

**AN EVALUATION OF THE ADMINISTRATION OF LAND  
DEVELOPMENT APPLICATIONS IN NAIROBI, KENYA**

*AUP*

*14.07.09*

**By**

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**A Thesis submitted in fulfillment of the award of the Degree of  
Doctor of Philosophy of the University of Nairobi, School of The  
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## DECLARATION

I hereby declare that this thesis is my original work and has not been presented  
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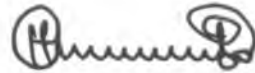


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This Thesis has been submitted for examination with our approval as University  
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**Professor Washington H.A. Olima**

## DEDICATION

This work is dedicated to my parents and siblings in general and specifically to my soul mate David Nyika and our son Mwangi Nyika for giving me the impetus to be like an eagle; fly high and never be weary.

*May the Lord Always Shelter You All under His Wings*

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## LIST OF ABBREVIATIONS AND ACRONYMS

<b>ADA</b>	Australian Development Agency
<b>CBOs</b>	Community Based Organizations
<b>CCN</b>	City Council of Nairobi
<b>CIDA</b>	Canadian International Development Agency
<b>CKRC</b>	Constitution of Kenya Review Commission
<b>CLO</b>	Crown Land Ordinance
<b>COL</b>	Commissioner of Lands
<b>COMPS</b>	Computation Notes
<b>CPDs</b>	Capacity Professional Development
<b>CR</b>	Coastal Registry
<b>DOL</b>	Department of Lands
<b>DORIP</b>	Defined Outcome, Requirements, Issues & Obstacles, Plan
<b>DOS</b>	Director of Surveys
<b>DPM</b>	Directorate of Personnel Management
<b>DPP</b>	Director of Physical Planning
<b>EMCA</b>	Environmental Management and Coordination Act
<b>FAO</b>	Food Agricultural Organization
<b>FIG</b>	International Federation of Surveyors
<b>FR. NO.</b>	File Reference Number (Survey Plan Number)
<b>GLA</b>	Government Lands Act
<b>GoK</b>	Government of Kenya
<b>GTZ</b>	German Technical Cooperation
<b>IBEAC</b>	Imperial British East African Company
<b>ID</b>	Identity Card

<b>IR</b>	Inland Registry
<b>ISO</b>	International Organization for Standardization
<b>KIPs</b>	Key Performance Indicators
<b>LA</b>	Local Authorities
<b>LCA</b>	Land Control Act
<b>LDCs</b>	Least Developed Countries
<b>LFA</b>	Logical Framework Analysis
<b>LR.NO.</b>	Land Reference Number
<b>LTA</b>	Land Titles Act
<b>MBOs</b>	Management-By-Objectives
<b>MDGs</b>	Millennium Development Goals
<b>MOL</b>	Ministry of Lands
<b>MRT</b>	Memorandum of Registration
<b>NGOs</b>	Non-Governmental Organizations
<b>NLPF</b>	National Land Policy Formulation
<b>NOI</b>	Net Operating Income
<b>NORAD</b>	Norwegian Development Authority
<b>OPDH</b>	One Private Dwelling House
<b>PDPs</b>	Part Development Plans
<b>PPA</b>	Physical Planning Act
<b>PS</b>	Permanent Secretary
<b>RDA</b>	Registration of Documents Act
<b>RIM</b>	Registry Index Map
<b>RLA</b>	Registered Land Act
<b>RTA</b>	Registration of Titles Act
<b>SCRs</b>	Substandard Commercial Residential Subdivisions
<b>SIDA</b>	Swedish International Development Agency
<b>SMART</b>	Specific, Measurable, Achievable, Realistic and Time Bound
<b>SWOT</b>	Strengths, Weaknesses, Opportunities and Threats
<b>TQM</b>	Total Quality Management
<b>UK</b>	United Kingdom

<b>UN</b>	United Nations
<b>UNCHS</b>	United Nations Centre for Human Settlement
<b>UN – ECE</b>	United Nations Economic Commission for Europe
<b>USAID</b>	United States Agency for International Development
<b>USA</b>	United States of America
<b>US</b>	United States
<b>USV</b>	Unimproved Site Value
<b>WPLA</b>	Working Party of Land Administration

## ABSTRACT

Land as a factor of production is a central resource upon which all facets of development are pegged. Land is unique from any other chattels in that it is immovable its legality is through interests and rights.

The interests in land are managed and administered through land management processes and administration systems that are governed through legal and institutional frameworks. Land management refers to the processes whereby land resources are put into good use to ensure profitability and sustainability. Land administration is a subset of land management and it includes those public sector activities that aid and facilitate the processes of alienation, allocation, survey, valuation, registration, transfer, development and use of land. Effective land administration processes not only ensure that more people access land but also induce growth through increased investments.

One of the ways that land resources are put into highest and best use is through land development. This could be in form of sales, subdivisions, physical construction, change of user to more lucrative users and many more. The process of land development is administered by various institutions and within certain legal frameworks. An investor has to apply for development permission, hence the term land development application approval processes. In Kenya, the institutions that deal with land development application approvals are mainly local authorities and the Ministry of Lands. Despite their vital role in development, these approval processes are complex with low levels of completion and the institutions administering them are poorly managed, over-centralized and bureaucratic.

This study was undertaken in order to investigate the management approaches used by the institutions dealing with approvals of land development applications

and to assess the impacts of such management approaches on the land development applications approval processes. The conceptual framework of the study is based on the theory of Management by Objectives (MBO) as a management approach which advocates for specification of measurable objectives, defined targets, participatory approach and feedback systems.

In an attempt to evaluate the performance of these institutions, the study addresses three thematic areas namely subdivisions, change-of-user and extension of leases to represent land development applications. Nairobi Province was chosen as a fair representative of other areas in the country. As such data were collected from the City Council of Nairobi, Department of Lands and Department of Surveys within the Ministry of Lands in Nairobi. A random sampling technique was used to arrive at the number of land development applications to be analyzed in the study.

The study found that there were neither performance control measures, nor significant targets for the departments prior to the year 2006. More so, management by objectives (MBO) was not embraced in running of the departments. With respect to evaluation of the impact of the management approaches on the processes of land development applications, the study found the institutions to be inefficient and ineffective with low rates of completion of land development application approvals. The consumers also rated the institutions as poor. Lack of effective management systems, poor work culture and archaic land information systems were identified as the leading causes of inefficiency.

This study recommends the use of The Double E-Q model formulated by the researcher. This model which is based on MBO has potential to improve service delivery in the institutions dealing with land development applications approvals land administration processes. The study proposes that issues of organizational culture be addressed, in addition to simplification and automation of the land administration processes.



# CHAPTER ONE

## GENERAL INTRODUCTION

### 1.0 Introduction

Land is a central resource upon which every facet of development is hinged. Besides capital, labour and entrepreneurship, land is arguably widely recognized as key to unlocking the obstacles to the general development process. The land sector contributes directly to a country's levels of employment, the foreign exchange earned, the development of other goods and service industries through the forward and backward linkages, thus triggering economic growth. On a global level, the 1948 Universal Declaration of Human Rights recognized that people have a right to adequate shelter which is a component of their right to an adequate standard of living. This goes hand in hand with access to secure land tenure. In addition, one of the agendas of the 1996 Habitat II Conference was to promote optimal use of productive land in urban and rural areas through developing and supporting the implementation of improved management practices for sustainable development (UNCHS, 1996). The centrality of land in the politics of most countries is obvious particularly in the agrarian economies. In Kenya, Zimbabwe and South Africa, for instance, the political struggle has often revolved around the land question.

Despite the importance of land on global and national levels, issues surrounding land in most cases have remained complicated or are shrouded in a lot of mystery. The complexity of the land problem is often compounded by the interdependence of land use with other issues like the political, economic, social aspects of a country. It is due to this complexity that scholars like Dale and McLaughlin (1999) and Farvaque and Mc Auslaun (1991) have emphasized the need for the state to ensure that efficient and effective land administration mechanisms are put in place. The United Nations-Economic Commission for Europe (1996, 2005), views land administration as "the process of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies. It is considered to include land

registration, cadastral surveying and mapping, fiscal, legal and multi purpose cadastres and land information systems". Land administration also refers to those public sector activities required to aid the processes of alienation, survey, valuation, registration, transfer, development and use (Dale and Mc Laugh, 1999).

As in the case of land, having an efficient and effective land administration system is paramount not only to the success of the land sector but on all sectors of the economy. Thus, it can be said that an efficient system of land administration is in itself a precursor for growth and development. Some of the arguments put across by Dale and McLaughlin (1999), UN-ECE (1996, 2005), Steudler and Williamson (2004) and Fourie (2001) for good land administration include;

- (a) Credit - Accurate public records reduce uncertainty in information by facilitating potential creditors to determine the potential of a borrower to transfer the property offered as collateral.
- (b) Liquidity - Efficient land administration processes often translate into freely exchangeable property rights, which also improve the government's revenue through property taxation. Where the processes are cumbersome, the result is the emergence of informal markets where revenue is lost leading to poor infrastructure and service delivery.
- (c) Resource management - Public and private agencies rely on land information and property rights in planning the management of resources. Good land administration processes enable governments to implement and enforce environmental regulations.

The administration of land is often done within a legal and institutional framework which is referred to as land policy (Deininger, 2003). These institutional set-ups are for purposes of this work referred to as land administration structures and the way of doing things in a bid to answer questions on who owns what, where and how is referred to as land administration processes. Together, they are hereinafter referred to as land administration systems. This work adopts the

definition provided by Dale and Mc Laughlin (1999) of land administration as being public sector activities that aid in the processes with particular reference to development and use of land, thus the term land development applications processes.

### **1.1 Problem Statement**

Given the importance of land on the macro-economic policies of any country, the need for an effective land administration system is becoming increasingly recognized in the management of land (Olima, 1997). By its nature, land administration which is a land management tool revolves around public sector activities as it is carried out by public bodies who are the custodians of the land. In most countries, these are the Ministry of Lands and the local authorities. These institutions are mere custodians of land on behalf of the citizenry and the decisions they make have far reaching effects on the many stakeholders related to land. Their performance is therefore must be efficient and effective in order to meet the role of land in development.

From the onset it is important to postulate that institutional management directly affects the performance of any institution. And the same is true for institutions dealing with land administration. Kreibich (2000) and Williamson (2004) are both of the opinion that for efficiency to be achieved in land administration, a participatory approach that emphasizes on managerial and institutional issues must be embraced. This study can therefore, infer that where good management practices are embraced the result is efficiency and vice versa.

Land administration processes in many developing countries portray a grim picture. This is due to their low levels of output, the time taken to processes land development applications and the quality of service delivery. This scenario is replicated in most LDCs as shown by Farvaque and McAUSAun (1991) who cite the example of Peru where they say it takes up to 43 months and 207 steps to acquire a title while in Cameroon the registration process may take anything

between two to seven years. This is in total contrast to the developed countries whose scenario is different. World Bank (2005-2007), has documented best practices in land administration with Norway, Sweden and Iceland taking the lead with 1, 2 and 4 days respectively as the time period it takes to process a title.

Williamson (2001 and 2004) has attributed this situation to management and people problem. The author says that most of the institutions dealing with land administration in the LDCs are unwilling to be probed or evaluated due to their mistaken belief that what ails them are technical issues like poor information systems. It is however, notable that the institutions mandated with the responsibility of the management of land as a resource do not efficiently deliver services, mainly due their poor styles of management. They lack Management by Objectives (MBO) as style of management and until recently most had not embraced any kind of result based management approaches. This translates to lack of clear mission statements and measurable objectives to guide them.

This situation is no different in Kenya. The institutions dealing with land administration, namely the Ministry of Lands and the local authorities more often than not lack performance control measures in general and in particular they are not guided by Management by Objectives (MBO). As such, they have no measurable objectives, no targets and have no feed back systems. They also have no clear objectives to match the current work demands and to guide the workers or their departments. For instance, in the processing of land development applications, the objectives of each department in terms of output should add up to the objectives of the overall approving authority, which could be measured in terms of the approvals it accords, the titles it issues and the length of time each of the transactions takes from application to completion. However, this is not the case. Each department operates on its own autonomy. Due to lack of performance control measures and measurable objectives it is difficult to determine the level of output achieved and within what cost and time frame. This information is lacking and undocumented even within the institutions themselves.

In the case of Kenya, any property transaction applications could take an indefinite period of time before they are finalised.

There is top-down style of management where decisions are made by top officials like permanent secretaries or ministers. These are political appointees who are at times not conversant with the technical processes. Yet the decisions they make are often imposed on the heads of departments, who in turn direct the middle level managers to implement the decisions oblivious of their applicability, relevance or repercussions. This not only causes delays in service delivery but also creates a confusion mode within these institutions. This situation is quite characteristic in organizations where there is no results based management.

This current management styles in these institutions have led to a situation where land administration services in general and processing of land development applications approvals in particular are characterized by the following shortcomings:-

- Complexity in the processes, which breeds uncertainty, increases costs and encourages fraud.
- Bureaucratic approval processes for land development applications, leading to indeterminable completion time and costs. This encourages the growth of informal land markets with major losses of revenue to the government.
- Manual information systems, often characterized by loss of documents which slows down the approval process.
- Slow processes of land registration which exclude majority of the people from accessing credit, hence stifling development.
- Inefficiency as evidenced by the indeterminate length of time it takes to complete the transactions and the number of stages a transaction has to go through
- Lack of accountability within the departments and to the general public due to lack of a feedback system

Olima (2000) and Kreibich (2000) have documented the effects of ill-operating land administration systems as follows:-

- Emergence of illegal subdivisions which lack basic services like water and sewerage systems amongst others.
- Mushrooming of informal developments and squatter settlements.
- Large informal markets which have been blamed for illegal or unauthorized occupation of land, non-adherence to building codes and infrastructure.
- Speculation and land hoarding that create artificial scarcity
- High costs of the impacts of restrictive land markets which have been put at 1.3% of annual economic growth in India (World Bank, 2005)

This study therefore proposes the use of MBO as management approach in an attempt to address the identified shortcomings.

## **1.2 Research Objectives**

The following objectives are the main focus of this study:

- To investigate the management approaches being used by the institutions dealing with land development applications approval processes
- To explore the effects of the management approaches adopted on the performance of the administration of land development applications approval processes in Kenya
- To suggest ways of improving the administration of land development applications approval processes in Kenya

## **1.3 Study Hypothesis**

This study hypothesizes that lack of results based management such as Management by Objectives (MBO) as a management approach has led to inefficiency in the administration of land development approval process in Kenya.

#### 1.4 Scope of the Study

This study uses Management by Objectives (MBO) as the theoretical framework of the study due to its inherent advantages over other styles of management. Management by Objectives is used as a management approach and as a tool to measure performance. The study adopts scenario analysis a hypothesis testing approach to show role of MBO in improving performance and what would be the possible effects if MBO is embraced. The study is confined to land that has been adjudicated, allocated, surveyed and subsequent titles issued. It, therefore, deals with subsequent transactions that take place on such land namely land development applications approval processes in Kenya with specific reference to land subdivisions, change- of-user and extension of lease applications. The study examines land development applications from submission, to title registration and the management of the land administration structures and processes.

This study confines itself within a period of five years from 2002 to 2005, for various reasons. Prior to this period, the country experienced a lot of malpractices in the land sector manifested through flouting of planning regulations and emergence of illegal/irregular allocations. Stability and predictability on the land sector came after the 1999 presidential ban on all allocations and more so after the year 2002 with the installation of the new NARC government. Furthermore, although the Physical Planning Act (1996) and Environmental Management and Coordination Act (1999) had been enacted in 1996 and 1999 respectively they nevertheless, took effect from the year 2000 in as far as the procedures of land development application proposals are concerned. The period of study chosen was therefore, relatively predictable period from an institution, processes and legislation points of view. It was therefore easier to trace the applications from their point of entry at the local authorities than previously when applications were submitted to different authorities.

This study has chosen land development applications within the Nairobi Province. Nairobi Province, being the host of the capital city bears numerous

land development activity transactions and was therefore chosen as a good representative study area. Therefore the institutions targeted are the Ministry of lands and the Nairobi City Council, Department of City Planning.

### **1.5 Significance of the Study**

Williamson (2004) recognizes that land administration systems must be put in place as they ensure that land as a natural resource is sustainably used and developed. Land administrators systems can not operate efficiently if they are not open to evaluation and probity by the consumers of their services. On the other hand, consumers can not demand accountability if they are not knowledgeable on how land resource is administered.

The literature reviewed indicates that land administration systems in almost all developing countries are bureaucratic, over-centralized, inefficient, and lack measurable objectives to guide them. They also operate in high secrecy. There is scanty documented work on the land development applications processes in Kenya. Whereas a lot of studies have been done in many other places, no study has been done to link the failures of Kenya's land administration systems to lack of management by objectives (MBO).

This study, therefore, is useful to various stakeholders key amongst them being:

- (i) General Kenyan public who have been educated on how to go about the processes of land development applications approval in Kenya.
- (ii) Investors who can plan better now that the approximate time-frame of land development application approvals processes has been established by the study.
- (iii) Land administration institutions which could replicate the Double E-Q model and implement the recommendations in an attempt to improve on the land development applications approval processes and general service delivery.



## **1.6 Organization of the Study**

This work deals with land administration processes in general and specifically with the administration of land development applications approval processes in Nairobi.

Chapter 1 introduces the study, problem statement, the study objectives, hypothesis, scope and significance of the study and definition of terms.

Chapter 2 presents literature relevant to the study. It deals with the general information on land administration covering the structures and processes and gatekeepers.

Chapter 3 examines the various management principles particularly the performance measurement approaches that are relevant to the evaluation of land administration systems. The chapter focuses on Management by Objectives which forms the conceptual theoretical framework of the study and gives a basis for the formulation of a land development applications performance evaluation model.

Chapter 4 covers the research design and methodology with a description of the type and nature of data collected, institutions targeted, sampling techniques, data collection tools and hypothesis testing approach adopted.

Chapter 5 focuses on land administration processes in Kenya starting with its history and the legislative framework. The chapter also presents the processes of land development applications approvals with the aim of identifying the shortcomings in the processes.

Chapter 6 deals with data presentation and analyses. It presents the qualitative and quantitative findings from land administration management structures and consumers of land development application processes with a view to evaluating performance.

Chapter 7 is the final chapter and it gives the conclusions and recommendations based on the study findings. This section also gives the areas of further research.

### **1.7 Definition of Key Terms**

**Land:** Land may be described as a physical thing that encompasses the surface of the earth and all things under, over and attached to it. Legally, it includes the physical and abstract attributes such as rights and interests embedded thereon (Onalo, 1986). From an economic perspective, land is any portion of the earth over which rights of ownership, stewardship or use may be exercised, including the earth's surface, water covered lands, water and mineral resources as well as features and resources attached to the earth whether natural or artificial (Dale and Mc Laughlin, 1999)

**Land administration:** Land administration is "the process of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies. It is considered to include land registration, cadastral surveying and mapping, fiscal, legal and multi purpose cadastres and land information systems" UN-ECE 1996, 2005). Land administration also refers to those public sector activities required to aid the processes of alienation, survey, valuation, registration, transfer, development and use (Dale and Mc Laugh, 1999).

**Land Management:** Land management is the process whereby resources of land are put into good effect. It entails the decision making and implementation of decisions about land (Dale and McLaughlin, 1988). These decisions may be taken at the elementary levels by an individual, where one has to make rational decisions on how to put land into highest and best use so as to realize maximum returns.

**Land Development Applications:** Land development is facet of land management, which refers to the process where land as a resource is put into good effect. As such, it would be in order to say that land development whichever form it takes is a tool of land management and is an element that may be used towards guiding the allocation of land resources into effective use for optimization of returns. Subdivisions, change of user and extension of leases applications will be used by the study to represent land development applications.

**Management by Objectives (MBO):** This has been defined by Lucey (2005) as a “structured form of delegation which seeks to harmonize the goals of the individual with those so the organization”. Decenzo and Robbins (2001) refer to MBO as a system in which specific performance objectives are jointly determined by subordinates and their supervisors, progress towards objectives is periodically relieved and rewards are allocated on the basis of the at progress. It is a management approach characterized with the following features:

- Measurable objectives
- Defined targets
- Participatory approach in objective setting
- Feedback system

## CHAPTER TWO

### LAND ADMINISTRATION SYSTEMS

#### 2.0 Introduction

Land is widely recognized as a factor of production that is central to all facets of development. Its importance and its access have been hailed across the globe since it is not as an end in itself but a means towards social emancipation. Land has unique characteristics, and together with its importance it has to be managed and administered sustainably. Its characteristics of physical indestructibility, immovability and fixity in space means that land can only be institutionally managed as it can not be traded in a normal market set up.

#### 2.1 Land Defined

The definitions of land are many and differ widely depending on the societal, economic or political inclinations towards land. To a physical geographer, land is a landscape which is result of geological and geomorphologic process. That space to the geographers did not just come into being but these processes will define why one space or landscape is unique from the other. An economist and a valuer will often view land as a resource which together with capital and labour should be exploited to give maximum returns, hence the definition of highest and best use. In this context land is defined in terms of arable land, prime land or arid land which without further capital divesture may have no returns. The ethnographic concept of land stems from the westerners' practice of dividing the earth's surface using an imaginary grid that can itself be manipulated or redefined to suit various circumstances. A vivid example is the 1885 scramble for the partition of Africa by the colonial masters who kept on moving geographical boundaries to suit their interests. The grid is then plotted on paper or on a sphere and then the task of correlating the grid to the physical features of land and sea then commences. Systems of positioning have advanced with crude medieval to modern global positioning systems. Thus, surveyors view land as a measurable entity divisible into thing-like parcels by means of mathematical and technical processes of surveying and cartography.

All these are technical definitions that may not include the opinion of most of the world's less endowed who just view land as a space to eke a livelihood from just for today. Dale and Mc Laughlin (1999) have defined land to be a physical thing that encompasses the surface of the earth and all things attached to it. In the most present context, land encompasses all those things directly associated with the surface of the earth, under the earth and over the earth. Legally, it includes the physical and abstract attributes such as rights and interests embedded thereon. From an economic perspective, land as any portion of the earth over which rights of ownership, stewardship or use may be exercised, including the earth's surface, water covered lands, water and mineral resources as well as features and resources attached to the earth be they natural or artificial.

In Kenya, The Registered Land Act (Cap 300) states that land "is all land covered with water, all things growing on land and buildings attached to it. Section 27 of the same stipulates that land includes interests, which include absolute ownership". Trading in land means trading in interests or rights, which may be abstract but nonetheless real in their effect. These rights are equated to a bundle of sticks with each stick representing what can be done with the property (Onalo, 1986). It is these rights that demand the institutional foundation which addresses the issues of who owns what, how land is used, who determines or authorizes when and how it can be traded and by whom. These institutional set-ups are for purposes of this work referred to as land administration structures and the way of doing things in a bid to answer these questions is referred to as land administration processes. Together, they will be referred to as land administration systems.

## **2.2 The Role of Land in Economic Development**

The relationship between man and land is as old as the stories of creation. In Genesis 1:9-24, land is mentioned as that part of the earth that supports all other creatures and plants. The nexus between human beings and land is seen in chapter 2:15 where the creator puts man in-charge of the land by working on it

and enjoying the fruits of the land. Land is therefore core to the very existence of man and its role may be summarized as follows:

- Land provides the basis of development, which could be cultivation, building, fishing, commerce and many others.
- Land is an important component of a market driven economy.
- Its value is an indicator of wealth in any society and it is an important element of government portfolios.
- It can be held as a form of savings, where people invest in land for future use or trade.
- Land is a control measure thus we have the land use and development controls. It aids in the redistribution of wealth through taxation and closing the gap between the rich and poor.
- Property and financial markets are intertwined, so that economic growth is ignited by changes in property markets, especially where a big part of the banks' lending portfolio is tied to land which acts as collateral for lending.
- Land as a factor of production is a source of revenue to the taxman. It is preferred due to its fixity in location and may not be subjected to tax avoidance or evasion.
- Socially, ownership of land and real property signifies success and stability.

### **2.3 Land Management and Administration**

The importance of land in economic, social and political development of any country demands that it be managed and administered optimally. Land management is the process whereby resources of land are put into good effect. It entails the decision making and implementation of decisions about land (Dale and McLaughlin, 1988). These decisions may be taken at the elementary levels by an individual, where one has to make rational decisions on how to put land into highest and best use so as to realize maximum returns. The decision may also be made by a group of persons or institutions collectively depending on selected objectives. In the private sector, the management of land is motivated

by profit, as land is viewed as a means of capital accumulation. In the public sector the management of land will at times be based on the view that land is a means of collective consumption. Efficient and effective land administration facilitates access and delivery of land, transfers the rights from one party to the other and it protects these rights from abuses. Whereas the various pieces of legislation will spell out the use and restrictions to land, the implementation of the same lies within the existing land administration set-ups. Structures and processes have therefore to be put in place to ensure stability in the land sector and the society in general. Land management is concerned with the stewardship or custodianship of land both for the present and future generations. It has therefore to incorporate the concept of sustainable development, which is the use of available resources now without compromising the use of the same resources by the future generations. The management of land today must be in a manner that the generation to come will be in a position to reap similar benefits. Dale and Mc Laughlin (1988) have categorized land management in two perspectives:-

- Environmental perspective which includes the physical, biological and chemical factors that compose people's surroundings and that may be distinguished in terms of continuing renewable and non-renewable resources
- Institutional which focuses on the various aspects of group, collective, or social actions that influence and control people's use of land. It is the formulation of land policy, the preparation of land development and land use plans and the administration of land related programs all in one.

The duo has also identified two ends of the spectrum as far as land management is concerned. On the one hand, there is making of fundamental decisions about the nature and extent of investments in the land while on the other, the day-to-day operational decisions about property conveyancing, assessment/appraisal, development and management of services and utilities, environmental impact assessment, development controls, conservation of land resources and the monitoring of all these land based activities. Land administration is then a subset

of land management. This thesis however concerns itself with land administration systems and will not dwell on the wider issues of land management and planning.

Land administration according to UN-ECE (1996 and 2005), is the process of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies. It is said to include land registration, cadastral surveying and mapping, valuation, land records and information systems. Williamson (2000) states that by its very nature, land administration focuses on land tenure and cadastral issues. Thus land administration is about who owns what, where, and how.

Land administration is the process of regulating land and property development and the use and conservation of land, the gathering of the revenues through sales, leasing, and taxation and the resolving of disputes/conflicts concerning ownership, and use of land. Land administration is used to refer to those public sector activities required to aid the process of alienation, survey, valuation, registration, transfer, development and use of land. In most countries, these processes are administered by the public sector through the land administration structures. This study deals with the management of the structures and processes of land administration.

## **2.4 The Land Management and Administration Gate Keepers**

The land management and administration gatekeepers refer to a system of interrelated actors or stakeholders and activities as a result of which efficient allocation and utilization of space (land) is ensured. Their overall objective is enabling the guidance and control of the orderly growth in rural and urban areas and their efficient functioning. Kreibich (2000) observes that, there is need to adopt a participatory approach in the whole process of land administration. In regard to this, he identifies two fundamental roles that are played by the gatekeepers. These include:-



- a) Regulating land development activities best performed by grass–root actors or players including local institutions.
- b) Protection of private and public interests, servicing, accessibility and enforcing controls, best performed by the state.

In view of this, the main land administration gatekeepers include:-

- Central Government.
- Local authorities.
- Land owners.
- Professional and Professional organizations.
- Civil Society.
- Private sector.

#### **2.4.1 The Central Government**

The ultimate responsibility of land management and administration lies with the government. Usually when government is voted in by the electorate, it is given the mandate to regulate and control all matters or issues relating to growth and development among others. To ensure that land is protected from misuse and that its resources' management is effective, the government legislates and enacts laws to govern the same (Fourie, 1996). Legislated land laws provide the processes in which land is to be dealt with. Processes towards dealing with land are vital and they determine whether the land resources are suitably, sustainably and effectively used. These are the major goals of land administration and management.

Globally there are institutional frameworks for tackling issues that regulate land and in most nations it is the Ministry of Lands. The roles of this institution are:

- Land titling and registration.
- Land valuation.
- Surveying and mapping.
- Physical planning and preparation of development plans.

- Plot allocations/alienations.

The ministry of lands in collaboration with other ministries and institutions in any country ensures that all developments are suitable and that land resources are used optimally for the benefit of all.

The government formulates land policy, which provides the guidelines on land use. The land policy strengthens the provisions of the laws and provides clear guidelines on land use and management.

The government also eliminates market imperfections and failures to increase operating efficiencies in land. It also removes externalities so that the social costs of land market outcomes correspond more closely to private costs and also redistribute society's scarce resources so that disadvantaged groups can share in society's output. The central government also formulates regulations to ensure that private sector provides necessary public goods when they build projects (Dowal and Clarke, 1991).

#### **2.4.2 Local Authorities**

Local authorities operate under the executive arm of the central government through the Ministry of Local Government. They serve the role of decentralizing land administration and management as they are nearer the locals than the central government, making land management simple and effective (Kreibich, 2000).

They are also responsible for formulating the planning and development frameworks on which all the decisions on land development should be based. The Physical Planning Act (1996) emphasizes the role of local authorities towards land management.

Local authorities globally provide specific public services such as water, electricity, drainage and sewage. To put land into good effect these services are

crucial and therefore this qualifies local authorities to be key stakeholders in land management and administration.

Zoning regulations are the prerogative of the local authorities (Fischel, 1999). These regulations are vital in land management and administration in that they direct how land can be used optimally and sustainability. Land management that is effective calls for participatory approach. Local authorities being closer to the public use this aspect to popularize their understanding and have the public mandate to do so all for the benefit of the area residents.

Local authorities under the fiscal ordinances on land taxation enhance the good use of land thus enabling the land owners to pay the land tax and retain some income for further investments or other uses. Land taxation in form of land rates is a good tool in enhancing land management and administration.

### **2.4.3 Land Owners**

Land owners ensure that the land is put into the best use as per the land use regulations in order to have the highest level of returns and satisfy the other land users. Fourie (1996) has noted that 20-80% of the land delivery in the LDCs is informal. In other words, the owners, though crucial gatekeepers are informal in terms of mode of ownership and the nature of developments that they put on the land. There is very little conformity to the legal cadastral systems and land use controls. The result is that the land owners have no access to formal financial institutions and their ability to put land into highest and best use remains elusive.

### **2.4.4 Professionals and Professional Associations**

The role of professionals in land was a discussion issue in the UN Earth summit in Rio de Janeiro in 1992, The HABITAT II Conference on Cities in Istanbul in 1996 and the World Summit On Sustainable Development in Johannesburg in 2002 in which it was agreed that their role in land management and administration cannot be ignored (UN-habitat, 2003).

In some countries, the public sector may lack the capacity to carry out and meet the land management and administration process. Therefore, it may call up on the various professionals in land to offer consultancy services and foster the processes. Professionals such as Valuers, conveyancers, lawyers and land surveyors together with their regulating bodies play a critical role in land management and administration process.

Professional bodies help in attracting only the right quality of recruits into the training programs and into the professions. Besides, they set and enforce codes of conduct and standards of practice. The various aspects of land management and administration call for competence so that no loopholes are left for substandard performance. Successful land use planning and zoning calls for use of qualified persons so as to effectively address the fundamental issues regarding to each portion of land.

The International Federation of Surveyors (FIG), for instance, provides the international practice standards for surveyors which are adopted on the local levels. Together with this, FIG has brought in professional bodies from over 50 countries towards formulating new systems of land management and administration in line with 21<sup>st</sup> century challenges.

#### **2.4.5 Civil Societies**

These include Community Based Organizations (CBOs) and Non Governmental Organizations (NGOs). They are regarded as informal gatekeepers though they play critical role in land management and administration (Kreibich, 2000). These local actors regulate land development within their areas and are at the forefront in ensuring that land mismanagement is curtailed. They conduct civic education and enlighten the locals on the importance of good use of land and the governing laws and rules on land use and development. The civil society mobilizes the locals, and on detection of land misuse and poor development raise public outcry and petition the relevant authorities for redress. In Kenya such associations are

vibrant against the misuse of public land manifested through irregular land allocations (GoK, 2002). They also mobilize the locals to raise funds for their own developments especially low-cost housing. Kreibich (2000), in support of CBOs argues that local government needs to devolve powers to the CBOs and neighborhood associations in order to supplement the local authorities' capacities to provide services and other land managerial practices.

#### **2.4.6 The Private Sector**

The UN-Habitat (2003) identifies the private sector as to comprise of developers both formal and informal, surveyors, planners, lawyers professional associations and the financial firms. Financial firms promote land management through advancement of loans for the land development and maintenance. Land owners ensure that their landed properties do not depreciate or lose value since this would lessen their equity, share thus calling for optimal utilization of their lands. Financial firms ensure that before advancement of the funds, land is subjected to all process of land administration and management such as surveying and registration. They may also demand for building plans from qualified professionals before they decide on whether to advance the loan.

### **2.5 The Land Administration Processes**

These include:-

- Alienation/ Allocation.
- Adjudication.
- Planning.
- Valuation.
- Surveying.
- Titling and registration.

#### **2.5.1 Land Alienation/Allocation**

Alienation refers to the process of transfer of land by the governing authority to its citizens. The owner of a freehold (fee simple absolute) under the English law

has the right of alienation and in most cases the government is the radical title owner of land (UN- Habitat, 2003). There are different methods of land alienation by the government. In the case of Kenya, alienation may be through advertising and public auction, direct allocation by the president through the Commissioner of Lands and by reservations of land for governmental organizations. The implementation of the alienation process is usually done by public bodies such as land registries. The contents of the land register in the land registry is the real evidence on that land and can not be challenged in any court of law except when necessary amendments are done (Dale and McLaughlin, 1988). Other bodies that facilitate this process are; local authorities, the office of Commissioner of Lands or chief land administrator depending on the country. The jurisdiction governing the process varies from one country to another.

Land alienation can also be regarded as the transfer of ownership or rights of land. Land may be conceived of, as being held by those currently living in trust for their ancestors and the yet unborn. Britton, Davies and Johnson (1980) give some ways through which land can be alienated. These include:-

**(a) Assignments**

This is the transfer of a lease from the tenant to another party. A tenant may assign a lease to another party, though this right of assignment is likely to be constrained or prohibited by the lease terms.

**(b) Leaseholds**

This entails the transfer of interest from the lessor to the lease holder (lessee) in which the latter agrees to pay rent and observance of the lease covenants. In some cases, the lessee will be under express covenant to keep the premises in good repair and redecorate internally and externally at stated intervals. The lessee must seek the consent of the lessor on any kind of dealing with the land.

**(c) Subleases**

Subject to the terms of the head lease, a lessee may sublease the property for any less term than he himself holds, either at the same rent or at any other figure he may be able to obtain.

In this way, the head lessee becomes entitled to a "reversion" on the expiry of the sublease. Often this reversionary, will be a purely nominal one of a few days only.

#### **(d) Easements and Restrictive Covenants**

Easements are rights exercisable by owners of one parcel of land over other (s) land. Easements fall into two categories; positive and negative. Easements include those where someone has a positive right to do something over another's land, such as exercising a right of way and those where an owner has a right to stop someone from carrying out an activity on their land (Onalo, 1986).

#### **(e) Encumbrances**

These refer to adverse rights in land. Encumbrances are registrable rights and may include charges, and mortgages. Such rights are not registrable under English law and these overriding interests must be checked for by enquiry and inspection of the land register. A mortgage or charge enables the land owner to transfer temporarily the rights to another party (lending institution) so as to obtain a loan against the land as security for the repayment.

#### **(f) Freeholds**

This refers to the total ownership of the land that one can obtain from another through purchase or gift and is regarded as the greatest interest in land. In transfer of a freehold the holder may transfer all the rights to the other and the other party gains exclusive rights subjects to the land use control/ regulations. The subsequent holders acquire the same rights as enjoyed by the former holders (Onalo, 1986).

### **2.5.2 Land Adjudication**

Land adjudication is the process whereby existing rights in a particular parcel of land are finally and authoritatively ascertained. It is defined by Onalo (1986) as the process of ascertainment of land rights and interest in the land for the purposes of registration of titles to such land. It is a prerequisite to registration of title and to land consolidation and redistribution. There is a cardinal rule in land

adjudication that the process should not alter any existing rights or create new ones.

The land adjudication process helps to resolve disputes and uncertainties pertaining to property ownership. It may focus solely on problems that exist when property is first formalized but in some jurisdictions, it also addresses many problems that arise after formalization (Dale and Mc Laughlin, 1988). Land adjudication can be classified as:-

#### **(a) Sporadic Adjudication System**

This is adjudication, which is done on demand. This means that it is done "here and there, now and then" for determining the precise ownership of an individual parcel. The sequence in which parcels are brought on to the register is piecemeal, haphazard and unpredictable. However sporadic systems can be used selectively to encourage specific categories of land ownership and is cheaper in the short term since adjudication costs can be easily passed to the land owners.

#### **(b) Systematic Adjudication Approaches**

This involves methodical and orderly sequence in which all parcels are brought onto the register area by area. This approach in the longer term is less expensive because of economics of scale, safer because it is given maximum publicity and more certain because investigations take place on the ground with direct evidence from the potential land owners of adjoining properties.

### **2.5.3 Land Planning**

Land planning is the art and science of ordering the use of land, the character and the citing of building and communication routes so as to secure maximum practicable degree of economy, beauty and convenience. It is also the discipline concerned with providing the right site, at the right time in the right place and for the right people.



Land planning is an historical phenomenon that dates back to the 19<sup>th</sup> Century during industrialization era in Europe. At that time, there was increasing awareness about public health, fire safety and transportation. These scenarios led to local authorities being delegated with the responsibility of drainage, water supply and roads. The major output of land planning, be it in LDCs or the industrialized nations, is a spatial representation or a map (plan). This output may show physical development in form of buildings shown in a given form/design or physical land development plan that shows what land could be used for what, the size, limitation to use and any other matter that befits the local area. The spatial representation in totality shows how human activities are to be ordered on the ground.

Land planning is a process rather than a spontaneous activity that envisages what is to happen and how it should happen. Planning instruments/legislation emanate from the government policies like any other form of development. Planning legislation(s) has to exist to give legality and validity to the process and also to vest power and authority to a government agency to implement and control the use and development of land within the regulations.

Land planning as a global phenomenon plays the following roles:-

- Maintenance of economy through land resources.
- Keeping order in case of changes in population.
- Ensuring consistency of land use.
- Putting land resources to the highest and best use.
- Ensuring proper physical development hence propagating sustainable development as one of the Millennium Development Goals (MDGs).
- Catering for the failures of the free land market economy which may ignore sectors such as health, education and infrastructure.
- Settling land use conflicts.

#### **2.5.4 Land Valuation**

Valuation is the process of estimating the worth of landed property based on experience and judgment. The purpose of valuation is to determine "value" a term generally prefaced by some description as market value or benefit value (UN-ECE, 1996).

Accurate valuations, normally determined by qualified land valuers, guide the market towards fair prices and allow informed decisions to be made about the efficiency of land resources. The importance of valuation as a public sector activity in land administration can not be overlooked. Valuations are usually done for determination of rates, rents, sale or purchase, stamp duty and capital gains.

When understanding the valuations process, several key techniques are applicable in determining the value of a property. The methods used in valuation process are:-

- Comparison Method.
- The Income Method or the Investment Method.
- The Cost Method / Contractors Method or the Quantity Survey Approach.
- The Profit Approach.
- Residual Approach.

#### **2.5.5 Land Surveying**

Land surveying is the science of determination of relative positions of objects on the surface of the earth. Cadastral surveying is a sub-branch of land surveying that refers to the process of establishing boundaries and other data in furtherance of cadastres (parcels) production which form the basis for land titling and registration (Dale and McLaughlin, 1988). Cadastral surveying could be done by the government land surveyors or private licensed surveyors.

The cadastral surveys are concerned with geometrical data, especially the size, shape and location of each land parcels/ cadastre. In some jurisdictions,

cadastral surveying is solely concerned with the location of property boundaries while in others, it includes topographical surveys. This process is important for land registration purposes, hence land administration.

Surveying of properties and associated boundaries is required to determine their locations and to provide evidence for their future retracing. It may be needed in the initial setting out of land parcels, in recording the existing features and in re-establishing boundaries either in the case of dispute or where subdivision is to take place (Farvaque and McAuslan, 1991).

Surveying, according to Dale and McLaughlin (1988) is an investment in the future to ensure the long term maintenance of the parceling of the land. It should always be accurate, but the level of precision with which the measurements are recorded will vary depending on local circumstances.

In many countries, the techniques which are used in the cadastral surveying process are provided for in the law. There are also regulations that specify the standards that are to be achieved and the methods used to deliver them. In Kenya, cadastral surveying is carried out under the Survey Act Cap 299 and supported by other land laws.

### **2.5.6 Land Titling and Registration**

The International Federation of Surveyors (FIG) defines land registration as the official recording of legally recognized interests in land, which is normally part of a cadastral system. The process of land registration may follow a range of different options depending on the purpose and particular circumstances of the jurisdiction.

UNECE(1996) and Onalo (1986) argue that land registration provides the means for recognizing formalized property rights and for regulating the character and transfer of these rights. Land Registries document certain interests in the land;

including information about the nature and spatial extent of these interests and the names of the individual to whom these interests relate. They also record charges and liens such as mortgages. Additionally the land registries provide documentary evidence which is vital in dispute resolution on property as well as variety of public information such as valuation.

Onalo (1986), Ogendo (1991) and GoK (2002) recognize that the finality principle of land registration is with the land registries. This way, title deeds and other documents showing ownership of interest in land are prima facie evidence only.

Registration of land must be governed by laws to enforce it and make it legal. In many countries, only registered land titles are legally recognized as evidence of property ownership. There are three (3) land registration systems recognized globally:-

#### **(a) Private Conveyancing**

Under this, land transactions are handled by private arrangements. Interests in land are alienated, transferred by signing, sealing and delivery of documents between individual without any direct public notice, record or supervision. The pertinent documents are held either by the individuals to the deal or by an intermediary. The state has little control over the registration process (save for regulating the intermediaries) and there is little, if any, security against errors or fraud. In addition, the system is invariably slow and expensive. Despite these limitations the system is widely done in Latin America.

#### **(b) Deeds Registration**

This is a system where proof of property ownership and interests is based on the registration of transfer and other deeds. With it, a copy of the relevant deed for example a transfer deed is deposited at the Deed registry. An appropriate entry is then made into the register showing the time, date, parties and transactions, as may be required by the particular jurisdiction. It is generally a requirement that

the document be checked by a notary or an authorized lawyer to assure the validity of the transaction and entry.

This transaction reference together with the supporting deeds then provides evidence of the vendor's rights to sell the property. The deed registration system is limited in that it does not provide a guarantee of title. It does not provide the clarity, certainty or guarantee required in an ideal situation. Deed system provides only a public repository for registering documents associated with property transactions such as deeds, mortgages and survey plans (Dale and McLaughlin, 1998). The system has three key elements.

- The logging of the time of entry of the property documents.
- The indexing of the instrument.
- The archiving of the document or a copy thereof.

### **C) Title Registration**

It is a system designed to overcome the defects and demerits of the deed system and to simplify the process of executing property transactions. Under this system, the land register is the final source of evidence of ownership and encumbrances attached to the land. Registration is normally compulsory and the state plays an active role in examining and warranting transactions.

In most countries, Kenya included, the entry on the register becomes the proof of ownership. Registration of title seeks to make a definite statement and extent of title and the land being identified by reference to on the map. The land registrar examines the contents of deeds relating to a property and makes up a formal certificate of title beyond which no further examination is needed. The extent of the property is abutted onto a map and the property is allocated a unique identifying number. In most cases, once issued, the title is indefeasible.

The Torrens System of land registration which was introduced by Sir Robert Torrens in Australia in the latter half of the 19<sup>th</sup> century is an example of the title

registration system (Williams 2004). This system of registration has three fundamental known principles which apply to the title registration system too.

**i) The mirror principle:-** The register reflects accurately and completely the current state of title hence there is no need to look elsewhere for proof of title.

**ii) The curtain principle: -** The register is the sole source of title information. In effect a curtain is drawn blocking out all former transactions.

**iii) The insurance principle: -** The state is responsible for the veracity of the register and for providing compensation in case of errors or omissions thus providing financial security for land owners.

## 2.6 Summary

This chapter has drawn the differences between land management and administration with a view to narrowing down to the scope of the work which is land administration. It has examined the land administration gatekeepers and processes and the important role that each plays. The processes starting from alienation to registration form land administration and it has been observed that each plays its critical role to complete the loop. However it is important to note that the role of the other gatekeepers besides the government authorities still remains peripheral. This is common in LDCs where most of the processes are in the hands of the government agencies. There is general lack of legislation that can give muscle to the other players to regulate formally the activities of the government as far as land administration is concerned.

It has been noted that, the fact that public organizations are the main players in land administration in most of the countries. This can at times pose a challenge to efficient service delivery. This is especially so in LDCs and countries in transition like those in Eastern Europe where the public sector has not developed fully to embrace the principles of democratic change. This in most cases renders them unaccountable to the public and hence continues rendering inefficient services. In chapter one of this study, it was observed that most institutions dealing with land administration lack accountability and are dogged by

malpractices resulting to inefficiency. These institutions are affected by issues of poor governance which affect most of these countries. The fact that the land administration institutions are public bodies, therefore, makes it difficult to separate themselves from the wider government systems. However, this work is of the opinion that the success of land administration systems depends on how the institutions are managed thus prompting the second part of literature in this work, namely management of land administration systems.

## CHAPTER THREE

### APPLICATION OF MANAGEMENT PRINCIPLES IN LAND ADMINISTRATION SYSTEMS

#### 3.0 Introduction

In an attempt to describe the land administration processes in the LDCs, most scholars and development partners have tended to shift blame from technical issues to the way systems are ran and managed. Indeed, issues of governance, which tie very closely to management, seem inseparable from efficient land administration systems. It is within the 1980s era of Structural Adjustment Programmes that, emphasis shifted to key words as accountability, transparency and probity among others. Whereas most works on land administration systems collectively agree that the processes, especially in LDCs are inefficient, slow, cumbersome and bureaucratic, none has tried in depth to establish the relationship between the management of the structures and the poor state of service delivery.

This chapter attempts to draw a relationship between performance control standards as a management strategy and the performance of land administration systems in the LDCs. It argues that there is need to have a microscopic look at the way institutions are managed if efficiency is to be achieved. Thus, the general principles of management, and specifically the performance measurement approaches are discussed hereunder with a view to formulating a land administration evaluation and performance framework which attempts to measure the systems' performance.

#### 3.1 Management

Management refers to the processes of getting things done effectively and efficiently through and with other people (Decenzo and Robbins, 2001). These processes have to be efficient and effective. Efficiency means doing the task correctly and it is mainly a measure of a relationship that exists between inputs and outputs. It refers to the achievement of results, by minimizing the task at hand correctly and in any organization, it translates into goal achievement.



Lucey (2005:105) underscores the need to adopt Fayol's classic definition of management being "to manage is to forecast and plan, to organize, to command, to coordinate and to control". According to the Peter Drucker school of thought, management is a practice not a science. It is not knowledge but performance. It is thus the process of making decisions about work, people, structures and systems. Management is not a one time decision or way of doing things but a continuous process evolving over time all depending on the organization and changes in time, space and technology. Every organization has a core business that dictates what management approach to adopt. The people in the organization must be led and organized with the aim of achieving the objectives of the core business.

Cole (2004) reckons that the variety of approaches to the vertical background of management have produced various versions of what is understood to be management and argues that there is no generally accepted definition of management as an activity. The author however, concurs with other scholars that classic definition of management is still held to be that of Henri Fayol who in 1916, defined management to be the process of forecasting, co-organizing, commanding, coordinating and controlling. Other definitions adopted by Cole (2004:6) are those of Breach (1957) who views management as a social process, the process consisting of planning, controlling, coordinating and instructing. On the same note, the definition by Koontz and O'Donnell (1957) is adopted to be "Managing is the operational process initially best discussed by analyzing the managerial functions". Cole (2004:7) once again attempts to derive a definition for management, albeit with a lot of difficulty, as a process that enables organizations to set and achieve their objectives through planning, organizing and controlling their resources including motivation. Management, therefore, is not an activity that exists on its own right but rather a description of a variety of activities carried out by those whose are its managers.

In spite of the various definitions of management, certain features or characteristics cut across all the definitions. These features according to Gakuru and Wahome (1997) are:-

- Management is universal in the sense that all Principles are universally applicable
- Management applies to all levels of organization
- Management is purposeful. It attempts to achieve results which are correctly referred to as objectives
- Management is concerned with productivity which is a derivation of the relationship between input and output hence the terms efficiency and effectiveness
- Management is an integrative process which involves the reconciliation of individual goals and organizational goals
- Management is about the allocation and control of human, money and physical resources in simple terms it is about control of money, man and materials.

### 3.1.1 Functions of Management

Gakuru and Wahome (1997), define a function as a type of work activity that can be individually identified and described in an organization. These functions which are effectively inseparable cut across management structures including land administration structures include:-

**(i) Planning:** Lucey (2005), defines Planning as the Managerial Process of deciding in advance what is to be done, how it will be done, when it will be done and by whom.

The main role of planning is to provide the guidelines or courses of action necessary for decision making with expected resultant output within the organization. The process gathers, translates, understands and communicates information that will help to improve quality of correct decisions which are based on future expectations. It is thus the process of selecting objectives and strategies to attain them. The courses of actions can be categorized as short, medium and long-term plans.

**(ii) Organizing:** This is the process of prescribing formal relationships among people and resources in order to realize goals. It is the determination of the necessary activities, structures and responsibilities and controlling these factors to achieve the required objectives.

**(iii) Motivation and Leadership:** These are behavioral processes where a manager influences others to contribute to the achievement of objectives by gaining their commitment (Lucey, 2005). Cole (2004), puts it that leadership is a dynamic process where one individual is not only responsible for the group's results, but actively seeks cooperation and commitment of all group members including group goals, within a particular framework and background of the organizational culture.

**(iv) Controlling:** This is the process of ensuring that the operators proceed according to plan. Cole (2004:240) gives the primary aim of control within the organization as that of "measuring performance against aims, objectives and standards, with a view to enabling corrective actions to be taken where necessary to keep a plan on course. The author goes on to say that control is a question of developing feedback systems throughout the organization". Controls are necessary to ensure that performance of activity compares favorably with plans set for them.

### 3.2 Performance Measurement Approaches

There are many approaches used by different organizations in their attempt to measure and control performance. Some of these are discussed hereunder as follows:-

#### 3.2.1 Control in Management

Control in management has been used both as a function of management and a performance measurement standard or criteria. In his introduction to controlling of performance, Cole [2004:240], emphasizes the importance of control among other functions by saying that "whereas planning represents the route map for the journey towards realization of goals, .....controlling ensures that the travelers know how well they are progressing along the route, how correct their map is and what deviations they

need to make to stay on course". It seems, therefore, that the management cycle can not operate efficiently without a control system to act as a check and balance towards achieving of the goals. Decenzo and Robbins (2001:412) have defined control as the "process of monitoring activities to ensure that they are being accomplished as planned and correcting any significant deviations". Performance control, as it were, is a form of evaluation of the activities that have been done against the desired standard. Performance control standard thus facilitates the realization of objectives and its effectiveness can only be measured against such. It is, hence, a follow up structure or systems to ensure that the actions that employees at all levels are supposed to take and the goals that they are supposed to achieve are being taken and achieved. Lucey (2005) identifies various aims of having management control amongst them being:-

- Motivation of people to take action consistent with organizational objectives.
- Coordination of efforts of different parts of the organization and
- Provision of information on the results of past performance and of operators.

Cole (2004) further adds to the role of control in terms of:

- i) Establishment of standards of performance.
- ii) Comparison between actual results against standards.
- iii) Taking corrective action when necessary.

Measuring actual performance is central to the success of any control system. The management must know what it is measuring and how it is measuring. The source of information is important in order to answer these questions. In any organization, personal observation, statistical reports, oral reports and written reports may be used as sources of information to assist in the control. This aids in measuring performance.

### 3.2.2 Benchmarking

This has been identified as another performance control measure that seeks to promote quality and hence facilitate the realization of objectives. Decenzo and Robbins (2001) describe benchmarking as the search for the best practice among competitors or non competitors that lead to their superior performance. According to Lucey (2005), the process of comparing a firm's performance with others in the same production line is what benchmarking is all about. This is usually done by use of financial and non financial parameters. Unlike other performance measures, benchmarking does not just measure output that is tangible but may use parameters that are qualitative. In the service industries, especially in the public sector, benchmarking is done by comparing the case of best practices either across the globe or in specific regions. Benchmarking has been known to increase efficiency and reduce costs through the copying of other better performers in similar fields. Lucey (2005) defines it as the establishment, through data gathering of targets and comparators, through whose use relative levels of performance can be identified by the adoption of best practices it is hoped performance will improve. Any form of benchmarking is however successful if information on key performance indicators or key success factors is availed. Such may include quantifiable measurements which reflect the goals of an organization and which are key to its success. Benchmarking has successfully been used to improve efficiency in both private and public organisations. Various types of benchmarking that have been identified include:-

- Functional or operational benchmarking – where internal functions are compared with those of best external practices.
- Internal benchmarking- involves comparing one operating unit with another within the same organization.
- Competitive benchmarking- This is common in production lines where organisations copy the best practices of direct competitors with a view to outshining them.

- Strategic benchmarking - This is a form of competitive benchmarking aimed at overhauling the organization to achieve better results than the competitors.

### **3.2.3 ISO 9000/2000 Series**

The ISO 9000 series was designed in 1987 by the International Organization for Standardization based in Geneva, Switzerland. This resulted from the 1980's increased push for improvement of quality among various organisations, where consumers had to be guaranteed of quality. This standard seeks to encourage organisations to develop quality management systems and awards accreditation to those organisations that have reached certain standards. ISO is not about products or service testing systems or setting of specific quality standards, but it concentrates on checking whether there is a framework of procedures, systems and records within organisations relating to quality. In an endeavor to reach and maintain the standards, companies have to continuously train their employees to keep them abreast skill-wise, maintain satisfactory records of operators and use feedback systems to reach corrective decisions, should problems occur (Lucey, 2005; Decenzo and Robbins, 2001). Both public and private organisations are endeavoring to become ISO 9000 series accredited so as not to be locked out of the global village.

In the LDCs, most of the export oriented industries have to be ISO compliant so as to have competitive edge in the market. Government organisations are also being conditioned by development partners not only to be ISO compliant but also to show how they measure their performance by identifying key performance indicators. The route to compliance is by having quality audit systems which can be evaluated easily, and proper management information systems to ensure safe custody and retrieval of information. Training of personnel in government organisations is also gaining momentum so as to ensure that quality in service delivery is ensured. Although ISO is clearly a major step in promoting quality, the approach has been criticized over the

voluminous records and manuals associated with it thus becoming over-bureaucratic and too paper compliant (Lucey, 2005).

### **3.2.4 Total Quality Management (TQM)**

Decenzo and Robbins (2001) use Total Quality Management as a generic term that describes the quality revolution taking place in both private and public organisations. TQM was inspired by a small group of experts like Juran Joseph and W. Edwards Deming (64). Deming's argument was that a well managed organization was one in which statistical control reduced variability, resulted in uniform quality and predictable output. Thus, TQM is about written down controls which are measurable in terms of output which is almost standard and easily predictable. When there is variation in this standard then TQM as a principle is questionable. Juran Joseph, on the other hand showed that over 80% of failures in production were attributable to management and thus preventive measures and not curative ones should be sought so as to achieve quality. Lucey (2005) says that TQM is about quality awareness and improvement in every level and department within an organization.

TQM is, therefore, about values and commitment to improvement of quality service rendered by the organization. It is an organizational philosophy that is being adopted by service and government organizations, since whereas other control systems aim at measurable targets TQM is about change of attitude and largely improves organizational culture. It has also been argued (Lucey 2005) that TQM forges closer links between all levels of management and junior level managers are encouraged to take more decisions and accept more responsibility. According to Decenzo and Robbins (2001), the following are the components of the Deming TQM approach as a performance standard measure.

- It focuses on the customer.
- It is concerned with continuous improvement.
- It aims at improvement of quality of everything done within the organization.

- It calls for accurate measurement.
- It seeks to empower employees.

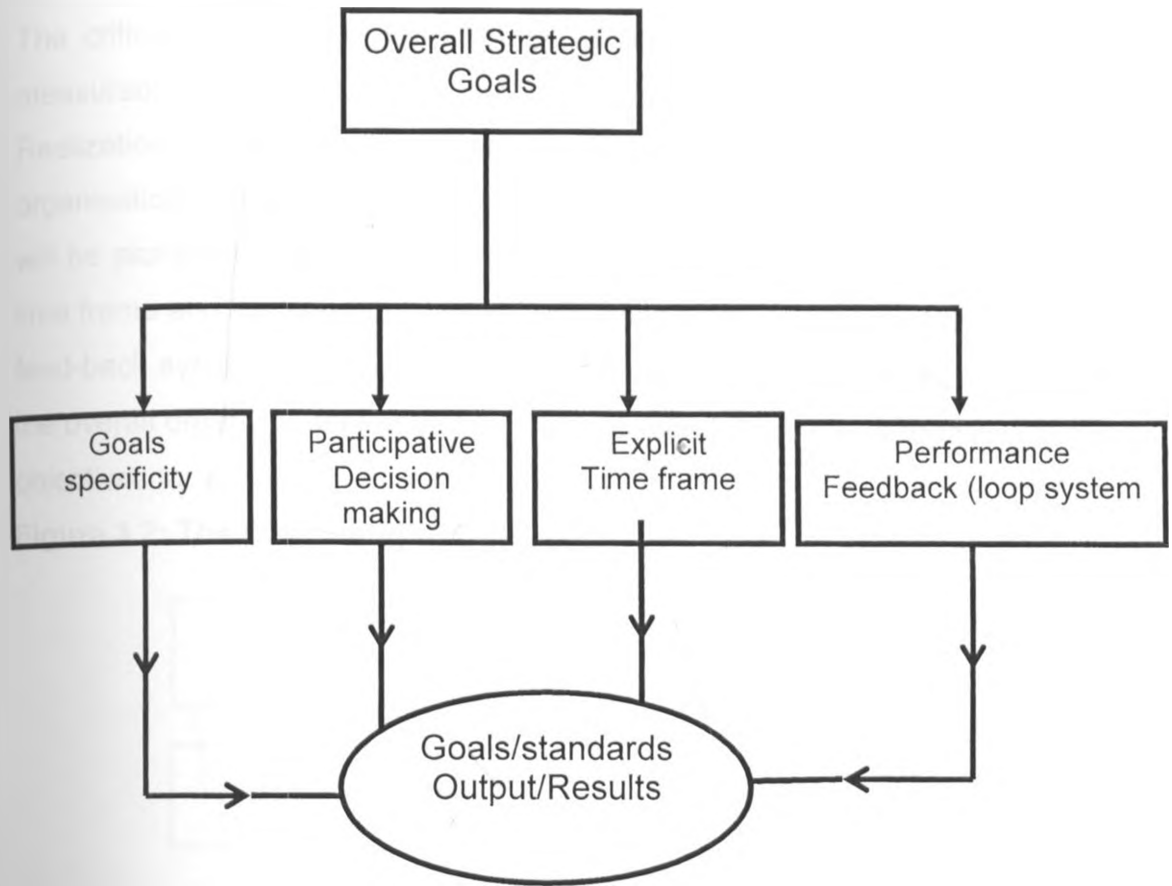
Bureaucracy just like in the case of ISO standards has been one of the set backs of TQM as an approach towards performance measurement and control.

### **3.2.5 Management by Objectives (MBO)**

Management by Objectives (MBO) is a performance measure criterion that is used or has been used in the past by both private and public organisations. Stoner et al (2003) introduces the concept of MBO by stating that, it goes beyond setting annual objectives for organizational units to setting performance goals for individual employees. Lucey (2005), Decenzo and Robbins (2001), amongst others show that MBO is the mother of all other performance control approaches, including the latest project management approach. This is due to its advantages over all other management styles and performance measurement approaches. This is clearly shown in the later sections of this chapter. One of the terms that cut across all the other approaches is that of goals/objectives realization. Goals or objectives will be used here interchangeably to refer to the results, output or product expected at the end of production or service delivery chain. Thus, MBO gives the conceptual framework of this study as it will be used to derive a performance evaluation model in the area of land administration. It will, therefore, be given more weight than the previously discussed performance measures as it is the backbone to the research. Figure 3.1 illustrates the various components of the MBO cycle.



Figure 3.1: MBO Cycle



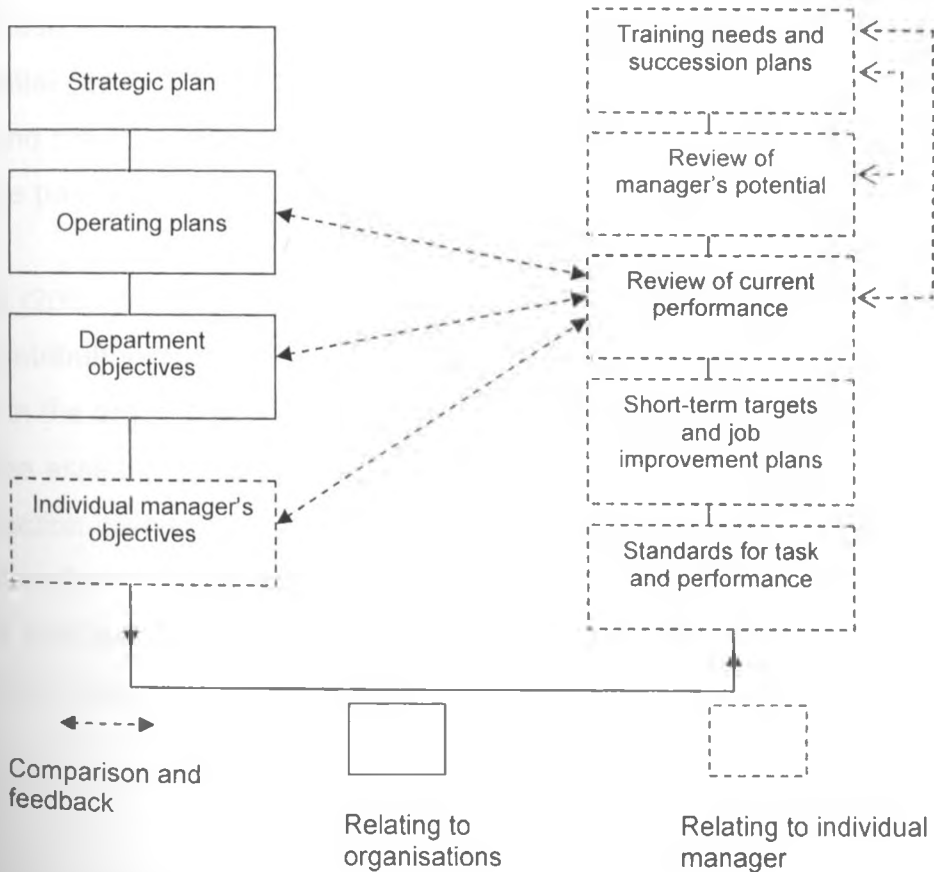
Source: Author (Adopted from Lucey (2005))

The approach was first proposed by Peter Drucker in 1954 and has been defined by Lucey (2005) as a "structured form of delegation which seeks to harmonize the goals of the individual with those so the organization". Decenzo and Robbins (2001) refer to MBO as a system in which specific performance objectives are jointly determined by subordinates and their supervisors, progress towards objectives is periodically relieved and rewards are allocated on the basis of the at progress. MBO makes objectives operational by a process in which they cascade through the organization. Thus, MBO is a participatory approach as each management level is involved in setting up of its own achieverables or deliverables. The organizational goals are supposed to cascade from the top management to the departmental levels and finally to the individual employees.

The lower level managers also set their own goals making MBO work both in a bottom-up and top-down manner.

The critical area in the performance of MBO is to convert objectives into tangible, measurable objectives that can be evaluated (Decenzo and Robbins, 2001). Realization of objectives can also be jeopardized by conflicting issues within the organisation. In land Administration for instance, it is not just enough to say that, titles will be processed fast. Through an MBO approach, the managers must set a defined time frame and the number of titles to be issued within that time frame and with a proper feed-back system that tracks delivery in all the sections. Figure 3.2 below shows how the overall organizational objects should be rolled downwards to tally with the individual objectives for achievement of better output.

**Figure 3.2: The Cascading of Objectives**



Source : Terry Lucey (2005).

Lucey (2005), Cole (2004) and Decenzo and Robbins (2001) have identified the following to be the MBO distinctive features.

- It has clearly defined individual responsibilities so that work is not just done haphazardly but the role of each member in pushing towards realization of the goals is clearly defined.
- Task and targets are emphasized in terms of measurable results.
- Participative goal setting. The operational objectives of each person and department are clearly defined at the onset.
- Qualitative and quantitative measurement factors must be agreed upon.
- Regular review and appraisal have to accompany reward for good performance.
- Joint review for managers' ability to handle the next job upscale. Cole (2004) emphasizes this characteristic in terms of what he calls 'performance review and potential review'. The former is concerned with results achieved on the present job and the latter with the anticipated ability to handle the higher level job based on the past and present job status.

Stoner et al (2003), consider the level participation in the MBO approach as one of the greatest contribution towards its success as a performance control measure. All employees in the organization must be actively involved in setting their achievable goals or at least be assisted by top level managers to set their objectives and draw a plan or course of action towards the realization of the same. In development projects, this approach is called community participation and it has been touted as one of the best approaches towards success of the project since people tend to own what they helped in conceiving, unlike, that which is imposed for adoption.

## Evaluation of MBO

To a big extent, MBO effectively works since no output may be achieved if it is not part of the organizational objectives. The emphasis on objectives is in itself a selling point for MBO. Various researches show that where MBO is adopted, 97% show productivity gains. There is a further indication that where the top level management is committed to the MBO program, there occurs a 56% average increase in productivity and only a 6% increase where commitment is low (Stoner et al 2003). Thus, MBO calls for massive support from the top management levels. The most probable reason for this direct relationship between management support of MBO and productivity increase, could be that top managers are the heart beat of the organizational and where they are determined to improve the image and productivity, then the same pulse is often pushed down to the lower level managers. In public organization for instance, policy makers will be committed to MBO if their performance directly translates to popularity of government. Thus, the objectives do not necessarily have to be quantitative but could also be qualitative as observed in The ISO 9000 series previously discussed.

Integration of individual goals to the strategic plans of the organization makes it easier to achieve firm's strategic goals when MBO is used as a control performance approach. Decenzo and Robbins (2001) indicate that, any individual performance based on the goals set is always higher than that of those who just report to work so as to 'work'. Furthermore, goals that are difficult to achieve produce higher levels of output than generalized or no goals at all since this acts as an impetus to the employees.

The fact that there is a feedback process in the MBO approach further strengthens the mission towards goals realization. Feedback allows one to know the level of performance and possible areas of weakness, thus assisting the management in identifying the areas of training so as to improve performance.

## Advantages of MBO

Lucey (2005), Gakuru and Mungai (1997) and Cole (2004) have identified various advantages of MBO as:-

- It provides an effective overall planning system so that management by crisis is avoided.
- It improves communication.
- It rekindles commitment at all levels due to its all inclusive approach.
- It serves as a basis for the analyses of managerial training needs.
- It provides a more objective and tangible basis of performance appraisal and review.
- It leads to better overall management and achievement of higher performance levels.

However, MBO has been criticized due to its various disadvantages:

- It heavily relies on top management support.
- Measurable objectives particularly in public organizations are difficult to identify.
- It is a time consuming process and may thus creates inflexibility.
- It can lead to high levels of stress as individuals try to achieve their goals at the expense of teamwork.

## Limitations to MBO

i) **Goal setting:** Goal setting and identification of measurables have been identified as the greatest challenge to the MBO approach. Performance Solutions Technology, a company dealing with Performance control consultancy in USA has recommended that it is important for an organization to find ways of setting and establishing their goals. These goals have, however, to adopt what is referred to as a DORIP model which stands for a critical working features of goals as they impact the worker, the customer and the project plan (<http://www.managepro.com/improweb.htm>). The DORIP model is equivalent to the SMART model where all levels of management must set goals which

are specific (not vague), measurable (in units), achievable, realistic and time bound (within a specific time schedule). DORIP stands for 'Defined Outcome, Requirements, Issues, Plan'

Goals in the DORIP model have to be articulated as Defined Outcome (DO). Requirements (R) to drive the goal home must also be addressed. Requirements add to goal definition, while at the same time, they shape methodology and set boundaries for the development of an action plan. Issues and obstacles (I) represent the conditions, challenges or the hurdles which must be addressed. Issues and obstacles give the reality base for the work breakdown structure. Finally the ability to achieve objectives is directly tied to a proposed course of action or plan (P). There is no substitute for creating and working an accurate plan. There is need to follow up and allow for feedback for any plan to succeed.

**ii) Achievement of Objectives:** This is yet another limitation to MBO as a management approach. Decenzo and Robbins (2001) are of the opinion that it is worthwhile that the employees have an understanding of what it they have to achieve. The inability to achieve objectives has mainly been attributed to management and people problem. Lucey (2005), Decenzo and Robbins (2001) and Burnes (2004) have identified two key areas that may hinder realization of objectives. These are:-

#### **A) Organizational Behaviour and Culture**

Cole (1995) views organizational culture as an intrinsic part of the deeper organizational character whose shared meaning and understanding within the organization allows people to see and understand situations in distinctive ways which provide a basis for sensible and meaningful behaviour. Organisational culture is often an interjectory between norms (which are standards that define what people should do, think or feel); rules (which are patterns of behaviour to which individuals are expected to conform) and values (which are ideas that people hold about what is right or wrong). Burnes (2004) says that, values are most difficult to instill as they may affect any intended changes

negatively and have a direct impact on the overall performance of the organisation. GOK (2002) identifies various aspects which are indicators of poor organizational attitude and behaviour within public sector organizations.

- Using public offices for personal gain.
- Lack of commitment to work.
- The 'who know who' or Godfather syndrome and networks.
- The 'busy body' culture where people engage in non-value adding processes.
- Absenteeism on flimsy grounds.
- Ignoring or mishandling of clients.
- Disregarding or down playing of formal structures, rules and regulations.

Burnes (2004) and Cole (1995) recommend the following measures to address these negative aspects of an organization:-

- Recruitment or retention of like – minded individuals. These are people who are willing to accept change and see the values of the organisation as their own.
- Development of group norms. These are standards of behaviour that are strongly influenced by the management.
- Statement of espoused values. These are publicly stated policy statements through which leaders and employees must demonstrate they truly believe what they are saying.
- Production of mission statements which provide visible evidence of commitment to the values and form the platform for the organisations' relationships with the stakeholders.

## **B) Change Management**

GOK (2002) opines that successful implementation of Results Based Management calls for a paradigm shift in mindset and re-orientation in the operational structure of an organisation in relation to its interactions with the stakeholders. Paradigms shift in this case refers to a total overhaul of how things are done. In view of this, it is possible for the best structures and performance control systems to be put in place but without a

passing. If the results based management is to achieve its intended results, then public servants have to be inculcated through the management to own not just their offices, but the process of change through the values that guide the organisation.

There are however, ways to address the above limitations. Decenzo and Robbins (2001), Lucey (2005), Cole (2004), Stoner et al (2003) have suggested the following:-

- i) **SWOT Analysis:** Cole (2004) describes this as the process of reviewing of the organisations major internal strengths and weaknesses together with an assessment of those opportunities and threats in the external environment. Every organization has comparative advantages over its competitors or an edge in service delivery. In public organisations like the Ministry of Lands in Kenya, the edge is in government budgetary support and lack of competitors. The threats however are both internal and external. Political manipulation, under performance and corruption are examples of threats that must be identified and addressed. It is easy to improve performance if the management is candid enough to accept positive criticism and respect stakeholders' views and opinions.
- ii) **Job Enlargement:** Lucey (2005) views job enlargement as the horizontal expansion of responsibilities by adding tasks of the same type and level without necessarily needing more skill. This way the objectives are increased and spirally, the output is enhanced. In a typical case of a typing pool in public organisations, the typist who has previously been typing correspondences may be given the work of mailing the letters done. This way, the expectations of the management have been upped and the typists have wider goals to achieve.
- iii) **Job Enrichment:** It implies taking tasks from the senior and junior officers to the job holder enabling the holder to have more responsibility than before (Cole 2004). This is, however, more challenging particularly in public service as it leads to reorganization within the job hierarchy, and this may not be very well received. Job enrichment however, has been advocated as a beneficial tool for realization of goals,



as there is increased job satisfaction and many organisations tend to benefit through reduction of overhead costs.

- iv) **Autonomous Work Groups:** Lucey (2005) refers these to be self-organized work groups which are held responsible for the rate of quality of their output. This leads to improved quality and reduction of overheads. Departmental autonomy in public organisations, in this case, may lead to better productivity where the slower department can easily be spotted through a feedback system. This facilitates isolation of weaknesses, which can subsequently be addressed.
- v) **Participation and Delegation:** Participation goes beyond consultation to sharing of decision-making between the managers and the managed. It calls for managers to genuinely want the employees to participate, and therefore lessen their authority so as to accommodate the lower level managers in decision making. Delegation on the other hand is the transference of managerial authority to lower levels so that subordinates may be carrying out some tasks. Effective delegation however calls for a balance between the trust/control ratio so that there is no relinquishing of authority or misuse of power (Lucey, 2005).

### 3.3. Performance Evaluation of Land Administration Systems

The foregoing part of this chapter has dealt with general management principles in general and particularly with MBO as a management approach. It has shown that for organizations to operate efficiently, performance measurement must be incorporated. Different approaches of how performance may be measured the key ones being benchmarking, ISO standards and MBO have been examined. MBO has been noted to be a form of results based management which incorporates most of the features of the other approaches. In particular it allows organizations to define measurable objectives, set defined targets and incorporate feedback systems. It is on this basis that this study will use similar approach to show how land administration systems can manage their organizations by embracing the MBO principles for better performance.

As far as land administration is concerned, there is lack of an internationally acceptable standard for evaluation of the performance of land administration systems worldwide. This is so because, land administration like any other public service sector, is always under constant reforms which are initiated by policy makers who are normally politicians whose policies are geared towards perpetuating their interest. Besides, land administration is hinged on a very sensitive area, that is, land whose dealings are influenced by the historical orientations and colonial/cultural backgrounds in many countries.

The level of performance of any land administration systems depends on the instruments which are at the disposal of implementers. Land administration systems are however hard to measure since, unlike other systems where the variables are well defined, land administration systems revolve around a web of social, political and economic relationships that exist between the various stakeholders.

The World Bank (2003), notes that, institutions dealing with land administration need to be transparent, accessible and cost effective, and should have low cost of registration and demarcation mechanisms. It recommends that these institutions should have clear mandates and structures that allow them to function efficiently and free from political pressure. Such systems can only be sustainable when the land-owners who use the land registries are guaranteed of registering transactions within defined costs and time frame. The Bank and other players have also recognized that land administration systems that bring about high transaction costs constitute huge impediments to the market activity and more often lock out majority of the population.

### **3.3.1 Why Evaluate?**

Evaluation is the measurement of performance of a certain process and is therefore a basic prerequisite for improving productivity (output), efficiency (time) and performance (process). The basic rationale behind evaluation is that it is difficult to improve what is

not measurable and if 'one can not measure one can not manage'. It is in this understanding that performance measurement approaches like Management by Objectives, Benchmarking and TQM amongst others are recommended since they help in the evaluation which ultimately improves performance.

Land Administration systems are central to infrastructural development of any country. Williamson et, al (2004) echoes the UN-ECE (1996) in their land administration guidelines that these systems are concerned with the administration of land as a natural resource, to ensure its sustainable use and development. Thus, due to the role they play in development, they are subjected to public scrutiny hence the need to evaluate them. Land Administration systems have also become dynamic and cannot, therefore, be left behind in evaluating whether they are operating efficiently or not. The International Federation of Surveyors (FIG) through the Bogor Declaration (1996) and Bathurst Declaration of 1999 has recognized that for sustainable Development to take place, sound Land Administration systems must be put in place. In the same analogy, if the other components of sustainable Development are measurable then Land Administration systems must be measurable and their performance must be evaluated. Williamson et al (2004) have traced the history of evaluation to the 1960's when it became a key component of assessing performance of development aid projects. The main purpose of evaluation is usually to address questions such as:

- Are things being done in the right way?
- Are we doing the right things?
- What lessons can we learn from the processes?

In most of the LDCs, the general unwillingness to be evaluated amongst public organisations is still notable. In the case of Kenya, for example, the researcher noted during the pilot study that, the Ministry of Lands operates in high level secrecy where the consumers of the products are still viewed with suspicion and access to information is viewed to be more of a privilege than a right. This is evidenced by the hindrances that

one encounters when undertaking simple transactions. This shows how difficult it is to evaluate land administration systems as the goals/objectives of the respective governments are often in conflict with those of the consumer and the evaluators. Williamson et, al (2004), hypothesizes that the general unwillingness in most of the LDCs countries to embrace evaluation and performance measures is in their misconstrued belief that technical aspects and not institutional and managerial issues are to blame for the lacklustre performance.

### **3.3.2 Land Administration Performance Evaluation Methods.**

Different stakeholders have lately been keen in establishment of evaluation models for Land Administration systems. This is particularly with respect to the development aid agencies and partners whose aim of evaluating is planning, sponsoring or carrying out project reforms. There is however no standardized method for evaluation of these systems since the evaluation depends on the organization carrying out the evaluation, its agenda, and the commissioned consultants whose interpretation is based on their professional backgrounds and experiences (Williamson et al 2004). In addition, Land Administration systems reflect the cultural and social context of a country, making them distinctly different and hence difficult to compare.

Lack of standardization notwithstanding, evaluation methods used in other development sectors have been tailor-made to come up with how to evaluate land administration systems.

One of the documented evaluation methods is the **Logic Framework Analysis (LFA)**, which has been used to investigate and evaluate projects in the fields of development assistance. LFA has been used by development organizations such as CIDA, GTZ, the World Bank and SIDA, and even the Australia Development Agency (AUS AID). LFA was first developed at the end of 1960's for USAID (UN-ECE 1996). It operates by way of structuring the main elements in a project, highlighting the linkages between intended inputs, planned activities and expected results. Whereas there are many versions of

LFA developed by management consultants, the basic approach comprises of a 4x4 matrix, which breaks down a project units into component which are measurable namely:

- Inputs resulting into activities.
- Output.
- Immediate objective (or project purpose).
- Wider (organizational objectives) (project goals).

Kauffman (2000) introduces another approach that may used to evaluate Land Administration systems. He uses the **analogy of a cadastre** as sort of a book-keeping or accounting system for land issues. A cadastre is an official register showing details of ownership, boundaries and value of real property in a district of region. Traditionally, its role was that of administering information on rights, restrictions and responsibilities in land. Its other functions include:

- Information base for property taxation.
- Support in financial allocation programmes.
- Monitoring and support for land markets.
- Aid to land use development control and provision of land information

The cadastre has components that are easy to measure and it acts as evidence of regularized tenure. The cadastre is therefore the output of registration. In each of the processes of say valuation, survey or registration it is possible to define what the objectives of each department are and isolate the output in measurable units of numbers, time taken to deliver and quality of service given. In the MBO, theory it was opined that, feedbacks are used to identify loopholes so as to take preventive measures. In the same analogy, this may effectively be used in all the components of land administration process as long as we are able to identify the output, define time and have a route-map to achieve the deliverables.

**Best Practices** could also be used to act as an evaluation method as one attempts to measure the performance of Land Administration systems. The best practice approach may be equated to benchmarking in general production lines. In land administration, the Thailand land titling programme has been documented as an example of successful land registration programme. This programme has been undertaken through the collaboration of the World Bank and the Royal Thai Government. Other systems that may be used as benchmarks include the Australian Torrens system of registration (Williamson 2004). The World Bank has documented who the reformers are in the land sector by use of a simple land transfer and registration transactions. It gives Norway and Sweden as most efficient taking one and two days respectively, 363 days in Bangladesh, 123 in Tanzania and 274 days in Nigeria (World Bank, 2006).

Williamson (2001) however cautions that best practices may not be emulated wholesale as the economic, social, political and historical conditions may differ from country to country.

**Key Performance Indicators** (KIPs) have also been recommended as basis for evaluating performance. Lucey, (2005) proposes determination of measurable objectives and defined targets as key features in MBO. These may be equated to key performance indicators which are specified by the organization and often depend on the core business of that organization. However, there are standard key performance indicators that are documented and shown to work in most organizations. Goodman (1996) and Choudhury (2005) have cited productivity which is a measure of effectiveness as one of the main indicators that can be used. The latter also indicated time overruns as another critical indicator. Cost elements are also used to measure performance and it is notable that every activity within an organization must translate into costs where a well managed organization is reflected by the reduction in costs as the time taken will be less and the output will be high. The authors however, note that these indicators have to be taken cautiously as standardization may be misleading. This is especially true in public service performance where profit is not the motivation.

Efficiency, effectiveness and quality have been accepted by the UK Government from its Civil Service Efficiency Unit whose mandate is to ensure better performance and service delivery. The approach, calls for a more comprehensive and timely information of all aspects of performance without limiting itself to financial performance. This is because, financial performance alone is not a sufficient measure in public service where profit is not the motivation. The UK civil service to date uses the same indicators of performance measurement which could also be used as performance indicators in land administration systems. These include;

- Financial performance
- Volume of output
- Quality
- Efficiency

### **3.4 Conceptual Land Development Applications Model**

From the foregoing, the evaluation of land administration processes can model its evaluation on the same management approaches. MBO can be used as a reliable guide in formulation of an evaluation system since it encompasses characteristics from all the methods. The common denominator in all is the identification of Key Performance Indicators, specification of measurable goals and a system which incorporates feedback where all actors are involved in the setting of the targets. This can successfully be done if the institutions and processes of land administration are done under one institution that defines the overall objectives, towards which the departments are to work. This could be either physically under one roof or technologically connected through an elaborate automated land information system. In the LDCs, a physical one stop shop is easier to implement as a lot of resources are not required to implement in the short run.

Land development applications are a component of land administration. Therefore, using MBO principles, it is possible to organize the land development applications approval processes on the same principles. In the process of land development

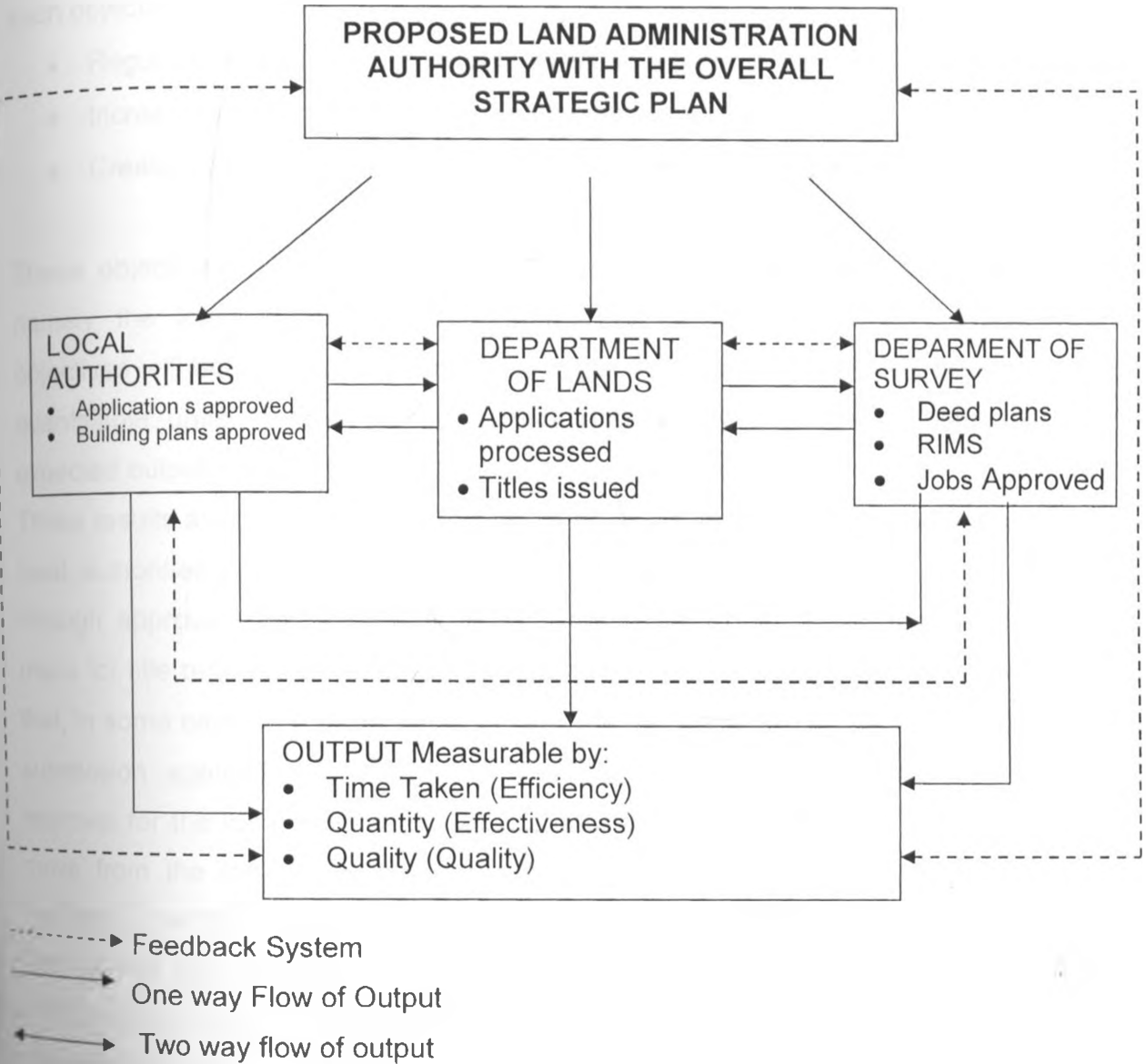
applications approval, three key performance indicators (KIPs) may be tailor-made as follows:-

- **Efficiency:** This term answers the question whether things or processes are being done correctly and this is usually assessed when one tries to correlate the level of inputs and output. Efficiency is hence about getting a higher output for lesser inputs or within a limited time and resource base. Efficiency in Land development applications approval processes may be used to refer to the speed and time within which approvals are given, titles are issued, Deed plans or Registry Index Maps are registered or cadastres are updated.
- **Effectiveness:** This may be in form numbers or quality derived as a result of carrying out the right tasks. Whereas efficiency is concerned with resource usage translating into costs, effectiveness is measured by the impact of the goal attainment may be in terms of the objectives or targets set within the various components of the system. In a cadastral surveying, for example, the measure of efficiency will be in terms of the length it takes to have a survey authenticated and subsequent issuance of a deed plans. The measure of effectiveness will be in terms of the number of deed plans or Registry Index Maps issued within that defined period of time. The impact of more deed plans being registered facilitates more titles to be registered, impacting on process of regularization of tenure and lifting investor confidence. Thus an efficient system or process leads to faster and higher attainment of goals leading to effectiveness.
- **Quality:** Quality is a criterion or variable that is used in evaluation of land administration systems. Quality is used in areas or organizations that deal with service delivery where it may be difficult to have a measurable or countable deliverables. This is common in public organizations. However quality is used for evaluation based on the rationale that if the process is of good quality, then it will give a quality output. In land administration systems, it may be difficult to measure quality but it is possible to assess the level of satisfaction with the services delivered from the different consumers.



Using the above criteria, we can then derive a model, which this author has referred to as The Double E-Q Model as shown in Figure 3.3.

**Figure 3.3: Conceptual Land Development Applications Evaluation Model**



Source: Adopted from Lucey, 2005 (MBO Model)

The above model shows that there should be an overall organization which propels the country's objectives as far as land development applications are concerned. This organization acts as a one-stop-shop where the consumer gets the whole process

approved. This means that the consumer does not have to move from one department to the other, thus saving on costs and time. Such a body will define the broad objectives of the sector in the overall strategic plan through its mission statement. Examples of such objectives would be:

- Regularization of (x) number of titles within a (y) time frame.
- Increase of revenue from land development applications.
- Create more offices handling land development applications.

These objectives will be cascade to the departments dealing with the applications namely the local authorities, Departments of Lands and Survey. These overall objectives will act as the push factors and the objectives of such will be measured in quantifiable units of time taken, quantity and quality of service. Examples of the expected output in each of the offices are shown in the boxes.

These results are then forwarded to next level. In the case of Kenya, the output from the local authorities is forwarded to the department of lands which facilitates the process through approvals and to survey which issues deed pass or amends registry index maps for title registration. The arrow (  $\longleftrightarrow$  ) shows a two way process which means that, in some cases the processes may be referred back for ratification. For example, a subdivision application requires that the Department of Lands accord provisional approval for the local authority to accord final approval. Thus, such an application will move from the local authority to the Department of Lands and back to the Local Authority. The final approval accorded will facilitate the Department of Surveys to issue and release the deed plan to the owner or the COL. The overall out put box at the bottom of the model is a recipient of the objectives/output from the three offices and its measure depends on performance of each of the three departments. Under MBO, the objectives of each department contribute to the overall output and thus, none of the departments should claim autonomy.

The arrow (  $\leftarrow \dots \rightarrow$  ) shows that there has to be a feedback which assists in identifying where the loopholes are, which department is performing poorly thus contributing to

total low output. This will assist the main organization to assist by identifying the limiting factors in each of the departments and take remedial measures. More often than not, the areas that affect performance include:-

- Funding
- Conflicting legislation
- Technology
- Manpower both at the managerial and lower cadre levels

The measures identified will assist in increasing the output and in meeting of overall targets as shown by the dotted line from the output box to the Lead organization.

The advantages of the model include:-

- It helps in defining overall objectives.
- It helps all departments to participate in goal setting.
- Each department owns the process.
- Weaknesses in departments are easily identified through the feedback systems.
- It improves accountability.
- It creates a unified process and a collective responsibility in all the departments.

### 3.5 Summary

This chapter has addressed the general issues of management and performance measurement approaches. The chapter has shown the relationship between management styles and performance. It has also looked at methods of evaluating performance and shown how these general evaluation methods can be used to evaluate land administration systems. The key observation from the chapter is that land administration systems are not easy to evaluate since evaluation approaches can not be standard or universal. This is due to the fact that land administration is closely related to systems of political governance within their countries, in which case each country is unique and different. However, various methods of evaluating land administration systems based on general management principles and land related

principles have been identified. It has been noted that evaluation is possible by use of a results based style of management which helps organization in identifying measurable objectives by use of standard performance indicators. Such an approach will also incorporate a method of measuring objectives, defining targets and implement feedback and monitoring system which assists in identifying the shortcomings. This, it has been proved through literature, can be achieved by embracing MBO as a performance approach which translates into efficient service delivery. It is this approach that has been adopted to derive a model to guide the administration of the approval processes of land development applications.

## CHAPTER FOUR

### RESEARCH DESIGN AND METHODOLOGY

#### 4.0 Introduction

The key objectives of this study were to investigate the management approaches used by institutions dealing with land administration in Kenya and to evaluate their performance. Land administration systems refer to the institutions together with the procedures that the development applications go through from application to the title registration.

In chapter three, an attempt has been made to formulate a land development applications performance evaluation model which may be emulated in the other aspects of the land administration. Three Key Performance Indicators have been adopted. These include the time taken to complete a process (efficiency), the number of items approved (effectiveness) and the general satisfaction of the clients or developers (quality). It is with this in mind that the research design has been formulated with a view to achieving the study objectives.

This research is based on two types of data, namely:-

- i. Primary data: This targeted information on the management of the institutions dealing with land administration with a view to determining how they manage the institutions and if there are any performance control measures in place. By use of sampled properties within the study area, the processes and approval stages of land development applications were followed and documented for purposes of evaluating the performance.
- ii. Secondary data. Literature review was sourced from publications that are in the form of books, papers, articles, journals, position papers dealing with general land administration structures/processes and land administration in Kenya, in terms of its historical background, legislation and land development applications approval processes. The conceptual

framework was based on the principles of management with special emphasis on management by objectives (MBO).

Data collected were analyzed using appropriate statistical packages and presented in tables, graphs and pie charts.

#### **4.1 Acquisition of Data**

Primary data was collected in an attempt to achieve objectives ii and iii of this work. The data collection targeted the management structures and the land development applications processes within Nairobi Province. Processing of land development applications is often done at the local authorities and ratified by the Commissioner of Lands. In the case of Nairobi region therefore, the following institutions were the institutions concerned:-

##### **1. City Council of Nairobi, Department of Forward Planning**

This is the entry point where all the land development applications are submitted and circulated within their respective departments before an approval is accorded. The approval processes are as shown in Figure 5.2

##### **2. Department of Lands**

The Department of Lands is the approving authority through ratification of any approval given by the local authority. It is also the link between the departments and therefore its role in the approval process is critical. The department liaises with the Physical Planning and Survey Departments for purposes of confirming the technical validity of the proposal from a planning and survey point of view before giving the approval. It is also here that the registration of titles is done after approvals are given.

##### **3. Department of Surveys.**

This is within the Ministry of Lands and has a specific role in the process since it produces an output that facilitates in the process of registration. This is in terms of Deed plans or Registry Index Map, as shown in Figure 5.4.

In each of the three institutions and thematic areas, the study intended to answer the following questions.

- (a) Are there performance control measures in place?
- (b) What processes do development applications go through?
- (c) How many of those submitted are approved / rejected?
- (d) How long does it take to approve or complete a process?
- (e) How do the consumers of the services rate the quality of services delivered?
- (f) What problems do the consumers and management encounter and what are the possible solutions?

This work is modeled on the management school of thought with particular emphasis on Management by Objectives as an effective measure of performance in land administration organizations. As seen in the proposed performance model, three key performance indicators were identified. These were efficiency (measured in terms of time taken to complete the process), effectiveness (measured in terms of the numbers produced or completed) and the quality (measured through the satisfaction of the consumers of the services).

To access the required research information, the researcher with the help of research assistants retrieved and extracted data from the records in all the three departments. In the case of Department of Surveys, survey plans and computation files were retrieved and relevant data extracted. These carry the dates of the transactions recorded on any Land reference Number. At the Department of Lands and the City Planning Department plot files for the sampled cases were used.

## 4.2 Research Design

The purpose of the research design is to provide a framework for collection and analysis of the data. Bryman (2004) has identified various designs, the main ones being experimental, cross sectional, longitudinal, case study and

comparative designs. Experimental design is a kind of research design that calls for independent variation that may be manipulated with an observable effect to the dependent variables. In social sciences, as in the case of land administration, it is hard to have independent variables to manipulate as the processes are fixed and predetermined. Cross sectional and longitudinal research designs have also not been emphasized in social sciences as they require quantitative variables. In cases where they are used in social sciences, they may produce association rates than findings from which causal inferences can be unambiguously made (Bryman, 2004:43). They may also lead to results or findings, which lack validity, which is the key in determining the success of any research design. Comparative research design as the word suggests entails the study of using identical methods of two contrasting cases. In this case this approach is rejected.

The use of case study design has been chosen for this work since the objectives and the hypothesis fronted need a detailed and intensive analysis of defined process, which is land development applications approval process. Case study designs involve a qualitative analysis and observation of a social unit which in this case is land development applications processes and structures. Case study designs are favorable because in areas with social science backgrounds participant observation or unstructured interviewing particularly aids in generation of an intensive and detailed examination of a case or scenario.

Participatory observation and unstructured interviewing have also been used in the study with the aim of aiding the process of data collection. However, the case study design approach does not limit the researcher from gathering quantitative data which may be incorporated to support the qualitative data and analysis that may be done.

#### **4.3 Sampling Techniques**

Kothari (2004:187) defines sampling as the "selection of some part of aggregate or totality on the basis of which a judgment or influence about the aggregate is made". Deciding on the sample or the segment of the population that is to be



selected for investigation is imperative in any large population if the validity and reliability of the research is to be achieved. In most cases, it is not possible due to time or financial constraints to undertake an enumeration of the whole population. Besides, sampling remains the way best to allow for more accurate measurement.

With respect to land development applications, purposive sampling was done to select subdivisions, extension of leases and change of user as representatives of development applications. This approach allows the researcher to use cases that have the required information with respect to the objectives of the study. The three areas were chosen as they incorporate all aspects of land administration, and they pass through all the offices and can therefore be authoritatively used to evaluate the process. This is unlike others like submission of building plans for approval, registration of schools at the local authorities or even direct title transfers that only involve a small cross section of players.

Random sampling was carried out to determine the cases of subdivisions, changes-of-user and lease extensions to be included in the sample. The aim was to establish the numbers processed in each category and the length of time taken in the process from application to title registration. In random sampling, individuals for the sample are chosen in turn from the population. It is assumed that each remaining individual has an equal and independent chance of being chosen in the next draw so as to form part of the sample

The researcher accessed the records at the Department of City Planning at the City Council of Nairobi during the pilot study, and established that the following total number of applications were submitted at the Department of City Planning for each of the three thematic areas in the years 2002-2005.

- 973 entries regarding subdivisions applications.
- 879 items on change of user and extension of user in the same period.
- 544 extension of lease applications recorded during the same period.

Statistical procedures of the Central Limit Theorem were used to arrive at the sample size for each of the themes. Kothari (2004), quoting from Lipschutz and Schiller (1998), states that, as a rule of thumb, the choice of sample size  $n \geq 30$ , satisfies the requirements for most practical purposes even when the population is finite. By accepting the above proposition, the researcher settled for a sample size of  $n=50$  for each of the themes selected. The selections about which land parcels to be included in the 50 were effected through the use of Random Numbers which are a standard feature in most statistics text books. Therefore, a total of 150 (n) cases were selected; 50 in subdivisions, 50 in extension of lease and 50 in change of user.

However, after the preliminary scrutiny of files at the City Council of Nairobi which is the entry point, some were found to have been initiated way before the research period. On this basis they were struck off reducing the actual sample sizes to 44, 48 and 46 for subdivisions, lease extensions and change of user respectively giving a total of 138 cases (Appendices xi to xix).

The process of the 138 cases was followed from submission at the Nairobi City Council to the Department of Lands for title registration. This process is explained in chapter five of this work. The following are the assumptions of this study.

- (a) That the applicants who were either owners or agents were rational enough to see the process go through to completion.
- (b) That the authorities are keen enough to see the process to completion *ceteris paribus*.
- (c) All technical hindrances within the processes are man-made and can be overcome if there is commitment on the part of the owners and the institutions concerned.

Using the same Central Limit Theorem, the researcher settled on 45 consumers of land administration services who were represented by professionals who seek the services from the institutions on behalf of land owners. These were

systematically sampled from the total numbers given by their respective professional registration bodies. Table 4.1 shows the sampling pattern which includes the membership, the numbers sampled and the numbers that responded.

**Table 4.1: Consumers' Sampling Pattern**

Professional Body	Nos. Registered as at 2007	Remarks	No Sampled	No. Responded
Kenya Institute of Planners	120	About 50% in Nairobi and about half of them in public sector, thus not eligible for sampling	10	7(70%)
Land Surveyors Board	66	Only 30 eligible for sampling since others are in public service and others practice out of Nairobi	15	12(80%)
Kenya Private developers Association	50	Only 20 active in private practice in Nairobi	10	8(80%)
Law Society of Kenya	About 7000	Don't keep record of who practices conveyancing	20 sampled from those who go the Ministry of Lands for land transaction services	15(75%)

Source: Field Data (2007)

#### 4.4 Data Collection Instruments

i) Questionnaires. Two sets of questionnaires were prepared. The first set of questionnaires targeted the management of each of the institutions, represented by the Director of City Planning, the Commissioner of Lands, the Permanent Secretary Ministry of Lands and the Director of Surveys (Appendices iii to vi). The main purpose of these target groups was to establish management structures in place, the existence of performance control measures, if any, and the problems encountered in the management of the institutions.

The second set of questionnaires was administered to clients who seek services from the three departments whose sampling is discussed above. These sets of questionnaires were geared towards evaluating performance of land administration institutions in terms of efficiency, effectiveness and quality. These are mainly professionals and consultants whose mandate is to seek development approvals on behalf of clients (Appendices vii to x).

ii) Searches and perusal of files in the Department of Lands headquarters (Ardhi House), Department of Surveys and City Council of Nairobi, Planning Department. This was in relation to sampled parcel numbers with the aim of determining the time and percentage levels of land development applications approved. The information derived from the files was entered in some form of tabulated charts as shown in appendices xi to xix. At the City Council of Nairobi, plot files were perused to get the following information that was sought:-

- Date of receipt of applications.
- Date that provisional, final approval and subdivision certificates were accorded to subdivisions applications.
- Date of approval for extension of leases and change of user.

In the Department of Lands, appendices xvii to xix indicate the information sought which included:-

- Date of circulation after receipt of the application from the local authorities.

- Approval dates.
- Date when title preparation is initiated.
- Valuation dates for rent apportionment and enhancement.
- Date of title registration. This is evidenced by the date on the Memorandum of Registration of Title (MRT). The MRT is document that carries the details of a transaction and is circulated from the Land Registry to the local authorities and the Commissioner of Lands as proof of the title details.

Information sought from the Department of Surveys was on

- Date survey records were received.
- Date survey records were approved (authenticated).
- Date of deed plan issuance or amendment of Registry Index Map.

**iii) Personal interviews:** These were conducted hand in hand with the questionnaires, where clarity was needed on the issues raised in the questionnaires, especially within the management of the three organizations. Besides, unscheduled interviews were carried out and done throughout the data collection period with the stakeholders who were seeking services in the institutional offices under study.

#### **4.5 Presentation and Analysis**

The use of Statistical Packages for Social Scientists (SPSS) has been employed. Microsoft Excel was used to derive the tables and computations on percentages were done to measure the effective levels. Presentation is done in form of tables, bar graphs and charts.

#### **4.6 Hypothesis Testing Approach**

The hypothesis testing method adopted by this study is scenario analysis. According to Wikipedia ([www.org/wiki/scenario analysis](http://www.org/wiki/scenario%20analysis)), scenario analysis is a process of analyzing possible future events by considering alternative possible

outcomes (scenarios). Scenario analysis has been used as tool to explore the 'what if' and 'what could be' rather than to focus on the narrow calculation of a single certain future (i.e., 'what will be.').The analysis is designed to allow improved decision-making by allowing more complete consideration of outcomes and their implications.

Duinker and Greig (2007) provide a summary of definitions of scenarios, ranging from "...conjectures about what might happen in the future" to the more comprehensive definition of a scenario as "... a description of a possible set of events that might reasonably take place." The authors add that "the main purpose of developing scenarios is to stimulate thinking about possible occurrences, assumptions, relating these occurrences, possible opportunities and risks, and courses of action". The numerous definitions of scenarios are similar in that they are based on learning about potential alternative futures. It is important to recognize that scenarios are not predictions of the future, but instead present a reasonable range of potential outcomes. Duinker and Greig (2007) argue that the purpose of conducting scenario analysis is not to make predictions, but rather to allow the opportunity to challenge assumptions and to broaden perspectives.

Scenario analysis and scenario planning are at times used interchangeably. Scenario analysis brings together both scenario development and the principles of strategic management. It integrates scenario development with decision making. Scenario planning is described as "a technique to make decisions in the face of uncontrollable, irreducible uncertainty. Haroyd et,al (2000) while quoting" Peterson et al. (2003) describe scenario planning as, "a systemic method for thinking creatively about possible complex and uncertain futures. The central idea of scenario planning is to consider a variety of possible futures that include many of the important uncertainties in the system rather than to focus on the accurate prediction of a single outcome."

Scenario analysis is often widely used in carrying out cumulative effects assessment which is a tool to evaluate the range of possible development trajectories and their impact on the economy, society and environment, and desired future outcomes. Cumulative effects are “changes to the environment that are caused by an action in combination with other past, present and future human actions or phenomena.

Scenarios were first used in World War II as part of military strategic planning to imagine possible strategies for battle. They have since been used in a variety of fields including business planning, community management and environmental assessment. There are hundreds of examples of scenarios developed during the last 30 years or so. Some well-known examples include the Millennium Assessment and the Intergovernmental Panel on Climate Change (IPCC) scenarios. Scenario analyses have also been used in the fields of economics, finance, politics or geo-politics.

From the foregoing, this study uses scenario analysis to test the hypothesis of the study. This is because land administration in general and land development applications process in particular are service processes whose changes in management can only result in cumulative effects that may not necessarily be quantified. Besides this, the processes are administered by public sector organizations whose main motivation may be that of a social and political nature. As such, whereas on the one hand one may be in a position to measure their performance using key performance indicators earlier on discussed, it may be difficult to statistically compute statistically the effects of changes in the management approaches. As such it can only be left on the evaluator to assess the current scenario and make a future projection of what the effects might be to aid the decision makers on any policy changes that might be required.

**CHAPTER FIVE**  
**LEGISLATIVE FRAMEWORK AND LAND ADMINISTRATION**  
**PROCESSES IN KENYA**

**5.0 Introduction**

Land administration in Kenya has its root in the colonization process of the country. Land was vital to the colonialists as it was to the Kenyans then and now. Globally, how land administration is administered speaks volumes of how governance is done within a country. Whoever or whichever organ administers land in this country has been the epicenter of Kenyans focus towards development.

After independence in 1963, the colonial system of land administration which vested exclusive rights and power of land administration to the executive was inherited wholly (Onalo, 1986). This way the status quo of administration remained though under a new government.

**5.1 History of Land Administration in Kenya**

The history of land Administration in Kenya is as old as the history of colonization itself. Effective colonization could not have materialized without the Europeans setting the mechanisms for land Administration. Kenyan's potential for Agriculture was discovered by the white settlers in the 1890s. The Colonial Administration in furtherance of this discovery, set mechanisms to have this land for agricultural production (Onalo, 1986; GoK, 2002). GoK (2002) argues that Europeans were encouraged to own land in Kenya without any respect of African customary land rights. Kenyan land, therefore, led to its colonization and there was every need for the colonial government to have the land administration process under its fold. Ogendo (1991) states that to achieve, the intended control land had to be converted to "crown land" so that settlers and Africans, could not claim any right to land and thus were to be servants of the crown.

The first portion of Kenyan land to be brought under the colonial government was the ten-mile strip in the coast. This portion of land had for a considerable period



of time been reserved for use by the sultanate of Zanzibar. In 1895, the British Authorities entered into treaty with the Imperial British East African company (IBEAC), which transferred control over all lands ceded to it by virtue of a concession Agreement signed in 1886 with the sultan in which under the signed deal, all rights to land in the sultan's territory. Consequently, indigenous land rights were, effectively transferred to the IBEAC and ultimately to the British Colonial government (Onalo, 1986). The rights to parcels of land in private occupation were first recognized by the East African Regulation of 1897. Under the 1897 East African Regulation certification of occupancy for terms of 21years was issued in respect of individual rights. The IBEAC treaty set in the process of land administration by the colonialists.

The process was dully incorporated in the first local land legislation; the East African (lands) Order in Council that conferred unto the Commissioner of Lands of the protectorate powers to dispose of all public lands in such terms and conditions as he might deem fit subject to any directions which the colonial secretary of State might give (Onalo,1986). The Order in Council was later expanded and re-enacted in the form of Crown Lands Ordinance of 1902 whose purposes was to regulate the government control of the alienation of crown land. Subsequently, the Department of lands in 1903 was created to operate the 1902 Crown Lands Ordinance (GoK, 2002).

In 1915, the 1902 Crown Land Ordinance was repealed and this further entrenched the colonial land administration. The 1902 ordinance became the Crown Lands Ordinance of 1915, which in exclusive terms conferred to the Commissioner of Lands on behalf of His Majesty, all rights and powers over the administration of all land in Kenya (Onalo, 1986).

The legalizing of the colonial land administration continued with new legal provisions. In 1915, the Crown Lands Ordinance was repealed and Government

Lands Act (G.L.A) was enacted. This legislation gave the Commissioner of Lands power over land alienation either on leasehold or freehold terms.

In 1930, the Native Land Trust Ordinance was enacted and created the Trust Land Board to vest and manage the Native Reserves and the White Highlands. The Trust Land Board was to ensure that no land was acquired through private agreements, treaties or concessions with chiefs and traditional elders from the native's lands by the settlers.

In 1939, the Kenya (Native Areas) Order in Council established and vested the management of the native land to the Native Lands Trust Board. This 1939 Order in Council on attainment of independence was to become the Trust Land Act (Chapter 288) Laws of Kenya which abolished the Native Land Trust Board and created the County Councils to manage trust land (Ogendo, 1991). The County Councils hold the land in trust of the local people within their areas of jurisdiction up to date.

The Government Lands Act of 1915 was enacted to facilitate the registration of the title of land transferred to the white farmers by the Commissioner of Lands who was acting on behalf of the Governor.

In 1920, the registration under G.L.A system was abandoned and the Registration of Titles Act (R.T.A) took over as the effective registration law. Registration of titles under G.L.A was mainly applied to the scheduled areas and to the parts of the coast in respect of government lands. R.T.A was not applied in the coastal strip where registration was done under the Land Titles Act (L.T.A). To date, registration of land is still done under RTA especially with respect to government lands (Onalo, 1986).

The Mau Mau uprising led to pressure on the colonial government to return land back to the Africans. In 1954 a committee was set up which was to look into the "Reform of African land Tenure". The committee in 1955 produced a report which later became the Swynnerton plan. The plan proposed the intensification of

African agriculture through individualization of land tenure. This began the commoditization of land to Africans whose premise was that the conversion of the African land tenure system to individualized tenure was the key to African advancement (GOK, 2002). This system was to be applied in the native lands.

The Native Land Registration Ordinance was enacted in 1959 to deal with native reserves. In 1960, the Ordinance was changed to Land Registration (special Areas) Ordinance of 1960. These ordinances provided the basis for land consolidation and adjudication prior to registration. This was facilitated by the setting up in 1962 of the Department of Settlements under the Ministry of Lands to facilitate the easy transfer of land from European to African farmers. Through this, the Land Adjudication Act of 1968 and the Land Consolidation Act of 1968 were to be enacted and were to effectively apply to trust lands.

From the foregoing, it is clear that the land legislation which governs land administration in Kenya as it is today is based on colonial system of governance. Major reforms are still needed as was shown in the Draft Constitution of Kenya (2005) and the Integrated National Land Policy (2005) which agitated for decentralization of the land administration process for effective growth and development in Kenya. GoK (2002) identifies a lot of historical injustices to date, which have risen due to the prevailing land administration. The report argues that the Executive has been vested with too much unwarranted administrative powers over land that should be vested with the National Land Authority.

## **5.2 Legislation Governing Land Administration in Kenya**

There are numerous pieces of the legislation that touch on land and its administration. Most of these legislations were inherited from the colonial government whereas others were enacted after independence. However, this part of the study addresses itself to those that deal with allocation, registration of titles and land development approval processes.

### **5.2.1 The Constitution of Kenya**

The constitution of Kenya is the supreme law of the land and all other laws must be consistent with it. Chapter IX of the Constitution explicitly stipulates that all trust land in Kenya shall vest in County Councils who shall hold it in trust for the residents' benefits of the County Councils' areas of jurisdiction.

Section 118 of the Constitution vests powers in the Commissioner of Lands to set apart trust land for public purposes but due compensation must be accorded to the affected persons and in accordance with the provisions of the Trust Land Act. It also vests all public land to the government.

Section 75 recognizes private property as the only one in which registration has been done and a title issued. Sanctity of the title is guaranteed under this section

### **5.2.2 The Government Lands Act (CAP 280)**

This is an Act of Parliament to make further and better provision for regulating the leasing and other disposal of government land.

The Act vests all administration powers of government land to the Commissioner of Lands who is an appointee of the President. Under section 3, the President has powers to alienate, allocate, approve or nullify any development proposal through the Commissioner of Lands.

The Act regulates all transactions and dealings on land emanating from government alienation. It empowers the Commissioner of Lands to:-

- Determine the tenure of land allocated.
- Sanction all transactions.
- Authorize setting apart of land for alienation.
- Determine rent and stand premium on new allocations.
- Allow the public to carry out searches of any information concerning any land registered at any registry in the country.

### **5.2.3 The Trust Land Act (CAP 288)**

The Act makes provision for trust land in which trust land refers to land held under trusteeship by various County Councils under the Constitution of Kenya, for the benefit of the people who are ordinarily resident on that land. The residents occupy the land under their customary laws and rights but have no registered interests in it. This land was called Native Reserves Special Areas before independence. In relation to land administration the act serves the following roles:-

- Empowers the Commissioner of Lands to administer the land as an agent of the County Councils.
- Creates Divisional Land Board headed by a chairman appointed by the Minister for Lands and Settlements.
- Empowers County Councils to grant leases and licenses in trust lands.
- Confers the President with administrative powers over trust land.
- Gives County Councils powers to regulate land development within their areas.

### **5.2.4 The Registration of Titles Act (CAP 281)**

This is an Act governing land registration in Kenya. It provides for transfer of land by registration of title where the registered owner is conferred an indefeasible title which is guaranteed by the state.

Under the Act, grants of government land and certificates of ownership of land at the coast are to be registered and any land owner whose land was or is registered under GLA or LTA has the option to have the land registered under it. The Act stipulates the process of title of first registration or subsequent registrations under the Act both at the Coast and inland Registries.

### **5.2.5 The Registered Land Act (CAP 300)**

This is an Act to govern registration of land. It is made to make further and better provision for the Registration of Titles Act and for the registration of dealings in land so registered. It came into commencement in 1963.

The Act provides that all lands previously registered under the earlier Acts are to be re-registered under it, so as to bring all land under one registration system. Registration is still done under the other five different registration systems of land operating concurrently.

The Act lays down the procedure for registration of land and mode of ownership identification under the Act. It also details how the title can be protected through cautions and caveats registration.

### **5.2.6 The Sectional Properties Act, 1987**

This act envisages that a proprietor can own a unit within a building without necessarily owning the whole building and it provides for the registration of the unit owned, subject to the rights of others with interest in the same building. This means that, the proprietor shares with the fellow owners the title, and shares the cost of maintenance of the commonly owned parts of the development. This act is applicable only in situations where the unexpired residue of the term is not less than 45 years.

The Act provides that any property embracing the provisions of the Act will be deemed to be registered under the Registered Land Act, cap 300.

### **5.2.7 Other Land Administration Legislations**

#### **i) Environmental Management and Co-ordination Act 1999**

This Act was enacted on the premise that every person in Kenya is entitled to a clean and healthy environment and has a duty to safeguard and enhance the environment. In view of this, all activities touching on land resources must be subjected to an environmental impact assessment to ensure that they comply with the laid down environmental regulations. The act also lists those activities that must have annual environmental audits to ensure continuous compliance. Land Development applications must be accompanied by EIA reports upon submission.

#### **ii) The Land Control Act, Cap 302**

This Act, which was enacted in 1967 provides for controlling transactions in Agricultural land. Agricultural land is all land which is not situated within a township or trading centre or a market. It also includes all land situated within Nairobi Areas or other municipalities and Townships but so designated as agricultural by the Minister for Lands and Settlement. The Act vests all land administration powers over land to the Land Control Boards.

#### **iii) The Land Adjudication Act, Cap 284**

This Act provides for the ascertainment and recording of rights and interest in trust land and for the purposes connected there with. It gives the Minister for Lands and Settlement the discretion to declare an area ready for adjudication for determination of the rights and interest of the inhabitants with view to registration of titles.

#### **iv) The Survey Act, Cap 299**

This Act makes provision in relation to surveys and geographical names, the licensing of lands surveyors regulates the practice of such surveyors and for other purpose incidental there to. The act was enacted in 1961 and amendments made in 1969 and 1988.

The Act, as it relates to land administration, stipulates that any survey of land relating to registration of transaction or of title to land, shall be carried out under and in accordance with the direction of the Directors of Surveys.

#### **v) The Land Consolidation Act, Cap 283 of 1968**

This is an Act of parliament that provides for the ascertainment of rights and interests in and for the consolidation of land in the special areas. The Act serves the purposes of prevention of fragmentation and subdivision of land.

#### **vi) The Physical Planning Act 1996**

The Act provides for the preparation and implementation of physical development plans. It repealed the Town Planning Act (Cap 134) of 1931 and the Land Planning Act (Cap 303) of 1968. This Act vests all authority and powers of physical planning in Kenya to the Director of Physical Planning (D.P.P). Section 29, gives the local authorities power to control the use and development of land and buildings in the interest of proper and orderly development of the area.

vii) **The Local Government Act, Cap 265** gives local authorities the power to plan for the land use subject to any other law and specifically P.P.A of 1996 and Valuation for Rating Act Cap 266 which empowers local authorities to value land for land rates.

### **5.3 Land Development Applications**

Land development is facet of land management, which refers to the process where land as a resource is put into good effect. As such, it would be in order to say that land development whichever form it takes is a tool of land management and is an element that may be used towards guiding the allocation of land resources into effective use for optimization of returns. Land development applications will be used as a case study to assist in evaluation of the procedures of land administration in terms of efficiency, effectiveness and quality, and as such, the need to examine the procedures. Subdivisions, change/extension of user and extension of leases will be used to represent development applications.

#### **5.3.1 Land Development Applications Procedures**

The Physical Planning Act 1996 from section 31 to 40 is clear on the process through which development applications are approved, the parties involved and the various ways to seek redress if any of the respective parties is aggrieved by the actions of approving agents. The planning authorities, in addition to the state have power to guide and regulate land development which should be exercised in the public interests by establishing clear standards which override proprietary



land use practices. Land legislation and processes should incorporate and not be in conflict with international and national policies relating to sustainable development and preservation of environmental values. In this regard therefore, the custodians of the land be it local authorities or the Commissioner of Lands are the administrators of the processes of development applications.

In as far as subdivisions, change/extension of user and extension of leases are concerned, development applications are lodged with the local authority within whose jurisdiction the property falls in the form prescribed in the fourth schedule of the PPA 1996. This form, called PPA 1 (appendix i) must be submitted by a registered Physical Planner. In the case of subdivision of land, the proposed subdivision scheme duly signed by a planner, a land surveyor and the owner must be submitted in a linen material (1 copy) and blue print (5 copies) to the local authority. Such a plan must show particulars and purpose of development, the means of access and open spaces within the scheme. For change/extension of user, a planning brief must accompany the application form detailing the proposed user, conformity with other planning regulations and utilities to be provided. The brief must be prepared by a registered physical planner. An extension of lease application has no accompaniments except for the copy of the title to justify the owner, user and term and the payment of all outstanding rates.

Section 32 (1) gives thirty days as the period within which the application should be forwarded to the Director of Physical Planning for comments. Section 32 (2) stipulates that certain authorities must consent to the application before the local authority accords the approval. These are the linkage authorities such as the Ministry of Roads and Public Works, Agriculture, Director of Surveys and Water Development amongst others. In cases where the land is leasehold, and within the municipality, the application is also circulated within the internal local authority departments for them to check on conformity to the laid down development conditions. In the case of Nairobi City Council these departments include, the Public Health, Water and Sewerage, the Roads, and the Rates

sections. The section is also clear on the procedure to be followed on agricultural lands where the local Land control board must give its approval or rejection within thirty days. The approval of the development applications by the departments or the local authority will be on the basis of consideration of the following factors;

- Provision of adequate roads of access.
- Proposed use of sub plots after subdivision, change of user and extension of lease.
- Status of the land like tenure, ownership and encumbrances.
- Size and density of the sub plots.
- Clear demarcation of boundaries of intended plots in case of subdivision.
- Provision of open space and social infrastructure.
- Compatibility with adjacent developments.
- Overall impact on the environment and existing facilities including traffic congestion.

Section 33 (1) (a) and (b) shows that the Local Authorities may approve or reject the application, subject to the comments received from the other departments or authorities. If rejected reasons must be put in writing and the aggrieved party, if not content, may appeal to the National Liaison Committee and if further rejected may appeal to the High Court as stipulated in section 15 (1) – (4). The time limit within which the local authority should notify the applicant of its decision is given as thirty days in Section 33 (2). In cases where the approval is granted, the local authority appends its approval through prescribed forms, PPA2 (Appendix ii), which are then forwarded to Commissioner of Lands subject to various conditions the most pertinent ones being;

- Provision of water to the subplots (in case of subdivision).
- Construction of roads, drains, sewer and street lighting to adoptive/non-adoptive standards.
- Surrender of land required for public utilities to the government free of charge.

- Surrender of land for public roads and access.
- Payment of enhanced land rent for the leasehold government or trust land.
- Demolition of old structures or their improvements in cases of extension of leases.
- Payment of resultant plots' rent.

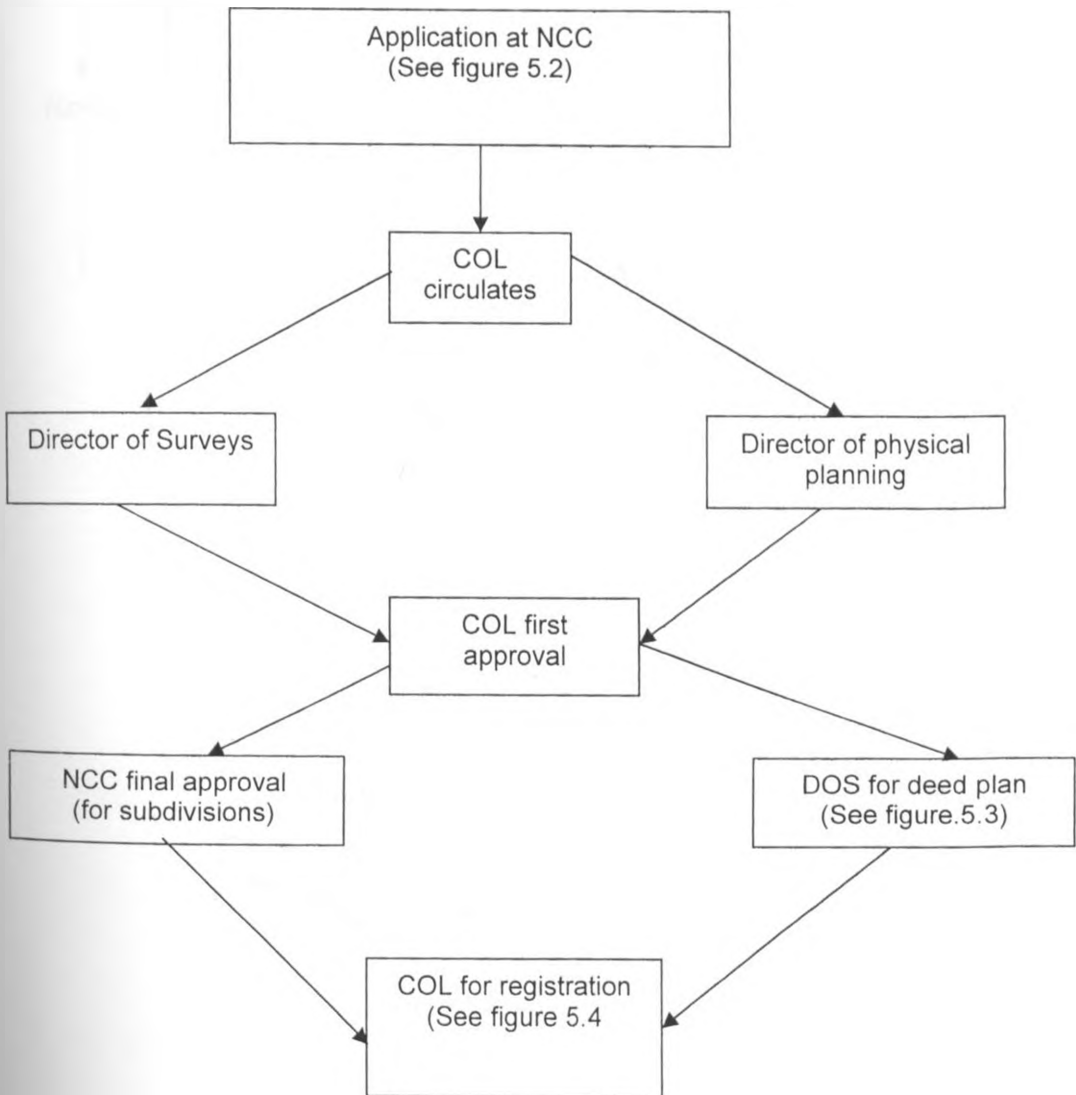
The conditions of payment of enhanced rent or the resultant plots' rent are, however laid down by the Commissioner of Lands. Upon receipt of the PPA 2, the Commissioner of Lands forwards the same proposal to the Directors of Physical Planning and Surveys for their comments before approval is accorded. If the comments are favourable, the Commissioner accords provisional approval subject to the above conditions and/or others he may deem fit. This provisional approval acts as an authority for the owner to engage a surveyor to carry out the cadastral survey works in relation to the development proposal. The approval also acts as a request to the local authority to accord final approval to the development proposal if all the conditions have been complied with.

The Survey work gives resultant deed plans in the case of subdivision or a single deed plan in the case of change of user and extension of lease. Deed plans are the output in the surveying process if the land is registered under Registration of Titles Act. Under Registered Land Act Cap 300 however, the Registry Index Map (RIM) is the product of the cadastral survey process. These documents facilitate the registration of the resultant titles or title as the old title is surrendered in exchange of the new title(s). In cases of subdivision without change of user, certificate of titles are issued as stipulated under sec 70 of the RTA whereas for change of user and extension of leases, the old title is surrendered and new ones prepared for the Commissioner of Land's signature before registration. The process of cadastral survey approval by the Director of Surveys is a lengthy one which, just like the processing of an approval or title may take an indeterminable period of time as the work has to go through many stages. Figure 5.3 shows the various stages that are involved before the production of a deed plan in the

cases of title registered under RTA or a Registry Index Map in cases of title registered under RLA.

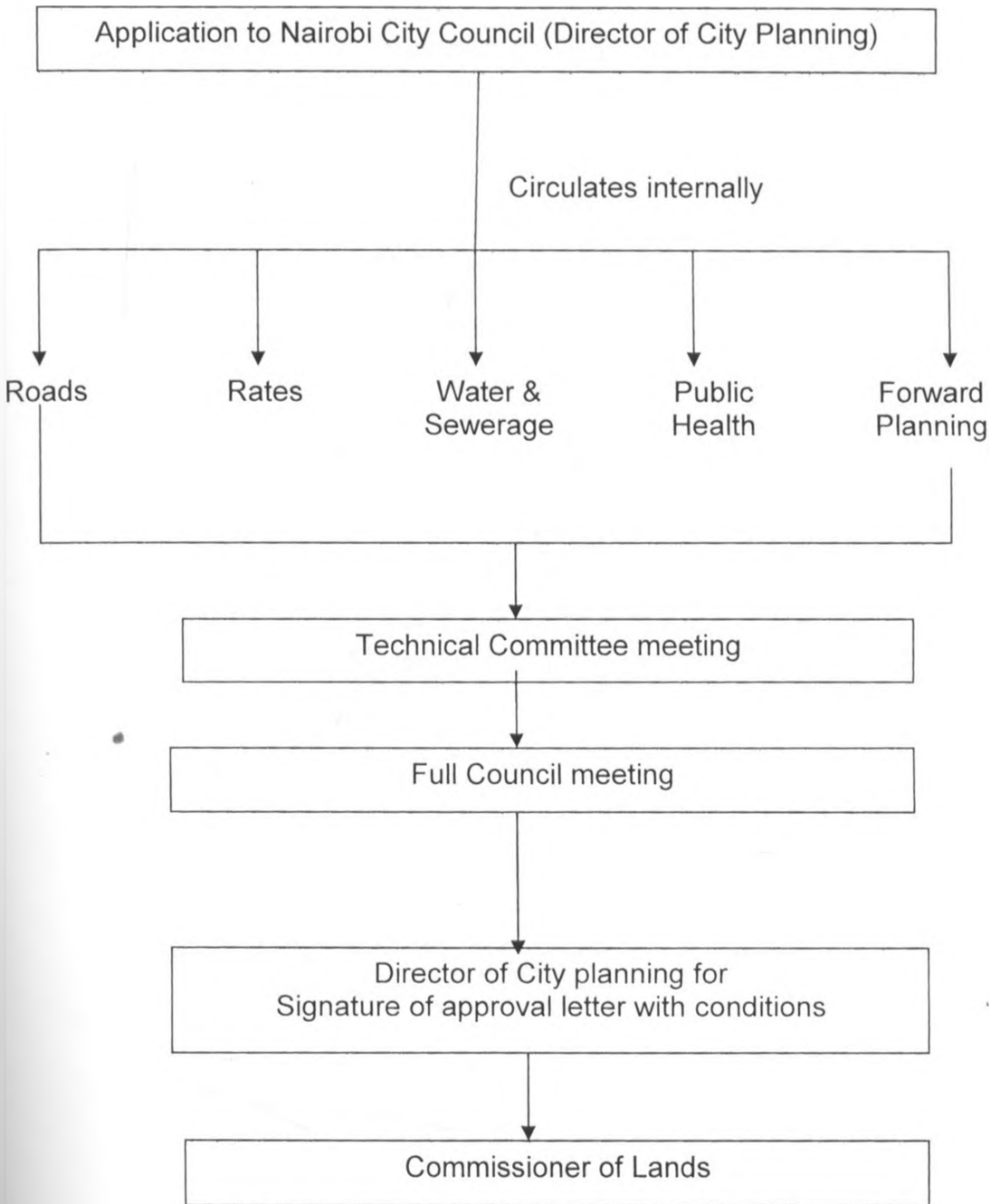
Figure 5.1 shows that the process is a loop that flows from the Nairobi City Council, the Department of Lands, the Department of Surveys and back to the Department of Lands for registration. Figures 5.2, 5.3 and 5.4 show the various stages that an application goes through in the respective departments.

**Figure 5.1: Overall Land Development Applications Approval Process**



Source: Author (2007)

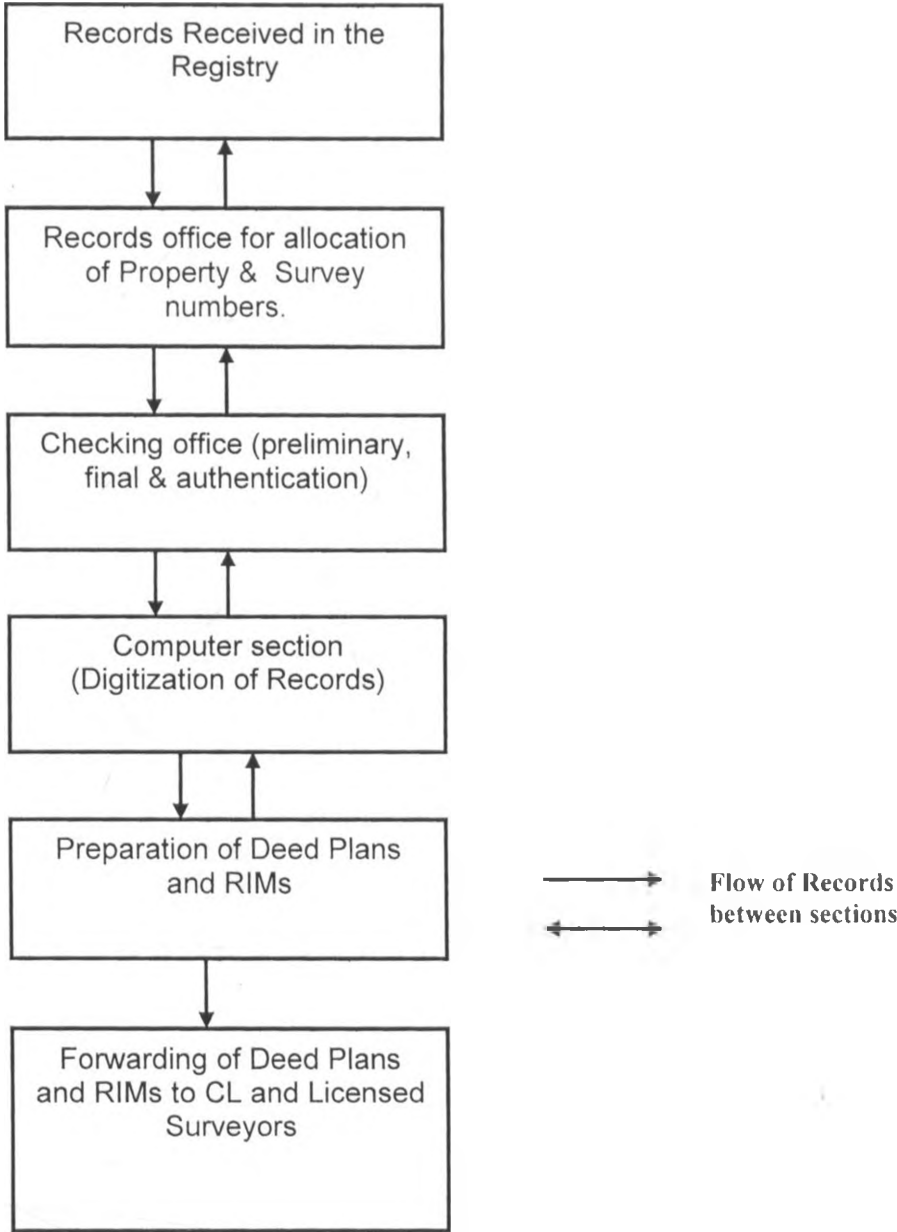
Figure 5.2: NCC Approval process of Development Applications



Source

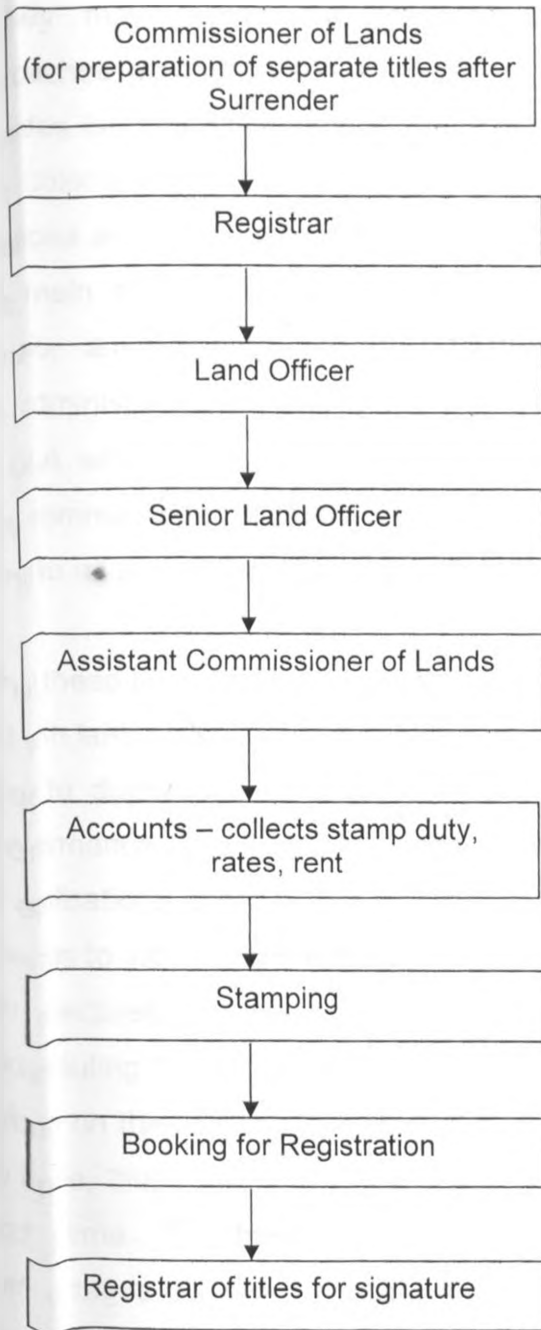
Source: Author (2007)

Figure 5.3: Flow Chart for Processing Records in Department of Surveys



Source: Author (2007)

Figure 5.4: Registration Process at the Department of Lands



Source: Author (2007)

## 5.4 Observations

This chapter has addressed the history and legislation governing land administration in Kenya. The historical backgrounds of different countries are important since they may explain the lack of standardization in land administration approaches amongst various countries. It is observed that the legislation which guides land administration in many countries will more less be determined by the colonization process. In the case of Kenya most of the statutes and regulations are Britain oriented. This may affect the processes in various ways. The main statutes namely the GLA, RTA and RLA have not undergone any major amendments and due to this they still remain an impediment in the administration of land matters in the country. This can be supported by the GLA which gives too much power to the institutions of the presidency and the commissioner of lands. These two offices have in the past been abused leading to a lot of malpractices in the land sector.

It is also notable that these pieces of legislations are far too many. Although this work does not deal with land policy, it is important to note that too many pieces of legislation may lead to duplication of roles, confusion in implementation and ultimately affect performance. The study also observes that the procedures of land development applications approval are lengthy, complicated and repetitive. The institutions one has to visit to secure the approval are scattered and are not bound by common objectives. The stages in each of the department are many and at time snot contributing to the overall output. As such, no department bears collective responsibility on the actual conclusion of the process, none can give a determinable time frame, thus making the whole approval process to stretch for an indefinite period of time. This leads to inefficiency amongst the institutions. Due to the number of stages the processes are therefore not easily understood by the laymen thus making the processes a preserve for professionals and the approving authorities. This makes most people result to informal land markets where transactions are never regularized resulting to unplanned development



and loss of revenue to the state and the owners. Muraguri (1999) and GoK (2002:143) have documented land administration in Kenya as characterized by:

- Use of archaic equipments for the processes and manual information systems
- Over-centralization where some land transactions can only be handled at the Ministry's Headquarters in Nairobi irrespective of where the property is in the country, for example, transactions related to those properties registered under RTA Cap 284
- Too much power in the institutions of the Presidency and the Commissioner of Lands
- Abuse of office by the staff as shown by absenteeism and unprofessional practices that slow down the processes
- Inefficiency as evidenced by the indeterminate length of time it takes to complete the transactions and the number of stages a transaction has to go through
- Lack of accountability within the departments and to the general public due to lack of a feedback system
- Bureaucracy manifested through the repetitive processes some of which add no value to the output

Using the conceptual model derived from MBO, it is notable that the institutions dealing with land development applications in Kenya operate in a disjointed manner, with each department acting autonomously. A one stop shop institution for approving land development applications would ensure that the objectives of the departments are harmonized, targets unified and feedback systems put in place. As it were now, it is difficult to achieve efficiency and effectiveness when no one institution is in charge of setting the overall objectives. The key features proposed in the conceptual model could be adopted to ensure that the approval processes of land development applications are coordinated under one institution.

## CHAPTER SIX

# MANAGEMENT SYSTEMS AND EVALUATION OF LAND DEVELOPMENT APPLICATIONS PROCESSES

### 6.0 Introduction

The research targeted various institutions that deal with the approval process of development applications. The detailed research design was discussed and presented in chapter four. This chapter is divided into two, namely:-

- Management systems within the institutions dealing with land administration in Kenya and
- Performance evaluation of the management approaches on land development applications approval processes.

### 6.1 Management of Land administration Institutions

One of the study objectives was to investigate the management approaches in land administration institutions. Appendices iii to v are the questionnaires that were administered to the officers in charge of these institutions. To achieve the objective, the following institutions dealing with the processing of land development applications within Nairobi region were targeted:

#### A) City Council of Nairobi, Department of City Planning

The Department of City Planning is the receiving authority of all development applications within Nairobi. The questionnaire was administered to the Director of City Planning and was divided into three sections covering three aspects namely, General, Technical and Management as seen in appendix iii.

#### B) Ministry of Lands

##### i) Overall Management Structure

The core function of the Ministry is to manage and administer the land resources. The interviewee on the management structure was the Permanent Secretary whose mandate includes:-

- Policy and administration matters
- Accounting matters

- Ministerial rationalization and performance improvement matters
- Definition and coordination of Ministerial Strategic Plans, Goals and Functions

ii) **Department of Surveys**

Being one of the conveyors of the land development application approval process, a separate questionnaire was administered to the Director of Surveys.

iii) **Department of Lands**

The questionnaire administered to the commissioner of lands was not responded to. However, most of the information sought was given by other officers or deduced from the overall ministerial strategic plan policy documents.

The findings from the three institutions are presented in Table 6.1 below.

**Table 6.1. Management of Land Administration Structures**

	<b>Management Strategy</b>	<b>Administrative challenges</b>	<b>Effects</b>	<b>Interpretation</b>
<b>Dept of City Planning</b>	no strategic plan, no targets, work on ad-hoc basis, no performance criteria before 2006, time for plans approvals given as 30 days	Lack of qualified staff, political patronage, poor finance mechanisms	Inability to measure performance, delays in approvals, corruption, clients dissatisfaction, poor image leading to lack of investor confidence	Inability to plan ahead by investors and developers. Emergence of informal markets, loss of revenue, stifles growth
<b>Ministry of Lands</b>	Strategic plan in place now, but none before 2006 performance indicators now in place, professionalism enhanced, better customer responsiveness, service charter, corruption drop boxes introduced	Poor work ethics, red tape and bureaucracy, lack of effective monitoring and evaluation, repetitive processes, manual LISs	Improvement noted in some sections, others like lands still performing poorly, inability to guarantee service delivery, Corruption, low morale amongst workers, poor image	Same as above but Ministry now in the forefront in embracing change to foster growth, Expected better results
<b>Dept of Lands</b>	Dept embracing ministerial strategic plan but performance contracts now in place with defined targets	Before 2006, no targets, measurable objectives or feedback systems	There were delays in service delivery, poor work attitudes and low morale leading to inefficiency	Image of the department was bad, no confidence by the investors and corruption was rampant translating to irregularities in the land sector
<b>Dept of Surveys</b>	Embracing ministerial strategic plan, decentralization of records, output targets set per week, continuous in service education, emphasis on professionalism in recruitment	Lack of modern equipment, shortage of technical staff, ethical issues like corruption and absenteeism	Inability to meet targets, dissatisfaction from public, poor image	Dept has a huge role to play towards tenure regularization and should therefore push for modern LIS and survey approaches.

Source : Field Study (2007)

As presented in Table 6.1, it is evident that before 2006, the management of land administration institutions was not properly streamlined. The concept of result based management which had been recommended for the public service in 2001, had not taken effect. As such, the approach was one that lacked in the main features identified in management by objectives. Characteristically, there were no departmental goals, no measurable objectives formulated, therefore the employees worked with no targets and in an ad hoc manner. Feedback systems were mainly lacking, translating into low levels of accountability both to the employer and the public. As reported by the managers of these institutions, the main challenges appear not to be technical but human oriented. It is in order to infer that these challenges resulted mainly due to lack of proper management approach which for purposes of this study is management by objectives (MBO). The effects of this scenario are not only detrimental to the institutions whose performance is adversely affected, but to the country as a whole where there are many sectors that rely on efficient land administration system for growth and development.

## **6.2 Evaluation of Performance of Land Administration Systems**

The other objective of this study was to evaluate the impacts of the management approaches adopted on the administration of land development applications in Kenya. Appendices xi to xix show the sampled land reference numbers for the three thematic areas traced from submission to the issuance of titles in an attempt to evaluate performance. Three key performance indicators were adopted by this study and it is with these that the study will relate to the management and see how each indicator was performing. They are:-

- Effectiveness.
- Efficiency.
- Quality.

### 6.2.1 Effectiveness Levels

Effectiveness has been used as performance indicator in an attempt to evaluate performance. This study adopts the percentage completion rate of the land development applications to measure effectiveness. The sampled cases, which had been submitted at the City Council of Nairobi at different dates for the approval process were traced from application to title registration, to determine what percentage levels of output are released from each department and the overall level of productivity when all the departments are taken as one approving authority. The approach used is to evaluate only cases approved in the preceding department, so as to avoid cases of double counting. •

In the case of subdivisions, a total of fifty (50) cases were sampled. However, seven were rejected on technical grounds. Forty three (43) cases were therefore traced through the processes up to the final stage. Out of these, 61.4% were accorded provisional approval and were therefore forwarded to the Lands Office. In the case of the Lands Department, a total of nineteen (19) cases were received with sixteen (16) being approved representing 84.2%. These were then forwarded to the Survey Department for deed plan preparation with an approval rate of 75.0%. In the category of extension of lease, a total of fifty (50) properties were sampled, six were rejected either because they were submitted earlier before the research period or land reference numbers given were wrong, therefore leaving the sample size of 44. The City Council of Nairobi approved 66% of these. Out of those approved, 24 were received at the Lands office with an approval rate of 66.7% and the Survey Department approving 87.0%. In the case of Change of user, forty eight (48) cases were followed through with the approval rates of 44%, 57.1% and 92.3% for CCN, Lands and Survey Departments respectively.

Table 6.2 shows the summary of the effectiveness levels from both institution and thematic basis.

**Table 6.2: Level of Effectiveness in Percentages**

SUBJECT	CITY COUNCIL OF NAIROBI	DEPT. OF LANDS	DEPT. OF SURVEYS	MEAN
SUBDIVISION	61.4	84.2	75.0	73.5
LEASE EXTENSIONS	66.0	66.7	87.0	73.2
CHANGE OF USER	44.0	57.1	92.0	64.3
MEAN	57.4	69.4	84.7	

**Source: Field Study (2007)**

The table above indicates the level of performance only in as far as the individual institution's role is concerned towards the development application approval process. The study went ahead and followed up the cases from submission to title registration so as to establish the overall effectiveness levels of all the institutions. This was important because the level of effectiveness can not be evaluated in isolation because each department is only a point within the conveyancing process. Therefore levels of effectiveness of the approval processes can only be measured when the process is taken from submission to completion. The findings indicated an overall completion rate of 11.4%, 8.3% and 18.6% for subdivisions, extension of leases and change of user respectively.

It should be noted that whereas the output level may be high in separate departments, the levels nosedive when one takes the process whole some. This confirms the earlier submission that, land development applications approval processes are not complete without all the players and none can effectively operate in isolation of the other. The trend of effectiveness levels could be analyzed, interpreted and inferred from two perspectives:

## A) Institutional Basis

In all the three areas, City Council of Nairobi is lagging behind the Department of Lands and Surveys. The level of effectiveness at CCN is less than that of Lands whose measure is lower than that of Surveys. In chapter five of this work, it was observed that the processes of land development applications approval move from CCN to Survey and eventually to Lands for title registration. By critically analyzing the different stages of the processes presented in chapter five and the responses received from the respondents, the researcher can infer and authoritatively attribute this trend to the following factors:-

- CCN is the entry point of all applications, hence it acts as sieving point and as such may reject more.
- CCN circulates the applications to more internal and external departments including NEMA, which may reject the development applications.
- There are more technical issues to be addressed at this point, thus giving a higher possibility of rejection.
- Lack of performance measures.
- Internal problems are higher at CCN, as evidenced in the same findings, a fact supported by the 86% of the respondents who said services are poor at CCN

In both the Departments of Lands and Surveys, the mean effective rates show an ascending trend. The following inferences could be drawn from this trend:-

- Both Departments have less technical issues to scrutinize than CCN.
- Survey has less technical issues to scrutinize than Lands, giving it a lower likelihood of rejecting the application.
- Lands Department circulates the applications to Physical Planning and Surveys before approving, which ultimately affects effectiveness.
- Approval levels at Survey are not affected by external offices, hence easier to monitor performance.



## B) Thematic Basis

This allows us to compare the trends of effectiveness on a subject or thematic basis. From the above tables, subdivision levels of completion are greater than extension of leases but less than change-of-user. There are various factors that could lead to this scenario:-

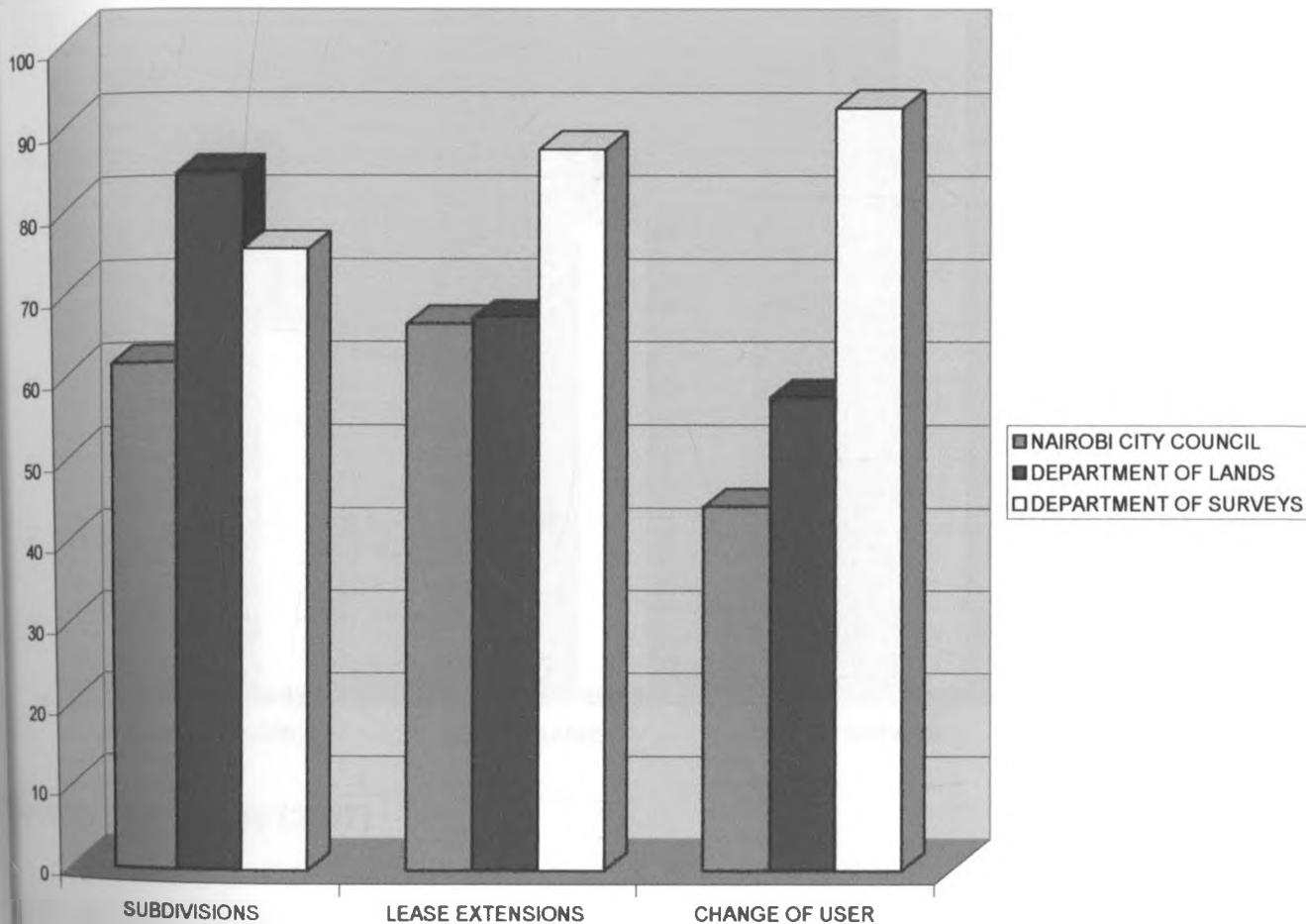
- Subdivisions are given higher priority by developers due to their commercialization aspect.
- Applicants seeking subdivisions may want to dispose off some lots, hence keener to see the project to completion.
- Besides the purpose of finance borrowing, there is no motivation for lease extension since there is also no inherent threat of losing the property.
- Property owners are less informed on the direct benefits of lease extension.
- Applicants apply for change-of-user to increase the returns from their properties (commercialization).

The analysis is also carried out on both a thematic and institution basis, where it is observed that CCN approves more lease extensions, followed by subdivisions and lastly change-of-user. This is due to the fact that:-

- Lease extension applications have no attached technical conditions to be fulfilled.
- Subdivisions are circulated to all internal technical departments.
- The subdivisions applications generally have stringent development conditions which are difficult to meet.
- The costs of condition compliance in subdivisions are too high for some developers, for example, installation of street lighting, construction of roads to adoptive standards, connection to trunk sewer and provision of water.
- Change-of-user applications are circulated to NEMA which may reject the applications.
- Change-of-user intentions are published in the local newspapers and may raise public objections.

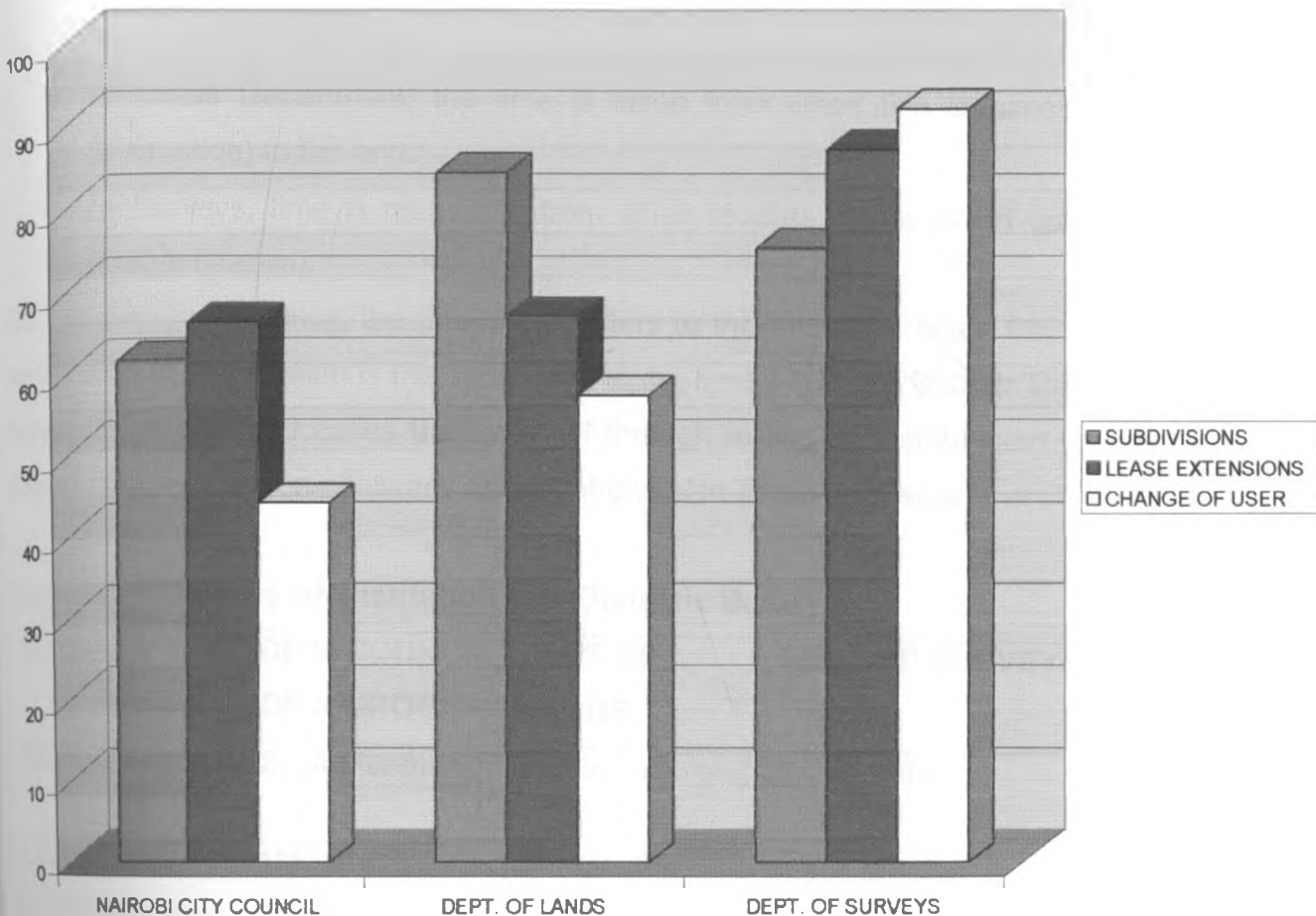
Bar graphs 6.1 and 6.2 below present the above findings and trends making it easier to observe the tendencies at a glance •

Bar Graph 6.1 Effectiveness Levels on Thematic Basis



Source: Field Study (2007)

Bar Graph 6.2 Effectiveness Levels on Institutional Basis



Source: Field Study (2007)

### 6.2.2 Efficiency Rates

Time taken for an application to go through in each of the departments was used as the parameter to measure efficiency. This was addressed separately from a departmental point of view, a thematic point of view and as an overall process for the cases that went up to title registration. The separate departmental approach was purposely done as it was noted that if taken wholly, there are aspects of the process that depend on external factors, like how fast a client pays the official fees or how fast the ratifying department takes. Such a scenario might give a false indication of the time taken to have

development applications approved. As such the efficiency levels were compartmentalized based on the approval time as follows:-

- At CCN, time is measured from submission to first (provisional approval) like in the case of subdivisions.
- At Lands Department, the time is taken from when title issuance is initiated (instruction) to the end.
- At Surveys, time is measured from when records are received up to approval (authentication).

On the overall efficiency, the time taken refers to the total time taken from the date of application at CCN which is the entry point to the time the title is issued. This is done by taking those sampled cases that went all through to title as represented in Table 6.2 above. The findings on efficiency are as tabulated in Table 6.3 below.

**Table 6.3 Efficiency on Institution and Thematic Basis**

SUBJECT	CITY COUNCIL OF NAIROBI	DEPT.OF LANDS	DEPT.OF SURVEYS
SUBDIVISIONS	2 – 4 Months	6 Months	1-3 Months
LEASE EXTENSIONS	1Month-10 Months	3-6 Months	1.5-4 Months
CHANGE OF USER	1-13 Months	2-6 Months	15 Days

Source: Field Study (2007)

On the overall efficiency rates (from Submission to Title), subdivisions were found to take 20-29 months, extension of leases take 5-15 months while change of user take 10-29 months.

It should be noted that, the total time taken is not necessarily a summation of the times tabulated for the three institutions on the overall process. As explained earlier, some of the processes in the have to pass through more departments, a situation that may cause delays before approvals are accorded, thus affecting the time taken in the whole

process. In the case of the Department of Lands, for instance, an application has to be forwarded to the Departments of Physical Planning and Surveys for verification before the approval is accorded. This means that any delay there will translate into delays on the Lands department timing. The timings in Table 6.3, therefore, are limited to the processes defined before the table.

It is observed that, City Council of Nairobi takes shorter period to approve the applications than does the Department of Lands. However Survey Department takes shorter than Lands. This, the study infers may be due to the following factors:-

- Applications at CCN are not dependant on external institutions.
- Lands approval depends on ratification from Departments of Surveys and Physical Planning which could take long to respond.
- Department of Surveys has no circulation requirement to other institutions and therefore, the issues addressed are only from a survey perspective.
- Unlike Surveys, approval at CCN may be delayed by bureaucracy due to political interference. At CCN elective leaders sit in full council meetings with a likelihood of interfering with technical matters.
- CCN has more internal sections to approve application than Survey hence the longer period.

On a thematic basis, the scenario changes with lease extension taking the shortest period, followed by change of user and lastly subdivisions. This is due to the following factors:-

- There are no conditions to be fulfilled for lease extension applications.
- Lease extension applications are not circulated externally to bodies like NEMA.
- The costs of processing lease applications are low, so applicants do not delay the process.

The researcher also sought the views of the consumers of land development application services on the length of time it takes to have their applications approved from submission to title. The study revealed that lease extension takes the shortest time at less than six months for the whole period while subdivisions and change of user applications take a minimum of six months and up to four to six years. The detailed responses are presented in Table 6.4:-

**Table 6.4: Efficiency Levels from Respondents**

<b>Service</b>	<b>Duration</b>	<b>Percentage of respondents</b>
<b>Subdivision (Submission to title issuance)</b>	9 months to 6 years	48%
	No experience with subdivision	6%
	No response	6%
	1 to 9 months	40%
<b>Change-of-User</b>	Indefinite	6%
	9 months-4 years	47%
	from 6 months	47%
<b>Extension of Lease</b>	Over 12 months	33%
	less than 6 months	67%

Source: Field Study (2007)

From the above findings, subdivision approvals take the longest period of time. The shortest period is nine months and the longest is six years. This is an indeterminate time frame that may be due to the stringent approval conditions that a developer must meet. These conditions are costly and may therefore delay the subdivision approval process. Change-of-user applications may also take longer due to the fact that, with the enactment of Environmental Management and Coordination Act, National Environmental Management Authority, has to approve the applications before the local authorities approve the same. Lease extension applications appear to be the easiest to handle in the thematic groups, since there are no stringent approval conditions involved.

The study compared the efficiency levels as derived from the respondents (Table 6.4) and from researcher's sampled properties of the study and derived the findings shown in Table 6.5.

**Table 6.5: Respondents' and Researcher's Efficiency Rates**

<b>Service</b>	<b>Approval period given by consumers</b>	<b>Approval period derived from Sampled properties</b>
<b>Subdivision</b>	9- 60 Months	20 -29 Months
<b>Change of User</b>	6-48 Months	10 – 29 Months
<b>Extension of Lease</b>	Less than 6 Months	5 – 15 Months

**Source: Field Study (2007)**

From the above, the results on efficiency from both sources compare favorably and can therefore be used as a basis to authoritatively advise prospective clients on the approximate time it takes to have development applications approved to titles in Kenya. Unfortunately, the variation between the shortest and the longest period is too high and indeterminable making it hard for investors to plan ahead. This inability by the institutions to give specific timeframes may encourage clients to corrupt their way through the process giving a poor image to the departments.

### **6.2.3 Quality of Service**

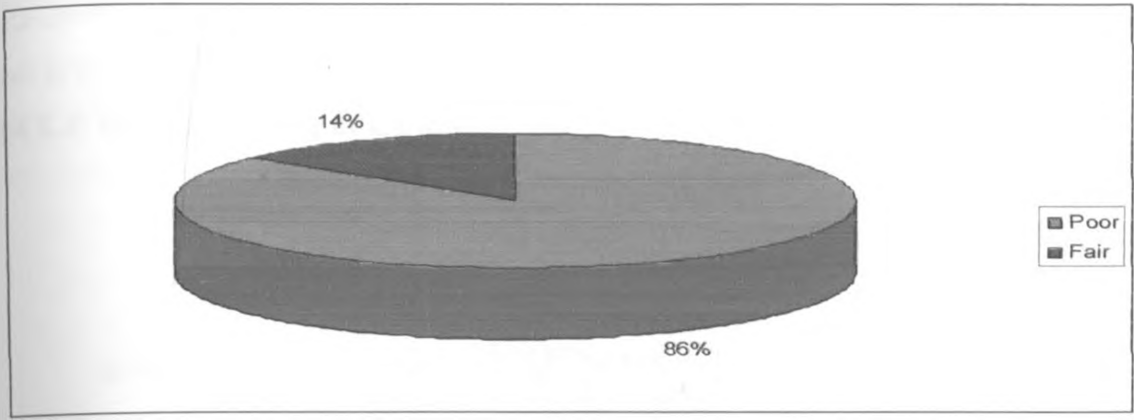
Quality is one of the key performance indicators adopted by the study to evaluate the performance of land administration institutions. Although measuring of quality of service has been said to be at times subjective, it has however been documented as one of ways to evaluate performance. In most organizations, customers are often asked to rate the institutions through opinion polls which are then rated to assist in giving feedback of the services. In the case of institutions dealing with land administration the researcher sought the consumers sought opinion on rating of services and departments within the institutions, with the following findings:-

#### **A) City Council of Nairobi**

Quality of service was hard to measure. However, the researcher asked the respondents to rate the quality of service from excellent to poor. The response varied from department to department as shown by the charts 6.1, 6.2 and 6.3. At the CCN,

none of the respondents rated the department as excellent or good. About 86% of the respondents rated the services as poor and 14% as fair. This shows that the respondents were dissatisfied with the way work was being handled at CCN and they had little faith in the department.

**Chart 6.1: CCN Service Rating**



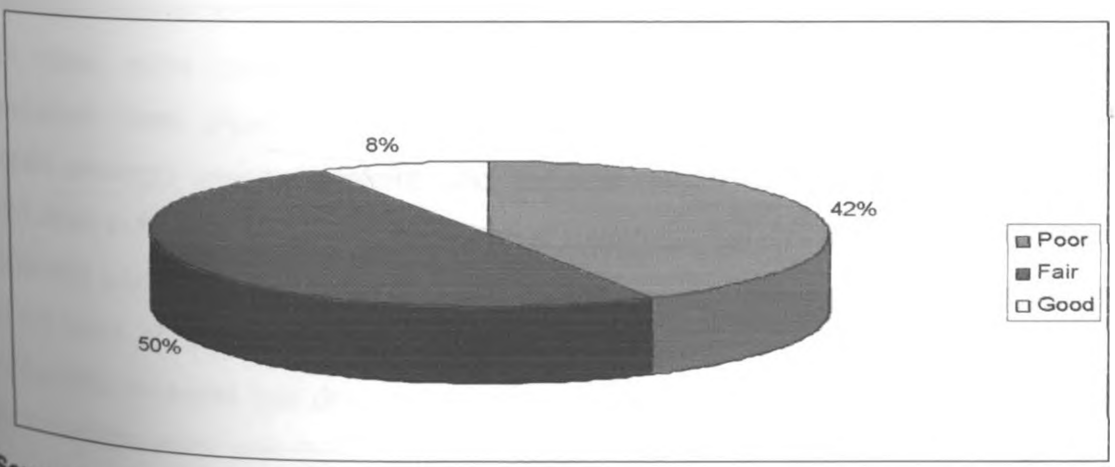
Source: Field Study (2007)

**B) Department of Surveys.**

The main services that clients seek from the department include Cadastral and Topographical records, approvals/comments for development applications, and submission of deed plans amongst others.

The quality of service was rated between good and poor at 8%, 42% and 50% for good, poor and fair respectively as shown in the chart 6.2.

**Chart 6.2: Service Rating at Surveys**



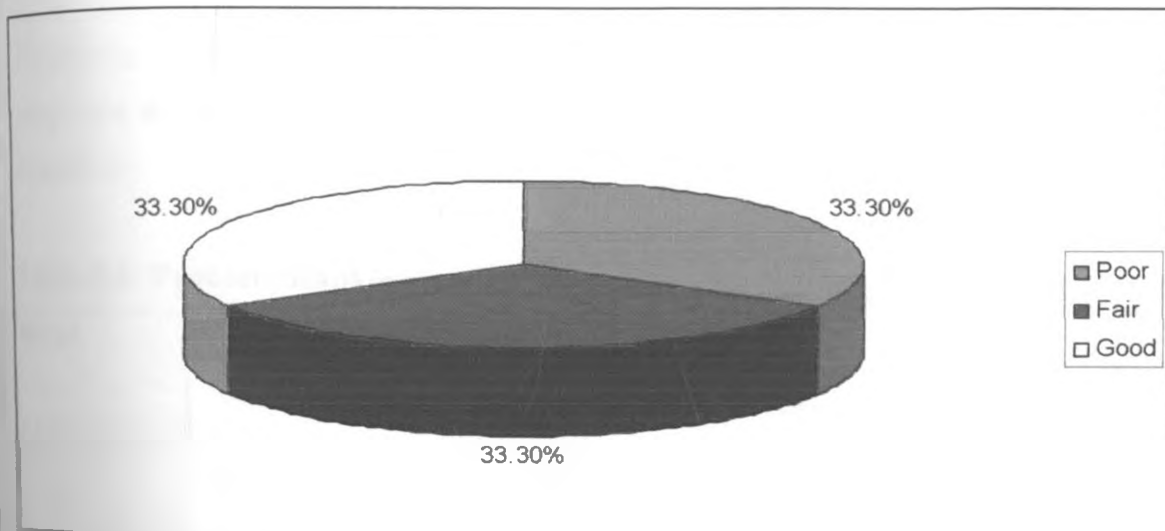
Source: Field Study (2007)



### C) Department of Lands.

The services often sought from this department include, the registration of transfers, title registration, applications for consents, rent clearance certificates and approvals for development applications. By a measure of excellent to poor, the respondents rated the service at the Lands department as poor, fair and good on an equal basis. None of the respondents indicated the service as excellent. The rating of quality of service was as shown in the chart below.

**Chart 6.3: Service Rating at Lands**



**Source: Field Study (2007)**

From the above views on quality, on the overall, over 50% of the respondents felt that the service provision is poor, citing low levels of completion of the work, the lengthy processes, indeterminate time frame and poor reception from these institutions. This, it was noted, more often than not, acts as a trigger towards corrupt tendencies, as consumers seek short-cuts to have their applications approved. This leads to low morale amongst service seekers and impacts negatively on the land administration institutions in Kenya. Moreover, poor image negatively affects investor confidence, especially where the investments are premised on land as a resource. Judging quality on the basis of worst and best sections helps the sections to mirror themselves and concentrate on areas that drag them behind. Of all the three departments, City Planning performed the worst with 86% rating it poor.

The researcher analyzed the reasons behind the rating by asking the respondents to give the key problems encountered in each of the department and suggest on ways to improve the service in the departments. The problems were narrowed down to four issues as they are the ones that were cited by all the respondents, though with different frequencies. These were

- Corruption
- Poor work attitude manifested through absenteeism and poor reception of clients
- Lack of modern information systems
- Lack of qualified personnel

Problems identified in each of the department were ranked on the frequency of response since the respondents were not restricted to one issue and the findings are presented in Tables 6.6, 6.7 and 6.8.

**Table 6.6: Problem Ranking at CCN**

Issue	Frequency of Response In %	Ranking in Severity	Suggestions for improvement	Frequency of Response %
Corruption	71%	2	Modern Information Systems.  Restructure (feedback, improve attitude appraise)	87%
Lack of trained personnel	28.5%	4		76%
Poor attitude incompetence	85.7%	1		76%
Poor Information systems	57%	3		76%

Source: Field Study (2007)

At the City Council of Nairobi, poor attitude and incompetence appears to be the major problem that made the consumers to rate the department as poor. This, the respondents said was manifested through absenteeism, hostile reception and insensitivity to consumer issues. Corruption was also a major factor which as seen earlier in the processes may be caused by inability to define time frame and lengthy procedures. Consumers may therefore try to use money to induce faster service, therefore leading to corruption. The type of land information system in place did not seem to bother most of the respondents and it was therefore ranked third.

**Table 6.7: Problem Ranking at Survey**

Issue	Frequency of Response In %	Ranking in Severity	Suggestions	Frequency of Response %
Bureaucracy/corruption	37.5%	2	Restructure to reduce bureaucracy	75%
Poor structures	37.5%	2		
Poor/Archaic Records systems	62.5%	1	Computerize information systems	100%
Poor work attitude/absenteeism/poor reception	62.5%	1		

Source: Field Study (2007)

Although issues of manual and archaic information systems and poor work attitude were ranked the same in the Survey department, service seekers identified poor information systems as a major problem prompting all of them to recommend computerization of the same. Unlike the other departments where computerization of records may not necessarily improve efficiency in the short run, computerization of cadastral survey records would automatically reduce backlog and hasten the approval process and is therefore key to enhancing efficiency. This is especially where any checking and

approval of survey records heavily relies on accuracy and updatedness of survey data usually recorded in the survey plans

**Table 6.8: Problem Ranking at Lands**

Issue	Frequency of Response In %	Ranking in severity	Suggestions	Frequency of Response %
Poor work attitude/hostility/absenteeism)	73%	1	Restructure by addressing corruption and bureaucracy	80%
Poor record keeping	26.6%	4		
Corruption	33.3%	3		
Bureaucracy in processes	40%	2		
Shortage of trained staff	13.3%		Computerize	53.3%

Source: Field Study (2007)

Poor work culture was ranked the leading limiting factor to service delivery in the Lands Department. This leads to low levels of performance with the management being unable to monitor the productivity of their departments. This affects the overall effective and efficiency rates within the departments.

Bureaucracy manifested through repetitive processes also featured prominently. This is due to the many stages that consumers have to go through before the approvals are granted or title is granted. This causes delays, time wastage, and cost overruns with investors being unable to plan. As the same time, this is very closely related to elements

of corruption which is rated as a major problem as consumers try to shorten the processes and time spent.

### 6.3 Global Comparative analyses

Benchmarking was noted as one of the ways through which institutions can evaluate themselves. It involves the documentation of best practices across organizations with similar functions. This is called functional benchmarking. In the case of land administration, countries are benchmarked against each other on the services delivery using indicators such as time taken to process a title, the overall completion rates and cost of processing documents amongst others. This part of the analysis attempts to assess comparatively the performance of Kenya's land administration systems based on the study findings and those of other countries as documented by the World Bank and other institutions. It uses the time taken as a measure of time from when a title process is initiated in the department of lands to the time it is completed. It should be noted that the land administration international standards indicated in most literature were either dealing with title process or cadastral records approval and none was found to deal with the whole process of land development application approval process. Therefore the time taken in Kenya is that derived from the findings which indicated five to twenty nine months for the whole process. Assuming that the last stage of the title issuance is one quarter of the whole process, then we derive a period of sixty to one hundred and eighty days for the title issuance stage. Assuming that the completion rate of whichever part of the process taken has similar completion rate as the study found, then it is rational to assume that the output of the titles completed in that stage, would more or less give similar results therefore adopting the 8.3 – 18% output for purposes of global comparison.

Although benchmarking is recommended for evaluation, it is important to note that, best practices may be criticized on the basis that the conditions existing in different countries may be different, making standardization difficult. This notwithstanding, benchmarks and best practices always act as suitable guidelines which help the poor performers to reflect on their performance. The performance of land administration systems in Kenya

is relatively non-existent. The current and new targets have been derived from the 2006/2007 performance contracts for the Ministry of Lands

Table 6.9 shows how Kenya performs in land administration with respect to best and worst practices.

**Table 6.9: Global Comparative Analyses**

Performance Indicators	Best Practices	Worst Practices	Kenya's Current Position	Kenya's new targets	Research Findings
Time in days	1(Norway), 2(Sweden) 4 (Iceland)	363(Bangladesh) 683 (Haiti) 956(Nigeria)	Non-existent	21-100	60 - 180
No of processes	1(Norway) 2(Sweden) 2(Finland)	15(Ethiopia) 16(Algeria) 21(Nigeria)	28	Not mentioned	28
Cost in % of value	0.1(N Zealand) 0.4(Switzerland)	22.6(Zimbabwe) 27.1(Nigeria) 30.4(Syria)	Undefined	Not mentioned	Not used as an indicator, many hidden costs
Impact (Quantity)	90–100% documented	10% in Mozambique	57%	100%	8.3 to 18%
Quality	Undocumented	undocumented	65%	100%	Over 50% rated them poor

Source: World Bank (2006), GoK (2006) & Field Study (2007)

The analyses above show that Kenya measures poorly against the best practices using all indicators as far as land administration processes are concerned. The time taken is too long, number of procedures too many while there are so many hidden costs making

transactions very expensive which may lead to exclusion of most of the people from the formal property markets. From the findings, the quantity completed is 8.3 to 18%. This means that a lot of transactions are abandoned mid way as the percentage of the ones first approved at City Council of Nairobi is high. This leads to loss of revenue for the government and low levels of borrowing since most properties end up without titles. This is a common case in applications for subdivisions which are abandoned midway due to the development conditions attached before subdivision approval is accorded. This means that the resultant sub plots are without titles for a long time denying the land owners a chance to use them as collateral. On the time taken, the twenty-one (21) days set by the management is unrealistic compared to countries with the same conditions as Kenya. The research findings indicate that it takes between sixty (60) and one hundred and eighty (180) days for a title to be processed. The number of stages compares positively with other poor performers but the current performance contracts are still silent on this matter. These repetitive steps duplicate roles leading to unnecessary bureaucracy and they slow down the level of service delivery.

#### **6.4 Hypothesis Testing**

The study hypothesized that lack of management by objectives has led to inefficiency in the institutions dealing with land administration in Kenya. It proposed to use scenario analysis to test the hypothesis. On the one hand, the findings regarding management presented in Table 6.1 show that in the three target institutions, there were no performance control measures in place before 2006. In the absence of performance controls, work within these institutions was being done on an ad hoc basis, with, no targets, measurable objectives had not been formulated, there was little supervision and no feedbacks. Of particular concern was that there were no appraisal system and it was therefore common for processes to stall without any officer being held answerable since the targets were not defined. This gave a poor image on the institutions, affected performance negatively and made them an easy target for corruption and other malpractices. The national impact of this is a slowing down of land based investments in the country.

Management by Objectives was, therefore lacking thus leading to inefficiency in these institutions. MBO has been touted to improve performance as it helps organizations define measurable objectives, incorporates feedback and organizations are able to evaluate their performance against set standards ultimately leading to improved performance. In the absence of MBO, the results were as shown in Tables 6.2-6.7 above. The impacts of not embracing results based management it is observed are:

- Low levels of completion rates in the land development applications approval processes
- Unpredictable completion periods of approvals and title issuance
- Low quality rating of the institutions by the consumers
- Low score on international benchmarking

The study, therefore observes that lack of management by objectives has led to inefficiency, ineffectiveness and poor service delivery in the institutions dealing with land development applications approval processes in Kenya. The short term impacts are low levels of completion rates, indeterminate time frames and general poor service delivery. The nation-wide impacts of these have been postulated elsewhere include low levels of regularization of tenure thus compromising the tenets of sustainable development.

On the other hand, however, from 2006 there was change in management approaches geared to performance improvement driven by the Results Based Management which was initiated for in an attempt to turn around the image and dismal performance of the public service. This is evidenced by launching of service charters, signing of performance contracts, setting of targets and introduction of appraisal systems. Such a move is in conformity with the principles of management by objectives.

Two scenarios are available, one without MBO and whose results are known and supported by the study findings and the other one with MBO whose results can be predicted. In scenario analysis, one attempts to give a description of a possible set of events that might reasonably take place and not necessarily predict the future, but instead present a reasonable range of potential outcomes. Scenario analysis here will also help the researcher to make a fair guess of the cumulative assessment effects after the institutions embrace MBOs. These cumulative effects help management make



informed policy decisions. Table 6.10 shows the scenario analysis and its operationalization as far as the three land administration institutions are concerned. It answers the question, what would be the likely outcomes 'if' were MBOs to be embraced in the land administration institutions.

**Table 6.10: Land Administration Performance Based on Scenario Analysis**

Institution	Scenario A: No MBOS	Effects	Scenario B: With MBOs	Cumulative Effects
<p><b>CCN</b></p> <p><b>Dept of Lands</b></p> <p><b>Dept of Surveys</b></p>	<p>No performance measures</p> <p>No SWOT analysis</p> <p>No appraisal systems</p> <p>No evaluation</p> <p>No targets</p> <p>Low levels of completion</p> <p>Lengthy procedures</p> <p>Time indeterminate</p>	<p>Lack of consumer confidence, poor image, corruption, poor work culture, low rates of tenure regularization, growth of informal markets, loss of revenue, poor international rating slows down economic growth</p>	<p>Adopt one stop shop</p> <p>All-inclusive management</p> <p>Objectives defined</p> <p>Targets put</p> <p>Service charters enforced</p> <p>Feedback system installed</p> <p>Evaluation with reward scheme</p>	<p>Higher morale, less bureaucracy, time improved from 120 days close to best practices, output raised to levels in performance contracts, consumers satisfied, higher international rating and higher economic growth.</p> <p>Improved security of tenure for sustainable development</p>

Source: Author (2008)

## 6.5 Summary

This chapter has presented the study data results starting with the management approaches in the three target institutions and the evaluation of actual performance of the institutions as far as land development applications are concerned. It has found that results based management approaches were not embraced by these institutions and the approval processes completion rates were low and with indeterminate completion time. In terms of the quality assessment done on the three institutions, it can be said that most of the problems facing the institutions are a people problem, thus pointing at the management that lacks a comprehensive approach of evaluating performance. A global comparison with other countries has also been done and shows that there is a problem of processes of land administration in the developing countries as they all seem to lag behind the best practices given by international benchmarking.

One might postulate that the management practices embraced by land administration institutions in most LDCs together with reasons given by the respondents contribute immensely to the poor performance. On a nation-wide approach, perhaps issues of poor governance affecting most of these countries have an impact on how business is conducted in these countries. It might be of essence that these countries re-examine their institutional frameworks to ensure that regularization of tenure, which is key to sustainable development, becomes part of their core objectives as they endeavour to reach high levels of economic take-off.

The chapter has concluded by testing the hypothesis which has been proved true that lack of management by objectives has led to poor performance in the institutions dealing with land administration in Kenya. It has used scenario analysis to show that, were MBOs to be adopted, then the short and long term cumulative effects would be better than the current scenario set up.

# CHAPTER SEVEN

## CONCLUSIONS AND RECOMMENDATIONS

### 7.0 Introduction

The study set to investigate the management systems embraced in the institutions dealing with land development applications approval processes in Kenya, and to explore the impacts of such management approaches on the administration of the said processes. This was with a view to coming up with appropriate suggestions of how these processes can be improved. Secondary and primary data was collected with a view to achieve the objectives. The study chose three institutions dealing with the processing of land development applications namely City Council of Nairobi, Department of Lands and Department of Surveys. The study focused on three thematic areas namely, subdivisions, change-of-user and lease extensions to represent land development applications. The main concern of the study was that the land administration processes in the developing countries in general and land development applications approval processes in Kenya in particular are slow, cumbersome and indefinite in terms of the time taken and the level of achieved output.

### 7.1 Summary of findings

This study found that, there are too many pieces of legislation dealing with land administration in Kenya. This may lead to confusion for both the implementers and the consumers. The process of approving land development applications in Kenya is lengthy and has too many stages. All the stages have conditions that have to be met. Some of the functions in the stages were found to be repetitive and almost irrelevant to the final output process. For example, the title process at the Department of Lands passes about twenty eight steps, with some officers replicating each others' functions. This leads to time wastage and inability to plan ahead by the investors and professionals.

In terms of management practices, management by objectives (MBO) was not embraced by the institutions. It was found that prior to the year 2006, there were no performance control measures or appraisal systems in place, no targets and institutions worked disjointedly with no feedback systems. The result was inability to identify the weaknesses within the respective departments, thus affecting the overall performance. This outcome, the study found, was that institutions worked on an ad-hoc basis and without knowing their performance in terms of output, time and quality. In institutions where feedbacks lack the opinions of the clients are often not taken into consideration and therefore, there is a tendency to give sub standard services and lack accountability.

As a result of lack of management by objectives (MBO) the land development applications approval processes were found to be slow in terms of rates of completion and the length of time taken since there were no measurable targets. These levels of inefficiency led to lack of faith in the institutions by the consumers who rated the institutions as poor. In terms of international benchmarking, Kenya was found to be lagging behind, a situation mainly associated on lack of effective management approaches.

Poor work culture was identified the leading cause of poor service delivery, with consumers feeling they are not efficiently and courteously attended to. Manual information systems are also to blame for the slow service delivery as was given by the respondents. This was particularly the case in the department of surveys where all the respondents recommended automation. The ripple effect of these identified weaknesses is corruption as consumers get frustrated and seek ways of hastening processes

The above scenario does not reflect well on the institutions dealing with land administration in Kenya and as evidenced from both primary and secondary data may have the following negative impacts:-

- Inability to plan ahead by the investors, hence discouraging land related investments.
- Increased costs of land development.
- Corruption becomes rampant in land administration offices
- The emergence of informal land markets.
- Loss of revenue to the government.

## 7.2 Conclusions

Based on the above summary, this study draws the following conclusions:

Through the use of scenario analysis, this study authoritatively deduces that there is direct relationship between management approaches embraced in the institutions dealing with land development applications approval processes and their performance. As such the low levels of performance observed in these institutions are as a result of lack of management by objectives (MBO) as a management approach.

Most of the problems that stifle performance in institutions dealing with land administration are a people problem, starting at the management level down the hierarchy to the junior employees. Work attitudes and culture play a big role on how services are delivered and how consumers rate an organization. In institutions where there is poor work attitudes characterized by lack of targets, measurable objectives and appraisal systems, performance usually drops resulting to poor rating by the consumers. This is supported by findings in Tables 6.6 to 6.8.

The kind of management adopted has led to inefficiency thus making Kenya compare unfavourably with international best practices in land administration. This, as seen from literature and field study, may be attributed to bureaucracy in these institutions and lack of effective management approaches.

## 7.3 Recommendations

In view of the above, the study recommendations are categorized into two parts. First, there are recommendations that targeting the management aspects of organizations. These include:-

- Adoption of the Double E–Q model prominently derived from management by objectives (MBO)
- Address organizational behaviour and culture.

Secondly those that address the technical issues that were identified as limiting factors to better performance in land administration institutions. These include:-

- Computerization of records
- Simplification of procedures dealing with land administration.
- Harmonization of legislation.

### 7.3.1 Land Administration Management aspects

This part of recommendations is in line with the findings that the performance in land administration organisations is affected by people and management problems. In this regard this study recommends the following:-

**a) Adoption of the Double E–Q model.** This is based on management by objectives (MBO) style of management whose major emphasis is measurable objectives and targets in every stage of the process. This model is multi-faceted as it recommends a one-stop-shop authority for approval of land development applications and can be replicated in other land administration processes.

Adoption of this model will assist land administration institutions in:-

- Formulating of overall measurable targets in all the departments.
- Establishing a feedback system to assist in tracking performance.
- Identifying weaknesses in each department thus facilitating addressing of the problems

The above plays a big role in the achievement of organizational objectives.

## b) Organizational behaviour and culture.

Organizational Culture is an intrinsic part of the deeper organisational character and plays a big role not only in managing change but also in determining performance levels. The study revealed that poor work culture is one of the main challenges facing institutions dealing with land administration. This can be overcome through:

- Recruitment or retention of like-minded individuals. These are people who are willing to accept change and see the values of the organisation as their own. This can be achieved by continuous training in various aspects of the job.
- Development of group norms. These are standards of behaviour that are strongly influenced by the management.
- Production of mission statements which provide visible evidence of commitment to the values and form the platform for the organisations' relationships with the stakeholders.

## 7.3.2 Technical Aspects of Land Administration

### a) Computerization and automation of records

There is need to urgently move from the manual land information systems to automation. The study revealed that almost all records dealing with land development applications approval processes are manually kept. The legal status of properties in Kenya is stored manually in the land registries. Some of the information is actually stored in worn out registers where it has been prone to manipulation. Information in the parcel files in all the departments should be automated. Maps and plans at the Survey Department should also be digitized as a matter of urgency. Automation is important in that it:-

- Improves storage and retrieval of data thus improving on time and efficiency.
- Allows easier handling and manipulation hence increasing the levels of effectiveness.



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- Improves storage and retrieval of data thus improving on time and efficiency.
- Allows easier handling and manipulation hence increasing the levels of effectiveness.

- Gives the integration of data so that different sets of data can be merged and processed together. This improves efficiency, effectiveness and quality of work.
- Reduces possible instances of corruption through easier and faster provision and processing of information.

Automation should however, be viewed cautiously since computerization of faulty records or archaic systems will not improve efficiency and will only lead to furtherance of the same type of systems of errors and flaws. There is therefore need to clean the data since most of it in its present state is not updated, missing or deliberately tampered with.

#### **b) Simplification of procedures dealing with land administration.**

The study revealed that land development applications approval processes in Kenya are over detailed and the approval processes take undefined time to completion. There is therefore need for simplification of procedures. Some of the areas that require simplification include:-

- Removal of repetitive functions, for example:-
  - The circulation of applications to Director of Physical Planning when the same has been approved by the City Planning Department.
  - The numerous stages in title processing at the Lands Department.
- Separation of technical processes from policy makers, for example, the scenario where the Minister for Lands has to approve development applications causes delays thus stifling performance.
- Demystification of land administration processes and facilitation of easier access to land registries with a view to making the systems user friendly and less prone to corruption. This could be achieved by the conducting of land clinics which enlighten the public on all land administration processes. This could be facilitated by both the public and private sectors dealing with land matters.

### **c) Harmonisation of legislation**

The study revealed that, the legislations governing land administration are too many and are likely to lead to conflicting roles. There is need to urgently consolidate and harmonise these pieces of legislation so as to avoid duplication and delays. There is also need to legislate the land policy which will give guidelines in the area of land administration. The Government Lands Act, for example, which bestows too much power on the institutions of the presidency and commissioner of lands, should be repealed to curtail possible abuse. Besides, the actual land registration pieces are many and need to be harmonized so that all registration is done under one law. Currently, some properties in the country are under Registered Lands Act, others under Registration of Titles Act, while others are still under the Government Lands Act. Harmonisation will, therefore bring uniformity and hasten the process of land registration.

### **7.4 Areas for further study**

This study encountered various limitations which restricted the scope of the period under study and the geographical area to Nairobi Province. Due to this, it recommends the following as possible areas for further study:-

- Based on the scenario analysis approach, a comparative study should be undertaken to test the cumulative effects of embracing management by objectives (MBO) as a style of management. For example, now that results based management is being embraced, are there positive changes noted on the levels of effectiveness, efficiency and quality within land administration institutions?
- There is also need to test the sustainability of the Rapid Results Initiative (RRI) which is the selling theme for results based management in as far as land development applications are concerned. The RRI gives the 21-100 days as its target for delivery of services. A study should be done on whether this is feasible and sustainable.

## BIBLIOGRAPHICAL REFERENCES

- Augustinus, C. (2003): "Land in an Urbanizing World"; Habitat Debate Vol. 9 (4); UN-Habitat.
- Burnes Bernard (2004): Managing Change; A Strategic Approach to Organisational Dynamics; Pearson Education Ltd.
- Choudhury, S., (2005): Project Management; Tata MC Grow Hill Publishing Company Limited; New Delhi.
- Cole Gerald (1995): Organisational Behaviour, Theory and Practice; Ashford Colour Press, Gosport, Hants.
- Cole Gerald (2004): Management Theory and Practice, Sixth Edition, Thompson Learning.
- Collins English Dictionary (1992): Third Edition; Harper Collins Publishers.
- Dale, P. (1997); "Land Administration Guidelines for Countries with Economies in Transition"; Habitat Debate; Vol.3 (2).
- Dale, P. and Mc Laughlin, J. (1988): Land Information Management. Clarendon Press, Oxford; Oxford University Press; New York.
- Dale, P. and Mc Laughlin, J. (1999): Land Administration; Oxford University Press.
- Deininger, K (2003): Land Policies for Growth and Poverty Reduction; A World Bank Policy Research Report; Oxford university press.

Dowall, E. D. and Giles, C. (1991): A Framework for Reforming Urban Land Policies in Developing Countries; An urban Management Program Policy; Vol. 7; The World Bank Washington DC.

Decenzo, D. A. and Robbins, S. P. (2001): Fundamentals of Management, Third Edition; Pearson Education Inc.

Duinker, P. and Greig, L. (2007): "Scenario Analysis in Environmental Impact Assessment: Improving Explorations of the future" in Environmental Impact Assessment Review; 2007.

Farvaque, C. and McAuslan, P. (1992): Reforming Urban Land Policies and Institutions in Developing Countries; An urban Management Program, Vol.5, The World Bank, Washington DC.

Fourie, C. (1998): "The Role of Local Land Administrators; An African Perspective"; Land Use Policy Journal, Vol.15 (1).

Fourie, C. (2001): "Land and Property Registration at Crossroads, A Time for More Relevant Approaches"; Habitat Debate, Vol.7 (3).

Goodman Louis, J. (2001); Project Planning and Management, An Integrated System for Improving Productivity; CBS Publishers & Distributors, New Delhi.

Haroyd, P. Grant, J. and Dyer, S. (2007); Scenario Analysis; A Best Practice Approach to Assessing the Cumulative Effects of Makenzi Gas Project; The Pembine Institute, Canada.

Raufmann, J. (2000): Future Cadastres: The Book-keeping Systems for Land Administration Supporting Sustainable Development. A Paper Presented at

the 1st International Seminar on Cadastral System; Land Administration and Sustainable Development in Bogotá.

Kaufmann, J. and Steudler, D. (1998): Cadastre 2014: FIG/ KUHN DRUCK AG Switzerland.

Kreibich, V. (2000): "Land Management for Urbanisation under Poverty", in Urban Land Management (edited) Kreibich and Olima; Spring Research Series No.40, Spring Centre University of Dortmund.

Kenya Land Alliance (2004): The National Land Policy in Kenya; Issue No 2/2004.

Kingoriah, G. K. (2000): "Planning, Policy, Political Will and Land Use"; Paper Presented at the AFRES Regional Conference in Urban Land Management Practice, East Africa; Unpublished.

Kironde, L.J.M. (1994): The Evolution of the Land Use Structure of Dare Salaam 1880-1990: A study into the Effects of Land Policy, Unpublished PhD Thesis; University of Nairobi.

Kothari, C. R. (1990): Research Methodology: Methods and Techniques; New Age International (Ltd) Publishers.

Lucey Terry (2005): Management Information Systems; Thompson Learning.

Lowder, S. (1993): "The Limitations of Planned Land Development for Low-income Housing in Third World Cities"; Urban Cities Vol . 30.

Martin Adams (2003): Current Land Reform and Land Policy in Kenya, A paper Presented to the National Land Formulation Process Secretariat; Unpublished.

- Musyoka, R. (2004): Informal Land Delivery Processes and Access to Land for the Poor in Eldoret Kenya, Working Paper No. 4; ISBN No. 07044-2249-2, DFID.
- Mwangi, L.W. (1993): Development Control and Sources of Powers Used by Nairobi City Council to Ensure Planned City Growth; Unpublished Research Project; University of Nairobi.
- Mwangi, W. N. (2003): "Actualization of Secure Tenure in Kenya; The Evolving Trends in Different Political Governments"; A Paper Presented for an ISK/CASLE/ HABITAT Workshop.
- Mwangi, W. N. (2005): Management of Public Land; A Paper Presented for The National Land Policy Formulation Process.
- Muraguri, L.W. (1999): Security of Tenure in Urban settlements: A Paper Presented for the Shelter Forum Annual Event Report.
- Ngau, P. and Kumssa, A. (2004): Research Design, Data Collection and Analysis: A Training Manual; UNCRD Text book Series NO. 12.
- Olima, W.H.A. (1997): "The Conflicts, Shortcomings and Implications of Urban Land Management Systems in Kenya"; Habitat INTL, Vol.21; Elsevier Science Ltd.
- Olima, W.H.A. (2000): "The Role of Land Use Planning in Sustainable Urban Land Management in Kenya"; Urban Land Management in Africa by Kreibich and Olima; Spring Research Series No.40; Spring Center, University of Dortmund.
- Oluoch, F. (2000): An Evaluation of the Effectiveness of Land Use Planning as a Land Use and Development Control Measure; Unpublished Research Project, University of Nairobi.

- Onalo, P. L. (1986): Land Law and Conveyancing in Kenya; Heinemann Kenya, Nairobi.
- Panneerselvam, R. (2005): Production and Operations Management; Prentice-Hall of India Private Limited.
- Republic of Kenya (1970): The Trust Land Act; Government Printers.
- Republic of Kenya (1991): Handbook on Land Use Planning, Administration and Development Procedures. A Ministry of Lands and Housing Publication; Government Printers.
- Republic of Kenya (1982): The Registration of Titles Act; Government Printers.
- Republic of Kenya (1984): The Government Lands Act; Government Printers.
- Republic of Kenya (1987): Sectional Properties Act; Government Printers.
- Republic of Kenya (1989): The Registered Land Act; Government Printers.
- Republic of Kenya (1989): The Land Control Act; Government Printers.
- Republic of Kenya (1996): Physical Planning Act; Government Printers.
- Republic of Kenya (1998): The Local Government Act; Government Printers.
- Republic of Kenya (2000): Memorandum to the Commission of Inquiry into the Land Law System in Kenya by the Ministry of Lands and Settlement, Unpublished.
- Republic of Kenya (2001): A Strategy for performance Improvement in the Public Service; Office of the President, Directorate of Personnel Management.



Republic of Kenya (2002): Land Law System of Kenya on Principles of a National Land Policy Framework, Constitution Position of Land and New Institutional Framework for Land Administration; Government Printers.

Republic of Kenya (2002): Report of the Commission of inquiry into the Land Law System of Kenya; Government Printers.

Republic of Kenya (2002): Public Service Integrity Programme; A Source Book for Corruption Prevention in the Public Service; ACPU/DPM.

Republic of Kenya (2005): The Proposed New Constitution of Kenya; Government Printers.

Republic of Kenya (2005): Draft Integrated Issues and Recommendations Report of the National Land Policy National Land Policy Secretariat.

Republic of Kenya (2006): Strategic plan 2006-2010; Ministry of Lands.

Republic of Kenya (undated): Land's Department Administrative Structure and Operation Manual, Unpublished.

Stoner, J. A., Freeman, R. E. and Gilbert, D. R. (2003): Management, sixth Edition. Prentice Hall India.

Stuedler, D. and Williamson, I. P. (2000): "A Framework for Benchmarking Land Administrative Systems"; A Paper Presented for the FIG XXII International Congress Report.

Syagga, P.M., Gitau, S. K. and Mitullah, W. (2001): Nairobi Situation Analysis; A GoK/UNCHS Slum Upgrading Initiative; A GOK/Habitat Report.

Syagga, P.M. and Aligula, E. (1999): Management and Agency in the urban Real Property Market in Kenya; Shaker Verlag Achen.

UN-ECE (1996): Land Administration Guidelines, Meeting of Officials on Land Administration, UN Economic Commission for Europe.

UNCHS (Habitat) (2003): Handbook on Best practices, Security of Tenure and access to Land, Implementation of the Habitat Agenda, ISBN 92-1-1314461; UN- Habitat.

UNCHS (Habitat) (2004): Pro-Poor Land Management; Integrating Slums into City Planning Approaches, UN-Habitat.

Wahome Gakuru and Kirumba Wahome, (1997); Principles and Practice of Management , Revision Kit, Unpublished.

Walubengo, J. (2004): The Place of Land Registration on Agricultural Production and Development; Unpublished Research Project; University of Nairobi.

William, B., Keith, D. and Tony, J. (1980): Modern Methods of Valuation of Land, Houses and Buildings, the Estates Gazette Limited.

Williamson, I.P. (2001): Re-engineering Land Administration Systems for Sustainable Development from Rhetoric to Reality; Unpublished paper.

Williamson, I.P. (2000): "Best Practices for Land Administration Systems in Developing Countries"; A Paper Presented for the International Conference on Land Policy Reform.

Williamson, I. P., Steudler, D. and Rajabifard, A. (2004): "Evaluation of Land Administration Systems"; Journal for Land Use Policy.

Wikipedia: [w.w.w.org/wiki /scenario analysis](http://w.w.w.org/wiki/scenario_analysis).

World Bank (2003): Comparative Study on Land Administration Systems – Global Synthesis of Critical Issues and Future Challenges. The World Bank

World Bank (2005): Doing Business in 2005. A Co-publication of the World Bank, International Finance Corporation and Oxford University Press

World Bank (2006): Doing Business in 2006. A Co-publication of the World Bank, International Finance Corporation and Oxford University Press

World Bank (2007): Doing Business in 2007. A Co-publication of the World Bank, International Finance Corporation and Oxford University Press.

## **APPENDICES**

**APPENDIX I : PPA 1**

Registered Number of Application .....

**APPLICATION FOR DEVELOPMENT PERMISSION**

(To be submitted in TRIPLICATE in respect of each transaction and sent to or left at appropriate office of the Local Authority).

To the .....  
(Insert Name and address of the appropriate Local Authority Office)

I/We hereby apply for permission to develop the land and/or building as described in this application and on the attached plans and drawings.

Date.....Signature of Applicant or agent.....

If signed by Agent state:

Name .....  
Address.....  
Profession.....

**SECTION A – GENERAL INFORMATION**

1. Owner's name and address.....
2. Applicants name and address.....
3. If applicants is not the owner, state interest in the land eg. Lease, prospective purchaser, etc. and whether the consent of the owner to this application has been obtained.
4. (a) L.R . or parcel No.....  
(b) Road, District and Town.....  
(c ) Acreage.....

5. If an application has been previously been submitted state the registered number of the application

.....

**SECTION B – SUBDIVISION**

6. Describe briefly the proposed subdivision including purposes for which land/or buildings are to be used

.....

.....

7. State the purpose for which land and/or buildings are now used. If not now used, the purpose for which and the date on which they were last used

.....

.....

.....

8. State whether the construction of a new or an alternative of an existing means of access to or from a road is involved.

.....

.....

9. State method of:

(a) Water supply.....

(b) Sewerage disposal.....

(c) Surface water disposal.....

(d) Refuse disposal.....

10. Give details of any relevant easements affecting the proposed subdivision

.....

.....

.....

.....

**SECTION C – EXTENSION OF LEASE OR USER OR CHANGE OF  
USER**

11. State whether subdivision is involved and if so whether permission has been applied for and if so give registered number of the application.

.....  
.....

12. Describe briefly the proposed development including the purpose for which land and/or buildings are to be used.

.....  
.....

13. State the purpose for which land and/or buildings are now used. If not now used, the purpose for which and date on which they were last used.

.....  
.....  
.....  
.....

14. State whether the construction of a new or alternative of an existing means of access to or from a road is involved.

.....  
.....  
.....

15. If the proposed development consists only of a change of user and does not involve building operations state the exact nature of such change.

.....  
.....

16. If the site abuts on road junction, give details and height of any proposed walls, fences, etc., fronting thereon.

.....  
.....  
.....  
.....

17. State method of:

- (a) Water supply.....
- (b) Sewerage disposal.....
- (c) Surface water disposal.....
- (d) Refuse disposal .....

18. Give details of any relevant easements affecting the proposals.

.....  
.....  
.....  
.....

19. State the:

- (a) Area of land affected.....
- (b) Area covered by buildings.....
- (c) Percentage of site covered.....
  - (i) By existing buildings.....
  - (ii) By proposed buildings.....

*Note:* - Drawing and specifications must be prepared and signed by a registered physical planner.



APPENDIX II: PPA 2

Registered Number of Application.....

NOTIFICATION OF APPROVAL/REFUSAL/DIFFERENT OF DEVELOPMENT PERMISSION

To:

.....  
.....  
.....

Your application number as above, submitted on.....  
.....for permission to.....

On L.R. a Parcel No.....situate in ..  
for the following reasons/subject to the following conditions:

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....

Date.....Signed.....

*for local Authority*

c.c The Commissioner of Lands, Nairobi.

The Land Registrar.

The Town/Country Clerk.

The Director of Physical Planning, Nairobi.

The Director of Surveys, Nairobi.

## Appendix III- Questionnaire to Director of City Planning

Questionnaire to The Director of City Planning, Nairobi City Council.

Please take a few minutes to answer this questionnaire. Information sought herein is purely for academic purposes and will be treated as confidential.

### PART A: GENERAL

1. How long have you been the Director?

.....  
.....

2. What is the managerial structure of the Planning department?

.....  
.....

3. How many other departments do you have linkages with?

.....  
.....

4. How many staff members do you have?

.....  
.....

5. What are their responsibilities/mandate?

.....  
.....  
.....  
.....

**PART B: TECHNICAL**

1. How many Development applications have you received between 2001  
2005, in terms of:
  - (i) Subdivisions? .....
  - (ii) Extension of Leases?.....
  - (iii) Change/extension of user?.....
  
2. Out of the numbers received in each category what percentage would you  
say is approved?
  - (i) Subdivisions? .....
  - (ii) Extension of Leases?.....
  - (iii) Change/extension of user?..........
  
3. What percentage pends and in which Department?  
.....
  
4. Do you communicate the reasons for the delays or rejection to the client?  
.....
  
5. How many stages does each application go through?  
.....
  
6. Which section would you say contributes most to delays in processing the  
applications?  
.....
  
7. If any above what are the reasons?.  
.....  
.....
  
8. On average, what is the estimated period of time does an application takes  
from submission to approval?  
.....

**PART C: MANAGEMENT**

1. What main Administrative challenges do you face as a Head of Department?

.....  
.....  
.....

2. What performance control measures does the department have?

.....  
.....  
.....

3. Do you have a strategic plan for the department?

Yes                      No                     

4. What are the goals of your Department?

.....  
.....  
.....

5. What criteria do you use to evaluate performance and how often do you undertake the evaluation?

.....  
.....  
.....

6. Do you have a feedback system that is interconnected between all the Departments? Yes/No.

Yes                                            No                     

7. If Yes, does the system have a way of reporting back to you or your officers?

.....  
.....  
.....

8. How do you handle the problems identified in your Management System?

.....  
.....  
.....

9. Image is everything. What are you doing to enhance the image of your Department in-terms of:-

(i) Response of staff to applicants' queries?

.....  
.....  
.....

(ii) Time taken to approve development applications?

.....  
.....  
.....

**THANK YOU.**

## Appendix IV- Questionnaire to COL

Questionnaire to The Commissioner of Lands.

Please take a few minutes to answer this questionnaire. Information sought herein is purely for academic purposes and will be treated as confidential.

### PART A: GENERAL

1. How long have you been the Commissioner of Lands?

.....  
.....

2. What are your day to day responsibilities?

.....  
.....

3. What is the structure of the department?

.....  
.....

4. How many staff members do you have?

.....  
.....

5. What are their responsibilities/mandate?

.....  
.....  
.....  
.....

**PART B: TECHNICAL**

1. Do you have a record on the number of development applications received monthly by your department in terms of:-

- (i) Subdivisions? .....
- (ii) Extension of Leases?.....
- (iii) Change/extension of user?.....

2. How many stages does each application go through from submission to approval or registration?

.....  
.....

3. Out of the numbers received in each category what percentage is approved?

- (i) Subdivisions? .....
- (iv) Extension of Leases?.....
- (v) Change/extension of user?.....

4. What percentage pends indefinitely and in which Departments?

5. Do you communicate the reasons for the delays or rejection to the client?

6. Which section would you say contributes most to delays in processing the applications?

7. If any above what are the reasons.

8. On average, what is the estimated period of time that an application takes from submission to title?

**PART C: MANAGEMENT**

1. What main Administrative challenges do you face as a Head of Department?

.....  
.....  
.....

2. What performance control measures do you have in place as a department?

.....  
.....  
.....

3. Do you have a strategic plan for the department?

Yes                      No                     

4. What are the goals of your Department?

.....  
.....  
.....

5. How do you evaluate the performance of the department?

.....  
.....  
.....

6. How often do you undertake the evaluation?

7. Do you have a feedback system that is interconnected between all the Departments? Yes/No.

Yes                         No



8. If Yes, does the system have a way of reporting back to you or your officers?

.....  
.....  
.....

9. How do you handle the problems identified in your Management System?

.....  
.....  
.....

10. What measures have you taken so far to enhance efficiency and quality of services in the Department?

.....  
.....  
.....

**THANK YOU.**

# Appendix V- Questionnaire to Permanent Secretary MOL

Questionnaire to The Permanent Secretary Ministry of Lands.

Please take a few minutes to answer this questionnaire. Information sought herein is for academic purposes only and will be treated as confidential.

## PART A: GENERAL

1. How long have you been the Permanent Secretary?

.....  
.....

2. What are the mandates of a Permanent Secretary ?

.....  
.....  
.....

## **PART B: MANAGEMENT**

1. What main Administrative challenges do you face with respect to land administration?

.....  
.....  
.....

2. What is the Mission and Vision of the Ministry?

.....  
.....

3. Do you have a strategic plan for the ministry as a whole or are they departmental?

Yes

No

4. To what extent have you achieved the objectives in the strategic plan?

.....  
.....

5. Do you have any performance control measures in place as a Ministry?

Yes

No

6. If Yes above which ones in respect to the technical departments?

.....

.....

.....

7. How often do you carry out departmental evaluations?

.....

.....

.....

8. Are the outcomes in the evaluation measurable and if Yes how do you measure them?

.....

.....

.....

9. Do you have a feedback system that keeps track of the level of services' delivery?

Yes

No

10. If Yes, does the system have a way of reporting back to you or your officers?

.....

.....

.....

11. How do you handle the problems identified in your Management System?

.....

.....

12. The image of the Ministry has in the past been grey. What have you done so far to cleanse the poor image?

THANK YOU.

## Appendix VI- Questionnaire to Director of Surveys

Questionnaire to the Director of Surveys.

Please take a few moments to answer this questionnaire. Information sought herein is for academic purposes only and will be treated as confidential.

### PART A: GENERAL

1. How long have you been the Director of Surveys?

.....

2 What are your day to day responsibilities?

.....

.....

3 What is the structure of your department?

.....

.....

.....

4 Does each member of the department have specific mandate?

.....

.....

.....

### PART B: TECHNICAL

1 Do you keep a record of all cadastral survey jobs received at the department?

YES

NO

2 If yes, how many are they say on a monthly basis?

.....

3 Out of the jobs received, what percentage would you say is approved?

.....

4. What percentage would you say pends?.....

5 Do you communicate reasons for rejection or pending to the licensed surveyors?

YES

No

6 On average, what would you say is the estimated time taken between submission of a job to authentication?.....

**PART C: MANAGEMENT**

1 What main administrative challenges do you face as a head of department?  
.....  
.....  
.....

2 Do you have strategic plan for the department?

YES

NO

3 What performance control measures have you put in place as a department?  
.....  
.....

4 How regularly do you carry out evaluation of your staff performance?  
.....

5 Do you have measurable targets for each one of them? Please Explain  
.....  
.....

6 Do you have a feedback system that helps in monitoring performance?

YES

NO

7 If yes, how does the system report back to you?  
.....  
.....

8 What measures have you taken so far to enhance efficiency and quality of services within the department?

.....

.....

**THANK YOU**

## Appendix VII- Questionnaire to Clients in City Hall

Questionnaire to clients seeking Development Application Approvals from City Hall. Planning Department.

Please take a few moments to answer this questionnaire. Information sought herein is for academic purposes only and will be treated as confidential

1. How often do you seek for services from the planning Department?

.....  
.....  
.....

2. What main services do you seek for?

.....  
.....  
.....

3. Of all the sections that subdivisions, lease extensions and change of user applications pass through, which would you rate worst and best.

(i) Worst .....

(ii) Best .....

4. What main complaints do you have against the Department of planning?

.....  
.....  
.....

5. How would you rate the Quality of service you receive at City Hall?

(i) Excellent

(ii) Very good

(iii) Good

(iv) Fair



(v) Poor

6. Have you ever involved an officer within City Hall to try and address the problems you encounter?

(i) Yes

(ii) No

9. If No, why?

.....  
.....  
.....

10. If Yes what was the outcome? Choose either.

(i) There was no change

(ii) There was marked improvement.

11. What is the longest time that it has ever taken you to get an approval in City Hall in terms of?

(i) Subdivisions?.....

(ii) Extension of Leases?.....

(iii) Change of User?.....

12. Do you have any suggestions for improving the service delivery in City Hall?

.....  
.....  
.....

**Thank you for your Co-operation.**

## Appendix VIII- Questionnaire to Clients in MOL

Questionnaire to clients seeking Development Application Approvals from Ministry of Lands.

Please take a few moments to answer this questionnaire. Information sought herein is for academic purposes only and will be treated as confidential

1. How often do you seek for services from the Ministry of Lands?

.....  
.....  
.....

2. What main services do you seek for?

.....  
.....  
.....

3. By ticking the correct box, please indicate the kind of reception you receive from the Ministry.

- |       |           |                          |
|-------|-----------|--------------------------|
| (i)   | Excellent | <input type="checkbox"/> |
| (ii)  | Very Good | <input type="checkbox"/> |
| (iii) | Good      | <input type="checkbox"/> |
| (iv)  | Fair      | <input type="checkbox"/> |
| (v)   | Poor      | <input type="checkbox"/> |

4. If above is below Good, what have you done of about it?

.....  
.....  
.....

5. Of all the sections that subdivisions, lease extensions and change of user applications pass through, which would you rate worst and best.

(i) Worst.....

(ii) Best.....

6. What main complaints do you have against the Ministry of Lands?

.....  
.....  
.....

7. How would you rate the Quality of services you receive at the Ministry?

(i) Excellent

(ii) Very good

(iii) Good

(iv) Fair

(v) Poor

8. Have you ever involved an officer within the Ministry to try and address the problems you encounter?

(i) Yes

(ii) No

9. If No, why?

.....  
.....  
.....

10. If Yes what was the outcome? Choose either.

(i) There was no change

(ii) There was marked improvement.

11. What is the longest time that it has ever taken you to get an approval in the Ministry in terms of?

- (i) Subdivisions?.....
- (ii) Extension of Leases?.....
- (iii) Change of User?.....

12. Do you have any suggestions for improving the service delivery in the Ministry of Lands?

.....

.....

.....

**Thank you for your Co-operation.**

## Appendix IX– Questionnaire to Developers

### Questionnaire to the Developers/Owners

Please take a few moments to answer this questionnaire. Information sought herein is strictly for academic purposes and will be treated as confidential.

1. How frequent do you seek approvals from the local authority and the Ministry of lands?.....
2. In what areas of development do you often deal with or seek approval for?
  - Subdivision
  - Lease extensions
  - Change of user
  - Building plans approval
3. Please list the property Land References that you are dealing with or have dealt with?  
.....  
.....
4. Of all the sections that the development applications pass through, which would you rate the worst and best?.....
5. Approximately how long does it take to get an application approved from application to titles?.....
6. What is the shortest and longest time that it has ever taken you to get an approval? .....
7. How would you rate the quality of service both in the local authorities and the Ministry?  
Excellent  Good  Fair  Poor
8. What main problems have you have encountered within your interaction with these offices?  
.....  
.....  
.....

9. Do you have any suggestions for improving service delivery in land related offices?

.....  
.....  
.....

**Thank you for your Co-operation**

**Appendix X- Questionnaire to Clients in DOS**

Questionnaire to the Licensed Land Surveyors seeking services from Director of Surveys

Please take a few minute s to answer this questionnaire. The information sought herein is for academic purposes only and will be treated as confidential.

1. Name of the company/Surveyor

.....

2. How often do you seek services form the Survey Department?

.....

3. What kind of services do you mainly seek for?

.....

.....

4. Approximately what time does it take you to get a job authenticated?

.....

5. What time does it take you from submission of a deed plan or indent to issue note?

.....

6. What is the longest or shortest time it has ever taken you from submission of a job to completion?

.....

7. What are the main problems that you encounter while seeking services?

.....

.....

8. How would you rate the quality of service you receive at the Survey department?

Excellent  very good  Fair  poor

9. Do you have any suggestions for improving service delivery at the Department of Surveys?

.....

.....

**THANK YOU**

## Appendix XI-Subdivision-NCC

To the Director, City Planning

The following sub-division and LR. Nos. have been sampled out of a total of 994 items that passed through your office between 2001 to 2005.

Please provide the following information.

- Date application received and No. of Sub-plots
- Date provisional approval given/rejected.
- Date final approval applied for/release of sub-plots.
- Date subdivision certificate issued.

LR. NO.	DATE RECEIVED	SUB PLOTS	DATE 1 <sup>st</sup> APPROVED	CONDITIONS	FINAL APPROVAL	SUB-DIVISION CERTIFICATE
12882/103		2	3/9/05			22/11/95
4496	FILE MISSING					
11914/15			NO	FILE	NOTED ON LR NO.	
12489/3	08/07/04	3	16/1/05		15/4/05; 29/4/05	29/4/05
Bk82/1761			FILE	OUT	OF REGISTRY	
1160/386	25/07/01		21/12/01	1/8/02		
10049/2			FILE	OUT	OF REGISTRY	
2250/36			FILE	OUT	OF REGISTRY	
13814	02/09/02	3	1/10/02		17/12/03	
4894/16	Feb 02		15/4/02		6/6/06	4/6/03*
209/1870/9	Nov01	10	14/2/02		31/5/02; 28/6/02	13/8/02
9508			FILE	OUT	OF REGISTRY	
209/14165			CONDITIONS	NOT MET	NOT APPROVED	
8117	02/07/03		18/11/03	CONDITIONS	NOT MET NOT APPROVED	
2/667	19/11/02	-2	20/2/03		27/5/03; 16/6/03; 1/7/03	9/7/03



7968/1	01/11/04	8	2/9/05	FINAL APPR	NOT ACCORDED	
14225/36			MISSING	FILE		
2254/12			NO FILE	NOTED	AGAINST LR NO	
2/115		2	NOT	APPROVED	DUE TO RATES UNPAID	
1160/512		5				
214/593			FILE AT DCP			
3591/25	MISSING FILE					
74/17	14/07/03		29/01/04	FINAL APPROVAL NOT ACCORDED		
209/191	FILE OUT OF REGISTRY					
1159/52	14/10/03		19/12/03		07/06/04	
37/723	NO SUBDIVISION APPLICATION					
Bk/94//145	03/04/02	2	14/05/02	FINAL APPROVAL NOT ACCORDED		
336/177x8R	05/11/01		04/05/02		03/07/02	
Bk93/1260	NO SUBDIVISION APPLICATION					
209/6882	02/12/05	2	18/02/04		04/05/05; 28/01/05	11/02/04*
209/8252	JAN 04	2	09/06/05		29/07/04; 04/08/04	23/02/06
14225/36		4	23/12/02		12/06/03; 17/09/03	18/11/04
2252/4	1982	2	20/06/02		15/10/03; 19/10/03	20/06/02*
330/574	19/01/05		12/04/05	FINAL APPROVAL NOT ACCORDED		
14225/131	21/05/02	2	17/10/02	FINAL APPROVAL NOT ACCORDED		
209/129	MISSING FILE					
4920/3	NO SUBDIVISION APPLICATION					
12422/360		6	26/11/02		06/02/04	
209/9508	05/04/04	2	25/06/04	FINAL APPROVAL NOT GIVEN		
20835	POP SHOWED PLOT WAS GRABBED (FOREST)					
28/134-137 & 139	JUNE 03	10	16/12/04		11/08/05	02/05/06
23397	JAN 04	2	16/06/04		23/06/05	12/07/05
1160/290	JULY 04	5	23/09/04	FINAL APPROVAL NOT ACCORDED		

## Appendix XII-Extension of Lease-NCC

To The Director, City Planning.

The following Extension of leases LR No s have been sampled out of a total of 544 items that passed through your office between 2001 to 2005.

Please provide the following information:

- Date received and
- Date approved.
- Remarks. – may be file missing, pending or no communication

LR. NO.s	DATE APPLICATION RECEIVED	DATE APPROVED
1870/VII/81	28/08/02	29/08/02
209/5921	04/03/99	15/02/04
209/2198	23/09/02	07/10/02
209/2081	2/10/01	6/8/02
209/2389/75	8/8/02	18/10/02
209/4401/633	22/7/98 & 3/5/01	No Reply
1870/1/373	No correspondence	
209/3271/25	3/11/04	11/11/04
209/4844/20	3/8/01 & 13/8/02	Not Approved

1870/IV/36	6/2/02	11/02/02
209/3271/39	No information	
209/89/10	Condition-23/1/03	29/01/03
209/6002/7	No file	
209/3204	Operation – 26/06/02	Not Approved
209/2389/147	17/10/2000 Client	Not paid city hall fees letter on 6/12/2000
209/37/2763	No Application/circulation from lands	
209/17/138	No file	
209/1898	15/12/00;23/4/01	2/4/02
209/663	1/06/03	30/8/05
209/25/8363	15/7/05	4/8/05
209/5447	2/11/04	9/9/05
209/7256	9/1/04	16/01/03 paid
209/2820/5	30/11/02	31/01/02
209/2186	17/05/05	10/08/05
209/14/89	No file	
209/2763/23	9/5/03	14/05/03
209/2/132	No Record	
209/2716	No Record	

1870/V/83	10/06/03	10/07/03
209/309/2	No Record	
209/VIII/99	No Record	
209/634/1	8/6/01	21/05/04
209/11/299	No Record	
209/2759/6	15/3/02	19/11/02
209/102/2/12	Circular 5/6/02;Received 14/2/03	30/7/03
209/4194/13	25/01/02	25/01/02
1870/V/63	10/06/03	10/07/03
209/1221/05	3/3/03	16/4/03
209/8363/21	10/11/03	11/11/03
209/122/7	No Record	
209/163/1/6	11/9/03	29/11/03
209/1418/7	24/06/02	02/09/02
209/1531	16/12/96	Not approved
209/28/113	No Record	

## Appendix XIII-Change and Extension of User-NCC

### To The Director, City Planning

The following change and extension of user LR. Nos. have been sampled out of a 900 items that were recorded to have passes through your office between 2001 to 2005. Please provide the following information.

- Date application was received.
- Date approval/rejection was given.
- Any relevant remark eg. Missing file, pending etc.

LR. NO.	DATE RECEIVED	APPROVED/REJECTED
1870/II/71	No. Record of File	
1870/v/56	22/12/05	22/08/06
209/3465/2	-----	-----
18615	24/02/05	23/09/05
209/12369	undated	12/03/03
2259/190	Out to Directors office.	-----
209/10696	02/04/04	23/09/04
12144/126	13/04/04	Awaits preparation of PDP for langata
209/7317	Out to Directors office.	-----
209/9935	No application in file	-----

36/III/268	No record of file	-----
3734/856	Missing file	-----
1870/I/79	08/09/06	Not approved
209/4498	Out to Assistant Directors office.	
209/153/44	Out to Directors office.	
1870/IV/188	Out to Directors office.	
209/178/20	No record of date received	9/03//04
1870/III/151	07/09/2000	26/10/2000
1870/V/12	28/08/2000	12/03/03
1870/X/9	14/06/04	23/09/04
20851 & 20852	Out to Director's Office	
214/523	02/02/06	23/02/06
4275/20 & 53	Out to Director office	
209/9295	16/07/02	28/05/03
1055/57	17/12/03	23/09/04
36/III/140	Out to Director's office	
209/I/944	No file noted against LR No.	
I/1231	04/04/02	Not approved
209/4902	Out to Director's office	
209/10697	13/11/04	16/12/04
330/265	Case being evaluated*	

1870/IV/51	Missing file	
209/9853	26/07/02	12/05/04
2/125	Case Rejected*	
1160/334	24/02/03	21/08/03
209/10983	27/09/05	23/02/06
7258154	Rejected*	
209/90/24	Rejected*	
23759	19/07/04	23/09/04
7158/381	Rejected*	
209/15314/7	No. file noted against LR No.	
3734/610	04/04/03	16/07/03
Bk82//5471 & 5491	11/08/03	23/09/04
1870/IX/23	22/12/03	23/09/04
209/7420	04/07/05	Rates not cleared
3734/856	No. record of LR. No.	
1/322	31/05/2000	15/06/01
330/371	Out of Registry* (No. account to Whose office)	

**Appendix XIV- Subdivision-DOS**

The Director of Surveys

The following subdivision LR. Nos have been forwarded from Lands department for deed plan issuance. Please accord the following information:

- a) FR No: b)Computation file Number, c)Date job received d)Date job authenticated e)Date deed plans issued f)Any remarks, missing file, FR, etc, on New LR Nos

LR	NEW FR	OLD FR	COMPS.	JOB RECEIVED	JOB AUTHENTICATED	DPS ISSUED	REMARKS
12489/3	446/104	47/162	32581	10/3/05	11/4/05	30/8/05	5 plots
1160/386	412/92	161/36	48763	2/05/02	03/07/02	DP NO 244603/4	2 plots
13814	430/110	189/72	50775	18/7/03	5/11/03	02/02/04	3 Plots
4894/16	432/14	64/71	FR	MISSING			
8117		65/99	FR	MISSING			
2/667	428/68	388/85	50449	14/4/03	21/05/03	11/6/03	2 plots
7968/1	337/38	71/167	53652	4/4/06	25/5/06	DP NOT TRACED	8 Plots
3994/1	112/88	55/57	13096	FR	MISSING		
1159/52	442/80	52/18	52081	7/9/04	20/09/04	14/10/04	
1160/215	293/36	77/16	44028	30/11/99	26/7/00	10/9/02	2 plots
336/177x8R	323/26 321/10	170/146	50409 51006	27/2/03 23/9/03	10/9/03 23/1/04	29/10/03	78 Plots 86 Plots
14225/131		195/8	FR	MISSING			
209/9508	440/89	147/35	51872	5/8/04	13/10/04	29/10/04	2 Plots
28/134-139	333/4	334/144	52992	25/7/04	30/8/05	29/5/05	Amalgamation & Subdivision



## Appendix XV- Extension of Lease-DOS

To Director of Surveys, Ruaraka

The following extension of lease LR. Nos. have been forwarded from Lands Department for deed plan issuance. Please accord the following information.

i)FR.No ii) Computations No. iii)Date job received. iv)Date job authenticated/rejected)v)Date Deed plan issued

LR. NO.	OLD	FR GIVEN	COMP.NO	DATE RECEIVED	AUTHENTICATE D	DP ISSUED
1870/VIII/81	63/133	426/17	50222	27.01.03	26.02.03	13.03.03
209/1520	No Resurvey recorded					
209/2081	158/21	Survey plan missing				
209/2389/75	37/35	Survey plan missing				
1870/IV/36	12/173	Survey plan missing				
209/89/10	107/78	428/84	50518	27.04.03	21.05.03	DP.248794 10/06/03
209/1898	22/61	Survey plan missing				
209/8363/25	Survey plan missing					
209/5447	27/65	412/147	53332	01.12.05	07.12.05	20.12.05
209/7256	37/33	Survey plan missing				
209/2820/5	51/7	412/160	48840	20.05.02	13.06.02	19.06.02
209/2186	22/61	Survey plan missing				
1870/V/83	No Resurvey recorded					
209/634/1	101/55 16/145	448/64	52265	16.05.05	07.07.05	01.08.05
209/2759/6	53/111	368/45	43727	12.10.99	07.12.99	24.01.00
209/102/2/12	81/195	446/195	52691	25.04.05	14.06.05	22.07.05
209/4194/13	64/28	408/196	48442	27.02.02	13.03.02	28.03.02
209/1221/5	1081/167	434/143	51261	10.12.03	10.02.04	03.03.04
209/8363/21	163/76	Survey plan missing				

## Appendix XVI Change and Extension of User-DOS

### To The Director of Surveys, Ruaraka

The following change/Extension of user LR. No. were forwarded from Lands Department for deed plan issuance.  
Please provide the following information

i)FR No.s(Survey plan)ii)Date job received iii)Date authenticated iv)Date Deed Plans issued v)Remarks and New Nos. given

OLD FR	LR NO	FR NEW	COMPS	DATE RECEIVED	AUTHENTICATED	DPS ISSUED	REMARKS
52/55	1870/111/151	400/149	47411	07/09/01	09/10/01	23822	New LR 1870/111/522
119/32	209/9295	428/95	50530	24/04/03	09/05/03	DP No. 2483202	10/05/03
148/13	1160/334	438	51723	12/07/04	26/07/04	Dp. No. 255469	NEW LR 1160/831
32/178	1870/IX/23	Survey plan missing					

## Appendix XVII- Subdivision-COL

The Commissioner of Lands: The following sub-division applications have been forwarded from City Hall for your further action.

Please provide the following information

- i. File number.
- ii. IR No.
- iii. Circulation date
- iv. Provisional approval date
- v. Valuation In /Out date
- vi. Final Approval date
- vii. Instructions date if by surrender and re-grant
- viii. MRTs date if any
- ix. Remarks (Search required), missing files etc.

LR NO.	FILE NO.	IR.NEW	CIRCULATION	PROVISIONAL APPROVAL	IN/OUT VALUATION	FINAL APPROVAL	INSTRUCTIONS	MRT/REMARKS
12882/103	44277	File missing						
12489/3	102343	32740	27/01/05	07/02/05	Peppercorn	03/06/06	15/08/02	29/04/03
1160/386	122178	39380 OLD	31/01/02	19/04/02	Peppercorn	15/08/02		29/04/03
13814	115882	Old 48228	06/02/03	04/02/03	Not yet	29/12/03	29/12/03	
4894/16	50011	V39/266	File missing					
209/870/9	84479	File missing						
8117	53398	11558	30/04/04	17/06/06				
2/667	55447	N40/381/12	13/03/03	19/03/03	09/07/03	09/07/03		
7968/1	59539			30/11/2005				
1160/290	128427	File missing						
233/97	File missing							
3994/1	36388	N46/101/21		30/10/90		07/11/90	07/11/90	
74/17	49494		12/02/04		Comments awaited			
1159/52	37962	7157	20/06/04	16/04/04				
NRB BK/94/145	99673		28/07/03	24/07/06	No follow up		Awaits final approval	
1160/215	63000	IR 15178	29/11/99	15/01/99	Freehold	16/10/02	08/07/02	
336/177 &8R	63715	NRB/461/46		20/05/02	Freehold	08/07/04	08/07/02	

209/6882	77435	23488	13/10/04	02/11/04	13/07/05; 19/07/05	11/02/05	11/02/05	05/08/05
209/8252	File Missing							
2252/4	13985	34371			No Action from COL			
330/574	26670			No action towards approval			14/04/05	19/01/05
14255/131	246114	85079	23/09/03	28/11/03				
124/22/360	File Missing							
209/9508	97027	IR 35369	05/07/04	15/04/04	25/01/04 03/12/04		Deed file not found	
28/134-137;139	33389	GCA search 30/03/05	30/05/03	07/04/05	Freehold	22/08/05		Dec.2006
14225/36	250059	File missing						

## Appendix XVIII- Extension of Lease-COL

### The Commissioner of Lands

The following lease extension cases have been sampled out of a total of 544 items received in City Hall between 2002-2005.

Please provide the following information

- a) File No.
- b) IR No.
- c) Date of instruction for new title or endorsement
- d) Date circulation was done
- e) Date of provisional approval
- f) MRT ( Date Showing registration, if none leave blank)
- g) Remarks eg. File missing or other information

LR NO.	FILE NO.	IR. NO	CIRCULATION	APPROVAL	INSTRUCTIONS	MRT DATE	VALUATI ON	REMARKS
1870/VII/81	54131	101633	28/08/2002	16/10/2002	28/04/2006	22/06/2006	27/9/02 30/9/02	DP 13/3/03 29/08/02
209/5921	40266	FILE	MISSING					
209/2081	24405		21/10/2001	23/09/2004 L/A- 08/03/04	Client not paid LA fees		28/01/04 06/02/04	City hall approved 06/08/03
209/2389/75	32409		08/08/2002	15/09/2003 L/A-10/05/05	City hall 18/10/2002		21/8/03 4/09/03	Client not paid LA fees
209/3217/25	39509	7887	06/05/2004	NCC & DOS Comments back on 11/11/2004				

1870/IV/36	32880	90187	06/02/2002	01/03/02 13/05/2002	22/08/2002	31/10/20 02	02/03/02 03/04/02	City hall 11/12/02
209/89/10	79064		15/03/2001	L/A 4/04/03 24/04/2003	Awaiting city hall reply 29/01/2003		28/03/03 08/04/03	City hall approved 21/01/03
209/1898	56151		15/12/2000	L/A 24/03/03 31/08/2006	08/09/2006	01/12/06	14/12/02 4/03/03	City hall 02/04/02
209/663	6236		File Missing					
209/8363/25	173101		15/07/2005	08/11/05 LA 05/12/2005	Client has not paid L/A legal fees		10/11/05 25/11/5	City hall 4/08/05
209/5447	450/II	Old IR 18552 100391	12/11/2004	22/12/2005	29/12/2005	16/02/20 06	Exempte d	
209/7256	37538	103563	05/01/2004	04/08/2004	01/04/06	24/11/20 06	23/03/04 05/05/04	City hall approval on 16/10/03
209/2820/5	38024	90620	30/07/2001	26/03/02	13/08/2002	05/12/20 02	04/4/02 08/04/02	City hall 31/01/02
209/2186	39054	Applicat ion 05/04/0 5	13/05/2005 26/10/05	30/04/2006	City hall 10/08/2005		25/04/06 02/05/06	Client not paid fees asked on 30/11/06
209/2763/23	33622	File	Missing					
1870/V/83	21821	N15/24 5/15	Application 589 03/10/1994	23/07/2004	No action from COL		26/07/04 30/07/04	City hall 15/02/04
209/634/1	8931	100419	08/06/2001	06/07/04 L/A 13/05/2005	05/08/2005	21/02/20 06	14/03/05 18/03/05	City Hall 21/05/04
209/2759/6	33640		18/02/2002	L/A 27/09/2004	Client paid fees on 11/10/2005.		23/08/04 09/09/04	City Hall 19/11/02

					nothing after payment			
209/102/2/12	63249	No new title	05/06/2002	22/02/2005	Fees not paid 3/12/04; 14/02/2005			
209/4194/13	55026	88939	25/01/2002	14/02/2002	05/04/2002	21/06/20 02	25/02/02 7/03/02	City hall 25/01/02
1870/V/63	Wrong file noted							
209/221/5	76681		03/03/2003	L/A 05/09/2003	Client paid fees on 23/09/2003 yet no action		11/08/03 out on 21/8/03	City hall 16/04/03
209/8363/21	15097	32666	18/02/1998	18/02/2005	Client has not paid fees demanded		30/07/04 28/9/04	City hall 11/11/03
209/163/1/6	24978		11/09/2003	All comments back by 01/12/03	No action taken by COL			City Hall 27/11/03

## Appendix XIX- Change and Extension of User-COL

The following cases have been forwarded from City Hall for your further action. Please provide the following information

- LR No.
- Date of Circulation it is done
- Date of approval
- Date to and from valuation
- New LR No.
- Date of instruction
- Date of Title registration (MRT).
- Remarks

IR NO.	FILE. NO.	CIRCULATION	APPROVAL	VALUATION IN/OUT	NEW LR NO.	INSTRUCTIONS	MRT	IRNO REMARKS
1870/V/56	33172	No application for change of user						
18615	249703	No correspondence on change of user						
209/12369	154078	18/03/05.						
209/10696	149609	No correspondence on change of user.						
36/11/169	12160	File Missing						
209/178/20	30949	25/03/04	DOS, DPP not replied					
1870/111/151	35662	87557	07/09/00	18/10/00	3/11/00; 09/11/00	31/07/01	05/12/01	



1870/V/12	16656	61880	File Missing					
1870/X/9	18893		File Missing					
214/523	21684	No correspondence on change of user.						
209/9295	98551	33069		24/03/03 28/03/03		14/04/03	28/05/03	NCC 16/07/02
1055/57	6880	File Missing						
209/10697	121659	No application on change of user.						
209/9853	106236	No correspondence on change of user.						
2/125	36978	N33/159	No application on change of user.					
1160/334	36888	98411	12/02/04	31/05/04	Exempted	12/10/04	19/07/05	
209/10983	122023	86462	No application on change of user.					
23759	198671	Missing File						
2259/18	31384	Missing File						
3734/610	64929		No application on change of user.					
Bk82/5471 &91	361/88/ 5471 5491	Missing File						
1870/IX/23	21757 193430	100544; 100543	3/11/04	07/12/04	10/12/04 15/12/04		08/03/06	
1/322	49404		07/06/04 17/05/00	DOS, DPP not approved No further reminder				

## Appendix XX-Clearance Letters

### MINISTRY OF SCIENCE & TECHNOLOGY

Telegrams: SCIENCE TEC", Nairobi

Fax No.

Telephone: 318581

When replying please quote



JOGOO HOUSE  
HARAMBEE AVENUE  
P. O. Box 60209-00200  
NAIROBI  
KENYA

MOST 13/001 36c 655/2

31<sup>st</sup> October 2006

Winfred Njeri Mwangi  
University of Nairobi  
P.O. Box 30197  
Nairobi

Dear Madam,

**RE: RESEARCH AUTHORIZATION**

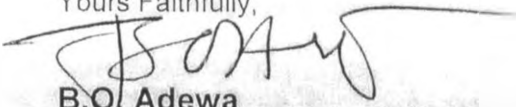
Following your application for authority to conduct research on, '*Administration of Land Development Applications in Kenya.*'

I am pleased to inform you that you have been authorized to carry out research in Nairobi for a period ending 30<sup>th</sup> June 2007.

You are advised to report to The Provincial Commissioner Nairobi and The Provincial Director of Education Nairobi, before embarking on your research project.

On completion of your research, you are expected to submit two copies of your research report to this office.

Yours Faithfully,



B.Q. Adewa

For, Permanent Secretary

The Provincial Commissioner  
Nairobi

The Provincial Director of Education  
Nairobi

# CITY COUNCIL OF NAIROBI



TOWN CLERK  
TELEGRAM: "MUNICIPALITY" NAIROBI  
TELEPHONE: 224282

EXT 2381

CITY HALL  
P. O. BOX 30075  
NAIROBI  
KENYA

Ref. CCN/HRM/22/VOL. 1/2/4457/06

24<sup>th</sup> NOVEMBER 2006 **DEPARTMENT OF HUMAN RESOURCES MANAGEMENT**

Ms. Winnie N. Mwangi  
Thro'  
University of Nairobi  
Department of Real Estate and  
Construction Management,  
NAIROBI.

Dear Madam,

**RE: RESEARCH AUTHORIZATION**

I refer to your application dated 16<sup>th</sup> October, 2006 and research permit No. MOST 13/001/36C 655 dated 31/10/2006 requesting for the authority to carry out research from November, 2006. The City Council of Nairobi has approved your request subject to the following conditions;

1. The period of study will be three (3) months with effect from 11/12/2006 to 11/3/2007 in accordance with the Council's policy.
2. During the study there will be no cost devolving on the Council.
3. You undertake to indemnify the Council against any claim that may arise from your study.
4. The research will be used for academic purposes only.
5. You are expected to submit to the undersigned a copy of the research document for the Council's retention. (Within one month after the research).
6. You are not authorized to release any information without vetting and authority from this office.

By a copy of this letter, the Director of City Planning Department is requested to accord you the necessary assistance.

**L.M. ORLALE (Ms)**

**For: DIRECTOR, HUMAN RESOUCE MANAGEMENT**

HAO/mao

- c.c. -Permanent Secretary – Ministry of Science and Technology  
-Director City Planning Department  
-Dean of Students, University of Nairobi (School of Built Environment)

**UNIVERSITY OF NAIROBI  
ADD LIBRARY**



## MINISTRY OF LANDS

Telegrams "MINILANDS", Nairobi  
Telephone: Nairobi 718050  
When replying please quote

ARDHI HOUSE  
1<sup>ST</sup> NGONG AVENUE  
OFF NGONG ROAD  
P.O. BOX 30450  
NAIROBI

Ref. No. MLH.35/007 Vol.XXII/13

26<sup>th</sup> October, 2006

Ms Winne N. Mwangi  
Lecturer and Land Management Surveyor  
Department of Real Estate and Construction Management  
University of Nairobi  
P. Box 30197  
00100 – NAIROBI

Dear Ms. Mwangi,

**RE: CLEARANCE ACCESS TO COLLECT PROJECT RESEARCH RELATED  
INFORMATION IN THIS MINISTRY**

---

This has reference to your institutions' introductory letter dated 9<sup>th</sup> October, 2006 and your enclosed application dated 16<sup>th</sup> October, 2006.

You are hereby cleared to access the data you had identified in your application for the cited period of three (3) years, from the Departments of Lands and Survey.

It is noted that the sought information will be used solely for academic purposes.

Yours Sincerely,

**A. A. O. MONDOH, OGW  
FOR: PERMANENT SECRETARY**

c.c. Prof. Dr. Ing. W. H. A. Olima  
Associate Professor and Dean  
School of the Built Environment  
University of Nairobi