



Kenya Property Developers Association

Fatima Flats, Suite B4
Marcus Garvey Road
Off Argwings Kodhek, Kilimani Area
P. O. Box 76154 – 00508 Nairobi, Kenya
Telephone: +254 737 530290
Email: admin@kpda.or.ke
Website: www.kpda.or.ke

KPDA CEO BREAKFAST FORUM HELD ON WEDNESDAY, 18TH FEBRUARY 2015 AT THE NAIROBI SERENA HOTEL, NAIROBI

THEME: 'DISCERNING CAPITAL GAINS TAX'

RAPPORTEUR NOTES

Definition of Capital Gains Tax: Tax chargeable on the gain which accrues to a **company** or an individual on or after 1st January, 2015 on the **transfer** of property situated in Kenya.

Plenary Session

Query 1: PKF Kenya - Raja Shah

- i. **There are changes in the Finance Act under sections 35, 3a and 3b which were removed, forcing stock brokers to now pay with-holding tax. How much are they required to pay?**

No, but the Authority is forming partnerships with various organizations to carry this out. Currently the Training Department of NCA is developing a curriculum to train low level skills, in collaboration with partners such as the Institute of Quantity Surveyors of Kenya, Kenya Federation of Master Builders etc.

Housing Finance is also running the One Million Artisans Project with various tertiary institutions but would like to involve the private sector more.

- ii. **There is a lot of construction going on in semi-informal areas such as Dandora, Kayole and Komarok. How does NCA plan on reaching all these sites?**

It is a grave challenge and we lack the capacity to get to all the project sites in these informal areas. However the Authority is actively engaged in creating public awareness and has partnered with various professional bodies to assist in this. Architects, Quantity Surveyors, Engineers have been approached to assist with the public awareness.

- iii. **What is the relationship between the Authority and the county governments and how will NCA ensure a seamless process? How will you then harmonize the inspection process?**

Currently the relationship is not good but a pilot program to aid the relationship is in the process of being set up.

- iv. **Kindly involve KPDA in the formulation of the NCA Code of Conduct.**

We will be sharing a draft on this for your input. We encourage you to take time to read through any legislation literature we share with you from time to time. NCA will be sharing the draft Building Code (The Code will be domiciled at the Authority) with professionals and requests for members to take time to review it and give feedback.

- v. **Kindly make the NCA website more interactive. Create a link for professionals and also have regular circulars with updates on the Authority's activities.**

We currently have social media accounts through which we encourage you to link with us and we will work on making our website and our general communication with you more interactive.

Query 2: Housing Finance - Timothy Gitonga

- i. Housing Finance is currently engaged in a CSR activity dubbed 'The Army of One Million Artisans' and has partnered with NCA and other organizations, Currently HF is lobbying with Kenya Higher Education Loans Board and various Technical and Vocational Education and Training facilities for sponsorship of the less fortunate. We request KPDA Members to consider attaching our trainees to their project sites.

Query 3: Natureville Homes - Michael Kaniu

- i. **What is the NCA valuation process?**

The process is detailed on our website

Query 4: Garden City - Robert Gichohi

- i. **Under the detailed aspects requiring inspection in the regulations, please define a 'duly qualified professional.'**

NCA requires the names and contacts from professional bodies to create a clear database through which professionals may be vetted.

- ii. **The Act states that registration will be completed within fourteen (14) days whereas on the floor, in your presentation, NCA has stated that it is being carried out within 24 hours online. Kindly re-assure us of these timelines as they greatly influence client - developer relations.**

- NCA recognizes that a project commences once ground breaking has been done.
- The registration duration is different for different categories of players. For example, contractors are entitled according the Act to be registered within 60 days but NCA internally has a mechanism that ensures contractors are able to be registered within 7 days.
- For developers, the registration of projects is meant to take 14 days but the NCA Board has permitted for the registration to be done within 24 hours or the same day.
- NCA vows to set up a 'help desk' to assist developers register their projects faster and to make the process easier.

Query 5: Architects Chapter - AAK - Emma Miloyo

- i. **How can Professionals best engage NCA to improve aspects of the Act?**

The Building Code will be domiciled at the Authority and we will be sharing the draft for comments soon. Members were urged to take time to review the lengthy document and give their comments. Also the NCA regulations are not complete and will incorporate sections on green energy, safety etc and this will be done concurrently whilst reviewing the Building Code.

- ii. **Can a one stop shop environment be created interlinking quasi government agencies to make it easier for professionals?**

Currently the NCA Committees incorporate members from the private and public sector, KPDA included.

Query 6: KEPSA - Dr. Laila Macharia

- i. **What are the examples you have of having to enforce the regulations? Could you share an actual case study with us?**

Yesterday, NCA received a letter from the Chief in Ongata Rongai concerned about certain construction sites in the area. A team shall be sent to inspect these sites based on a pre-determined checklist which will include:

- Is there a registered contractor at the site?
- Are there approved drawings of the project (s) and is supervision being carried out by registered professionals?
- Does the site address matters surrounding Occupational Health and Safety?
- Have statutory inspections by county government inspectorate teams been carried out? Proof must be provided of this.

Query 7: Chigwell Holdings Limited - Mr. Palkesh Shah

- i. **Is the construction levy payable for projects (phases) that commenced before 6th June 2014?**
No. It is advised however that developers practice honesty and full disclosure with NCA with regards to this.

- ii. **NCA is required to present its budgets, annual plans etc with the public so as to cultivate trust with this show of transparency, does this happen?**

Yes, our budgets, audited accounts, strategic plans are all available on our website.

- iii. **Can levy fees be offset if a developer takes on qualified TVET trainees and/or trains his workers?**

Yes, this can be explored but it would be prudent for KPDA to put together the specific needs of its members and share this with the Authority.

- iv. **The Authority should look into training plumbers urgently.**

Currently NCA is carrying out a training project in Kibera with a target to train 200, 000 persons. KPDA can draft a proposal on how they can assist in the training and consideration can certainly be given to offsetting payment of the levy for KPDA members.

- v. **It is important for the Authority to recognize that sometimes the problems encountered at sites are due to the consultants involved.**

This is true and NCA is trying to work with professional associations to help curb this.

- vi. **Are government bodies paying the levy?**

Yes.

Query 8: Limojade Management Ltd - Jimmy Kamotho

- i. **Can inspection be less regular for those projects that have paid the levy?**

There is a standing committee that is in charge of this. Site officers carry out inspection based on a check list and the implementation of the Code of Conduct will greatly help ease the inspection process.

Query 9: Vishwa Properties Ltd - Mr. Zamir Khan

- i. **Is the 0.5% levy a flat rate?**

Yes.

- ii. **For project phases not captured on paper, is the levy still payable?**

As long as the phase begun after 6th June 2014, the levy is payable.

- iii. **Can NCA lobby the government to offer budgetary support to the industry instead of over burdening the private sector?**

We will try. KPDA should also get involved in this lobbying.