

The Institutional and Management Systems for Property Rates Tax in Uganda: A Case for Kampala Capital City Authority

Joseph Murangira*

Abstract

In Uganda, property rates is levied by local governments to enable them provide a wide range of services to the people such as street lighting, garbage collection and road works. In the case of Kampala city, the tax is levied by Kampala Capital City Authority (KCCA), although it is not a local government. This tax is yielding large sums of money annually. If properly managed, it has a potential to greatly improve service delivery in the city. It is therefore important to understand the organs involved in property rates tax administration within KCCA and the challenges they face. This article reviews the structure of the administrative systems in KCCA for purposes of property rates tax system. The article also analyses the property rates financial administration and accountability in KCCA. The paper finds that there is no proper accounting mechanism for property

rates tax within KCCA. KCCA has failed to create a property rates fund as required by law. It also finds that KCCA has not supported the formation of rate payers associations which would promote accountability.

Key works

Law, property rates tax, KCCA, Property Rates Tax in Uganda, Kampala Capital City Authority

1.0 Introduction

Property rates tax in all countries, including Uganda, is levied by local governments to enable them provide a wide range of services to the people. In the case of Kampala, the tax is levied by kampala Capital City Authority (KCCA), although it is not a local government.¹ The tax system is based on the valuation, assessment and collection of property rates which in effect involves a partnership between all organs of

* LLB, LLM (Makerere University), MMS (UMI), P.G Dip. in Private Practice (LDC), P.G Dip. in Management studies (UMI), Judge of the High Court of Uganda, email: josephmurangira@yahoo.co.uk. This article is extracted from the LLD thesis entitled: 'The Law and Property Rates Tax System in Uganda: A Case Study Of Kampala Capital City Authority,' being undertaken by the author, at Makerere University, Kampala, Uganda.

¹ See section 78 (2) (b) of the Kampala Capital City Act, 2010 stating that the Local Governments (Rating) Act shall, with the necessary modifications apply to the Capital City.

KCCA at levels. It is, thus, fundamental to understand which organs are involved in property rates tax management within KCCA.

This article reviews the structure of the management systems in KCCA for purposes of property rates tax system. The article is divided into five main sections. The present section gives an introduction to the chapter. The second section analyses the KCCA structures and their roles in property rates tax management. The third and fourth sections examine the way in which property rates funds are managed and accounted for. The last section is the conclusion to the article.

2.0 KCCA Structures for Management of Property Rates Tax

Kampala Capital City Authority (KCCA) is a corporate body with perpetual succession and may sue and be sued in its corporate name and do, enjoy or suffer anything that may be done, enjoyed or suffered by a body corporate. The Authority is the governing body of the Capital City and manages the Capital City on behalf of the central government. Any enactment that applies to

a district applies to KCCA with the necessary modifications.² KCCA has a number of management structures that play fundamental roles in the management of property rates tax. This section discusses these structures and their roles in property rates management.

2.1 Directorate of Treasury Services

The Treasury Services Directorate is mandated to prepare the institutional budget, manage and account for both expenditure and revenue for the Authority. The Directorate has positioned its self to re-engineer its processes and roll out an efficient financial management system which will support the business of the Authority. The core functions of the Directorate relevant to property rates tax are: to develop, review and monitor the implementation of systems and procedures for the accountability and control of the KCCA expenditure in line with the accounting standards and guidelines; to develop, monitor and review the KCCA corporate annual operating and development budgets in line with the accounting standards, budgetary provisions and KCCA regulations; to plan and coordinate the implementation and

² Kampala Capital City Authority Act, 2010, Section 5(4).

evaluation of the Financial Accounting for the KCCA funds and Donor-funded projects and Grants; to Set and evaluate benchmarks, regulations and procedures for the implementation of the KCCA financial and management systems; to develop, review and monitor systems and procedures for receiving, safeguarding, and accountability for the KCCA revenue collected in line with the approved procedures and guidelines; prepare monthly and annual statutory accounts in line with the statutory and accounting regulations.

2.2 Directorate of Legal Affairs

The mission of the Directorate of Legal Affairs is to provide effective legal advice and representation of the highest quality to KCCA as a corporate entity. Primary emphasis of the work program is providing proactive counsel, preventive advice and early intervention to support decision-makers with a clear view of all their lawful options.

Under the direction of the Director Legal Affairs, the directorate provides a comprehensive program of legal services to the Authority, supporting virtually every facet of the Authority's work. The directorate guides the Authority's internal corporate operations; advises staff and organs of the Authority e.g. the Physical

Planning Committee, Contracts Committee, the political and policy organs (Authority and Division Urban Councils) on statutory and regulatory responsibilities; advocates on the Authority's behalf in litigation before the Courts of Judicature of Uganda and other adjudicating fora; and participates in cross-functional teams assembled periodically to develop creative solutions to new challenges facing the Authority.

This Directorate is meant to provide technical legal advice and litigation support against property rates tax defaulters, among other things. It, therefore, follows that all those who have defaulted in the payment of property rates tax can be prosecuted by this office. However, this office is not fully utilised by KCCA, in that the latter always contracts private advocates to prosecute property rates tax defaulters. This has implications for the efficiency of this tax system.

2.3 Directorate of Revenue Collection

Revenue is a key factor for Kampala Capital City Authority (KCCA) in achieving her mandate as provided for in Kampala Capital City Act 2010. The Act provides for the power to levy taxes giving KCCA the responsibility to levy, charge, collect and appropriate fees and taxes in

accordance with the law as enacted by Parliament under article 152 of the Constitution.

The Directorate of Revenue Collection is mandated to review the business Procedures using existing guidelines, policies and any other documentation in place; to establish a clear link between the payment/collection of taxes and the provision of services for which they are meant to finance; to conduct taxpayer sensitizations, education and mobilization, policy review, decision making, and ultimately revenue collection maximization to mobilize appropriate levels of revenue mainly from local tax base to effect service provision and address poverty.

This calls for the Directorate of Revenue collection to establish well streamlined policies of revenue mobilization and collection and come up with specific tools that should effectively enhance mobilization of revenue and sensitization of tax payers.

Within this Directorate, there is a supervisor in charge of valuation (in acting capacity awaiting full appointment), and 3 officers at valuer level. Their functions include monitoring and implementing the valuation tax payer system in line with the

Directorate guidelines and applicable laws, maintaining a valuation information database; evaluating the valuation systems and procedures, prepare timely performance reports in relation to set targets, policies and procedures and to record and keep all reference valuation documents and data. However, as discussed in chapter four of this study, the KCCA valuers do not conduct the valuation. Rather, the exercise is done by independent contracted valuers. The KCCA valuers only provide co-ordinational and supervisory services.

2.4 Directorate of Internal Audit

Section 24 of the Kampala Capital City Act, 2010, provides for the establishment of an Internal Audit Directorate within Kampala Capital City Authority. In line with Regulation 27 of the Public Finance and Accountability Regulations 2003, Internal Auditing is defined as an independent, objective assurance and consulting activity designed to add value and improve the reporting Ministry, department, agency or unit and helps the reporting unit to accomplish its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

The mission of this Directorate is to provide independent, objective assurance and consulting services to the Authority and Management. Its mandate is to foster compliance to the organization's policies, systems and procedures. The internal audit work in KCCA includes the examination and evaluation of the adequacy and effectiveness of the KCCA's governance, risk management, systems of internal control and the quality of performance when carrying out assigned responsibilities; aimed at achieving the KCCA's stated goals and objectives.

The Directorate is administratively supervised by the Executive Director and functionally by the Standing Committee of the Authority. An Internal Audit Charter was developed and reviewed by Management and awaits approval by the Standing Committee. A Risk Management policy has been drafted and is being reviewed by Management. In line with Section 60 of the Kampala Capital City Act 2010, the Director Internal Audit issues statutory quarterly internal audit reports highlighting the key observations made in the course of audits and the measures recommended or adopted by management to address the weaknesses noted.

The specific activities performed by the Internal Audit Directorate relevant to property rates tax management are: reviewing the reliability and integrity of the Financial and Operating Systems for the Authority and the means used to identify measure, classify and report on those systems.; reviewing and appraising the economy and efficiency with which the Authority's resources are employed; and performing consulting and advisory services, where necessary, to assist Management in meeting the Authority's objectives.

2.5 Directorate of Physical Planning

This Directorate is mandated to plan the development of the functional urban design, infrastructure and administer land management of Kampala city and ensure that the development in the city is organized and does not exert stress on the existing functioning infrastructures.

2.6 The Valuation Court

The Valuation Court is chaired by a Chief Magistrate or Magistrate Grade 1 or an advocate of not less than five years' standing and two other members. The two members must be engineers or architects or such other persons as the local government may think fit to appoint. Members of the local government are disqualified from

appointment as members of the Valuation Court.³ The valuation Court is independent from anybody or individual. It was found out that the Valuation Court is chaired by a competent advocate who has been in practice for over five years as required by the law.

The quorum of the Valuation Court is constituted by the chairperson and one other member and the decision is according to the opinion of the majority but where the court consists of chairperson and one other person and there is a difference of opinion, the opinion of the chairperson is taken to be the decision of the court.⁴ It was discovered in this study that for the cases that had been decided, the court had been duly constituted in a manner provided for in the law.

The major function of this Court is to handle complaints arising out of contested valuation of rateable properties. The limitation with this Court is that it cannot handle property rates tax defaulters. Most of the times, it is not functional. It is usually constituted after conducting the valuation exercise.

³ The Local Governments (Rating) Act, section 17.

⁴ *Ibid*, section 18.

2.7 Lower Management Structures

In the management structure, KCCA is divided into Divisions, Parishes and Villages. Kampala city is divided into five divisions; that is Central, Nakawa, Makindye, Kawempe and Rubaga. The Central division is the heart of the Kampala's economic, social and political pulse and almost all government ministries and institutions have their headquarters and offices in the Central division.⁵ It also has some of the best hotels in the country which include Serena Hotel, Sheraton Hotel, Imperial Royale, Golf Course Hotel and Protea Hotel. Nakawa division is the industrial heart of Kampala. The industries include food processing, metal fabrication, foam and timber products, and plastics industries. Makindye division is the largest among the five divisions. It also has hotels that include Country Resort Hotel Munyonyo, Hotel Millennium, Chezi Johnson Hotel Muyenga, Tooro Cottage Muyenga B and many other hotels in Muyenga suburb of Makindye. Kawempe division is located in the north of Kampala. It has several trading centres including Bwaise, Kalerwe, Kazo among others and it has manufacturing industries such as

⁵ Kampala City Council, <http://www.kcc.go.ug/information.php?action=division&id=Central> (accessed on 10th May 2008).

Maganjo Grain Millers and cooking oil producing plants. Rubaga division is the cultural home of Buganda Kingdom. It also has industries in Nalukolongo industrial area and woodworks in Ndeeba, among other activities related to property rates tax system. These industries, hotels and other economic activities are housed in buildings that form part of the tax base under property rates tax system.

The Divisions are further divided into smaller units, from parish council down to Village council. The relevance of the above described local government structures as far as property rates tax system is concerned lies in their different roles in the operation of the tax within KCCA. KCCA initiates the assessment process of property rates tax. The other lower structures support the enforcement processes of property rates.

In Kampala, where rates yield a very large sum of money annually and there are very many rateable properties than in other local governments in Uganda, the rating structure is slightly organized and all authorities at different levels work together. When KCCA contracts valuers to carry out the valuation exercise, they are assisted by the

lower local authorities in the identification of properties, their owners and addresses.

After valuation of the properties, the contracted valuers prepare a valuation roll which is sent at the divisions for inspection by the property owners. The divisions and other lower local councils also have a great role to play in the distributing the demand notices issued to rate payers as well as identifying their properties for execution of warrants.

When it comes to spending the proceeds from property rates, lower local councils guide KCCA financial and planning administrations in spending the funds on provision of services that are of primary interest to the rate payers. The Local Governments (Rating) Act provides a list of services on which proceeds from property rates are to be spent.⁶ However, because the funds are not enough to cater for all these services at once, they should be spent on services that are much needed by the rate paying public. Identification of these critical areas is best done by the lower local councils which have close contact with the rate payers.

⁶ See section 37 (2) of the Local Governments (Rating) Act.

3.0 Rate Payers' Associations

The Local Governments (Rating) Act empowers property owners and occupants or residents within the jurisdiction of a local government to form themselves into rate payers' association to monitor how the local governments are using the money collected from rates to deliver services.⁷ In this way the rate payers have a legal right to force the local government to be accountable to them.

Rate payers associations are a key element of the accountability process and KCCA should assist and facilitate the process of forming rate payers associations. Once these associations are formed, KCCA should ensure that it cooperates with them in ensuring that money from rates is used for service delivery in the best way possible and relevant information on collection and use is disseminated to all such associations.⁸ It is also very pertinent that association members are consulted by KCCA on how the money should be used if they are to participate effectively. This can be achieved through organizing consultative meetings with the rate payers'

associations and inviting them to attend the annual budget conference of KCCA.

The functions of a rate payers' association include: to oversee the provision and delivery of services from the rates paid by them; to monitor the accountability; and in the event that KCCA has failed to provide services which the members consider to be priority in their area, they can cost services and have dialogue with KCCA with a view of the members spending on the services to be offset against pending rates.⁹

The procedure for registering an association is as follows: first, obtain a written constitution to regulate the activities of the association including election of leaders of the association. Second, notify KCCA (or the relevant local government in other areas) of the formation of the association. Third, provide a copy of the association constitution and names of the leaders of the association to local government; and a dissolution of, or any change in the leadership or constitution of the association shall be notified to KCCA (or the local government concerned).¹⁰ The rate payers' association should not expect

⁷ The Local Governments (Rating) Act, section 37(4).

⁸ The Ministry of Local Government (2003), Revenue Mobilisation in Local Governments,

Participants Handbook for Lower Local Governments, p. 82.

⁹ *Ibid.*

¹⁰ *Ibid.*

funding from KCCA to run its activities. The members must be ready to sacrifice their own funds to maintain their association; otherwise, it may exert unnecessary financial pressure on the limited funds available in KCCA.

In this study, it was found that no rate payers' association exist in Kampala and KCCA has not taken initiatives to facilitate their formation. The absence of these associations has negative ramifications to property rates management and service delivery. First, it is not very easy for KCCA to identify priority areas of interest for the rate payers in order for KCCA to provide services in that direction. Consequently, KCCA may spend on services for which rate payers attach less significance. Secondly, the absence of these associations widens the gap between KCC and the rate payers. There is nobody to act as an intermediary between the two. KCCA standing on the other side is seen as 'a special tax collector' with no service to deliver to the tax paying public. This was identified as one of the underlying causes of non-compliance with the rates obligations by the rate payers.

4.0 Management of the Property Rates Funds

As discussed above, overall management of the property rates funds in KCC is under the Finance Directorate. The law sets some requirements to be complied with the management of these funds

The Local Governments (Rating) Act requires local governments to establish and manage a Property Tax Fund, which is separate from other funds of the local government.¹¹ The reasoning behind the separation of these funds lies in the special services they are meant to provide. The rates collected are not available for whatever use the local government may wish to use them. It was, however, found in this study that there is no such fund maintained by KCCA. The rates are payable to the main account of KCCA and mixed with funds from other sources. Non-compliance with this legal requirement has made compliance with the legal requirement to take back the 75 percent to the rate payers difficult, as there are no specific funds from rates set aside. This means that the funds from rates are likely to be misused and not applied for the stipulated services.

¹¹ The Local Governments (Rating) Act, section 37 (2).

5.0 Property Rates Accountability

Accountability in this context is the obligation to explain to the residents how much money has been collected from rates and how that money was used.¹² Accountability comprises not only giving a written explanation but also demonstrating in physical terms that the money has been used to deliver services to the residents who in the first instance contributed the money in form of rates.¹³ KCCA is ultimately accountable to the residents and the public at large because it is the residents who provide the money.

Accountability for the revenue collected should be achieved through the provision of information to all stakeholders. Regular reports on the collection of revenue from rates should be provided to the committee of the local government that is responsible for finance on a monthly basis and to the whole council every quarter.¹⁴ The collection reports should also be disseminated to other stakeholders particularly to the rate payers associations to enable the rate payers to monitor the use of the funds that they contributed. The information should also be provided to the

residents and the public at large through elected politicians and by making the collected information public through advertisements in the local newspapers, on radio and posting such information on notice boards in public places such as markets and the offices of the local government.¹⁵ It was found that KCCA publishes financial performance reports every year covering all the Divisions, with property rates included, whereof the amount collected is disclosed. However, this information is not well disseminated as no seminars at local levels and radio or Television programs are conducted to target the marginal rate payers who may be unable to access the reports from public libraries and the internet.

The second most important form of accountability is to account for how the money from property rates was used by the local government. Property rates must be used to provide services to the residents. Therefore, an important form of accountability is the provision of services to the residents. Examples of services that can be provided are road maintenance, street lighting and garbage collection. Section 37 of the Local Government (Rating) Act

¹² The Ministry of Local Government, *supra*, note 8, p. 51.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

specifies that at least 75% of revenue from rates must be used on provision of such services. However, from the interviews conducted, KCCA officials were not very happy with this specification of areas of use. They argue that they always have other priorities to finance which do not fall in the specified categories. It was indeed conceded that a sizeable portion of their administration cost such as allowances was funded by rates revenue and the council could not see how it would finance the costs if it was to use at least 75% on direct services. Secondly, as highlighted above, this specification is likely to lead to an imbalance in the level of development among the Divisions because there are areas where most of the properties are owner occupied (which are exempt) and others which pay rates. Strictly following this specification means that areas with properties that are owner occupied are to be left without services. Furthermore, some of the areas which pay high property rates need limited services as compared to other areas. For example, in the Central Division, Bank of Uganda building, National Social Security Fund (NSSF) building, Shoprite need limited services as compared to other areas yet they are among the highest payers. In these circumstances, it has become hard

for KCCA to strictly follow the law that it sends back 75% to rate payers of such locality. It was found that what KCCA does in practice is to spend the money on service provision irrespective of the area where it was collected from.

The above grievance notwithstanding, the management of KCCA should always make it clear to the rate payers that the rates collected have been used to deliver such services. For this reason, KCCA must always ensure that it links the rates collected to particular and identifiable services provided or delivered by the local government to the residents within its area of jurisdiction. This can only be done by indicating the services provided to the residents.¹⁶ For example if a new road was opened using money from the property rates fund account the residents should be told by using several ways. A sign post could be erected besides this new road to indicate this fact. As another way of indicating the opening up of the new road, KCCA may organize an official launching ceremony for the new road when completed to open it. The local government could invite stakeholders like representatives of the rate payers' association, councillors, members of Parliament of the area,

¹⁶ *Ibid.*

religious leaders, other opinion leaders and residents generally to attend the launching ceremony. Alternatively this information could be made public on radio, or putting it on public notice boards.

It was found that KCCA rarely makes known to the rate payers the purposes for which the money collected from rates is used for. Whereas there were reports on the amount collected, there was none on how the same has been spent. This is perhaps explained by the fact that it is at times used for payment of their allowances, a fact which they cannot disclose to the rate payers or that it is mixed-up with other funds such that it becomes hard to identify what has been done specifically using money from property rates. This lack of flow of information and transparency has now formed the basis for resistance to pay rates by the rate payers leading to a discrepancy between the estimated and the actual rates received. The argument is that the rate payers feel that the money is embezzled by KCCA officials and they shouldn't be seen contributing further when there is no service delivery in return.

6.0 Conclusion

This article has analysed the institutional and management systems for property rates

management in KCCA. It can be observed from this article that an effective property rates tax system requires coordination among all authorities at different levels in the identification and valuation of properties, assessment and collection of property rates. The article has, therefore, discussed the lower structures and departments at different levels in KCCA and their roles in the property rates tax management system and their challenges. It has also discussed the management of property rates funds in KCCA.

References:

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