Affidavit Identifying the Joint Venture Arbitration Agreement

Educational sample 067 | Environment and Land Court at Nairobi

Educational reconstruction based on a reported Kenyan decision. This is newly drafted text, not an original court filing, not a matter handled by our team, and not proof that a sample argument succeeded. Parties, parcels and identifying case details in the specimen are replaced with bracketed fields. Do not sign, swear or file it without checking your facts, jurisdiction, applicable rules and court directions.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

CASE OR APPLICATION NO [insert appropriate reference]

[APPLICANT OR CLAIMANT] v [RESPONDENT OR DEFENDANT]

AFFIDAVIT

1. I, [authorised representative], make oath and state that I am [role] of [Defendant or project company]. I identify the contract records within my custody and distinguish them from legal argument.

2. The landowner and developer executed the joint-venture agreement for development of eighty apartments on [redacted land]. The complete executed agreement, including schedules and signature pages, is annexed as A1.

3. Clause 12 sets out the dispute-resolution process. I annex the complete wording with any negotiation steps, appointment mechanism and scope. I do not replace it with a shortened statement that every possible claim is arbitrable.

4. The project vehicle received the land as part of the arrangement. The transfer and project-company documents relied upon are annexed as A2. My evidence does not decide whether any transfer should ultimately be rescinded.

5. Approvals were obtained and the landowner complained that construction had not begun. The correspondence and meeting records available to me are annexed as A3. Their contents should be read on their own terms rather than treated as findings that either party breached the agreement.

6. The suit and accompanying motion ask for [accurately identify the relief]. I annex the filed copies and service record as A4. Any procedural participation by the Defendants is disclosed in the chronology, because it may matter to the requested statutory route.

7. Steps actually taken towards negotiation or arbitration are [describe and document, or state that the records do not show commencement]. I do not assert that an arbitrator was appointed or an arbitration commenced without supporting documents.

8. This affidavit supports [identify the application for which evidence is procedurally required]. It is not itself evidence that a preliminary objection can determine contested facts. The facts within my knowledge are true; company records and other sources are identified.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [Commissioner for Oaths]. The jurat must be completed by the authorised officer; this sample has not been sworn.

Use and evidence notes

The source ruling does not reproduce an original affidavit of this form. This is a reconstructed evidentiary component. An affidavit introducing disputed facts should be used with the proper application, not as a device to convert a factual dispute into a pure preliminary objection.

Source and procedural limits

A landowner entered a joint venture for eighty apartments, transferred land to a project vehicle and complained that construction had not commenced despite approvals and meetings. The defendants raised a preliminary objection based on clause 12 requiring arbitration. The plaintiff did not file submissions despite opportunities to do so.

The Court upheld the objection and struck out both the injunction application and suit without costs. It did not determine the merits of the alleged development breach. A court application expressly seeking lawful interim protection in aid of arbitration is a different question from a suit asking the court to determine the contracted dispute.

Arbitration Act sections 6, 7 and 10 and the actual agreement. A preliminary objection must turn on a pure point of law on the assumed or agreed facts. Where contractual scope, waiver or participation requires disputed evidence, the correct application procedure must be considered rather than calling it a pure objection.

[2023] KEELC 21440 (KLR) — 9 November 2023. Source: https://new.kenyalaw.org/akn/ke/judgment/keelc/2023/21440/eng@2023-11-09

The linked original judgment may identify parties. This public specimen omits their names. Historical allegations are not presented as established facts. A different result in your own proceedings is possible.