

# **THE ORGANISATION, MANAGEMENT AND FINANCE OF HOUSING COOPERATIVES IN KENYA**

United Nations Human Settlements Programme  
Nairobi 2010

**UN**  **HABITAT**

## **The Global Urban Economic Dialogue Series**

The Organisation, Management and Finance of Housing Cooperatives in Kenya

First published in Nairobi in 2010 by UN-HABITAT .

Copyright © United Nations Human Settlements Programme 2010

All rights reserved

United Nations Human Settlements Programme (UN-HABITAT)

P. O. Box 30030, 00100 Nairobi GPO KENYA

Tel: 254-020-7623120 (Central Office)

[www.unhabitat.org](http://www.unhabitat.org)

HS/153/10E

ISBN (Series): 978-92-1-132027-5

ISBN (Volume) 978-92-1-132268-2

## **Disclaimer**

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers of boundaries.

Views expressed in this publication do not necessarily reflect those of the United Nations Human Settlements Programme, the United Nations, or its Member States.

Excerpts may be reproduced without authorization, on condition that the source is indicated.

## **Acknowledgements:**

Director:	Oyebanji Oyeyinka
Principal Editor and Manager:	Xing Quan Zhang
Principal Author:	Juvenalis Baitu
English Editor:	Roman Rollnick
Design and Layout:	Andrew Ondoo

---

## FOREWORD



Urbanization is one of the most powerful, irreversible forces in the world. It is estimated that 93 percent of the future urban population growth will occur in the cities of Asia and

Africa, and to a lesser extent, Latin America and the Caribbean.

We live in a new urban era with most of humanity now living in towns and cities. Global poverty is moving into cities, mostly in developing countries, in a process we call the *urbanisation of poverty*.

The world's slums are growing and growing as are the global urban populations. Indeed, this is one of the greatest challenges we face in the new millennium.

The persistent problems of poverty and slums are in large part due to weak urban economies. Urban economic development is fundamental to UN-HABITAT's mandate. Cities act as engines of national economic development. Strong urban economies are essential for poverty reduction and the provision of adequate housing, infrastructure, education, health, safety, and basic services.

The *Global Urban Economic Dialogue* series presented here is a platform for all sectors of the society to address urban economic development and particularly its contribution to addressing housing issues. This work carries many new ideas, solutions and innovative best practices from some of the world's leading urban thinkers and practitioners from international organisations, national governments, local authorities, the private sector, and civil society.

This series also gives us an interesting insight and deeper understanding of the wide range of urban economic development and human settlements development issues. It will serve UN member States well in their quest for better policies and strategies to address increasing global challenges in these areas

A handwritten signature in black ink, reading 'Anna Tibaijuka'.

**Anna Tibaijuka,**  
Under-Secretary-General, United Nations  
Executive Director, UN-HABITAT



---

# CONTENTS

<b>FOREWORD</b>	<b>III</b>
<b>TABLE OF CONTENTS</b>	<b>V</b>
<b>ABBREVIATIONS AND ACRONYMS</b>	<b>VII</b>
<b>LIST OF TABLES</b>	<b>VIII</b>
<b>CHAPTER ONE: BACKGROUND INFORMATION</b>	<b>1</b>
1.0. Introduction	1
1.1. Objective of Study	2
1.2. Definition of Housing Cooperative Society	2
1.3. Cooperative Values	3
1.4. Cooperatives Principles	3
1.5. Cooperatives By-Laws	3
1.6. Characteristics of Housing Cooperatives	4
<b>CHAPTER TWO: DEVELOPMENT OF HOUSING COOPERATIVES IN KENYA</b>	<b>7</b>
2.0. Historical Perspective	7
2.1. Development of Cooperatives Societies in Kenya	9
2.2. Organizational Structure of Cooperative Movement	10
2.3. National Cooperative Housing Union (NACHU)	11
<b>CHAPTER THREE: SAVINGS AND CREDIT COOPERATIVE SOCIETY</b>	<b>15</b>
3.0. Definition of SACCOs	15
3.1. History of SACCOs Development	15
3.2. Categories of SACCOs	16
3.3. Rights of a SACCOs Member	16
3.4. Responsibilities of Members	17
3.5. The Duties of the Management Committee	17
3.6. Function of the Three General Meetings	18
3.7. Salient Features of the Lending Policy	19
3.8. The Kenya Union of Savings and Credits Cooperative Society	20
3.9. Challenges of SACCOs in Kenya	23

<b>CHAPTER FOUR: FORMATION OF HOUSING COOPERATIVES</b>	<b>25</b>
4.0. Formation of Housing Cooperatives	25
4.1. Management of Housing Cooperatives	28
4.2. Types of Housing Cooperatives	33
4.3. Classification of Housing Cooperatives	34
<b>CHAPTER FIVE: ROLE OF LAW IN HOUSING COOPERATIVES</b>	<b>35</b>
5.0. Role of Law in Housing Cooperatives	35
5.1. Role of Government	35
5.2. Role of Cooperative Movement in National Development	39
<b>CHAPTER SIX: FINANCING OF HOUSING COOPERATIVES</b>	<b>41</b>
6.0. Introduction	41
6.1. Financing of Housing Cooperatives	42
6.2. Initial Requirements for Cooperative Investing	43
6.3. Housing Finance Institutions	45
6.4. Challenges of Financing Housing Cooperatives	47
<b>CHAPTER SEVEN: CASE STUDIES</b>	<b>47</b>
7.0. Introduction	47
7.1. The Bellevue Housing Cooperative Society	47
7.2. Kwa Rhoda Neighbourhood Housing Coop	49
7.3. Naivasha Traders Housing Coop	51
7.4. Baringo Teachers SACCO	53
7.5. Waumini SACCO	55
7.6. Innovative Housing Initiatives	58
<b>CHAPTER EIGHT: CONCLUSION AND RECOMMENDATIONS</b>	<b>63</b>
8.0. Advantages of Housing Cooperatives and SACCOS	64
8.1. Challenges	64
8.2. Sustainability	65
8.3. General Conclusion	67
<b>BIBLIOGRAPHY</b>	<b>69</b>
<b>APPENDICES</b>	<b>71</b>

---

# LIST OF ABBREVIATIONS AND ACRONYMS

CBO	Community Based Organization
GoK	Government of Kenya
ILO	International Labour Organization
KDA	K-Rep Development Agency
KENSUP	Kenya Slum Upgrading Programme
KMC	Kenya Meat Commission
KNFC	Kenya National Finance Corporation
KWFT	Kenya Women Finance Trust
MDG	Millennium Development Goals
MMC	Mavoko Municipal Council
NACHU	National Cooperative Housing Union
NGO	Non Governmental Organization
SNP	Sustainable Neighbourhood Programme
TOL	Temporary Occupation License

## LIST OF TABLES

Table 1.1	Development of Cooperatives in Kenya (1998 – 2005)	9
Table 2.0	Sum of NACHU Products and Services	13
Table 3.0	Expected Monthly Repayment for KHF	23



# CHAPTER 1 INTRODUCTION

## 1.0 Introduction

It has been estimated that the world's urban population will double to more than five billion by 2025, with 90% of the increase taking place in the developing world (UNHSP, 2003). This mass urbanisation will be catastrophic, especially in the African continent where the urban population is exploding at an approximate rate of 6.9% amidst a period of slow economic progress.

Nairobi, for example, has an estimated population of 3.5 million inhabitants with about 60% people living in the slums. These slums have been estimated to occupy an area of less than 5% of the total municipal residential land, thus creating problems of congestion, poverty, environmental degradation, and rapid spread of disease and lack of provision of services (UN-HABITAT, 2001).

Indeed, the problem of over-urbanization is a direct challenge to achieving the Millennium Development Goals by 2015 in the developing countries. In this regard, UN-HABITAT has shown a growing concern over the problem of growing slums and has provoked individual governments to take the appropriate measures to address the problem.

This has been through encouraging governments to adopt the Millennium Goal 7, Target 11, 'Which aims to significantly improve the lives of at least 100 million slum dwellers by the year 2020' (UNHSP, 2003: XXVI).

There is a need to address the challenges facing the housing sector in the slums. Indeed, the Universal Declaration of Human Rights

(UN, 1998), declared housing a basic human right, stipulating under article 25:1 that everyone had the right to a standard of living adequate for their health and well being and this included food, clothing, housing, medical care and the necessary social amenities.

As we noted, more than half of the urban population in many African cities and towns live in overcrowded informal settlements which lack essential basic services such as water, sanitation, power and accessibility to affordable health and education facilities. Thus, unless solutions are found to match the demand for housing and services, widespread homelessness and rapid growth of informal settlements coupled with increasing crime, disease and national disasters will become the order of the day in many African countries.

It is in this regard that this study has been developed since the need to establish housing cooperatives has become an essential aspect in addressing the challenges of over-urbanization. According to the Cooperatives Development Policy in Kenya (2004), Cooperatives play a major role in resources mobilization, agro-processing and marketing of agricultural produce. Currently there are over 10,700 registered cooperative societies with a membership of about six million with mobilized savings of over Ksh.105 billion. It is also noteworthy that cooperatives traverses all sectors of the economy with about 63% of Kenyan population deriving their livelihood directly or indirectly through cooperative-based activities. Cooperative societies therefore have great potential for economic recovery and employment creation.

This study will aim at examining the development of housing cooperatives and SACCOS in Kenya, their organization, management and evaluation. It will also aim at focusing on the challenges faced by new cooperatives and some of the strategies designed by the government and other institutions to support the housing cooperatives.

## 1.1 Objective of Study

The aim of this study is to achieve a deeper understanding of the formation, organization, financing and management of Housing cooperatives in Kenya. With the increasing rates of urbanization and thus expansion of slums in the cities, the study will examine the history and role of housing cooperatives in improving the livelihood of the citizenry.

We shall also briefly highlight the savings and credit cooperative societies (SACCOS), which have also played a leading in empowering the local masses economically.

The study will also explore the various developments of housing cooperatives in meeting the needs of the local communities through discussing several case studies. The dynamics involved in financing these institutions and the managerial structures will also be addressed.

## 1.2 Definition of Housing Cooperative Society

A cooperative society is an autonomous association of persons united voluntarily to meet their common identified social economic and cultural needs and aspirations through a jointly owned and democratically controlled enterprise<sup>1</sup>. Therefore, the members of a cooperative society should have a consensus on: needs, associate, ownership, enterprises and democracy in order for the cooperative to run effectively.

A housing cooperative is a form of home ownership in which people join to form a cooperative corporation which owns share in buildings in which they live. The shareholders of the cooperative society are entitled to:

- Lease and occupy a specific dwelling unit
- Vote in the operations of the cooperative
- Pay their share of monthly expenses, via a carrying or occupancy charge. This includes a proportionate share of the expenses of operating the entire cooperative, which typically includes underlying mortgage payments, management, maintenance, insurance, utilities and contributions to reserve funds
- Control the operations of the cooperative through a democratically elected board of directors<sup>2</sup>

Cooperatives must carefully consider the nature of their activities during the formation process. Cooperative philosophy is in harmony with mainstream social objectives, generating trust relationships between people within the organisation as well as the communities in which it operates.

The cooperative structure provides an opportunity for local communities to take control of their supplies, infrastructure and services. Gertler (2001) examined structural, economic, social, cultural and political factors that affect the ability of cooperatives to implement more advanced forms of environmental management and sustainable development.

He suggests several reasons for cooperatives being better vehicles for achieving sustainable development as being "... cooperatives routinely integrate multiple economic, social, and ecological objectives". In this sense, cooperatives help to "... stabilise regional economies and provide a favourable climate for further investment ..." and "...reduce

<sup>1</sup> Coop 101: An Introduction to Cooperatives. [Available Online] [rurdev.usda.gov/rdr/pubs/](http://rurdev.usda.gov/rdr/pubs/).

<sup>2</sup> People Building Communities: Affordable Cooperative Housing. Cooperative Housing Coalition. (2001)

inequality and promote equitable sharing of the costs and benefits of sustainable development.”

While these factors generally form the foundation of cooperatives, the reasons for forming a cooperative are in each case different.

### 1.3 Cooperative Values

Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

### 1.4 Cooperative Principles

The cooperative principles are guidelines by which cooperatives put their values into practice. These are:

- **Voluntary and open membership**  
Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, with no discrimination against others
- **Democratic member control**  
Cooperatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions
- **Member economic participation**  
Members contribute equitably to and democratically control the capital of their cooperative and allocate surpluses for developing the cooperative, benefiting members in proportion to their participation and contribution
- **Autonomy and independence**  
Cooperatives are autonomous, self-help organizations controlled by their

membership. They enter into agreements or raise capital on terms that ensure democratic control of their members.

- **Provision of education, training and information**  
Cooperatives provide education and training for their members, elected representatives, managers and employees so they can contribute effectively to the development of their cooperatives, and inform the general public on the nature and benefits of cooperatives
- **Cooperation among cooperatives.**  
Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local and international structures
- **Concern for the community.**  
While focussing on member needs, cooperatives work for the sustainable development of their communities through policies accepted by their members<sup>3</sup>

### 1.5 Cooperative By-Laws

Cooperatives by-laws are the guidelines on how the cooperatives are governed, the rules and regulation that govern its operation, cooperative composition and the mandate for the officials. The following are the requirements for the Housing cooperatives by-laws as regulated by the Kenyan Law. (In Appendix II, there is a full copy of the Kenya Housing By-Laws.

- The name of the cooperative
- Its registered office and postal address. Notice of any change of address for the Society shall forthwith be given to the Commissioner for Cooperative Development and to all the members of the Society

<sup>3</sup> Cooperative principles from the website of the National Cooperative Bank

- Its area of operation and membership common bond
- The objects for which the society is established
- The purposes to which its funds may be applied
- The disposal of its accumulated funds
- The qualification for membership, the terms of admission of members and the mode of their admission
- The withdrawal and expulsion of members and the payment, if any, to be made to such members and the time within which such payment shall be made
- The rights, liabilities and obligations of members, including the minimum share holding and produce delivery
- The transfer of the shares or interest of the members
- The manner of raising funds, including the maximum rate of interest on deposits
- Its general meetings, the procedure and quorum of such meetings, power of such meetings and representation and voting at such meetings
- The appointment, suspension and removal of members of the committee and officers and the powers and duties of the committee and officers
- The period of its financial year
- The authorization of officers to sign documents on its behalf
- The settlement of disputes
- Such other matters as may be expedient for the better carrying out the provisions of these Rules

## 1.6 Characteristics of Cooperative Society

There are many types of cooperative societies which are aimed at tackling different kinds of problems. The underlying characteristic of all cooperative societies is that they aim at mobilizing their members and the community to improve the quality of their life. In Kenya, the following are some of the registered cooperative societies:

- Savings and Credit Cooperatives
- Housing Cooperatives
- Consumer Cooperatives
- Transport Cooperatives
- Marketing Cooperatives
- Horticulture Cooperatives
- Handicraft Cooperatives
- Industrial Cooperatives
- Building and Construction Cooperatives
- Service Cooperatives
- Multipurpose Cooperatives

Some of the distinguishing roles of forming housing cooperatives include:

- Acquisition of property such as housing units
- Human settlements
- Resource mobilization
- Source for external funding
- Tap economies of scale
- Provide awareness creation
- Provide technical assistance
- Facilitate implementation of Government development agendas

All these activities enhance income generating activities that lead to wealth and employment creation thus eradicating poverty and raising the standard of living for all. It is important to note that a distinguishing characteristic of cooperative societies to companies is that its shares cannot be bought and sold by the general public and they are not quoted on the stock exchange.

Cooperatives societies are autonomous, self-help organizations controlled by their members, thus if they enter into agreements with other organizations, including governments, they should do so only on terms that would ensure democratic control by their members and maintain their autonomy. In this sense, cooperatives need autonomy and decision-making ability to exist at all.

Cooperative societies also differ from shareholder owned companies in that the members have one vote per person regardless of the amount saved, deposited, borrowed, bought or work done. The reason for this as we noted beforehand is to ensure democratic participation in the policymaking and control of the cooperative by its members.

The keystone to any cooperative is democratic control by members to achieve an agreed common objective. For housing cooperatives, this means creating a home for individual members and the community as a whole.

In addition, the following are the comparative advantages that cooperatives have over other types of organization in that they:

- Develop a transaction cost advantage in mobilizing member initiative and resources
- Show a particularly high level of flexibility and adaptability to changing market situations
- Can successfully produce for or develop demand in niche markets due to their limited size

- Can build up own resources which make them truly autonomous, able to survive independently of external support and able to compete in the relevant markets
- Can become important local financing institutions, combining the local need for safe-keeping with that of entrepreneurial access to credit
- Inspire innovation, diversification and specialization in their members' enterprises
- Establish self-financed federative systems for consulting, training, marketing and political representation
- Positively influence the institutional and normative patterns of local and national environment and international markets

There is further evidence that shows the comparative advantage of cooperatives in social terms because they:

- Are largely dependent on the membership of natural persons and thus usually locally bound, owned, directed and controlled
- Are the first to face the needs of the local population, are responsible and accountable to them and can rely on the knowledge of local circumstances as well as development potentials in planning their actions
- Instil a high level of identification of the group with the organizational aims
- Promote local knowledge and understanding of democratic processes
- Are capable of managing communal properties without either widening the gap between the ownership and control rights or squandering precious resources by merely administering what should be wisely utilized, both in terms of local economy and ecology

- Cannot run away merely because the capital employed can earn more elsewhere, thus giving local citizens a good measure of certainty in their own economic planning
- Bring members closer to their aims even if, or particularly when environmental conditions have changed to their disadvantage

Cooperatives have also been seen to have an indirect and longer term social and economic effects, which influence entrepreneurial attitudes and environmental conditions. This is because they are able to:

- Initiate or support group processes resulting in the replacement of status thinking and misplaced fear of social reprisal by achievement motivation and confidence for the individual, both essential pre-conditions for local entrepreneurship
- Develop new, democratic structures of social control in primary units by integrating local habits, value systems, traditions and customs
- Limit the risk and multiply the gain from local experiments, spread local knowledge and allow for efficient use of public funds spent on training and consulting services to small businesses

## CHAPTER 2 DEVELOPMENT OF HOUSING COOPERATIVES IN KENYA

### 2.0 Historical Perspective

Traditional forms of cooperatives have been in existence in Kenya since time immemorial. These practices are found in every ethnic community in Kenya, whereby group association is based upon lineage, age group and the natural geographical community (Ouma, 1988). An example is the Kikuyu, Ngwatio (Mwethiya in Kamba), whereby members of the group would get together to build houses for themselves, each member of the group bringing what would be required for the construction.

When the first house would be completed the members would then begin on the next one. It is also worth noting that, due to the sense of belonging and togetherness amongst the group members, even those members who did not need a house would participate in the building. Ouma (1988) observes that practically all ethnic groups in Kenya have practiced mutual association in order to satisfy their needs socially, economically or otherwise.

However, it is important to point out that in the traditional form of cooperatives, in contrast to the modern cooperatives, members had a greater sense of commitment and belonging. According to Ouma (1988), they had mutual trust and were voluntarily involved in their activities and affairs. Although these associations of group effort could be deemed as 'self-help', which actually is a form of cooperative, it is worth to note that indeed, the modern cooperative movement in Kenya owed much of the cooperative idea to these early practices.

The modern cooperative movement can be traced to 1908, when cooperative production and marketing was first established by the European farmers at Lumbwa. These European farmers had conceived the idea from the first reported successful cooperative society, 'the Rochdale Consumer Cooperative Society' founded in 1844 in Britain. The Rochdale pioneers have also been recognised as the source of the seven cooperative principles which form the core of the cooperative social and economic philosophy.

As the cooperative movement spread internationally, so did the application of the Cooperative principles to housing provision for working people. The first example of a housing cooperative movement independent of retail cooperative societies was in Germany in the 1890s. It was set up by the Bismarck Government to improve living conditions of workers to help prevent revolution.

In Kenya, cooperative movements organised by Africans were not founded until in the 1930s and their development were slow due to lack of support by the colonial government. There were several initiatives to encourage the cooperative movement by Africans, especially by a letter from Mr. W.K.H. Campbell, who wrote to the colonial office urging them that the time was opportune for efforts to be directed for the encouragement and support of cooperative organisations.

However, during this period the cooperative societies remained as a tiny department that was shifted from one ministry to the other, until 1974, when the Ministry of Cooperative Development was formed.



Indeed, the cooperative movement only gained much recognition after independence, since it was discovered that it offered the best machinery for mobilization and in raising the much needed capital for the acquisition of businesses and farms which were formerly owned by non-citizens (Ouma, 1988).

However, the cooperative movement had taken a different approach and outlook mainly because of expediency. The colonial government merely wanted to use it as a cheap means of business and never involved the indigenous people who already were familiar with the cooperative effort.

To enable the government to have a sufficient measure of control, the Cooperative Societies Act was introduced in 1966 in order to empower the Commissioner for Cooperative Development and his staff to guide and control the activities of the cooperative societies accordingly but in the interest of the members. Kenya, like many other developing countries, experienced several decades of working with state-sponsored and state-controlled cooperatives – which had been introduced by the colonial powers as development tools and subsequently used by the governments of the independent states for similar purposes.

Unsuccessful and costly experiments were carried out on the basis of joint agricultural production, collectives and state farms as a way of increasing peasant production and productivity. Alongside attempts at radical reform, such as the creation of cooperatives for the production of cash for export, service cooperatives for food production, savings and credit and housing cooperatives have developed independently and gradually have had remarkable success.

The structural adjustment programmes also caused hardship, especially to the lower income strata of the population. These programmes advocate liberalization in economic affairs, thus providing a golden opportunity for the

rich and educated – and sometimes also the unscrupulous and powerful to profit at the expense of the weaker sections of society: a classic scenario for the development of cooperatives.

During the process of structural adjustment, it has become obvious that independent, self-reliant service cooperatives and savings and credit cooperatives can make important contributions to human resources development by helping their members enhance their general education and professional skills. They can also help to alleviate the negative effects of adjustment affecting the weaker groups of the population.

Although due to lack of finances and organisation, the housing sector did not feature significantly as an area capable of bringing solution to the housing problem, it has in the recent past gained an impetus, particularly in urban areas. By 1990, there were over 20 active housing cooperatives in Kenya. Some of the pioneer housing cooperatives include the Gikomba Housing Cooperative which has provided houses for its 45 members, and the Ismailia Housing Cooperative, which managed to allocate houses for all its members built on the basis of estates.

The Government of Kenya has been committed to progressive realization of the right to adequate housing for all its citizens. It is the Government's long-term objective to move towards a situation where every individual or family lives in decent affordable housing, whether publicly or privately developed. Indeed, the National Housing Policy for Kenya of 2004 states that:

“...improvement of housing for the Kenyan population is a major concern to the Government. This concern has been influenced by the fact that the improvement in housing stock is a strategically important social and economic investment. In addition, well-



planned housing and infrastructure of acceptable standards and affordable cost when combined with essential services affords dignity, security and privacy to the individual, the family and the community as a whole. Adequate shelter also prevents social unrest occasioned by depravity and frustrations of people living in slums and informal settlements. Besides this social function, housing is also an investment good contributing both directly and indirectly towards poverty reduction by employment generation, raising of incomes, improved health and increased productivity of the labour force” (GoK 2004).

In order to achieve this objective, especially in addressing the consequent problems of over-urbanization the Kenyan government entered into a collaborative initiative with UN-HABITAT under the auspice of the Kenya Slum Upgrading Programme (KENSUP). The main objective of the programme has been to improve the livelihoods of people living and working in slums and informal settlements in Kenya’s urban areas.

## 2.1 Development of Cooperative Societies in Kenya

The following table depicts the various kinds of cooperatives registered in Kenya and their development since 1998.

TABLE 1.1: **Development of Cooperatives in Kenya (1998-2005)**

Activity	1998	1999	2000	2001	2002	2003	2004	2005
Coffee	308	335	366	462	474	487	498	523
Cotton	78	86	86	71	71	59	59	59
Pyrethrum	66	71	73	152	152	140	142	146
Sugar	99	108	112	112	112	149	149	152
Dairy	323	331	337	332	332	239	241	248
Multi-purpose	1,446	1,504	1,560	1,593	1,608	1,794	1,798	1,818
Farm purchase	698	717	731	624	624	109	109	111
Fisheries	74	79	82	82	85	64	65	66
Other agricultural	915	968	1,002	944	956	1,125	1,154	1,181
<b>Total Agric.</b>	<b>4,007</b>	<b>4,199</b>	<b>4,349</b>	<b>4,372</b>	<b>4,414</b>	<b>4,166</b>	<b>4,215</b>	<b>4,304</b>
SACCOS	3,305	3,538	3,627	3,925	4,020	4,200	4,474	4,678
Consumer	189	194	197	206	208	180	180	181
Housing	424	440	468	442	440	475	495	512
Craftsmen	73	91	104	102	102	85	86	88
Transport	35	36	36	32	32	28	28	29
Other non-agric.	551	564	573	600	712	1070	1068	1075
<b>Total non-agric.</b>	<b>4,577</b>	<b>4,863</b>	<b>5,005</b>	<b>5,307</b>	<b>5,514</b>	<b>6,038</b>	<b>6,331</b>	<b>6,563</b>
Unions	85	89	89	89	89	93	96	99
<b>Grand Total</b>	<b>8,669</b>	<b>9,151</b>	<b>9,443</b>	<b>9,768</b>	<b>10,017</b>	<b>10,297</b>	<b>10,642</b>	<b>10,966</b>

Source: Ministry of Cooperative Development

We can decipher from the table that there has been a steady increment in the registration of housing cooperatives and SACCOs. This can best be understood in the framework of what has been discussed in section 2.0., whereby due to the adverse effects of the structural adjustment programmes, it became evident that cooperative societies were providing an impetus for economic development to the common man.

In fact, as is evident, the SACCOs, have been the most popular, due to the economic challenges the country has experienced, which has inadvertently rendered a majority of its citizenry in dire need of credit societies to enable them cope with the inflation rates.

## 2.2 The Organizational Structure of Cooperative Movement

In Appendix 1, the diagram portrays the organizational structure of the Cooperative Movement in Kenya right from the International Cooperative Alliance (ICA) up to the individual members of the cooperative societies at the grassroots.

There are generally two types of cooperative societies: primary and secondary cooperative. A primary cooperative society is defined as a cooperative organisation whose membership is composed of individual persons and is usually smaller both in terms of membership and in its area of operation than a secondary cooperative society whose membership consists of at least two primary cooperative organisations cooperative.

A primary cooperative society may thus be single-purpose or multi-purpose and a union may be either a commodity union when it deals in one particular type of commodity, or a district cooperative union when it deals with and comprises of a number of primary cooperative societies catering for different types

of commodities and activities. A cooperative union can thus be defined as a registered society whose membership is restricted to primary cooperative societies.

The National cooperative organisations provide technical and specialised services in both agriculture and financial sectors. These organisations are the Cooperative Bank of Kenya (COOP Bank), Kenya Union of Savings and Credit Cooperatives (KUSCO), cooperative Insurance Company (CIC), National Cooperative Housing Cooperative Union (NACHU), Kenya Rural SACCOs Societies Union (KERUSSU) and Kenya Planters Cooperative Union (KPCU).

At the apex level is the Kenya National Federation of Cooperatives (KNFC) at which the primary, secondary and national cooperative organisations are affiliated. The mission of KNFC is to propagate cooperative principles, values and ideals, promote corporate unity and development and act as a link between cooperative organisations and the various stakeholders.

The financial sub-sector consists of the Cooperative Bank, Urban and Rural Savings and Credit Cooperative Societies and the Cooperative Insurance Company. Urban SACCOS are formed by salaried and wage earners, whose employers have agreed to put into effect a monthly check-off system for members' contributions and loan payments. The cooperative societies in this sector were initially promoted within government ministries, local authorities and parastatals but today they are found in all institutions both in the private and public sectors.

The Kenya Union of Savings and Cooperatives union (KUSCO) is an umbrella organisation of Savings and Credit Cooperatives. It supports both rural and urban cooperative societies. KUSCO was established to promote the establishment and development of viable Savings and Credit cooperatives societies. It

does so by providing education, training and centralised accounting services among other services.

The Kenya Rural SACCO's Societies Union (KERUSSU) has the role of mobilising rural savings and credit cooperative societies. It acts as a link between them and other stakeholders. The objective of KERUSSU is to harmonise and co-ordinate rural savings. Broadly, savings and credit cooperative societies provide front-office financial services to co-operators. KERUSSU also assists these SACCOs in the improvement of management through standardised operations and procedures training and educating management committee members, staff and ordinary members of societies.

The Cooperative Insurance Company of Kenya (CIC) is a specialised insurance organisation founded in 1978 by the cooperative movement of Kenya. It is wholly owned by the cooperative movement and provides both general and life insurance to the cooperative movement and its members, private and general organisations, corporate bodies and the general public. It also promotes awareness among the co-operators, policyholders, potential customers and the general public. This is a basic foundation for the promotion of effective insurance business that supports the aspirations of both the insured and the insurers. CIC emphasises the need to educate and spread insurance knowledge to rural farmers and urban employers and their employees.

The Cooperative Bank of Kenya was registered in 1965 and started operations in 1968. The cooperative movement owns the bank. Its objectives are to serve the cooperative movement and the unions by providing credit mainly to the agricultural sector. Over the years, the bank has grown and now has 30 full-time branches countrywide. It also has two subsidiary companies, namely Cooperative Merchant Bank and Co-op Trust Investment Services, which handle all long-term financing and fund management for both co-operators

and non-cooperators.

The Co-op Bank in conjunction with other institutions has offered technical assistance and human resources development to the SACCOs. The Cooperative Bank of Kenya is the principal banker for the cooperative movement. Fast and steady growth has given the Co-op Bank the strength and capacity to serve the entire cooperative movement.

## 2.3 National Cooperative Housing Union (NACHU)

The housing cooperative union in Kenya is the National Cooperative Housing Union (NACHU) which serves 200,000 people through its membership of 210 housing cooperatives societies countrywide. The National Cooperative Housing Union (NACHU) was registered as an apex organization in 1979 under the cooperative Societies Act (Cap 490). This was as a result of the efforts of humanitarian organizations such as the trade unions, churches and cooperatives that felt the need to have an umbrella organization that would address the rapid urbanization and the proliferation of slums.

NACHU as a technical service organization has its activities spread out nationally with the majority of the target group being women and the youth. The NACHU board consists of nine representatives elected from member cooperative societies during the annual general meetings. The union's services are directed towards the primary housing cooperative societies in both rural and urban areas to address their shelter needs.

However, the non-financial services are accessible to other people and organizations who are not members of the housing cooperative societies. These include individuals, self-help groups, and organizations in both the private and public sectors, non-governmental and community-based organizations.

NACHU's vision is to maintain a leading role in facilitating access to decent and affordable shelter through the Cooperative Housing model. On the other hand, its mission is that of contributing to improved shelter and quality of life especially for the low-income communities through training, education, technical and financial services on a sustainable basis. In addition to responding to the shelter requirements, NACHU tries to contribute in improving the quality of life of its affiliates. This is done by disseminating relevant information plus improving the management and leadership skills, assist in enhancing efficiency and effectiveness as communities brace themselves towards poverty reduction.

In essence, the union meets the needs of its clients through the following key products:

### **1. Community mobilization, training, lobbying and advocacy**

These aims at sensitising and mobilizing the communities towards appreciating and utilizing the cooperative housing group approach as an alternative in realizing their shelter needs. Training is offered at every stage to ensure that all members appreciate the activities at hand. Together with championing the course for housing cooperatives, NACHU also collaborates with other development agencies ensuring that practical policies are put in place with view to facilitating both positive and effective changes in the general human development.

### **2. Financial services**

NACHU offers various financial schemes, which cater for the various needs of its members.

### **3. Technical services**

This services include the process of purchasing land, land surveying, building and development plans that include evaluations,

quantity surveying, architectural designs, engineering services, the process of engaging contractors, mortgages, finding affordable materials and implementing overall building schemes.

### **4. Estate management**

This involves buying and selling of land, valuations and leasing properties.

### **5. Institutional development**

The union puts emphasis on training of both staff and board members with a view to improving their skills and thereby ensuring effectiveness and efficiency in the service delivery process.

### **6. Advice while undertaking projects**

Whereas NACHU empowers the members to participate directly into shelter development, a lot of advice and support is also offered to ensure that the right constructor among others is engaged. This ensures quality work and particularly that the house is completed within the stipulated period.

The following table also sums up some of NACHU's products and services, highlighting the requirements for membership and their capacity to implement.

TABLE 2.0: **Sum of NACHU products and services**

Product	Requirement	Capacity to implement
Co-op formation and capacity building in loan management	A group willing to form a housing co-op to improve their shelter	NACHU will for strategic alliance with other local groups to improve effectiveness and efficiency.
Rehabilitation loans	Ownership of land and/or structure	Loan repayments have fluctuated widely. Management of the fund needs strengthening.
Land resettlement loans (average Ksh. 20,694 at 19% interest	Availability of suitable land and willingness to develop new site.	Easy to turn around but high related overheads. Proper costing of services should be undertaken to enable NACHU obtain sufficient returns.
Land banking	Ability to repay the amount of loan required	Invest in land suitable for housing development by different segments of the membership.
New building loans	Ability to pay for house planning cost and design	Lack of long term finance means very few projects can qualify for such loans.
Infrastructure loans: loan maximum Ksh. 20,000 per member over 48 months at 19% p.a. 20% deposit required to qualify	Co-op. already own land and structure but require structure and sanitary.	Only two co-ops have benefited . This is an area of possible collaboration with local authorities.
Bridging commercial loans: offered mainly by banks and lately by Shelter Afrique. Interest 18.5% - 20% over max. 36 months. Amount depend on total project cost but normally 50-65% of cost.	Formal tenants with qualifying incomes for the mortgage loans required. Co-op must own land, have approved plans, pay commitment fee for the bridging loan and have secured long term finance.	Difficult in packaging feasible projects that can be sold to local financier due to low income levels of clientele. NACHU faces high competition from local private consultants.

Source: NACHU (2005)



## CHAPTER 3 SAVINGS AND CREDIT COOPERATIVE SOCIETY

### 3.0 Definition of SACCOS

A Savings and Credit Cooperative (SACCO) is a type of cooperative whose objective is to pool savings for the members and in turn provide them with credit facilities. Other objectives of SACCOS are to encourage thrift amongst the members and also to encourage them on the proper management of money and proper investments practices. Whereas in urban areas salary and wage earners have formed Urban SACCOs, in rural areas, farmers have formed Rural SACCOs. There are also traders, transport, *jua-kali* and community-based SACCOs.

Indeed SACCOs, with their diverse products and services, have given a new meaning to the financial sector in Kenya. Their most popular service is that of saving, which has evidently been the surest way to break the vicious cycle of poverty and is fundamental to sustainable economic development. SACCOs also provide loans at low interest rates of 6.7% p.a. (when computed on a reducing balance) and without collateral security. Currently, there are over 11,000 registered cooperative institutions in the country with over 5.7 million registered members and an asset base of over Ksh.105 billion, cutting across all sectors of the economy and spread all over the country.

Like other cooperative societies, SACCOs are governed by the Rochdale principles, which include democratic control by the members. The membership elects a Board of Directors, from which is selected a management committee, responsible for managing the affairs for the SACCO.

The Kenyan government continues to encourage the formation of SACCOs and recognizes them for their contribution to the mobilization of savings throughout Kenya. In Sessional Paper 4<sup>4</sup>, the union banking sections of cooperative unions were folded under the SACCO rubric and it was the governments intention to encourage the formation of SACCO's among those people who work in the informal sector.

### 3.1 History of SACCO Development

The first SACCO was registered in 1964 and in the following year a National Promotion Committee was established. This committee was mandated with the responsibility of developing policies for SACCOs and to regulate their development.

According to the Cooperative Information Note (1984), since there had been failures among the initially locallybased SACCOs, in 1969, the Government limited the registration of new societies to those "in which members had a strong common bond". This language has been interpreted most commonly to mean wage and salary earners with a common employer. However, this restriction was lifted in 1975, though still this practice still dominates the development of SACCOs.

<sup>4</sup> *Renewed Growth Through the Cooperative Movement*, Ministry of Cooperative Development. Sessional Paper No. 4, 1987.

Following the formation of the apex organization, Kenya Union of Savings and Credit Cooperatives, in 1973, there has been a rapid growth of SACCOs not only in the number of societies registered but also in the size (membership, savings and borrowing) of the individual societies.

Due to the rapid growth, and because of lack of a standardized procedures, some SACCOs fell victim problems that included inefficiency, errors and embezzlement. The Government intervened through the Cooperative Development Department in order to develop standardized loan criteria and procedures. In addition to these manuals for management and accountancy, policies for lending bookkeeping, management committees and internal audit were developed and distributed. Several steps were also undertaken to improve training of the management of new SACCOs and to be more cautious in the registration of new societies.

### 3.2 Categories of SACCOs

SACCOs fall into two principal categories: countrywide societies and those based on employer in a particular locality.

#### A. Countrywide Societies

These SACCOs are normally based in Nairobi but have members throughout the country, following the pattern of their employment. According to CHF (1989), the largest SACCO is Harambee, which is for civil servants and has a membership of over 75,245 with over Ksh. 413 million shares and Ksh.311 million in outstanding loans. The second largest is the Ukulima, which has over 37,948 members with Ksh. 223 million in shares and Ksh. 208 million in loans.

While Harambee has the largest share capital in total, the SACCOs with higher salaries and a higher propensity to save do have a greater

average share capital per member. For instance, the average share capital in Harambee is Ksh. 5,469, in Mwalimu (teachers) it is Ksh. 11,685 and in Tembo (breweries) it is Ksh. 20,877. It's been evident that SACCOs based upon private organizations do have a higher share capital per member as compared to those based on government officials.

#### B. SACCOs based on employer in a given locality

These SACCOs make up the majority of societies in Kenya. From the CHF study (1989), an analysis of 1000 societies showed that a total membership of 430,000, Ksh. 2,251 million in share capital and Ksh. 2,262 million in loans outstanding. Among these societies, those formed by teachers on a district basis were particularly successful. In Embu, the Embu Teachers SACCO (Eastern Province) had 2,839 members with a share capital of Ksh. 24 million and lent Ksh. 15.6 million in 1987. Some of the members had formed a housing cooperative society and bought land for housing.

### 3.3 Rights of a SACCOS member

A member of a cooperative society has rights in the day-to-day running of the society. Some of the rights of members include to:

- Attend general meetings and vote at those meetings
- Be heard in the general meetings
- Elect the committee, share in the society's surplus at the end of the year, inspect the books of accounts of the cooperative society
- Appoint nominees, transfer shares in the society with the approval of the committee



- Withdraw as a member of the society, apply for a loan if it is a SACCO society, exemption from attachment of his share or interest in the society
- Approve, reject or defer the budget, participate in the amendment of the society's bylaws
- Fix the maximum borrowing powers of the society, fix the honoraria for committee members, if any
- Request for an inquiry to be conducted on the society by an officer appointed by the Commissioner, for cooperative development
- Demand for a special general meeting after fulfilling the requirements
- Appeal to the Minister should he not be satisfied with the decision of the Commissioner
- Enjoy all the services provided by the cooperative society.
- Not be members of more than one society with the same or similar objectives
- Not hold more than one fifth (1/5) of the share capital of the society
- Be liable for society's debts for debts incurred while still a member, for two years after ceasing to be a member, or until the first audit after ceasing to be a member discloses the society as solvent
- Appoint a nominee(s) and change as and when need arises, represent and vote for the society in a secondary society
- Not have more than one vote, and serve the cooperative society with honesty and dedication when elected into the committee.

### 3.4 Responsibilities of Members

The SACCOS members have the following responsibilities in the running of their cooperative society.

They should:

- Attend members education days in order to know their cooperative society
- Be loyal to their cooperative society by following the societies bylaws
- Participate in the activities of the cooperative society, such as attending meetings
- Encourage potential members to join the cooperative society
- Observe in all its activities the Cooperative Societies Act, rules, By-laws and prudent business practices
- Generally manage the affairs of the society
- Act upon all applications for membership
- Ensure that true and accurate records and accounts are kept
- Determine the interest rates on loans subject to the maximum permitted by By-laws

### 3.5 The Duties of the Management Committee

The Management Committee is the governing authority of the SACCO society and subject to any directives from a General Meeting, directs the affairs of the society its procedures, powers and duties are as prescribed in the Rules.

The duties of the management committee are therefore to:

- Determine the amounts of loans to members and the terms of payment of loans
- Lay before the AGM a Balance Sheet and Annual Accounts together with proposals for the distribution of the net surplus
- Recommend to the AGM the dividend rate to be paid on shares and the interest refund, if any, to be paid to borrowers
- Authorize investments of the society
- Employ and fix compensation of a Manager and such other employees as may be necessary to carry on the business of the society

#### Impose fines

- Approve transfer of shares between members
- Supervise the collection of loans from members and authorize the write-off of uncollectable accounts
- Affiliate the society to KUSCCO Limited, or an Apex organization
- Write correct minutes of meetings
- Appoint other committees
- Report on its activities during the past financial year to the General Meeting
- Perform such other duties as the members may from time to time require

### 3.6 Functions of the Three General Meetings

A meeting is the gathering or coming together of at least two persons for any lawful purpose. When members of a cooperative gather or assemble to discuss matters concerning their cooperative society, their meeting is lawful.

The functions of the three general meetings are:

#### First General Meeting

Once a cooperative has been registered, it is required to hold its first general meeting within one month of receiving the certificate of registration from the Commissioner.

The meeting should:

- Elect committee members
- Consider and decide the society's maximum borrowing power
- Consider and approve the budget
- Appoint the society's bankers
- Appoint the society's auditor
- Receive reports and decide on other matters useful to the cooperative society.

#### Annual General Meeting

The Annual General Meeting is the mirror of the society and this is when members exercise their ownership, authority and control of the Cooperative Society.

The AGM should:

- Consider and confirm minutes of the previous general meeting
- Consider the annual accounts and reports of the committees on the activities of the society
- Decide on the disposal of surplus, if any
- Consider appeals against the expulsion of members and refusal of one to be a member
- Elect, suspend or remove members of the committee
- Fix the maximum borrowing power of the society
- Approve the estimate of income and expenditure for the following financial year

- Fix the honoraria, if any, for committee members for the approval of the Commissioner
- Elect delegates to represent the society in a cooperative union or apex body
- Transact any other business of the society

### Special General Meeting

When an urgent matter occurs in a Cooperative Society before an Annual General Meeting is due, an Special General Meeting (SGM) may be called. At least 15 days' written notice of the resolution and of the meeting have to be given to each member or representative.

A Special General meeting can be called by any of the:

- Management Committee
- Members of the Society
- Commissioner or his representative

The matters to be discussed in such a meeting are:

- Amendment of the By-laws
- Report of the auditor or Commissioner
- Reducing or increasing income and expenditure items of the society
- Fixing maximum amount the society can borrow in case of further borrowing
- Informing members on matters that require their attention
- Finding ways of improving the running of the society's business
- Confirming or rejecting a decision or action by the committee

Whereas the First General Meeting is held once in a lifetime of a society, the Annual General Meeting is held every year, while the Special General Meeting may be held in case of urgent need in between the AGMs.

## 3.7 Salient Features of the Lending Policy

SACCOs lend without tangible collateral, the security of loans is provided by the check-off system; the deductions from wages and salaries by employers for savings and for loan repayment. Each loan should be guaranteed by at least one or more members of the SACCO as is regulated in the SACCOs by-laws.

The SACCOs are allowed to lend for a period of up to 48 months, though most give loans for up to 36 months as they wish to turn over loans quickly in order to serve as many members as possible. The interest rates on loans are one percent per month (12% p.a.) on the declining balance. The loan eligibility, besides the factors which will note below, is also based upon the amount of the applicant's shares and savings and their wage.

Most SACCOs divide their savings between shares and deposits. This is because the dividends paid on the shares are subject to 15% withholding tax. The SACCOs do not pay fixed interest on savings but rather declare a dividend at the end of the financial year.

The recent Kenyan loan policy and guidelines were issued by the Commissioner for Cooperative Development, in a circular letter number MCID/ORG/7/Vol. 11/55, dated 6th August, 1992. The new policy was effective from 1st September, 1992. Some of the salient features of the loan policy are:

### A. Lending requirements

For a member to qualify for a cooperative loan:

- A society must have been in existence for six months from the date of its registration
- A member must have completed at least six months
- A member must have contributed not less than Kshs. 600/= in shares/deposits

- Savings contributions outside check-off system shall remain in the society for at least six months to qualify for a loan
- Any amount of savings through check-off system in excess of 1/3 of a member's basic salary shall remain in the society for a period of six months to qualify for a loan
- The society's books of accounts have to be up to date
- A member should undertake to pledge future salary from any employer towards loan repayment
- Loans for the senior staff shall be approved by the full management committee and its repayment monitored by Ministry of Cooperative Development officials
- Loan applications shall be considered in the order in which they are received. When demand of loans is more than funds available, the short period loans will have first preference, but in all cases, smaller loans will be given preference
- The Society will set aside 10% Cash Reserve out of which 50% of the amount is to be in a deposit account
- Loans will be repaid from a members salary and no member should be allowed to suffer total deductions (including savings, loan repayment and interest) in excess of 2/3 of his/her monthly basic salary
- Basic salary excludes rental house allowance but includes Owners Occupier house allowance in certain cases

## **B. Types of Loans**

There are four main types of loans which may be granted by a SACCO society, depending on the availability of finances, the society's policy and member's ability to repay loans.

- Ordinary loans
- School Fees Loans

- Emergency Loans
- Refinance Loans

## **3.8 The Kenya Union of Savings and Credits Cooperatives (KUSCCO)**

Since inception of SACCOS in Kenya in the 1960s, their proliferation in numbers and share capital in the 1970s and into this century, SACCOS have been undergoing various kinds of challenges. This has not been easy, given the background under which cooperative societies have been founded. The Kenya Union of Savings and Credits Cooperatives, (KUSCCO) was registered on 27 September 1973 under CS/No. 2171 as the umbrella of all SACCO societies in the country. However, effective operations started in 1974. This was after the leaders of the already established SACCOS felt that there was need for an association to cater for the group welfare of all societies.

As at 31 December 2004, there were 4,000 active SACCO Societies with a membership of about 3 million. The share capital and deposits stood at Kshs. 94 billion while the loans outstanding were Kshs. 64 billion. Reserves amounted to Kshs 3billion. In view of the varied activities in the country, we now have salaried-based, rural and traders SACCOS. There is also Jua Kali, transport and community-based SACCOS.

The mission of KUSCCO is to promote and develop SACCOS in Kenya by providing unique and diversified quality products and services that are capable of promoting the economic interests and general welfare of their members in accordance with the Cooperative Principles in a changing environment.

**A. The main objectives of KUSCCO are to:**

- Promote the organisation and development of viable cooperative savings and credit societies
- Disseminate information concerning savings and credit societies and co-ordinate their operating methods and practice to maintain basic uniformity
- Foster education, training of members, officials and employees of savings and credit societies
- Act as the sole local and international representative and mouthpiece of savings and credit societies
- Help improve the internal management of savings and credit societies by providing a standardised management system

**B. The Organizational Structure**

KUSCCO operations are managed by a board of 13 directors selected by member SACCOS on regional basis. The day to day management of the union is overseen by the Managing Director.

The organization has its Headquarters in Nairobi and five branch offices in Kisumu, Nakuru, Nairobi, Embu and Mombasa. Each upcountry office serves KUSCCO members within its region. There are sub branches in wider regions.

The functional organization of KUSCCO comprises five departments each under a manager answerable to the Managing Director.

- Central Finance Programme Department
- Risk Management Services Department
- Education and Craning Department
- Business Development, Research & Consultancy Department
- Corporate Affairs and Marketing Department

- KUSASA and KUSCCO Insurance services are incorporated in Central Finance Department and Risk Management Department respectively

**C. KUSCCO'S Services**

The Kenya Union of Savings and Credit Cooperatives Limited renders a variety of services to its affiliates as detailed below:

- Spokesman ship and Advocacy
- Representation
- Promotion of SACCO Societies
- Risk Management Services
- Central Finance Programme
- Education and Training
- Business Development, Research & Consultancy
- Corporate Affairs & Marketing

**Other special products include:**

- Sale of Stationery
- SACCO Star Magazine
- KUSCCO Housing Fund
- Common Shared Services
- KUSCCO proposes to introduce the following services to large, medium and small SACCO Societies in the short term.
- Book-keeping and accounting services
- Management and internal audit facilities to SACCOS
- Information Technology facilities – the SACCO Software, PEARLS installation and training
- Front office services facilities
- Collection of statutory reserves
- Secretarial services
- Recruitment of SACCO Staff

- Facilities for management and Board in-house training
- Meeting facilities for the delegates and Branch Officials
- Dispatch of cheques to the SACCO Branches through KUSCCO offices
- Communication facilities such as mails, faxes, parcels
- Marketing of large SACCOS
- Common legal facilities through KUSCCO's approved advocates
- A member must raise 25% of cost of construction or purchase of already built house and must continue to save with the fund for the entire period of the loan advanced
- Interest charged on the loan will be 14% per annum and will be calculated on reducing balance basis
- Minimum interest earning savings balance will be Kshs. 75,000
- Minimum monthly savings will be Kshs. 2000/=. A member may save more according to his/her ability

#### **D. The KUSCCO Housing Fund**

The KUSCCO Housing fund has been innovated to help SACCO members mobilize funds for the construction of residential houses in the urban centres.

#### **Qualification for Membership in KHF**

The membership in KUSCCO Housing Fund is open to all willing SACCO members. A potential member must get a letter of introduction from his/her SACCO. It is also a requirement that all members willing to participate in the scheme should pass their funds through their SACCOS. The SACCO will then prepare a list of names indicating the amount each member has contributed and forward the payment cheque to KUSCCO Housing Fund.

Other requirements for membership include the following:

- One must be a bona fide member of SACCO
- A membership fee of 1000/= must be paid on admission to the fund
- To qualify for a loan, a member must have continuously saved for at least six months

- The minimum loan granted shall be Kshs. 300,000 and the maximum Kshs. 3,500,000
- Loan repayment period shall be ranged between three to 15 years The following shall form security for the loan

- a) The members saving with KHF
- b) The house and the land on which the house is built or any other acceptable security
- c) KUSCCO will have a first legal charge on the property during the period of repayment.
  - All KHF membership application forms must be forwarded through the respective SACCOS Monthly remittances could also be done through the SACCO, or other acceptable modes
  - The applicant's current age plus the repayment period should not exceed 60 years

The following table illustrates expected monthly repayments for various loan amounts of 14% interest.

TABLE 3.0: **Expected monthly repayments for KHF**

LOAN AMOUNT	LOAN REPAYMENT PERIOD IN YEARS				
	3	5	7	10	15
300,000	10,253	6,980	5,622	4,658	3,995
500,000	17,089	11,634	9,370	7,763	6,659
1,000,000	34,178	23,268	18,740	15,527	13,317
1,500,000	51,266	34,902	28,110	23,290	19,976
2,000,000	68,355	46,537	37,480	31,053	26,635
2,500,000	85,444	58,171	46,850	38,817	33,294
3,000,000	102,533	69,805	56,220	46,580	39,952
3,500,000	119,621	81,439	65,590	54,343	46,611

### 3.9 Challenges of SACCOS in Kenya

The following are a summary of some of the challenges that face the establishment, development and sustainability of SACCOS in Kenya:

- Traditional products
- Leadership and governance issues
- Capitalization
- Taxation
- Information Technology
- Regulation and supervision
- Developing a competitive business model
- Demand for loans
- Non-remittance
- HIV AIDS
- Outreach





## CHAPTER 4 FORMATION OF HOUSING COOPERATIVES

### 4.0 Formation of Housing Cooperatives

Housing cooperatives in Kenya are becoming popular as a means of off-setting the growing challenges of over-urbanisation and more particularly addressing the prevailing poverty conditions in the country.

The following are the phases to forming a housing cooperative society.

#### Phase 1 - Develop the Housing Cooperative Concept

In this phase, the need for either upgraded housing or building or buying new houses has been established by members of the community. The financial constraints which would hinder individual undertakings in this project are widely felt by most members and thus the idea of establishing a cooperative emerges as an important means to achieve the goal as a community.

In order to develop the housing cooperative concept, some of the persons interested should first hold a meeting with other parties in order to find out whether there is enough interest to forming a cooperative society. In organizing the groups, if it is a large community it is important that the groups should comprise of individuals who are familiar with each other, have mutual trust and confidence and know each other well and reside within the same zone. The membership size of the cooperatives can run from 20 to 200 some can even be larger, but it is recommended to have a smaller size for effective management.

If there are enough members, they should discuss the following critical questions:

- objectives of the housing cooperative and whether the housing cooperative is the best way to achieve such objectives
- expectations of the members and if the most appropriate option to home ownership would be a cooperative
- financial implications – is it a feasible project, where/how to get the necessary items and finances required to get the cooperative started
- location where the cooperative will be situated
- legal implications and requirements needed
- type of equity model to use for the cooperative

Several meetings, by the interested parties will be required to discuss all matters and to make sure that there are still enough interested people. The main principle in the meetings is to ensure that the community members interested in forming a cooperative society are able to offer their sentiments, ideas, and critics to matters relating to the formation of a cooperative society.

The meetings, which can be held at a public space or even at a member's home, enhance communal participation and good relations between the members through ironing out the differences and developing the concept based upon the needs of the community.

As we noted from the case studies, other activities that could be undertaken may be the development of mobilization and education materials to sensitise the community on cooperatives. Cooperative education and training could include structures, principles and practices, history and philosophy, registration and law, cooperative accounting, auditing and taxation, budgeting, management, law and financial policy. This training and mobilization could be undertaken by NACHU or other relevant organizations that would be able to offer the required technical assistance to the communities.

### **Phase 2 - Co-ordinate the Pre-Cooperative's Activities**

This phase involves holding more meetings in order to address and co-ordinate the pre-cooperatives activities. In order to facilitate this phase, the members should choose a steering committee that will foresee the delegation and regulation of these activities. The selection of these members could be done through voting or appointment by the members.

The key to this should be members who are well known by all and have the vision and interests of all at heart. The members of the committee will then elect a chairman and a vice-chairman, a secretary and other office bearers from among their number.

This committee will be responsible for setting up the cooperative by ensuring that formation meetings are held and that the members are informed and involved in all business pertaining to the formation and registration of the cooperative society. A viability study may be undertaken in order to ensure the possible effectiveness of the cooperative once registered.

### **Phase 3 – Contact the Ministry of Cooperatives**

It would be necessary for the members to contact the Ministry of Cooperative Society so that they may be guided in drawing up the by-laws of their cooperative and also be informed about other requirements by the Ministry. The by-laws state explicitly the rules of the cooperative, the rights and responsibilities of the members.

The officers may be interested in:

- The proposed name of the cooperative
- The location for the proposed cooperative
- The purpose of the cooperative and how it is going to reach the goals set
- The plan of action that has been drawn up by the committee to get the cooperative started
- The number of persons (management committee) required to manage the cooperative
- The number of persons interested in forming the cooperative

Through the assistance of the officers at the Ministry the committee should now draw up its aims and purpose, the kind of business they intend to undertake and how the cooperative intends to realize its goals.

### **Phase 4 – Hold a Formation Meeting**

In this formation meeting all the members and the committee meet to share the development of the cooperative, its aims and how they intend the cooperative to be self-sustaining in achieving its objectives.

The committee should answer all questions about the cooperative by the members.

In this formation meeting the members can elect the executive of the cooperative society, who will then elect the chair and other office bearers. The secretary of the cooperative should also be appointed since s/he will be responsible for submitting the application for registration of the cooperative to the Commissioner at the Ministry of Cooperative Societies.

After all issues have been discussed and dealt with by the members they can now proceed to register the cooperative.

### Phase 5 – The Registration Process

The following steps are required to register Housing Cooperatives in Kenya:

- Present a letter of introduction to the Ministry of Cooperative Society, stating the cooperative society's concept and intention and briefly describing its plan
- After the letter of introduction, the cooperative should then present to the Ministry the proposed list of names of members who should meet the required limit, which is more than ten persons. The list should include each individual's names, date of birth, date of application for membership, postal address, occupation and date admitted to membership.
- An officer from the Ministry will attend the pre-registration meeting where by he/she gets to meet the members and to witness the meeting.
- The members are then required to present to the Ministry the cooperatives by-laws that will guide their society
- The next stage is filling in the registration form<sup>5</sup> which requires details of the formation of the organisation, the type and intent, supplement information about the society and economic viability
- The members should then pay to the Commissioner of Cooperatives the registration fee of Ksh. 3,500.
- They are also required to come up with a letter of commitment if the society is independent or a check-off if the members are employed to show the financial sustainability of the cooperative
- The last step is for the members to present to the commissioner the registration form with all the requirements
- Upon registration the Commissioner of Cooperative Societies will present the members with:
  - a. A certificate of registration
  - b. A certified copy of the cooperatives by-laws
  - c. A copy of the act and the rules made
  - d. A copy of the application for registration

The cooperative society becomes a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into contracts, to sue and be sued and to do all things necessary for the purpose of, or in accordance with, its by-laws.

The by-laws of a cooperative society shall now bind the cooperative society and the members thereof, to the same extent as if they were signed by each member and contained covenants on the part of each member for himself and his personal representatives to observe all the provisions of the by-laws.

As we noted above, cooperatives operate democratically (one person, one vote) through two measures: general meetings of the members or delegates and the board of directors. The delegate structure may reflect the size of the organization or the distance covered by the cooperative and may include more than one delegate for each region represented.

<sup>5</sup> Registration form in Appendix

The cooperative's start-up capital usually comes from cooperative shares purchased by members. Each member's liability is limited to the amount of his or her share in the capital and s/he has only one vote regardless of his or her capital contribution. After the registration of the cooperative, there is the initial general meeting and thereafter the following meetings are held: the annual general meeting, special general meeting, committee meeting and training meetings. It is essential that cooperatives communicate regularly with their members to solidify a sense of ownership. All cooperatives need to find ways to solicit member input as well as distribute information and build community spirit. To offer a positive alternative to other forms of housing, cooperatives must have sound finances and be in relatively good physical condition.

## 4.1 Management of Housing Cooperatives

Most of the problems bedevilling cooperatives arise from bad governance and poor economic management. While leaders direct and control the organizations and managers run them, members have authority to demand and enforce good governance in their organizations. Corporate governance principles seek to ensure that leaders act in the best interest of the organization that they lead in order to achieve the objectives for which they were founded. If cooperatives have to remain commercially viable and sustainable enterprises for socio-economic development, they must embrace good corporate governance.

Cooperatives are governed and managed by elected committees, entrusted with the management of societies on behalf of members, and employ managers and staff to carry out the day-to-day functions of the societies. In such instances, the leadership provides the guidance and delegates the powers of implementation to the staff, leaving them to act as members' agents.

Since the cooperative agents are custodians, trustees and stewards of the societies, they are accountable and answerable to members, and are expected to be efficient, effective, responsible, responsive, honest, faithful, diligent and prudent. In the management of cooperatives there has been an overlap of duties between the management committee and management staff. This reflects poor leadership and non-adherence to good management practices. For cooperatives to be efficient and productive, they should apply good corporate governance practices framed on the pillars of:

- Accountability
- Efficiency and effectiveness
- Probity and integrity
- Responsibility
- Transparency and open leadership

There should be an effective body responsible for cooperative governance that is separate and independent of management to promote these pillars of corporate governance. There should be an all-inclusive approach to governance that recognizes and protects the rights of members and stakeholders. Cooperative societies will be governed and managed in accordance with the mandate granted by the members in a general meeting. Below is an outline of how the members of the cooperative society are involved in the governance of the society in accordance to the Kenyan Cooperative Act (1998):

### 1. The members

The members are the key stakeholders of their cooperative. They have the following duties in facilitating an effective running of the cooperative: to attend meetings and other cooperative activities; assist in amending by-laws as required; help to finance the cooperative by purchasing shares; communicate complaints and suggestions to the committee; support the development of other cooperatives; elect directors; participate on committees and in

other activities of the organization and use the services provided by the cooperative.

The following are the rights and liabilities of members in a cooperative society according to the Kenyan Cooperative Act (1998):

1. A person will only be eligible for membership of a cooperative if:
  - He is 18 years or older
  - His employment, occupation or profession falls within the category or description of those for which the cooperative society is formed
  - He is resident within, or occupies land within, the society's area of operation as described in the relevant by-law
2. No member other than the cooperative society should hold more than one-fifth of the issued and paid up share capital of any cooperative
3. No company incorporated or registered under the Companies Act and no unincorporated body of persons shall be entitled to become member of a cooperative society except with a written authorisation through a resolution by an annual general meeting of that cooperative society.
4. No member of a cooperative society shall exercise any of the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society as may be prescribed under this Act or under the by-laws of the society.
5. No person shall be a member of more than one cooperative society with unlimited liability and, no person shall be a member of more than one cooperative society having the same or similar object;

Provided that a person who is a member of a cooperative society and carries on business

on land or at premises outside the area of operation of that cooperative society may be a member of a cooperative society in whose area of operation that land or those premises are situated, notwithstanding that its objects are the same as or similar to those of the first-mentioned society.

6. Each member of a cooperative society shall have one vote only in the affairs of the society, irrespective of the number of shares he or she holds:

Provided that a cooperative society which is a member of a cooperative union or an apex society shall have as many votes as may be prescribed by the by-laws of the cooperative union or apex society of which it is a member, and may, subject to such by-laws, appoint any number of its committee members, not exceeding the number of such votes, to exercise its voting power.

7. The transfer or charge of the share or interest of a member in the capital of a cooperative society shall be subject to such conditions as the maximum holding.
8. In the case of a cooperative society registered with unlimited liability, a member shall not transfer or charge any share held by him or his interest in the capital of the society or any part thereof, unless: he or she has held such a share or interest for at least one year and the transfer or charge is in favour of the society or a member of the society.
9. A member of a cooperative society shall have the right to:
  - Attend and participate in decisions taken at all annual, general and special meetings of the society and vote
  - Be elected to organs of the society, subject to its by-laws
  - Enjoy the use of all the facilities and services of the society subject to the society's by-laws

- All legitimate information relating to the society, including: internal regulations, registers, minutes of general meetings, supervisory committees, reports, annual accounts and inventories, investigation reports at the society's head office.

10. A member of a cooperative society shall have the obligation to:

- Observe and comply with all the society by-laws and decisions taken by the relevant organs of the cooperative society in accordance with the by-laws of that society;
- Buy and pay for shares or make any other payments provided for in the by-laws of the society.
- Meet the debts of the society in case of bankruptcy in accordance with the provisions of the Cooperatives Act and the by-laws of the society.

## 2. The Committee

The members elect a committee from their midst as the governing organ of the cooperative. It is subject to any direction from a general meeting or the by-laws of the cooperative society. The by-laws of Housing cooperative society limited indicate that:

- The management Committee shall consist of nine members of the society, including the Chairman, Secretary and the Treasurer
- The members of the Management committee shall hold office for three years but shall be eligible for re-election provided no member shall be elected to the committee for more than two consecutive terms
- If during the term of office of a committee a vacancy occurs in the committee, the committee may, and shall if the number of members drop below five, co-opt a member of the society to serve on the

committee until the next general meeting of the society

- Where the entire committee has been voted out under the proviso above, the special general meeting passing the resolution shall elect a new committee to hold office as prescribed in the Act, Rules and these by-laws. Provided that a duly convened Special General Meeting may, by a three quarters majority of the members' present vote out the entire Committee and the Committee shall thereupon vacate office.
- Meetings of the Management committee shall be held regularly once a month and at any other time when necessary. The minimum of five members shall be a quorum provided that either the chairman of the secretary or the treasure shall be one of the quorums. Each member including the Chairman shall have one vote.

The committee is aimed at directing the affairs of the cooperative society with powers to:

- Enter into contracts
- Institute and defend suits and other legal proceedings brought in the name of or against the cooperative society
- Do all other things necessary to achieve the objectives of the cooperative society in accordance with its by-laws

The following are the additional requirements for committee members as regulated by Kenyan laws<sup>6</sup>:

- Should be a member of the cooperative society
- Is not a committee member in two other cooperative societies
- Should be able to read and write

---

<sup>6</sup> *Ibid*



- Does not receive any remuneration, salary or other payment from the cooperative society save in accordance to the Kenya Cooperative Act.
- Is not a member of a cooperative society that lends money to its members, lends money on his own account
- Is not a member of a cooperative society which trades in goods or produce, trades either on his own account or some other person's account in the same type of goods or produce
- Should have within thirty days declared his wealth to the commissioner in the prescribed manner
- Is not undercharged bankrupt
- Is not of unsound mind
- Has not been convicted of any offence involving dishonesty or is sentenced to imprisonment for a term exceeding three months
- Has not been convicted of any offence under the Kenyan Cooperatives Act
- Does not have any un-cleared debt owing to a cooperative society at the end of its financial year other than in respect of a loan under the provision of any rules made under the Kenya Cooperatives Act
- Is not a person against whom any amount of money is due under a decree or order or is pending recovery under the Cooperatives Act
- To keep a Register of members correct and up to date
- To prepare and lay before the Annual General Meeting a profit and loss Account and the Balance Sheet duly audited.
- To examine the accounts sanction, contingent expenditure and supervise the maintenance of all books of accounts
- To review each quarter:
- Obligation to creditors of the Society
- Obligation by debtors of the Society
- The position of all outstanding loans against or to the society.
- To co-opt members to fill, till the next election at a meeting, vacancies arising in the course of the year among members of the management committee including the Chairman, Secretary and the Treasurer.
- To summon meetings
- To arrange for the examination and checking of all stock received by the society.
- To decide with the consent of the meeting the terms of purchase and sale of any goods or stock which the society may require for its members and to arrange for the safe custody of such assets while in stock.
- To assist the inspection of the books by any person authorized to see them.
- To appoint, suspend or dismiss employees, to fix their scales or salaries and to obtain security from them where necessary.

The Committee has the following powers and duties:

- To observe in all their transactions the Act, Rules and the By-laws
- To maintain true and accurate accounts of all monies received and expended
- To keep a true account of the assets and liabilities of the society
- Through any member or Officer or employee of the society or any person specially authorized to institute, conduct, defend compromise, refer to arbitration or abandon legal proceedings by or against the Society of Committee or the officers of employees concerning the affairs of the society.

- When authorized by the General meeting to acquire on behalf of the society shares in other registered societies, and to appoint delegates to represent the society at such meetings or societies to which the society may be affiliated.
- With the consent of the General Meeting to make, revoke and alter from time to time and at all times enforce such regulations, terms and conditions relating to the tenants of the society and property of the society and the letting (including restrictions as to sub-letting) and the sale thereof including the making and guaranteeing of advances to members as the committee may think fit.
- To contract for loans for the society up to such maximum as the General meeting may decide.
- To enter into contracts on behalf of the society. Such contracts shall bear on behalf of the society, the signature of the chairman and of either the honorary treasurer of the society. Any contract so signed and/or executed shall, notwithstanding that if it be afterwards discovered that there was some defect in the appointment of any such chairman, secretary or treasurer of that they or any of them were disqualified, be valid and binding on the society and the members thereof as if every such person had been duly appointed and was qualified. Such an official shall thereafter be liable to the society.
- To arrange for the custody of books
- Subject to the provisions of the Act, to impose fines on the members.
- To draw up a set of working rules subject to the approval of the general meeting
- To collect rents, repayments, instalments and interest on loans from members, tenants and purchasers.
- Generally to carry on the business of the society. In conduct of the affairs of the society the committee shall exercise the

prudence and diligence of ordinary men of business and shall be responsible for any loss sustained through acts contrary to the law, its rules and by-laws.

### 3. Non-members

The non-members of the society are only recognised for the roles they play in undertaking and facilitating the society's tasks. They can only acquire a house or land belonging to the society, unless authorized by the Annual General Meeting.

It is important to note that the membership of a cooperative society and its relationship with its board and management will determine how successful a cooperative is.

The member input should be solicited by the committee who have the authority to make decisions: when developing budgets, when assessing the condition and maintenance needs of the buildings and grounds and when soliciting participation in committee assignments. Smooth communication should be maintained between the board and members at all times as obligated by the by-laws. Most cooperatives also keep communication by a newsletter that keeps members informed of what is happening in their community. The board should maintain a two-way channel of communication with members in connection with the usual monthly meetings: notify all members well before the meetings, conduct an open meeting at which all members can attend and be heard and finally it would be necessary to allocate time at meetings for all member concerns. An important pre-requisite for a successful housing cooperative is that members and directors should receive adequate training due to the complexity of developing and operating a cooperative. The basic education must be in the training to make members aware of their rights, responsibilities and obligations within the cooperative as expressed in the by-laws and house policies. Ongoing training should be built into the cooperatives operating budget.



## 4.2 Types of Housing Cooperatives

The purpose of a housing cooperative as we have noted before is to provide housing for members who can add their own sweat equity to funds raised through governments or financial markets or other sources.

There are different forms of housing cooperatives with a common distinguishing feature that members own shares in housing cooperative organization but do not own the individual dwelling unit that they live in.

The main requirements being that they are able to:

- Sustain an initiative
- Create the cooperatives organization
- Secure resources for initial capital cost
- Determine the form and type of the cooperative housing organization

The different forms of housing cooperatives include:

### i) Co-ownership societies

These are generally older apartment buildings, where shareholders each own one voting share in the corporation that owns the building and have a registered right to occupy individual units as described on their share certificate. Incoming owners must be approved by the building's committee and agree to abide by building bylaws and Occupancy Agreements.

### ii) Limited equity

This type of cooperative society is established to address a desire to keep the housing permanently affordable to incoming members. They limit the resale value of membership shares, by the maximum resale value being predetermined but a formula established in the cooperatives by-laws and not by whatever the market will bear.

This type of cooperative is normally restricted to membership of persons below a certain annual income level. The purpose of a limited equity cooperative is to:

- Encourage long term residency
- Prevent speculation
- Preserve the 'affordable' character of cooperative for the variable future residents
- Provide a vital opportunity for large scale community building in several ways.
- Bring homeownership units to low income communities in sizeable numbers
- Stabilize apartment buildings or neighbourhoods using unused tracts of land as garden apartments or townhouse units
- Gentrify communities and build communities by mixing households of different economic means.

### iii) Market Equity

In this type the cooperative shares can be bought and sold at the market and the members can build their equity on their investments. The shareholders may buy and sell their shares at full market value.

### iv) Equity Cooperatives

These are buildings in which individuals purchase a percentage share tied to the square footage of their unit. They are a relatively new form of construction, designed to encourage owner occupancy by having the building's corporation hold back a percentage of the unit's share equity to ensure owner occupancy.

### v) Land only Cooperative

In this type of cooperative, only the land beneath the property is owned on a cooperative basis. The individual homes are owned subject to lease on the land.

## vi) Leasing Cooperative

These kind of cooperative involve leasing a land or property from an owner. The cooperative takes out a long term lease with sometimes an option to buy. The residents then manage and operate the cooperative. The tenants establish leasing cooperatives:

- Because they do not have the funds to purchase the property
- The tenants cannot find a building that is feasible for a cooperative to use as a housing yet
- To allow a period of putting together funds to purchase the property
- To give time for members to create a properly functioning cooperative.

## 4.3 Classification of Housing Cooperatives

The general classification scheme of cooperatives is as follows:

### 1. Geographical Location

One factor that determines a cooperative structure is the size of area served, for instance:

- Local – these are cooperative which serve a relatively small area.
- Super-local – referring to those cooperatives which operate in a large area than the local and they have several facilities.
- Regional – These serve an area comprising of several local contexts.
- National – These cooperatives serve a major portion or most of Kenya
- International – these are cooperatives which operate in more than one country, with the headquarters in Kenya or another country.

## 2. Governance

Cooperatives are also classified by their membership structure:

- Centralized – These have individuals, family corporations and business entities as members. They have a central office with a board of directors elected by members and a manager who supervises all operations conducted through numerous branch stores or offices staffed by members of the central management team.
- Federated – These have other cooperatives as members, but each is a separate cooperative that owns a membership share entitling it to a say in the affairs of the federated body. Local cooperatives normally form federations to provide services too complex or expensive for them to do individually.
- Mixed – These cooperatives have both individuals and other cooperatives as members and are usually given voting rights representative of their own membership.

# CHAPTER 5 ROLE OF LAW IN HOUSING COOPERATIVES

## 5.0 Role of Law in Housing Cooperatives

As we noted in Chapter Two, a cooperative society is only recognized and allowed to undertake its business only after it has been registered as a legal entity. Most financial institutions and development agencies only make loans to legally established cooperatives, thus it's important for cooperatives to be incorporated in order to make them legal.

There are various legal steps to establishing a housing cooperative. These include:

### 1. Incorporation

This is the process by which cooperatives become legal. In order for a cooperative to be able to conduct its business, it has to exist as a legal entity separate from its members<sup>7</sup>. Incorporation is the necessary step to achieve this legal status. Some aspects of incorporation include:

- Selecting a bank where appropriate accounts can be established
- Setting up accounting procedures to maintain accurate records of membership payments and organizational expenses
- Requiring a down payment or membership fee, which shows the seriousness of the potential member
- Selecting an initial management committee on planning, design and finances.

As with all corporations, cooperatives obtain significant advantages from incorporation such as: limited liability where personal liability of the individual owner/members for the cooperative's losses is limited to the amount of equity each member has invested in the cooperative.

### 2. By-Laws

As we described in Chapter One, the cooperative's by-laws (included in appendix) establish the form of government for the cooperative. They also include member eligibility, membership rights and responsibilities and how voting will be carried out. The by-laws give a more detailed description of the cooperative's internal structure and operations done through a set of rules are considered legally binding on the cooperative and its members (Shapiro, 1998).

The major topics covered by the housing cooperatives' by-laws are:

- a. **Objective of the cooperative** - which may be to provide for its members living accommodation within the area of its operation at a fair and reasonable price together with such ancillary services as roads, drainage, water and light together with facilities for physical and cultural recreation and all such other matters as are usual, customary and desirable for building estates, blocks of flats or single dwellings.

<sup>7</sup> *Cooperatives : A tool for community development (1998)*

- b. **Membership** – The by-law identifies the qualifications for member eligibility and procedures for joining the cooperative, rights and responsibilities and membership fee.
- c. **Membership application** - This is a legal document that is used to apply for membership in the housing cooperative and includes prospective member's name, address, telephone and signature. It also includes a statement that the individual agrees to abide by the cooperative's bylaws and meets all the membership qualifications. The application form also specifies the equity contribution required this is the number of shares being purchased or the amount of the membership fee if it is a non-stock cooperative at the time of submission.
- d. **Committee** – The by-law specifies the requirements for committee members, and also delineates their powers, duties and responsibilities, their length of term in office and the frequency of their meetings.
- e. **Meetings** – The by-law identifies the dates for the annual meetings – when and how special meetings may be held, procedures for voting and requirements for a quorum, order of business at the annual meeting and the requirements for upcoming meetings.
- f. **Membership capital contributions** – the by-law specifies the required equity contribution by members and the method of collecting the contribution, the type of stock the cooperative has authority to issue, and any other requirements regarding the cooperatives stock certificate.
- g. **Profits and Losses** – the by-law specifies the cooperative's profits and their distribution if any, based on each member's patronage with the cooperative; any losses experienced by the cooperative must be allocated across the membership.
- h. **Equity redemption** – The by-law provide the authority to the management on how, when, and where the cooperative will redeem members' equity in the cooperative.
- i. **Non-member business** – The by-laws also specify how the cooperative will distribute the benefits resulting from the non-members.
- j. **Dissolution** – The by-law identifies a procedure for dissolving the cooperative and specifies the distribution of any remaining assets.
- k. **Amending the by-laws** – the by-laws also specify a precise method by which the by-laws of the cooperative may be amended.

## 5.1 Role of Government

In order to be successful, housing cooperatives need a strong support system. There are many examples of good support systems in the housing and cooperative sectors, for instance, partnerships could be formed with cooperative development centres, the university – based cooperative centres and cooperative housing associations.

As we noted in the case studies, these partnerships could form the basis of a strong support system for successful cooperative development and operations. The Kenyan Government is committed to zero tolerance to corruption and unethical behaviour in the management and operation of cooperatives. This will be achieved by ensuring that best management practices such as strategic planning are applied both in the Ministry and Cooperative Societies. Operational guidelines on ethics and integrity including the code of conduct and ethics for cooperative societies will be formulated.

To strengthen this position, the Ethics Commission for cooperative societies has been established to oversee and ensure effective adherence to the code.

Whereas cooperative societies are expected to make provisions for the settlement of disputes in their by-laws, the government has established a Cooperative Tribunal to arbitrate such disputes when the internal mechanism fails. The arbitration by the tribunal is intended to be faster, accessible and affordable.

The government as a shareholder on behalf of the public is also committed to protect, preserve and actively exercise the supreme authority to ensure that:

- The legal framework establishing and determining the operations of cooperatives is clearly defined
- Authority of the management committee is exercised in accordance with the law and in the best interests of members
- The legislation is in place to ascertain that only competent and reliable persons who can add value are elected to the management committee
- That the management committee is constantly held accountable and responsible for efficient and effective governance of the cooperative so as to achieve corporate objectives, prosperity and sustainability
- ICT is adopted to enhance capacity to monitor and evaluate society's performance

The following are some of the steps the government has also undertaken in order to curb corruption in the cooperatives, which has often in the past hampered the sustainability and management of the societies

- Enactment of anti-corruption laws:
  - The Public Officer Ethics act, 2003
  - The Anti Corruption and Economic Crimes act, 2003

- Amendment of the Cooperative Societies Act 1997 and Enactment of the Cooperative Societies (Amendment) Act, 2004 and introducing more accountability by the management committee members, this is by requesting them to declare their wealth annually
- Introducing anti-corruption lectures/debates in the Ministry and the cooperative movement
- Generally empowering the KACC to deal with corruption cases

For cooperatives the mortality and morbidity from HIV/AIDS continue to result in a substantial decline in membership and loss of income and savings. For those affected it means the application of productive resources towards Medicare, defraying of funeral expenses and upkeep of the increasing number of orphans and dependants.

The Government has established close-working relationships with national AIDS prevention programmes, NGOs and other agencies and it continues to use the cooperative infrastructure to distribute materials, and disseminate information on preventive measures. The Government has further been providing support and counselling to persons living with HIV/AIDS and has also worked at integrating HIV/AIDS information in member education programmes targeting co-operators.

Gender imbalance in cooperatives remains a matter of concern. This is despite the fact that cooperative development policies advocate for equal participation of both men and women at all levels of cooperative leadership.

This is attributed to the fact that women have not sufficiently lobbied and strongly campaigned for leadership positions, while cultural and religious norms also have continued to inhibit their participation. One of the roles of the Ministry has been to design, support and develop new strategies aimed

at increasing the involvement of women in income generating activities through which they can become members of cooperatives.

Since there has only been limited research on cooperatives in Kenya, the government has been involved in promoting research and development on a continuous and sustainable basis in order to promote sustainable growth of the sector. This has been through budgetary provisions and strategic alliances with other stakeholders to build capacity in this critical area for the cooperative movement. There has also been a government commitment to publish any research findings and ensure that they are disseminated to the cooperative sector and other stakeholders.

The role of the local government is the enactment of the local laws and acts in accordance to the government's mandate. The major task of the municipalities is to contextualize the laid down laws in accordance to their locality. As we noted from the organizational structure of housing cooperatives in Kenya, in every district there is an office for the cooperatives which liaises with the municipal departments of housing. An example of this was presented in the Nakuru case study, whereby partnering of the various stakeholders was necessary in transforming the Kwa Rhoda neighbourhood.

### 5.1.1. Cooperative College of Kenya

Education and training are also important parts of a good support system for cooperative housing, and critical to their long term success. However, many of the problems afflicting the cooperative movement in Kenya can be traced to lack of appropriate management skills and knowledge among cooperative members and employees.

Cooperative education is aimed at:

- Developing an enlightened and responsible leadership capable of directing and effectively controlling cooperative enterprises for the benefit of members, thereby upholding ideals and values of cooperation for continued prosperity of the Cooperative Movement
- Imparting relevant management knowledge, business and entrepreneurial skills needed by committee members and public officers to enhance efficiency and effectiveness in the services rendered by cooperatives
- Creating awareness to the general public about the nature of cooperative and the benefits that can accrue to members as a result of co-operation

Over the years, education and training of the cooperative movement has suffered due to lack of clear policy guidelines. There has not been a single comprehensive policy document to uniformly guide training activities across the cooperative movement.

Consequently, a multiplicity of education and training providers have been operating independently and according to their own rules and regulations. Critical training needs assessments have been neglected and training programmes have become supply driven without due consideration to relevance and quality.

In this regard, the Ministry of Cooperative Development has been actively engaged in working at providing comprehensive and unified training policy guidelines to provide the framework for effective training and human resource development across the cooperative sector.



The Cooperative College of Kenya is a Government Training Institution, which was established as a Semi-autonomous Government Agency (SAGA) of ministry of cooperative Development and Marketing through an Act of Parliament of 1995 and is charged with the following responsibilities:

- Providing cooperative education and training for various categories of personnel for the cooperative movement and the Government officers, and to serve as a centre of academic excellence in the cooperative movement in Kenya
- Promoting the development and expansion of opportunities for continuing education in cooperative management and finance approved by its Academic Board;
- Providing consultancy services in cooperative management and in other development areas relating to cooperatives
- Undertaking research in disciplines related to cooperative management either directly or through approved institutions
- Conducting examinations, and to award diplomas, certificates and make other academic awards of the college
- Developing syllabuses and curricula for cooperative education and training
- Examining and make proposals for the establishment of constituent training centres, departments and faculties
- Collaborating with other national and international cooperative colleges, and universities, and institutions in the field of cooperative education and training, in research and consultancy services and exchange programmes.

However, the capacity of the college to develop curricula and syllabi and to conduct national examinations has not been realized. Consequently, the Government has

endeavoured to ensure that development of appropriate curricula and syllabi for training of the cooperative movement and syllabi and setting of examinations for the award of Diplomas and higher academic awards remain vested in the relevant National Institutions charged with this responsibility. As a centre of academic excellence in cooperative education and training, there have also been efforts to integrate ICT in the curricula of the college.

In short, the role of the Ministry of Cooperative is to promote an enabling and conducive environment for growth and development of the cooperative movement through policy, registration, education and training, financial policy, SACCOS and banking, cooperative colleges, governance and ethics, tribunals and community concern.

## **5.2 Role of Cooperative Movement in National Development**

In order for cooperatives to play their role in national development, they should operate efficiently and effectively. This is because there is nothing in cooperative principles to exempt them from operating within the general management principles.

Indeed, the establishment of cooperatives has significantly contributed to the economic growth throughout the world. The UN estimated in 1994 that the livelihood of nearly 3 billion people, or half of the world's population, was made secure by cooperative enterprises. Nearly 800 million individuals are members of cooperative societies today compared to about 184 million in 1960 (ILO Report, 2001). They account for an estimated 100 million jobs and are economically significant in a large number of countries providing foodstuffs, housing (there is a 500% growth rate from 1960-1986 (ILO Report), financial and a wide variety of consumer services.

In Kenya, there are currently more than 10,000 cooperatives with a membership of 6 million. The membership dependants are 24 million, which is 80 per cent of the current population in Kenya. Cooperatives' employment creation amounts to 240,000 people and the amounts of savings mobilized is Ksh102 million, which is 31 per cent of national savings, and contributes to 45 per cent of the GDP.

- i) Some of the benefits of cooperatives have been researched and published in various academic journals. For example, DeFourney (1992) argues that cooperatives and other similar organisations have assets and qualities in areas, which cannot be claimed by other types of organisations. These include: Self-initiative, sensitivity to local needs and reducing the need for public regulation

In other words, the sense of ownership among members creates a stronger commitment to the organisation while their knowledge of local conditions ensures that local needs are addressed. Since decisions are taken collectively for mutual benefit, and indirectly for local community benefit, the need for regulation of their activities is not as great as it would be, if the activities were undertaken for private profit.

Spear (2000) argues that in economic terms, the cooperative model, when properly implemented, provides many benefits through economies of scale and addressing market failures. Consolidation of demand or supply improves negotiating ability in the market, providing benefits to consumers or producers.

In essence, the main role of cooperatives is community mobilization in the following areas:

- Mobilization and savings
- Facilitation of credit facilities
- Resource mobilization
- Production, processing and marketing
- Foreign exchange earner
- Indigenous economy
- Acquisition of property or instance housing units
- Human settlements
- Source for external funding
- Tap economies of scale
- Creation of awareness
- Provision of technical assistance
- Facilitation in implementation of Government development agendas.

All these activities enhance income generating activities which lead to wealth and employment creation and thus poverty eradication which then raises the living standards for all members.



## CHAPTER 6 FINANCING HOUSING COOPERATIVES

### 6.0 Introduction

There is a wide range of financing institutions in Kenya involved in housing finance. These include institutions specializing in housing - for instance Housing Finance, Savings and Loans (a subsidiary of Kenya Commercial Bank), Equity Bank (formerly Equity Building Society), East Africa Building Society, and Family Finance Building Society. There are also several banks and non-banking finance companies which provide construction and mortgage financing to their members.

In the cooperative sector, houses are financed by the Cooperative Bank, SACCOs, Union Bank sections and Cooperative Housing Societies. The general improvement in the financial sector in Kenya has had a positive impact on housing finance but still a majority of Kenyans cannot still meet the terms of borrowing.

### 6.1 Financing of Housing Cooperatives

One of the major factors that affect the establishment and management of housing cooperatives is the financing. According to Kennedy et al. (1995), the aspects of owner-user and owner-controlled cooperatives and the implications for financing must be understood if the cooperative is to be operated in the best interest of its members.

This will involve the cooperative taking the following steps:

#### 1. Cooperative Capitalization

This financing is provided by outside sources such as banks, government loan programs and other grants and assistance as well as internal sources from membership fees, stock purchases and monthly carrying charges from each member to occupy their unit.

There are two distinctions which have been made:

- i) **External Financing** – The form of funding from outside is usually in the form of a blanket mortgage loan on the entire property, based on the value of the buildings. Sources of this external financing come from banks, savings and loans, government loans and private foundation grants.
- ii) **Internal Financing** – This refers to member charges to cover the cooperative's operating expenses. Besides the member charges, another source of financing is the monthly carrying or occupancy charges paid by each member. This monthly fee covers costs including mortgage payments, taxes, maintenance, utilities and insurance as well as contributions to the reserve fund, saved for various contingencies, such as unexpected building repairs or a default by a member.

## 2. Cooperative Budgeting

There are two aspects to budgeting in housing cooperatives which are developed by its treasurer, the finance committee, the board and the manager and sometimes the entire membership:

- i) Operating budget, usually developed for a one year period and involving expenses normally related to the day to day operation of the cooperative. The expenses included in this budget are: repayment of debt, real estate taxes, insurance, etc.
- ii) Capital budgets are usually long range and deal with major expenditures expected in the future such as major replacements of equipment for additions to the property.

According to the Cooperative Society Act, the cooperatives can invest or deposit their funds only:

- In the Post Office Savings Bank
- In and upon such investments and securities as are for the time being authorized for the investment of trust funds
- In the shares of any other cooperative society
- With any bank licensed under the Banking Act
- In the stock of any statutory body established in Kenya or in any limited liability company incorporated in Kenya or in any other manner approved by a resolution at an annual general meeting of the said society

## 6.2 Initial Requirements for Cooperative Investing

According to the Policy and guidelines on Cooperative investments, the term 'Investment' means the acquisition by own or borrowed funds of long term assets, intended for the promotion of the economic interests of the cooperative members.

The initial requirements for investments are that:

- There should be resolutions and minutes of either the Annual General meeting, Annual Delegates meeting, Special General meeting or Special Delegates meeting expressing the members desire to invest
- Management committee discusses the investment during their meeting,

Identification of investment project

- Applying for authority to invest from the Commissioner for Cooperative Development
- Valuation report is required once authority to invest has been granted by the Commissioner
- Appointment of facilitating lawyers
- Signing of the sale agreement
- Payment made with the advice of the Ministry of Cooperative Development.

There are many challenges encountered by poor Kenyans who want to invest in the housing sector. These challenges can be explained through, three interrelated factors:

- i) The high cost of available land
- ii) Obstacles to affordable alternatives such as communal ownership or subdividing
- iii) Strong controls on squatting

The few households that are able to acquire a simple plot are constrained by limited land security. While obtaining freehold or leasehold title (the highest form of land security in Kenya) to their land can be a lifelong battle with government bureaucracy. When the poor build, they face high building costs, including the cost of installing basic services, restrictive building codes and limited finance options.

In order to promote investment towards value addition and to ensure that the products are more competitive. The Ministry of Cooperatives and Development has been

supporting the development of technical, commercial and financial linkages to enhance exchange of experience and the sharing of risks and benefits.

For marketing cooperatives, the Ministry has been helped to:

- Promote processing for value addition and marketing functions
- Encourage cooperatives to venture into other investments
- Encourage cooperatives to venture into divestiture programmes of the Government
- Encourage pooling of resources to ensure there is sustainable funding for managing the cooperative
- Assist the restructuring of the cooperative sector to achieve business efficiency.

The existing financial services legislation and regulation in Kenya whilst intended to ensure financial discipline, impose an unnecessary strict system, specifying which institutions can provide which types of products to which types of customers. This is based on a limited view of housing construction, which assumes two primary means of housing construction:

- i) Developers acquire big tracts of land, build houses, and then sell completed houses to individual buyers
- ii) Individuals acquire their own plot of land and build complete homes on that land

Financial services are designed to support these two kinds of construction. The commercial banks are permitted to lend to developers over two to three years to allow them to get through the construction phase. The mortgage companies and building societies are permitted to provide long-term mortgage loans to individuals to purchase units from developers, or less commonly, to build their own complete units.

The problem created by these regulations is that they have reduced access to financial services rather than protecting the interests of the public. As a consequence, this legal and regulatory framework ignores the majority of the Kenyan population, who often acquire land without title through squatting, inheritance or subdivision and progressively build structures and add services as they acquire sufficient capital. The end result of these challenges is that both demand for and supply of housing micro-financing is severely constrained.

At every step in the building process, from acquiring land to building a basic unit to obtaining financing, poor households face limited options of active enforcement of restrictive legislation (CIVIS, 2003). Indeed, as we have portrayed Kenya does still provide a strong potential demand for financial mechanisms for the housing sector due to the rapid expanding urban population and the limited housing stock.

### 6.3 Housing Finance Institutions

The following are some examples of housing finance institutions in Kenya which may offer loans to interested parties:

- Cooperative Bank of Kenya
- SACCOs
- Cooperative Housing Societies
- Housing Finance Company of Kenya
- K-REP Bank
- Kenya Women Finance Trust (KWFT)
- Jitegemee Trust
- Small and Micro-Enterprise Programme (SMEP) run by National Church Council of Kenya (NCCCK)
- NACHU
- Women's Economic Empowerment Consort.

We shall briefly describe the operation of three financing institutions, which in spite of the obstacles have been able to have impeccable achievements:

### 1. Cooperative Bank of Kenya

As we noted in Chapter Two, the Cooperative bank of Kenya was founded in 1965, after cooperative societies realised that the existing banks were not about to relax their stringent lending conditions to allow the emerging indigenous cooperatives societies to access funds.

In particular, cooperatives could not access credit for the reason that majority of them at the time could not raise collateral that was required to secure loans. Indeed, the establishment of the Cooperative Bank greatly facilitated the growth and strengthening of agricultural cooperatives whose success inspired the spread of the cooperative system to working class savers in urban centres, which saw the emergence of savings and credit cooperatives (SACCOs).

In tandem with the robust growth of cooperatives, the Cooperative Bank has risen to become the fourth largest bank in Kenya with total assets in excess of Ksh 48 billion, share capital of Ksh 3.1 billion, and a customer base of over 400,000. The bank is owned by solely by cooperatives with over 54,000 individual co-operators and over 300 societies as shareholders countrywide.

The role of Cooperative bank as the apex financial institution becomes even more critical when viewed against the fact that one in five Kenyans is a member of a cooperative which implies that the bank touches the livelihoods of more than 22 million Kenyans. The Bank's vision is to have a prosperous Kenyan nation with the cooperative movement as the engine of its growth. The bank is geared to developing a fully integrated C-operative Financial System.

**2. The K-REP Development Agency's** group-based housing microfinance product: The Kenya Affordable Shelter Project is one of the product design efforts of the K-REP Development Agency (KDA), a subsidiary of the K-REP Holding Company that also includes the K-REP Bank, one of the largest micro-finance institutions in Kenya.

In 1997, it launched a pilot that still operates in a single town, Nakuru. The loans ranged from \$385 to \$3,300, with a flat interest rate of 15% and a repayment period of up to five years. As of May 2002, the project had 13 registered groups with a total of 105 members, 41 outstanding loans, had disbursed \$60,300 in loan capital and was maintaining an on-time repayment rate of 81%.

**3. The National Cooperative Housing Union (NACHU)** as we noted in Chapter Two, also offers financial services to its members. One of the schemes relevant to this study is the Nyumba savings scheme, which is a tailor made housing improvement loan scheme. It is designed for those who want to save specifically for housing development. The actual products under this scheme include:

- The cooperative housing mortgage programme, which facilitates purchase of land and construction of new and decent shelter with emphasis on affordability
- The house rehabilitation programme, which aims at improving existing semi-permanent structures, built on land that is owned by the cooperatives or their members. The scheme enables households to meet the demand for interior improvements and furnishings, neighbourhood upgrading, etc
- The resettlement programme assists people threatened with evictions, to access credit to buy land and put up some basic structures to allow immediate occupation. They are later able to borrow to construct permanent houses

- Infrastructure programme is expected to assist in installing basic infrastructure like drainages, drinking water, toilets, etc
- Income generating housing programme assists groups that intend to put up houses as a group for income generating purposes

## 6.4 Challenges of Financing Housing Cooperatives

Over the past decade there has been a substantial growth of housing finance institutions which has attempted to cater for the high demand for housing especially in the urban regions. However, there are still a few challenges which have rendered a slow development in this.

In the 1980s, the interest rates on mortgages were over 30%, making it almost impossible for individual borrowers to finance their housing through banks. With the fall in government treasury bills in 2003, interest rates fell considerably.

The long-term mortgage products now available on the market offer interest rates that range from 15-20% with repayment periods ranging from 7-20 years. Despite the relative fall in interest rates, however, mortgage finance is generally available only to high-end, formal-sector workers or business owners.

Borrowers must incur not only 20% interest rate payments but also down payments of between 20-40% of the value of the property, as well as significant legal and valuation fees. These expenses render mortgage finance simply unaffordable to the vast majority of the population.

The terms of housing finance also discourage many Kenyans from borrowing. The banks offering mortgage finance require evidence of credit worthiness such as a detailed employment history, as well as a form of collateral, usually the land or property for

which the loan is made. Thus even if interest rates were to fall to 7% and the terms of loans extended to 30 years, Kenyans who work in the informal sector and lack a clear credit history and who live on land that is not recognized will not qualify for housing finance.

Though the Cooperative Bank has grown immensely it is yet to become the central source of capital for cooperatives. Due to this, some cooperative members are unable to borrow as much as they would need for housing purposes.

Affordability by a majority of the citizenry due to the inflation rates – many members strive to buy land over a period of years after which again they encounter financial constraints in looking for funds for construction.

The charges keyed to loans have also been a source of discouragement for many willing to undertake loans, for instance in the stamp duty payment.

The laws and rules that govern land administration in Kenya are complex, fragmented and overlapping. The country has a number of land tenure categories that include: customary/trust land, which is held in trust by county councils; private leasehold/freehold land held by individuals, companies and corporations; government land and non-formal de facto tenure. There are also temporary forms of tenure that include occupancy rights and temporary occupation rights.

The non-formal de facto tenure (squatting) mostly occurs on government land and undeveloped private land, and is the dominant existing tenure system in the informal settlements. As a result of the lack of clear titles and policy on tenure guarantees to households in informal settlements, the reach of housing finance and practice of progressive housing are limited.

The availability of serviced, affordable land in close proximity to employment for housing remains a major hurdle in the development housing market. According to a UN-HABITAT report, 20% of the population in Nairobi occupies 80% of residential land, indicating that there is limited land available for the majority of the population, including the poor. Land prices are expensive. The rules and fees for sub-division, development and registration are cumbersome and expensive.

The costs of superstructure are relatively expensive, thus making it unaffordable to the majority of the population. The country's building codes are based on the English system that fails to take into consideration the local environment and relies heavily on European design standards.

There have been attempts to implement flexible standards for affordable housing, in particular using inexpensive building materials and techniques. These standards were gazetted in 1995, but local authorities have not adopted them. Further, the complicated building by-laws, planning regulations, protracted approval procedures further compound the housing problem.

The housing finance companies have traditionally invested in the development of housing for high and middle-income buyers but, under pressure from falling interest rates, recognize the need to move down market and develop new lending products with greater reach. Commercial banks and housing finance institutions, however, lack long-term capital for housing finance and cannot incur significant long term liabilities when their asset base is predicated on short-term deposits.

In fact, financial institutions have been risk averse to the building and construction industry in particular, and to lending in general, given the havoc of non-performing loans of the 1990s. Existing data shows that the amount of money lent to this sector averages only 6% of total loans to the private sector.

Legislation pertaining to the banking sector further complicates the problem. The Banking Act, Building Societies Act as well as the new legislation Donde Act (despite its implementation being stayed by courts), which were developed in response to financial crisis of the late eighties, do not provide adequate incentives to banks to enter the housing finance market and instead place constraints on the diversification of mortgage products to low-income populations.

Consolidation in the banking sector poses a further threat to housing finance. The recent planned merger between Housing Finance – the country's most vibrant mortgage institution – and Development Bank of Kenya, will cause the institution to become a commercial bank. Equity Building Society recently converted into a commercial bank, and the East Africa Building Society (EABS), the oldest provider of mortgages in the market, has announced that it will also be converting to a commercial bank. Family Finance Building Society has also indicated it might convert to a commercial bank. An irony of Kenya is that while commercial banks lack long-term finance, the country is flush with investment capital.



## CHAPTER 7 CASE STUDIES

### 7.0 Introduction

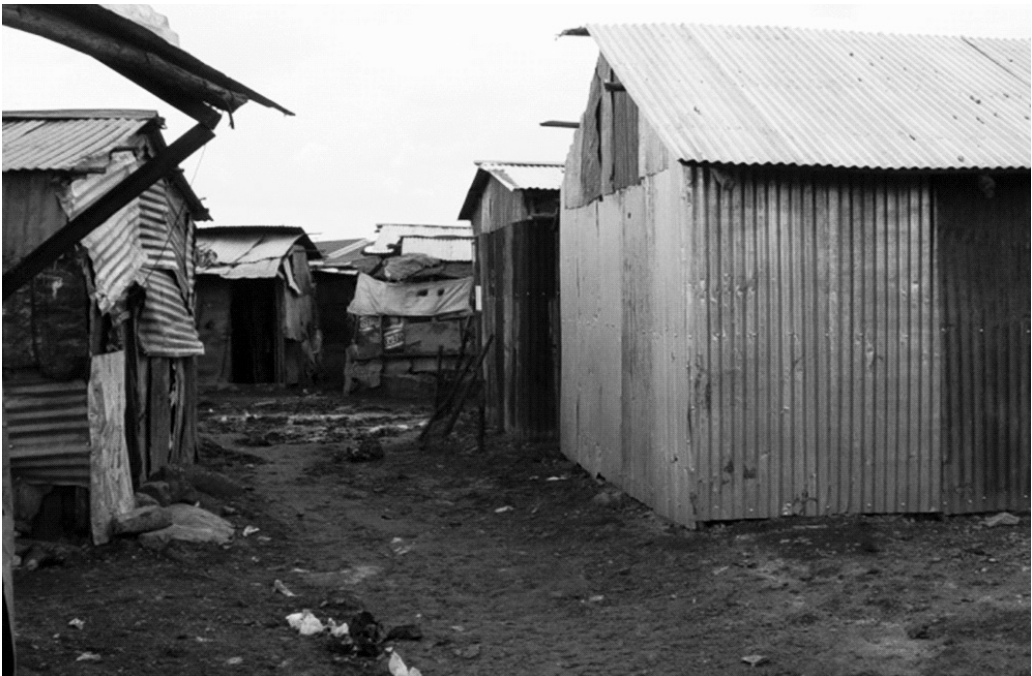
In this section, we offer several case studies of housing cooperatives and SACCOs in Kenya. These case studies have been purposefully selected for their best practices in the formation and sustainability of the cooperatives. They have been able to transform the livelihoods of their members and to service the initial loans from partnering organizations.

However, we need to note that due to several limitations we have not been able to reveal some of the specific details pertaining the cooperatives and the memberships.

### 7.1 The Bellevue Housing Cooperative Society

#### A. Project background

The Bellevue Trust Land project was started in 1994, when families living in Mitumba Village located in Langata Division of Nairobi approached NACHU for assistance as a result of which the housing cooperative was formed. At inception, 165 members representing a similar number of households were registered as members were mainly poor families displaced by tribal clashes or evicted from other slum areas in Nairobi.



Mitumba village © NACHU

As shown in the picture below, their living conditions were pathetic, since they were mostly living in temporary shacks with no proper sanitary. The nature of these structures was a result of repeated demolitions by the local authority. In this situation of uncertainty as to when the next demolition would be carried out, members could not risk investing their money in better shelter structures.

## **B. Role of Partners in the project**

There were three key partners: NACHU, GOAL International and the community.

i). NACHU/HOMELESS International provided the following:

- 50% of the revolving loan fund
- Funds for documentation
- Funds for water provision
- Community mobilization
- Training and educating the community on housing cooperative principles
- Helped the community to register the housing cooperative
- 50% of the revolving loan fund to Bellevue Housing cooperative

ii). GOAL International also offered the following assistance:

- A partial funding for land purchase (40%)
- Community mobilization
- Legal advice and support

iii). The community on its part provided the following:

- Raised 10% of the project fund
- Labour and provision of materials
- Set up a merry-go-round as a basis for raising funds

- Maximized on their community's involvement in the whole project.

## **C. Project Implementation**

In order to ensure the sustainability of the project, the loan for land purchase was made available to members of the cooperative society on a revolving basis to ensure returns can be used to develop other services and amenities such as sanitation, water and schools. The loan was given on a 19% reducing balance interest rate from 1999-2000. These was used to buy 139 plots of 22 by six and a half metres, so far only 47 plot owners are yet to clear their loans.

The objectives for the project were:

- To establish a community land trust to give the 165 members of Bellevue Housing Cooperative society security of tenure
- To provide members with individual plots so that they can put up safe and hygienic structures as opposed to temporary makeshift structures initially constructed.
- To bring together members in ensuring proper physical planning and sanitation in their environment
- To empower members with knowledge and confidence to run their own affairs

## **D. Impact of the project**

The security of tenure in this settlement has had a multiplier effect on the lives of the members of Bellevue Housing Cooperative Society, such as the investment in permanent and structurally sound structures, an upsurge in the number of small scale businesses, the participation of women in affairs of their community and in house construction.

The community has also learnt how to mobilize their resources (financial and human) and this is a key component of the sustainability



of their project. Additionally, their living standards have improved greatly due to a better living environment as compared to where they were living before. Other achievements can be summed up as:

- A sense of security as a result of ownership of land
- Gender equity has prevailed
- Improved and planned physical environment as compared to the crowded unhygienic environment of the slum
- Improved structures motivated by security of tenure
- Blossoming of small-scale enterprises which has led to notable improvement of their income levels

### **E. Challenges**

- Provision of services that are not within reach of the members affordability, for instance in raising funds to build infrastructure and other social amenities.
- Slow change of attitude by some members from dependency syndrome to independence syndrome
- Economic empowerment through strengthening of the members sources of income
- Regularization of repayment (some of the members are not used to procedures of loan repayment).
- Strengthening the community cohesion
- Acceptance of the real neighbourhoods

## **7.2 Kwa Rhoda Neighbourhood housing cooperatives**

### **A. Project background**

The housing cooperative is situated in Kwa Rhoda neighbourhood at Nakuru town.

The area is a very highly densely populated area with houses in very bad condition and lacking in all forms of services. Apart from the rapid urbanization, densities rose very much in the area due to internally displaced people moving from the land clashes in 1992 into the town.

The housing cooperatives were formed in 1998 after the communities approached the National Housing Cooperative Union with a view to organizing the communities in order to help themselves in acquiring decent shelter. This process involved community discussions, introduction to the cooperative housing approach, and savings for housing and eventual taking of loans for construction.

There are currently 110 members of two cooperative societies, 60 of whom have taken loans and improved their houses and sanitation.

### **B. Objectives and strategies**

The main objective of the project was two-fold. One was to provide access to credit for housing improvement through the cooperative approach. And secondly to empower the community to discuss other areas of shelter related issues with other actors in an urban environment.

Once the members were formed, trained and properly registered as legal housing cooperatives, discussions were held on issues relating to their problems especially the community design approach for their buildings, savings mobilization, group management and exposure to new and innovative appropriate building technologies. The members were also exposed to issues relating to general community building, waste management, water and sanitation, through linking them with non-governmental organizations working in those fields.

### C. Roles of stakeholders

#### i). Beneficiary community

This was largely a community driven initiative. It was fully in charge of the processes of decision making, community designing, exposure to building technologies and financial saving systems.

#### ii). NACHU and other NGOs

The responsibility of NACHU was training in cooperative management, cooperative registration, savings and provision of loans for house improvements. A local NGO, Intermediate Technology Development Group (ITDG) partnered with NACHU in training and exposure on the use of stabilized soil blocks, ferro-cement construction, innovative designing on sanitation especially low cost septic tanks (the soils on the site are very unstable). Both organizations also organized for community training and building of linkages with the municipality.

#### iii). Government

The role of the local authority in the neighbourhood was to facilitate re-planning with minimum disruption and permissions on the desired forms of construction based on the community's wishes. This was because the neighbourhood was initially outside the municipal boundaries and thus the houses had been done without the municipal's involvement. The other role for the Nakuru municipal council was to guide the improvement of the area in both the qualities of housing environment and sanitation.

#### iv). International Co-operation

UN-Habitat already had an ongoing project with the Nakuru municipality (see <http://www.unhabitat.org/>) on localizing Agenda No.21 so NACHU's involvement in the neighbourhood fitted well with the municipality's stated intentions.

Other social organizations such as the Church mainly served as points of information about the project.

### D. Impact of the project

The following are some of the achievements of the project:

- During the training for the communities emphasis was laid on social strengthening and neighbourhood cohesion in order to tackle the many aspects that befall a neighbourhood of that nature.
- It is worth noting that residents of the area were from diverse backgrounds both culturally and geographically and about 40% of them had only in 1992 migrated into the neighbourhood from the land clashes in Molo through forceful evictions. It now appears that the municipalities willingness to enter into collaboration with the NGO's and the communities in the neighbourhood is considered a success
- The whole purpose of shelter improvement for this particular neighbourhood was economic improvement. The members of the cooperative had decided to use the land which is now valuable for both their own housing and income rental.

the same time, the materials productions has provided employment to the already trained youths who now produce stabilized soil blocks for sale and the pre-cast concrete septic tanks for virtually every plot. The project has introduced a savings culture within both the cooperatives and the community in general, which is a very important component for access to other resources through credit.

Those members who did not take up loans for housing improvement have been able to go into micro-credit NGOs. The community has also received empowerment in micro-business operations.

- Contribution to urban development – Through the good relationship cultivated between the municipality and the community, areas requiring further action are freely discussed between them through neighbourhood groups. They carry out planning together and have both environmental waste management and sanitation committees. Issues to do with urban agriculture especially livestock farming have also been addressed (this is an area for which the community has freehold title and have been doing agriculture for a long time). One of the levels of expansion into other issues related to shelter is demonstrated by the number of environmental groups in the area.
- From the work that has already gone on, 60 members of the cooperatives have already improved their houses and are enjoying high quality living environment and income.
- There has been a lot of empowerment in terms of business credit and other issues e.g. HIV/AIDS.
- Environmental and sanitation issues have been properly addressed in the neighbourhood.
- Through the cooperative leadership training, the issue of gender has been brought into sharp focus and the community is very much empowered in this area e.g. women are not afraid of taking loans for housing and there are more of them in leadership positions.

### E. Challenges

The main challenge in the project was how to bring about decent planning and room layouts on land that is actually freehold and for which the municipality does not have authority over. The matter was complicated by the fact that developments had already taken place and these were the people's livelihoods. In addition, reducing densities in terms of

number of rooms per plot required very delicate discussions with the municipality, NACHU, ITDG including other actors in the project.

### F. Lessons Learned

- The commitment and willingness of the municipality to work with the community is key to the success of urban management and planning
- The community already knows what it needs for improved livelihoods. All that is required is empowerment and openness on the municipality's side.
- Community approach to housing delivery has a better chance of collaboration with the municipality and access to credit from other organizations e.g. cooperatives.

## 7.3 Naivasha Traders Housing Cooperative Society Ltd

The Naivasha Traders Housing cooperative began in 1990 as a group made up

of small-scale traders in Naivasha, a town located 80Km from Nairobi. The group had the aim of buying foodstuffs from the Kenya National Trade cooperation to sell in their kiosks.

This went on successfully for some years and members were able to generate income. In 1992, the group was registered as a housing cooperative society with the view to develop shelter. The group membership has increased over the years from 117 members to 832 members in 2005.

The cooperative has been buying land and sub-dividing into plots that are later allocated to members. The first piece of land was bought in 1993 and allocated in the same year. In total, there are eight pieces of land.

In order to stimulate development the cooperative has started with projects to bring water and electricity to the site. The water project started in 2004 but has not yet been completed.

### **A. Location**

All the plots of Naivasha traders are located close to the connecting road between Naivasha and Nairobi. Phase 1 has 102 plots, of which only one is developed and occupied by the owners. At one other plot, there is a house under construction. All the other plots of this first phase are bought by people as an investment. The more recently purchased and allocated plots have a better location, closer to the road. There are some shops and other economic activities, although still limited. This area will benefit from the water project and might get electricity access soon.

### **Housing quality**

Almost all houses that are developed are made of stones and generally of good quality (Ref. pic 2.0) These permanent houses are built according to approved housing designs.

The municipality of Naivasha has approved these plans and controls the actual construction.

In fact, only a few houses are made of iron sheets. The management of Naivasha traders discourages the construction of temporary houses. The society does this because they want to maintain a high level of housing quality in the area. Construction of permanent buildings is stimulated by access to quarries. To get stones from there members of the cooperative have only to organise people to dig, cut and transport them.

### **B. Services**

The location plan has road reserves and reservations for public facilities such as schools and health centres. When these are developed, they will still be owned by the cooperative, probably by means of shares. Services like piped water or electricity are yet to be provided. Sanitation is provided through pit latrines.

The society drilled a borehole to provide water to its members. At the same place, a reservoir tank has been constructed but it requires electricity in order to pump water. The society invested Kshs.1.2 million in drilling, survey fees, purchasing the plot, labour and materials. More finance is required for buying the pump and other equipment.

### **C. Cooperating with other development agencies**

Drilling of the borehole has been made possible with assistance of Catholic Diocese of Nakuru Water Program, which donated 60% of the drilling costs. NACHU gave out a project loan that went into putting up the water tank.

### **D. Future plans**

The cooperative is planning a petrol and paraffin station along the highway. Two plots have been bought from individual members for this purpose. Members can buy shares to participate in the project.

### **E. Households**

They bought their plot with the money they got for the retirement, sometimes in combination with loans from SACCOs. These families still have two to four children at home. Sometimes the children are grown up, and sometimes the grandchildren now live with the families.

## F. Income

Most households have very irregular incomes out of small businesses such as selling of food, groceries or livestock or casual work. Several men work as drivers. Other businesses are tailoring and bicycle repair.

## G. Education

All children from the households interviewed go to school, some to primary schools nearby, and some to schools in Naivasha town. They attend public and private schools.

## H. Construction costs

Most respondents don't have a clear idea on the costs they have spent on constructing their houses. Since most people have built permanent houses, made of stone, costs are substantial.

## I. The Cooperative

Income of cooperative comes mainly from the fees it asks for services for the members balloting, giving out certificates, registration of members, registration of transfer of plots etc. The savings from the cooperatives are not used for running the cooperative.

## J. Conclusions and recommendations

Naivasha Traders Housing Cooperative is an active and prospering cooperative. It has the advantage of a substantial scale in members and plots. Another major advantage is that all plots are located close to each other, at a strategic place along the highway to Nairobi. The cooperative has a major challenge to develop a completely new settlement.

# 7.4 Baringo Teachers SACCO

Baringo Teachers Savings and Credit Cooperative Society Limited was registered on 31 August 1976. Members are mainly teachers from Baringo and Koibatek districts in both secondary and primary schools. Active members are over 7,500. However, with the introduction of Front Office Services Activity (FOSA), user members include all willing members of the community.

The Society was established to encourage savings among members and to create a source of funds that members can borrow loans at a reasonable rate of interest thus enhancing their living standards. Baringo SACCO had a share/savings deposits portfolio of Ksh. 960.6 million as at 31 December 2006 and this cumulative figure is expected to rise substantially this year as new members join our growing movement.

## A. New Vision

To be a leading, stable and self-sustaining SACCO offering competitive financial services.

## B. New Mission

To mobilize savings, offer affordable credit and other financial services to members/customers.

## C. Central Office Services Activity (COSA)

Regular savings with interest/dividends and bonus are payable from surplus of each financial year. In 2005, the rate of payment was 8% and 6%. There are also Normal/development loans granted three times against savings/shares held. The loans are payable in 40 months with an interest rate of 1% per month or 12% per year on a reducing balance.

School fees loans are repayable separately within 12 months of a calendar year. They are granted in December to March every year. There are also emergency loans offered and repayable separately in 12 months.

Refinancing is not encouraged, but serious problems may lead to consideration for this loan at an interest rate of 18% per annum. The Credit Advisory Services are offered on the Co-op Bank Personal Loan and the SACCO Quick Loan.

#### **D. Members Welfare Fund**

This is security for loans and savings. Members contribute Ksh 200 monthly, included in the shares contribution and in case a member passes away, the loan is written off against the fund. Savings/deposits in COSA is doubled and paid to next of kin.

When a member is bereaved by death of father/mother he/she is consoled with Ksh.8,000 and if child or spouse they are given Ksh.20,000. The total claims limit is Ksh.36,000 in a financial year.

If there is no claim and member withdraws or retires, half of the total contribution will be refunded with savings/deposits. The family and beneficiaries of a deceased member will never be bothered with repayment if it is outstanding.

#### **E. Conference Facilities (At E/Ravine)**

Conference seminars, workshops and meeting facilities for up to 300 people available at negotiable charges. Plastic seats and tables for hire and tents and public address systems at Kabarnet and Eldama Ravine

#### **F. FOSA/SASA-Activity**

(Front Office Services Activity) or (SACCO savings Accounts) is the banking section of the SACCO. The three FOSA Sections are:

- Eldama Ravine FOSA(Koibatek District).
- Kabarnet FOSA (Baringo District).
- Marigat FOSA (Strategically located between lakes Baringo and Bogoria) Baringo district.

The Five-year Strategic Plan (2006-2011) proposes opening of three more FOSA branches. The total account holders are 13,400 with a savings and deposits valued at Ksh.214 million as of August, 2006.

#### **G. Opening an Account**

The personal Savings Account (requirements):

- Opening with Ksh.500 only.
- National identity card (photocopy).
- 2 colour passport-size photos.
- Fill application forms, specimen signature card and nominee card.
- Operating minimum balance Ksh.3,000.

Other services include the following:

- Savings Account.
- Seasons Account.
- Fixed Term Deposits
- Children Accounts
- COSA payments-loans, refunds and dividends.
- Salary processing and prompt payments.
- FOSA advances and loans.
- Cheques sales, Ordinary and bankers cheques

There are also Micro Savings and Credit services for:

- Individual businesses.
- Groups businesses



- Agro based groups
- Agro business and procession promotions

#### **H. Bartek Institute**

This is an activity of the society situated at Teachers Plaza, Eldama Ravine

and Mwalimu Plaza Kabarnet. It offers competitive and market driven business-oriented full and part time courses in the following:

- Information Technology(C.I.C.T)
- IMIS Foundation
- Business Document services
- Seminars and workshops
- Professional
- Accounting
- KATC, KAME, CPA, CPS (examined by KASNEB)
- Secretarial
- Business Management
- Corporate Training

#### **I. Mwalimu Plaza -Kabarnet**

Mwalimu Plaza is a three-storey building situated in Kabarnet town. It hosts a wide variety of clients ranging from corporate to small tenants. Some of the main clients include Post Bank, Kenya Women Finance Trust, Mobile World and Bartek Institute. This building is financed by members of the SACCO who purchased EQUITY SHARES.

#### **J. Teachers Plaza Eldama Ravine**

Teachers Plaza is a modern one storey building situated at Eldama Ravine town opposite St. Patrick's Shimoni primary school, with standard services including standby generator and alarm system. Teachers Plaza houses the Headquarters of Baringo Teachers

SACCO Society which has the following offices:

- Central Offices Activity(COSA)
- Front Office services Activity(FOSA)
- Bartek Institute
- Restaurant
- Printing and stationery shop

### **7.5 Waumini SACCO Society Limited**

Waumini SACCO Society Limited is a savings and credit society for employees of Catholic managed institutions in Kenya. This includes, missions, parishes, offices such as secretariats, institutions such as school and colleges, religious communities, associations, programmes and projects under the patronage of the Catholic Church in Kenya.

#### **A. History**

Waumini SACCO was founded in 1980 and is registered under the Cooperative Societies Act of the Laws of Kenya. Since then Waumini has steadily grown with several thousands of co-operators with a share capital of hundreds of millions. Thus it has become one of the oldest savings and credit societies in Kenya.

#### **B. Mission and Vision**

The mission of Waumini is to promote savings and avail affordable credit to improve the economic and social welfare of her members. The vision is to improve the standards of living and prosperity for its co-operators both actual and potential. The dream of Waumini is to incorporate all labourers under the patronage of the Catholic Church of Kenya into its membership including the nurses, catechists, cooks and gardeners.

This mission and vision is motivated by the love of God and the Gospels of Christ; “That they may have life and have it more abundantly.”

### **C. Objectives**

Waumini operates mainly on the following three broad objectives.

- receive deposits and advance loans to members.
- promote economic and social development by availing affordable credit to members.
- continuously educate members on cooperative and economic development.

### **D. Management Structure**

The management committee is elected from the general membership at the Annual Delegates Meeting. This is the supreme and overall committee of the society and its function is mainly administrative, financial and welfare control.

The management is therefore divided into three committees namely, Executive, Credit and Education.

### **E. The Executive Committee**

The committee is comprised of chairman, vice chairman, secretary and treasurer. These executive officials are legally the signatories of the society. They are also the representatives of the society to the Government.

Their duty is to implement all decisions by the management and by the General Membership. They are therefore answerable to the management and the co-operators. Members can channel all their problems to the executive through the secretary. All financial matters apart from loan must be addressed to the treasurer and any matter that is not receiving adequate attention is to be brought to the attention of the Chairman.

Finally, all public relations, correspondences and society’s records are placed under the custody of this committee.

### **F. The Credit Committee**

This is the committee that deals with members’ loans. The role of this committee is to receive, screen, ascertain and certify all the information in the loan application form then approve the members’ request for loans

In order to reduce bureaucracy in Waumini, the powers of approval have been vested in the loans approving committee (LAC). This committee is created by the chairman of the credit committee. The chairman of LAC is also empowered to co-opt any other official from the Education Committee.

### **G. The Education Committee**

The role of this committee is to collect and disseminate cooperative information to members. The members of this committee also serve as the education officers of the society and their obligation is to build cooperative literacy capacity within the society. This committee is also referred to as the inspectorate.

### **H. Supervisory Committee**

The role of this committee is great even though it is not part of the management. The members of this committee are the internal auditors. They are the watchdog of the society.

### **I. Membership**

The membership as already stated in the introduction is open to all employees of the Catholic Managed Institutions in Kenya and staff of Waumini SACCO Society.

### **Conditions of Membership**

- One must be above 18 years of age and be of good character and sound mind.
- Should not be a member of any other



SACCO with similar objectives.

- Membership must be through written application by both the employer and the employees.
- The employer institution can also apply for their employees to join the SACCO and there upon confirm willingness to provide payroll check-off system to facilitate remittance of employee contributions.
- Individual members must complete membership application form and pay the required entrance fees through check off system.

### **Entrance Fees and Monthly Contributions**

Each applicant will pay a one-off entrance fee of Kshs. 50/=-, which is non-refundable. In the event that share contributions are received before the entrance fee, the same will be deducted from the shares so received.

Once accepted, the employer is required to deduct from the member's monthly salary:

Loan repayments (principal and interest); Shares; Risk fund and any other deductions as shall from time to time be instructed by the SACCO.

All deductions must be remitted to the SACCO by the 15th day of the following month at the by latest. However, in addition to the minimum deduction, a member may effect further voluntary contributions towards share deposit and loan repayment.

All monies paid to the SACCO must be in the form of either crossed cheque or crossed money order or direct bank transfer or direct cash banking payable "Waumini SACCO Society Limited". No cash shall be accepted in the office. The details of the Waumini account can be found in their office for direct banking. And for direct banking copies of the slip must be submitted to the Waumini office LENDING within 48 hours to facilitate receipting.

## **J. Procedures**

### **Loan Qualification**

The management of Waumini gives loans at its own discretion subject to availability of funds. Preference is given to first time applicants, members without loans and other applicants in that order.

Therefore only eligible members of the SACCO will qualify for loans. Members who are in arrears in loan repayment and share deposit contributions do not qualify for loans.

A member can only qualify for a loan after a minimum of membership period of not less than six months and having saved not less than Kshs. 1,200/= in share deposits.

### **Loan Application**

All loan applications must be on the original serialized loan application form duly completed, signed by the applicant and witnessed. Photocopies shall not be accepted. In addition the applicant must attach the following:-

### **Copy of National ID, Passport or Driving Licence.**

Certified copies of latest two months pay slips and certified by the employer.

Where on contract, a letter from employer stating that the contract is in force for the foreseeable future.

It is important that the details of the applicant as appearing on the ID and pay slip conforms with the members record at the SACCO. Any changes in particulars must be notified to the office immediately.

### **Loan Repayment**

Upon receiving the loan, the SACCO, through a loan repayment schedule will immediately advise the employer to effect loan

recovery, a copy of loan repayment schedule will be given to the loanee where the employer fails to comply with loan recovery schedule, it is the duty of the loanee to remind the employer failure to which the loanee shall be deemed to have defaulted repayment.

The interest on loans will be 12% p.a. (1% per month) on reducing balance accrued monthly. Any change in interest rate shall be determined by members at the ADM.

The loan repayment period as specified and approved on the loan application form will not be varied up-wards, even if the period is less than the maximum (48 months). However a member may at his or her discretion vary the repayment period downwards.

Loans disbursed by the 15th day of the month will qualify for recovery in the same month. Loans disbursed after the 15th will qualify for deduction in the next month's payroll.

### **Guarantors**

All loans to members must be guaranteed by person(s) who are eligible members of the SACCO at the time to loan application. Guarantors can be as many as is necessary to guarantee the full amount of loan.

Guarantors will be jointly and severally liable for the total outstanding loan both principal and interest, defaulted by the loanee at any time during the tenure of the loan. In the event of default, both the loanee and guarantors will be notified accordingly and should default not be cleared within a period of 30 days from the date of notice, the SACCO will proceed to defray the outstanding loan balance both principal and interest, first from the loanee's share deposits and thereafter any balance will be recovered from the guarantors jointly.

The guarantee will not extend to any collateral where guarantors cannot equally share the liability of the defaulting member,

guarantors with more shares and deposits will bear the liability over and above those guarantors with less shares and deposits.

### **Members Shares Contribution**

A member can contribute as much share/deposits as he/she wishes, whether through payroll check-off or otherwise. However shares and deposits contributions in any one month that is in excess of one-third of the member's gross salary will be considered as a booting.

Excess shares or deposits contributed by way of boosting will not be considered when computing member's loan entitlement under such shares or deposits have been invested with the SACCO for not less than six months cumulatively.

A member who transfers his / her shares or deposits from another SACCO will only qualify for a loan after a six-month waiting period, as is the case for new members.

## **7.6 Innovative Housing Initiatives**

The following are two other innovative housing initiatives which were initiated by several partnering organisations. They offer relevant lessons to the housing sector.

### **A. Mathare 4A Development Programme**

The Mathare 4A Development Programme is a partnership between the Catholic Church and some owners of houses in the Mathare North site and services scheme. Housing units in Mathare were intended for occupation by owners but, over time, most units were rented out.

The goals of the programme are to improve the shelter and community development standards of residents within the context of existing housing standards and socio-economic conditions thus enabling residents to

remain in the improved units without further subsidies for maintenance and operation. The programme is financed by the German State Bank (KfW).

Mathare 4A is located about six kilometers from Nairobi's central business district. It covers an area of about 18 hectares and is home to 20,000-25,000 people, comprising about 8,000 households.

The average household income was Kshs 1,980 per month in 1992, well below the minimum salary for Nairobi of Kshs 3,000. Tenants comprise 92 per cent of residents and pay rents ranging between Kshs 250 and 300 per room per month.

Houses were constructed of mud and wattle by generally absentee owners. The area lacked infrastructure with only one rudimentary earth track motorable during dry weather. There were two public toilets, one non-functional, the other rehabilitated by residents. There were a few sub-standard "private" toilets and the few small open spaces between structures were used for waste disposal. Clean water was available from private water kiosks but the supply is intermittent and unreliable even from these sources and costs three to four times more than water supplied by Nairobi City Council.

Tenure of the site was secured by government transfer of the land to the church which took over the existing structures from absentee landlords on payment of compensation. The rights of residents to benefit from the project are guaranteed provided they pay the same level of rent as before. With the church playing the role of "benefactor landlord," the following principles were agreed on for the successful implementation and maintenance of the project:

- Comprehensive community participation at all levels and stages of decision-making including identifying priorities, developing implementation strategies, deciding on members to be relocated and determining

appropriate levels of rent. The highest decision-making body is the Grassroots and Consultative Board, with membership drawn from the target groups. Group-specific project design to benefit and serve current residents

- User-centered project financial planning to ensure that project costs do not exceed affordability
- A two-tier approach combining short-term improvements with long-term formal housing development
- Independence of the community based project body with it being given the long-term responsibility of developing, administering and maintaining Mathare 4A within a non-profit framework and following the principle of safeguarding the public interest. Land requirements for reallocated households to be met within the project area.

An initial study had been carried out in a pilot area with 2,000-2,500 inhabitants, which showed that the immediate construction of formal multi-storey houses would require massive subsidies unaffordable by current residents, thereby leading to out-migration and the replacement of current residents by wealthier ones.

In order to improve housing conditions whilst ensuring that existing residents continued to remain in the settlement, a two-tier strategy was developed. In the first phase, infrastructure was to be improved immediately to alleviate problems in the most basic areas of need, for example the provision of toilets, and conditions were to be improved so that residents could carry out their normal economic activities.

Members of the community would contribute labour and tenants would be able to generate enough income to pay Kshs 400 a month in rent to the project. They would also pay an additional Kshs 400 per month for administration and maintenance charges.

In the second phase, gradual shelter improvement would result in the replacement of mud and wattle structures with improved but cheaper housing. This would be done by the owners of the structures with support from the church. The improvement work would be financed partly from rent paid by tenants.

## Results

The first phase, a pilot project to house 700 households, is now fully developed. Sanitation has been improved by residents with help from the church. The number of toilets has increased from one public toilet serving 5,000 persons to one wet-core for every ten families. These improvements were undertaken on land acquired and registered by the church. A storm-water drainage system for a section close to a cliff has been installed and flooding during the rainy season has been reduced.

Accessibility throughout Mathare 4A is now assured by means of an access road 12 meters wide and a network of bitumen footpaths. Street lighting has been installed and garbage collection points set up at a walking distance of 50 meters from every dwelling. Relocated houses were built to the same average size as previous houses.

Part of the rental income is invested to cover maintenance costs and the surplus is used in the formal housing development phase. Replacement of existing housing units has already begun and 88 rooms have so far been reconstructed.

A second phase involving a further 800 households has started and is scheduled for completion in June 1997. The most innovative aspect of this project is capital formation, whereby the generated rent is invested back into the community. Priorities for investment are infrastructure, improvement of the structural condition of existing houses and construction of formal housing units. A partnership between Nairobi City Council, the government, a local CBO, civic and parliamentary politicians, and

representatives of target groups is working to address local needs.

The concept of Mathare 4A is meant to ensure a high degree of continuing viability by enabling tenants to generate the capital needed for their own development. It is hoped that this will reduce the need for further subsidies from Nairobi City Council, the government and other financial donors.

However, the project design is based on the assumption that projects of this kind will always have a philanthropic organization such as the church to protect tenants from the commercial market. Rental income alone would not be sufficient to sustain the project if the church withdrew its funds. Tenants are not allowed to sub-let their accommodation and thereby increase their incomes but have to remain in the accommodation. Replicability of the Mathare 4A Programme is restricted by the need to involve an organization with social housing objectives.

## B. Community Land Trust Project, Voi

The Community Land Trust Project involves the upgrading of Tanzania-Bondeni settlement in Voi Town. Community Land Trust (CLT) is an innovative land tenure model that enhances the long-term security of tenure for beneficiaries through ensuring that the land is kept in community ownership and is removed from the speculative market. The model might prove to be a cost-effective approach in providing shelter and community development suitable for replication. The most important factors in the success of this project are:

- The availability of public land
- Beneficiaries' confidence that common ownership of land is the most cost-effective option when infrastructure and services are provided

- The legal mechanisms to ensure that beneficiaries' property will be inherited by their rightful heirs

Tanzania-Bondeni settlement is located in Voi, about 150 kilometers from Mombasa. The settlement has existed since the 1950s and, by 1991, had a population of 4,730 on a site of about 22 hectares. It was a squatter settlement on land owned by the government, Kenya Railways and a private sisal company. The community lived in the fear that their houses could be demolished at any time without notice. The housing structures were mostly occupied by the squatters but 30 per cent were occupied by tenants of absentee landlords. Forty-one per cent of households were headed by women.

The insecurity of tenure was reflected in the housing conditions. Less than one per cent of the total of 530 structures could be considered permanent. Structures were overcrowded and most lacked basic sanitation facilities.

Environmental health problems were widespread and malnutrition caused high rates of infant mortality. The nearby sisal factory discharged raw waste into the Voi river from which residents drew their water. Most residents had lived in the settlement for a long time, 47 per cent of them for more than 30 years. Unemployment and under-employment were extremely high, 30 per cent of residents were jobless and 52 per cent earned less than Kshs 2,000 per month. Residents had no access to credit and there was no community organization.

The CLT project was initiated after Voi Municipal Council approached the Small Towns Development Project (STDP) at the Ministry of Local Government for assistance. This came at a time when the Ministry was embarking on a five-year Local Authority Development Programme (LADP) for Voi Town.

The CLT concept is based on two principles. The first is the recognition and acceptance of the physical conditions and community networks prior to project implementation. Therefore, any changes introduced by the project must be made in consultation with the community.

The second principle is that beneficiaries should pay for secure tenure and infrastructure improvements. The owners of structures, including landlords, are the first group of beneficiaries. Tenants are the second level and are allocated the remaining plots. The improvement was completed in several phases.

Outside support was sought and a partnership between government, Voi Municipal Council and the local community was developed. Each of the partners was assigned specific rights and duties and the community was involved in the design of infrastructure. Credit was secured from a local bank after consultations with the community. Different options for land tenure were explored. A school, a market, a social centre and recreational open spaces were provided.

An intensive community mobilization process followed and landlords were organized into a self-help group registered with the Ministry of Culture and Social Services. Consultations between the community, Voi Municipal Council and the government led to the residents selecting a community land trust as the most suitable strategy for security of tenure. Land would belong to the community but individual members would own developments on their plots and these could be inherited by wives, children or relatives in case of the demise of the men. Developments on plots would be open for sale but not the land itself.

The innovation in this model is the separation of development from land. As yet, there is no Act of Parliament in Kenya providing a legal basis for securing tenure based on CLT. However, CLT has been registered under the Trustee (Perpetual Succession) Act. (37).

A committee with representatives from the community, the council and central government was formed to coordinate the implementation of the project. Upgrading was undertaken through a partnership between the government, a local bank and the Housing and Building Research Institute (HABRI) of the University of Nairobi. HABRI trained community members in appropriate building techniques. The project is administered by registered trustees who are its policy-making body. Trustees serve a two-year term, renewable for an additional two years.

## Results

The Voi CLT project started in 1992. Since then, the following changes have taken place:

- Construction activity has increased and security of tenure has been enhanced
- Appropriate building materials are being used in the construction of new houses
- Four housing cooperative societies have been formed to rehabilitate existing houses
- The community has saved Kshs 1.7 million in a special bank account. This money will pay for cadastral survey work and other CLT operations
- About 300 families have been resettled within the trust area
- Five kilometers of murram roads have been built to open up the settlement to allow Voi Municipal Council workers to collect the garbage regularly
- A number of construction jobs have been created for residents

## Project Sustainability and Replicability

The management charges moderate fees to meet recurrent expenditure and has the right to buy dwelling units and other improvements in the community to ensure that the land and other improvements are retained by the community. The lessees can use their sub-leases as collateral for loans to improve their dwelling houses.

The government and Voi Municipal Council now recognize existing housing structures and owners are encouraged to make gradual improvements according to the municipal building by-laws. All of those (both owners and tenants) given a plot have to make a contribution of Kshs 17,000 towards the cost of infrastructure over a two-year period and there is considerable flexibility in making these repayments.

Upon repayment, members obtain their sub-leases. The money is converted to a development fund for the community and lessee members have priority in all land allocations.

Tenants are required to become members of the society before they are eligible for plot allocation. Replanning has also created extra plots which have been allocated to new members who had previously been tenants. A series of workshops and public meetings were held to create awareness on the obligations and responsibilities of the community in CLT. Legal documentation has also been prepared to ensure that only modest modifications will be required to replicate the Voi CLT model in other urban squatter communities on government or trust land.



## CHAPTER 8 CONCLUSION AND RECOMMENDATIONS

### 8.0 Advantages of Housing Cooperatives and SACCOS

The purpose of this study has been to highlight the formation, organization and management of housing cooperatives and SACCOS in Kenya. We have attempted to show the various regulations and requirements needed not only for the registration but also for the smooth running of the cooperatives. The following are some of the advantages that have emerged on housing cooperatives and SACCOS:

#### A. Economic advantages

*Affordable:* Lower downpayment, much lower closing costs, economies of scale, and a longer mortgage term all make co-ops more affordable than other ownership housing.

*Living in a cooperative society stays affordable:* members have no reason to increase monthly charges substantially unless taxes or operating costs go up, so monthly charges remain reasonable.

*Tax Deductions:* for income tax purposes, the cooperative member is usually considered a homeowner and, as such, can deduct his or her share of the real estate taxes and mortgage interest paid by the cooperative.

*Equity:* cooperatives can provide for accumulation of individual member equity. For market-rate cooperative societies, the accumulation of equity and resale prices are based on the market. Limited-equity coops establish limitations on the accumulation of equity to assure long-term affordability to new members.

*Limited liability:* members have no personal liability on the cooperative mortgage. The cooperative association is responsible for paying off any mortgage loans. This can often make it possible for persons whose income might not qualify them for an individual mortgage to buy a membership in a limited equity coop.

*Consumer Action:* through their cooperative association, members can jointly exert influence in order to change tax rates and utility prices and obtain improved services from local governments. The cooperative, as consumer advocate, can also join with other organizations.

*Savings:* Cooperative members can benefit from economy of scale in cooperative operating costs as well as from not-for-profit operation. Also, when there are transfers, only the outgoing member's equity must be financed by the incoming member. Transfers of shares are subject to fewer settlement costs.

#### B. Social advantages

*Elimination of outside landlord:* cooperatives offer control of one's living environment and a security of tenure not available in rental housing.

*Community control:* as mutual owners, member residents participate at various levels in the decision-making process. This is not true of tenants who usually do not have the opportunity to exercise responsibility.

Members own the cooperative together and have the security of being able to remain in their homes for as long as they wish, as long as they meet their monthly obligations, and abide by the cooperative bylaws, rules, and regulations.

*Cultural diversity:* many cooperative members indicate that the possibility for interaction with people from different backgrounds, cultures, and income levels is a positive factor in their decision to become a member.

*Extended Services:* by establishing cooperative procedures and working together, people are able to provide services for themselves that otherwise would be impossible to obtain. When one cooperatively organized venture is successful it often becomes clear that people can be successful in another area as well. As a result, the original effort often can be strengthened.

### C. Physical benefits

Shared maintenance responsibilities: cooperative members usually have limited direct maintenance responsibilities. The cooperative association is responsible for major repairs, insurance, replacement of worn-out buildings, and upkeep of common grounds and facilities.

Vandalism and Security: cooperative members vigorously protect their association's property. An important benefit of converting rental properties to cooperative ownership is reduction in vandalism and abuse of property and improved and shared security arrangements. Recent studies show that the cooperative's presence in the neighbourhood brings neighbourhood crime down.

Standard cooperative practices: it is evident that cooperative housing associations are most successful when operated in accordance with specific recommended practices, in addition to the general co-op principles. The

cooperative's board of directors should keep its members informed of all its actions. A regular communication system for instance, through frequent newsletter, information bulletins, special meetings, solicitation of members for opinions and priorities-strengthens the relationship between the board of directors and the members.

The cooperative society must maintain adequate financial reserves to protect the cooperative and its members' interests. These usually include a general operating reserve and a reserve for replacing components of buildings as they deteriorate. Such reserves reduce the possibility of members having to pay unexpected special charges in emergencies. An annual audit should be conducted by professional accountants and made available to all members.

To protect the interests of the remaining residents, the cooperative board must have the right to approve incoming members who take the place of those leaving the cooperative. A credit check and a visit with the membership committee are usually required. This process also helps orient the incoming member to their rights and responsibilities as coop members.

## 8.1 Challenges

There are many challenges that continue to inhibit the formation and management of housing cooperatives in Kenya.

Some of these include:

- Inadequate advice on cooperatives' formation and operation
- An increasingly unfavourable broad public policy environment, which indirectly promotes 'for-profit' forms of organisation, may have affected the general thrust of forming cooperatives. Most cooperatives are small-scale organisations and a majority is engaged in socially beneficial or



community oriented pursuits, which are not-for-profit activities

- The documentary requirements in the formation process and the complexity entailed in developing all the legal documents required for registration
- Financial challenges in establishing a cooperative society, taxation, management of member relations, director training, and expanding expenses
- Lack of knowledge by new cooperative members on government regulation and policy processes and instruments
- Lack of participation of members in the processes of establishing and running the cooperative
- The poor quality of housing stock
- A general reluctance to provide services to cooperatives for instance the reluctance of educational institutions to offer education and training courses for cooperative directors, managers and members
- Managerial difficulties particularly in member relations and member motivation
- Misconceptions among policy-makers and planners of what cooperatives are and how they work
- Unrealistic expectations of what cooperatives can actually accomplish
- The establishment of cooperatives irrespective of whether or not the minimum requirements for successful cooperative development are met
- The artificial acceleration of cooperative growth
- Cooperatives and other self-help forms of organization have sometimes been viewed by governments as dangerous or potentially dangerous competitors for power. Thus sometimes the governments interfere with their operationalization.

- Mismanagement and corruption
- Stiff competition amongst various stakeholders in given contexts
- The sustainability of SACCOS is based upon the interests gained from the members; however, in housing cooperatives, particularly the small ones the members may not be able to contribute further monies that will run their office and sometimes may end up seeking donor funds which may not be reliable for a longer period.

## 8.2 Sustainability

Stemming from this study, there are many lessons to be learnt that may lead to the creation of a more enabling environment for the sustenance of housing cooperatives.

These lessons include: a paternalistic programme planning and implementation are being replaced by participative approaches in project management and evaluation and participative research, policy formulation and law-making. This is leading to: a new interpretation of instruments for self-help promotion, a shift from state controlled cooperatives as the only officially recognised form of self-help organization to a variety of forms ranging from informal groups to formalized but non-cooperative self-help organizations, and a rediscovery of the value of literacy campaigns, general education and the community development for overall development.

Under structural adjustment programmes, the government services in charge of promoting development have been gradually restructured and their functions reduced. As a result, many tasks which were formerly in the hands of government officers are now carried out by local institutions, as well as by organizations of the United Nations system, NGOs and joint partnerships between North and South.

Due to past experiences of government control, some members still consider cooperatives as 'government affairs' and they frequently do not know their rights since they have never been given a chance to use them in practice. In such cases, the members felt exploited by the cooperatives. However, new cooperatives have been established which are firmly based on cooperative principles and voluntary membership. The training of cooperative members have also played a big role in improving and strengthening the relationship between cooperative members and the management and in developing new cooperative activities attuned to members' needs.

According to an ILO report (2001), the mere transfer of western policy, legislation or organizational models will not suffice. The development of a truly autonomous and self-reliant cooperative sector means that there must be room for experiments and mistakes.

However, in order to reverse the negative trends produced by too much state intervention in past cooperative affairs, there must be recognition – if it is accepted that cooperatives form an integral part of overall socio-economic and political development – that the kind of support structures and political representation they need in developing countries go beyond those required by cooperatives in industrialized countries. The relationship between members and cooperative management, as well as those between cooperatives and local authorities are – for a whole host of reasons – different and the educational tasks ahead of institutions promoting cooperative development are much greater than in the past.

Without members' sustained support and involvement in business, capital and management, cooperatives simply cannot survive. This realization has been dawning upon those who set agendas for social and economic development. It is vital though that the governments do not withdraw support

too abruptly. Cooperatives and their apex organizations need time to mobilize their resources, build their strength and managerial capacities, and learn to cope with the pressures of competitive markets.

Cooperatives must recognize that they have to maintain their local community base to be able to respond to the qualitative issues on service delivery. At the same time they must achieve all the leverage and economies they can to stay competitive. The decision to merge is vital for many cooperatives. However, developing the will to merge, the management capacity to merge, and maintaining links to the membership require leadership and professionalism and an appropriate organizational culture.

Cooperatives that simply grow big and fall to the threat of management take-over will fail commercially as well as cooperatively, if they fail to capitalize on their best competitive resource, which is their unique cooperative identity and membership. Competition will remain intense and the capital resources potentially available to their rivals are too great for them to survive without a competitive stance that differentiates them and mobilizes their stakeholders.

A shared culture and objectives could greatly facilitate the smooth implementation of mergers between the cooperatives that were value rather than institutionally oriented. Ensuring regular contact with the members on terms that make sense to them and the other stakeholders could ensure that cooperatives enjoy leverage and locality after having merged.

Need for research which will produce data to be used as a basis of deciding which cooperative housing type is needed, the location, and the most suitable group.

Need for a progressive national housing strategy which aims to eradicate unfit homes and modernise those which do no provide

adequate comfort or amenity. The National Housing Policy will need to review the current legislative and regulatory framework which impedes on the acquisition of housing.

In terms of creating enabling environment that would enable the widespread development of housing microfinance, thus increasing poor household's ability to access decent shelter, CIVIS (2003) has delineated the following key lessons.

Land security does not have to mean full legal title – land security, which is the degree of confidence that a household will not be forcefully evicted, can be more relevant and available for poor household than legal title deeds. Potential housing lenders can service poor household with secure tenure not based solely on full, legal title.

Mortgages are not necessarily the most secure guarantee, particularly when financing the housing needs of poor household. Given the instability of poor households' income, high foreclosure costs, weak resale market for repossessed properties and liquidity risk of longer term loans, mortgage guarantees in Kenya and many developing countries provide substantially less real security for lenders than in developed markets. In these environments, shorter-term loans for progressive construction with household asset guarantees are often less risky than long-term mortgages.

Progressive building increases affordability. Given poor households' limited incomes and high costs of land, building and housing, smaller short-term loans that support progressive building practices already employed by the poor can make housing loans more affordable.

A progressive-build friendly policy environment may produce better results than strict enforcement of high minimum standards. Strict housing and financing laws (and enforcement of these laws) that establishes high minimum standards that are

achievable for poor households can reduce rather than increase the quality and volume of housing available to the poor. Instituting regulations that reflect how the poor build can encourage lenders to develop innovative products, improve the quality of the guarantees taken by these institutions and allow the poor to improve their living conditions.

Greater dissemination of existing experience is needed; this would enable practitioners to share experiences and emerging 'good practices' that is needed to help expand and grow the housing industry.

## 8.3 General Conclusion

This study has attempted to show the development of housing cooperatives and SACCOS in Kenya, the challenges encountered and how they have changed over time to be more inclusive and participatory. The study has also highlighted the formation process of housing cooperatives, and the requirements for registration as stated in the Housing Cooperative Act (1998). The roles of all the stakeholders in the housing cooperatives have been discussed including also the impact the housing cooperative movement is having on national development.

Through the case studies, we have been able to highlight some of the underlying challenges within the cooperative movement in Kenya which serve as a learning board for best practice management of housing cooperatives. The government's commitment is evident in its initiatives and participation in improving the state of cooperatives in Kenya such as in the KENSUP project and in the Cooperative College.

In the discussion on financing institutions, we have highlighted some of the challenges encountered by members in starting and even establishing housing cooperatives due to the high costs involved.

However, through the mushrooming of housing finance institutions, more opportunities will be available for the low-income citizenry interested in forming housing cooperatives.

Finally, the study has also revealed some of the lessons to be learned in an attempt to develop the housing cooperative concept as one of the key strategic areas in meeting the Millennium Development Goals by 2015. Indeed, as it has emerged the successful establishment and management of a housing cooperative will depend on the commitment of the interested parties to the cooperatives principles and also on how organized the legislative, financial and regulatory systems are in the country.

These elements are all keyed on the need for a progressive National Housing Policy and housing cooperative knowledge which will ensure implementation of affirmative structures in dealing with the housing challenges in the country.

## BIBLIOGRAPHY

African Population and Health Research Centre (APHRC). 2002. *Population and Health Dynamics in Nairobi's Informal Settlements*. APHRC: Nairobi.

Brown, W. et al. (2003). *The Enabling Environment for Housing Finance in Kenya*. CIVIS: Cities Alliance: Cities Without Slums. Issue 4. [Available Online] [www.citiesalliance.org](http://www.citiesalliance.org)

Centre on Housing Rights and Evictions (2005). *Listening to the Poor? Housing Rights in Nairobi, Kenya*.

Cooperatives Tools to Community Development. (1998). *Cooperative Development Training Conference*. University of Wisconsin Centre for Cooperatives Development Services

Davidmann, M. (-). *Cooperatives and Co-operation: Causes of Failure, Guidelines for Success*

GOK (2000): *Interim Poverty Reduction Strategy Paper for the Period 2000-2003*. Government Printers, Nairobi.

GOK (2001). 1999 *Population and Housing Census. Vol. 1*. Government Printers.

International Labour Organization. (June, 2001). *Promotion of Cooperatives*. Report V (1). Fifth Item on the agenda. International Labour Conference. 89th Session. <http://www.ilo.org/public/english/standards/realml/ilc89rep-v-1.htm>

Jayo, Wickremaratchi (2003). *New cooperatives: Motivations and Barriers*. ACCORD. CSU Printing services.

Kennedy, T. et al. (1995). *Cooperatives: A Housing Alternative for Rural America*. Report 45. USDA Rural Development.

Lee, Jong-Soo (2000). *Cooperative Identity in terms of members, objectives and methods*. Paper presented at the Mapping Cooperative studies in the New Millennium.

Mwangi, K.I., (October, 1997). The Nature of Rental Housing in Kenya. *Environment and Urbanization*, Vol. 9, No. 2.

*More than Shelter: Housing as an instrument of Economic and Social Development*. A Harvard Joint Centre for Housing Studies. (May 9-14, 2005). International Housing Conference. Bellagio, Italy

NACHU. (Sept. 2005). *Innovations in Housing and Livelihoods for low income communities in Kenya*. NACHU.

Oriaro, M. & Kerre, M. (2001). *NACHU: Needs Assessment for the formation of Cooperative Housing Finance Institutions*. NACHU.

Ouma, S.(1988). *A History of the Cooperative Movement in Kenya 1908-1978*. Bookwise Ltd.

Reynolds, A. (1999). *An assessment of loan regulations for rural housing cooperatives*. Univ. Of Wisconsin Centre for Cooperatives

Syagga, P., Mitullah, W. & Karirah, S. (2002). *Nairobi Situation Analysis Supplementary Study: A Rapid Economic Appraisal of Rents in Slums and Informal Settlements*. GOK & UN-Habitat

UN-HABITAT. (2003). *Monitoring and Evaluation Guide*. UN-HABITAT.

UN-HABITAT. (2003). *The Challenges of Slums: Global report on Human Settlements 2003*. United Nations Human Settlements Programme. Earth scan Publications Ltd.: London.

UN-HABITAT. (2004). *A Study to conduct Kibera Social and Economic Mapping. Household and Business Survey Report*. Research International.

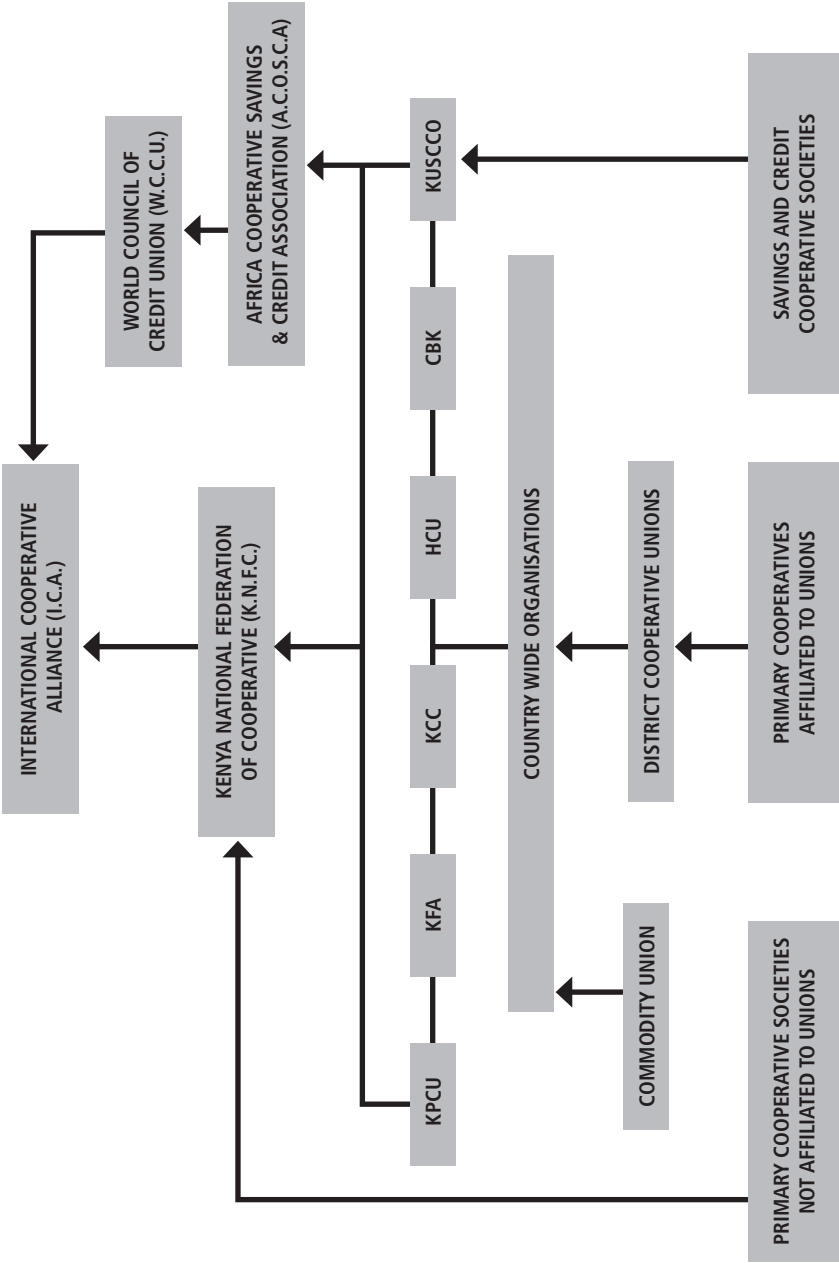
UN-HABITAT. (2005). *Sustainable Neighbourhood Programme. Socio-Economic Profiles of the Mavoko Municipal Council Low-Income Settlements*. UN-HABITAT

# APPENDICES





APPENDIX I THE ORGANIZATIONAL STRUCTURE OF THE COOPERATIVE MOVEMENT IN KENYA



## APPENDIX II BY-LAWS OF HOUSING COOPERATIVE SOCIETY LIMITED

### 1. NAME AND AREA OF OPERATION OF THE HOUSING COOPERATIVE

### 2. THE REGISTERED OFFICE AND POSTAL ADDRESS

### 3. DEFINITIONS/INTERPRETATIONS

#### a) Interpretation

- (i) In these By-laws, unless the context otherwise requires, words or phrases shall be defined or interpreted in accordance with cooperative societies Act of 1997 as amended in cooperative societies Act 2004 and cooperative society rules 2004 made there under, hereinafter referred to as the 'the Act' and 'the rules' respectively. Any questions concerning interpretation of these By-Laws or any other matters not provided for therein, errors and unions should be referred to cooperative tribunal.
- ii) In these By-Laws where masculine gender is referred to, it will be construed to include the feminine gender.

#### b) Definitions

- (i) Common Bond – means the basis for cooperative between members of the society (what makes members of society come together).
- (ii) Cooperative Tribunal – means a judicial court that is charged with powers of handling cooperative society disputes.
- (iii) Commissioner – means commissioner for cooperative development.

(iv) By-laws – means By-Laws made by society and registered under the act and includes any registered amendment of such By-laws.

(v) Share – means the amount of money contributed by each member towards the capital of the society and which is not refundable to the member, it is the permanent capital of the society.

(vi) Supervisory Committee – means an oversight committee elected at a general meeting.

(vii) Member in Good Standing – means a member who is current in payment of his required contribution and has not in any way acted in a manner, which is potentially damaging to the society and has fully complied with the policies and Rules set forth by the society.

(viii) Members Deposits – means the amount of money contributed by each member as Savings with the society. This amount shall be taken as instalments towards creating a fund for the purpose of acquisition of land or house by an individual member.

(ix) Net Surplus – means the amount of income in excess of expenses of the society. It is computed before an allocation is made for payment for member's dividend/ interest on shares/deposits respectively.

(x) Member of Immediate Family – includes but it is not limited to the spouse, parents and children of the members, whether or not residing in the same household. They also include any other relative of the member or spouse of the member if the

relative resides in the same household as the member.

- (xi) Minister – means a Government Minister in charge of Cooperative affairs.
- (xii) Act – means the Cooperatives Societies Act of 1997 as amended in Cooperative Societies Act 2004.
- (xiii) Rules – means Cooperative Societies Rules, 2004.

#### 4. OBJECTIVES OF THE SOCIETY

The objects for which the society is established are:

- a) To provide for its members living accommodation within the area of its operation at a fair and reasonable price together with such ancillary services as roads, drainage, water and light and together with facilities for physical and cultural recreation and all such other matters as are usual, customary and desirous for building estates, blocks of flats or single dwellings. The society may own Land and Buildings on behalf of its members.
- b) To acquire land and or construct houses for the purpose of selling them to members and non-members.
- c) To achieve the objects set forth in By-laws 4 (a), and (b) the society may perform and carry on all the usual functions of a cooperative society as governed by the Co-operative Society Act and Rules and may in addition
  - i) Raise funds by accepting deposits and by contracting for loans from members or non-members by issuing debentures or mortgaging its property or by any other means up to a maximum amount to be decided by General meeting
  - ii) Lend money to members for any purpose directly concerned with the acquisition of land or living accommodation for themselves on such terms and with such security as the managing committee may from time to time determine or guarantee loans and advances to members for similar purposes
  - iii) Undertake building operations by such means either directly or indirectly as the committee may decide
  - iv) Acquire supplies of building and similar materials and machinery of all kinds including household furniture and equipment for use in building or for sale or hire to members
  - v) Acquire and relinquish land, buildings and rights over land and buildings by purchase, lease or any other means as may be necessary for the attachment of these objects
  - vi) Employ architects, builders, and contractors. Issue plans, negotiate and contract services for light and power, water drainage, roads and generally do all such things as are necessary and customary for the acquisition of land and its development of housing purpose
  - vii) Enter into contracts with members for the sale or lease of land and building acquired by society in pursuance of its objects on such terms and conditions as may from time to time be determined
  - viii) Do all such things, as are incidental to or necessary for the attainment of any or all foregoing objects for the society

## 5. COOPERATIVE PRINCIPLES AND VALUES

In order to achieve the above objects for which it is established, the society shall act in accordance with the internationally accepted Cooperative Principles and values stated below:-

### a) Cooperative Principles

- Voluntary and open membership
- Democratic member control
- Economic participation by members
- Autonomy and independence
- Education, Training and Information
- Cooperation among cooperatives
- Concern for community in general

### b) Cooperative Values

Cooperatives are based on the values of self-help, mutual responsibility, equality and equity. They practice honesty, openness and social responsibilities in all their activities. This cooperative shall uphold faithfully the above values.

## 6. MEMBERSHIP

Members shall consist of:

- Original members who signed the application for registration
- New members subsequently admitted in accordance with these By-laws

## 7. QUALIFICATIONS FOR MEMBERSHIP

A person shall be eligible for membership who possesses all the following qualifications:

- Is of good character and sound mind
- Is not less than 18 years of age
- Is a resident or an employee of a society (A member who moves out of the

- common bond can retain his membership if he so wishes)
- Has not applied to be adjudicated as insolvent or is not declared bankrupt by a competent Court of Law.
- Has not been convicted for any criminal offence involving dishonesty or fraud and jailed for a period of three months or more during the last five years
- Accept to abide by and observe the provisions of these By-laws and other regulations and resolutions made by the members regarding the operations of the society.

## 8. MEMBERSHIP APPLICATION FORM

Every applicant for membership shall complete an 'Application for Membership' form as may be prescribed by the management.

## 9. ADMISSION INTO MEMBERSHIP

The Management Committee shall admit members subject to confirmation by the next General Meeting. On being accepted by the Management Committee, a member shall sign his name in the Register of members in the presence of two members of the Management Committee or one member of the committee and manager to indicate his acceptance of the By-laws of the Society.

An applicant shall be admitted to the membership, but shall not qualify for the rights and privileges of a member until one has paid a non refundable membership fee. (These fees are subject to adjustments by the management committee and subject to approval by a General Meeting in order to be in tune with the prevailing economic situations).

## 10. REFUSAL OF MEMBERSHIP

The Management Committee may refuse membership to any person by giving him reasons for its decision. However, the person whose membership has been refused, if otherwise eligible for membership, shall have the right to appeal to the next General Meeting.

## 11. NOMINEE

Every member shall nominate in writing one or more persons to whom upon his death, his shares, deposits or any other interest shall be transferred, and the member in the presence of two attesting witnesses shall sign such nomination. The particulars of the nominee(s) shall be recorded and kept in a sealed envelope and safely kept in the custody of the Manager and whose reference/particulars shall be entered in the Register of Members.

A member may at any time change his nominee(s) provided that such changes or alterations are done in writing and signed by the member in the presence of two attesting witnesses.

## 12. PAYMENT TO NOMINEE

If not admitted to membership, the nominee(s) shall be paid the value of the deceased member's deposits or assets less any sum due to the society as a primary or contingent liability. This should be done upon receiving official notification of the death of the member, but not later than 90 days from the date of such notification. Refusal to admit a nominee shall be in writing and adequate reasons provided.

## 13. MEMBERSHIP RIGHTS AND OBLIGATIONS

### 1) Rights

Subject to these by-laws, policies, standards and procedures, all members shall have the right to use the society's services and exercise the rights established under the Act, the Rules and the By-laws.

The members are entitled to:-

- Receive, periodically and regularly, or upon request and at least 4 times a year, a statement of accounts containing the individual records of his Debit and Credit transactions. At the option of the society, this record may be provided in the form of a passbook.
- Attend and participate at the General Meeting of members. Each member shall have one vote irrespective of the member's total shareholding as long as he is a member of good standing
- Elect or be elected as a Committee Member or officer of the Society
- Use the society services according to the policies set by the Management Committee and approved by the General Meeting
- Submit projects or initiatives to the Management Committee for consideration that focus on the expansion or improvement of society
- Other rights as prescribed by the applicable law

## II) Obligations

Subject to these by-laws, policies, standards and procedures, all members have the following obligations to the society:

- To repay all outstanding loans according to the terms and conditions stated in the loan agreement
- To promptly make all required contributions
- To observe and abide by all terms and conditions of the Cooperative Societies Act, Rules, these By-laws, policies and contracts of the society
- To put forth qualified candidates for office
- To support issues put forth that improves the sustainability of the society and promotes the good will of all members
- To attend and actively participate in meetings of the society

### 14. CESSATION OF MEMBERSHIP

Membership of the society shall cease with effect from the date of a member:

- Dying
- Ceasing to hold the qualification for membership as specified in these By-laws, the Rules or the Act
- Being expelled from the society
- Voluntarily withdrawing from the society in accordance with these By-laws
- Becoming of unsound mind
- Being declared bankrupt by a competent court

### 15. VOLUNTARY WITHDRAWAL

A member may withdraw from the society by giving days' notice in writing of his intention to withdraw from the society. The Management Committee must approve such withdrawal and take all the necessary action

to refund the member's deposits or any other interest due to him or transfer his shares as he may direct.

### 16. EXPULSION

The Management Committee may suspend, subject to expulsion by the General meeting a member who:

- Is convicted in a Court of Law for criminal offence for any reason
- Wilfully fails or refuses to comply with the applicable law, By-laws, policies and procedures of the society
- Acts in any way detrimental or prejudicial to the Society's interest or other just cause

### 17. EXPULSION PROCEDURE

Upon formal and written announcement (by a member or management) that a member has committed a violation punishable by expulsion, the Management Committee shall provide written notice to the member stating the reason(s) or the Proposed suspension and subsequent expulsion by the General Meeting and grant a member 30 days to prepare his defence.

After this period, taking into consideration the member's defence, the Management Committee shall initiate an administrative inquiry and take a decision on its findings within 15 days. The said member shall have 10 days to file an appeal against the proposed expulsion with Supervisory Committee, which will take this appeal to a General Meeting.

### 18. PAYMENT RESULTING FROM CESSATION OF MEMBERSHIP

A member who withdraws or is expelled by a General Meeting shall be repaid the following amounts after deduction on any debts owed by him to the society as a borrower, endorser, and guarantor or otherwise:



- The nominal or book value of his deposits whichever is less
- Any bonus, dividend or interest if any, due to him at the date which membership ceases

## 19. FUNDS OF THE SOCIETY

The funds of the society shall consist of:

- An entrance fee or any other fee as may be approved by the committee payable on admission
- An undetermined number of shares
- Members' deposits
- A 20% Statutory Reserve fund and any other fund established by the General Meetings (see by-law 27).
- Surplus funds resulting from the operations of the society
- Funds obtained from any lawful sources like grants from Non-Governmental Organizations and other donors or loans from financial institutions, members or non-members.
- 10% cash reserve on deposits
- (a), (b) and (c) are subject to changes as management may decide from time to time with approval of General Meeting

## 20. APPLICATION OF FUNDS

The funds of the society shall be applied for the promotion of the stated objects and purposes of the society set forth in these By-laws and in the applicable law.

## 21. INVESTMENTS OF SOCIETY FUNDS

The society may invest or deposit its funds not in immediate need in:

- Post Office Saving Bank
- Investments and Securities Quoted in Nairobi Stock Exchange

- Shares of other Cooperative societies
- Unit Trusts.
- Treasury Bills or Bonds

## 22. SHARES

The shareholding of a member who fails to complete the payment of the minimum

qualifying shares shall be refunded after giving such member one month's notice unless the member reactivates his shareholding.

No member shall hold more than twenty percent of the total shares at any given time.

## 23. TRANSFER OF SHARES

Within the approval of the Management Committee, a member may at any time transfer his shares to another member or next of kin but not to a non-member. Such transfer must be in writing and shall be at nominal value.

All transfers of shares, either from a member to another member or from a deceased member to his nominee must be registered with the Secretary and no transfer shall be valid unless so registered. The society shall charge a certain fee to cover such transactions.

## 24. MEMBER'S LIABILITY

The liability of a member shall be limited to the nominal value of the Shares held by him in the society.

In the event of a liquidation, where available funds are insufficient to pay the full nominal value of the Shares/deposits held by the member, the funds shall be distributed par passu and pro rata among the share holders according to the Shares/deposit held by each member.

## **25. POWER TO BORROW**

The loan shall be obtained from the members and non-members subject to the terms and the maximum endorsed and approved by the General Meeting.

The maximum liability fixed shall be subject to the approval of the Commissioner who may at any time reduce it or impose such conditions as he may deem necessary.

For better securing of any loan accepted by the society under paragraph (25a) of this By-law, the society may grant a charge over its assets and over the Shares held in financial institutions or building owned by the society on behalf of the members in accordance with these by-laws. Granting of such charge shall be subject to a special resolution by a general meeting.

## **26. RATE OF INTEREST**

The rate of interest on deposits or loans shall be determined by the Management Committee subject to approval by the Annual General Meeting.

## **27. RECEIPTING FOR MONEY**

Members shall be provided with a receipt by the society, which shall serve as a confirmation of each and every transaction processed between the member and the society.

## **28. STATUTORY RESERVE FUND**

The society shall maintain a statutory reserve fund in pursuance of the provisions of the applicable law. The Reserve shall be credited with at least 20% of the net surplus of each financial year. Such a fund shall be invested or deposited in a manner as prescribed in section 45 of the Act.

No withdrawal shall be made from the reserve fund without the consent in writing of the Commissioner and such withdrawals

shall be made good from net available surplus resulting from operations of the society during subsequent financial years.

The reserve fund shall be indivisible and no member shall claim a specific share of it.

The reserve fund shall be kept in a separate account to be known as reserve fund account.

The society shall cause an annual audit for the reserve fund.

## **29. GENERAL MEETINGS**

The Supreme Authority shall be vested in the General Meeting of the members. Such meetings shall be held as follows:

The Annual General Meeting shall be held within four months of the close of society's year and within four weeks of receiving the registered final accounts from the Commissioner.

Special General Meeting shall be held

- i) When convened by management committee or the commissioner in accordance with the provisions of the Act and Rules.
- ii) Within 15 days of receipt of a written demand from at least 50% of the active members stating the objects and reasons of calling the meetings.
- iii) If the committee fails to convene a meeting within 15 days of receiving the notice under sub-section (b)(ii) above, the members demanding the meeting may themselves convene the meeting by giving notice to other members of the society, stating the objects and reasons for the meeting and the fact that the committee has failed to convene the meeting.

### 30. QUORUM

- a) Except when convened by the Commissioner, the presence of at least  $\frac{1}{4}$  (quarter) of the active member of members or fifty members whichever is less shall constitute a quorum for the conduct of business at a General Meeting.
- b) When quorum is not attained within one hour from the time appointed for the start of the meeting, the chairman shall adjourn the meeting and fix a date within one month of the adjourned meeting, which shall be duly advertised. If at such subsequent meeting a quorum is again not present the chairman shall declare the meeting open, and proceed with the business of the meeting with those present, half an hour after the advertised starting time of the meeting.

### 31. DUTIES OF ANNUAL GENERAL MEETING

The General Meeting of the members shall be conducted and shall have the power and duties as prescribed in the Rules and By-laws to:

Consider and confirm the Minutes of the last Annual General Meeting (AGM) and of any other intervening Special General Meetings (SGM).

- Consider the auditor's report on accounts and balance sheet, the inspection reports of the commissioner and the reports of the committee on the business of the society during the past financial year
- Appoint the auditors for the ensuing financial year
- Subject to these by-laws, decide the disposal of the net surplus resulting from the operation of the society during the past financial year
- Ratify action taken by the committee and give direction to the new committee where necessary

- Consider appeals against the suspension of members and refusal of membership by the management committee
- Elect, suspend or remove members of the management committee and other committees
- Fix the maximum borrowing powers or liability which the society may incur in loans and deposits, whether from members or non-members
- Approve the income and expenditure estimates/budget for the ensuing financial year following the Annual General Meeting
- Approve the honorarium, if any, for current and retiring officers of the society
- To fix or to renew the indemnity amount required for each elected official
- Transact any other business for which notice has been given in the manner prescribed in these by-laws

### 32. MINUTES

All business discussed at General meeting shall be recorded in a Minute book which, within one week of the meeting, shall be signed by the chairman of the meeting and at least one other committee member who was present at the meeting, to verify that in their opinion the Minutes are true and complete record of all matters after approving any alterations or variation which shall be written immediately below the above signatures and not as alterations or variation which shall be written immediately below the above signatures and not as alterations or variation which shall be written immediately below the above signatures and not as alterations to the original records.

The members shall, by resolution in the subsequent meeting, authorize the chairman to sign and date the final record.

### 33. RESOLUTIONS

Every member present at the general meeting shall have only one vote on any resolution put to vote. Ordinary resolution shall be decided by simple majority vote. However, special resolution shall be passed by a minimum of two thirds (2/3) of the members present and voting at a General Meeting.

The chairman of the General Meeting shall declare whether a resolution put to vote has been carried or lost and shall cause an entry to that effect to be made in the Minute book of the society and such entry when signed by him shall be conclusive evidence of the resolution put to vote.

In the event of votes on any resolution being equal, it shall be deferred to the next General Meeting at which it will be put to vote again to members present at such meeting.

The Chairman of a meeting shall not have a casting vote but just a deliberative vote.

### 34. MANAGEMENT COMMITTEE

The management committee shall be elected and from the membership of the society and shall consist of at least five members and not more than nine members. The management committee shall include the Chairman, Vice-Chairman, Treasurer and Secretary, all of whom will be elected by the Committee from amongst the members of the Committee.

### 35. ELIGIBILITY INTO THE COMMITTEE

No member shall be elected into the Management Committee:

- Unless he has been a member of the society for at least the immediate six months preceding the Annual General Meeting and is a member in good standing
- If he is currently delinquent in his loans for 30 days or more on his loan within the six months period prior to the elections, or

has any uncleared debt to the society at the end of the society's financial year

- If he is not current with the required contributions to the society.
- If he does not meet the required minimum qualification standards as established by the society from time to time
- If he has a record of lending money on his own account, or acts in any other manner which is detrimental to the wellbeing of the society
- If he is under 21 years of age
- If he receives any remuneration, salary or other payments from the society save in accordance with the Act
- If he is undischarged bankrupt or is of unsound mind
- If the commissioner or his representative in an inquiry report had adversely named him and the report adapted by the General Meeting
- If has been convicted of any offence involving dishonesty or has been imprisoned for three months or more
- If he has been convicted of any offence under the Act, and Rules made thereunder
- If he is not able to read, write and understand English language and has no working knowledge of Kiswahili
- If he is a committee member in two other cooperative societies
- If he runs a business which is in competition with the society
- If he has not, within 30 days of being appointed, declared his wealth to the Commissioner in the prescribed manner (This is an annual exercise)
- If he is not, within 14 days of being appointed, filed an indemnity in the format prescribed in cooperative societies rules (refer to By-law 40).

- Is a person whom any amount of money is due under a decree or order or is pending recovery under the Act.

### **36. TENURE OF OFFICE**

The tenure of office of the management committee shall be three years. No member shall be elected to a committee for more than two consecutive terms.

### **37. COMMITTEE MEETINGS**

Management Committee meetings shall be held at least once every month and at other times when necessary. A simple majority shall form a quorum for disposal of business.

Where a member of the management committee fails to attend three consecutive meetings without any reasonable apology or otherwise fails to perform his duties, his position may be declared vacant and the vacancy filled as provided for in these By-laws.

If during its term of office a vacancy occurs in the management committee, the committee shall, if the number of members drops below five, co-opt any member to fill such vacancy. Such co-opted member shall serve in the management committee until the next General Meeting at which the position shall be duly filled.

### **38. REMOVAL OF COMMITTEE**

If a special General Meeting removes from a committee member, it shall forthwith elect another qualified member of the society to fill the vacancy. Such an elected committee member shall assume and hold office until the next Annual General Meeting at which the position shall be duly filled. A member of committee shall only be removed from office through a special resolution.

### **39. ELECTIONS**

Election of Management Committee members shall be conducted at a general meetings at which such elections are scheduled.

The presiding officer shall call for nominations from the floor at the general meeting and members thus nominated shall be voted upon, except if a nominee declines.

### **40. ELECTION PROCEDURES**

- All elections shall be by show of member's hands unless the majority of members present specifically request for secret ballot.
- No member shall be entitled to vote by proxy, but a member can be elected if preferred by a majority of members in absentia.
- Irrespective of the number of shares held by him, no member shall have more than one vote.
- The presiding officer shall announce the election results immediately.
- Within seven days of these elections, the Secretary shall forward the names and addresses of all persons elected to office to the Commissioner.

### **41. INDEMNITY**

In the conduct of the affairs of the society, members of the management committee and the manager shall exercise prudence and diligence in the course of business and they may be held jointly and severally responsible for an losses sustained through any of their acts, or failure to act, which are contrary to the Act, Rules and by-laws or the directions of the general meeting.

Every committee member and supervisory committee member shall in pursuant to the Act, file an indemnity in form V set out in the schedule to the Rules whose amount shall be determined by the general meeting and which shall be lodged with the commissioner within 14 days of his election to the committee.

A committee member who fails to comply with the requirement of this by-law shall automatically cease to be a member of the committee.

The management committee may decide the amount and kind of surety bond, or other security which shall be required of the officers having the custody or handling funds or properties of the society.

#### **42. DELEGATION**

The management committee may delegate in writing to an officer or an agent of the society such of its duties as it deems necessary but this delegation shall not absolve the Management Committee from its responsibility of running in the society in a proper and business like manner.

#### **43. LEGAL STANDARD OF CARE**

In the conduct of the affairs of the society, the management committee shall at all times exercise the prudence and diligence of ordinary men of business, and shall be held jointly and severally liable for any losses sustained through any of their acts which are contrary to the Acts, Rules and these By-Laws or the directions of the General Meeting.

#### **44. AUTHORIZATION OF EXPENDITURE**

For each financial year, the committee shall cause to be prepared estimates of society's income and expenditure including recurrent and capital estimates for approval by the General Meeting at least three months before the end of the preceding year. The management committee shall authorize no expenditure unless provided for in the estimates (Budget).

#### **45. RECORDS OF BUSINESS**

All business or decided at the Management Committee meetings shall be recorded in a Minutes Book which within one week of the meetings shall be signed by the Chairman of the meeting, and at least one other Committee member present at the meetings to verify that matters discussed are a true and complete record of the proceedings.

At the next meeting, after approving any alterations or variations, which shall be written immediately below the above signatures and not as alterations to the original records, the meeting shall authorize the Chairman to sign and date the final record.

#### **46. CONFIDENTIALITY**

The executive Officers, members of the committee and employees of the society shall hold in the strictest confidence all the transactions with its members and all information on respect of member's personal affairs, except to the extent deemed necessary by the Management Committee in connection with the making of loans and the collection thereof.

#### **47. DUTIES OF THE MANAGEMENT COMMITTEE**

The Management Committee shall be the governing authority and subject to any directions from the General Meeting and the By-laws of the society, it shall direct the affairs of the society.

In particular it shall:

- Observe in all its activities the Act, the Rules and these By-Laws and undertake prudent business practices in the management of the society
- Authorize borrowing and lending operations of the society in accordance with the Act and the Rules
- Act upon all applications for membership

- Ensure that true and accurate records and accounts are kept of the society's money, properties, capital, reserves, liabilities and income expenditure
- Lay before the Annual General Meeting a balance sheet and final accounts, together with proposals for the disposal of the surplus if any
- Recommend to the Annual General Meeting the rate of dividend, interest on deposits or Honorarium to be paid to the members the Committee and the staff
- Fill the vacancies occurring in the Management Committee and other sub-committees between Annual General Meetings
- Designate a depository for the funds of the society
- Impose fines under these By-laws
- Issue new Shares and approve transfer of Shares between members
- Determine the interest rates that shall be paid on deposits and borrowed money
- Appoint, suspend or dismiss any employee of the society and supervise their work subject to the requirements and provisions of the Act
- Regulate matters regarding investment
- Apply on the instruction of the General Meeting for affiliation to a Cooperative Union or National Cooperative Organization and take necessary action to become affiliated
- Consider application for loans, suggestions for investment and act in accordance with the By-laws
- Elect delegate(s) to represent the society in cooperative Union, National Cooperative Organization or in other apex societies, to which the society is a member
- With the consent of the General meeting make, revoke and alter from time to time and at all times enforce such regulation, terms and conditions relating to tenants of the society
- To collect rents, repayments, instalments and interests on loans from tenants, members and other purchasers
- To represent or cause to represent the society in all legal matters
- Perform such other duties as the members may from time to time direct

#### **48. EXECUTIVE OFFICERS**

The Chairman, Vice-Chairman, Treasurer and Secretary shall be termed "Executive Officers". The executive officers shall be elected either on the day of the General Meeting or at a Management Committee held within seven days after the General Meeting in accordance with these By-laws.

#### **49. CHAIRMAN/VICE-CHAIRMAN**

The power and duty of the chairperson shall be to:

- Convene all the meetings of the society
- Prepare or cause to be prepared the agenda of the meetings
- Chair the meetings and control the business to be transacted at such meetings
- Direct the affairs of the society in conjunction with other elected officials
- Enforce all rules made by the committee and the General meetings
- In the absence of the chairman, the vice-chairman shall perform the duties of the chairman
- In absence of both the chairman and his vice, the meeting shall appoint one of the members to chair that day's meeting



## **50. TREASURER**

The duties of the Treasurer shall include:

- Generally to manage or cause to be managed the financial affairs of the society on a competent manner
- To maintain full and complete records of all monies received and disbursed by the society and all assets and liabilities of the society
- To ensure the safe keeping of the society's money and security of all accountable documents and books of account
- To ensure that all payments and expenditures are fully authorized and enforce all Rules regarding good financial Management and practices as ordered by the Committee
- To ensure compliance with all directives of the Management Committee and the Commissioner
- Within 15 days after the close of each month, the Treasurer shall prepare and submit to the Management Committee a financial statement showing the condition of the society at the end of each month. He shall prepare and forward to the commissioner such financial reports as the commissioner may require.

## **51. SECRETARY**

The duties of the Secretary shall be:

- To record Minutes of the Management Committee and the General Meetings
- To ensure that the society's correspondence is promptly and correctly attended to
- To prepare and send notices of meetings in consultation with the chairman
- Generally to manage and cause to be managed the affairs of the society as may be necessary in consultation with the executive officers

## **52. SUB-COMMITTEES**

The management committee may appoint other sub-committees such as education sub-committees, investment sub-committees, credit sub-committees and so on. Members in such sub-committees shall be drawn from the management committee and no executive officer shall be elected into the credit sub-committee.

## **53. INVESTMENTS SUB-COMMITTEE**

The investment sub-committee shall consist of three members who shall be members of the Management Committee but none of whom shall be Executive Officers. The management Committee shall choose the investments sub-committee within seven days after each General Meeting.

## **54. MEETINGS OF INVESTMENTS SUB-COMMITTEE**

The investment sub-committee shall hold such meetings as the business of the society may reasonably require, but not less frequently than once a month. The Minutes of the investments Sub-Committee shall be presented to the full Management Committee for adoption.

## **55. DUTIES OF INVESTMENTS SUB-COMMITTEE**

- The Investments sub-committee shall carry out market research on the most lucrative plots to purchase or the most profitable securities to invest in with a view of advising the management committee.
- The investments sub-committee must prepare Minutes of its meetings indicating clearly their recommendations, relations or any Action taken by them for ratification by the Management committee.

- The investments Sub-Committee shall make such reports to the Management Committee as they may require and prepare a report to be incorporated in the Chairman's report for presentation to the Annual General Meeting.

## **56. EDUCATION SUB-COMMITTEE**

The education Sub-Committee shall consist of not more than three members of the Management Committee. Members of the Management Committee shall choose the Education Committees within seven (7) days after the Annual General Meeting.

## **57. MEETINGS OF EDUCATION SUB-COMMITTEE**

The Education Sub-Committee shall hold such meetings as the business of the society may require.

The Vice-Chairman of the Management Committee shall be the Chairman of the Education Committee.

## **58. DUTIES OF EDUCATION SUB-COMMITTEE**

The Education Sub-Committee shall be charged with the responsibility of formulating education policies and coordinating all education programmes for the society members and staff on behalf of the Management Committee.

The education Sub-Committee shall keep permanent Minutes of its meetings. The Education Sub-Committee shall make such reports and present Minutes of their meetings to the Management Committee for adoption and make a report for incorporation into the Chairman's reports to the members at the Annual General Meeting.

## **59. THE MANAGER/EMPLOYEES**

The society may appoint any qualified person to be Manager of the society. His powers and duties shall be assigned to him by the Management Committee and shall in particular b to:

- manage the affairs of the society in a competent manner in consultations with the executive officers
- keep or cause to be kept proper books of records and Registers.attend Committee meetings and General Meetings in an advisory capacity but have no voting rights. prepare and analyze on a quarterly basis the society's business plan and budget, in comparison with actual performance. represent the society in business transactions and any other transactions as authorized by the management Committee.provide all information required by the Supervisory Committee in time.
- propose to the Management Committee new position arising at the society and the revision of the salary schedule for all society's staff.implement recommendations set forth in the audit report and those recommended by the supervisory Committee. produce monthly trial balances and ensure on a monthly basis the accounting records are in balances and the individual accounts subsidence are up to date, and the income and expenditure statement, balance sheet and delinquency lists are complete and correct.
- ensure that books of accounts are maintained in accordance with the internationally accepted accounting principles and standards.
- assist the management committee in determining acceptable types of collateral that can be used to secure loans.
- ensure there is adequate liquidity to meet demands.

- maintain and provide safe custody of society's books, accounts, registers certificates, society seal, chequebooks and other accountable documents.
- counter sign the society's cheques, contracts and other documents.

b) The committee may appoint one or more deputy managers. If appointed, the deputy manager shall, in the absence of the manager or in case of vacancy in the office of the manager, perform the duties of the manager and such other duties as from time to time be prescribed by the Management Committee.

The committee may hire and discharge the employees of the society in accordance with terms and conditions of service approved by the commissioner.

## 60. SUPERVISORY COMMITTEE

Without interfering in the administrative functions subjects to its control and supervision, the Supervisory Committee is responsible for society's compliance and internal control oversight. It is responsible for the truth and accuracy of the society financial conditions and should ensure procedures are adequate to safeguard the members and the institutions rights and interest.

This committee shall consist of three members who are not employed by the society or serve on management committee or any other committee of the society.

## 61. ELECTION OF SUPERVISORY COMMITTEE

- The exercise shall be undertaken as per By-law 39
- In addition to all qualifications of management committee (See By-law 34) the supervisory committee members shall be expected to have at least basic accounting knowledge.

- The term of office of the committee shall be three years with one members retiring annually but eligible for re-election.

## 62. SUPERVISORY COMMITTEE POWERS AND DUTIES

The following are the powers and duties of the Supervisory Committee:-

- To ensure that the Management of the society complies with the Act, Rule and the General Meeting resolutions
- To make, or cause to be made at least once every three months, an investigation into the affairs of the society, including an audit of its books
- To present their Annual report to the Management Committee before final presentation to the members at the Annual General Meeting for adoption and give a quarterly report and make recommendations at each regularly scheduled management committee meeting detailing the activities undertaken by the Committee since the last meeting
- To perform the various internal audits, to evaluate internal operation and controls (policies and procedures) at least once every three months, and make procedural recommendations regarding the internal controls. These recommendations will be submitted in writing to the Management Committee on a quarterly basis
- At the annual General Meeting, give its opinion on the financial statements presented by Managements Committee
- To receive and investigate any complaint or appeal by members concerning the operations of the society
- To ensure trial balances and financial statements, which the Treasurer and the Manager are required to prepare by the end of the month, are ready and presented to the Committee members as required

- The supervisory Committee shall from time to time and not less frequently than once every year cause the statements of accounts of all members to be compared with the records of the Treasure and confirmed to the members. The Committee shall maintain a record of all such verifications
- The Secretary of the Supervisory Committee shall prepare and have custody of the records of all actions taken, including evidence of any audits performed by the Committee
- If need be, the committee shall submit its reports to the Commissioner
- A minute file giving details of proceedings at General Meetings
- A cashbook showing the details of all monies received and all monies expended or paid out by the society
- Ledger containing such accounts as is necessary to properly record the business of the society
- A personal ledger for each member showing his transactions with the society
- Assets (property) register
- A register of loans to members showing in respect of each loan advanced, the loan number, name of borrower, the amount borrowed the purpose of the loan, the due date of repayments and the date repayments were made
- A guarantor's control register showing the guarantor's name, members account number borrower's name, amount of loan guaranteed, date granted loan interest rate and collateral required, date repayments commence and end
- A ledger shoeing deposits and withdrawals by members
- Such other books/records as the committee may decide or the Commissioner may prescribe

### **63. LIABILITY OF SUPERVISORY COMMITTEE**

In spite of its total independence from the society's administrations, the supervisory committee members are jointly liable with the administration for non-performance of duties, whether resulting from lack of supervision or negligence in noticing illegal and fraudulent acts.

### **64. BOOKS OF ACCOUNTS**

The society shall keep up to date and in a proper business like manner such accounts and such books and records as the commissioner may prescribe from time to time. The following books and records shall be kept by the society:

- A register of members showing in respect of each member
- The name, age, date of joining the society as member address and occupation
- The date on which he ceased to be a member
- The name of his nominee(s)
- Minute file giving details of proceedings of the Management Committee, Supervisory Committee and sub-Committees meetings

### **65. ANNUAL ACCOUNTS**

- It shall be the duty of the management committee to cause society's accounts to be audited at least once every financial year. The audited accounts shall be, after submission to the commissioner for registration, be presented for adoption at a General Meeting
- The person to audit shall be appointed at a General Meeting from a list of auditors approved by the Commissioner
- In case of failure by the management to cause society's accounts to be audited within 3 months after the end of the financial year

they shall automatically lose their positions at the next General Meeting and shall not be eligible for re-election for three years unless the Commissioner is satisfied the failure was due to circumstance beyond their control

- Where an auditor is not appointed at an annual General Meeting the Commissioner may appoint a person to fill the vacancy and the remuneration of the person appointed shall be borne by the society
- The society shall cause its audited accounts to be displayed in a conspicuous place at its registered office and branches at least two weeks before the presentation of the accounts to its members at the General Meeting.
- Alternatively, the accounts shall be sent to all members through their last known address.

## **66. INSPECTION OF BOOKS OF ACCOUNTS**

All books of accounts and other records shall at all times be available for inspection to all committee members, the commissioner or his representative. A copy of the cooperative societies Act, the Rules the By-laws, the Registration Certificate and members register shall be available for inspection by any member of the society during the normal working hours.

## **67. CONDUCT OF BUSINESS**

The management Committee may make such Rules, not inconsistent with these By-laws, as they deem necessary for the conduct of the society's business. Any such Rules shall be recorded in the Minute book and shall be posted on the society's notice board; and shall come into force when and as determined by the Committee subject to approval by the General Meeting.

## **68. AUTHORIZATION TO SIGN DOCUMENTS**

Any two holders of the following officers shall sign all documents contracts and cheques on behalf of the society (one of whom shall either be the chairman or the treasurer).

- Chairman
- Vice-chairman
- Treasurer
- Secretary

The manager shall counter sign all documents, contracts and cheques. In case the society has no manager then any other three of the above shall suffice.

## **69. FINANCIAL YEAR**

The financial year of the society shall be from 1st January to 31st December subject to the applicable law.

## **70. DISPOSAL OF SURPLUS**

Subject to the Act, the net gain or surplus resulting from the operations of the society during any financial year, shall be disposed as follows:-

- Shall be credited to the Statutory Reserve Fund
- Paying of dividend on share capital at a rate recommended by management and approved by General Meeting on fully paid up Shares
- Paying of interest on deposits to members in proportion of value or business done by them through the society
- Reinvested in the activities of the society
- Contributed to any charitable or educational purpose

- Paying honorarium to both Management Committee and Supervisory Committee members of the society who were in office during the year of surplus as the General Meeting may direct
- Appropriation to any fund established by the society

## 71. LOANS TO MEMBERS

- All loans shall be for the purpose of acquiring land of accommodation and shall be made to members. Such loans shall be adequately secured and guaranteed by at least two members of good standing
- The General Meeting as recommended by the Management Committee shall fix the rate of interest on loans. The rate fixed shall not any time exceed the average prevailing market rates
- All loans shall be applied for on forms provided by the society for the purpose.
- The loan application shall be signed by the member and in each case shall set forth the amount applied for, the purpose for which the loan is desired, the terms of repayment, the collateral of any, and such other information as the Management Committee may require
- The Management Committee may require a member to sign chattels' instrument in a prescribed form if the loan applied for requires further security other than the member's deposits, guarantors and Shares. Such decision shall be made at a full Management Committee meeting on recommendation of the Credit Committee and Manager
- All applications for loans and the reports of the management committee thereon shall be filed as permanent record of the society
- The Committee in the order in which each application is made unless the loan is an

“Emergency Loan” shall consider loan applications

- The Committee may require an applicant to appear before it personally to be interviewed in respect of his application for a loan
- All loans made by the society and all the terms of such loans shall be approved by a majority of the Management Committee
- The loan repayment form shall clearly state the amount of loan, the rate of the interest the terms of repayment and the security
- No loan shall be made to any member in excess of the society's maximum limit or for a period exceeding the one contained in the loan policy

Loans may be granted to executive officers and Committee members of the society provide that:

- The loan complies with the By-laws and is not on terms more favourable than those extended to other borrowers
- The applicant takes no part in the consideration of his application and does not attend the Credit or Management Committee meeting at which his application is being considered
- The society shall prepare a loan policy to act as a guide in loan issuing. This policy shall be regularly updated and approved by the General Meeting

## 72. SECURITY FOR LOAN

- The committee shall ask for such security for loan, as it may consider necessary. The Shares, guarantors or deposits of a member may be taken as security
- In the event that a borrower is delinquent for a month the committee will give him a warning letter with a copy to the guarantors

- Where he is delinquent for two months, he will get a second letter with copies to guarantors warning him that if he has not corrected the situation at the end of the third month it would be recovered from his guarantors his deposits or Shares or all of them
- Within the limits of loan policy, the Committee shall determine the security required for each loan. The security furnished shall be consistent with the applicable law and sound lending policies
- The committee may refuse to accept as a guarantor a person who himself is in receipt of a loan or does not qualify as guarantor according to the society's policy. The society reserves the right to refuse to grant a loan to a member while he remains liable as a guarantor
- A borrower or guarantor may apply to the Management Committee for a change of guarantor(s)

### 73. DIVIDENDS

The management Committee shall establish the dividend period, the rate and mode of payment in accordance with applicable law. The Management Committee may classify share and deposit accounts, and may declare Dividends at variable rates for each type of account. Dividends due to a member shall be credited to the member's account in paid in cash, at the option of the Committee and subject to approval by the General Meeting.

All honorariums payable to the members of the Management Committee will be approved by the AGM. The rates of honorarium shall be reviewed from time to time by the General Meeting to adequately reflect the operation rate.

### 74. REPAYMENTS OF LOANS

A borrower may of any day on which the society is open for business, repay his

A request for an extension of time in which to pay and any fees or conditions thereto shall be recommended by and approved by the Management Committee only in the most exceptional circumstances. Any extension so granted shall be executed and signed. The guarantors of such loans should be notified and their approval shall be mandatory.

At every regular meeting of the Management Committee, the item "Loans" shall appear on the agenda. At the meeting, the Treasure shall present a list of delinquent loans showing:

- Name of borrower
- Account Number
- Date of loan granting
- Date of last payment
- Unpaid balance of loan and loan accrued thereto.
- Number of month's delinquent
- Borrower's share balance
- Security, guarantors

The Management Committee shall take Action to collect the overdue accounts.

### 75. FINES

For each breach of these By-laws or of instructions issued by the committee, in pursuance of General Meeting resolutions the defaulting member may be defined an amount not exceeding Kshs 20,000 for each offence or Kshs 10,000 for every day the offence continues.



**76. DISPUTES**

- a) Any disputes arising by the By-laws or concerning the business of the society that cannot be settled amicably by the committee or General Meeting shall be referred to the tribunal.
- b) For the purpose of this By-law, a debt owed by a member to the society or vice- versa, shall be regarded as a dispute.

**77. MISCELLANEOUS**

No officers or members shall receive from the society any payment except the actual costs of travelling and subsistence while working on the society's business except an honorarium from surplus as allowed in these By-law unless a member is appointed in writing as a paid servant of the society. This does not apply in case of sitting allowance payable to Committee members.

**78. CONFLICT OF INTEREST**

No committee member or employee of the society shall in any manner participate in deliberations upon or determinations of any issues affecting his personal interest. The Committee member or employee shall physically absent himself from the discussion, unless it is determined that the individual has relevant information to provide. Failure to declare interest shall result in removal; from office or termination of employment.

**79. SEAL**

The seal of the society may be a rubber stamp bearing the words "Seal of " The seal shall be kept securely under lock and key by the Treasurer and shall be used only in the presence of at least three Officers authorized to sign on behalf of the society under these By-laws who shall each witness the placement of the seal.

**80. DISSOLUTION**

The society may be dissolution in accordance with the procedures set forth in the Cooperative Societies Act.

**81. AMENDMENT OF BY-LAWS.**

These By-laws shall be amended in accordance with Act and the Rules but no amendment shall become effective until its approved and registered by the Commissioner. A copy of societies By-laws shall be furnished to every member upon payment of a fee as will be determined by management committee.

**82. ACCEPTANCE**

We the undersign Executive Officers of the Cooperative Society named herein do hereby accept and adopt these By-laws and on behalf of...Housing Cooperative Society Ltd together with any changes or alterations that have been initiated or signed by us.

Name

Signature

## APPENDIX III SACCO BY-LAWS

### 1. Name

The name of the Union shall be “Kenya Union of Savings and Credit Cooperatives Limited” (herein referred to as “The Union”)

“The Registrar” means the Registrar of Cooperative Societies.

“The Union” means the Kenya Union of Savings and Credit Cooperatives Limited

### 2. Area of Operation

The Union’s area of operation shall be within the Republic of Kenya.

“Tribunal” means the Cooperative Tribunal established under Section 77 of the Cooperative Societies Act No. 12 of 1997.

### 3. Registered Office and Postal Address

The registered office of the Union shall be at Nairobi and its address shall be P.O. Box 28403,00200 NAIROBI

### 5. Vision and Mission

The vision of KUSCCO Limited is:

To be a leading Umbrella Organization of Savings and Credit Cooperatives in Kenya providing market driven products and services that are bought and used by all SACCOs in the country,

To have high qualified management staff providing effective, timely and affordable products and services with good returns to members, and

iii. To be perceived by its members and the public at large, as the leader in all its core business areas.

The mission of KUSCCO is to promote and develop SACCOs in Kenya by providing unique and diversified quality products and services that are capable of promoting the economic interests and general welfare of their members in accordance with the Cooperative Principles in a changing environment.

### 4. Definitions and Interpretations

In these By-laws, unless the context otherwise requires, words or phrases shall be defined or interpreted in accordance with the Cooperative Societies Act, No. 12 of 1997 and the Cooperative Societies Rules LN. No. 157/98, hereafter referred to as “the Act” and “the Rules” respectively and which term shall include their subsequent amendments.

- “Commissioner” means the Commissioner for Cooperative Development
- “General Meeting” means Delegates Meeting “KUSCCO” means the Kenya Union of Savings and Credit Cooperatives Limited

“Member” shall mean any savings and Credit Cooperative Society Limited that has been duly registered and accepted into Union membership “SACCO” means Savings and Credit Cooperative Society

## 6. Objectives

The objects of the Union are: To foster and promote the organization growth and development of Savings and Credit Cooperative Societies that are capable of promoting the economic interests and general welfare of their members in accordance with cooperative principles To develop and maintain the best possible public relations with the general public, the Government of Kenya, the private business sector, trade unions, voluntary organizations, national and international cooperative organizations

To enable savings and credit cooperative societies for the time being and from time to time registered under Cooperative Societies Act to co-operate as members of the Union, and to act as the principal local and international representative and mouth-piece of all such societies To promote among savings and credit societies and their officials, employees and members, a common code of ethics and practices based on cooperative principles

To advice and protect members against adverse legislation and/or restrictions To disseminate information concerning savings and credit societies and co-ordinate their operating methods and practices, to ensure uniformity in book-keeping and to foster education and training of members, officials and employees of the societies which are its members and potential members

To help improve the internal management of Savings and Credit Societies by providing a standardized management system and internal audit system To establish a Central Finance facility for inter-lending among its members To establish branches of the Union at District and Provincial Level To introduce new products and services, such as the Front Office Service Activity, that are of benefit to member societies after appropriate market surveys and feasibility studies

To arrange for a system to protect savings and credit societies funds against contemplated loss and provide such other services as are of mutual advantage to the Union savings and credit societies, and their members To establish a regulatory mechanism, performance standards and corporate governance practices for savings and credit cooperatives

- m) To co-operate and collaborate with all other Cooperative organizations within and outside the Republic of Kenya, towards the furtherance of Cooperative goals

For the attainment of the above objects the Union shall have the power, with the approval of members at the General Meeting either specifically or generally, to do all acts and things that are permissible under the Act, the Rules and these by-laws

## 7. Cooperative Principles

The Union shall be guided in all its practices by the following cooperative principles:-

- a) Voluntary and open membership
- b) Democratic members control
- c) Economic participation by members
- d) Autonomy and independence
- e) Education, Training and Information
- f) Co-operation among Cooperatives
- g) Concern for Community

## 8. Qualifications for Membership and Admission of Members

- a) The membership of the Union shall consist of:-
  - i. Registered Savings and Credit Cooperative Societies which joined in the application for the registration of the Union and

- ii. Every other savings and credit cooperative society subsequently admitted to membership in accordance with the provisions of these by-laws.
- b) A registered Savings and Credit Cooperative Society desiring to become a member of the union shall make an application for membership by submitting to the directors:-
  - i. A certified copy of the resolution passed at a General Meeting of the society authorizing the application for the Union membership.
  - ii. Payment for at least one hundred Union shares, payment of affiliation fees and payment of the annual subscription for the current year. Provided that a payment for thirty shares, may be paid in the first instance and the balance within one year of membership.
  - iii. A certified copy of the Registration Certificate.
- c) All applications for Union membership shall be approved by the Union's General Meeting.

## 9. Annual Subscription

Each member shall pay to the Union, within the first three months of each year, annual subscription in accordance with the rate or formula set by members at the last Annual General meeting of the Union. The Board of Directors may from time to time set out penalties for defaulting SACCO Societies, provided that such penalties shall be within the limits approved by the Annual General Meeting.

## 10. Raising of Funds

The funds of the Union shall consist of:

- i. Sale of an undetermined number of shares of Kshs. 100.00 each issued by the Union from time to time
- ii. Affiliation fee of Kshs. 1,000.00 (or such other sum as may be notified by the Union from time to time), paid by each society on admission to Union membership
- iii. Annual subscription by members as may be determined by the Board of Directors.
- iv. Loans from Banks or any other financial institutions
- v. Income derived from services rendered to or on behalf of members
- vi. Income from investments of the Union
- vii. Grants from the Kenya Government or any other organization
- viii. Any other sources consistent with these by-laws

## 11. Financial Year

The financial year of the Union shall commence on 1st January and shall end on 31st December of each year.

## 12. Financial Plan

The Board of Directors shall submit to the Annual General Meeting of the Union proposed financial plan of income and expenditure for the ensuing financial year and the Capital Expenditure Budget.

## 13. Application of Funds

The funds accruing to or obtained by the Union in the course of its business shall be applied or devoted only to the promotion of the stated objects of the Union, the running of the Union and such other purposes as are set in the Cooperative Societies Act and Rules made thereunder and these by-laws.

#### 14. Disposal of Accumulated Funds and Surplus

- a) The Union in General Meeting shall decide the manner in which the Union's accumulated funds or part thereof shall be disposed of.
- b) Where the Union derives a surplus from its transactions during a financial year, it shall open and maintain an account to be called the reserve fund account, to which shall be carried such portion of the net surplus in each year as may be prescribed under the Cooperative Societies Rules or by the Union in a General Meeting.
- c) The net balance of each year's surplus or any portion thereof may be set aside by the directors to be employed in the business of the Union or be invested in such investment (other than shares of the Union) as the directors may from time to time deem fit. The directors may also without investing the same carry forward the said net balance if they deem it prudent not to divide the same.
- d) The Union in General Meeting may declare dividends to be paid out of the net balance of each year's surplus, but no dividend shall exceed the amount recommended by the directors.
- e) All dividends shall be declared and paid according to the amounts paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of these by-laws as paid on the share. All dividends shall be apportioned and paid proportionally to the amounts paid or credited as paid on shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividends as from a particular date such share shall rank for dividend accordingly.
- f) The directors may deduct from any dividend payable to any member all sums of money (if any) presently payable by it to the Union on account of calls or otherwise in relation to the shares of the Union.
- g) Any dividend, interest or any other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder. Every such cheque or warrant shall be made payable to the order of the society to which it is sent.
- h) No dividend shall bear interest against the Union.
- i) The Union in a general meeting may declare all bonuses due to members to be paid out of the net balance of each year's surplus, either in lieu of or in addition to any dividends payable or to be paid by the Union.
- j) Any General Meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock or in any one or more of such ways and the directors shall give effect to such resolutions.
- k) The Union in a General Meeting may decide to approve the payment of gratuity or honorarium to retiring employees with a good performance record or Directors of the Union.
- l) The Union in a General Meeting may direct that an amount not exceeding ten per cent of the net balance of each year's surplus shall be applied to any charitable or harambee purposes.

## 15. Withdrawal and Expulsion of Members

- a) A member intending to withdraw from the Union shall give six months written notice of such intention to the Union Directors. The notice shall be signed by the Executive Committee of the withdrawing member and shall be accompanied by a copy of a resolution passed at a General Meeting, certified by members present at the meeting of such a member sanctioning the proposed withdrawal provided that the withdrawal shall not be sanctioned until the full indebtedness of such a member has been cleared.
- b) The Directors shall refer the notice to the Union General Meeting which may, if the member is not indebted to the Union accept the notice.
- c) A member whose notice of withdrawal has been accepted by the Union's General Meeting shall cease to be a member of the Union at the end of the Financial Year of the Union during which the notice is given, and shall be repaid the nominal value of its shares held in the Union within two years from the date of withdrawal from membership.
- d) A member may be expelled by the Union in a General Meeting from the Union for persistent breaches of the Union By-laws in respect of which imposition of a fine under the Cooperative Societies Act would not be an adequate remedy. Provided that no member shall be expelled until the reasons for the purposes of expulsion have been fully set out in writing and given to the member, and the member has been given an opportunity of defending itself.
- e) Any member which alters its by-laws in such a way that they no longer include the promotion of Cooperative Savings and Credit business shall cease to be a member of the Union from the date the alteration comes into effect, but shall remain liable to

the Union in respect of any sums owing to the Union on that date as if it were still a member.

- f) Entrance fees and Annual dues are not refundable upon cessation of membership.

## 16. Rights, Liabilities and Obligations of Members

- a) Members of the Union shall enjoy such rights as they may from time to time be entitled to under these by-laws.
- b) The liability of each member shall be limited to the amount, if any, unpaid on the shares held by it in the Union.
- c) Every member shall hold at least one hundred shares each of the values of Ksh. 100/- or of such other values as may be determined by the Union in General Meeting.
- d) Members of the Union shall be under an obligation to abide by the provisions of the Union by-laws as provided for in the Cooperative Societies Act and Rules.

## 17. Transfer of Shares or Other Interest

- a) The shares or other interest of any member in the Union shall be moveable property shall be transferable by any instrument in writing in any usual or common form or any other form which the directors may approve.
- b) The instrument of transfer or any share shall be executed on behalf of the transferor by its authorized officers, and shall be delivered to the Union for registration, and the transferee shall be deemed to remain a member until the transfer has been entered in the register of members in respect thereof.

- c) Subject to the Act, the Rules and these by-laws, any member may transfer all or any of its shares to any SACCO upon approval by the directors.
- d) The directors may also decline to register the transfer of a share on which the Union has a lien.
- e) The directors may also decline to recognize any instrument of transfer unless:-
  - i. Such fee as the directors may from time to time require for registration is paid to the Union in respect thereof.
  - ii. The instrument of transfer is accompanied by the certificate of shares which the Board of directors may require to show the authority of the persons who executed the instrument of transfer and,
  - iii. The instrument of transfer is in respect of only one class of shares.

### **18. KUSCCO Provincial Council**

- a) There shall be a Provincial Council of KUSCCO which shall co-ordinate all KUSCCO activities within the province.
- b) The KUSCCO Provincial Council shall consist of representatives elected by individual SACCO Societies whose area of operation is within the province, and each society shall elect one representative for every 1000 members subject to a maximum of three representatives.
- c) A KUSCCO Provincial Council shall meet at least once every year to conduct such business as may be assigned to it by the Board of Directors.
- d) All representatives to the Provincial Council shall remain representatives as long as they remain members of the Management Committee or elected representatives of their societies to the Provincial Council. If a member of a Provincial Council ceases to be a member of the Management Committee or elected representative of his primary society to the Provincial Council, the relevant KUSCCO member shall elect another representative to replace him.
- e) The names of the representatives to the Provincial Council Meeting shall be submitted to the Regional Manager 7 days before the date of the meeting.

### **19. Functions of the Provincial Council**

- a) The Provincial Council shall consist of the Chairman, the Vice-Chairman elected delegates and representatives elected by the primary societies in accordance with by-law 18.
- b) The Provincial Council shall be the forum for all members of the Union within the province to meet and receive reports, make recommendations and take action as agreed upon by the Union.
- c) The Provincial Council shall elect KUSCCO's National delegates to the Annual Delegates Meeting of the Union in conformity with by-law 22. Provided that a representative shall not be eligible to be elected as a delegate if the relevant KUSCCO members do not either patronize the Union services or has not prescribed the minimum required shareholding or not paid the Annual subscription fees.
- d) The elected delegates shall elect a Chairman and Vice-Chairman from amongst themselves. The elected Chairman shall be the chairman of the Provincial Council and the Union's Director of the province.
- e) All elected delegates to the Provincial Council shall serve for a term of three years, unless transferred from the electoral zone and unable to perform the duties of a delegate.



- f) The elected Provincial Delegates shall work as a team to foster growth and development of the Union in the province under the guidance of the Board of Directors.

## 20. Duties of Provincial Delegates

It shall be the responsibility of a delegate to:-

- a) Attend general meetings when convened, in order to exercise democratic rights of the member societies he represents.
- b) Attend delegates education seminars organized by the Union
- c) Participate in Cooperative activities in the delegate's area of jurisdiction in consultation with the Regional Manager
- d) Market the Union's activities and enhance the corporate image of the Union
- e) Perform such other duties and functions as may be directed by the Board of Directors from time to time

## 21. Duties of the Provincial Office Bearers

### a). Chairman

- i. The Chairman of the Provincial Council shall be a member of the Union's Board of Directors subject to minimum shares subscription by the Province to be determined by the Board of Directors from time to time.
- ii. The Chairman shall convene and preside over all meetings of the Provincial Council and shall perform such other duties as he may from time to time be directed to perform by the Board of Directors of KUSCCO or the Provincial Council.
- iii. He shall be responsible to the Board of Directors for the exposition of KUSCCO's objectives, ideas and aspirations as contained in the Union's by-laws.

- iv. The Provincial Chairman shall inform the National Chairman and the Managing Director his programme while carrying out his duties.

### b). Vice – Chairman

The Vice-Chairman shall be elected by the Provincial Council and shall act on behalf of the Chairman whenever he is absent.

### c). Secretary

- i. The Secretary to the Provincial Council shall be the Union's Regional Manager covering that province.
- ii. Besides his promotional and inspectorate duties, the Regional Manager shall be in charge of KUSCCO's Regional Office and shall ensure:-

- 1) That all office work including maintenance of records and books of accounts of all affiliate societies is done to the satisfaction of the societies, KUSCCO Board of Directors and the Ministry for the time being in charge of Cooperative affairs.
- 2) That all monthly, quarterly and annual reports to the Managing Director of KUSCCO, the Government and the Primary societies are written and dispatched on time.
- 3) That all KUSCCO's assets, such as office furniture and fittings, machinery and other items are properly recorded in stores registers and safeguarded against loss or damage.
- 4) That all branch employees are on duty and engaged during working hours.

- 5) That all activities that require publicity are accorded such publicity.
- 6) That all provincial council meeting minutes are submitted to the Managing Director. The Secretary shall liaise with the Provincial Cooperative Office while carrying out his duties.

## 22. General Meetings

- a) The supreme authority of the Union shall be vested in the General Meeting of the Union which shall be constituted by delegates elected at the Provincial Council Meeting in each province based on the prescribed minimum shares of Kshs. 100.00 per member of their primary societies.

The number of elected delegates will be determined by the number of shares in that province in relation to the total share holding in the Union.

- b) The Union shall have a maximum of 120 delegates who shall serve for a period of three years subject to By-law 18 (d) and 19 (e).
- c) General meetings shall be held as follows:-
  - i. The Annual General Meeting of the Union shall be held not later than six months after the financial year.
  - ii. A special general meeting shall be held:-
    - 1) When convened by the Board of Directors or the Registrar of Cooperative Societies.
    - 2) Within 14 days of receipt of a written request from at least one half of the delegates entitled to attend the Union general meeting.

- iii. In the case of either annual or special general meeting convened by the Board of Directors, the Board of Directors shall determine the date and venue of the meeting.
- iv. At least 15 clear days written notice shall be given of a special general meeting by the Union Managing Director. The notice of a general meeting shall include a statement of the business to be brought before the meeting.
- v. Except when convened by the Registrar of Cooperative Societies, the presence of three-fifth of the delegates shall be necessary for the disposal of business at the general meeting.

When a quorum is not present, the Chairman shall adjourn the meeting, and with the approval of those present, fix a date within one month for an adjourned meeting of which notice shall be given to all delegates. If at such adjourned meeting a quorum is again not present, the Chairman shall declare the meeting open.

- vi. The National Chairman or in his absence, the National Vice-Chairman shall preside at the meeting. In the absence of both, upon a majority vote those present at the meeting shall elect any duly authorized delegate present to preside.
- vii. Each delegate present at the meeting including the National Chairman shall be entitled to one vote only.

## 23. Agenda of the Annual General Meeting

Except when otherwise decided by a majority vote of those present at the Annual General Meeting, the order of business shall be as follows:-

- a) Reading the notice convening the meeting
- b) Adoption of the Agenda

- c) Confirming of the minutes of the previous meeting
- d) Matters arising
- e) Chairman's report
- f) Annual report of the Board of Directors and the report, if any, of the Registrar of Cooperatives.
- g) Consideration of Income and Expenditure Statement
- h) Consideration of Operating and Capital Expenditure Budgets
- i) Determination of the maximum borrowing power
- j) Appointment of Auditors
- k) Disposal of surplus
- l) Resolutions
- m) Elections of the Board of Directors
- n) Any other business

## **24. Resolutions**

Resolutions may be submitted to the general meeting by:-

- a) Any member society in good standing provided that such resolution has been approved by its membership or the Board of Directors.
- b) Any Provincial Council members provided that such a resolution has been regularly approved at a meeting of the particular council.

Any resolution under (a) and (b) above shall be submitted to the Secretary for inclusion in the agenda at least 30 days before the scheduled date of the meeting. Copies of the resolutions shall be distributed to all delegates before or during the meeting.

## **25. Board of Directors**

The Board of Directors of the Union shall consist of a maximum of 13 Directors who shall be the elected Chairman of Provincial Council in each province and a maximum of five Directors elected in accordance with the proportionate shareholding provided that no province shall have more than four Directors. The Commissioner or Registrar or their representative shall be a member of the Board of Directors but shall have no voting rights.

The Board of Directors shall have a Chairman and Vice-Chairman who shall be elected by the Directors from amongst themselves.

## **26. Period of Office of the Board of Directors**

Members of the Board of Directors shall be elected for three years, thereafter one-third will retire annually. They shall be eligible for re-election. Any vacancy in the Board of Directors shall be filled by the Board from the Provincial Delegates through an electoral process.

The National Chairman and National Vice-Chairman shall be elected from amongst the Board members in attendance at the meeting for a term of three years and shall be eligible for re-election.

## **27. Eligibility as a Member of the Board of Directors**

No person shall be eligible for membership of the Board of the Union or remain a member of the Board if:-

- a) He is not a delegate of the Union
- b) He is under twenty one years of age
- c) He receives any remuneration, salary or other payment from the Union save in accordance with the Act

- d) He is an undischarged bankrupt or is of unsound mind
- e) He has been adversely named by the Registrar or representative in an inquiry report endorsed by an Annual or Special General Meeting for mismanagement or corrupt practices whilst still a member of the Management Committee of a Cooperative Society or Union in the last ten years
- f) He has been convicted of any offence involving dishonesty or is imprisoned for three months or more
- g) He has been convicted of any offence under the Act or Rules made thereunder
- h) He has any uncleared debt owing to the Union at the end of the Union's financial year other than in respect of a loan under the provisions of Rule 41 or the relevant by-laws of the Union.
- i) He is unable to provide indemnity worth Kshs. 250,000/- (Two hundred and fifty thousand shillings) within one week of his election.
- j) He is involved in a business of money lending or carrying out activities which are detrimental to the SACCO movement objectives.
- k) He has not been a Union delegate or a representative of his primary society for at least 3 years.
- l) He has not attained Ordinary Level of education or its recognized equivalent.
- m) He does not subscribe to the Code of Ethics for the Board of Directors within one week of his elections or persistently infringes the Code of Ethics.
- n) He represents a SACCO Society that does not patronize either of the Union Services or has not prescribed the minimum required shareholding or not paid the Annual Subscription fees.
- o) He does not conform to the minimum qualification standards established by the Annual General Meeting from time to time.

## 28. Duties of the Board of Directors

- a) Generally to manage the affairs of the Union.
- b) Observe in all its actions the Act, the Rules and these by-laws.
- c) Ensure that true and accurate records are kept for the Union's money, properties, capital reserves, liabilities, income and expenditure.
- d) Lay before the Annual General Meeting a balance sheet and final accounts together with proposals on the surplus and its disposal.
- e) Present a financial plan for the ensuing year for consideration, modification and acceptance by the General Meeting.
- f) Employ and fix the salary of the Managing Director and others who shall serve at the pleasure of the Board of Directors and who may be dismissed by them.
- g) It shall obtain loans for purposes beneficial to the Union and negotiate terms thereon.
- h) Fix rates of interest to be charged on loans and balances made to member societies.
- i) Determine the rate of interest that shall be paid on deposits.
- j) Recommend to the General Meeting the dividend rate per share, not exceeding the maximum permitted by the Cooperative Societies Act.
- k) Authorize affiliation with any local, national or international cooperative organization having similar or related objects and appoint representatives to attend meetings of such organizations.

- l) Perform or authorize actions to be performed consistent with the Act, Rules and these by-laws, unless specially reserved for the general meeting.
- m) Appoint sub-committees from among its members or from among the general meeting to carry out specific or standing functions.
- n) The Directors of the Union shall:
  - i. Ensure that any payment made by cheque has been signed by such officers as the By-laws authorize.
  - ii. Be responsible for the custody of all moneys belonging to the Union and the banking at the earliest opportunity into an approved bank.
  - iii. Make such rules not inconsistent with these by-laws, as they may deem necessary for the conduct of the Union's business.
  - iv. Subject to ratification of the Annual General Meeting, suspend or expel a delegate or Board member who acts in contravention of Rule 30 of the Cooperative Societies Rules or these By-laws
- o) The Directors shall hold regular meetings at which:
  - i. The minutes of its previous meeting shall be considered and confirmed.
  - ii. The accounts, bank books and cash in hand shall be scrutinized and checked and the director's observations thereon recorded in the minutes.
  - iii. Any loans due and owing to the Union shall be considered and any action considered necessary in respect of such loans shall be authorized and recorded in the minutes,
  - iv. Any current business shall be considered.

- v. The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meeting as they deem fit. Questions arising at any meeting shall be decided by a majority of votes. In case of tie of votes the question shall be deferred for consideration at the next meeting.

The Secretary on the request of half of the directors shall call a meeting of the directors after refusal by the Chairman. Provided that the directors calling for the meeting shall be from at least three of the provinces. It shall not be necessary to give notice of a directors' meeting to any director for the time being absent from Kenya.

- vi. The quorum necessary for transaction of the business of the directors shall be half of the total membership of the directors.
- vii. The Chairman shall preside at all the meetings of the directors. In the temporary absence of, or refusal by the Chairman, the Vice-Chairman presides. In the absence of both the Chairman and the Vice Chairman Board members present shall elect one of its members to preside.
- viii. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a directors' meeting, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.
- ix. The Directors shall send annually to the Registrar:-
  - 1. The audited balance sheet of the Union and the annual return in the prescribed form, and
  - 2. An estimate of income and expenditure for the ensuing year.

- x. The Directors shall always keep available for inspection under the Cooperative Societies Act:-

1. The certificate of registration of the Union
2. A copy of the Cooperative Societies Act, Rules and these By-laws
3. A list of Union members and
4. A list of the officers of the Union.

### 29. Legal Standard of Care

In the conduct of the affairs of the Union, the Board of Directors shall exercise prudence and diligence of ordinary men and women of business and shall be held, jointly and severally liable for any losses sustained through any of their acts which is contrary to the Act, Rules and the By-laws of the Union or the directions of any general meeting.

### 30. Delegation to Sub-Committees

The Board of Directors may delegate to the Sub-committees such of its powers and duties under these by-laws as it deems fit and proper.

### 31. Vacation of Office by Directors

- i. A member of the Board of Directors, or any Sub-committee shall cease to hold office if his society ceases to be a member of the Union or by resignation or removal from membership of the Board of Directors or Sub-committee by the Board as provided for by these by-laws.
- ii. Any vacancy so created shall be filled by the Board as provided for under By-law 26.

### 32. Duties of the Executive Board Members

The Executive Board members comprising six Board members shall be responsible for the:-

- a) Administration and integration of personnel policies, procedures, salary review and other staff emoluments.
- b) Handling of staff matters in consultation with the Managing Director and in line with the Union Policy Manual.
- c) Initial study, development and recommendation of new and revised policies to the Directors.
- d) Ensuring of appropriate tendering of the Union products and services requirements.
- e) Discussion and review of monthly cash flow statements including review of financial reports and budgetary control of the Union's expenditure.
- f) Execution of urgent matters requiring immediate policy guidelines or decisions.
- g) Planning and execution of the Board meetings, Provincial Council meetings and the General Meetings.
- h) Advice on formulation of Union policies and procedures relating to Primary Societies, National and International Cooperative and Non-Cooperative Organizations in liaison with the Commissioner for Cooperative Development.
- i) Performing such other duties as may be assigned by the Board of Directors from time to time.

### 33. Duties of the Business Sub-Committee

The Business Sub-Committee shall comprise of seven Board Members and its duties shall include:-

- a) Formulation of sound policies on appropriate business practices for the various Union products and services.
- b) Evaluating the performance of the various departments of the Union and suggesting remedial measures.
- c) Vetting the admissions of new members into the Union and the various services.
- d) Approving new business opportunities and recommending closure of non-viable activities.
- e) Approval, rejection or deferring of Housing Loan applications, Central Finance Programme Loan applications and such other loan disbursements to Primary Societies and their members.
- f) Performing such other duties as may be assigned by the Board of Directors from time to time.

### 34. Appointment of the Managing Director

There shall be a Managing Director appointed by the Board of Directors in accordance with these by-laws. The Managing Director shall attend all general meetings of the Union and the Board of Directors meeting and shall act as secretary to the said meetings. The Managing Director shall have no voting powers interest.

### 35. Duties of the Managing Director

The Managing Director shall be the Chief Executive of the Union and shall be responsible for the day to day operations. In addition to duties customarily performed by a Manager, he shall:-

- a) Ensure that the affairs of the Union are managed in a competent manner
- b) Maintain correct and current account of all receipts, disbursements, assets and liabilities of the Union.
- c) Be custodian of all funds and property belonging to the Union and ensure their safe keeping.
- d) Ensure compliance with all directives of the Board of Directors and Registrar's guidelines.
- e) Recommend to the Board of Directors appointment of such field staff as the budget permits. He shall be responsible for training assignment and supervision of other Union staff, subject to instructions of the Board of Directors.
- f) With the approval of the Board of Directors and subject to budgetary limitations, employ and fix the compensation of such clerical employees as are needed for proper operations of the Union.
- g) Under the supervision of the Board of Directors, he shall make payments from funds of the Union for authorized purposes.
- h) Convene general and board meetings when instructed to do so by the Directors and prepare agenda for the said meeting.
- i) Keep minutes of all general meetings and meetings of the Board of Directors.
- j) Prepare and sign official correspondence of the Union.
- k) Submit to the Board of Directors a quarterly statement showing the financial condition of the Union.
- l) Make a financial report at the Annual General Meeting of the Union
- m) Cause books of accounts to be audited.



- n) Represent the Union locally and abroad on all aspects pertaining to the Management of the Union
- o) Perform such other duties as he may be directed to perform by the Board of Directors from time to time.

### **36. Authorization to Sign Documents**

All documents and contracts of the Union shall be signed by the Chairman, Vice-Chairman or any Executive Board Member and the Managing Director or a designated Officer.

### **37. Conflict of Interest**

Every Board member or employee of the Union shall be required, before taking part in any business transaction which the Union may be about to discuss, or initiate to disclose any personal interest in the matter and shall not take part in any discussion or vote upon that item of business.

The Board member or employee shall physically absent himself/herself from the discussion unless it is determined that the individual has relevant information to provide. Failure to divulge this information shall result in removal from office or termination of employment if proven.

### **38. Confidentiality Oath**

The Board of Directors of the Union shall take oath of office and hold in the strictest confidence all transactions of the Union, with its members, and all information respecting their personal affairs, except to the extent deemed necessary by the Board of Directors in the interest of the Union in connection with the transactions of the particular members.

No Board member shall in any manner participate in the deliberations upon, or determination of any question affecting his own financial or personal interest. In the event

of disqualification of any such Board member, he shall withdraw from such deliberation or determination, and the remaining qualified Board members present at the meeting, if constituting a quorum with the disqualified person, may exercise with respect to the matter, all the powers of the Board.

### **39. Staff Retirement Benefit**

The Union shall form a contributory fund or enter into arrangements to join an existing provident fund in accordance with the Retirements Benefits Authority Regulations, or take out annuity policies for the benefit of its permanent salaried staff.

### **40. Audits**

The Board of Directors shall cause to be made at least one complete audit each year by an auditor recognized under the relevant professional legislation. A report of such audit shall be presented by the Board to the Annual General Meeting of the Union.

The Board of Directors shall accord the auditors access at all times to all money, books, accounts, minutes, papers, and securities of the Union and every officer of the Union shall furnish such information in regard to the transactions and working of the Union as the auditor may require.

### **41. Disputes**

Any disputes arising out of these by-laws or concerning the operation of the Union which cannot be settled by the Board of Directors or the general meeting shall be referred to the Cooperative Tribunal.

A claim by the Union for any debt or demand due to it from a member or a past member, whether such debt or demand is admitted or not is a dispute for the purpose of this section, and may be submitted to the Cooperative Tribunal.

#### **42. Seal of the Union**

The Union may adopt and use a common seal. The seal may be a stamp bearing the words “Kenya Union of Savings and Credit Cooperatives Limited” and shall be different from the ordinary name stamp of the Union.

The seal shall be kept securely under lock and key and shall be used only by and in the presence of the officers authorized to sign documents on behalf of the union.

#### **43. Amendment of By-laws**

These By-laws may be amended only within the framework of the Cooperative Societies Act and the Rules and no amendments shall be effective until it is approved and registered by the Registrar of Cooperatives.

#### **44. Dissolution**

The Union shall be dissolved only in accordance with the procedures prescribed in the Cooperative Societies Act.

#### **45. Acceptance**

Certified that the foregoing by-laws of “Kenya Union of Savings and Credit Cooperatives Limited” has been approved and duly registered.

## APPENDIX IV      GUIDELINES FOR MONITORING THE FORMATION AND REGISTRATION OF HOUSING COOPERATIVES IN KIBERA AND MAVOKO, NAIROBI-KENYA

### MONITORING PROCESS

#### 1.0 Introduction

The following guidelines have been designed as a tool for use in monitoring the formation and registration of housing cooperatives in Kibera and Mavoko.

#### 1.1 The Concept of Forming a Housing Cooperative

- What triggered the idea of forming a housing cooperative?
- Was the concept shared among the potential members and agreed upon?
- Was the location of the proposed cooperative agreed upon?
- Is the concept in harmony with any of the existing laws governing the cooperative societies in Kenya?
- Were the potential members involved in the decision to form this housing cooperative?

#### 1.2 Name of the Housing Cooperative

- Has the proposed name for the cooperative been agreed upon by the members?
- Has it been stated in a short, clear and precise format?
- Does it encompass the cooperative objectives?

#### 1.3 Objectives

##### Main Objective

- Does the main objective state in broad terms the totality of the purpose for which the cooperative is being formed?

##### The Specific Objectives

- Do they stem from the main objective?
- Have they been stated in a systematic, short, clear and precise format?
- Do they address the members' intentions and expectations?
- Are they specific, measurable, realistic and achievable within a specific time frame?

#### 1.4 Membership

##### Membership

- Do the members meet the following requirements for membership in a cooperative society?
  - Have attained the age of 18 years?
  - His/her employment, occupation or profession falls within the category or description of those for which the cooperative is formed.
  - Is a resident within, or occupies land within, the cooperative's area of operation as described in the relevant by-law.
  - Is not a member of another cooperative society having the same or similar objectives with unlimited liability.

- Does the membership consist of at least ten persons, all of whom have met the above named requirements?
- Have the members pledged to adhere to the cooperative's values of self-help, self-responsibility, democracy, equality, equity, solidarity and also believe in the ethical values of honesty, openness, social responsibility and caring for others?

### 1.5 Cooperative By-laws

- Were the Government cooperatives by-laws used to form theirs?
- Who prepared them?
- To what level were the potential members involved?
  - Do these by-laws include the following:
    - Its name
    - Its registered office, postal address and location
    - Its area of operation and membership common bond
    - The objects of the cooperative
    - The purposes to which its funds may be applied
    - The disposal of its accumulated funds
    - The qualification for membership, the terms of and the mode of enrolment
    - The withdrawal and expulsion of members and the payment, if any, to be made to such members and the time within which such payment shall be made
    - The rights, liabilities and obligations of members, including the minimum share holding and produce delivery
    - The transfer of the shares or interest of the members

- The manner of raising funds, including the maximum rate of interest on deposits
- Its general meetings, the procedure and quorum of such meetings, power of such meetings and representation and voting at such meetings
- The appointment, suspension and removal of members of the committee and officers and the powers and duties of the committee and officers
- The period of its financial year
- The authorization of officers to sign documents on its behalf
- The settlement of disputes
- Such other matters as may be expedient for the better carrying out the provisions of these Rules.

### 1.6 Cooperative Principles

- Do the Housing cooperative's by-laws incorporate the following cooperative principles:
  - Voluntary and open membership
  - Democratic member control
  - Economic participation by members
  - Autonomy and independence
  - Education, training and information
  - Co-operation among cooperative members and among other cooperatives if any
  - Concern for the community in general

### 1.7 Challenges

- What are the expected challenges in the formation process for instance, identifying potential members, members of interim committee, member apathy, lack of funds, managing the cooperative's records?

- What are the strategies the interim committee has designed to deal with emerging challenges in the formation stage?

## REGISTRATION PROCESS

### 2.0 Introduction

Based upon the monitoring tool on the formation of housing cooperatives, the following is an evaluation tool which will determine whether the housing cooperative society is eligible for registration with the Ministry of Cooperative Societies in Kenya.

#### 2.1 Presentation of a Letter of Introduction to the Ministry of Cooperative Societies

- Who has prepared the letter?
- Does the letter state the cooperative society's concept and intent?
- Does it briefly describe the plan of the cooperative society?
- Does it offer in general the objectives of the members?
- Who has presented it to the ministry?

#### 2.2 Presentation of a List of Potential Members

- How were the potential members identified?
- Does the proposed list of names meet the required limit (more than ten persons)?
- Does the proposed list of potential members include the following: their names, date of birth, date of application for membership, postal address, occupation and date admitted to membership?

#### 2.3 Pre-registration Meeting of Members and Commissioner from the Ministry of Cooperatives

- Have the members planned for this pre-registration meeting?
- Invitation to the Commissioner?
- Location?
- Time schedule?
- The agenda of the meeting?
- Attendance and participation by the members?
- Other activities that will inform the Commissioner more on the intent of the cooperative?

#### 2.4 Submission of the Cooperative's By-laws

- Have the members developed the by-laws in line with the indicators cited in the monitoring tool?
- What was their level of involvement in the preparation of the by-laws?
- Are the by-laws stated in a clear and precise format?
- Do the laws encompass all the transactions and regulations of the cooperative's members?

#### 2.5 Submission of the Registration Form

- Are the members able to fill in the registration form satisfactorily by noting down the following?
  - Details on the formation of the cooperative?
  - The type and intent of the cooperative?
  - Supplement information about the cooperative society?
  - The cooperative's economic viability?

## 2.6 Registration Fee

- Have the members raised the sum of Kshs. 3,500/- for registration?
- Have the terms in which this money was raised been accepted by the members?
- Have they paid this fee to the commissioner of cooperatives?

## 2.7 Letter of Commitment

- Are the members able to submit a letter of commitment to the Commissioner that will guarantee the sustainability of the cooperative society

## 2.8 Final Submission of Registration Forms and Supporting Materials

- Are the members able to present the registration forms with all the supporting materials in time?
- If not, who will play this role?
- What process will be used to identify him/her?

## 2.9 Evidence of Registration

- Have the members received the following from the Commissioner?
  - A certificate of registration?
  - A certified copy of the cooperative's by-laws?
  - A copy of the act and the rules made hereunder?
  - A copy of the application for registration?

## REFERENCES

Republic of Kenya. (2004). *Kenya Gazette Supplement No. 44. (Acts No. 2)*. Nairobi: Government Printer.

Republic of Kenya. (1998). *Kenya Gazette Supplement No. 1. (Acts No. 1)*. Nairobi: Government Printer.

Republic of Kenya. (2004). *Kenya Gazette Supplement No. 70*. Nairobi: Government Printer.

# APPENDIX V THE LOCAL GOVERNMENT LOANS ACT

## CHAPTER 270

### THE LOCAL GOVERNMENT LOANS ACT

**Commencement: 20th March, 1953**

An Act of Parliament to facilitate the borrowing by local government authorities of money for capital development, to establish a Local Government Loans Authority and a Fund for that purpose; and for purposes connected therewith

1. This Act may be cited as the Local Government Loans Act.
2. In this Act, except where the context otherwise requires-
 

"the Authority" means the Local Government Loans Authority established by section 3;

"the Fund" means the Local Government Loans Fund established by section 6;

"statutory securities" means securities in which trustees are for the time being authorized by law to invest trust moneys, and any security created by a local Authority other than securities transferable by delivery.
3. (1) There is hereby established a Local Government Loans Authority, which shall be a body corporate by that name with perpetual succession and a common seal, and which shall exercise the duties and have the powers conferred upon it by this Act.

(2) The Authority shall consist of-

- (a) the Minister, who shall be chairman of the Authority; (b) a person to be appointed by the Minister for the time being responsible for finance;
- (c) the Permanent Secretary of the Ministry;
- (d) the Principal Local Government Inspector; and
- (e) such other persons as the Minister may from time to time appoint.

(3) In the case of his absence from, or inability to attend, a meeting of the Authority, an officer mentioned in subsection (c) or (d) may be represented at the meeting by a deputy nominated by that officer, and any such deputy shall be deemed to be a duly appointed member of the Authority for the purposes of that meeting.

(4) A member of the Authority appointed under subsection (2) (e) shall hold office during the Minister's pleasure, and a person appointed under subsection (2) (b) shall hold office during the pleasure of the Minister for the time being responsible for finance.

(5) The Authority shall have power to enter into contracts and to hold and dispose of property both movable and immovable, and may sue and be sued in its corporate name.



4. (1) In the absence of the Minister from any meeting of the Authority, a person shall be chosen by the members present at the meeting, from their number, to preside at that meeting.  
  
(2) At all meetings of the Authority, three members, of whom not less than two are persons other than persons appointed under section 3 (2) (e), shall form a quorum.  
  
(3) The Minister, or other person acting as chairman of any meeting of the Authority, shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote; a decision of the majority of the members present and voting at a meeting of the Authority shall be deemed to be the decision of the Authority.  
  
(4) The Authority shall have power to act notwithstanding a vacancy among the members thereof, and all acts done at any meeting of the Authority shall, notwithstanding that it was afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Authority, be as valid as if that defect had not existed.  
  
(5) Subject to the provisions of this section, the Authority shall have power to regulate its own procedure.  
  
(6) The seal of the Authority shall be authenticated by the signatures of the Minister and the Permanent Secretary of the Ministry, and the seal shall be officially and judicially noticed.  
  
(7) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the Permanent Secretary of the Ministry.  
  
(8) It shall be the duty of the Permanent Secretary of the Ministry to carry into effect the decisions of the Authority.
5. (1) The Authority shall keep such capital, revenue and other accounts as the Minister for the time being responsible for finance may from time to time require. and such accounts together with a balance sheet shall be submitted for audit to the Controller and Auditor-General within four months after the end of each financial year or within such further period as the Minister may in any particular case direct.  
  
(2) The Authority shall, as soon as practicable after the report of the Controller and Auditor-General on the accounts for the preceding financial year has been received in every year, submit to the Minister a report upon the administration of the affairs of the Authority and the working of the Fund during the preceding year, together with the accounts and balance sheet duly audited in accordance with subsection (1).  
  
(3) Every such report and all such accounts and balance sheets as are furnished to the Minister under this section shall be laid by the Minister before the National Assembly as soon as may be after they are submitted to him.
6. (1) There is hereby established a Local Government Loans Fund under the control of the Authority, consisting of such securities and moneys and applicable to such purposes as are provided for by this Act.  
  
(2) There shall, by virtue of this Act and without further assurance, become vested in the Authority the right of the Government to demand, sue for and recover, and give receipts for, and the benefit of all securities for such loans made to local authorities by the Government out of the public revenues of Kenya as may be approved from time to time by Parliament to the extent to which those loans, at the commencement of this Act, remain outstanding; and all moneys received by the Authority on account of every such loan shall be carried to the Fund.

- (3) There shall also be paid to the Authority and carried to the Fund-
- (a) moneys which may from time to time be voted or appropriated by Parliament for the purpose of providing loans to local authorities;
  - (b) repayments of principal or interest made by a local authority on account of a loan referred to in subsection (2);
  - (c) repayments of principal or interest made by a local authority on account of a loan made by the Authority under this Act;
  - (d) moneys which may from time to time be borrowed by the Authority in exercise of the powers conferred by this Act;
  - (e) moneys which may from time to time become due upon an investment made by the Authority in exercise of the powers conferred by this Act.
- (4) Every loan referred to in subsection (2) shall be deemed for the purposes of sections 9, 10 and I I to be a loan made by the Authority under this Act.
- (5) The Authority may from time to time incur and meet out of the Fund administrative and other expenses which may be necessary or desirable for the efficient discharge of its functions under this Act.
7. (1) The Authority may from time to time, as provided by this Act, make loans to local authorities for purposes which local authorities may be authorized by law to borrow money.
- (2) The Authority may from time to time make to a local authority advances of moneys required for the proper discharge of the functions of the local authority.
- (3) (Deleted by LN. 365/1964)
- (4) Every loan made by the Authority under this Act to a local authority shall bear interest at such rate and shall be repaid at such time and in such manner as the Authority may determine.
8. Moneys borrowed by a local authority from the Authority and loans referred to in section 6 (2) shall be charged indifferently on all the rates and revenues of the local authority.
9. (1) If a local authority having power to levy rates or taxes or impose and collect dues or cesses neglects to pay moneys due to the Authority in respect of a loan granted under this Act, the Minister may, after the expiry of sixty days from the date on which the moneys become due and payable, forthwith impose and levy a rate or tax of sufficient amount which may be imposed and levied by the local authority, and impose and recover any dues or cesses which may be imposed and recovered by the local authority.
- (2) For the purpose of this section the Minister shall have all the powers vested in the local authority for imposing, levying and recovering rates upon all rateable property and improvements thereon within its jurisdiction and for imposing, levying and recovering taxes and for imposing and recovering the dues and cesses.
- (3) The Minister, in making an estimate of the rate or tax to be levied or of the dues or cesses to be imposed for the purpose of paying any sum due to the Authority, may add such sum as he thinks sufficient for defraying, and may defray there out, all costs, charges and expenses, including remuneration to any officer or other person employed, incurred in the execution of the powers conferred by this section or otherwise by reason of the default in payment of the sum due to the Authority.
- (4) If, after payment out of the proceeds of any such rate or tax or dues or cesses of the sum due to the Authority and of the expenses of and incidental to the

imposition, levy and recovery of the rate or tax or dues or cesses, there remains any balance, the balance shall be paid over to the local authority whose default led to the exercise by the Minister of his powers under this section.

10. Upon all money due from a local authority to the Authority being fully paid, the Authority shall, when required, give to the local authority a receipt in writing for it, and any further sufficient discharge as may seem to the Authority to be necessary, and upon receipt being given the rates and revenues of the local authority shall be released from the charge created by section 8.
11. Where a loan is made by the Authority to meet expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon.
12. (1) The Authority may, with the consent of the Minister for the time being responsible for finance, borrow such sums as may be required by the Authority in exercise of the powers conferred by this Act,
  - (2) Where the Authority is authorized to borrow money, it may, subject to the provisions of this Act, raise the money either-
    - (a) by stock issued under this Act; or
    - (b) by local bonds issued under this Act; or
    - (c) in such other manner as may be approved by the Minister for the time being responsible for finance.
  - (3) Moneys borrowed by the Authority under this Act shall be charged indifferently on all the revenues of the Authority.
13. (1) The Authority may from time to then, and shall whenever so directed by the Minister for the time being responsible for finance, establish and maintain sinking funds as may be necessary or desirable for the efficient discharge of its functions under this Act.
  - (2) The Authority shall apply moneys for the time being comprised in a sinking fund maintained under subsection (1) in redemption of the borrowing by the Authority in respect of which the sinking fund is maintained, and, pending application, the moneys may 00-
    - (a) invested as provided by section 14; or
    - (b) subject to the approval of the Minister for the time 'being responsible for finance, applied in the exercise of the powers conferred by section 7.
14. The Authority may from time to time invest moneys for the time being in the Fund which are not immediately required for the discharge of its functions under this Act in any investment for the time being authorized by any law in force for the investment of trust moneys, and any such investments may from time to time be varied or transposed.
15. (1) For the purposes of borrowing by the Authority by means of an issue of stock under this Act, stock may be created, issued, transferred, dealt with and redeemed as may be prescribed by regulations made with the consent of the Minister for the time being responsible for finance.
  - (2) Without prejudice to the generality of the above power, the regulations made under this section may provide for the discharge of any loan as raised, and may provide for the consent of owners under disability and for the application or non-application of the Act relating to stamp duty (subject to the provisions of sections 16 and 18 of this Act and to cheques, and

for the disposal of unclaimed dividends.

16. For the purposes of borrowing by the Authority by means of an issue of local bonds under this Act. the bonds shall-

- (a) be secured upon all the revenues of the Authority;
- (b) bear interest at such rate as the Authority may determine at the time of issue of the bonds;
- (c) be issued in denominations of one hundred, two hundred, four hundred, one thousand and two thousand shillings and multiples of two thousand shillings;
- (d) be issued for periods of not less than three years;
- (e) be exempt from all stamp duties.

17. A trustee, as defined in the Trustee Act, may invest trust funds in his hands, whether at the time in a state of investment or not, in stock or local bonds issued by the Authority under this Act.

18. Transfers of stock or local bonds issued by the Authority under this Act shall be exempt from all stamp duties.

19. (Repealed by LN. 365/1964)

20. (1) If at any time an interest due on stock Appointment of remains unpaid for three months after demand in writing, receiver. the person entitled thereto may, without prejudice to any other remedy, apply to the High Court for a receiver to be appointed, and the Court may appoint a receiver on such terms as it thinks fit.

(2) The Court may confer on the receiver any of the powers of collecting, receiving and recovering the revenues of the Authority which are conferred upon the Authority by this Act. and any of the powers of imposing and levying rates and taxes and imposing and recovering dues and cesses which are conferred on the Minister by this Act.

21. Subject to the provisions of this Act, the Minister may make regulations prescribing anything required to be prescribed by this Act and generally for carrying out the provisions of this Act.

22. Nothing in this Act shall-

- (a) prejudice or affect the rights of the Government, or of any body or bodies politics or corporate or other person or persons excepting only such as are mentioned in this Act and those claiming by, from or under them;
- (b) prejudice or affect the priority of any security for a loan created by any local authority before the commencement of this Act.

## APPENDIX VI THE HOUSING ACT

### CHAPTER 117

#### THE HOUSING ACT

**Commencement: 9th June, 1953**

An Act of Parliament to provide for loans and grants of public moneys for the construction of dwellings; to establish a housing fund and a housing board for these purposes: and for connected purposes

1. This Act may be cited as the Housing Act.
2. In this Act, unless the context otherwise requires approved" means approved by the Corporation;

"The Corporation" means the National Housing Corporation established by section 3;

"dwelling" means a building the whole or part of which is intended to provide residential accommodation;

"grant" means a grant of money made to a local authority out of the Housing Fund under paragraph (a) of subsection (I) of section 7;

"Housing Fund" means The Fund established by section 6; "scheme" means a proposal for the construction of several approved dwellings including such other proposals as may be necessary or desirable or incidental thereto by way of the provision of roads, drains, open spaces, places of worship, places of recreation, facilities for social welfare and trading, and the acquisition, laying out, subdivision and development of land comprised within the area of the scheme.

3. (1) There is hereby established a National Housing Corporation which shall be a body corporate by that name~ with perpetual succession and a common seal, and which shall perform the duties and have the powers conferred on it by this Act. .

(2) The Corporation shall consist of the Permanent Secretary of the Ministry, a person appointed by the Minister for the time being responsible for finance and not less than six nor more than eight other members appointed by the Minister, being persons who in his opinion possess special knowledge of housing development or housing finance and of whom at least three shall be public officers, and the Minister shall designate one of the members to be chairman.

(3) Appointed members of the Corporation shall each hold office for a period of three years or such longer period as the appointing Minister may think fit, but an appointment may be cancelled at any time by the Minister who made it.

(4) The Corporation shall have power to enter into contracts, to hold and dispose of property both movable and immovable, and may sue and be sued in its corporate name.

4. (1) In the absence of the chairman from any meeting of the Corporation, a person shall be chosen by the members present at the meeting, from their number, to preside at such meeting.

(2) The quorum of the Corporation shall be four members, of whom at least two

shall be public officers and at least two shall be persons who are not public officers.

(3) The person acting as chairman of any meeting of the Corporation shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote; and a decision of the majority members present and voting at a meeting of the Corporation shall be deemed to be the decision of the Corporation.

(4) The Corporation shall have power to act notwithstanding a vacancy among the members thereof, and all acts done at any meeting of the Corporation shall, notwithstanding that it was afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Corporation, be as valid as if that defect had not existed.

(5) Subject to this section, the Corporation shall have power to regulate its own procedure.

(6) The seal of the Corporation shall be authenticated by the signature of the chairman of the Corporation, or any other member of the Corporation authorized in that behalf, and, the officer for the time being the managing director of the Corporation, and such seal shall be officially and judicially noticed.

(7) All documents, other than those required by law to be under seal, made by, and all decisions of the Corporation may be signed under the hand of the chairman, or any other member of the Corporation authorized in that behalf.

5. (1) The Corporation shall cause to be kept proper books of accounts, records and vouchers in relation to its funds and activities, and shall, within four months (or such longer period as the Minister may approve) after the end of each financial year, cause to be prepared. Signed and transmitted to the auditor:

(a) a capital account:

(b) a balance sheet:

(c) a statement of income and expenditure; and

(d) such other accounts as the Minister may require.

(2) The accounts of the Corporation shall be examined audited and reported upon annually by the auditor.

(3) The Corporation shall, when required by the auditor so to do, produce and lay before the auditor all accounts of the Corporation, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require from all members, officers and servants of the Corporation such information and explanations as he may deem necessary for the purposes of his duties as auditor.

(4) The Corporation shall, within a period of six months (or such a longer period as the Minister may approve) after the end of each financial year, furnish to the Minister a report on its operations during that year, the accounts, balance sheet and statement referred to in subsection (1), and the auditor's report for that year.

(5) The reports furnished under subsection (4), and the capital account and such accounts and statements as the Minister deems sufficient, shall be laid by the Minister before the National Assembly within the next 14 days on which the Assembly is sitting after they have been so furnished, and shall be published in the Gazette by the Corporation.

(6) For the purposes of this section: "auditor" means the Auditor-General (Corporations):

"financial year" means any period of 12 months which the Corporation may adopt as its financial year for accounting purposes:



Provided that, where at any time the financial year of the Corporation is changed, the period between the end of the old financial year and the beginning of the new shall, for the purposes of this section, be deemed to constitute a financial year and the word “annually” in subsection (2) shall be construed accordingly.

6. The Corporation shall keep all moneys belonging to it in a bank approved by the Minister.

7. (1) There is hereby established a Housing Fund under the control of the Corporation, consisting of such securities and money and applicable to such purposes as are provided for by this Act.

(2) There shall, by virtue of this Act and without further assurance, become vested in the Corporation the right of the Government to demand, sue for and recover, and give receipts for, and the benefit of all securities for every loan made to a local authority by the Government out of the Housing Fund established under the Housing Ordinance (now repealed) to the extent to which such loans, at the commencement of this Act, remain outstanding, and all moneys received by the Corporation on account of every such loan shall be carried to the Housing Fund.

(3) There shall also be paid to the Corporation and carried to the Housing Fund-

- (a) all such moneys as may from time to time be voted or appropriated by Parliament for payment into the Housing Fund;
- (b) the repayments of principal or interest made by any local authority on account of any loan referred to in subsection (2);
- (c) all repayments of principal or interest made by any local authority, company, society or individual person, on account

of any loan made by the Corporation under this Act;

(d) all such sums as may from time to time be borrowed by the Corporation in exercise of the powers conferred by this Act; and

(e) all such sums as may from time to time become due upon any investment made by the Corporation in exercise of the powers conferred by this Act.

8. (1) The Corporation may, from the Housing Fund and from time to time, in the manner provided by this Act-

(a) lend or grant money to any local authority, for the purpose of enabling the authority to exercise any of the powers conferred upon it by this Act; I

(b) make loans to any company, society or individual person for the purpose of enabling such company, society or individual person to acquire land and construct thereon approved dwellings or to carry out approved schemes;

(c) make loans to organizations established for promoting the development of housing;

(d) construct dwellings, carry out approved schemes and lay out and provide services for approved schemes;

(e) acquire any land or building, or estate or interest therein, for any of the purposes of this Act;

(f) maintain any land or building, or estate or interest therein, for any of the purposes of this Act;

(g) appoint and employ on such terms and conditions as the Corporation may determine such officers and servants as it may deem necessary; and



- (h) pay such allowance to members of the Corporation as the Minister may, in writing, approve.
- (2) Every loan made by the Corporation under this Act shall bear interest at such rate as the Corporation may from time to time prescribe.
- (3) The Corporation, in considering the propriety of making a loan to any company, society or individual person, shall have regard to the financial position of the company, society or individual person and the sufficiency of the security for the repayment thereof.
9. (1) The Corporation may guarantee the repayment of the principal money and interest and other charges in respect of any loan which has been made to a person for the purpose of enabling him to buy or construct an approved dwelling or to carry out an approved scheme, upon-
- (a) that person entering into an agreement with the Corporation to reimburse to it any money which it is called upon to pay under the guarantee; and
- (b) security being provided for the due performance of such agreement.
- (2) The security to be provided under subsection (1) (b) shall be-
- (i) a right of pre-emption of the property given to the Corporation by the first mortgagee; and
- (ii) such other security (if any) as the Minister may in any particular case authorize.
- (3) Any moneys which the Corporation is called upon to pay under guarantee given under subsection (1) shall be provided from the Housing Fund.
10. The Corporation may-
- (a) undertake and encourage research and experiment in housing related matters, and undertake and encourage the collection and dissemination of information concerning housing and related matters;
- (b) take part in housing exhibitions and other forms of publicity;
- (c) undertake and encourage the provision of training in furtherance of the purposes of this Act and provide training for members of its staff;
- (d) operate a housing finance institution with powers, to borrow funds from the Government, overseas agencies, pension and trust funds and any other institution or persons, as well as to collect deposits and savings from the public to be applied to the financing of residential housing development and related matters;
- (e) establish, promote or aid in establishing or promoting, constitute, form or organize companies syndicates or partnerships alone or in conjunction with any other person or institutions for the carrying on of any such functions as the Corporation is empowered to carry on under this Act; and
- (f) perform such other duties connected with housing as the Minister may direct.
11. (1) All loans made to a local authority by the Corporation shall be secured against the development financed by the loan advanced or against or in addition to any other specific immovable property owned by the local authority.

(2) The Corporation shall be a party to any contract or agreement between any person and the local authority advanced such loans with power to assume all the rights and remedies of such local authority in respect of developments financed by funds advanced by the corporation.

12. (1) Where a local authority defaults in the repayment of debt charges due to the Corporation, the Corporation shall take over the management of the property developed by the local authority using funds borrowed from the Corporation and assume collection of any monies payable to the local authority by the beneficiary or any other person as provided in section 11 (2) until the outstanding debt is recovered substantially or in full.

(2) Upon taking over the management of the property under subsection (1), the Corporation shall have the same rights and obligations as the local authority has in respect of the developments financed with funds provided by the Corporation.

(3) Any shortfall experienced as a result of the Corporation exercising its powers under this section shall be recovered from any other securities provided by the local authority or as civil debt recoverable summarily.

13. Where a loan is made by the Corporation to meet any expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon.

14. Any local authority may

- (a) out of loans or grants made to it from the Housing Fund-
- (i) acquire land, construct approved dwellings and carry out approved schemes within the area of its jurisdiction;

- (ii) with the approval of the Corporation, acquire land and construct approved dwellings or carry out approved schemes outside its area of jurisdiction; and

(b) sell or let on such conditions as may be specified by the Corporation any dwelling constructed by it:

Provided that all moneys received by the local authority from the sale of any dwelling shall be appropriated to the reduction or extinction of any existing debt incurred for the construction of such dwelling.

15. Any local authority may, out of any loan or grant made to it from the Housing Fund, make a loan to any company, society or individual person for the purpose of enabling such company, society or individual person-

- (a) to acquire land within the area of jurisdiction of such local authority and construct thereon approved dwellings; or

- (b) to carry out therein an approved scheme:

Provided that no such loan shall exceed such proportion of the estimated cost of the land and dwelling or scheme as the Corporation may determine either generally or specially.

16. (1) Every loan made under this Act shall be repayable by such instalments as the Corporation or the local authority, as the case may be, shall specify and within a period not exceeding forty years or such other period as may be prescribed by the Minister.

(2) Where a loan has been made repayable within a period less than the full period allowed by subsection (1), the Corporation or the local authority, as the case may be, if the repayment of the loan with interest is in its opinion sufficiently secured, may extend the period for the repayment thereof to a period not exceeding the full period from the date of the loan.

17. (l) Subject to this section, every loan made to a company, society or individual person shall be secured by a first mortgage or charge over the land on which the dwelling is to be constructed or is situate or, as the case may be, over the land acquired for the approved scheme, together with all the buildings and improvements on such land, and on such further security or on any other security, as the Corporation or the local authority, as the case may be, may require.
- (2) The Corporation may prescribe the form of such first mortgage or charge, and the affixation of the seal of the Corporation or the local authority, as the case may be, to any mortgage or charge purporting to be made under this Act shall be conclusive evidence that the same is in the prescribed form.
18. (1) Any loan may be made notwithstanding that the land in respect of which the loan is made has not been surveyed or that such a map or plan of the land as any officer concerned with the registration of the title to or the title deeds of such land is bound to accept for the purpose of registering any dealing with the land is not, for the time being, registered or available for registration.
- (2) Upon making such a loan the Corporation, or the local authority, as the case may be, may require the execution of such documents as will ensure-
- (a) that the loan will, immediately upon the issue or completion of such grant, lease, purchase or other acquisition as aforesaid, become secured as a first mortgage or charge upon the land in favour of the Corporation or local authority;
- (b) that, pending the creation of such first mortgage or charge, no mortgage or charge of the land which would or might rank in priority thereto shall be created.
19. Upon all money due upon any loan being fully paid, the Corporation or the local authority, as the case may be, shall, when required, give to the local authority, company, society or individual person as aforesaid a receipt in writing for the same, and such further sufficient discharge (if any) as may be necessary, and upon such receipt being given the rates and revenues of the local authority or the land mortgaged or charged, as the case may be, shall be released from the charge created by section II, or the first mortgage or charge, as the case may be.
20. The rate of interest payable on a loan made by a local authority shall not exceed the rate of interest which the local authority is liable to pay in respect of the money from which the loan has been made by more than one-half per centum, and such loans or instalments thereof shall bear interest from the date of issue.
21. (1) If an individual person to whom, or a company or society to which, a loan has been made-
- (a) fails to pay any amount due in respect of the principal or interest of the loan; or
- (b) has not applied the whole or any part of the loan to the specific purpose for which it was made; or
- (c) fails to make such progress with an approved dwelling or approved scheme as the Corporation or the local authority, as the case may be, considers reasonable; or
- (d) fails to comply with any condition on which the loan or any part thereof was made; or
- (e) becomes bankrupt, or is placed in liquidation. the Corporation or the local authority, as the case may be, may either proceed to recover the amount outstanding on account of the loan together with all interest due

thereon, by action in a competent court, or may, by an officer authorized in writing by it and without obtaining any judgment or order of any court, enter upon and take possession of the land and premises on which the loan is secured, using force, if necessary, for that purpose; and may thereupon sell, by public auction or after public tender, the land and premises and transfer it to the purchaser and give a good and valid title thereto notwithstanding that such land and premises may have been mortgaged or charged in favour of some other person:

Provided that-

- (i) if the land and premises are so mortgaged or charged, the Corporation or the local authority, as the case may be, shall transmit to the second or subsequent mortgagee or chargee at his last known abode or office or place of business, three weeks before the date fixed for the sale, notice by prepaid registered post of such its intention in order that such mortgagee or chargee may redeem the loan, if he so desires;
  - (ii) except in the event of the bankruptcy of the person, or the liquidation of the company or society as aforesaid, the Corporation or the local authority, as the case may be, shall before exercising its power of entry and sale hereunder, give three months' notice by prepaid registered letter addressed to such individual person at his last known place of abode or office or business, or to such company or society at its office or place of business, of its intention as aforesaid.
- (2) If any such dwelling is not completed, the Corporation or the local authority, as the case may be, may in its discretion complete the same before such sale; and the proceeds of such sale shall be applied in
- payment of all sums due to the Corporation or the local authority, including the cost of completing any such dwelling and of the sale; and the balance (if any) shall be paid to the individual person to whom, or the company or society to which, the loan was made or to any other person who is the legal representative thereof or is otherwise entitled to receive such balance.
- (3) The Corporation or a local authority may itself purchase any land and premises sold by public auction as aforesaid and take transfer of any dwelling sold as aforesaid and treat the same as if it had been constructed by the Corporation or by the local authority under this Act, and no stamp duty or registration charges shall be payable on transfer to the corporation or to the local authority.
- (4) Any officer having any duties in connexion with the registration of the title to or the title deeds of any such land and premises as aforesaid shall make all the necessary entries in his registers and sign all documents necessary to give effect to this section.
22. The Minister for the time being responsible for local government may, on the application of the Corporation, declare that any by-law or resolution made by a local authority which is inconsistent with the conditions of approval specified by the Corporation in respect of any dwelling or scheme, shall, in so far as it is inconsistent, not apply to the approved dwelling or scheme.
  23. Whenever it appear to the Minister, and after a local inquiry in public by an officer appointed by the Minister for that purpose at which the local authority and other parties interested shall be entitled to be heard, that the provision made in the area of any local authority for the needs of persons ordinarily employed within that area for normal requirements is inadequate

or unsuitable, the Minister may, by written notice, require that local authority, within such time as may be stated in the notice, to make such provision for the housing of such persons as the Minister may specify.

24. (1) Upon the failure of a local authority within the time fixed in any notice given under section 23 or within any extension of that time granted by the Minister to comply with any requirement notified under that section, the Minister may, after written notice to the local authority, carry out such works and do all such things as may be necessary to give effect to that requirement; and for that purpose the Minister is hereby authorized to exercise all such rights, powers and authorities as might have been exercised by the local authority in that behalf.

(2) Any expenditure reasonably incurred by the Minister under this section in excess of revenue derived from the exercise of the powers vested in him may be recovered in the manner provided by section 12.

25. (1) The Corporation may, and shall when required by the Minister or the local authority, inquire into and report to the Minister or the local authority on the necessity or otherwise of the provision of dwellings in the area of any local authority.

(2) The Corporation shall advise and assist in the preparation of proposals for dwellings and schemes.

26. The Corporation may, with the consent of the Minister, borrow any moneys which it requires for the purpose of exercising its functions under this Act in such amount and upon such conditions as the Minister may sanction.

27. (1) The Minister may from time to time make regulations for prescribing anything which may require to be prescribed under this Act, and for the better carrying out of the objects and purposes of this Act, and

such regulations may be expressed to apply throughout Kenya or in any specified or defined portion thereof.

(2) The regulations may provide penalties for any contravention thereof not exceeding a fine of Kshs 10,000s or imprisonment for two years or both.

28. (1) Any member of the Corporation, and any officer or servant of a local authority generally or specially authorized by such local authority, and any person likewise authorized by the Minister, may, at any hour reasonable for the proper performance of the duty, enter upon any land or building in respect of which a grant or loan has been made or undertaken to be made under this Act to make any inspection or to perform any work or to do anything which he is required or authorized to do under regulations made under this Act.

(2) Any person who fails to give or refuses access to any person mentioned in or authorized under subsection (1) or obstructs or hinders him in the execution of his duties under the regulations made under this Act, or who prevents any servant or workman of a local authority from entering any such land or dwelling for the purpose of complying with any requirements under the regulations made under this Act, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both.

29. (1) There shall, by virtue of this section and without further assurance, become vested in the Corporation the right, formerly vested in the Local Government Loans Authority under and by virtue of the Local Government Loans Act, to demand, sue for and recover, and give receipts for, and the benefit of all securities for, the scheduled loans, to the extent to which those loans were outstanding at the commencement of this section,

(2) For the avoidance of doubt, it is hereby declared that the reference in subsection (1) to rights formerly vested in the Local Government Loans Authority under and by virtue of the Local Government Loans Act shall include the right which was purported to be vested in that Authority by a resolution of the Legislative Council dated the 18th February, 1953.

(3) For the purposes of this Act, the scheduled loans shall be deemed to be loans made or granted by the Corporation under this Act.

(4) All moneys received by the Corporation on account of the scheduled loans shall be carried to the Housing Fund.

(5) "The scheduled loans" means the several loans particulars of which are set out in the Schedule to this Act, being loans made from moneys supplied out of funds of the Development and Reconstruction Authority, and issued to the local authorities respectively specified in the said Schedule, for the construction of houses for Africans.

27. The provisions of this Act shall be deemed to be in addition to and not in substitution for any provisions of any other law which are not in conflict or inconsistent with this Act; and if the provisions of any law are in conflict with or inconsistent with this Act the provisions of this Act shall prevail.

28. Nothing in this Act shall-

(a) (deleted by 18 of 1967, s. 9.)

(b) Prejudice or affect the priority of any security for a loan created by any local authority before the commencement of this Act.