enough i,e in Umoja 2 where allottees were still expected to bear full costs. This continues to relegate the poor to marginal lands at the edge of the town in high density unserviced plots.

The issue of relative access to land (accessibility to jobs and service centres) has been considered to be a matter of land use policies aimed at spatial integration of the poor through sub centres. The idea was to provide jobs as well as facilities and services to residents but at the same time causing the town to expand outwards. This was a suggestion of the Nairobi Urban Study Group. A major aim of this was to ease congestion in the central area.

However it has been hard to realise this. The Dandora industrial area has not yet grown as expected and residents of the area regularly commute to the inner city. When urban marginality is intensified by reactionary global economic policies as has been the case in recent years, non residential activities mushroom within squatter settlement. These are activities in the informal sector. Conventional land use planning so far has not given any answer to this kind of urban decentralisation. Economic policies have tended to promote these informal activities i.e the sessional paper No 1 of 1986 (Economic Management for Renewed Growth) which states that:

A special task force will be established to review all policies to promote the informal sector. In particular the task force will review current local authority by laws and other regulations governing informal sector services to create a healthy legal and regulatory climate for informal sector activities by eliminating unnecessary constraints (GOK 1986; p58)

The Current development plan (1989 to 1993) adopts a similar stance (D.P. p.165). The current emphasis on promotion of the informal sector and Jua Kali⁴ is gaining momentum. The sector is seen as a source of employment and income and a government beset with growing unemployment has gone all out to assist and promote Jua Kali.

In the next section we look in detail at a few of the tools of land management and how they respond to the stated goals of land management that are efficiency of production and equity of distribution.

Notes:

* Kikuyu council of elders.

1. Communication between the then Sub-Commissioner in charge of Ukamba Province, Mr John Ainsworth and his Superiors.
2. Ibid.,
3. Ibid.,
4. Literally "hot sun" (kisw.) in reference to artisans who carry out trade and work in open sheds.

CHAPTER FIVE

LAND MANAGEMENT IN NAIROBI

We have noted that Kenya owes a lot to the colonial legacy in policy matters that relate not only to land but also to other factors that affect life including urban management. We noted that in keeping with the times in which she was evolving Kenya has adopted a technical approach to issues of land use planning in the capital city. Some scholars think that this was in line with the imperialist mode of thinking of the domination of the white race above all races within the protectorate. (Ismail 1984; p. 5). In present day Kenya the race differences have been replaced by economic class differences which enhance the discrepancies that arose during the colonial period.

The adoption of the policy instruments in use in the country now may be attributed not only to the colonial legacy but to the decision of the new independent Kenya government to follow a capitalist mode of production. In fact it could be rightly argued that the entire urbanisation process in Nairobi has evolved under the dominance of Capitalist Mode of Production. Capitalist Mode of Production as general economic mode in Kenya found formation in the agricultural potential it had which lured settlers from Europe and South Africa. The development of the Asian traders also enhanced this.

Plans for the town that were drawn prior to independence portray the dominance of the more affluent and the intention to create Nairobi as a town for the affluent. The first comprehensive plan drawn used the concept of zoning to sort out land uses. Zoning tends to assume a higher priority for the Central Business District (CBD) and the low density higher income residential zones compared to the attention given the housing of the urban majority.

To further support this position, the planning authorities during the colonial period had the capacity to enact various by-laws which would help in the

realisation of plans. We now have by-laws that govern the built environment, infrastructure and transport patterns which are in keeping with the ideology behind zoning. These continue to play a major role in allocation of urban investment and planning. The importance of the role that zoning plays in allocation of available resources has been seen in the recent past in the case of Nairobi and the newly introduced Service Charge. The charge was introduced in 1989¹. By the end of the year more than Kshs 50 Million had been collected. A lot of this money has been used in realigning streets and intersections in the CBD as well as the introduction of new traffic lights much to the chagrin of urban dwellers especially in eastern Nairobi who still maintain that rubbish remains uncollected, roads have potholes and street lights do not function.

A key manifestation of the Capitalist Mode of Production is seen in economic restructuring following the second World War. There was an emphasis on industrialisation and because of insufficient capital and entrepreneurs in the colony at the time, multi-nationals were invited to aid in rapid industrialisation of the country. The Master Plan of 1948 had this in mind when it classified urban functions and separates the different areas that have different functions. This enhances zoning as a major technique of land management playing not only the role of separating functions from one another but the population as well. The progressive element of capitalism of the period is captured by Ismail:-

the development of industrial capitalism will not only supplement the already developed agrarian capitalism. The emergence of modern industrialism will consolidate the capitalist relations of production as a whole and as such enforce bourgeoisie dominance and control. (1984; p9).

By the early 60s about the time that Kenya got independence, industrial capital had got a foothold over agricultural economy. The agricultural economy had been dominated by settlers up to the late 50s when land reform was undertaken in the Kikuyu Country. When the British State intervened to pave way for Independence in the colony, she also altered the situation to allow for an

African bourgeoisie which had agrarian interest following the reform. This is the group that came to power with Independence. The fact that Kenya intended to maintain the Capitalist Mode of Production was evidenced by reliance on industrial capital, foreign investment as well as the private sector (Ismail 1984; p11).

The Nairobi Metropolitan Growth Strategy of 1973 is also to be seen in this light. The Capitalist Mode of Production had by then got entrenched in Kenya's policy of development. This strategy does not pay much attention to the urban poor and the policy of decentralisation enhances functionalism and further separates the population. Planning has played a major role in land management although its role has not always been considered positive. Planning faces difficulties that include:-

- length of time to prepare a plan. This is usually a long time and sometimes before it is approved it takes so long that at times the plan is rendered useless. In the case of vacant land, squatters may have colonised it or illegal subdivisions already have taken place.
- the plans are unable to resist the pressure that is brought to bear by local influentials and politicians especially in matters that relate to zoning as well as land acquisition.
- There is tremendous reliance on statistics which are neither up to date nor reliable as socio-economic data.
- legislation concerning town planning may be considered deficient in that it seeks to achieve too much yet does not really address the real issues.

According to Yahya

One of the problems could well be that the orthodox Town and country planning Acts/ Decree/ Ordinance attempts to achieve too much and new approaches are needed to meet specific requirements of land use control, development control, conservation, development planning and all other facets of community planning (1982; p31).

In appreciation of the role that zoning has played in the past, there is a recommendation that the technique needs to be refined to meet the needs of the

various sectors of the population and different styles of development. Urban planning has played a great role and contributed a great deal to land management practice. It has added to the techniques already in use by the Commissioner of Land whose role not only involves allocation of land but also of causing allottees to use land in a particular manner.

INSTITUTIONS IN LAND MANAGEMENT

The primary agencies responsible for urban planning and land use planning are the Director of Physical Planning and the Commissioner of Lands. These act in collaboration with the local authorities. In the case of Nairobi, the City Commission has a Town Planning section in charge of forward planning and development control within the city. The Commissioner of Lands is in charge of the Lands Department and he is the overall land administrator in the country with wide powers and responsibilities including overall plan approval.

Lands Department

The Department of Lands is headed by the Commissioner of Lands and has as its functions the following:-

- Administration of state land under the Government's land Act (GLA).
- assistance to county councils in the management of land under customary tenure i.e trust land.
- control of land use under the Land Control Act and the Land Planning Act which includes the approval of plans prepared by the Physical Planning Department.
- Maintenance of Land registry.
- Valuation of Property i.e for stamp duty, ground rents and Premia.
- Acquisition of land on behalf of any Government department and parastatals for public purpose.
- Collection of land based revenues i.e rents, stamp duty, registration and conveyancing fees.
- To advise the government on policy matters that relate to land management and development.

The Commissioner of Lands is also expected to service all urban land for

allocation to developers in the commercial, industrial and residential sectors. While this may be considered an important policy tool for the promotion of development, the financial allocations do not permit this therefore most allocations are made without services and allottees are required to make a contribution for the installation of services. The inability of the department to install services in required time has made it difficult for it to enforce development conditions on plot allottees.

Department of Physical Planning

The department started out in the 1960s as the Town Planning Advisor to the Commissioner of Lands who was the recognised planning authority. The functions of the P.P.D are :-

- preparation of national, regional and local physical development plans.
- to advise the government departments, local authorities and district development committees on matters that relate to planning.
- in the case of government land (use and development, it is expected that it will serve as the town planner.
- to assist and advise the Commissioner of Lands on the administration of leases.
- co-ordination of development controls as well as regulations of land use and development as well as sub division.
- It is expected that the department will prepare long term strategies for the management of land based resources as well as other related environmental matters.

At best the role of the Department is advisory because it has got no power to implement suggestions that it makes in respect to planned land use and allocation of land. The implementing agency in most cases is the local authority and it is difficult for the department to compel the authority to implement plans. In issues of Land administration, particularly its allocation, the Department does not have any direct control because allocation is traditionally the domain of the Commissioner of lands. Before allocation, the Commissioner is expected to seek the advise of the Director of Physical Planning on the suitability of the proposed development in the site to be allocated. This does not happen as much as it is

supposed to.

Nairobi poses another challenge to the Department of Physical planning because it has its own fully fledged planning department too. However, the DPP has control over land which though within Nairobi is owned by the government and not necessarily the City Commission. These also happen to be the lands where the Commissioner is the allocating authority. Some time ago, to coordinate development (because of the variety of interests involved), there was a Nairobi Town Planning Liaison Committee that used to meet to discuss issues pertaining to planned development of the city. It has been non-functional for the past 5 years but plans were underway in 1990 to revive it.

An interesting fact comes across when one looks at land allocation procedures. The P.P.D. finds the land allocation procedures by the Commissioner of Lands to be irrational and take so long i.e in the case of planned development like housing. Ad-hoc allocations are done quickly and decisively and the only time when the Commissioner of Lands consults the Physical Planning Department is when he wants a development plan prepared after allocation has been made. This has led to a misunderstanding of the roles of the two departments.

The Physical Planning Department disagrees with the COL's terms of allotment of land, finding the requirement of advance payment as having the effect of increasing the cost of land and thus making it inaccessible to the majority of deserving cases i.e. the informal sector. SYA concluded that making sufficient land available for housing is being constrained by the general atmosphere of mistrust that exists between the Lands Department and the Department of Physical Planning. (SYA, 1987; p36).

The Physical Planning Department has no legal authority and plays an advisory role. A bill has been drafted which seeks to establish machinery in the environment of planning regulation and control of development. It has been noted that the existing legislation is not sufficient. The Town Planning Act only refers

to Towns, Municipalities, and gazetted areas while the Land Planning Act refers to areas that are within a five mile radius from the jurisdiction of the Town Planning act. The Bill also seeks to establish the Department of Physical Planning as a preparatory agency with legal authority which would lead to better coordination of planning. By this the Bill seeks to establish the Director of Physical Planning as the chief planning authority.

The Bill has not yet come up in parliament for debate. It is still being subjected to discussion within the Ministry of Lands and Housing in consultation with other Ministries that would have an interest e.g Ministry of Local Government, Nairobi City Commission, Provincial Administration and the Ministry of Economic Planning.

Nairobi City Commission

Local authorities are a local arm of the Central Government and act as local agents. In the past decade, local authorities have been under scrutiny and many are of the opinion they have failed to deliver the goods. Such has been the case of particularly Nairobi that the City Management (elected Council) was done away with and replaced by a Ministerial Commission. This was done in 1983 following revelations in the local press about improper plot allocations and several irregularities in the City Council. A local authority also administers land and NCC's role has many facets.

Land Supplier: Nairobi City Commission has at its disposal some land which they could allocate to whatever use they may wish. In the recent past, such land has been allocated to residential use especially in World Bank and USAID supported projects. Land could also be increased by a revision of zoning policies which have the effect of increasing densities. This was done in 1979 when there was a major review of densities in the town. There have been further revision especially in low density residential areas.

Planner of Land Development: Nairobi has a City Planning Department able to prepare development plans and control the nature of development. Unfortunately it does not have access to machinery for acquisition, servicing and disposal of land. These are done by the Commissioner of Lands. The City has also had problems with effective development control. This features as a major problem with increasing unplanned settlements. The strict rules that govern development have been blamed for the situation. The City Commission Minutes show that more than 95% of all building permits granted are for middle and high income residential development as well as commercial and industrial development. Of what could be considered low-cost housing, the permits granted were for extensions and construction of servant quarters (see Table 5:2). It means that the housing for the poor is really outside the boundaries of legality. This makes the presence of almost 50% of the population, illegal and unwanted in the city and thus their houses are subject to arbitrary destruction and demolition by the Nairobi City Commission.

The main culprit in this instance is usually pointed out as the development conditions which are by and large considered luxurious and unrealistic especially keeping in mind the incomes of a large number of the people that dwell in Nairobi. Whereas one may understand the insistence of the Nairobi City Commission on such strict standards i.e the prevention of the Capital City degenerating into a "mud-city", it is a disturbing fact that the rapid growth of the City without appropriate shelter alternatives has led to the growth of a city environmentally deplorable and possibly second only to Lagos in Africa south of the Sahara.² The City Commission ought to change its attitudes to standards if it would like to alleviate the problem of unauthorized development.

Development: In the recent past this role has been limited to supply of trunk infrastructure and participation in National Housing Corporation projects. Suggestions have been made as to how this role could be enhanced. These include joint ventures and partnerships with the private sector.

The Nairobi City Commission is also faced with the responsibility of development control in the city, but this has been confounded by the multiplicity of agents involved in land administration. A report by the City Engineer in 1988 highlights the inadequacy of the City Engineer's control over development due to the failure of other authorities that administer land to inform him. The major complaint about the Commissioner of Lands was the method of allocation of land as well as the inability of the City Engineer to supervise works of development that were contracted out by the Commissioner of Lands especially in the case of provision of services. The procedure involved the Commissioner of Lands contracting jobs out and expecting the City Engineer to supervise the works because they were taking place in the city. What would normally happen is that the contractors would not respect the City Engineer as expected (Nairobi City Commission; Minutes of Works and Town Planning Committee, 15.6.88). In the same report, the role of the Physical Planning Department was also questioned. The City Engineer reported that the Physical Planning Department prepared Part Development Plans without prior approval or scrutiny by the Commission's technical offices and just forwarded them.

Revenue collection: It is expected of all local authorities to collect local capital which in turn will allow them to be self-supporting and render the necessary services. The World Bank is currently involved in projects towards the improvement of the management of the institutions of Local Government. The Nairobi City Commission liaises with the Commissioner of Lands in most matters of land management i.e in approval of building plans, subdivisions, change of user, extension of lease and amalgamation of plots. This elongates the approval process.

In the recent past, local authorities all over the country have been subject to usurpation of powers by the Central Government. Nairobi has not been spared this. Worse still the supremacy of the Commissioner of Lands in land management issues has led to friction between the Department of Lands and the Nairobi

City Commission. This has been at the fore front especially in the case of allocations of land. The Nairobi City Commission is almost powerless against an unwise decision by the Commissioner of Lands.

Population Characteristics of Nairobi.

Population projections show an increase in population within the current city boundary from 1.2 million in 1985 to 1.7 million in 1995. The main growth area was expected to be in Dagoretti to the west and Dandora to the east. The low income groups dwell largely in these places. It was also estimated that an excess population of at least 235,000 in 1995 and 1.1 million in 2010 would be accommodated outside the current city boundary in what the NUSG referred to as the Western Shamba and Ruiru, the directions in which Nairobi was expected to grow (Map 4:3).

The Western Shamba stretches as far as Rongai, Kiserian, Ngong, Kikuyu, and many parts of Kiambu. A casual look at the scene would show that this has indeed happened but at a much faster rate than envisaged. The full buses along Langata Road, Ngong and Limuru Roads are an indication of this along with the traffic jams on those routes. It is clear that the city authorities had not planned for such increases. A further prove of growth in the area has been indicated by the rise in land prices.

Table 5:1 shows the 1985 population along with the 1995 estimates per residential groups. It is estimated that Nairobi's population will grow by 5.2% between 1985 and 1995. The projections show that the bulk of the increase would be in Development Districts 2 (125,000 - 133,000), 7 (105,000 - 114,000), 8 (169,000 - 191,000), 10 (90,000 -130,000), 15 (133,000 TO 260,000) and 18 (149,000 TO 326,000). Districts No.s 11, 12, 14, and 17 would also record some substantial increases. The main growth area would be Dagoretti (15) and Dandora (18). The projections also show that as Nairobi continues to grow, an increasing proportion of the population would be in the low income groups. All Districts

NAIROBI POPULATION AND DENSITIES: 1985 AND 1995 ESTIMATES

Dev Dist	Population (000s) per residence										Densities							
	1		2		3		4		Tot		1		2		3		4	
1	21	22	0	0	31	33	0	0	52	55	84	90	0	0	180	190	0	0
2	0	0	62	65	63	66	0	0	125	133	0	0	144	150	210	225	0	0
3	0	0	45	50	0	0	0	0	45	50	0	0	82	90	0	0	0	0
4	55	60	0	0	0	0	0	0	55	60	32	35	0	0	0	0	0	0
5	25	44	0	0	0	0	0	0	25	44	17	30	0	0	0	0	0	0
6	12	14	0	0	0	0	0	0	12	14	35	46	0	0	0	0	0	0
7	0	0	5	6	40	45	60	63	105	114	0	0	125	150	22	250	400	420
8	0	0	15	29	154	162	0	0	169	191	0	0	52	100	257	270	0	0
9	0	0	0	0	10	10	0	0	10	10	0	0	0	0	0	0	0	0
10	0	0	55	77	0	16	35	37	90	130	0	0	85	110	0	160	389	410
11	0	0	28	36	0	0	35	39	63	75	0	0	90	115	0	0	318	350
12	16	48	0	0	0	0	0	0	16	48	3	8	0	0	0	0	0	0
13	10	32	0	0	0	0	0	0	10	32	8	25	0	0	0	0	0	0
14	0	3	30	52	20	27	0	0	50	82	0	9	29	75	167	225	0	0
15	0	2	8	33	80	145	45	80	133	260	0	3	133	55	48	120	38	190
16	0	0	10	11	0	0	13	14	23	25	0	0	143	160	0	0	325	350
17	0	0	6	10	17	56	7	0	30	66	0	0	24	40	121	100	47	0
18	0	0	25	50	85	195	39	80	149	326	0	0	68	100	57	140	81	160
19																		
Westrn Shamba Ruiru	0	0	0	10	0	40	0	25	0	75	0	0	0	60	0	70	0	190
	0	0	0	50	0	90	0	20	0	160	0	0	0	55	0	125	0	170
Tot	139	225	289	479	500	88	234	358	1162	1950	13	20	71	85	11	148	107	230

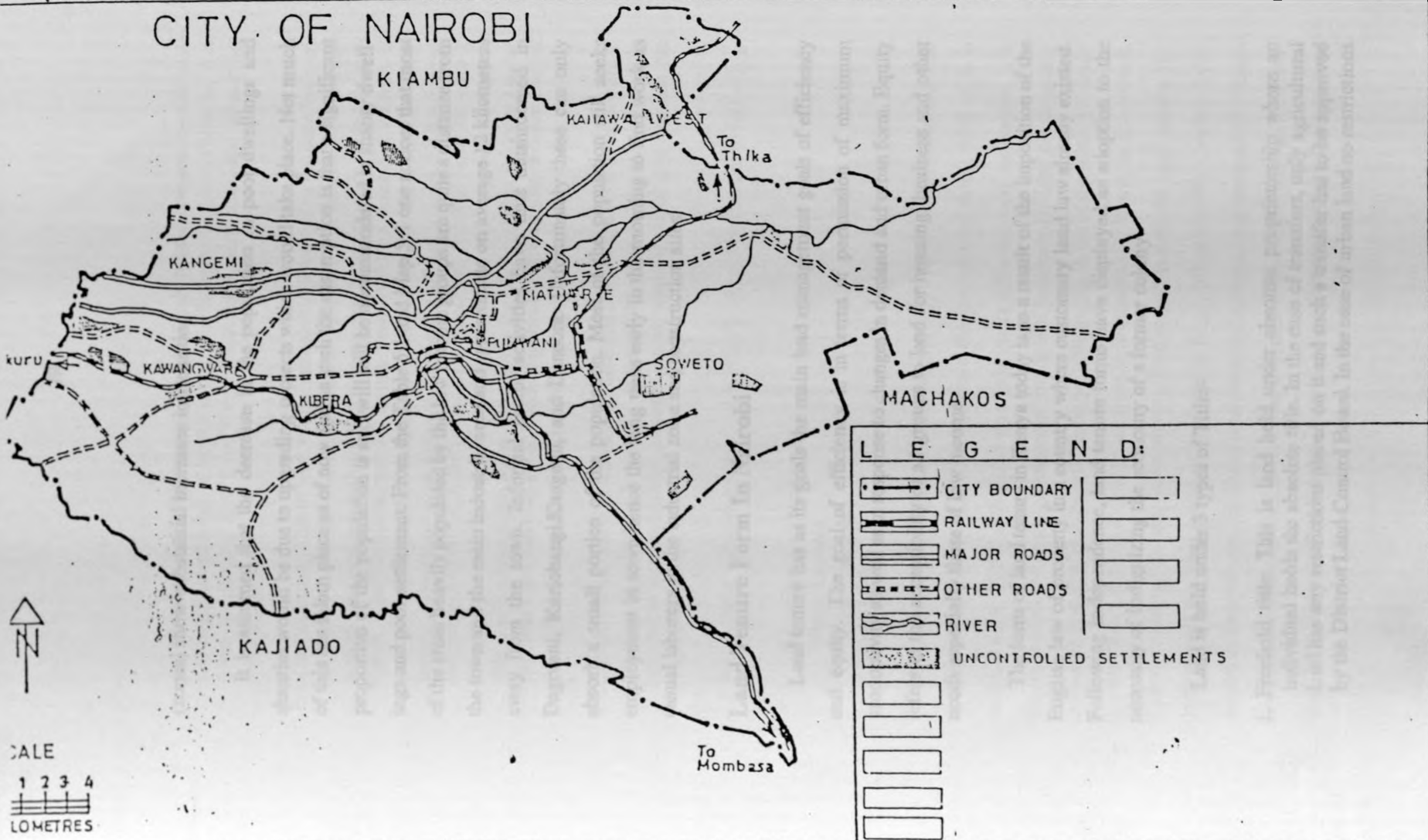
Note Figures in Bold are 1995 estimates.

Key.

1. High income residential development
2. Middle income residential development
3. Low income residential development
4. Poor dwellings and unauthorised settlements

Source: Nairobi City Commission. Water and Sewerage Department. 1985

CITY OF NAIROBI



HOUSING STRESS ZONES

DEPARTMENT OF URBAN
AND REGIONAL PLANNING
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M. A. PLANNING, YR. I, 1985/7

(zones) show substantial increases in Densities.

It is assumed that the decrease in the population in poor dwellings and shanties would be due to upgrading projects which would take place. Not much of this has taken place as of now and as such the assumption is that a significant proportion of the population is and will still be accommodated in shanty dwellings and poor settlement. From the Table 5:1 and Map 5:1 one notices that most of the areas heavily populated by the low income groups are quite a distance from the town and the main industrial area and approximate on average 12 kilometers away from the town. Informal sector activities have thus mushroomed in Dagoretti, Kariobangi, Kangemi, and Dandora. Unfortunately these can only absorb a small portion of the population. Most of the population still seeks employment in town hence the long treks early in the morning to find work as casual laborers in the industrial zone and construction sites.

Land Tenure Form In Nairobi

Land tenure has as its goals the main land management goals of efficiency and equity. The goal of efficiency is in terms of permission of maximum productivity as well as in response to changes in demand and urban form. Equity refers to the accessibility of all groups to land for housing, business and other needs especially those of low income.

The form of land tenure in Kenya today is as a result of the imposition of the English law of property in a country where customary land law already existed. Following independence, land tenure forms have displayed an adoption to the necessity of indigenizing the economy of a former colony.

Land is held under 3 types of Title:-

1. Freehold title: This is land held under absolute proprietorship where an individual holds the absolute title. In the case of transfers, only agricultural land has any restrictions placed on it and such a transfer has to be approved by the District Land Control Board. In the case of urban land no restrictions

are placed on it in relation to transfer. The only restrictions are in relation to development and this is by statute placed through the Land Planning Act, Land Acquisition Act, Land Control Act along with the local authorities building by-laws.

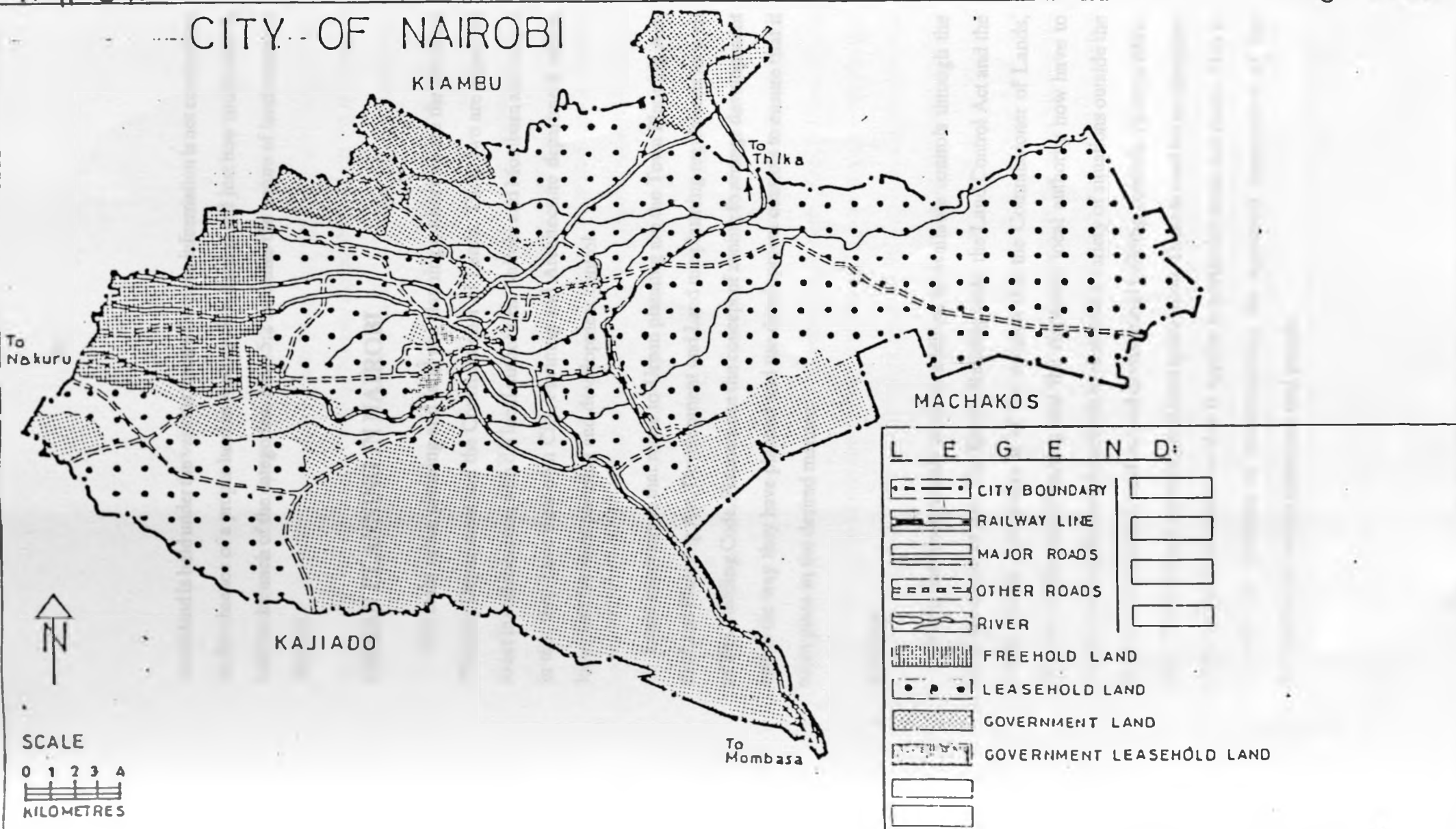
2. Leasehold land: This is land whose radical title is vested in the state but may be granted out in leases of fixed terms i.e 99 and 999 in the case of urban and agricultural land respectively. Such leases may be assigned or subletting may occur. The Commissioner of Lands usually grants leases in respect of property held under the Governments Land Act (GLA). Until recently (1988) pepper corn rents were charged in respect of such land. Following an amendment to the GLA the period of revision was reduced from 33 years to 10 years periods. Rents in respect of commercial property were revised in 1989 and by March 1990 over 400 complaints alledging that the rates are too high had been received at the Lands department offices. No revision has yet taken place in respect of residential property.
3. Customary Land: This is land that is held and has always been in the hands of the clan or tribe and is usually communally owned. The land is usually referred to as trust land because the county councils hold it in trust for the respective tribes.

Within these categories then, land in Nairobi should be one of the following:

- Government or state land
- Private freehold
- Private leasehold
- Trust land.

According to the 1983 Urban Housing survey, 24.5% of the residential land in urban areas is held under a lease from the government while 55% of it is freehold land. 20.5% of the land was held under different land ownership. It is therefore evident that the government's main tool for control of land development is through planning regulation (Ondiege; 1989; p.26). A lot of the land in Nairobi is under leasehold i.e all residential areas in Eastlands all the way to Komorock, Kilimani, Lavington and Kileleshwa. Government leasehold land covers the CBD and all the areas enclosed by Langata Road, Mbagathi Way, valley Road and the Railway station. Freehold land stretches between Dagoretti and Mwimuto as well as the Kahawa area. In terms of size, next to leasehold land, government land forms the largest portion of Nairobi's land. It is not easy to find out how

CITY OF NAIROBI



LEGEND:

- CITY BOUNDARY
- RAILWAY LINE
- MAJOR ROADS
- OTHER ROADS
- RIVER
- FREEHOLD LAND
- LEASEHOLD LAND
- GOVERNMENT LAND
- GOVERNMENT LEASEHOLD LAND

LAND OWNERSHIP

DEPARTMENT OF URBAN
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much land is held under the various tenure forms as information is not conclusive. In the absence of a proper land inventory, it is hard to tell just how much land is held under each of the categories. Map 5:2 indicates the nature of land tenure in Nairobi.

URBAN PLANNING IN NAIROBI

The main urban planning and land use planning authorities are the Physical Planning Department and the Commissioner of Lands. These two are expected to act in collaboration with the local authorities. Nairobi and Mombasa are unique in that they have their own City Planning and Architecture department which looks into forward planning and development control.

Legal instruments that relate to Urban planning are the Town Planning Act, the Land Planning Act, Development and Land use planning regulations as well as The Building Code. Planners use the concept of zoning to arrange development and in the way they have planned and use development controls to ensure that it takes place in the desired manner.

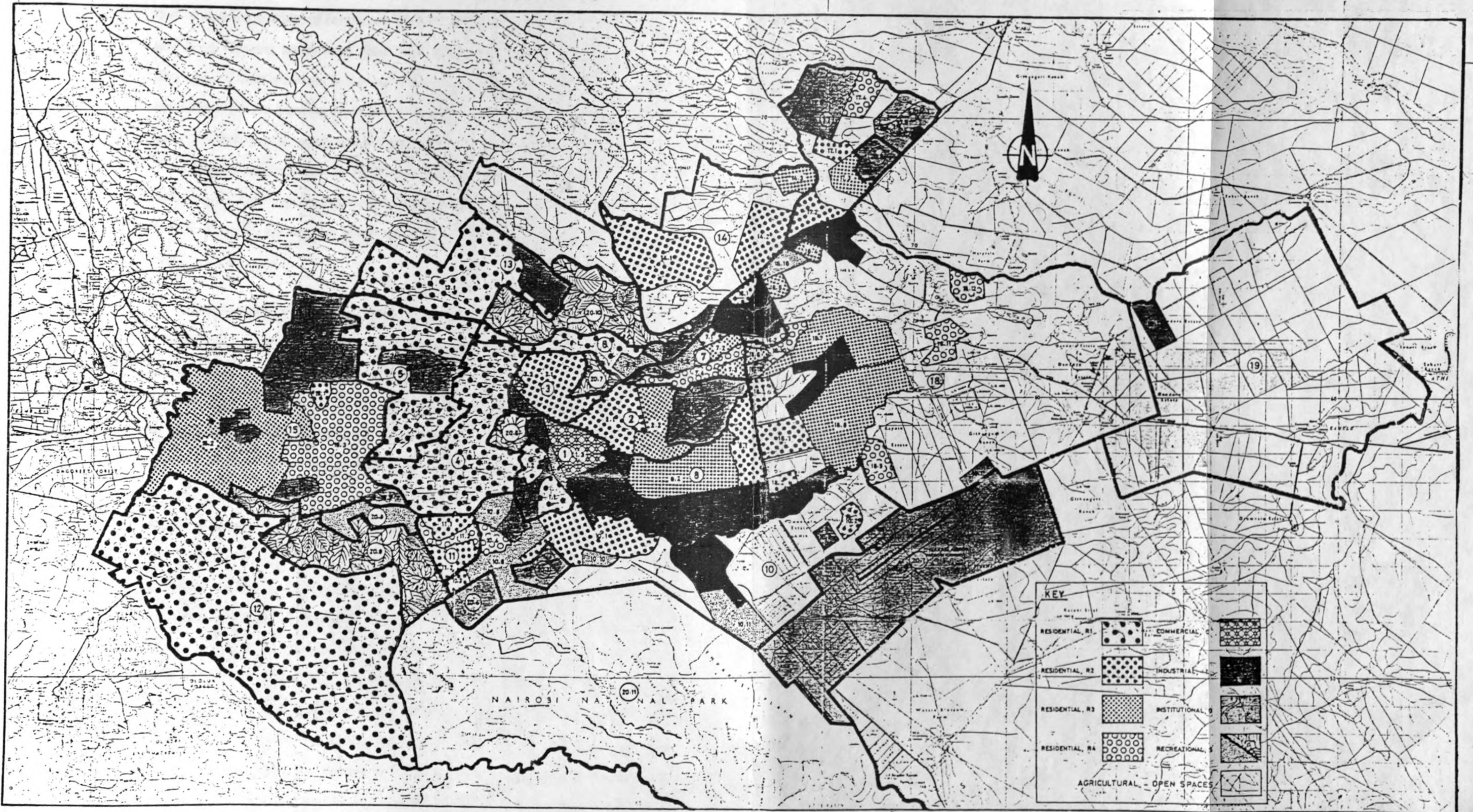
Zoning

Zoning has been widely used in addition to available controls through the Local government Act, The Kenya Building code, the Land Control Act and the Public Health Act. Yahya is of the opinion that the Commissioner of Lands, Director of Physical Planning and the respective local authority now have to design more sophisticated methods to deal with a variety of situations outside the traditional concerns of land use, subdivision and building controls. (Yahya; 1982; p56). These include squatting and land speculation. There is need for an alteration of the methods of control so that it applies to particular areas and cases. This is to avoid the problem of universalising the approach irrespective of the peculiarities of certain situations and people.

When Zoning was first introduced, it was to regulate health and safety standards, control pollution and limit nuisance and the improvement of the overall quality of the physical environment. Application of Zoning has had the effect of reduction of the variety of land usage and replacement by large single use zones. The fact that the whole of Nairobi can be divided into 20 or so broad zones is a case in point. Zoning regulations have also had the effect of increasing the distances between homes and workplaces. This is because of a clear distinction between uses of land. One area is clearly zoned "residential" and another one clearly zoned "commercial" or "industrial". This is a development which does not augur well for the urban poor. The difficulty of restricting use to one single user is evidenced by the Map 5:3 which shows major land uses in Nairobi as of 1985. Unfortunately some of the land uses are considered unlawful or illegal if they are not in keeping with the recommended land use as of 1979 according to Map 4:4 and Table 4.1. Rezoning was done in 1979 and suggestions made as to how the land could be used. The suggested land uses had the effect of separating users so much that it increased distance to work for the majority of the urban residents. This is clearly brought out by both Maps 5:1 and 5:3. In Nairobi the extent of this commuting is evidenced by the largely overcrowded buses which serve Kibera and Dandora areas as well as Mathare, Huruma and Kariobangi areas.³ To augment this, a large number of people walk to work in the Industrial Area and are often seen on the road as early as 5.00 a.m. The fact that it needs at least 3 hours to walk to work is an indicator of how far people have to walk. Zoning tends to restrict locations available for cheap housing and imposes building requirements that are not tailored to specific sites and needs. Zoning excludes the poor from the low density residential areas.

In Nairobi, Zoning regulations have adversely affected the urban poor and their earning capacity. Central areas of cities where land use was mixed and where there was ample accommodation for the poor gave way to uniform development of large zones which exclude the poor. Demolitions on the banks of Nairobi River

Map 5:3



LAND USE IN NAIROBI: 1985
Source: Nairobi City commission
Water and Sewerage Department.

between 1971 and 1978 are noted for this. In the Nairobi case, zoning has ensured that where large tracts of land have been subdivided, it was usually into middle and high income residential plots with no plots left for the poor to locate themselves. This reduces the access of the urban poor to opportunities that would be available from locating in close proximity to high income families. A case in point is the Karen-Langata subdivisions of the early 80's and more recently the Villa Franca subdivisions. In both cases no mention is made of the low income and housing for them despite the fact that when the land was acquired in the early 1970's, it was for the purpose of construction of low income housing. (see Kiamba; 1986, pp 122 - 124).

Large housing development aimed at reaching the poor i.e the site and service schemes and more recently the condominium project have been located in distant areas away from the wealth of opportunities for gainful employment in downtown Nairobi. The Dandora Community Development Project financed by World Bank and Umoja 2 financed by USAID are the two cases. The intended development of eastern Nairobi as a second industrial area with income earning opportunities has not quite succeeded. Agglomeration economics have attracted industrialists to locate not far from each other in the main industrial area. This has further increased the distance to work and the compounding effect has been to render housing projects unsuitable for the poor because they cannot afford the transport costs and amortization for the houses (because of the pursuance of owner occupation). Zoning land to one single-user has also worked to the detriment of the urban poor. Restricting use of a building to only one use is not in keeping with the informal nature of the activities of the urban poor. In Korogocho almost every house has attached to it a vegetable stall or a workshop. This is also applicable to Kibera and Kangemi. Other dominant activities include hair dressing saloons and for those able, second hand clothes trading and tailoring.

Development Controls

Density controls and building regulations have adversely affected housing for the urban poor. Planning authorities i.e City Hall and the Department of Physical Planning have largely accepted density controls which regulate the number of people per unit of land area in residential development. Calculation and determination of these densities do not in any way correspond to the specific need of those being housed. There are economic arguments which have often dictated that the poor be housed at higher densities while higher income earners are housed in low densities in sub-urban development. The paradox is that land prices in prime lands i.e low density zones are often substantially cheaper than of land located in the high density zones. In fact density zoning has often enabled the rich to buy land for their residences at lower prices than the rest of the community. In contrast land in low income high density over-crowded properties where the poor live is very expensive (per unit area). The cost of providing infrastructure services per unit dwelling to low density estates must be high in comparison though property tax rates are often not discriminatory.

Density controls have thus acted to the detriment of the poor. Many arguments for slum clearance have usually focused on the issue of overcrowding. The current projects at Pumwani and Kibera areas of Nairobi are an attempt at higher per capita floor areas but costs are prohibitive to low income families who are meant to benefit from the projects. They have also often acted against the urban poor. They have created a situation whereby more than 50% of the urban population occupies a housing stock largely considered illegal and illegitimate. This subjects the occupants to constant harassment and destruction. The main culprit in this case should be the local authorities who by setting high standards make it impossible for the poor to construct legal structures. The City council controls what type of development comes up in the city by scrutinising all building plans before any building is put up. Table 5.2 below shows the trend of approval of building plans. The figures for low income residential development

Table 5:2

Building plans approved

Year	Total No. res. Plans	Low Y Residential
1985 Aug - Dec	1197*	26
1986 Jan - July	595	40
1987 Aug - Nov	1556	38
1988 Whole Year	2241	70

Source. Nairobi City Commission Minutes.

* This figure was for the whole year and not just the period under review.

Note: Different periods were reviewed for the different years to get a general idea of the trend of plan approval.

was arrived at by noting all buildings that were estimated to cost less than Shs.100,000 to construct.

Renewal and Redevelopment

Most urban areas are faced with the plight of rising land prices with the CBD at the apex and the peripheral agricultural land at the base of the pyramid. Within the last 10 years prices have increased by as much as 400% in most of Nairobi. Land that sold for 150,000 in 1981 is now selling for 600,000 or more. Houses that once sold for 36,000 in 1977 are now selling for more than 350,000 e.g in Buru Buru Phase 1 and Uhuru Estates. This continuous escalation of prices provides the economic stimulation and impetus for slum clearance and urban redevelopment. This goes with granting of permission to increase plot ratios and densities to intensify development. This leads to the improvements of the road systems and other services which necessitates the demolition of the old city centre. Therefore the existing land in the city centre allocated to housing the urban poor is being progressively eroded.

The basic argument for demolition of the poor housing for the purposes of renewal is that land is most effectively used when it is allocated to the highest bidder. Whereas this may make theoretical sense it does not always apply to real life situations with imperfections in the land market. Land is subject to planning regulations, differential provision of infrastructure, property taxation, zoning and development controls as well as other forms of government intervention. Recent theories have demonstrated however that total value of urban land in the city is largely a function of the total demand and not specific location. An increase in the land value in one location has the effect of decreasing land value in another but total value of urban land remains constant. Alternative development in less expensive land has the effect of increasing land values elsewhere. Expectations of the intensive development have the effect of increasing the land value and result in driving out the poor. Lim thinks that:

If these expectations of intensive development were controlled through better regulations insisting on leaving sufficient land in use for low income housing, land values would remain low in low income neighborhoods and would allow the poor to remain there (Lim W.; 1981; p400)

An additional forceful instrument of urban redevelopment is imposing modern architectural styles i.e highrises that do not fit into the traditional low rise landscape. This has happened in the Pumwani redevelopment scheme. This has had the effect also of raising land values in the region especially because of its proximity to the town centre. What ought to have been done was the redevelopment of the old African housing estates which abound with under use of serviced land. This ought to be used for housing people in the low income category. These old African housing estates are currently under the management of the Nairobi City Commission and should be redeveloped.

Redevelopment is indicated by the number of change of use applications along with subdivision applications. These indicate that the plot owners have identified a more rewarding form of development for their land. Table 5:3 indicates the total number of change of uses. As can be seen most of the applications for change of use (those approved) were from residential to other uses.

Many of the Changes are also to be found in the traditionally low income zones i.e zone 2. This were mostly in Eastleigh. This means that housing has been outcompeted by commercial interests for a location near the city centre (90% of the application for change of use were from residential to commercial use.

In the case of subdivisions a large percentage of the applications submitted were not in the low income areas. However it is a known fact that many subdivisions take place in these areas. The implication is that these are unlawful and thus subject to unfavorable action by the local authority. However looking at the subdivision conditions, one notes that they are unnecessarily expensive and encourage disobedience (see appendix 1). Table 5:4 indicates the number of

Table 5:3

Change Of Use Applications Approved

Year	Total changes to residential	Total changes from res.
1985 Aug - Dec	0	13
1986 Jan - July	1	33
1987 Aug - Nov	2	23
1988 whole Year	1	82

Source: Nairobi City Commission Minutes

Table 5:4**Sub-divisions Approved**

Year	Low income Areas	Total Subdivisions
1985	47	198
1986	26	74
1987	4	86
1988	8	45

Source: Nairobi City Commission Minutes.

Note: The period under study for the approval of subdivisions is the same one as for the building plans approved and the change of use applications.

subdivisions approved by the City Commission during various times between 1985 and 1988.

In a free market economy occasioned by Capitalist Mode of Production, provision of urban infrastructure services are often biased against the poor. Road construction is concentrated on provision of trunk roads which do not really serve the needs of the urban poor. Hardly any infrastructural improvement takes place in slum and squatter settlements. The only ones to take place in Nairobi have been occasioned by the presence of international finance. General improvement of urban services i.e the widening and extension of roads, planting of trees as well as development of parks and play grounds do not necessarily provide for any real improvement in the quality of life of the urban poor. Often enough, the poor have had to move to make way for such improvement i.e the Nairobi River area was bulldozed of slums and redeveloped. This forces the poor to move to less accessible locations.

Urban planning and development practices have acted to the great detriment of many of the urban poor in the cities of the 3rd world. The city of Nairobi is an example. The promise of many of the planning instruments to improve urban management as well as create a habitable city has yet to emerge. It is not that these instruments do not have potential for use to the benefit of all, they do only that these have yet to emerge and work in the experience of Nairobi.

Plans and strategies employ the use of techniques and statistics that imply accuracy when it is well known that it is not easy to come by a full range of official statistics let alone their reliability. Many of the plans have also been prepared without much public participation. Such plans help in deflection attention away from the poor as they rarely feature as the central issue.

The Urban Land Market

From colonial times land transfer and allocation was through the open market.

The urban land market is influenced by the peculiar character of urban land. The general law of supply and demand does not influence it the way it does with other markets. Demand for and supply of land is always related to and is characteristics to a specific location. Location tends to affect land values in accordance with the use to which the land is put and as a general statement, it exerts a greater influence upon commercial land use than upon residential land use.

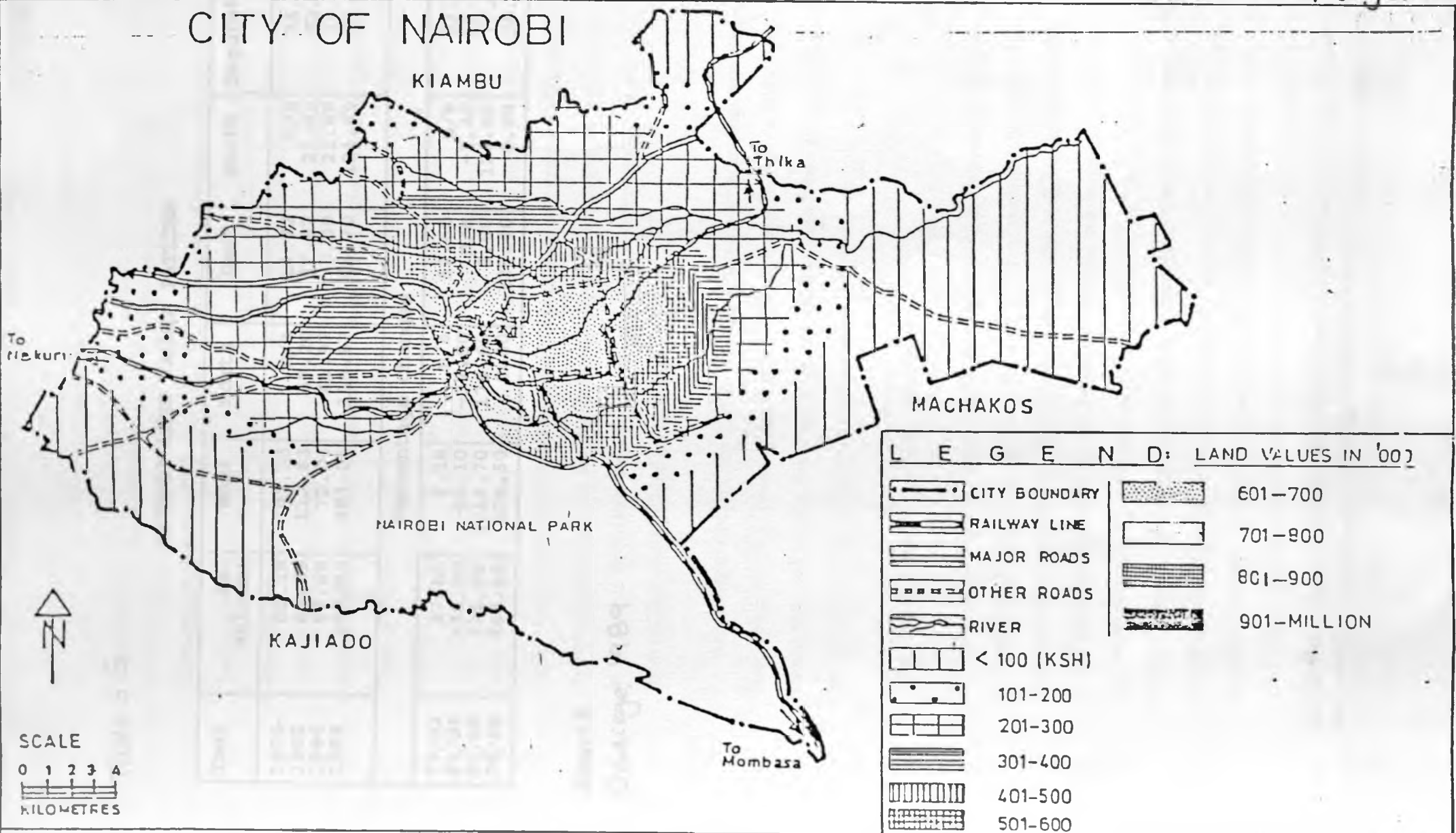
Land values allocated by the market are dependent on the land uses and the accompanying productivity of the land uses so allocation will be based on the highest bidder. In contrast with these one notes the non-elasticity of the supply of land. The only way to increase supply of land is either by reclamation or intensification of use, or conversion from one use to another.

Land Values

Land Values are an indicator of the demand for urban land. The value is usually influenced by access to commercial services as well as social amenities and infrastructure. Land values have been constantly increasing in Nairobi since 1979 following rezoning of the city. The highest values have been recorded in the western Zones (Ondiege, 1989; p.48). The explanation given is that this was a result of subdivision in the zone which increased the amount of land in real terms and put more houses and plots on the market. Ondiege also points out that overall increases for Nairobi during the period (1979 and 1988) was 283.4% but the increase for the western zones was over twice the percentage for the whole of Nairobi. These zones serve the middle and high income groups mostly. Table 5:5 below shows the trend of the increase in land values over the last 10 years. Map 5:4 also indicates the trend of land values in 1987 basing it on Site Value Ratings.

As can be seen the zones that experienced the highest growth were the western zones or Development Districts No.s 3, 4 and 5 which cover Parklands, Westlands, Kilimani, Kileleshwa, Thompson, Spring Valley, and Loresho estates. These areas serve the middle and high income groups. Increases like 678%

CITY OF NAIROBI



LEGEND: LAND VALUES IN '00

	601-700
	701-800
	801-900
	901-MILLION
	CITY BOUNDARY
	RAILWAY LINE
	MAJOR ROADS
	OTHER ROADS
	RIVER
	< 100 (KSH)
	101-200
	201-300
	301-400
	401-500
	501-600

SCALE
0 1 2 3 4
KILOMETRES

LAND VALUES (UNDEVELOPED SITE VALUATION RATE)

(SOURCE: N.C.C. VALUATION ROLL 1982)

DEPARTMENT OF URBAN AND REGIONAL PLANNING
UNIVERSITY OF NAIROBI
M.A. PLANNING, YR. I, 1985/7

Table 5.5

NAIROBI LAND VALUES PATTERN

Year	All Nairobi	West	North	East	South	Dagoretti
1979	65.19	103.15	n/a	24.72	n/a	34.74
1982	89.83	112.83	67.20	37.92	21.62	63.48
1986	57.46	72.04	41.97	0.00	21.09	70.95
1988	249.93	803.05	115.87	56.70	124.69	82.07
Percentage Changes						
79/82	37.50	9.38	n/a	52.60	n/a	82.73
82/86	-36.00	-36.10	-37.50	n/a	-2.40	11.77
86/88	334.90	1014.70	176.68	0.00	124.96	15.67
79/88	283.40	678.50	0.00	129.40	0.00	136.24

Source

Ondiege; 1989

Table 3.8

AMOUNT OF LAND AVAILABLE IN NAIROBI (000's Ha).

Residential use

Dev Dist	TOTAL	1	2	3	4	Sub-total					
1	810	250	0	0	0	250					
2	730	0	430	300	0	730					
3	620	0	550	0	0	550					
4	1700	1700	0	0	0	1700					
5	1750	1450	0	0	0	1450					
6	450	340	0	0	0	340					
7	550	0	40	180	150	370					
8	950	0	290	600	0	890					
9	1080	0	0	0	0	0					
10	4130	0	650	700	0	100	90	740	890		
11	420	0	310	0	0	110	420				
12	6000	6000	0	0	0	6000					
13	2690	1260	0	0	0	1260					
14	2650	0	350	1050	700	120	0	1170			
15	4100	0	665	60	590	1660	1215	1170	420	2890	2880
16	400	0	0	70	0	0	40	110			
17	1760	0	0	250	0	140	500	150	500	540	610
18	10800	0	0	370	500	1500	1635	480	2350	2635	
19	7820	0	0	0	0	0	0	0	0	0	
Ttl	49910	11000	12015	4070	4430	4500	4710	2190	1310	21760	22465

West Shmb	1750	0	165	570	130	865
Ruir	3500	0	910	720	120	1750

Note:

The figures in Bold are 1995 Estimates

Key

1. High income low density residential development
2. Middle income medium density residential development
3. Low income high density residential development
4. Poor dwellings and unauthorised residential development

Source:

Nairobi City Commission. Water and Sewerage Department. 1985

in the high income zones has had some influence on the low income groups. The lower middle class groups have been displaced from the western zones and it can be concluded that they have in turn displaced the low income groups from the eastern zone low income residential areas to poor settlements and shanty dwellings as well as the fringes. Between 1979 and 1982, land values in the eastern zone increased by 52.6% and the overall increase from 1979 and 1988 was recorded by Ondiege to be 129.4%. This implies that the bulk of this increase must have occurred between 1982 and 1988. This coincides with the period when land values in the western zone rose by a record 1014.7% (between 1986 and 1988). Such increases siphoned out the lower middle income groups making them move to traditionally low income residential plots thus driving up the land values in the region. In this case the low income groups are disadvantaged because they have not had access to land for housing.

According to Ondiege, the middle and high income population has decreased from being 21.0% of Nairobi population in 1984 to being 10.51% in 1988. This means that real income has been dropping at such high rates. This is clearly brought out in Table 3.4: Income Distribution in Nairobi.

The Market and Land For Housing

The increased need for housing leading to the housing crisis we are experiencing now has also intensified pressure for land in urban areas. This has led to the formation of an informal land market which makes land available and accessible to the poor through a process of illegal and irregular subdivisions. Land is an important factor in the development of settlement and particularly urban land. The use of land must therefore be directed in order to distribute equitably its value and productivity among all the users and this is when it clearly appears to be a management issue. It is such an issue because the benefits of the capitalist market are dubious when it deals with a resource whose supply cannot be augmented i.e urban land (Penalosa; 1980; p16).

In a case where many competing claims exist for the supply of land considering its non-transferability, choice of use to which it is put is of decisive importance. In other regions the market has been able to build cities and regions as well as operate urban and regional economics. It however has been found to be necessary to intervene in the market in land because of its inability to respond to social overheads, health, infrastructure and sanitation.

The Nairobi Urban study group (NUSG) estimated Nairobi land needs in new areas for residential purposes to be as is indicated in table 3.8.

This land allocation favoured the high income groups. Between 1979 and 1985 though the high income groups was expected to account for 29.7% of the population of Nairobi, it was allocated 64.4% of the land. The low income group while accounting for 50% of the population was allocated only 15.6% of the land. In 1985, a study undertaken revealed how much land was available in Nairobi and to what use it was put the results are presented in Table 5:8.

The problem is of the availability and accessibility of land for housing. The problem of the supply of land is almost exclusively an urban problem - the problem is not one of inadequate land per se: it is the problem of delivering the land particularly to persons of low income for use in construction of shelter. The cost of land is usually a small part of the cost of shelter, but land is a vital ingredient in the construction of shelter. There are no positive policies for channeling sufficient land into low income housing use. The official reliance on the land market for accessibility to land restricts many of the low income earners and the way land prices are these days makes land simply out of the reach of many. There may not be conscious government policies aimed at limiting accessibility to housing but the nature of things prohibits them. They simply lack the ability to participate in the urban land market.

In cases where the government has noble solutions to the problem, an inability to address the issue of accessibility of land has tended to nullify the intended

Table 5.8

AMOUNT OF LAND AVAILABLE IN NAIROBI (000's Ha).

Residential use

Dev Dist	TOTAL	1	2	3	4	Sub-total					
1	810	250	0	0	0	250					
2	730	0	430	300	0	730					
3	620	0	550	0	0	550					
4	1700	1700	0	0	0	1700					
5	1750	1450	0	0	0	1450					
6	450	340	0	0	0	340					
7	550	0	40	180	150	370					
8	950	0	290	600	0	890					
9	1080	0	0	0	0	0					
10	4130	0	650	700	0	100	90	740	890		
11	420	0	310	0	0	110	420				
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18	10800	0	0	370	500	1500	1635	480	2350	2635	
19	7820	0	0	0	0	0	0	0	0	0	
Ttl	49910	11000	12015	4070	4430	4500	4710	2190	1310	21760	22465

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Note:

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Key

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2. Middle income medium density residential development
3. Low income high density residential development
4. Poor dwellings and unauthorised residential development

Source:

Nairobi City Commission. Water and Sewerage Department. 1985

effort in the project. When we talk of provision of land for housing, the implication is for serviced sites. Unfortunately such sites although meant to benefit the low income groups end up in the hands of the medium and high income groups because the poor cannot afford them. Dandora and Umoja phase 1 projects are examples. Currently at least 50% of the houses are in the hands of well to do people who do not even live there but rent them out. The Market is unlikely to produce an equitable and efficient allocation of land uses. The ownership of land is unevenly distributed among members of the community so that the free market does not allocate income from the land the way the community may wish.

In the past, land was allocated to some developers who had indicated that they were interested in residential development but this has not happened in the recent past. More and more developers who were interested in low income housing have had to abandon the idea because the cost of land has become prohibitive. Parastatals that are involved in housing development have also found it difficult to put up housing for the middle and low income population. Currently HFCK's subsidiary, Kenya Building Society is putting up houses targeted at the middle and upper low income groups along Komorock Road. However it took over 10 years for HFCK to get the land allocated to it by the NCC. The latter had insisted on selling the land to the former at market prices. One is left wondering whether even the local authority is realistic about housing for most of the population.

For any developer, purchase of land in the market does not encourage involvement in housing for the low income population. A paradox is thus identified in the provision of low income housing where the governments policy on land cannot be relied on to create an enabling environment for the poor to house themselves! There is no procedure for making land available equitably.

The rise in land prices has continued to be the major obstacle in the way of access by the poor to urban land and housing. Urban land is not a homogeneous

good in a single market. It has been interesting to note that the amount of land in the market tends to increase when the prices go up. There are two reasons for this:

1. Land is a good not produced by men therefore cost reduction does not lead to price reductions as in the perfectly competitive market. Gains are obtained by selling land at prices higher than prices paid for it.
2. Land Owners sell only when the prices have risen according to their expectation. It is therefore hard to conceive of a situation of decreasing price in urban land except in an extreme economic crisis.

If any inroad is going to be made in relation to access of the poor to land, there must be attention paid to the demand side.

There are three kinds of demand that are easily distinguished:

1. Individual families for use value.
2. Land demanded by construction firms for commercial housing production. These commercial interests are buying land up at alarming rate that there ought to be a proper appraisal of the implication of this.
3. Demand for mere speculation.

The last kind of demand is the most active and unlike the former ones, the impact it has on prices is felt throughout the entire city, including land for low income housing development. The speculative demand for land expands when there are few alternatives to land trading detected by speculators. In Kenya, the commercial sector is dominated by Asians who employ a race cartel to effectively block the African entrepreneurs venturing into the sector. The textile industry stands out as an example. Their involvement in the construction and horticultural sector has also led to similar situations. Agriculture being the mainstay of the country's economy can only absorb so much if it (agriculture) is to be economically viable.

Speculative demand for land is controlled by two kinds of agents: those linked

with the financial sector and small scale local subdividers. The former are dominant. Any measures that may be aimed at preventing their impact on land prices are really not within the realm of land policy making but more so the realm of general economic and financial policies.

In most towns in Kenya (Nairobi included), land for urban housing development is available in physical terms but too little has been made accessible. In cases where land has been made available or accessible, speculation practices have caused prices to rocket and this means that the end product of housing is inevitably very expensive it is very important therefore that land is made not only available but accessible in terms of cost, tenure, regulations, use, acquisition, taxation, and finance. (Abrams; 1964; p57). Reliance on the capitalist market as has been pointed out only aggravates the problem of landlessness and thus homelessness where a large part of the population continues to inhabit dwelling that by and large is considered illegal.

Land is made available either through allocations through the market (sales) or leases from the government.

Long term leasing of publicly owned land is a traditional way that the government makes land available for housing development. Whereas this allows the government and local authority to receive an income over a period of many years, it is also an attempt to control land use and ultimately regain control of the use of the land. Many leases inherited by the G.O.K. at independence are drawing to a close and it should be interesting to note the attitude of the Commissioner of Lands to this. The Deputy Commissioner of Lands claims to have set out several strict conditions for lease renewal. The leases should have more strict development conditions attached to renewal and this provides the Commissioner of Lands with an opportunity to exercise a pragmatic approach to low cost housing development. The position of the Commissioner of Lands uniquely equips him to make the lead in the search for new and better responses (SYA; 1987; p53).

Management of land through the concept of lease hold has a potential for allowing the government to participate in the rises and rewards of urban growth.

In cases where land is in short supply (In physical quantities), supply could be augmented by acquisitions. Land acquisition is undertaken under the Land Acquisition Act 1968 or Chapter 295 of the Laws of Kenya by the Commissioner of Lands who is the government's chief land officer. Almost every year the Commissioner of Lands publishes intentions to acquire land but not much has been acquired to replenish the town's fast depletion of land reserves for development especially in the 80s. Land acquisitions in Nairobi for the purpose of housing especially the low income groups that involved large amounts of land was undertaken before 1980. Kiamba posits the theory that success of land acquisitions before the mid - 70's had a thing to do with races. The successful acquisition of large tracts of land were in the case of land owned by non - Kenyans (Kiamba; 1986, p118). Several intentions to acquire were withdrawn during this period. In such instances he identifies an involvement in land ownership by the emerging African elite with agrarian interest (ibid). He cites sentiments by the then deputy Commissioner of Lands to support the suggestion (p 119).

The Nairobi Metropolitan Growth Strategy argues that in order to be able to control development land should be available when and where needed and at reasonable prices which implies a creation of public land reserve or bank (Nairobi City Commission; 1973, vol 1, par 136). But the strategy by its very nature does not detail just how this residential area should be developed other than by indicating approximate location and character of the areas. The Nairobi Metropolitan Growth Strategies pointed out that if land for public development was to be acquired just before construction, speculation would drive the prices up to unaffordable levels both to the city and to those individuals it was intended to benefit. It therefore clearly advocated Land banking stating:

Public land reserves for low income housing ... are particularly necessary
(para. 138)

Foreseeing that employment opportunities would continue to diminish with the possibility of the lowest income quintile being unable to afford housing, It was suggested that:

Subsidies in the form of low cost land and minimum services may well be necessary to ensure public health" (ibid).

Further support for land banking came in the form of economic suggestions:

Hence keeping land costs low by early acquisition is essential in keeping the overall cost of shelter within levels that can be afforded. (ibid).

An excuse often given by government officials that deters acquisition is the huge financial outlays that it requires to as well as the involvement of the politicians and elite in land ownership.

At a UNCHS conference, Yahya revealed that:-

recent experience of land acquisition for low cost housing projects in Nairobi has highlighted the need for land issues to be taken much more seriously by project planners who have hitherto taken land availability for granted, in the belief that the government is armed with adequate land acquisition powers. Experience has shown that land assembly for such projects is much more difficult than originally envisaged (1983, p3-4).

The Villa Franca, Baba Dogo and Riruta components of the second World Bank sponsored urban project were abandoned because of difficulties in land assembly.⁴

Paragraph 141 of the Nairobi Metropolitan Growth Strategies observes that land acquisition laws in use in Kenya were from British law and practice. Time therefore is ripe for a review of all these laws and adaptation to conditions in Nairobi and in Kenya itself. The Nairobi Metropolitan Growth Strategies suggested that prices to be paid for land acquired for the reserve should reflect current uses only and not anticipated future projects (ibid). The way property is viewed in this country especially private freehold implies legal and constitutional limits

on public action and this restricts the compatibility of land management instruments e.g acquisition with other policy instruments. Sweden and Singapore are the ones most often lauded for their ability to regulate use of private land and acquire it for public development.

Land acquisitions in the past have met with mixed reception especially if it is for a purpose whose social benefit may not march the cost in economic terms i.e housing. Whereas the government has not had much trouble acquiring land within the last 10 years for trunk services development i.e roads and sewers, the number of successful acquisitions for housing development especially low income have been minimal. A large number of notices to acquire were withdrawn.(see appendix two especially entries for 19.2.82 and 7.3.86).

Whereas land banking is a stated government objective, official attitudes to it have changed and there is not much in the form of land assembly taking place as such. The Commissioner of Lands needs to rethink this situation. Between 1980 and 1987, the Commissioner of Lands published 23 intentions to acquire land in Nairobi. Most of these were for purpose other than housing (despite the recommendations of NUSG). In the case for land for housing the low income groups only one acquisition went through. This was for the Mathare North Site and Service Scheme. The Baba Dogo and Riruta components of the 2nd Urban Project did not go through because of the inability of the authorities to assemble land. One of the intentions to acquire that was withdrawn was in respect of Baba Dogo Upgrading Scheme. Information concerning intentions to acquire land during this period is contained in Appendix 2.

Between 1980 and 1988 the Commissioner of Lands alienated land in Nairobi, but none of his alienations were for low income housing. Information on land alienation during this period is contained in Appendix 3a. As can be seen most of the alienations of land for housing were in respect of high income housing development. Land in Villa Franca was in 1985 alienated for various uses apart

from what it was originally acquired for i.e Housing the low income population. The conditions that the Commissioner of Lands sets out for alienation of land are so strict that the average low income earner cannot meet them. This conditions are to be found in Appendix 3b.

Local authorities increase the supply of land by revision of zoning rules thus allowing an increase in density. This allows for subdivisions and highrise development. This is one of the ways in which land management tools can be considered efficient in its responsiveness to rapid increases in demand for housing or land for housing. The informal sector responds to this increased demand by increasing rental units or subletting as well as subdivision. The response of the private freehold and leaseholds depends a lot on the extent at which market imperfections exist. As a general rule it often leads to intensification of development and the desire to have highrises. This has been particularly evident in Nairobi in the last 10 years following rezoning by the Nairobi City Commission in 1989. Quite a few of the latest developments in the city have been multi- storeyed flats and diminishing open spaces in the compounds. The rezoning was done in Westlands and some parts of the higher income residential areas) and in the CBD in the late 70s and 80s. In the Urmoja 2 project, densities were increased in an unprecedented manner in the case of a low income housing project. This has a great possibility in increasing land for housing but should be applied a lot more widely i.e to really include zones of low income housing development i.e the old City Council Estates.

Land Taxation

Local Authorities were seen to have several roles one of which was revenue collection. In many ways land taxation is an ideal way to raise funds to finance many public services. It also has the added advantage of acting as a tool for the promotion of a desired land use. The Property tax base in Nairobi has grown with urbanisation. Underlying this is the assumption that it will be able to capture

benefits that accrue to land after a public investment and from natural growth of the city. The experience in the past with the tax has not been good and land taxes have failed to reflect the addition in value. The Sessional Paper No. 1 of 1986 urges councils at all levels to review their revenue collection performance with a view to improving it (p52). Local authorities were also urged to revise pricing of utilities and services to ensure that they reflect real operation costs(ibid). It was with this in mind that the Ministry of Local Government introduced service charges in urban centres.

On the issue of property rates, the Sessional Paper proposed that the Ministry of Local Government explore the possibilities of improving revenue bases of local authorities. One of the alternatives was tying property rates to improved site value so as to reflect the scale of activity on each site. The Nairobi City Commission is currently preparing a supplementary Valuation roll to reflect new Site Value rates (USV).

The apparent under use of land held for speculation has and can be attributed to an inability or unwillingness to finance such services by taxation of the betterment which they provide. Inequalities in income distribution is increased by unearned, untaxed increases in the value of land such as accompany growth and change. This are problems for which some form of land taxation can be advocated as a solution. Apart from provision of revenue, land taxes can be incentives for efficient allocation of resources in the urban land market thus achieving the distribution efficiency goal of land management. This would be particularly true if urban plots were assessed periodically to determine the market values.

We should note that urban taxation on the continent is probably the most sensitive issue in urban politics (United Nations; 1973; p44). In cases where individuals are not inclined towards payment of taxes, their lobbying powers could lure politicians to give up property taxes for the sake of votes.

The instruments that have been used by the land management agencies in Nairobi as can be seen are varied and yet they all aim at ensuring orderly efficient and equitable development in the city. However we do realise that within them they have certain limitations which do not ensure that this takes place. In the next section we analyse the tools of Land Management mentioned above against the stated goals of land Management and the provision of housing for the low income groups.

Note

1. Minutes of the Nairobi City Commission, 1990.
2. From an oral interview with Mr Richard Martin of the United States Agency for International Development's (USAID) Regional Office of Housing and Urban Development (RHUDO) in Nairobi, 1990.
3. Major low income residential areas.
4. World Bank Staff Appraisal Report, 1985.

CHAPTER SIX

TOWARDS FUTURE POLICY IMPLICATIONS AND CONCLUSION

The stated goals of land management and indeed all urban development is to ensure efficiency of production as well as equity in the distribution of the product of land development. Whereas it may be difficult to clearly and precisely state land management objectives in any definite and concise way we attempted to show what the possible objectives should be. Difficulty in stating in clear terms the objectives is due to the variety of economic, social and political contexts of developing cities.

In a market economy the objectives of individuals with regard to land are as varied as there are individuals. With this in mind the objective of public policy is not so much to attain uniformity as it is to create a framework to ensure an efficient pattern of land use. The measure of efficiency lies in structuring optimum uses of the land for the benefit of all society. Ideally this is related to allocation of any piece of land to its highest valued use. This efficiency also stretches to include flexibility in response to changes in demand for land for various uses. The conflict between desire for flexibility and highest possible use will always be there because of the nature of most improvement on urban land especially its durability and the dynamism of the market. This is what leads to speculative demand for land - the hope that in future the land value will be higher than the present one because of changes regarding what is of highest value.

Land value is an important part of the total wealth of a country and policies regarding redistribution of income would involve some redistribution of land rent, betterment, landownership and access to land. Land management policies not only seek to pursue the umbrella goal of redistribution of income but also reduce inequities caused by the urban land market itself. This distributional intent

of some government intervention may end up favoring politically influential individuals or groups. The use of zoning to keep low income and minority population from certain residential areas or even from whole locations is an example of the difficulty of interpreting government actions in the reduction of inequities. This is the case in Nairobi and many other towns in the developing world.

The tools of land management as we found out in the case of Nairobi are varied mainly as a result of the scattering of legal instruments of management over various acts of parliament along with subsidiary legislation. However we narrowed down to several instruments i.e land use planning, development controls, taxation, land supply as well as renewal and redevelopment. In conclusion we examine them again vis a vis the goals of land management and make some recommendations.

Land Use Planning

Land use planning is an administrative practice and an intervention into land use activities. The unrestrained private market has the capacity to produce land uses whose social interaction poses problems, therefore planning is charged with the responsibility of improving the functional interaction of land use activities. Planning is seen to curtail the market and champions of the market mechanism view planning as an element of central direction.¹

Land use planning in Nairobi is predominantly concerned with changes in land use under the guise of development planning. Nairobi has drawn up its post independence planning framework based on the findings of the Study Group of 1973 and which forms the basis of all land development in Nairobi at present. Land use reorganisation was undertaken in 1979 in connection with recommendations of the Metropolitan Growth Strategy. Since then minor readjustments have been made but nothing in the scale of the 1979 work.

The reorganisation in 1979 divided Nairobi into 20 development districts (zones) with certain defined land uses and intensity of development in each district. The rules on intensity are basically guided by the nature of services that have been provided or that the Nairobi City Commission intends to provide in the area. Land use planning regulations therefore are indicative and act as a guide to development. Plans in Nairobi have tended to be stringent in the prediction of likely development not recognizing the likely integration of different uses in each development zone. When a different type of development takes place planners are up in arms against the development labeling it illegal or undesirable. Plans should not expect uniformity in development. An insistence on uniform development frustrates the efficiency goal of land management but even more disturbing is the fact that it cannot be implemented. Table 5.3 shows that there are a lot more variety of land uses identified per development district than the plan would show. In the predominantly upper income residential zones, there are not many other uses to which land is put. Zones that evidence a variety of land uses are to be found to contain mostly low income housing development. The planners may have allowed this deliberately (though they give no indication of having done so). The possibility is that the poor being interested in self-preservation, view planning opinions and controls as detrimental to this interest and determinedly flout planning guidelines and adapt themselves to their situation.

Nairobi evidences inequalities in allocation of land to uses and services as well as the distribution of urban development. Planning in Nairobi is not given to equitably distributing land or its services among the urban population. The nature of services provided in the western zones of Nairobi do not in any way compare to the services that are provided in the eastern zones of the city. The principle of equity is also tested when it comes to the spatial allocation of job opportunities. For many dwellers in Nairobi, hopes of getting wage employment are concentrated at the industrial area where menial skills are required. Other opportunities arise in construction sites. Unfortunately for most of the population,

plans have located them far from the main industrial area leading to a high rate of commuting as is indicated in Chapter 5 and Map 5.1. For those disillusioned with this arrangement and interested in self preservation, the Jua Kali Sector and light industrial activity, have been the only way to go. This explains the mushrooming of informal sector activities in these areas, a sure way to beat the inequities of land distribution methods as evidenced by the plans.

Plans should therefore address the question of efficiency in locating land use as well as equitable distribution of land development.

Development Control

Development control is both the positive function of guiding development as well as the negative function of planning which gives it power over land use through being able to forbid certain forms of land development by refusing planning permission. The planning system has created unreasonable delays in processing of development applications and one wonders about the efficiency of the system. The discretion given to the planning authorities in the granting of planning permission influences the nature of the development process and evidences the ideologies of the system as well as the nature of its commitment in regard to distribution of land.

The efficiency principle of land management implies that a function of development control or land use control should be to promote as well as facilitate development and as it were act as a catalyst to the development the city so requires. In the recent past Land use regulations have been so consistently criticized that Mattingly wonders 'that they are still there for us to talk about'! (1990; p.2). The reason for such a view of land use regulations and controls is their inconsistency with policies, difficulties in administration as well as unfairness in the result of application.

Land use regulations in use in Kenya are taken from the former colonial

masters which renders the controls inconsistent with other policies that the government wishes to pursue. This is because post independent economic planning has not taken note of the complexities posed by several planning regulations from the colonial times. This include the commitment of the plans to segregation of different income groups. Integration of land uses was not permissible in the past but as is indicated by Map 5.3, it was inevitable. While the government is encouraging informal sector activities, plans would have liked to concentrate such activity in one development district, it is not possible because of proximity to living places for instance. The basis for density controls in Britain at the turn of the century was to control diseases mainly of a respiratory nature as well as infectious ones. In the case of Kenya, respiratory diseases may not so much be the case as the weather conditions are different yet the same density guidelines are presented.

Problems associated with administration of land use regulations abound. Decision making is over-centralized and can lead to long delays in the plan approval process discouraging development in conformity with the law. In Nairobi, with a buoyant land market, there are many plans submitted for approval. On average it takes at least 12 to 18 months to get a plan approved by the Nairobi City Commission. For those that flout the land use controls, identification is not very easy because of the inappropriateness or absence of facilities to the local authority for policing of development. There have been cases where the Nairobi City Commission discover an improper development when the press reveals its collapse or some malfunction. It is common for officials of the Nairobi City Commission to process proposals without ever visiting the site. The courts do not help much because of the pressure of more urgent criminal matters.

Efficiency of land use control measure is called into question when they affect the price of the cheapest legal dwelling by the translation into standards that determine the minimum amount of land to be associated with the dwelling. Such standards are not in conformity with the aspirations of many urban dwellers who

are not keen on aesthetical values at the expense of other pressing priorities. This raises and questions the origin of the efficiency criterion and by and for whom it is intended. It goes back to the fact that the land use regulations have a large input of foreign ideas and practice in origin.²

The poor have had to find ways of dealing with this by informal subdivisions, covering all or nearly all of the compound with a structure, leaving little space for access roads and no space for group use e.g schools. These actions violate almost all the land use regulations in the book. Not only do the poor have to outwit space standards, but land prices as well. Land use controls have managed to restrict supplies of land and thus inflate prices because of excess demand. Zoning principles limiting particular uses to designated zones affect supplies of land legally available for housing. To enlarge the supply, the poor have opted for informal sub-divisions.

Land use control measures in use in Nairobi are therefore inefficient and inequitable in the distribution of the product of land development. As if it were not enough to have inappropriate development control measures i.e in ensuring adequate shelter to a large majority, the difficulty in administration restricts the Nairobi City Commission from achieving even the public interest objectives at which controls are aimed for the benefit of the low income group as much as any other.

The inefficiency and inequity of the present set of land use planning and control tools in Nairobi has implications for the future of land administration in the town and in the country as a whole. The main uses of controls and regulations for public interest are two fold:

1. Protection of health, safety and welfare,
2. Implementation of planning strategies that match the services to demand as well as secure ample sites for publicly consumed facilities and public programs.

The controls do not exactly stimulate accessibility of land and services for the urban poor, they can at least provide some benefit.

An unintended benefit of the controls is the creation of a secondary land market which is essential in ensuring access of some low income households to land for housing. There are some risks involved in building in defiance of the controls but such risks are in relation to the tenure, unpleasant action by the authorities and access to finance. The effect of these land control measures and risks remove many high income buyers from the market for such lands, protecting to some extent the low income participants from being outbid. This has been the case in development districts No.s 15 and 18 in the city of Nairobi.

The benefits of land use regulations and planning may necessitate their continued application but the challenge is to design controls which deal effectively with the consequence of land uses which genuinely require public attention. The controls should be useful and appropriate to those they are intended to benefit and kept to the minimum if they are to be more effective. They should also improve access to land and infrastructure for low income families. This can be done by identifying clearly the community and public interest and clearly establishing areas of responsibility for administration. This calls for community participation in land management. This will help ensure effectiveness and appropriateness of restrictions which would be fair to and affordable to its members.

If the community was given such a major role in land management, the government's job would be to create an enabling environment for this to take place.

Land Tenure

It has been pointed out earlier that much of the land in Nairobi is under leasehold title bought on a private basis. The current period of leases is 99 years

with revision of rent in every 10 years. Leasehold land is to be found in Eastlands as well as some selected estates towards the southwest of Nairobi.

Government has the second largest quantity of the land in Nairobi. Freehold land is less than the above two and lies in the western suburbs of the city in the areas like Dagoretti and Mwimuto - Runda.

Whereas it should not affect issues of development, land tenure has in the past been responsible for the inability of projects to take off. Speculatory demand for land especially fueled by the nature of the urban land market was one of the reasons behind the escalation of prices in the real estate market within the last five years. Ondiege traces the highest increase to the western zones of Nairobi:- This coincides largely with the freehold zones (Ondiege; 1989; p.48).

In the case of acquisition - the nature of tenure causes problems and makes the whole exercise rather expensive. The cost has made the Commissioner of Lands less determined to acquire land for public purposes because the nature of the project may not pay it back in monetary terms.

Land is a scarce resource that must be managed in public interest and for the common good of the society. When issues of ownership tend to deter development, it becomes necessary to re-examine the issue more critically. Therefore use should not be limited by issues of ownership.

A high percentage of the low income population have been located in the eastern area because there was no available land within the precincts of the city. In the recent past, squatter settlements have been demolished and the authorities are talking of relocation. Sites that have come up for consideration are over twelve kilometres away from the city centre i.e Kayole. Should land development which benefits a large population be tied up with ownership?. Persistence with the nature of ownership presently exercised is not helpful in any attempts to work through to either equity of distribution nor efficiency of production. Freeholding has kept

land in Nairobi out of the market for as long it so desired thus confounding plans for orderly development. The nature of sure investment that land is and the desire to reap as much profit as possible has made individuals who own the land flout the need for infrastructure as well as other services that are now difficult to provide e.g in the case of Zimmerman in Nairobi.

The local authority should think of what form of tenure could lead to more efficient and equitable distribution of urban development and the product from it. This should be tenure that ensures that the local authority has access to all land in the town and is able to control what form of development can and cannot take place. This is a scope beyond that of land use regulations which as we have seen are unable to clearly control development.

Taxation

Whereas fiscal tools like taxes may be good, effective operation can only be in conjunction with other tools i.e zoning and planning policies. Taxes meant to serve a variety of purposes have 'leakage' of impact. They also leave land in the hands of owners and seek to instead to influence the behavior of the owners. Quite a number of taxes are recovered at the national level (e.g stamp duty) and hardly affect the cost of land at the point of supply and usually have implicitly encouraged widespread cheating.³

Management of land markets in developing countries has been known to be made more complex by the increasing involvement in land by financial institutions who are taking up huge chunks of land. It is much more difficult to release land even by taxation measure which aim at doing this e.g (the case of Betterment levies) in Thailand. Nairobi evidences this to an extent. Of the building permissions granted by the Nairobi City Commission a large number at any one time had been submitted by a developer wishing to put up some estate or other.

Local property taxes like the USV form a substantial percentage of land costs

which the poor have to contend with. It is ironical that where land taxes need to be strictly applied i.e outside the city boundary to curb speculation and direct future development, it is most difficult to do so as it is outside the precincts of the city.

The problem of many people living in unserviced areas can be attributed to the inability as well as unwillingness to finance such services by the taxation of benefit which they provide. The Nairobi City Commission should consider doing this in most of the areas not serviced at the moment, but to finance such it needs to first start levying betterment levies in the areas where the provision of services has enhance the productivity of the land. Infrastructural improvement in the western zones of Nairobi has greatly increased the capacity of the plots in the area and thus income. The plots can now accommodate higher densities than before and thus a plot owner has the potential of increasing income by up to four times and higher. This is in addition to the income that is directly caused by investment by the Nairobi City Commission. The Nairobi City Commission does not however have an effective way of reaping the increase due to betterment and should look into the situation otherwise it will continue to inequitably provide services to the urban poor and yet increase income to the land owners.

A review of taxes is incomplete without a consideration of the objectives of the policy and how taxes will affect it. Taxes that force land prices up affect equitability of distribution of urban and need to be reviewed. The introduction of a variable tax may help i.e low income housing land would incur a lower rate. Increasing tax liability as values rise more than after value has risen may be less 'injurious' to the price of land. This calls for constant Site Valuation. The Nairobi City Commission last prepared a valuation Roll in the early 1980s and this is in use at present. Nairobi's USV system does not work well because of the irregularity of valuations. In a country with a high rate of inflation like Kenya this has two negative effects:

1. When rates increases do occur, inflation means that they are likely to be large.

Owners resist paying the new taxes and the government tends to postpone enforcements of revaluations even further.

2. Due to inflation, valuation tends to trail behind real values, so the local authority loses much of the revenue which should be coming in.

The Commissioner of Lands recently revised ground rent paid in respect of commercial land leased out by the government. This was the first major revision in almost 70 years. The new rents reflect the market value of the property instead of the peppercorn rents that were being levied before. There has been a hue and cry over the new rents described as being too high. Unfortunately no regular revision had set the motion towards the present rents which are reasonable given the going value of the land. If property taxes are to keep pace with land values and prices, they must constantly be revised.

While looking at possible tax measures, it must be acknowledged that influencing the price and supply of land can have contradictory effects that to find a consistent balance between the objective of penalty and of incentive must consume the public authority charged with land administration. The Nairobi City Commission should look into ways of not only influencing the residential land market alone (it is almost an impossible task), but the broader market so that the effect may trickle down to the residential land sub-market. The overall level should be to reduce the level or speed of the increase in land prices.

Land Supply

We noted in the previous chapter that the issue of land is not one so much of absolute supply as of access by the urban poor to suitable land at affordable prices. There nonetheless exists the problem of how land is made available in physical quantities i.e through the market. Other ways in which supply can be augmented include the revision of plot densities and coverage. These have the effect of increasing possible acreage available for development as has been done in the western zones of the city. The low income population has also benefited albeit

illegally.

Controlling the supply of land is also a way of management of land and ensuring it is available for low income housing development. This would help meet the equity goal of land management. Kenya has more or less moved away from land banking. A lot of the efforts at banking land have been thwarted by the sanctity of private property and the relationship between this and development needs has reached a stage where the government has to rethink its policies.

There has been very little public acquisition of land for purposes of low income housing (see Appendix two and the analysis in chapter 5). Ironically there does not seem to have been much trouble in the acquisition of land for other purposes i.e defense and sports centres. In the absence of proper skills for indirect control of land use despite its superiority, there is a valid case for direct control of land use by ownership.

There is also a valid case for public acquisition i.e efficiency of production and equity of distribution. The purpose of land acquisition would be to ensure easier access to and availability of land for development when and where needed. Increased efficiency of land use management through better planning, equity of distribution, control of land values (and speculation), maintenance of a healthy sanitary environment as well as an insurance of the security of tenure are a valid case for public acquisition of land.

Land holding by a public authority would help in promotion of important types of development. However the decision regarding what is considered important will be in relation to national policies which are an expression of the political and economic ideology the country has decided to pursue.

After acquisition, there would be several options open to the government:- resale, leasing allocation for public purposes as well as land banking. Sale would introduce all the documented disadvantages of loss of control over development

thus leaving leasing as the most appropriate. In the case of land acquired in Nairobi following recommendations in the Nairobi Metropolitan Growth Strategy, for the development of low income housing, an interesting development has been its alienation in the recent past.⁴ One is left wondering if the government is really serious about keeping land in its control.

Leasing would be desirable in that it ensures control over use as well as equitable distribution of land and development. A lot of land in Nairobi and its environs is on lease from the government. Most of this were inherited by the Kenya government from the Crown at independence. Their terms are about expired. The public authorities have an opportunity to regain control of the land at expiration of these leases. This should help them to develop the land efficiently and also equitably distribute the product of land development.

Conclusion

Land management as we have seen has contributed to the lack of suitable land for housing the urban poor. Any attempts at housing solutions for the majority of the population of Nairobi may not be successful without a resolution of the myriad of problems associated with the administration of so important an ingredient of desirable urban development.

The tools of land management as we have indicated have influenced the supply of land to the urban poor. any resolution of the housing problem has to start with addressing the issue of land availability and accessibility to most of the urban population. The tools of land management need to be re-examined and reformulated to suit the needs of a large proportion of the population of Nairobi. Refusal to do this earlier has led to loss of valuable time and land as well as created a more complicated housing problem and unwholesome life for the majority of the urban dwellers.

Areas For Further Research

The relationship between the various departments that are charged with the work of administration of land i.e. the Lands Department, the Physical Planning Department and the Local Authority needs some research in order to determine what the impacts of the activities of these agents are.

In the recent past there has been an increase in the number of land developers and financiers of particularly residential development. Their influence on the urban land market in Nairobi needs to be investigated and especially how this affects the various housing submarkets: high, middle and low income.

The low income residential sector is a thriving ground for informal operations. In the case of residential land, there has developed an informal land market to make land available for housing. Such activities should be studied and brought to light as they are important to policy makers.

The influence of land management tools on the general development of the city ought to be investigated.

Many of the other towns and urban centres in Kenya experience a housing problems of various magnitudes. It is important to find working solutions before the problem gets out of hand and especially in fast growing centres like Eldoret. Attempts should be made to solve the problems related to land.

Notes

1. Planning is a political measure and a way of intervening in the land market, which means that access to political representation is equivalent to control. This is further complicated by the nature of planning as an administrative practice, therefore, most of the population is not involved in the planning process.
2. Plan preparation in Nairobi has always had a large foreign input. The Justice Feetham, whose report formed the basis of the 1927 plan was from South Africa. The Planners that prepared the 1948 Master Plan were also from South

Africa. The Nairobi Urban Study Group had a number of foreigners in it.

3. Stamp Duty is Collected by the Chief Land Registrar and his representatives in the District level. It is paid by the purchaser. It is therefore encouraging to cheat about the purchase price so that one does not have to pay as much as expected.

4. Appendix 3: entry for 4.1.85 and 31.10.86

1. A 2 metre drainage way leads above the highest flood level to be provided on both sides.
2. Application for water supply to each sub-plot should be the general Manager of Water and Sewerage department and his conditions for such supply to be met.
3. A 2 metre way have should be maintained.
4. Cul-de-sac road serving the development should be constructed to non-adaptive concrete standards and should include surface water drainage.
5. Each sub-plot should be provided with access from the 15M road. Applications for the permission to construct an access to a public street to be obtained from the city engineer.
6. A 4.2M wide strip of land along the Northern and Western Boundary should be surrendered to the government free of cost.
7. 7.2 by 7.5 Metre provision should be provided at the junction with proposed 15m road.
8. 3 metre drainage way have to be provided on either side of the stream.
9. Area enclosed must surrendered to the government free of cost.
10. All dilapidated buildings should be demolished.

Note: These are subdivision conditions in respect of Plot No. 119 in Dagoretti - River area. The size of the plot was 1.355 Ha. and the required subdivision was into two sub-plots. However a parcel of the Nairobi City commission. Although the end part of the sub-division conditions were similar to the ones listed above with slight differences only in relation to plot sizes or wayleave because of the number of sub-plots.

Source: Nairobi City Commission Minutes, September 1989.

APPENDIX ONE

Subdivision Conditions by the Nairobi City Commission.

1. 3 metres Riparian Way leave above the highest flood level to be provided on both sides of the stream.
2. Application for water supply to each sub-plot made to the general Manager of Water and Sewerage department and his condition for such supply to be met.
3. A 3 metre way leave should be maintained.
4. Cul-de-sac road serving the development should be constructed to non adoptive murram standards and should include surface water drainage.
5. Both sub-plots should be provided with access from the 15M road. Application forms for permission to construct an access in a public street to be obtained from the city engineer.
6. A 4.5M wide strip of land along the Northern and Western Boundary should be surrendered to the government free of cost.
7. 7.5 by 7.5 Metre truncation should be provided at the junctions with proposed 15m road.
8. 3 metre drainage wayleave to be provided on either side of the stream.
9. Area colored bluer surrendered to the government free of cost.
10. All dilapidated buildings should be demolished.

Note: These are subdivision conditions in respect of Plot No. 119 in Dagoretti - Riruta area. The size of the plot was 1.3555 Ha. and the required subdivision was into two sub-plots. However a perusal of the Nairobi City commission Minutes showed that most of the sub-division conditions were similar to the ones listed above with slight differences only in relation to plot sizes or wayleaves because of the number of sub-plots.

Source: Nairobi City Commission Minutes, September 1989.

APPENDIX TWO

Publications Of Intentions to Acquire Land Under the Land Acquisition Act by the Commissioner Of Lands.

Date	Gazette Notice #	Location	Purpose	Note
18.1.80	122	Nairobi	A Public Purpose	
30.5.80	1550 1551	Kasarani	Extension of Sports Complex Extension of Sports Complex	
5.12.80	3734	City	Extension of Parliament.	
13.2.81	520	Nairobi- Waiyaki Rd.	Extension of Kianda College	
13.3.81	849	Wilson Airport	Construction Of Hangar for Flying Doctor Service	Withdrawn
20.3.81	872	Nairobi	Mathare North Site and Service Scheme	
11.9.81	2796	Nairobi	C.I.D H/Qs	
15.1.82	88	Ruaraka	G.S.U. H/Qs	
19.2.82	439	Embakasi	Runway to J.K.A	withdrawn
8.4.82	974	Nairobi	Education Staff Institute	withdrawn
19.2.82	441	Ruaraka	Baba Dogo Upgrading Scheme	Withdrawn
2.7.82	1820	Nairobi-West	Development of Wilson Airport	
3.9.82	2487	Nairobi	Post Office and Telephone Exchange	Withdrawn
6.1.84	13	Dagoretti Waithaka	A School	
22.11.85	5151	Roy Sambu	A Public Purpose	
6.12.85	5392	Githurai- Kahawa	Sewerage Works	
7.3.86	1009	Dagoretti- Riruta	A Public Purpose	Withdrawn
25.4.86 20.11.87	1993 5323	Ruaraka Nairobi	Health Centre Road Construction Waiyaki - St Austin rds	

Note: Some Intentions to acquire may have been published but not in the Kenya Gazette. Some Intentions to acquire may also have been withdrawn but without subsequent publication.

Source: The Kenya Gazette. Issues between 1980 and 1987.

APPENDIX THREE (3a)

Land Alienations in Nairobi

Date	Gazette Notice	Purpose	Locality
18.7.80	2063	Residential 99 year lease	Waithaka, Mutuini, Riruta & Ruthimitu
2.10.81	3059	Church Sites	Doonholm, South B, Embakasi, Nyari & Ngei
18.12.81	3891	Residential	Nairobi Dam Area
31.12.81	4002	Shops & Bars	Jamhuri Estate
13.8.82	2241	Flats (99 yr Lse)	Undisclosed
11.2.83	565	Shops, Offices & Flats	Dandora
4.1.85		Private dwelling	Langata/Karen area
10.5.85	1893	Residential Shops & Flats Shops & Flats Shops & Flats Shops & Offices Offices Only	Kasarani Ngei and Kasarani Off Mbsa Rd & Golf Crse Ruaraka & Nyari Estates Off Mombasa Road Off Mombasa Road
12.7.85	2838	Church or Mosque or Priests' Residence	Undisclosed
1.11.85	4615	Church Or Mosque or Priests' Residence	South B Area
31.10.86	4551	Inoffensive Light industry along with offices and stores)	Villa Franca
		one private dwelling house, Shops, Offices Houses and Flats	Villa Franca
		One Private dwelling house, shops, Office and Flats	Bellevue Cinema Area
27.2.87	868	Church Plots	Villa Franca

Source: Kenya Gazette Issues of 1980 to 1987

APPENDIX THREE (3b)

CONDITIONS FOR ALIENATION OF LAND

1. Applicants must enclose cheque/order for Ksh 1,000 payable to the Commissioner of Lands as deposit.
2. Applications should be accompanied by a statement that indicates amount of capital to be spent on the project.
3. A letter from the bank indicating how much the applicant has in a bank account should be submitted.
4. An Indication of manner of raising the balance required for development should be given.
5. The applicant should provide full details of commercial and residential property owned in the town.
6. A successful candidate would pay at the end of 30 days the stand premium i.e shs.12,000, annual rent of shs.2,400, Conveyancing fees, stamp duty, registration fees, contribution in lieu of rates, roads, drainage charge (shs.40,000) and survey (sh 1,060). If the Applicant does not pay this much, the Commissioner of Lands may cancel the allocation and the applicant shall have no further claim to the plot.

On issues of development, the alienation conditions set out by the Commissioner Of Lands set this out:-

7. No development shall take place unless inconformity with plans and specifications approved by the Commissioner of Lands and the Local Authority.
8. Within six months, the allottee has to submit plans, drawings and elevations and details of the building he intends to construct and complete erection of the building within 24 months. If he does not do this, he may be dispossessed of his plot.
9. No Change of use shall be allowed unless the Commissioner Of Lands approves.
10. There shall be no subdivision without prior written consent of the Commissioner of Lands.
11. An applicant must pay or contribute towards the construction of trunk infrastructure.

12. There shall be a revision of annual rent payable after 10 years at a rate of 4% as assessed by the Commissioner of Lands.

Note: The Alienation Conditions produced above were mainly in connection with land for residential development. The conditions for other plots are the same except for figures of payments.

Source: Kenya Gazette. (conditions laid out after advertisement for land alienation).

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