Developer Witness Statement on Excavation and Increased Project Costs

Educational sample 063 | 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]

WITNESS STATEMENT

1. I am [project officer] of the First Defendant. My role was [identify role and period]. I give evidence from the records I maintained or can authenticate, and identify matters outside my personal knowledge.

2. The investor’s agreement required a contribution of KES 8,700,000 and contained a provision concerning estimated project costs. I produce the complete signed agreement, rather than a price quotation detached from its adjustment provisions.

3. The project encountered excavation and foundation-cost issues associated with the site conditions. I identify the contemporaneous invoices, contractor records and project accounts supporting the additional expenditure. Any expert conclusion about soil conditions must come from an appropriately qualified witness or admissible report.

4. Materials and other project expenditure are recorded in [cashbook and income/expenditure account]. I explain who prepared those records, their dates and how invoices correspond to ledger entries. I do not claim that a quantity-surveyor report exists unless it is actually produced.

5. The additional contribution demanded from the Plaintiff was communicated by [identified email or letter]. I explain the calculation and whether notification addressed the reasons for the increase. The amount in that demand, rather than a differently described figure in a later summary, is the figure to be proved.

6. The investor disputed payment. The notice dated 17 April 2015 identified the consequence if payment was not made within seven days. I identify the communication and evidence of receipt, and the subsequent termination and resale records within my knowledge.

7. The Defendant’s records show the refund or alternative unit proposal and its status. I distinguish the original contribution, any proposed deduction and any sum actually repaid. A proposal does not establish that repayment occurred.

8. I ask the Court to read the project accounts alongside the contract and correspondence. My evidence supplies the factual record; whether adjustment, termination and a deduction were lawful is for the Court. I confirm the truth of facts within my knowledge.

DATED at [place] on [date]. [Signature of party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected party and address].

Use and evidence notes

Separate factual expenditure from contractual interpretation. Do not manufacture a missing expert report or attribute an unproved engineering opinion to an administrative witness. Preserve the ledger’s audit trail and electronic-evidence foundation.

Source and procedural limits

An investor paid KES 8,700,000 under a project development agreement. The developer required a further contribution, invoking a clause dealing with estimated project costs. The investor disputed the top-up and penalties. A notice dated 17 April 2015 preceded termination and resale of the unit. Project accounts, additional excavation and materials costs were discussed in evidence.

The Court accepted the contractual basis for cost adjustment and termination and refused specific performance of the unit already resold. It ordered refund of KES 8,700,000 with interest from seven days after the termination notice and awarded half the costs. The reasons refer to different top-up figures; a specimen must identify the actual demand rather than harmonise them by invention.

Read the project’s price-adjustment and termination provisions as a whole. Distinguish lawful adjustment from proved deductions and distinguish a refund remedy from an order affecting a later purchaser. A requested interest date or contractual penalty is not necessarily the date or rate ultimately awarded.

[2024] KEELC 3450 (KLR) — 24 April 2024. Source: https://new.kenyalaw.org/akn/ke/judgment/keelc/2024/3450/eng@2024-04-24

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.