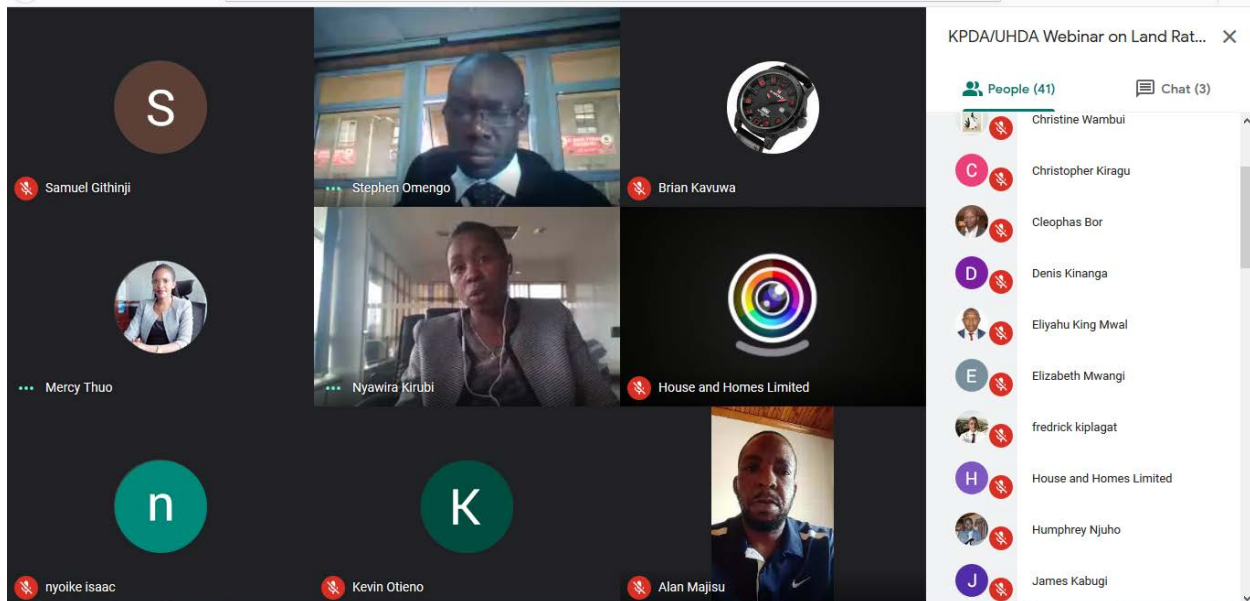


# UHDA/KPDA BRIEF ON LAND RATES & RENT- FUTURE OF COMMERCIAL PROPERTIES WEBINAR ON 24.09.2020

## Panelists

- Ms. Truphosa Achar Principal State Counsel  
*Ministry of Lands & Physical Planning (MoLPP)*
- Mr. Nicholas Owino Deputy Director Valuation  
*Ministry of Lands & Physical Planning (MoLPP)*
- Mr. Isaac Nyoike Chief Valuer  
*Nairobi Metropolitan Services (NMS)*
- Ms. Nyawira Kirubi Partner  
*MMAN Advocates*
- Ms. Mercy Thuo Director  
*Laser Property Services Limited (a subsidiary of CPF Financial Service Ltd)*

*Moderated by Stephen Omengo, Director at Tysons Limited*



QUESTION	RESPONSE	ACTION
<p><b>Q1. What will be the position of the Ministry and the County come 2021 after this year's financial crisis?</b></p>	<p>MoLPP;</p> <ul style="list-style-type: none"> <li>• Land rent is ground rent that is paid on developed land and it is calculated depending on the County's zone, user and location where the property is situated.</li> <li>• MoLPP collects land rent on behalf of the National Treasury.</li> </ul> <p>NMS;</p> <ul style="list-style-type: none"> <li>• Land rates are revenues are revenues collected by KRA in accordance to the Government statutes. KRA has granted 100% interest waiver on the land rates which will be paid between 15<sup>th</sup> September and 15<sup>th</sup> October 2020. The last time a Nairobi City County waiver was done was 2017.</li> </ul>	<p>UHDA &amp; KPDA to pick the discussion with National Treasury on possibilities of reducing the land rent waiver or reduction</p>
<p><b>Q2. Shed some light on the Electronic Lands Transactions Regulations that are to be gazette</b></p>	<p>MoLPP;</p> <ul style="list-style-type: none"> <li>• The electronic lands transactions regulations were developed by the MoLPP through a multi-agency task force.</li> <li>• The regulations are to facilitate digitization of land records. The regulations were submitted before the Parliamentary Committee on Delegated Legislation for approval.</li> <li>• The digitization process when complete will enable the professional institutions and general public to carry out various land transactions within the confine of their homes and offices.</li> </ul>	
<p><b>Q3. Tenancies have been affected with tenants either</b></p>	<p>Mercy Thuo;</p> <ul style="list-style-type: none"> <li>• Tenancy has been greatly affected</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewing each rent concession</li> </ul>

<p><b>opting to close down, down size or work remotely. How can property owners respond to this?</b></p>	<p>in both the local and global market. In Kenya real estate has been impacted greatly considering there has been a sluggish growth since 2017 evident from the rental yields reported in the various property sectors.</p> <p>Property owners can respond by;</p> <ul style="list-style-type: none"> <li>• If you have good covenants, consider flexible terms that work for both parties including rent concessions and freezing of rent escalations</li> <li>• Conduct a rental assessment to confirm that your rent is in line with the market rent</li> <li>• Redesign the premises to accommodate features that adopt to the current circumstance, e.g. vacant office space may be converted into serviced offices which is best done with partnership with an established firm that understands the business model</li> <li>• Undertake a property strategy to seek recommendations for best strategies to employ to resolve tenancy issues (Engage a property expert to review each request on a case by case basis).</li> </ul> <p>Nyawira Kirubi;</p> <ul style="list-style-type: none"> <li>• Before you give a concession, first find out if the tenant has the ability to pay rent since not all organizations have been affected by the pandemic.</li> <li>• Also, asses the size of the space they occupy, the impact of the pandemic on their business, their paying history and your relationship with tenant</li> </ul>	<p>on a case to case basis</p> <ul style="list-style-type: none"> <li>• All agreements between the property owner and tenant should be done in writing and both should sign</li> </ul>
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	<ul style="list-style-type: none"> <li>• Consider giving shorter term tenancy and co-shared space</li> </ul>	
<p><b>Q4. How can property owners navigate the immediate pressure on tenancies such as short tenancies, force majeure and exit clauses in commercial leases?</b></p>	<p>Nyawira Kirubi;</p> <ul style="list-style-type: none"> <li>• Landlords may need to adapt to meet the need of the demands of tenants for short &amp; medium term tenancies and exit clauses in leases. While giving this concession it is important that landlords are alive to the provision of Landlord and Tenant (shops, hotels and catering establishments) Act</li> <li>• For forced majeure to be relied as a termination in leases, it must be specifically provided for in the contract</li> <li>• Most leases do not have forced majeure clauses and where they do a pandemic was not anticipated as a forced majeure event.</li> <li>• Where a contract cannot be performed because of an unforeseen event one can claim frustration which need not be specifically provided for in the contract. However, note that the doctrine of frustration has a high threshold and must be determined by the court.</li> </ul>	<ul style="list-style-type: none"> <li>• The best thing to navigate these pressures is to handle them on a case by case basis where terms can be negotiated.</li> </ul>
<p><b>Q5. With tenants migrating from one building to another, is there a way property owners can agree to share background information about their tenants?</b></p>	<ul style="list-style-type: none"> <li>• This would have to be in line with the data protection law where if you are going to share my information, property owners must get consent and give reason why information is being shared. This consent can however be withdrawn any time.</li> <li>• Landlords can do an in depth vetting criteria by calling previous</li> </ul>	<p>UHDA &amp; KPDA to liaise with State Department of Housing to create a data bank for landlords</p>

	landlords or include a clause in the agreement where the potential tenant shares their previous tenancy information or request for a credit reference bureau (CRB) report	
<b>Q6. What are the services affecting property owners that are being handled by NMS?</b>	<ul style="list-style-type: none"> <li>• Planning &amp; urban development; survey and mapping, development control, planning compliance, urban renewal &amp; housing</li> <li>• Transport and public works,</li> <li>• Environment &amp; solid waste management</li> </ul>	