

No. 3/21

The Local Government Act

Section 65(1) of the Local Government Act requires councils in Malawi to periodically prepare valuation rolls containing valuations of all assessable property within their local government areas. Section 79(2) of the Local Government Act further provides that rates shall be made and levied upon the assessments appearing in a valuation roll.

Blantyre City Council's new Valuation Roll

Blantyre City Council ("*Council*") recently adopted a new Valuation Roll pursuant to section 75 of the Local Government Act. The Council published a Notice of Adoption of Valuation Roll ("*Notice*") on its website (www.bccmw.com) and in two local newspapers. The Notice states that rates levied on property values in the Valuation Roll are due on 1st July 2021.

The Local Government Act appears to draw a distinction between the date on which rates are due and the date on which rates are payable. Under section 81 of the Local Government Act, every rate shall become due on the first day of the relevant rate period and shall become payable on the date in the financial year to which it relates as shall be fixed by the relevant council. Section 82 of the Local Government Act provides that a council must give notice of the making of every rate not less than 21 days before the date on which it becomes payable and such notice shall specify the instalment dates, if any, upon which such rates may be paid, and the date of termination of the rate period in respect of which it is made.

We have seen a notice to owners of property in the city of Blantyre regarding revision of rate tariffs after adoption of the new Valuation Roll which was published in the *Daily Times* newspaper on 5th July, 2021. However, we have not seen a notice specifying the date on which rates are *payable* under the new Valuation Roll, nor have we seen a notice providing the information required under section 82 of the Local Government Act. Therefore, as far as we are aware, the date on which rates are payable under the new Valuation Roll appears unclear.

According to the Notice, property owners can inspect the new Valuation Roll at the reception of the Town Hall, Civic Centre from 09:00 to 16:00 on working days from Monday, 21st June 2021 to Monday, 19th July 2021. The Valuation Roll can also be inspected on the Council's website.

Challenging valuations contained in a valuation roll

- The Notice states that any objection to the valuations contained in the Valuation Roll shall be admissible if made between 21st June 2021 and 19th July 2021.

Please note the contradiction identified in the immediately following bullet point.

- Section 76(1) of the Local Government Act further provides that objections to any valuation roll can be raised with the relevant council within 28 days from the first day on which the rate under such valuation roll is payable. Such objections must be in writing and must specify the grounds of objection. The council shall in turn advise the valuer who prepared the valuation roll of the objections. As mentioned above, as far as we are aware, the date on which rates are payable under the new Valuation Roll appears unclear.
- Under section 76(1) of the Local Government Act, objections can be raised by any person who is aggrieved by:
 - (1) the inclusion of any property in, or by the omission of any property from, any valuation roll; or
 - (2) any rate ascribed in any valuation roll to any assessable property, or by any other entry made or omitted to be made in the same with respect to any assessable property.
- Upon receipt of an objection under (1) above, the valuer who prepared a valuation roll may alter such valuation roll accordingly. Upon receipt of an objection under (2) above, the valuer may alter the valuation of any property downwards or upwards or confirm the original valuation and must set out in writing to the person objecting the reasons for such decision.

POSSIBLE GROUNDS OF OBJECTION

In our view, possible grounds of challenging the Council's new Valuation Roll include:

(1) Method of valuation / fair amount of income in rental

Section 68(1) of the Local Government Act provides that every valuation roll must show separately in respect of each property listed therein:

- (a) the total valuation of assessable property;
- (b) the value of assessable land; and
- (c) the value of assessable improvements.

Section 68(2) further provides that the total valuation of an assessable property shall represent the "*fair amount of income in rental*" which the property is likely to realize at the time of valuation if the property were in a reasonable state of repair, having regard to the type of property and the area in which it is situated. This is a fairly recent method of valuation which was introduced in 2017. Under previous statutory regimes, the value of property was determined using the so-called "*capital value*" or "*market value*" method. This referred to the price a property would fetch in the market under existing conditions- that is, a hypothetical sale between a willing buyer and a willing seller dealing as businessmen.

The Council's new Valuation Roll contains separate entries for "*land value*", "*improvement value*" and "*capital value*" in respect of each property listed therein. However, the Valuation Roll does not state the method of valuation used by the valuer. The use of "*capital value*" in the new Valuation Roll could arguably cause confusion given the shift from "*capital value*" methodology described above to a rent-based methodology under section 68(2) of the Local Government Act.

(2) Omission of certain details pertaining to owners and properties

Under section 68(1) of the Local Government Act, the Valuation Roll must show what are, to the best of the knowledge and belief of the valuer, the names and addresses of property owners as well as the situation and area of any land included in the Valuation Roll. The Valuation Roll must also describe properties in such a way as to provide adequate identification of such properties.

We note that some of these details have been omitted from the Council's new Valuation Roll. For instance, certain properties listed in the Valuation Roll are not accompanied by details of the relevant owners' names and addresses.

(3) Omission of details from valuer (signature, date, certification and time)

The Local Government Act requires that each valuation roll deposited with a council pursuant to section 75 contain the following details:

- (a) signature of valuer and date of valuation/deposit with a council;
- (b) certification that the valuation roll has been prepared by the valuer in accordance with the Local Government Act; and
- (c) the specific time of valuation

We have not seen these details in the Council's new Valuation Roll.

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Duncan Singano

Walinase Chinula