



## COUNTY ASSEMBLY OF BOMET

### REPORT OF THE COMMITTEE ON COUNTY PETITIONS ON PETITION NO.1 OF 2023 ON WAIVER OF PENALTIES AND INTEREST ON PLOT RENT AND RATES BY DR.WILSON KIPSANG ROP

SEPTEMBER, 2023

① Hm speaker  
you may approve  
in table  
19 SEP 2023  
CAC  
19/9/23

② Clerk  
Approved for  
tabling<sup>1</sup>  
109/2023

Taken at 26/9/2023  
at 2:30 P.M.

## Contents

<b>1.0 Executive Summary</b> .....	3
<b>1.1 Committee Membership</b> .....	3
<b>1.2 Mandate of the Committee</b> .....	3
<b>1.3 Petition No.1 of 2023.</b> .....	Error! Bookmark not defined.
Pursuant to Standing order 200(3) of the County assembly standing Orders, the County petitions Committee shall consider and report on all public petitions presented to the Assembly. ....	
	Error! Bookmark not defined.
<b>1.4 ADOPTION OF THE REPORT</b> .....	4
1. Introduction.....	5
<b>A. Background</b> .....	6
<b>B. LEGAL BASIS FOR PETITIONS</b> .....	7
<b>Petitions</b> .....	7
<b>2. CONSIDERATION OF PETITION</b> .....	9
<b>Specific Prayers of the Petitioner</b> .....	9
<b>SUBMISSIONS FROM THE PETITIONER</b> .....	10
<b>RESPONSE FROM THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE AND ECONOMIC PLANNING</b> .....	11
<b>CHAPTER THREE</b> .....	13
<b>Committee Observations</b> .....	13
<b>Committee Recommendations</b> .....	14

## PREFACE

### **1.0 Executive Summary**

The Committee on County Petitions is one of the select committees established under the Standing Order 200(1) of the County assembly Standing orders.

### **1.1 Committee Membership**

The Committee on County Petitions comprises of the following Honourable Members: -

- |                          |                   |
|--------------------------|-------------------|
| 1. Hon. Josphat Kipkirui | -Chairperson      |
| 2. Hon. Emily Cheruiyot  | -Vice Chairperson |
| 3. Hon. Peter Rono       | - Member          |
| 4. Hon. Japhet Cheruiyot | -Member           |
| 5. Hon. Joseah Samoei    | -Member           |
| 6. Hon. Chemutai Naomi   | -Member           |
| 7. Hon. Nathan Kibet     | -Member           |

### **1.2 Mandate of the Committee**

The Select Committee on County Petitions derives its mandate from provisions of Standing order 200(3) of the County assembly standing orders which provides that the committee shall consider and report on all public petitions presented to the Assembly.

### **1.3 Petition No.1 of 2023.**

Pursuant to Standing order 200(3) of the County assembly standing Orders, the County petitions Committee shall consider and report on all public petitions presented to the Assembly.

The Committee on County Petitions formally received a petition from one Dr.Wilson Kipsang Rop, a resident of Bomet County, businessman and Chairperson Bomet Business Owners Association.

In dealing with the matter, the committee held a number of sittings during which the committee was able to engage the Petitioner and the County Executive Committee Member for Finance and Economic Planning.

Upon deliberations in the said sittings and based on the submissions from the petitioner and the County Executive Committee Member, the committee came up with a report in response to the petition as provided for under the Standing Order 213 (2) of the County Assembly Standing Orders.

It is therefore my pleasant duty and privilege, on behalf of the Committee on County Petitions to table this report on the Petition.

**SIGNED**  .....


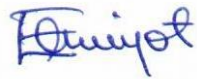



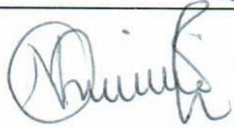

**Date** .....19/09/2023.....

**Hon. Joshat Kipkirui**

**Chairperson, Committee on County Petitions**

#### 1.4 ADOPTION OF THE REPORT

We, the Hon. Members of Committee on County Petitions do hereby append our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity: -

No.	Name	Designation	Signature
1.	Hon. Josphat Kipkirui	Chair	
2.	Hon. Emily Cheruiyot	V/Chair	
3.	Hon. Peter Rono	Member	
4.	Hon. Japhet Cheruiyot	Member	
5.	Hon. Joseah Samoei	Member	
6.	Hon. Chemutai Naomi	Member	
7.	Hon. Nathan Kibet	Member	

## 1. Introduction

### **A. Background**

The petition from Dr. Wilson Kipsang Rop was tabled and committed to the committee on county petitions on 2<sup>nd</sup> May 2023. The Petitioner sought to draw the attention of the County Assembly to the numerous financial challenges faced by Bomet plot owners and business community. He pointed out the challenges faced by the business community which rely mostly on farming to include high cost of farm inputs, poor prices of tea leaves, poor yield due to necrotic disease, poor rainfall and the Covid-19 pandemic. He also stated that he has engaged the county executive on the matter but was informed that there is no law in place for purposes of granting the waiver. He further stated that the issues raised in the petition are not pending before any court of law, constitutional or legal body.



## **B. LEGAL BASIS FOR PETITIONS**

### **The Legal Framework**

#### **Petitions**

The right of citizens to petition public authorities is enshrined in the Constitution. **Article 37 of the Constitution** provides that; ***‘Every person has a right, peaceably and unarmed, to assemble, to demonstrate, to picket and to present petitions to public authorities’***

Section 15(1) of the County Governments Act, 2012 makes a provision for citizens’ right to petition the County assembly. The said section provides that; ***“A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.”***

The Standing Order 213(1) of the County Assembly Standing Orders provides that every Petition presented or reported pursuant to this Part, shall stand committed to the County Petitions Committee.

**Standing Order 213(2)** further provides that whenever a Petition is committed, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the County Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in

exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes.



## **CHAPTER TWO**

### **2. CONSIDERATION OF PETITION**

#### **Specific Prayers of the Petitioner**

The specific prayers of the Petitioner to the County Assembly were to implore/request the County Assembly to:

- (1) Offer 100% waiver on interest and penalties on plot rent and rates.
- (2) Give three months period for defaulters to pay the principal amount.
- (3) Advertise the amnesty in both print and air media.

#### **Approach taken by the committee**

1. In considering the petition, the committee observed that it would be important to verify the facts alleged in the petition. The committee therefore resolved to conduct an inquiry on the issues raised in the petition.
2. In this regard the committee received the petition on 2<sup>nd</sup> May 2023 after being tabled and committed to it and further met the petitioner on 6<sup>th</sup> June, 2023.
3. Thereafter the committee invited the County Executive Committee Member for Finance and Economic Planning on 5<sup>th</sup> July, 2023 to respond to the issues raised in the petition and assist the committee prepare a comprehensive report.

## **SUBMISSIONS FROM THE PETITIONER**

The Petitioner Dr.Wilson Kipsang Rop appeared before the Committee on Tuesday 6<sup>th</sup> June, 2023 and stated under oath as follows;

- (1) **THAT** he is sticking to prayer NO.1 to 3 as advised by the committee because prayer NO.4 to 7 dealt with different subject matters.
- (2) **THAT** the petition which he presented last year was not concluded because the last assembly adjourned for elections before its conclusion.
- (3) **THAT** the total amount of penalties due to the county is approximately KES 150 Million.
- (4) **THAT** he has engaged the county executive on the matter but was informed that there is no law in place for purposes of granting the waiver.
- (5) **THAT** most tenants are farmers who rely on farming and once they don't get good produce then they are unable to pay rent hence default in rent payment.
- (6) **THAT** Nakuru county and others have been granting waivers to their rent and rate payers.
- (7) **THAT** if the waiver is granted, then there will be a marked improvement in payment of rates and rent because a waiver is like a discount which everybody would take advantage of. He further stated that he is requesting for a 100% waiver because that is what other counties are granting.

**RESPONSE FROM THE COUNTY EXECUTIVE COMMITTEE  
MEMBER FOR FINANCE AND ECONOMIC PLANNING**

The County Executive Committee Member for Finance and Economic Planning appeared before the Committee on 5<sup>th</sup> July 2023. He submitted under oath as follows;

- (1) **THAT**, for a waiver to be granted, the following conditions must be met:
  - (a) An up to date valuation roll must be in place;
  - (b) The actual value of the property should be ascertained;
  - (c) An Act of the County Assembly providing for the waiver has to be enacted;
- (2) **THAT** he has budgeted for the valuation roll in the current financial year and that the same ought to be ready in the next one year.
- (3) **THAT** the rate payers are slow in payment of the principal amount.
- (4) **THAT** the PFM Act provides for waiver to PWDS and that all their requests should be consolidated and submitted to the County assembly for approval.
- (5) **THAT** a blanket waiver is not proper because the county can't tell whom we are waiving for and that is the reason why an up to date valuation roll is very necessary.
- (6) **THAT** the total amount due from the defaulters including interests and penalties is KES 337 Million.
- (7) **THAT** the valuation roll is 70% complete and that the department needs approximately 10 Million to finalize the

same. He also stated that the reason why it has taken too long for it to be completed is because of lack of finances.

## CHAPTER THREE

### **Committee Observations**

Based on the submissions from the petitioner and the County Executive Committee Member for Finance and Economic Planning, the committee made the following observations:

- (1) **THAT**, indeed there has been default in payment of plot rent and rates hence attracting a huge amount in terms of interests and penalties.
- (2) **THAT**, as a result of the default in payment of plot rent and rates, the county government has lost so much revenue.
- (3) **THAT**, the county government has no law on waiver of taxes or levies as provided for under Article 210 of the Constitution. The Article provides that (1) No tax or licensing fee may be imposed, waived or varied except as provided by legislation. (2) If legislation permits the waiver of any tax or licensing fee— (a) a public record of each waiver shall be maintained together with the reason for the waiver; and (b) each waiver, and the reason for it, shall be reported to the Auditor-General.
- (4) **THAT**, the county government has not put in place an up to date valuation roll and therefore the actual value of the rated property can't be ascertained.
- (5) **THAT**, despite the fact that there is a huge backlog in payment of interests and penalties of plot rent and rates, the defaulters are still slow in payment of the principal amount.

## CHAPTER 4

### Committee Recommendations

The committee having investigated the matter in accordance with its mandate under Standing order 200(3) of the County Assembly Standing orders recommend as follows: -

- (1) **THAT**, in response to Prayer NO.1, the Committee recommends that the County Executive Committee Member for Finance and Economic Planning fast-tracks the completion of the county valuation roll and come up with a bill for waiver of interests and penalties on plot rent and rates in accordance with Article 210(1) of the Constitution for consideration by the county assembly.
- (2) **THAT**, the County Executive Committee Member for Finance and Economic Planning should ascertain the real owners of the ratable property.
- (3) **THAT**, Prayers 2 and 3 are dependent on the outcome of prayer No.1.
- (4) **THAT**, the Assembly should consider and allocate sufficient funds for completion of County valuation roll in the budget to enable roll out of the program.
- (5) **THAT**, the department of revenue section should enforce the collection of rates on time to reduce cases of interests accruing.