



THE INSTITUTION OF SURVEYORS OF KENYA

Head Office:
10th Floor, Re-insurance Plaza,
Taifa Road/Aga Khan Walk,
P.O. Box 40707 00100, Nairobi.
Tel: 020 2214770

Mobile: 0724 929737/0737929737
Email: info@isk.or.ke
Web: www.isk.or.ke

PRESS STATEMENT

CONSTITUTION OF LAND CONTROL BOARDS

Our Concerns:

The Institution of Surveyors of Kenya (ISK) is concerned that the Cabinet Secretary in the Ministry of Land and Physical Planning has not re-constituted the land control boards close to two months after he dissolved all of them countrywide. In so doing, he created a vacuum in the sensitive and emotive sector of our economy that would have ripple effects both in the short and long terms. While we support the move to reconstitute these boards and streamline their operations, the Cabinet Secretary should have put in place mechanisms to remove such a gap, had he anticipated that this process would take long.

About Land Control Boards

Land control boards are mandated by the Land Control Act, Cap 302 to control among others sale, transfer, lease, charge and subdivision of agricultural land. The boards' consent is necessary to formalize any of these transactions.

Most of the agricultural land in Kenya is owned by Kenyans who depend on it for their livelihood through farming, leasing or selling. Therefore, the board come in handy and to a large extent facilitates their livelihoods and in their absence threatens their livelihood. The absence of the boards has stalled land transactions; it has also affected other critical sectors of the economy.

Deserving Kenyans and institutions are not able to invest or transact in agricultural land. The banks and other financial lending institutions are affected. In addition, land professionals are unable to facilitate land transactions. The longer the vacuum exists; the more the economy will be hurt and in addition giving room for further illegal land dealings.

Constitution of the land boards

As we speak, being the main professionals within the land sector, we fail to understand who the Cabinet Secretary is consulting on the boards' reconstitution. Our obvious thinking was that he would have involved professionals in the process. That seems not to be the case! Consultation of stakeholders is a constitutional requirement that ought not to be overlooked!

The boards are expected to consider economic development of land, intended use, nature of land and sufficiency of agricultural land while coming up with a decision to refuse or grant consent. Therefore, as the Cabinet Secretary seeks to have effective boards, we implore upon him to also incorporate the element of professionalism by incorporating the landed professionals who have requisite technical experience in the sector. This will ensure that the decisions arrived at by these boards are objective and reflect the spirit of land reforms within the sector.

Furthermore, the failure of the boards to deliver on their mandate has been attributed to insufficient funding. We learnt that some of the boards could not even access maps to guide their deliberations and therefore took longer to render a decision. The National Government should set aside adequate budgetary allocation to support these boards with basic materials and also capacity building of the board members.

Amendment of the Land Control Act, Cap 302

The Land Control Act was enacted in 1967, which is over 40 years. There have been several reforms in the sector in terms of legal and institutional framework during the

period. This Act therefore does not comprehensively address the existing concerns of the agricultural land in purpose and content. The Act for instance in Section 11 (2) stipulates that the decisions of the appeals board are final and cannot be questioned in any court of law. This makes them very powerful and therefore creates room for corruption and rent seeking so as to influence the issues of the he consent. The Act also refers to non-existent offices and institutions for examples Commissioner of Lands, provinces and District Officers.

Our Recommendations

From the foregoing, we recommend as follows:

- a) The Cabinet Secretary should constitute the boards as soon as possible and while doing so consider views from land professionals;
- b) Incorporate the land sector professionals in the new boards;
- c) The Ministry of Land and Physical Planning should begin the process of amending the Land Control Act, Cap 302 to conform to the constitution and existing legal framework.

Our Institution has the capacity. It's ready and willing to offer any necessary assistance on areas related to the recommendations.

Thank you.

Signed:


Secretary to the Council


Chairman to the Council