

DEVOLVING LAND GOVERNANCE



NATIONAL LAND COMMISSION

DEVOLVING LAND GOVERNANCE

2015/2016

ANNUAL REPORT



DEVOLVING LAND GOVERNANCE

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OUR VISION

Excellent administration and management of
land for sustainable development

OUR MISSION

To implement an efficient land administration
and management system in order to
ensure equity in access to land

CORE VALUES

Efficiency
Transparency and accountability
Innovativeness
Integrity
Professionalism
Rule of Law
Independence

MOTTO

‘Our Land, Our Wealth, Our Heritage’

Ardhi Yetu, Mali Yetu, Urithi Wetu’

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MESSAGE FROM THE CHAIRPERSON



In the 2015/ 2016 FY, the NLC's staff demonstrated resilience, commitment, extraordinary leadership and willingness to work on land matters and share information to improve the lives of Kenyans and all those investing in the land sector.

On behalf of the National Land Commission, I have the great pleasure of presenting to His Excellency, the President, Parliament and the people of Kenya, the Annual Report of the Commission for the period July 2015 to June 2016. This report covers the third year of the road towards land reform in Kenya.

Throughout the land sector, the need to embrace change, better land governance and land rights for all has perhaps never been greater. Resistance to embracing change is still high in this sector, and we are still working towards reducing it. In this third year of the establishment of the Commission the key areas of expanding land rights, building informed communities, expanding improved land governance and fostering conflict resolution on land matters reflected growing emphasis on providing for change on land matters in the Counties.

The NLC's focus on embracing better land governance was elevated by our 2015 attendance of the World Bank Conference on '*Land and Poverty*', held in Washington DC where the Commission presented on '*Land Information Systems*'. Other land sector leaders from around the world discussed the need to improve on a land information system and how land information needs to change for

future generations. This meeting was pivotal to the role of the Commission in addressing the National Land Information System (NLIMS) and it set a course of action that continues to influence the Commission's entire program. The theme of devolving land governance change through *'Devolving land governance'* continues to influence the Commission's entire program of work in the Counties. This theme is reflected in this 2015/ 2016 Annual Report, which serves not only to chronicle achievements, but also to illustrate NLC's position as Kenya's leading authority on better land governance and secure land rights for all.

The imprint of the Commission's work was evident in many ways, including the following:

- Working of the devolved County Land Management Boards (CLMBs) in 41 out of 47 counties.
- Successful review of grants and dispositions of Public land, that culminated in the restoration of land to many Public institutions.
- Showcasing best practices on land rights as judged by the successful decisions based on the review of grants and dispositions.
- Offering insights and knowledge management in land in the objective forums on land through the *'Quarterly Speakers Series'*
- Teaming up with external land partners for collaborative research on land e.g. Land Reform (Settlement schemes) and Public land (Nyeri, Marsabit and Trans-Nzoia Counties).
- Demonstrating what works and what doesn't in the land sector when working with the Counties e.g. Land Use Planning; Natural Resources guidelines; Valuation and Taxation regulations, Research land matters.
- The Commission won the Global Diamond Excellence Award for excellence and commitment

All of what was accomplished at the Commission is attributed to each one of you. Your support to the Commission is enabling it to reach farther, delve deeper and demonstrates progress in the land sector that reinforces NLC's place as an agency for land reform. Thank you all for supporting efforts desired to implement meaningful land reforms in Kenya.

Professor Muhammad Swazuri
Chairperson – National Land Commission

STATEMENT OF THE SECRETARY/ CHIEF EXECUTIVE OFFICER



Pursuing a land reform agenda informed by the expertise, insights and experiences of the County Land Management Boards in the delivery of practical, actionable and timely solutions to secure land tenure rights.

It is with great pleasure that I present the Commission's Report for the FY 2015/ 2016. This being the third year of the road to land reform and securing land rights for all began in Kenya, the period has been one where the Commission continued to evolve, responding to the rapid changes taking place in the land sector throughout the 47 Counties.

This Annual Report reflects a productive year that was marked by the successful key steps towards land reform through the working of the County Land Management Boards, progress on the Land Management System initiative, and plans to strengthen devolving land governance.

Highlighting the year were our signature county meetings, like the County Investments Summits; the Council of Governors meeting in Meru County; Investors meetings e.g. EPZ, Tullow Oil; Indigenous Forest People's forums; the *Shule Yangu* Public Land campaign among others. Each of these was highly successful, providing excellent opportunities for work and knowledge management, raising NLC's visibility among the Counties; investors; land stakeholders and the citizenry in general. Another highlight, the development of the '*Guidelines on Large Scale Land Acquisition*' (FAO funded), where the Ministry of Lands and Physical Planning and other land stakeholders shared thoughts

on how land rights; societal, economic and environmental issues are re-shaping conversations on secure land tenure in Kenya.

The content produced in FY 2015, including *'Schools and Public land in 23 Counties; Increasing the bundle of land rights for schools in Trans-Nzoia County and Nyeri County; Exploring the status of settlement schemes in Kenya; Natural Resources Exploitation and Development Guidelines; County Spatial Planning and Oversight Guidelines; ICT Policy; Situational Analysis of Research in the Counties; Gender and Land Rights (FAO)*, and our expanded County Forums reflected this heightened emphasis on land reform. Pursuing a land reform agenda informed by the partnership with the Counties and CLMBs expertise and experiences enabled the development and delivery of secure land rights. This is an approach that continues to guide our work going forward.

We also made great progress in FY 2015/ 2016 with Government's Vision 2030 through the support of the Standard Gauge Railway program; the LAPPSSET project; AMU Coal and other key investments with KenHA; KURA and others like Koru Dam project. These projects based on land make the Commission more responsive and efficient by expanding Kenyans and external investors access to land use in and around Kenya. This will improve advances towards securing land rights for all. Our expanded focus at the Counties paired with robust County Governments will offer new opportunities and choices in how to best serve Kenyan communities.

What we accomplished in FY 2015/ 2016 helped raise the Commission's visibility and strengthen its impact as an agency whose work makes a real, lasting differences in land matters and people's lives every day. As you will see in the Annual Report the Commission stayed ahead of times while staying true to our mission. Thank you for making the NLC a trusted agency on the responsible use of land and creation of thriving sustainable communities.

Chavangi Aziz Tom
Secretary/ Chief Executive

EXECUTIVE SUMMARY

The Commission has been in the forefront of promoting good governance and accountability in the land sector. Progress in the land sector has been mixed. Through the effort of the government, support agencies and other stakeholders the Commission was able to devolve its function to the 47 counties through the County Land Management Boards (CLMBs). The CLMBs have in effect devolved land services throughout Kenya. However, achieving land, better land governance, accountability in the land sector and ensuring secure land rights for all Kenyan is still to be achieved. The target for good governance through the land assessment framework and a National Land Information System as envisaged by the Land Policy Initiative (African Union) is not yet attained.

Since its inception, the Commission has prioritized its strategic direction and support to Vision 2030 flagship projects by way of acquiring land for major land - based investments that are aimed at achieving equity in economic development. A major project that the Commission has been involved in actively is the Standard Gauge Railway project. There continue to be many other projects that the Commission engages in numerous compulsory acquisition of land for various projects both for the National and County Governments. The Commission has been able to carry out valuation on the affected parcels of land and ensured just and fair compensation to the affected landowners, in collaboration with the acquiring bodies eg KURA; KeNHA; Ministry of Water and Irrigation.

A case in point is the acquisition of land for the LAPSSET corridor. This project is the first single Gigantic, Integrated, Transformative and Game-Changing infrastructure Project the Government has initiated and prepared under Vision 2030 Strategy Framework without external assistance. The project involves the development of a new transport corridor from the new port at Lamu to Ethiopia and Southern Sudan. This will comprise of a new road network, a railway line, oil refinery at Lamu, oil pipeline, Lamu Airport and

free port at Lamu (Manda Bay) in addition to resort cities at the coast and in Isiolo. These developmental projects will form the backbone for opening up Northern Kenya and integrating it into the national economy. Other projects undertaken are water dams eg Koru Dam and power transmission lines, which have transformed Kenya and regional socio-economic landscape.

The Government of Kenya is currently investing in improving land administration with the aim of developing an efficient land market. A side objective is to reduce conflicts on land through implementation of a functioning land-registration and/or cadastral system. Experience teaches that additional preventative measures are required, such as conflict and dispute resolution on land, and efficient land management practices. Not even a perfect land market can prevent conflicts unless regulated by effective land procedures and enforced by relevant governing institutions. In attending to these concerns the Commission conducted successful advocacy programs that targeted concerns such as land related conflicts resolutions among communities, investors and between institutions.

Additionally the Commission conducted successful review of grants and dispositions of public land that culminated in restoration of land and promoted secure land rights for public institutions. A case in point is the revocation of titles of ranches in Lamu and disputes involving Government housing quarters and settlement schemes. Disputes have continued to delay implementation of major projects in the country. The Commission continues to work extensively on providing secure land rights through handing disputes on land and ensuring that its efforts to help increase security of tenure to all are centered on the principles of land administration and management.

The School-titling program has reached over 7,000 schools in Kenya and brings together stakeholders from the Lands and Education Sector in a bid to accelerate the protection of public school land. Grabbing of public school land jeopardises the realisation of fundamental principles and rights within the constitution of Kenya including the right of children to free and compulsory education. The Commission is currently processing over 2,000 school applications for registration following a presidential directive to Ministry Of Lands and Physical planning and NLC to register all schools.

The continued good working relationship with Ministry of Lands and Physical planning is a sign that land reform agenda is in course in the country.

Similarly the Commission has collaborated with various stakeholders including Counties, Universities and land non-state actors in advancing land reforms. The Commission has continued to work with various stakeholders including the Universities counties and non-state actors in advancing land reforms in Kenya. In partnership with FAO the Commission is in the process of implementing a project to support land and Natural resources Governance in communal lands of Kenya.

Going forward there is need for to further accelerate progress towards securing land rights for all and in particular give priority to the rights of women, youth and persons living with disability (PLWDs). In 2016/2017 the Commission will support a focus on enhancing Land Information Management System, which will provide an accurate, current and reliable land record cadaster. Additionally, the Commission will enhance participatory and inclusive research, knowledge management, partnership, and advocacy in order that equitable land rights may be attained. The Commission will also emphasize a re-focus on the use of ADR mechanisms in solving land concerns on equity based approaches, reducing costs and improving the sustainability of land use. Further dealing with emerging issues e.g. inadequate funding; demographic shifts and urbanization, climate change, natural resources and the extractive industries and continuing to improve the land rights and secure land tenure.

ABBREVIATIONS / ACRONYMS

AAK	Action Aid Kenya,
ACT	Act Change Transform
ADR	Alternative Dispute Resolution
AG	Attorney General
AIA	Appropriation-In-Aid
ALA	Appropriation-in- Aid
APSEA	Association of Professional Societies in East Africa
ASALs	Arid and Semi-Arid Lands
CDF	Constituency Development Fund
CECs	County Executive Committees
CECM	County Executive Committee Members
CEO	Chief Executive Officer
CIC	Commission for the Implementation of the Constitution
CID	Criminal Investigation Department
COG	Council of Governors
CLMBs	County Land Management Boards
CSOs	Civil Society Organizations
CSP	County Spatial Planning
CRM	Citizen Relationship Management
CRM	Customer Relationship Management
CRA	Commission on Revenue Allocation
DV	Development Vote
EACC	Ethics and Anti-Corruption Commission

e-DMS	Electronic Document Management System
EPZ	Export Processing Zones
ERP	Enterprise Resource Planning
FA	Finance and Administration
FAO	Food and Agriculture Organization of the United Nations
FIDA	Federation of Women Lawyers
FY	Financial Year
GDC	Geothermal Development Cooperation
GIS	Geographical Information System
GLTN	Global Land Tool Network
GPS	Global Positioning System
GROOTS	Grassroots Organization Operating Together in Sisterhood
GSU	General Service Unit
HRMS	Human Resource Management System
ICT	Information Communication and Technology
ICPS	Institute of Certified Public Secretaries
IEC	Information, Education and Communication
<i>IHRM</i>	<i>Institute of Human Resource Management</i>
ILC	International Land Coalition
ILRI	<i>International Livestock Research Institute</i>
IPSAS	<i>Public Sector Accounting Standards</i>
ISK	Institution of Surveyors of Kenya
<i>KenGen</i>	<i>Kenya Electricity Generating Company Limited</i>
KeNHA	Kenya National Highways Authority
KeRRA	Kenya Rural Roads Authority
KETRACO	Kenya Electricity Transmission Co Ltd
KFS	Kenya Forestry Service
KISCOL	Kwale International Sugar Company Ltd
KISM	Kenya Institute of Supplies Management

KLA	Kenya Land Alliance
KM	Knowledge Management
KPA	Kenya Ports Authority
KR	Kenya Railways
Kshs.	Kenya Shillings
KURA	Kenya Urban Roads Authority
KWS	Kenya Wildlife Service
LA	Land Administration
LAC	Land Acquisition Committee
LAPSSET	Lamu Port Southern Sudan Ethiopia Transport Corridor
LDGI	Land Development and Government Institute
LADM	Land Administration Domain Model
LAN	Local Area Network
LIMS	Land Information Management Systems
LRTU	Land Reform Transformation Unit
LR No.	Land Registration Number
LTSS	Land Tenure and Settlement Scheme
ISBN	International Standard Book Number
LSLA	Large Scale Land Acquisition
MDA's	Ministries Departments Agencies
MoLHUD	Ministry of Land, Housing and Urban Development
MoLPP	Ministry of Lands and Physical Planning
MOU	Memorandum of Understanding
MPARD	<i>Mombasa Port Area Road Development</i>
NEMA	<i>National Environment Management Authority</i>
NGO	<i>Non-Governmental Organization</i>
NIB	National Irrigation Board
NLC	National Land Commission
NLIMS	National Land Information Management System

NLP	National Land Policy
NMA	National Mapping Agency
NRM	Natural Resources Management
PAPs	Project Affected Persons
PDP	Part Development Plan
PSTSS	Public School Titling Support System
REDD+	Reducing Emissions from Deforestation and Forest Degradation
RRI	Resource Rights Initiative
SGR	Standard Gauge Railway
SIDA	Swedish International Development Cooperation Agency
SoK	Survey of Kenya
SPRO	Spatial Planning Records Office
SRC	Salaries and Remuneration Commission
TA	Transition Authority
TDR	Traditional Dispute Resolution
TOR	Terms of Reference
UN-HABITAT	United Nations Human Settlement Programme
USAID	United States Agency for International Development
WB	World Bank
WVK	World Vision Kenya
WWF	World Wide Fund

CHAPTER ONE

MANDATE AND STRATEGIES OF THE COMMISSION

1. INTRODUCTION

1.0 Overview

Land as a factor of production is the most important natural resource that Kenya is endowed with. It is critical to economic, social, political and cultural development. It is also considered as the principal source of livelihood and material wealth by playing host to natural resources. Secure access to land, sustainable land use planning and equitable distribution of land remains immensely important for food and nutrition security, employment, growth of industries, attraction of foreign investors, foreign exchange earnings, and generally the socio-economic development of the country.¹

1.1 Mandate

National Land Commission derives its mandate from the Constitution of Kenya 2010, the National Land Policy (2009) and acts of Parliament, namely the National Land Commission (NLC) Act, the Land Act and the Land Registration Act, all of 2012. The broad mandate of the National Land Commission can be categorized as provided for in the Constitution:

1. Manage Public land on behalf of the national and county governments, 67(2) a;
2. Recommend a National Land Policy to the national government, 67(2) b;
3. Advise the national government on a comprehensive program for the registration of title in land throughout Kenya, 67(2) c;

¹ Republic of Kenya (2013) *Kenya Vision 2030: Sector plan for land reforms 2013- 2017*, Ministry of Land, Housing and Urban Development. Nairobi

4. Conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities, 67(2) d;
5. Initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress, 67(2) e;
6. Encourage the application of traditional dispute resolution mechanisms in land conflicts, 67(2) f;
7. Assess tax on land and premiums on immovable property in any area designated by law, 67(2) f;
8. Monitor and have oversight responsibilities over Land Use Planning throughout the country, 67(2) h; and
9. Perform any other functions prescribed by national legislation. 6(3)

1.1.1 Powers and functions

In line with the NLC's Act, 2012, the Commission is obligated to exercise all the powers necessary for the execution of its functions under the Constitution, the NLC Act 2012 and any other written law. This translates into exercising its powers in a variety of ways like:

1. Without prejudice to the generality of subsection (1), the Commission shall have powers to;
 - a. Gather, by such means as it considers appropriate, any relevant information including requisition of reports, records, documents or any information from any source, including any State organ, and to compel the production of such information where it considers necessary;
 - b. Hold inquiries for the purposes of performing its functions under the NLC Act;
 - c. Take any measures it considers necessary to ensure compliance with the principles of land policy set out in Article 60 (1) of the Constitution as depicted in box 1 below. These principles continue to guide the work of the Commission.

Box 1:0 Principles of Land Policy**The Constitution of Kenya 2010- Article 60(1)****Principles of Land Policy**

Land in Kenya, shall be held, used, and managed in a manner that is equitable, efficient, productive, sustainable, and in accordance with the following principles:

(a). Equitable access to land (b). Security of land rights (c). Sustainable and productive management of land resources (d). Transparent and cost effective administration of land (e). Sound conservation and protection of ecologically sensitive areas (f). Elimination of gender discrimination in law, customs and practices related to land and property in land (g). Encouragement of communities to settle land disputes through recognised local community initiative consistent with this [the] Constitution.

2. Pursuant to Article 252 (General functions and powers) of the Constitution the Commission demonstrates the following:
 - a. Powers necessary for conciliation, mediation and negotiation
 - b. Powers to recruit its own staff
 - c. Powers to issue summons to a witness to assist for the purpose of its investigations.
3. In the exercise of its powers and the discharge of its functions, the Commission
 - a. May inform itself in such manner as it may consider necessary;
 - b. May receive written or oral statements; and
 - c. Is not bound by the strict rules of evidence.

In carrying out its functions, the Commission shall work in consultation and co-operation with the national and county governments subject to Article 10 (National values and principles of governance) and Article 232 (Values and principles of Public service) of the Constitution. The Commission shall establish county land management boards for purposes of managing Public land. It is emphasised that, the Commission shall establish offices in the counties and may establish other offices in the sub-counties as it may consider necessary. In this relation to this requirement, the Commission shall ensure access to its services

in all parts of the RePublic in accordance with implementing devolution and access to services as noted in Article 6(3) of the Constitution.

1.2 The National Land Commission's Strategic Direction

In carrying out its mandate and keeping to the thematic focus of *'Devolving land governance'*, in the FY 2015/ 2016, the Commission applied the following strategies as outlined in its 5 year Strategic Plan 2013- 2018.

1. *Develop capacity to enhance good governance, efficiency and transparency in service delivery.*

The Commission developed and increased efficiency in the counties by enhancing the capacity of the County Land Management Boards (CLMBs) across the 47 Counties. The CLMBs using Public participation and consultation are the first stop on all matters land from the counties. During the period under review the CLMBs were able to resolve land conflicts, process development applications , create awareness on the role of the NLC in the counties.

2. *Facilitation in the access and use of land for socio-economic and environmental sustainability.*

The Commission throughout its work sought to increase secure land tenure rights in Kenya. Through programs like reasearch, identification of Public land ; land use planning; valuation and taxation; settlement and the development of land information system; land adminstration and development; promoting of Alternative Dispute Resolution (ADR) on land and natural resources. These areas have direct implications on citizens securing their land tenure rights. In the discharge of this strategic direction , the Commission engages in the process of reviewing grants and dispositions and in turn this guarantees the ownership and security of land tenure.

3. *Policy, guidelines and advisory to the national government and necessary authorities*

The Commission has continued to interact with land matters throughout Kenya and this meant working with agencies to shape and influence Policy direction, develop guidelines and advisory opinions to the Public, Parliament, County Governments, Foreign governments and investors. The success of these initiatives is pegged on a continued enhancement of better land governance.

4. *Stakeholder engagement and collaboration*

To meet continued overwhelming demand for efficient service in the land sector, information and knowledge the Commission facilitates Public and stakeholder engagements in a multiple of ways. This can be through civic education and engagement forums, collaborations, partnerships and meetings/workshops with implementing agencies, County governments partnership, Independent Commissions partnerships and dealing with submissions received by Parliament.

1.2.1 The Commissions's Strategic Results

There were various strategic results that the Commission attained in the FY 2015/2016. These include:

1. An appreciation by the public on the performance of the Commission as an independent Constitutional body to effectively attend to their land tenure concerns across Public, private and community tenure systems in Kenya.
2. Enhanced compulsory acquisition of land for Public projects to support infrastructural development and meeting of Vision 2030.
3. Working with and across all agencies linked in their work (directly or indirectly) to promoting good governance in the land sector.
4. The increase in identification, documentation, research and development of a land information system towards a comprehensive database on Public land.
5. A tremendous leap in policy outreach and building capacity towards knowledge management in the land sector particularly in the counties.

6. Increased employee expertise in diversity of competencies and skills for improved service, internal efficiency, and increased acquisitions for delivery of effective service.
7. Increased awareness as a land sector leader on securing land rights.
8. Successful decentralisation of land governance in all 47 Counties resulting in a reduction in land conflicts, time, distance and costs spent on land matters.
9. Improved client experiences interacting with the land sector locally and as investors (international).
10. Added impetus for Constitutional, Policy and statutory implementation in land projects and programs among citizens and non-state actors.
11. Increased uptake in the use of alternative (informal) conflict resolution mechanisms in land conflicts throughout Kenya.
12. Increased awareness of appropriate land use practices in the counties and the role of the counties in Planning and Surveying.

This Annual Report presents the Commission's growth made during the FY 2015/2016. However, this growth as reported takes cognizance of the linkages between activities that are on-going and are seen to be critical to enabling a complete understanding of the Commission's work in a FY yet as a continuum as presented in the following four chapters.

CHAPTER TWO

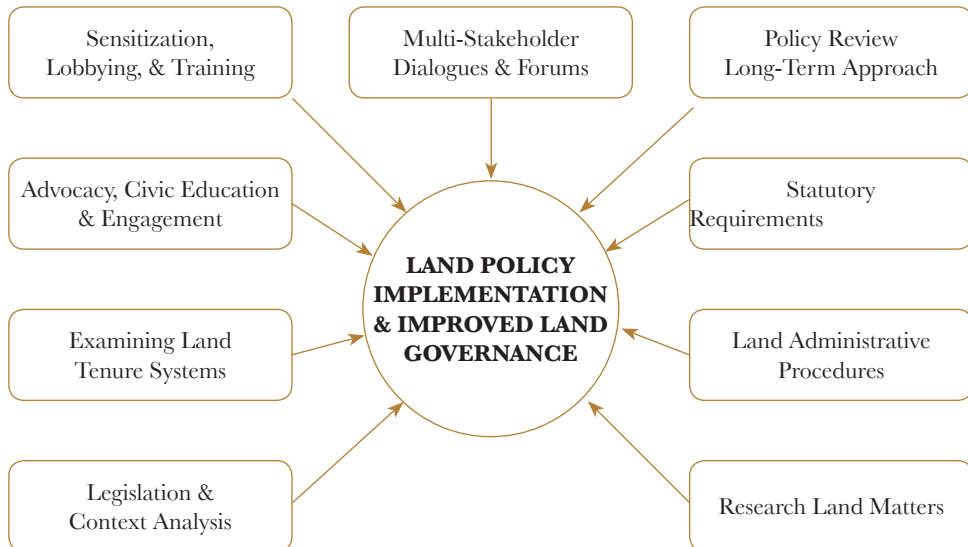
POLICIES, LEGISLATION, AND ADMINISTRATIVE PROCEDURES

2.0 Introduction

This chapter highlights the achievements made in the development and review of policies, legislation, guidelines and administrative procedures. Working within the objective of the National Land Policy (2009) ‘...to secure rights over land and provide for sustainable growth, investment and the reduction of poverty...’. The NLP offers a framework of policies that encompass a wide range of land related issues, all with potential implications for responsible land tenure as illustrated below.

2.1 Review and Development of Policies

Figure 2:0 Summary: The Role of the Commission in the Policy Formulation, Legislation and Implementation



2.1.1 The Community Land Bill

This Bill was developed with great input and participation by the Commission and provides for a framework within which communities will secure their community land. The Commission reviewed this Bill in various forums including Mombasa, Lamu and Naivasha with the Parliamentary Committees on land and the advisory from the Commission was forwarded to Parliament.

2.1.2 Review of the Natural Resources and Policy Bill

Through a partnership with the Association of Professional Societies in East Africa (APSEA), the Commission has reviewed a draft Policy and Bill on Natural Resources which the Commission developed FY 2014/2015. Some key issues were to be aligned for the draft policy and bill to be presented to the Ministry of Environment and Natural Resources for forwarding to Parliament.

2.1.3 ICT Policy

The Commission recognizes the role of ICT in the social and economic development of the country therefore formulated an ICT policy which main objective is to safe guard the computing investment provided by the government, provide universal access to computing infrastructure and usage which are based on accepted standards, best practices and responsiveness to technological changes. This policy resonates and Compliments with the main National ICT policy.

2.1.4 Land Laws (Amendment) Bill 2015

The Commission participated in the Land Law (Amendment) or the ‘Omnibus Bill’. This was aimed at addressing inconsistencies in the NLC Act 2012; Land Registration Act 2012 and Land Act, 2012. Further the amendments were aimed at aligning laws to the Constitution and provide legal framework for addressing Historical Land Injustices certain concerns.

2.2 Proposed programs, projects and the compilation of databases

2.2.1 *Progress on the Comprehensive Registration of title in land*

The Constitution assigns the Commission the responsibility to ‘... **advise the national government on a comprehensive program for the registration of title in land throughout Kenya**’ (article 67(2) (c). The constitution categorizes land into three categories as Public, Community and private (articles 61-64). The program will take cognizance of the various methods of acquisition of title to land outlined in section seven of the Land Act 2012 including: allocation, land adjudication process, compulsory acquisition, prescription, settlement programs, transmissions, long term leases and any other manner prescribed by an act of parliament. Program will establish the status of titling in all the counties as well as the factors explaining the prevailing situation.

2.2.2 *Program on the development of a Public Land Database*

The Commission has developed a concept on a three (3) year program for *‘Identification, development and maintenance of a database of all Public land’*. The Commission is compiling data on Public land and has subjected it to various analyses. Some of the Counties that the analysis exists include Trans-Nzoia; Nyeri; Marsabit; Kakamega, whilst the rest is on-going. Documenting of Public land from agencies like KWS; the Judiciary (all courts); KFS reserves; schools and other tertiary institutions. Further, the Commission is in receipt of all the Transitional Authority data on Public land.

2.2.3 *Public School Titling Support System (PSTSS)*

The process of titling of schools has been prioritized as a key deliverable of the Government. Realizing the gap in information available to schools and other stakeholders, the Commission developed a tool for the automation of the titling processes. This system will enhance information, dissemination and access of information on land.

2.2.4 *Concept paper on Stock-taking of Natural Resources*

The Commission has developed a concept detailing the framework and budget towards natural resources inventory, using a bloc-based participatory

approach. This has enabled the inventory process for natural resources to begin and the monitoring exercise to continue.

2.2.5 Land Information Management Bill Concept

The National Land Policy in section 163 requires the government to put in place a law that regulates land information management. The Commission has developed a concept identifying provisions from the law requiring harmonization and recommendations geared towards the formation of the Bill.

2.2.6 Research projects in land matters

Any decision on land made in the Commission should be backed up by empirical, robust and participatory research. For any impact to be reported in the development and implementation of land reform appropriate data collection/ processing tools are required. This approach is encouraged by the vision of the Land Policy (2009) and the Land Policy Initiative by the African Union. Hence efforts by the Commission towards the development of research programs (Land governance; Gender and land rights; and the Political economy of land) and a number of research concepts in addressing this need.

2.2.7 Project on Knowledge Management (KM) Audit

The Commission has recognized the strategic importance of knowledge in any meaningful the land reform agenda. The characterization of knowledge and alternate models for understanding the acquisition and use of such knowledge in the land sector have taken on significant prominence. Towards this end a project concept paper has been developed that will see this KM Audit carried out in the 47 counties.

2.2.8 Program on the State of Land Use Planning

Developed a concept paper on State of Land Use Planning Baseline Study in Kenya.

2.2.9 The Standard Gauge Railway Corridor

Prepared a concept paper to guide the formulation of Land Use along the Standard Gauge Railway corridor.

2.2.10 Integrated Systems /NLIMS implementation status

Through the implementation of NLIMS the commission is integrating its processes and operations into one streamlined and optimally functional entity so as to avoid confusion, inefficiency and decrease in productivity, this is work in progress in which it is implemented in 3 phases and during the year of review phase one is complete

2.2.11 Investigations management

The Commission is mandated to investigate complaints received from the Public arising out of injustices. This is to enable securing land rights and restoring justice in the land sector e.g. in the support of the review of grants and disposition. Mechanisms towards improved investigations and management of allegations of fraud in land matters are in place.

2.2.12 Records management program

Records management is a crucial part to the land administration and management functions. The land sector is heavily dependent on an efficient, transparent and easily accessible land records system. The duplication, storage, retrieval and up dating of records is of vital importance for better land governance. Hence, the urgency for the development of this records management program.

2.2.13 Project on Land Conflict and Mapping Tool

The 2015 research on situational analysis of key land concerns in the 47 counties noted that violations of land rights were the genesis of most conflicts. The proposed Land Conflict Monitoring and Mapping Tool (LCMMT) will be intended to provide updated quantitative data; and also to provide a quantitative and qualitative analysis of trends on land disputes across the 47 counties. In this project, the development of the tool will go beyond the simple enumeration of land conflicts and trends and seek to situate the conflicts within issues pertinent to the broader debate on land security in Kenya.

2.2.14 Databases and collections

In implement its Constitutional and Legislative requirements and as part of its commitment to open access of information and transparency, the Commission is in the process of developing databases in the following key areas:

- i. Database of all Public land per county;
- ii. Allocations of Public land - patterns and trends of division per county;
- iii. All Public land reserved for a public interest;
- iv. An evaluation of all parcels of Public Land based on land capabilities;
- v. Update status on all land compulsorily acquired and under acquisition for development projects;
- vi. Evaluation of records of Public land for Land Use Planning;
- vii. Register on conversion from Public land to private land;
- viii. Register of Public land for endangered species of flora and fauna as well as protected areas;
- ix. Gender, youth, persons with disabilities (PWDs) and land rights database per county (sub-county);
- x. The monitoring of registration of all rights and interests on land – Bi-annual appraisal report;
- xi. Compiling of all – present or historical land injustices;
- xii. Land governance assessment framework in the 47 counties;
- xiii. Land cover and land use mapping for land use planning;
- ivx. Land conflict and monitoring database; and
- vx. Database on Review of Grants and Dispositions – Annual Report.

Note: *Working towards the development of these databases will involve several phases (years) and adequate funding. This information is vital towards the finalization of Kenya National Spatial data infrastructure Policy.*

2.3 Technical Advisories related to the land sector

During the reporting period, the Commission participated in the review of a variety of Policies, and Legislations received from various agencies. Table 2:0 below provides a summary of the legislations as reviewed by the Commission to various stakeholders.

Table 2:0 Advisories by the Commission to various stakeholders**July 2015 – June 2016**

No	Responsible Agency/ Government	Query
1	National Government	i. The Investigations and Adjudication of Historical Land Injustices Bill (2015), focusing on Parliament.
2	Office of the Attorney General	i. The Succession Act (Amendment) Bill - 2015 ii. The Evictions and Resettlement procedures
3	The Judiciary Land & Environment Courts	i. Numerous advisories on land issues: Investments; Indigenous Forest People; Illegal occupation; Historical land injustices
4	Ministry of Lands, Housing and Urban Development (MoLHUD)	i. Advice on the review of the National Land policy (2009) ii. Land Law (Amendment) Bill – 2015 iii. Community Land Bill (2015) iv. Physical Planning Bill (2015) v. Profiling of beneficiaries of Waitiki farm in Mombasa County vi. Profiling of squatters in Oljorai settlement scheme vii. Planning, survey and settlement of beneficiaries of Manda Island settlement scheme – Lamu County viii. Profiling of IDPs in Nakuru, Nyandarua and Laikipia Counties ix. The Kenya International Investment Conference (KIICO- 2015) <i>‘Think Kenya: Make it Kenya’</i>
5	Ministry of Energy and Petroleum	i. The Petroleum (exploration, development and production) Bill 2015 ii. Survey of Amu Coal fields
6	Ministry of Transport and Infrastructure	i. Survey of Outer- Ring Road (Nairobi County) on L/R No. 7879/4
7	Ministry of Devolution	i. The National Consultative coordination Committee on IDP’s (NCCC)

No	Responsible Agency/ Government	Query
8	Taita Taveta County	<ul style="list-style-type: none"> i. Proposal for legislation to ensure that investments property benefits local communities and their economy. ii. Initiate an inquiry into the historical land injustices in Taita Taveta and seek redress as provided by law. iii. Initiate an audit for the list of beneficiaries and the entire process leading to land allocation in Taita Settlement Scheme.
9	Tana River County	<ul style="list-style-type: none"> i. Advice on petitions presented to the National Assembly (Request from the Departmental Committee on Environment and Natural Resources) on the declaration of Bangali and Mbalambala as forest reserves.
10	Kajiado County	<ul style="list-style-type: none"> i. Petition made to the Senate by Members of Olmorongi Keenyokie Trust on Olmorongi Parcel Land P.No 21400
11	Nakuru County	<ul style="list-style-type: none"> i. Petition on the matter of Companies Act Cap 486 between Nyandarua progressive agencies (petitioners) limited versus the registrar of companies and the District Commissioner Rongai District ii. Investigate and inquire into all matters land relating to given Ministries and Departments as they may deem necessary and/or as the National Assembly may refer them to.
12	Narok County	<ul style="list-style-type: none"> i. Advisory Valuation for purchase of land for Kitet substation
13	Mandera County	<ul style="list-style-type: none"> i. Resolution of the Senate regarding a Bill to address historical land injustices
	Maanoni Sub County	<ul style="list-style-type: none"> i. Petition by displaced people of Maanoni presented to the National Assembly

No	Responsible Agency/ Government	Query
14	National Assembly Departmental Committee on Land	<ul style="list-style-type: none"> i. Report on petition on alleged grabbing of township primary- Kakamega County. ii. Report on petition regarding recognition of land title deeds and removal of caveat on land title deeds in Narok. iii. Report on petition on environment and natural resources regarding environmental hazards posed by Athi river mining. iv. Budget estimate – response on various land petitions. v. Conveyance of a petition regarding alleged land grabbing and illegal evictions in Isiolo County. vi. Petition regarding the resettlement of Ntirimiti-Subinga squatters on land parcel No. 2806/3 Subinga Bosnia and 2822/3 Ntirimiti settlement scheme. vii. Field visit to Miritini and 0 - 15km stretch area SGR project. viii. Petition regarding Ngiri market ix. Petition regarding Solio ranch x. Petition regarding Murramur land. xi. Petition by Ngerek committee regarding the resettlement of Ngerek Community on the land excised from Kaimosi Forest. xii. Petition on Land LR 209/19633 owned by M/s Jandu Investments Ltd Company xiii. Petition by residents of Masongaleni Ward on dispute over ownership of Tisya Primary School land plot No. 280 Makueni/Masongaleni Settlement Scheme xiv. Petition by residents of Pongwe Area in Lungalunga Constituency on imminent eviction from LR No. 1083, Shimoni, Kwale xv. Petition by the residents of Kajiado West Constituency, Kajiado County on the inquiry into the compulsory acquisition of land, reference no. Ngong/Ngong/195

No	Responsible Agency/ Government	Query
	National Assembly Departmental Committee on Land	<p>xvi. Petition by the residents of Mavoko Constituency regarding alleged compulsory acquisition of land in Mavoko Constituency LR No. 10029/2</p> <p>xvii. Lake Naivasha corridors.</p> <p>xviii. Report on the petition regarding the status of the leased land meant for expansion of Moi International Airport (Eldoret)</p> <p>xix. Land Laws (Amendment) Bill, 2015; Community Land Bill, 2015; and Physical Planning Bill, 2015</p> <p><i>The following information requested by the National Assembly Departmental Committee was provided:</i></p> <p>Whether the Commission confirmed availability of the alternative property plot M and N (FL No.7135) to M/s Jandu Investment Ltd Company. This was in terms of:</p> <p>i. The history of the said plot.</p> <p>ii. The current owner of the alternative property.</p> <p>iii. The title deed and transfer documents for the said land.</p>
15	The Senate Committee on Land	<p>i. Request for further information on the compensation of land owners along the Standard Gauge Railway route.</p> <p>ii. Memorandum on Physical Planning Bill</p> <p>iii. Petition on boundary dispute between Makueni and Kajiado counties at Emali.</p> <p>iv. Report on petition on Olmogori parcel land P.No.21400 in Kajiado County.</p> <p>v. Petition on dispute between Kirinyaga and Embu counties relating to Mwea Trust land.</p> <p>vi. Petition on status of Ol Morogi land parcel No. Ngong/Ngong/1959 in Kajiado.</p> <p>vii. Resolutions of the Senate on land matters.</p>

No	Responsible Agency/ Government	Query
	The Senate Committee on Land	viii. Progress made in land reforms and devolution of land management in the last two years (2013- 2015)
16	Council of Governors	i. Discussions with the Council of Governors Physical Planning, Land and Urban Development Committee. ii. Technical Assistance and advice on the County Spatial Planning and the Physical Planning Bill
17	Kenya Forest Services	i. Chepkumia exchange program (South Nandi- Kaimosi forest)
18	Kenya Railways	i. Advisory on remittance of the Standard Gauge Railway compensation funds to the Commission
19	Service Utility agencies	i. Advised service utilities like: KPA; KURA; KERRA; KeNHA; Kenya Railways; Kenya Electrical Transmission Company; LAPSSET Corridor Development Authority on the Commission's mandate to acquire land, easements and way-leaves for Public purpose projects. ii. Advisory valuation for agencies e.g. Athi Water Services Board; EPZ; Wajir and Mandera County
20	Heads of Secondary & Primary Schools	i. Urgency to provide information of their schools and stage of titling. ii. Creation of awareness of securing land rights
21	Indigenous Forest People	i. Technical advice on their land rights as entrenched in the Constitution. Meetings held in Chepkitale; Embobut; and Naivasha

Note: Other areas of collaboration with various government Ministries, county governments and state agencies include land for special economic zones (EPZ); expansion of Airports; extension of leases for developmental projects; Resort Cities eg Isiolo; Cemetery land etc.

2.4 Guidelines and Manuals

The Commission in fulfilling its mandate has developed various guidelines and manuals. These include:

2.4.1 NLIMS Standards and Guidelines

The Commission initiated the development of NLIMS Standards and guidelines with input and contributions from stakeholders in the land sector. These Standards and guidelines are to be used by data producers and stakeholders as they implement their versions of LIMS. This approach allows the various agencies to focus on delivering on their mandates that may include developing specific aspects of LIMS and allows the LIMS so developed to integrate with NLIMS.

2.4.2 The County Land Management Board Manual

The preparation and Publication of the CLMB operations guidelines. These guidelines will facilitate the day to day working of the CLMB, county government and the Public.

2.4.3 Natural Resources Exploitation and Development Guidelines

The Commission developed the guidelines together with a multi-disciplinary team, drawn from various institutions charged with natural Resources management. The team comprised of the Ministry of Energy and Petroleum, Ministry of Environment, Natural Resources and Regional Development Authorities, Geothermal Development Cooperation (GDC), KENGEN, NEMA, KFS, KWS and the Civil Society.

2.4.4 County Spatial Planning Monitoring and Oversight Guidelines

The Commission with support from ACT (NGO) prepared, gazetted, published and disseminated county spatial Planning monitoring and oversight guidelines (January 2016).

2.4.5 *Draft urban Planning Monitoring and Oversight Guidelines*

The development of the draft is on going and will be subject to mandatory public participation and consultations with land stakeholders.

2.4.6 *Guide securing land rights: 'Know your Land Rights'*

The Commission together with Kituo Cha Sheria (Legal NGO) participated in the production of a researched and informative Publication on securing land rights titled *'Know your land rights' (2015)*. This Publication aims to provide for legal advice on land matters that afflict many individuals, women, minority groups and communities.

2.4.7 *Other NLC Publications undergoing review and development*

- i. World Bank and Poverty Conference (2016) presentation *'Development and Implementation of the Land Management system: An Impetus or a deterrent to effective and efficient Land Management in Kenya?'*
- ii. *'Gender and Land Rights'* Publication funded by FAO.
- iii. *'How much Public land is there in Marsabit County?'* Publication on Public land in Marsabit County.
- iv. Documentation and analyses of the Review of Grants and disposition to Land (2014- 2015)
- v. Comprehensive Registration and Title to Land in Kenya
- vi. *'A Leaders Guide to County Spatial Planning'* (2016)
- vii. Urban Land Use Planning: Monitoring and Oversight Guidelines
- viii. Volume 1: *Quarterly Speakers Series* (2016)

CHAPTER THREE

DEVOLVING LAND GOVERNANCE: ITS IMPLEMENTATION

3:0 Introduction

Secure tenure and access to land as envisaged in the Constitutional principles of land management are seen by the Commission as a fundamental element in promoting economic growth and social development. Efforts by the Commission have been targeted at securing land tenure, restoring land rights and enhancing real property markets from increasing demands and competition for land.

Figure 3:0 Map of Kenya – 47 Counties



The National Land Act 2012(4:2) states that the Commission shall ensure access to its services in all parts of the Republic in accordance with Article 6(3) of the Constitution. Article 6(3) notes *'A national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of service'*. The FY 2015/ 2016 marked two years of work since the establishment of the County Land Management Boards throughout the 47 counties. In this regard the work of the CLMBs saw a great shift in service delivery and efficiency as illustrated below.

The importance of the CLMBs is to **effect devolution** of Public Land management function to the Counties. In line with Article 6 of the Constitution, the NLC through establishment of CLMBs promoted devolution and accessibility to its services. The nine Commissioners are responsible for land matters as pertains to specific Counties (*See Annex 3*)

3.1 Institutional Reform: Implementation of the CLMB Strategy

In addition to the policy and legal reforms in the land sector, the establishment of the CLMBs was factored in the Commission's *Strategic Plan 2013 – 2018*. Thus the Commission started establishing the CLMBs in 2014. By June 2016 a total forty one (41 or 87%) CLMBs had been formed and were operational. Six counties, namely **Bomet, Garissa, Kiambu, Mombasa, Nairobi** and **Narok** (or 13%) do not have CLMB so far. The structure for the CLMB is outlined in section 18 of the NLC Act, 2012. All operational Boards have the prerequisite membership and are backed by Secretariat headed by a Secretary to the Board.

Towards capacity building for the CLMBs, seventeen (17) Boards were inducted during the period under review. These included Lamu, Kilifi, Kwale, TaitaTaveta, and Tana River; (Coastal region), Machakos, Kitui and Makueni (Eastern Region); Kericho, Kakamega, Nandi, Trans Nzoia, Uasin Gishu, Elegeyo Marakwet, Bungoma, Vihiga and Busia (North Rift and Western Regions).

3.1.1 *Operational Responsibilities/Duties:*

- a. The CLMBs have the responsibilities of deliberating and making decisions pertaining to land matters brought before it and as provided in Constitution and the law. The Boards held at least two (2) meetings in a month to discuss and make recommendations on the following:
 - i. Development applications – allocation of Public land, extension/renewal of leases, change and extension of user, and subdivision of land.
 - ii. Resolve conflicts on land through TDRs and ADRs mechanisms.
- b. On the other hand the CLMB secretariat (secretary's office) undertakes activities that support or facilitate the operations of the Board and provide strategic leadership to facilitate effective delivery of Commission's functions at the County. In a nutshell the office's responsibilities include:
 - i. Coordinate activities of other NLC staff at county,
 - ii. Review complaints on land and provide appropriate directions,
 - iii. Implement CLMB resolutions,
 - iv. Attend consultative land-related county land meetings,
 - v. Coordinate and participate in NLC county programs such as land clinics, public awareness campaigns and ASK shows, valuation of Public land, review of grants, monitoring and oversight of land use planning.

Table 3:0 CLMB Performance Review – FY 2015/ 2016

No	Targets/ Objectives	Activities	Achievements / Milestones	Impacts/ supportive of devolu- tion
1	Processing of Development Applications: extension/renewal of leases, subdivisions, change/extension of user, allocations.	<ul style="list-style-type: none"> i. Receiving and processing of the applications. ii. Examination to ensure compliance iii. Deliberations iv. Document/ correspondence 	<ul style="list-style-type: none"> i. 242 renewal/extension of leases ii. 235 sub-division schemes iii. 246 change/extension of user iv. 420 allocation of Public (Public institutions, schools, churches, investors, etc.) 	<ul style="list-style-type: none"> - Increased planned development at county - Increased business opportunities in the county - Increased employment opportunities in the county - Increased local revenue for county governments
2	Encouraging application of ADRs and TDRs	<ul style="list-style-type: none"> i. Receive & file complaints ii. Consultation iii. Undertake searches iv. Summoning concerned parties v. Tabling of matters to the CLMB for deliberation & arbitration 	<ul style="list-style-type: none"> i. 360 Land Disputes Resolved 	<ul style="list-style-type: none"> - Reduced tension at the grassroots - Increased consultation and public involvement - Improved peace and unit at the grassroots - Reduced violent/ disruptive land disputes
3	Partnership with key stakeholders	<ul style="list-style-type: none"> i. Consultations and liaison with county government and ministry 	<ul style="list-style-type: none"> i. Collaboration with county government/national government ministries in resolving land matters ii. Technical and material supporting transport facilitation iii. Awareness creation on the role of NLC/CLMBs 	<ul style="list-style-type: none"> - Quality delivery of services to county citizens, visitors and businesspeople - Improved visibility for the board in the county
No	Targets/ Objectives	Activities	Achievements/ Milestones	Impacts/ supportive of devolu- tion

4	<p>Creating awareness – Role and function of NLC/CLMBs</p>	<p>i. Participating in Public <i>Barazas</i> ii. Participation in ASK shows iii. Holding sub-county forums</p>	<p>i. Stakeholders appreciation of CLMB role in handling land matters Enhanced Public participation in safeguarding Public land</p>	<p>– Increased confidence of land actors and stakeholders in the board – Reduced time spend seeking for services in Nairobi – Prompt consideration and communication of resolutions – Reduced cases of fraud and corruption</p>
5	<p>Development of an Inventory on Public Land</p>	<p>i. Acquisition of TA Assets and Liabilities Reports ii. Appraisal extraction of land information iii. Liaising with county officials to get data on Public land iv. Perusal of land registry records</p>	<p>i. Compiled list of Public assets e.g. schools; forest; roads (TA report)</p>	<p>– Mobilization of community members to protect public land – Existence of public land defenders at community level – Reduced cases of threat to alienate public land – Increased marking and beckoning of public land – Targeted conservation of environmentally sensitive areas</p>
6	<p>Public Schools Titling</p>	<p>i. Collection and compilation of information on Public schools Land status</p>	<p>i. Initial compilation of list of public schools and forwarded to the Commission</p>	<p>– Clarification of mandate and functions of NLC/GLMB in the county – Increased demand for services – Increased understanding of role of NLC/CLMB in the County – Providing secure land rights for public institutions</p>

Note: See Annex I – The examples of Embu; Kakamega; Nandi and West Pokot Counties

It is imperative to point out that by accomplishing the above outlined mandate CLMBs greatly contributed to land sector reforms and improved the delivery of land rights in the country. The following overviews of the CLMBs performance during the 2015/2016 FY provide highlights on the key achievements and buttress this observation further.

3.2 School Titling

In the FY 2015/2016 the Commission prioritized land administration activities aimed at fulfilling the Presidential Directive that all public schools be issued with title deeds to prevent incidences of encroachment and loss. The MoLHUD, MoEST and the CLMBs collaborated towards ensuring all public schools were secured.

A number of schools applied to the Commission for processing of title deeds. These applications were synthesized and analyzed for eligibility. The following requirements were considered of those schools that met the minimum threshold for documentation i.e.

- a. The school land has an approved physical development plan. These are mainly schools located within urban areas.
- b. The school land is surveyed and has a signed and sealed Registry Index Map or a Deed plan from the Director of Surveys.
- c. Official search showing that land has been reserved for that particular school. These were schools whose land is surveyed under general boundary arising from adjudication or settlement programs;

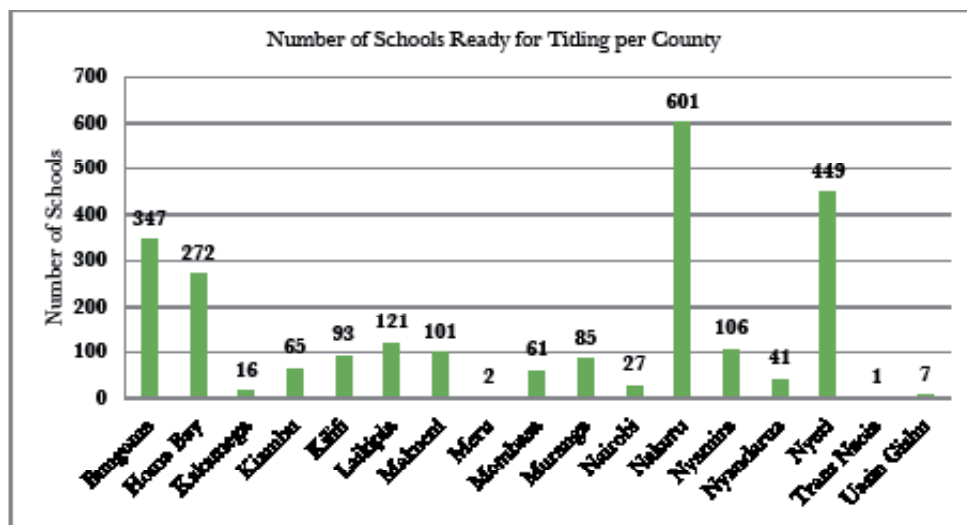
The information (a to c) was captured and letters of allotments were issued for those that had approved part development plans. It is therefore the responsibilities of the schools to ensure that survey has been done and details forwarded to the Commission for final documentation, which is preparation of a lease in the name of the Cabinet Secretary Treasury who is custodian of all land on which state organs are. The lease is then forwarded to the MoLHUD (currently the Ministry of Lands and Physical Planning (MoLPP) for registration.

For schools whose survey documents were in order the Commission prepared leases, which were forwarded to the MoLHUD for registration. However, some

deed plans were found to have had errors hence were not documented in form of letters of allotment being issued.

Transfer documents from the defunct local authorities to the Cabinet Secretary Treasury were prepared for schools whose official searches showed correct attributes i.e. the name of the school, the acreage, the survey number and the correct location. These transfers have been forwarded to the Cabinet Secretary Treasury through the Cabinet Secretary MoLHUD. A summary of the 2,395 schools ready for titling is shown in table below.

Figure 3:1 Schools ready for Titling.



Note: See further Annex 5, Schools scheduled for titling

3.3 Land Administration and Management Improving Land Governance

The Land Administration programs operationalizes Art 67(2a) of the constitution, National Land Commission Act Sec 5(2) (a) and the Land Act Sec 8, 12, 13, 20, 23(2) and 28. Land administration functions in the Commission include processes for conflict resolution; facilitate access to land through issuance of leases and sub-leases to manage Public land. The land administration programs enhance and devolve land governance to ensure

that all counties facilitated through the CLMBs.

- i. Enhance secure storage, access and retrieval of land records
- ii. Facilitate access and use of land for social economics development
- iii. Working towards developing the capacity to enhance efficiency and transparency in service delivery by building the capacity County Secretariat and CLMB members
- iv. Participate in the approval of Development applications for development control
- v. Develop and implementation of Revenue Generation Mechanisms

Table 3.1 Results status

Activity	Counties	Purpose	Result
Extension of Lease	Nairobi, Mombasa, Embu, Meru, Eldoret , Kisumu	To extend term of leases – which are about to expire to at least 50 years	270
Renewal of Lease	Nairobi, Mombasa Eldoret, Nyeri and Embu	To renew expired leases to 99 years with both stand premium and new annual rent	124
Change of User/Extension of User	Kiambu, Nairobi, Nakuru, Kisumu, Machakos, Kajiado, Murang'a	Mainly changing the user of land from agricultural to residential, commercial, offices and other urban users	203
Transfers	Kiambu, Nyeri, Murang'a, Kirinyaga, Meru, Embu	Mostly this was trust land which was transferred by the county councils to individuals in exchange for their parcels of lands neighboring institutions or for expansion of roads or by way of allocation	166
Verifications of Letters of Allotments	Garissa, Wajir, Moyale, Kajiado Meru, Machakos, Nairobi, Kiambu, Nakuru	Confirmation of allocations done previously and processing lease documents	509

Activity	Counties	Purpose	Result
Transfers of Land for Schools	Machakos, Kitui, Kajiado, Meru, Kakamega, Kisumu, Kilifi, Kiambu, Murang'a, Nyeri, Bungoma, Busia	To secure tenure for public schools	2395
School applications received	All counties	For documentation of school lands	7000
Subdivision/ Amalgamation of Leased Land	Nairobi, Kajiado, Machakos, Murang'a, Meru, Kiambu, Embu, Nakuru, Kisumu	Facilitate and enhance development. Meet demands on land	216
Regularization of Town Settlements	Kajiado, Garissa, Moyale, Wajir, Kirinyaga	To secure land tenure for Urban plots	4
Issuance of Consents for transactions on land	Kisumu, Meru, Lamu, Kilifi Kericho, Kirinyaga Machakos, Kakamega, Trans-Nzoia	To enable transfer, charge, further charge, sublet, sub-leasing on land. Approval of legal transactions on land.	54
Alienation of Land to Public Institutions	Tertiary learning institutions, Prisons Law Court, Hospitals, Universities, Governments offices, Police Stations, Administration Police Camps	Documentation of Public institutions and enhancing secure tenure	480
Processing of leases	All over the country	Issuance of leases documents	38
Documentation of non strategic Government Housing off loaded to the public	Nairobi, Embu, Kisumu, Kericho	Improve security and tenure	106

Activity	Counties	Purpose	Result
Preservation of historical Sites	Kitui, Kakamega , Kwale, Mombasa	Documentation initiated	4
Building plans approved on new leases in the counties	Kiambu, Meru, Kisumu, Nairobi, Kajjido, Machakos Murang'a	For preparation and the management of leases	46
Kenya Industrial Estates & and National Housing Co-operation	Embu, Kiambu, Nyeri, Nakuru, Kericho Kisumu, Nairobi, Meru	Issuance of leases on government sold properties.	282
Investigations on Court matters	All counties	Due diligence on land transactions and to protect the sanctity of the title	37

3.4 Compulsory Acquisition of Land and Compensation Assessment

Effective land governance is key toward achievement of sustainable development. In view of this, the Commission's valuation and taxation functionalities is consistently identified as a critical factor in effective economic development. The Commission has been well positioned in taking on this role in regards to the government agenda in the land sector. The Commission has continued to establish the worthy of property for the purposes of inheritance tax; Capitals gains, upon sale, gift or re-organization; Purchase/mortgage and sale. To facilitate undertaking compulsory acquisition of land, the Commission carries out Valuations for tax and compensation purposes and are based on clear principles, applied uniformly, updated regularly, and publicly accessible as shown in the table below.

Table 3.2 Advertised high voltage lines

Agency / Query	Advertised / Kms
Ethiopia-Kenya 500 KVA Interconnector	612
Loiyangalani-Suswa 400KV Transmission Line	450
Lessos-Tororo 400 KV Transmission Line	130
Mombasa-Nairobi 400 KV Transmission Line	450
Kisii-Awendo 132 KV Transmission Line	63
Mwingi-Kitui-Wote-Sultan Hamud 132 KV Line	156
Valuation of KETRACO way-leave corridor in Nyandarua County	86
Total	1,947

The Commission has continued to facilitate government functions such as the rural electrification, through supporting and working with government agencies. The government through Kenya Electricity Transmission Company (KETRACO), is on course to complete 5000 kms of high voltage transmission lines by 2018. In the process of achieving this important mandate, they have faced numerous challenges of wayleaves. The Commission in this regards, has been a key mediator to broker truce with landowners for compulsory acquisition of the wayleaves for the purposes of installations of the voltage lines. Table 3.2 gives a summary of the projects the commission has successfully brokered for KETRACO.

3.4.1 Compulsory acquisition Status of on-going projects.

Compulsory acquisition requires finding the balance between the public need for land on the one hand, and the provision of land tenure security and the protection of private property rights on the other hand. In seeking this balance, the Commission applies principles that ensure that the use of this power is limited, i.e. it is used for the benefit of society for public use, public purpose, or in the public interest as illustrated in the table below.

Table 3.3 Compensated Projects Awaiting Vesting

	Acquiring Agency	Project name	% Acquired	Project Status interpretation
1	National Irrigation Board	Mwea Irrigation Scheme – Kirinyaga County (Expansion for Mwea irrigation Scheme)	90	Payments disbursed – awaiting surrender of title and taking possession
2	National Water & Conservation	Muruny-Siyoi Dam	90	Payments disbursed – awaiting surrender of title and taking possession
3	Kenya Railways	Standard Gauge Railway line	90	Payments disbursed – awaiting surrender of title and taking possession
4	KPA	Mombasa Port access road (3 km)	90	Payments made and possession taken for vesting
5	KURA	Meru by-pass (23 km)	90	Payments disbursed – awaiting surrender of title and taking possession
6	KURA	Outer Ring Road (12 km) – Nairobi	90	<ul style="list-style-type: none"> i. Payments made awaiting vesting from GSU roundabout to Mathare River. ii. Gazettement process for the remaining part
7	KURA	Eastern missing links Westlands-Muthaiga-Pumwani (26 km)	80	Awards given awaiting disbursement of funds from the acquiring body to the NLC
8	KeNHA	Mombasa Southern by-pass MPARD. <ul style="list-style-type: none"> i. Phase 1 – Mbs rd to Port (10 km) ii. Phase 2 – Port to Sunza (10km) iii. Phase 3 – Sunza to Lunga Lunga rd (8km) 	90 50 80	<ul style="list-style-type: none"> i. Payments disbursed – awaiting surrender of title and taking possession ii. Re-gazetment upon re-survey. iii. Awards issued and payments in progress awaiting release by KeNHA

	Acquiring Agency	Project name	% Acquired	Project Status interpretation
9	KeNHA	– Changamwe-Airport – Airport-Port Reitz rd (7km)	90 50	i. Payments done to Magongo road awaiting vesting ii. Gazetted for inquiries
10	KeNHA	Kangema Gacharage Road (35km)	90	Payments disbursed – awaiting surrender of title and taking possession
11	KeNHA	Kisumu-Kakamega-Webuye-Kitale	80	i. Pending payment to be released thereafter issuing of notices of taking possession. Survey for vesting of land to the Commission
12	KeNHA	Kericho -Nyamasaria (Kisumu by-pass 11km)	80	i. Payment ongoing and issuing of notices of taking possession. ii. Survey for vesting of land to the Commission
13	KeNHA	Thua Bridge	80	Awards made awaiting payment, possession and vesting
14	KeNHA	Chepterit-Baraton-Kimondi (13 km)	80	Awards made awaiting payment, possession and vesting
15	KeNHA	Voi-Mwatate (80 km)	90	Payments on-going and, possession awaiting vesting

Note: *Ranking is based on stage of acquisition as a percentage of the entire acquisition process based on work submitted by the acquiring body.*

Table 3.4 New projects as from April 2015

	Acquiring Agency	Project	% Acquired	Status interpretation
1	National Water & Conservation	Koru Dam (2,500 acres)	35	Inspections on-going
2	KeNHA	Ejija-Bumala Road (26 km)	35	Inspections on-going
3	KeRRA	Thogoto-Gikambura-Mutarakwa Road	35	Inspections on-going
4	KeNHA	Eldoret-Timboroa (54 km)	10	Searches on-going before gazettelement
5	KeNHA	Eldoret Bypasses (32 km)	35	Gazetted notice of intention awaiting inspection
6	KeNHA	Ena-Ishiara-Shiakariga-Meru (50km)	50	Gazetted notice of Inquiry
7	KURRA	Hospital Hill road (1km)	35	Inspections on-going
8	KeNHA	Ruiru Githunguri sewerage	35	Inspections on-going
9	KeNHA	James Gichuru-Rironi road (35 km)	35	Inspections on-going
10	KeNHA	JKIA –Likoni road (7 km)	35	Inspections on-going
11	Tana Athi	Thwake dam (9,000 acres)	35	Inspections on-going
12	KERRA	Giakanju-Tetu	50	Gazetted for inquiries
18	KERRA	Sotik-Loret Bridge	50	Gazetted for inquiries
19	KERRA	Kipsonoi Bridge	50	Gazetted for inquiries
20	KERRA	Chelolongbei Bridge (10km)	50	Gazetted for inquiries

Notes:

- i. 1-15%** – Request received from acquiring body (National or County Government, Discussed and accepted by Land Acquisition Committee and Conducted searches and gazetted the project
- ii. 16-35%** – Inspections, creation of awareness of project to PAPs
- iii. 36-55%** – Gazettement of and holding of Inquiries into claims for interests
- iv. 56-70%** – Collation of claims with valuation reports
- v. 71-80%** – Issuing of awards and making corrections/amendments; Preparation of bank transfer schedules
- vi. 81-90%** – Payments made to project affected persons and Notices for Taking Possession
- vii. 91-100%** – Final Survey and Vesting of land

3.5 Dispute Resolution: Review of Grants and Disposition of Public Land

The National Land Commission Act, Section 6 and 14 mandates the Commission to the program of review of grants and disposition of public land. This exercise commenced on 21st April 2014. The Commission has over the period under review conducted review of grants of public land in Counties spread throughout the Country including the following counties: *Nairobi, Kisumu, Kiambu, Taita Taveta, Kakamega, Kisii, Kilifi, Baringo, Makueni, Nakuru, Lamu, Uasin-Gishu, Machakos, Kwale, Embu, Kirinyaga, Laikipia, Mandera, Garissa and Mombasa.*

3.5.1 Dispute Resolutions

Through this process, the Commission has resolved over three thousand (3,000) cases and recovered public purpose land. The following is noted:

- a. **Conflict Resolution:** The Commission had continued to resolve several long standing land disputes in various parts of the Country, cases in point include Oljorai land dispute in Nakuru; Kiboko B Settlement Scheme in Makueni County; Chembe Kibabamshe Settlement Scheme in Kilifi

County; Kilifi Salt Works land; recovered Kakamega Primary School land from a private developer; resolved disputes between Wanjala Mining Company and the locals of Kishushe, Taita Taveta County; resolved disputes in Mwea Settlement Scheme and facilitated issuance of titles among others.

- b. **Resolved – Infrastructure Development:** Include ownership disputes over properties located along the Standard Gauge Railway line. The Commission successfully addressed the concerns of the County Government of Mombasa and the landowners that paved the way for construction of the Mombasa section of the railway and similarly for the sections of Sultan Hamud, Emali and Nairobi that had been delayed due to disputes.
- c. **Revocation of titles:**
 - i. For ranches covering over 500,000 acres or 32.2% of Lamu County, which covers 1,550,116.77 acre. This land was recovered and returned the properties to the County Government (the latter was necessitated by a Presidential directive);
 - ii. Revoked titles purporting to allocate land in which Changamwe Secondary School in Mombasa County is located. The land was recovered and returned to the school management.
 - iii. The Commission revoked titles that purported to allocate Outer-Ring Road in Nairobi; the land was recovered and handed over to Kenya Urban Roads Authority for the ongoing road expansion.
- d. **Recovered Government housing quarters:** In Kisii and returned the properties to the Department of Housing; the Commission revoked titles for Eldoret Stadium, the land was recovered and returned to the County Government of Uasin Gishu,

Table 3:5 Land conflicts resolved by the Commission.

	Public notice date for review of grants	Hearing dates-Venue	Titles/ parcels reviewed	County
2015	27 th May	8 th – 10 th June Nairobi	32	Nairobi (Embakasi) Athi River SGR
	3 rd Aug	3 rd – 7 th Aug Mombasa	120	Mombasa SGR -KENHA
	29 th Sept.	17 th – 21 Nov Nairobi	126	Nairobi Karura Forest
	25 th Nov	Nairobi	100	Nairobi; Mombasa; Machakos; Nakuru; Kiambu; Uasin-Gishu; Kakamega Trans-Nzoia
	2 nd Nov	2 nd – 13 th Nov Makueni	651	Makueni
	14 th Dec.	14 th -16 th Dec Mombasa	24	Kwale
2016	14 th Jan.	25 th -28 th Jan Nairobi	69	Nairobi; Nakuru; Kiambu; Machakos
	14 th Jan.	2 nd – 4 th Feb	977	Kilifi Chembe – Settlement scheme
	14 th Jan.	4 th – 5 th Feb Kilifi	11	Kilifi Salts; Lamu
	29 th Feb.	29 th Feb – 4 th Mar Makueni	651	Makueni
	12 th April	27 th – 28 April Kisii	152	Kisii
	16 th May	16 th -17 th May Kisii	34	Kisii
	28 th Feb.	28 th Feb. Nairobi	12	Nairobi; Machakos; Kiambu
	17 th June	17 th June – Nairobi	13	Kisii; Nakuru; Nairbi; Eldoret; Kiambu
TOTAL			2972	

The Commission continued to address various conflicts on land throughout the 47 counties and these conflicts have been summarized in table 3:5.

Table 3:6 Summary of the nature of land conflicts

Urban Land	Peri-Urban Land	Rural Land
<ol style="list-style-type: none"> 1. Informal land acquisition by squatters 2. Evictions 3. Land use conflicts: not respecting building regulations 4. Illegal subdivisions resulting in densification and slums 5. Illegal sale or lease of state land in prime locations 6. Illegitimate expropriation by banks of the property of the poor 7. Displacement of settlers by commercially motivated developers or speculators 8. Grabbing of public land 9. Resort cities developments versus- Community land rights 	<ol style="list-style-type: none"> 1. Informal/ illegal land acquisition by squatters, often through organized group squatting 2. Multiple sales of land 3. Illegal sale of public land by public officials 4. Expropriation without compensation by the Government of land which is perceived to be customary land 5. Land use conflicts: not respecting building regulations 6. Land conflicts between investor and communities 	<ol style="list-style-type: none"> 1. Illegal use of public land for logging, mining, water rights. 2. Land use conflicts among farmers and pastoralists 3. Land use conflicts between investors, conservation and private or commercial use of natural resources (forests, riparian areas, water, lakes etc.) 4. Land grabbing: some public officials taking public land 5. Illegal/ Irregular land acquisition: violent groups taking private land and/or public land 6. Land clashes between different communities 7. Resettlement- hostility by local communities 8. Historical land injustices 9. Indigenous land right violations- forest communities

Note: *This is a summary of the numerous land conflicts the Commission handles in 2016/2017 FY*

3.6 Investigations in land matters

The Commission in addressing the violations of land rights or in addressing the land question as listed in the NLP 2009 Article has noted in its work the need for investigations into rising fraud, illegal acquisition and/or irregular acquisition of land. The Commission has established a unit to deal with the Investigations and Forensic services as provided by section 5 of the NLC Act 2012. Table 3:7 below notes the number of cases under investigation.

Table 3:7 Summary of cases Investigated

Investigation	No.of cases	% percent
Total cases investigated	104	54
Forensic analyses conducted on documents	46	24
Notices served on riparian	03	3
Summons served	38	19
Total cases under investigations	191	

- i. The main concern for the Commission is the remarkable high number of cases coming up for investigations and those pending assignment for investigations. Going forward there is an overwhelming demand from institutions and the general public to investigate cases on Public land grabbing; fraudulent land transactions; encroachments; blocking and encroachments on riparian areas.
- ii. The summary of the **101 caseworks** per county can be broken down into Nairobi County (47); Machakos (13); Kisumu (7); Kajiado (6); Kiambu (5); Bungoma (3); Busia, Laikipia, Kisii (2 cases each); Uasin-Gishu, Isiolo, Makueni, Narok, Homabay, Siaya, Nyamira, Baringo, Kitui (1 casework each- totaling to 09).
- iii. In regard to searches conducted for enforcement a total of **380 searches** which can be broken down to 90 (registrar of companies); 117 (Chief land registry); 113 (National registration bureau; and 76 (Kenya post offices).

3.7 National Land Information System and Land Governance

The Commission is required to develop, implement and manage a National Land Information System in accordance with the NLC Act 2012 Section 5(2) (d) at National and County Level, in line with devolved structure of government the Commission implements its functions and mandates to the county governments in which it strives to enhance service delivery and Public satisfaction bearing in mind the Vision 2030. The following are the steps developed towards the NLIMS program.

3.7.1 Phase Implementation Approach

The Commission is continuously implementing the system in phases from one transition to another, which in the end will lead to a fully-fledged operational NLIMS. This phased implementation as anticipated in the execution of the work. Phase 1 began by putting in place a competent core team of GIS driven application developers, system designers, and data collection, collation and conversion experts. Figure 3:1 demonstrates this development.

Figure 3:2 Overall Implementation plan



3.7.2 *Achievements*

a) Establishment of a GIS /Data conversion laboratory

Data available at the MoLHUD are not graphical and are in hardcopy and most of them are in a tattered state thus there is a need to maintain this data in a readable format, The Commission has set up the GIS /DATA conversion Laboratory which is operational. The following table 3:8 shows the laboratory status.

Table 3:8 NLIMS Laboratory Status

	Component	Status
1.	Scanners (8)	Installed
2.	Plotters (8)	Installed
3.	Barcode scanner (1)	Installed
4.	Laboratory infrastructure	Configured

b) Digitization Of Data In Correct Geo-Referencing Framework

The Commission has addressed this through supporting nationwide geo-referencing efforts of the National Mapping Agency (NMA), the Survey of Kenya (SoK) – allowing the integration of all survey data. This framework supports geo-referencing of cadastral maps in the GIS and digitization based on the correct geo-referencing framework. As of June 2016 a total of 1,676 documents had been scanned this is broken down in the following tables.

Table 3:9 Scanned Documents

	Description	Quantity
1.	Development Plans and Part Development Plans	393
2.	Preliminary Index Diagram	427
3.	Registry Index Maps	770
4.	Survey Plans	83
5.	Topo Cadastral Maps	1
6.	Topo Sheets	2
Total		1676

Table 3:10 Geo-referencing and Digitization

	Blocks	Sheets Geo-referenced	Parcels Digitized
1.	Ruiru/Kiambu	14	2925
2.	Ndeiya/Kiambu	32	408
3.	Kangemi/Nairobi	8	536
4.	Kahuro/Nyandarua	3	126
5.	Lamu	8	800
Total		65	4,795

Note: *The Commission is implementing **Phase I of the project** as shown earlier.*

3.8 Implementation of ICT at the County level

The Commission uses ICT technology to support all its operations in alignment with its strategic direction. Through the use of computing infrastructure and devices the Commission has made significant progress towards efficiency, reliability and secure network infrastructure for main office and at national and county government offices.

The Commission developed Standards and specifications for the networking infrastructure, which provides a platform to run and manage NLIMS through the county and national governments. These Specifications were based on the following areas of specialization in which NLIMS will be supported as indicated in the following table 3:11.

Table 3.11 Areas of specialization in which NLIMS will be supported

Area of specialization	Status
Data Center Construction and Commissioning	Completed and Operational
Data Storage and Backup	Completed and Operational
Internet Service Provision	Installed in the HQ but pending the 47 Counties
Network Infrastructure	Installed and operational at head office but complete installation needs to be done to all 47 counties

3.9. Automation Process.

Through the use of this technology the Commission has managed to develop the following systems

i. Enterprise Resource Planning

Enterprise Resource Planning (ERP) a business process management software that allows an organization to use a system of integrated applications to manage the business and automate many back office functions related to technology, services and human resource.

ii. Human Resource Management System (HRMS)

This is an online automation system, which assists the human resource in administration and management. The system provides a means of acquiring, storing and distributing information to Commission staff, Counties as well as members of the Public.

iii. Website

The Commission's online service has transformed from the former domain name www.nlc.or.ke to www.landcommission.go.ke . This website serves as a platform of access to online services to the public on how they can be assisted through the use of the official email address info@landcommission.go.ke

3.10 Research on land

In the FY 2015/2016, there was limited funding towards research fieldwork. However, using the CLMBs data collection on land issues was prioritized, several research trainings, capacity building forums, publications, dissemination and policy dialogue activities were carried out. All these activities contribute towards achieving the strategic direction of the Commission and specific research objectives set by the Commission for the financial year, which included:

3.10.1 Research, Training and Capacity Building

Through its research training and capacity building program the Commission sought to increase the understanding, visibility and accessibility of researching land matters throughout Kenya. The Commission fulfilled this function through:

- i. Situational Analysis of Research in the Counties:** Data collected from the 47 Counties informing the Commission on the key areas of priority and focus in regard to researching land matters in Kenya (Publication 2016)
- ii. Commissioning of Research project:** *Implementing the Principles of Land Governance at the County level* (October 2015 – ongoing). Results will be important in influencing the development of practice around the principles of land management.
- iii. Knowledge Exchange:** *Study Tour on Land Administration, Gender and Community Land Rights in Natural Resource Management by the National Land Commission to Ghana* (Sept. 28th- Oct, 2nd 2015). This knowledge exchange program assists in reframing the debate on the role of key Government institutions (e.g. Commissions) in land policy reform process.
- iv. Building partnerships in research on land:**
 - **Institute of Surveyors of Kenya:** *Research on Minimum and Maximum land holding sizes in Kenya* (March 2016). The findings are important in developing the policy position and altering perception on the *Maximum and Minimum land holding* sizes in the country and further guide the scientific study on the same as provided for in article 68(c) of the Constitution.
 - **Engagement with Transparency International:** Working together with Humbolt University and Technical University in regard to the *Development of the Corruption/ bribery index on land in Africa* (May 2016 to date).
 - **Egerton University International Conference 10th Anniversary:** *Land and Tenure Security in Agricultural Productivity in Kenya* (April 2016)

- **Pamoja Trust:** Participatory Research *‘Enumeration of Informal settlements in Nairobi and Mombasa County’*
- **Elgeyo Marakwet & Baringo Counties:** *‘The 4th Dialogue on Land and Security- A tool towards conflict resolution ’ – Kabinet (April 2016)*
- **FIDA & Kituo cha Sheria:** *Research study on ‘Women and Property Rights’ (May 2016)*
- **Resource Rights Initiative (RRI):** *Initial meetings with working towards sponsorship of a programme on forest dwelling communities. (February; April and June 2016)*
- **Data on conflict in the land sector:** Narok County – *Focus on group ranches*
- **CLMB Training on research data collection and researching land matters:** *Trained CLMBs in Eastern and Western Region (covering 20 Counties)*
- **Reconcile NGO:** *Land, and justice meeting with the European Union Parliamentary group*

3.10.2 Publications and Dissemination

The Commission set in place programs that will enable it to lead as organizer of knowledge on land in Kenya. All documents are disseminated online and in hard copy. Some of the initiatives set in place include:

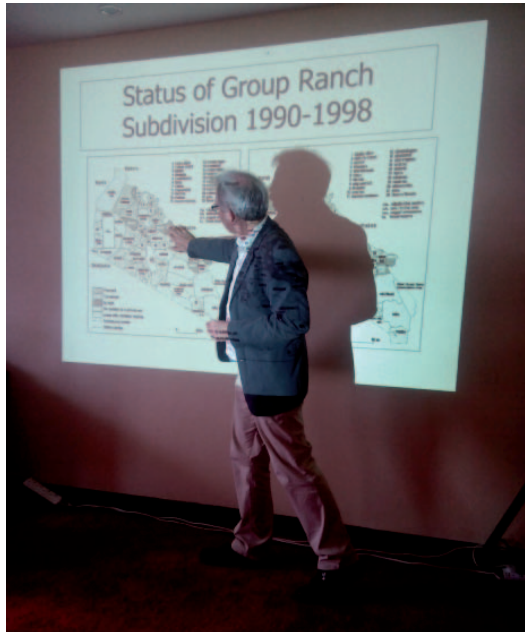
i. The Quarterly Speakers Series:

This is a public forum that targets cutting edge research studies done on land and in Kenya every FY quarter. This series has one key functions: (a) Policy outreach and engagement on critical issues identified by research programs through involvement of decision-makers in the research process, research dissemination, expert convening, policy dialogues and advocacy. So far, working with stakeholders and participatory groups the following series took place.

- (a) Prof. Marcel Rutten from Leiden University- Netherlands *‘Selling wealth to buy poverty: Case of Kajiado County’ (March- 2016- opposite picture);*

- (b) Laetitia Klein from Transparency International *‘Towards knowledge management in the Land sector’* (May 2016)
- (c) Dr. Steve Auma from Pamoja Trust *‘The politics of land and compensation’* (June 2016)

Figure 3:3 Guest Speaker



ii. Research Publications:

- **Policy Brief no 1:** *‘Pertinent land Issues in the Coastal Region’*
- **Policy Brief no. 2:** *‘Women, succession and land rights in Bungoma County’*
- **Working Papers Series:**
 - (a) *‘Increasing the bundle of land rights for schools in Trans-Nzoia County – Kenya’*
 - (b) *‘Increasing the bundle of land rights for schools in Nyeri County – Kenya’*
 - (c) *‘Exploring the status of settlement schemes in Kenya’.*

3.10.3 *Strengthening Research and Governance on Land*

- i. **Research forum: British Institute of East Africa** – ‘*This plot is not for sale: The complexity of land in Kenya*’. (Feb – 2016)
- ii. **Research forum: British Institute of East Africa** – ‘*Kenya’s Devolution and land politics: A view from the Counties*’ (June 2016)

3.11 **Communication and Advocacy on Land matters**

Communication, public engagement and civic education are critical to successful delivery of services in the land sector. The Commission works daily contact with its stakeholders whether it is Government institutions, civil society organizations, and the community sector among other players. For the CLMBs key area of focus has been community sensitization on various land laws and land transaction processes and promotion of traditional dispute resolution methods to solving land conflicts.

a. *Social media growth*

In FY 2015/2016, by constantly engaging audiences on social media, the communications team grew our social media following considerably thus giving the Commission a much greater audience for our communication. Our Twitter followers grew to 1,278 followers while our Facebook audience grew to 10,560 by the end of December 2015. These numbers are approximately three times what they were in 2014.

b. *Media coverage*

The Commission received unprecedented media coverage last year with over 3,400 media mentions over the year in local, regional media and international. The coverage included a series of comprehensive radio and television interviews conducted with the Commissioners, CEO and some CLMB Secretaries. The increased media engagement has given the Commission opportunities to engage with the public and allowed the Commission to provide in-depth insights on land reform, better land governance, equitable land rights and devolution in Kenya. The Ford Foundation with funding to Burness Communications was

able to facilitate a publication on Public land. The piece '*Land Grabbers Haunt Kenya's Schools*' has been published by Africa Report online on this link: <http://www.theafricareport.com/East-Horn-Africa/land-grabbers-haunt-kenyas-schools.html>

c. Partnerships with media

In order to build the capacity of journalists to report on matters to do with the land sector the Nation TV ran a series on 'Land in Kenya'. The Kenyan media has been pro-active in reporting land matters e.g. the Community Land Bill.

d. Advocacy

During the reporting period the Commission sensitized the public through land clinics, land forums, trainings and dissemination of thematic IEC materials. Some of the key advocacy forums are summarized below;

- i. ASK shows and trade fairs in Nairobi, Mombasa, Eldoret, Nyeri, Kitale and Baringo the Commission show cased its products and conducted mini land clinics.
- ii. The Commission also sensitized members of the public during the Kitui and Baringo investment conferences (September and November 2015 respectively).
- iii. In partnership with Action Aid and World Vision Kenya the Commission sensitized MCAs and CLMB members from Baringo County on policy formulation (September 2015).
- iv. MUHURI and Haki yetu NGOs supported training of CLMB members from Kilifi, Kwale, Lamu, Tanariver and Taita Taveta in December 2015 and Machakos, Kitui, Isiolo, Kajiado and Makueni counties in May 2016.
- v. In partnership with Action Aid the Commission conducted community dialogue forums in Kajiado, Kilifi, Baringo, Taita Taveta and Isiolo counties in November and December 2015
- vi. In partnership with Reconcile, MPIDO, Haki-Jamii and Action aid the Commission sensitized the Coastal region Parliamentary and the

Pastoralist Parliamentary on new and existing land statutes in October 2015

- vii. In Partnership with Kituo Cha Sheria the Commission sensitized Coast Civil society groups and CBOs during a Coast annual land summit, which took place on December 2015.
- viii. During the 15th Lamu Annual Cultural festival on 26th November 2015, the NLC set up a land clinic to showcase its services, sensitize people on land issues, and to answer to pertinent questions on land matters.
- ix. The Commission also participated in radio (with CLMBs e.g. West Pokot) and TV talk shows to interact with Kenyans in an attempt to answer and respond to land related questions.
- x. The Commission undertook the production of various communication products including, brochures and branded items.

3.12 Operations and Support services

The Commission's operations and support services continues to ensure the effective provision of services through the efficient management of the Commission's Human Resources, Financial Administrative processes. The operations and support services have also improved in terms of recruiting more staff numbers (280 to over 500 doubling from FY 2014/2015), developing staff competencies through training programs and donor funding increasing funding levels in various areas.

a. Human Resource Management

The Human Resource Directorate supported the recruitment of 300 new staff members. This will infuse the Commission with new competencies and skills that will help in the achievement of the strategic direction. However there is still need for the recruitment of more land administration officers, surveyors, land valuers and taxation officers and researchers to help strengthen the CLMBs and Commission's work in the counties. The Commission has worked with the Salaries and Remuneration Commission and PWC on staff matters. The Commission has also seen to working with over 60 interns from various Universities in Kenya.

b. Finance and Risk Management

The Commission had its financial audit conducted in FY 2014/2015, which concluded that the Commission had complied in all matters in respect to the requirements. The audit is a compulsory requirement by the Government of Kenya. A number of internal policies were reviewed including the Complaints Handling Mechanism, the Service Charter and the Health and Safety Policy. These policies are being reviewed to align them to legal and regulatory requirements and will be reviewed by the Commission necessary committees.

c. Administration

The FY was marked by improvements in the working spaces (offices) of the 47 CLMBs. The Commission received 3 vehicles for its work from FAO (project on Land tenure Security) and Kenya Railways (SGR project). This was a slight improvement on the transportation challenges in particular the out-sourced services which were quite unreliable.

3.13 Partnership with stakeholders

The FY under review was a successful year for the Commission with regard to partnerships and collaborations. The NLC frequently interacts with its stakeholders, the community and other Government institutions. The Commission has worked with key organizations namely FAO, ACT, Action Aid Kenya, Kenya Land Alliance, Reconcile, Haki Jamii, Pamoja Trust, Kituo Cha Sheria, Muhuri, Haki Yetu, Ujamaa, World Vision Kenya, WWF among other stakeholders.

3.13.1 FAO Project

Food Agriculture Organization of the United Nations (FAO) together with National Land Commission (NLC) is in the process of implementing a project on Support for land and Natural Resources Governance in Communal Lands of Kenya. The main objective of the project is to support the government's effort to secure and improve equitable access to land and natural resources for food security and socio-economic development in the Arid and Semi-Arid Lands (ASALs). The project is on going for the next four years (2016- 2020).

3.13.2 Universities

The Commission has worked with Dedan Kimathi University of Technology to develop open source pilot LADM. This solution has been implemented as an adaptation of the internationally accepted model in land administration and it can be used to upscale county land information management. Other universities like Technical University; Jomo Kenyatta University of Agriculture and Technology University of Nairobi and Moi University have provided important library resources for Research purposes.

3.13.3 Counties

The Commission has collaborated with County Governments in most of its work. The land that the Commission is mandated to manage rests in the counties and has worked together in the following selected activities:

- i. Completed survey of 159 village beneficiaries in Mkokoni settlement scheme in Lamu County with the support of the Lamu CDF.
- ii. Under the NLIMS programme the Commission has worked with Nyeri County Government on supporting the County's data conversion efforts. This has helped in supporting the development of a County GIS laboratory to serve as the engine for spatial data conversion in the County.
- iii. The Commission's Consultative meeting with partners and stakeholders in Nakuru to develop working modalities and internalize the implications of the constitution of Kenya 2010, in the management of Natural Resources and environment (Nakuru County)

3.13.4 Non State Actors

- i. The Commission has collaborated with the Grassroots Organizations Operating Together in Sisterhood (GROOTS) Kenya Chapter in its efforts to have communities safeguard their Public land resources. GROOTS-Kenya has already undertaken community led participatory GIS mapping of Public land in Lari Constituency in Kiambu County.
- ii. The World Bank partnered with the Commission on a working trip

to Ghana's Land Commission that created a forum for exchanging views, perspectives, experiences, knowledge and understanding of the land reform process within sub-Saharan Africa. The visit was also important in fostering partnerships and linkages towards strengthening land reform processes in Africa.

- iii. PROCASUR Organization in collaboration with GLTN and UN-HABITAT funded staff from the Commission for training on *'Inclusive Business Models in Securing Land Rights'* in Kampala, Uganda. The training was important in advancing the dialogue on land, agriculture and business models towards secure resource land rights, capacity building in land research and promotion of linkages between the Commission and research organizations as well as land stakeholders.

CHAPTER FOUR

CHALLENGES AND RECOMMENDATIONS

Introduction

This section of the report presents a summary of the overall challenges in the implementation of the mandate and functions of the Commission as stipulated in the Constitution; NLP 2009; NLC Act; Land Act; Land Registration Act and the necessary statutory requirements.

1. Operational/ Administrative Challenges

From July 2015, the Commission employed over 50% of its current staff. In particular, The handicaps in operationalization of the CLMBs were in several areas. There were delays in establishing Boards in some counties (see report on implementation of CLMBs structure country wide). Some county governments failed to cooperate to facilitate establishment of the CLMBs in the respective counties. The officers lack adequate office space. Some operate from shared offices.

Recommendation

Creating a good rapport with all stakeholders on land and in regard to with the NLC structures in the Counties.

a. Institutional challenges

These include shortage of technical staff (capacity) to backstop the headquarters work and CLMBs operations. For instance most NLC county offices do not have Land Administration Officers, land use planners, surveyors, natural resources and research staff to advise the CLMBs.

Recommendation

Institutional skill competencies and capacity building particularly in handling land matters. The Commission should build its staff capacity in various aspects of land management and administration, research, valuation and taxation and natural resources.

b. Transitional Challenges

The transitional change is at a slow pace especially when it comes to accessing files which are available in the Lands Registries thus the Commission has managed to access a few documents due to challenges in accessing supporting attributed data and some digitized parcels that do not have ownership and other related information attached.

Recommendation

There should be clear formulated guidelines on how land information will be accessed and shared amongst these two land agencies, which will avoid confusion and as a result will enhance cooperation between these two land agencies

2. Policy /Legislative Challenges

Despite very clear policy and constitutional backing, the Commission has spent close to three years trying to get a key partner in the land sector to appreciate the Commission's critical space in land administration and management. The deliberate misinterpretation of roles has caused confusion as to who was responsible for which mandate. This challenge has persisted even after the Supreme Court delivered an advisory in December 2016. In addition to these challenges, the Commission has noted increased reluctance by state agencies to observe the seven principles of land management as anchored in the National Land Policy.

Recommendations

There is need for the various arms of Government to respect each other's mandates and also endeavour to consult, partner, cooperate and

collaborate in matters land and as contemplated in Articles 6 and 189 of the Constitution. The development of a framework for working together is important combined with the use of result findings to influence policy direction in the land sector. The exercise of mutual respect in working with the National and County governments to offer services to the public is critical.

a. Mechanism towards resolving land conflict

With the many court cases (and the number is growing) there is an urgent need to fast-track the development and implementation of Traditional Dispute Resolution (TDR) mechanisms to further reduce land conflicts and land cases all over the Country.

Recommendation

This requires quite a huge amount of funding as these cases are spread throughout the Country, estimated at **Kshs.3 billion** in a period of 3-5 years. This will not only resolve the disputes at hand early but also save the colossal amounts of money public funds that would have been awarded to warring parties by the courts. The development of a legal framework that will entrench the role of Alternative Dispute Resolution (ADR) and Traditional Dispute Resolution (TDR) mechanism for resolution of land disputes to give effect to article 5(2) (f) of the National Land Commission Act, 2012 is urgent.

b. Limited Research in land matters

The Commission is committed to creating cutting-edge research, which supports development nationally. It is our commitment to the dissemination of that research that demonstrates the remarkable and measurable impact of our work. Progress in this area is however slow. Inadequate funding to carry out the critical mandate of ‘researching land and natural resources’ continues to persist.

Recommendation

The NLC and County governments and other non- state actors should prioritize and enhance supporting of research in land matters. This must include providing sufficient budget allocation for research.

c. Violation of Chapter 5 of the Constitution

There is increasing failure by some agencies working on land (directly or indirectly) not to observe the seven principles of land management. These principles are anchored within the NLP (2009) and the Constitution and failure to work along these principles is leading to violation of land governance and rights across Kenya.

Recommendation

All relevant authorities working with or on land to be required to enforce these principles in their activities.

3. Financial and Budgetary Constraints

The Commission has continued to face financial challenges owing to low budgetary allocation by government. This has constrained the Commission in undertaking planned activities the Commission had a deficit of Kshs 162.5 million during the period under review in its total allocated budget for the financial year .As a result the Commission was unable to undertake optimally some of its key activities because of inadequate transport, lack of visibility and awareness programmes, inadequate staff among others.

Recommendation

The Commission is mandated to collect revenue by sec 28 of the Land Act hence the urgency to appoint the Chief Executive Officer as a revenue collector.

4. Inadequate civic engagement and education

As part of the teething problems the CLMBs faced challenges in communication, advocacy, civic engagement and education. Members of public

are yet to fully comprehend the mandate of the Commission/ CLMBs vis-a-vis what was being done by the MoLHUD and local authorities in the previous dispensation.

Recommendation

National government, county governments and non-state actors should prioritize and enhance civic education and engagement programmes on land. A sufficient budget and increased partnership is vital.

5. Conclusion

- i. The Commission is a high performing and well-governed Independent Commission, with the Commissioners Board of Management providing strategic direction;
- ii. The Commission continues to achieve the majority of its annual targets;
- iii. The good absorptive capacity and management of finances is well done;
- iv. The Commission continued to become more of a national player in knowledge production and dissemination of land information;
- v. We thank the Parliamentary Committees on Land for the continued support to the Commission.
- vi. We thank the Cabinet Secretary – Ministry of Land and Physical Planning and the Principal Secretary and all MoLPP staff for their continued support.

‘The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little’

– Franklin D. Roosevelt

CHAPTER FIVE

**FINANCIAL REPORT AND STATEMENTS
FOR THE YEAR ENDED JUNE 2016**

Prepared in accordance with the Cash Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS)

a. STATEMENT OF RECEIPTS AND PAYMENTS (UNAUDITED)

	Note	2015-2016 Kshs	2014-2015 Kshs
RECEIPTS			
Exchequer Releases	1	1,470,600,000.00	1,234,100,000.00
Other Receipts	2	5,490,765.00	3,372,786.00
TOTAL RECEIPTS		1,476,090,765	1,237,472,786.00
PAYMENTS			
Compensation of Employees	3	692,028,938.90	465,702,954.00
Use of Goods and Services	4	435,353,902.20	535,275,993.00
Acquisition of Assets	5	348,410,672.80	236,821,346.00
TOTAL PAYMENTS		1,475,793,513.90	1,237,800,293.00
SURPLUS		297,251.10	(327,507)
<i>Note: Expenditure of funds received from other Government entities</i>			
Balance brought forward		2,036,900,940.70	293,395,600.00
Transfers from Other Government Entities	6	3,950,083,399.80	5,614,589,062.00
Payments on behalf of other Govt. entities	7	(2,883,817,601.45)	(3,871,083,721.00)
Balances due to other Govt. entities		3,103,166,739.05	2,036,900,940.70

The Commission received the above funds from other Government entities to be used to compensate persons affected by compulsory acquisition of their land by government for Public uses like road expansion, Standard Gauge Railway etc.

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The Commission financial statements were approved on 31st August 2016 and signed by:

Secretary/CEO

Director Finance and Administration

b. STATEMENT OF FINANCIAL ASSETS AND LIABILITIES **(UNAUDITED)**

	Note	2015 - 2016	2014-2015
		Kshs	Kshs
FINANCIAL ASSETS			
Cash and Cash Equivalents			
Bank Balances	8	3,103,463,990.20	2,109,100,005.00
Accounts Receivables – Outstanding Imprests	10	6,718,813.00	16,749,910.00
Total Financial Assets		<u>3,110,182,803.20</u>	<u>2,125,849,915.00</u>
Financial Liabilities			
Accounts Payables – Deposits and retentions		3,103,166,739.05	2,036,900,940.70
Net Financial Position Represented by		<u>7,016,064.15</u>	<u>88,948,974.30</u>
Fund Balance b/ fwd	9	88,948,974.00	382,672,081.00
Surplus/Deficit for the Year		297,251.10	327,507.00
Prior year adjustments	12	(82,230,160.40)	
NET FINANCIAL POSITION		<u>7,016,064.15</u>	<u>382,344,574.00</u>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The Commission financial statements were approved on 31st August 2016 and signed by:

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Director Finance and Administration

c. STATEMENT OF CASHFLOW (UNAUDITED)

		2015 - 2016	2014 - 2015
		Kshs	Kshs
Receipts for Operating Income			
Exchequer Releases	1	1,470,600,000.00	1,234,100,000.00
Transfers from Other Government Entities	6	3,950,083,399.80	5,614,589,062.00
Other Revenues	2	5,490,765.00	3,372,786.00
		5,426,174,164.80	6,852,061,848.00
Payments for Operating Expenses			
Compensation of Employees	3	(692,028,938.90)	(465,702,954.00)
Use of Goods and Services	4	(435,353,902.20)	(535,275,992.85)
Expenses-On transfers from other Govt. entities	7	(2,883,817,601.45)	(3,871,083,721.00)
		(4,011,200,442.55)	(4,872,062,667.85)
Net Cash flow from Operating Activities			1,979,999,180.15
		1,414,973,722.25	
CASHFLOW FROM INVESTING ACTIVITIES			
Acquisition of non- financial Assets	6	(348,410,672.80)	(236,821,346.35)
Net Cash flow from Investing Activities		1,066,563,049.45	(236,821,346.35)
NET INCREASE IN CASH AND CASH EQUIVALENT		1,066,563,049.45	1,743,177,834.00
Cash and Cash Equivalent at BEGINNING of the Year		2,125,849,914.56	382,672,081.00
Cash and Cash Equivalent at END of the Year		3,105,887,907.20	2,125,849,915.00

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The Commission financial statements were approved on 31st August 2016 and signed by:

Secretary/CEO

Director Finance and Administration

**D. SUMMARY STATEMENT OF APPROPRIATION:
RECURRENT AND DEVELOPMENT COMBINED (UNAUDITED)**

Receipt/ Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation
	a	b	c=a+b	d	e=c-d	f=d/c %
RECEIPTS						
Tax Receipts						
Social Security Contributions						
Proceeds from Domestic and Foreign Grants						
Exchequer releases	1,540,565,410	(11,240,000.00)	1,529,325,410.00	1,470,600,000.00	58,725,410.00	96%
Transfers from Other Government Entities						
Proceeds from Domestic Borrowings						
Proceeds from Foreign Borrowings						
Proceeds from Sale of Assets						
Reimbursements and Refunds						
Returns of Equity Holdings						
Other Receipts			5,490,765.00			

Receipt/ Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation
	a	b	c=a+b	d	e=c-d	f=d/c %
PAYMENTS						
Compensation of Employees	447,000,000.00	191,060,000.00	638,060,000.00	692,028,938.90	53,968,938.90	108%
Use of goods and services	596,709,544.00	(52,300,000.00)	544,409,544.00	435,353,922.20	109,055,621.80	80%
Interest payments						
Subsidies						
Transfers to Other Government Units						
Other grants and transfers						
Social Security Benefits						
Acquisition of Assets	496,855,866.00	(150,000,000.00)	346,855,866.00	348,410,672.80	1,554,806.80	100%
Finance Costs, including Loan Interest						
Repayment of principal on Domestic and Foreign borrowing						
Other Payments						
TOTALS	1,540,565,410.00	11,240,000.00	1,529,325,410.00	1,475,793,533.90	53,531,876.10	96%

- (a) The revenue of Kshs 5.4 million included sale of tender documents and cash imprest surrenders.
- (b) Overutilization of Kshs 54 million on Compensation of Employees category. This was as a result of employment of staff without approval from the national treasury, however this was regularized.
- (c) The underutilization of Kshs 109 million on the category of use of goods and services arose from non-issue of exchequer in time resulting in pending bills of Kshs 85 million and the transfer of printing advertising and Public ity item to Government advertising agency leaving an utilized amount in the budget line of Kshs 20 million.

The Commission financial statements were approved on 31st August 2016 and signed by:

Secretary/CEO

Director Finance and Administration

E. SUMMARY STATEMENT OF APPROPRIATION: RECURRENT (UNAUDITED)

Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilization Difference	% of Utilization
	a	b	c=a+b	d	e=c-d	f=d/c %
RECEIPTS						
Tax Receipts						
Social Security Contributions						
Proceeds from Domestic and Foreign Grants						
Exchequer releases	1,101,365,410.00	138,760,000.00	1,240,125,410.00	1,182,100,000.00	58,025,410.00	95%
Transfers from Other Government Entities						
Proceeds from Domestic Borrowings						
Proceeds from Foreign Borrowings						
Proceeds from Sale of Assets						
Reimbursements and Refunds						
Returns of Equity Holdings						
Other Receipts		5,490,765.00	5,490,765.00		5,490,765.00	

Receipt/Expense Item	Original Budget a	Adjustments b	Final Budget c=a+b	Actual on Comparable Basis d	Budget Utilization Difference e=c-d	% of Utilization f=d/c %
PAYMENTS						
Compensation of Employees	447,000,000.00	191,060,000.00	638,060,000.00	692,028,938.90	53,968,938.90	108%
Use of goods and services	596,709,544.00	52,300,000.00	544,409,544.00	435,353,992.20	109,055,621.80	80%
Interest payments						
Subsidies						
Transfers to Other Government Units						
Other grants and transfers						
Social Security Benefits						
Acquisition of Assets	57,655,866.00		57,655,866.00	59,433,691.80	1,777,825.80	103%
Finance Costs, including Loan Interest						
Repayment of principal on Domestic and Foreign borrowing						
Other Payments						
TOTALS	1,101,365,410.00	138,760,000.00	1,240,125,410.00	1,186,816,522.90	53,308,857.10	

Notes

- (a) The revenue of kshs 5.4 million included sale of tender documents and cash imprest surrenders.
- (b) Overutilization of kshs 54 million on Compensation of Employees category. This was as a result of employment of staff without approval from the national treasury, however this was regularized.
- (c) The underutilization of kshs 109 million on the category of use of goods and services arose from non-issue of exchequer in time resulting in pending bills of kshs 85 million and the transfer of printing advertising and Public ity item to Government advertising agency leaving an utilized amount in the budget line of kshs 20 million..

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Director Finance and Administration

Notes

- i. Commission approval to collect management fees of a minimum of 1% of each advice.
- ii. Collection of Valuation Fees in accordance with Cap 532 for services rendered.
- iii. Creation of a land acquisition compensation fund.

**VI. SUMMARY STATEMENT OF APPROPRIATION:
DEVELOPMENT (UNAUDITED)**

Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation
	a	b	c=a+b	d	e=c-d	f=d/c %
RECEIPTS						
Tax Receipts						
Social Security Contributions						
Proceeds from Domestic and Foreign Grants						
Exchequer releases	439,200,000.00	150,000,000.00	289,200,000.00	288,500,000.00	700,000,000.00	100%
Transfers from Other Government Entities						
Proceeds from Domestic Borrowings						
Proceeds from Foreign Borrowings						
Proceeds from Sale of Assets						
Reimbursements and Refunds						
Returns of Equity Holdings						
Other Receipts						
PAYMENTS						
Compensation of Employees						

Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation
	a	b	c=a+b	d	e=c-d	f=d/c %
Use of goods and services						
Interest payments						
Subsidies						
Transfers to Other Government Units						
Other grants and transfers						
Social Security Benefits						
Acquisition of Assets	439,200,000.00	150,000,000.00	289,200,000.00	288,976,981.00	223,019.00	100%
Finance Costs, including Loan Interest						
Repayment of principal on Domestic and Foreign borrowing						
Other Payments						
TOTALS	439,200,000.00	150,000,000.00	289,200,000.00	288,976,981.00	223,019.00	0%

(a) The development vote was spent 100%, this was due to supplementary reduction of Kshs 150 million. It is worth noting that at year end Kshs 103 million was left as pending bills.

The Commission financial statements were approved on 31st August 2016 and signed by:

Secretary/CEO

Director Finance and Administration

ANNEXES