

**LEGAL NOTICE NO.....**

**THE NATIONAL CONSTRUCTION AUTHORITY ACT**  
*(No. 41 of 2011)*

**THE NATIONAL CONSTRUCTION APPEALS BOARD RULES, 2018**

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**THE NATIONAL CONSTRUCTION AUTHORITY ACT**  
*(No. 41 of 2011)*

**IN EXERCISE** of the powers conferred by section 28 of the National Construction Authority Act, the National Construction Appeals Board makes the following Rules —

**THE NATIONAL CONSTRUCTION APPEALS BOARD RULES, 2018**

Citation.           **1.** These Rules may be cited as the National Construction Appeals Board Rules, 2018.

Interpretation.       **2.** In these Rules, unless the context otherwise requires —

No. 41 of 2011.

“Act” means the National Construction Authority Act;

“appeal” means a suit filed with the Appeal Board;

“Appeals Board” means the National Construction Appeals Board established under section 27 of the Act;

“application” means a notice of motion application that is filed with the Appeal Board pending the determination of an appeal;

“appellant” means a person who has filed an appeal;

“applicant” means a person who has filed an application;

“Board” means the Board of the Authority established under section 7 of the Act;

“chairperson” means the Chairperson of the Appeals Board appointed under section 27(2)(a) of the Act;

“decision of the Appeals Board” includes an order, ruling, direction, award, interim relief and the judgement made by the Appeal Board;

“hearing” means a stage in the proceedings of an appeal or application where the Appeals Board —

- (a) records the evidence of a party;
- (b) hears the submissions of a party;
- (c) delivers a decision of the Appeal Board; or
- (d) does anything that is lawfully required of it in the presence of the parties to enable the Appeals Board to decide;

“interested party” means a person, state organ, government agency, county government or any other entity, who is directly involved or affected by an appeal or an application and intends to be enjoined to the appeal or application;

“officer” means an employee of the Board;

“pleading” includes a statement of appeal, a statement of response, a cross appeal, a preliminary objection, grounds of opposition, a notice of motion application and a replying affidavit;

“party” includes an appellant, applicant, respondent or an interested party;

“recognized representative” means a person authorized to represent a party in accordance with rule 8;

“Registry” means the place where all pleadings, supporting documents, and decisions of the Appeals Board are kept;

“respondent” means a person who has filed a response to an appeal or an application and includes the Board;

“Registrar” means the person appointed under rule 7;

“return of service” means a document indicating that service of a pleading or any other document was duly conducted by its maker in accordance with these Rules; and

“summons” means a notice requesting a party or a witness to appear for a hearing.

Objectives of these Rules.

**3.** (1) The overriding objective of these Rules shall be to facilitate the just, expeditious, proportionate and affordable resolution of appeals.

(2) A party to an appeal or an application or a recognized representative shall assist the Appeals Board to achieve the overriding objective of in sub rule (1) and to comply with its directions and orders.

Jurisdiction.

**4.** (1) The Appeals Board shall determine an appeal in relation to decisions of the Board.

(2) The Appeals Board shall hear and determine an appeal that is lodged within thirty days from the date of the decision of the Board that is being appealed against.

(3) The Appeals Board may make such decisions as may be necessary for the ends of justice or to prevent abuse of the process.

Role of the chairperson.

**5.** (1) The chairperson shall be responsible for presiding over the hearings.

(2) The chairperson may assign any role under these Rules to be personally performed by any member of the Appeals Board.

Role of the Registrar.

**6. (1)** The role of the Registrar shall be to —

- (a) establish and maintain the registry;
- (b) receive and keep custody of pleadings in accordance with these Rules;
- (c) certify a decision of the Appeals Board;
- (d) keep a record of the proceedings of the Appeals Board and such other records as the Appeals Board;
- (e) assess the costs awarded by the Appeals Board; and
- (f) undertake any duties assigned to him by the Appeals Board.

(2) The Registrar may, with the authorization of the Appeals Board, dispose of procedural or administrative matters in accordance to these Rules.

(3) All pleadings shall be lodged in the Registry.

Particulars to be recorded in the Register.

**7.** The Registrar shall keep a register of appeals and applications which shall contain the following particulars —

- (a) the identity of the parties;
- (b) the serial number of the appeal or application;
- (c) the date of an appeal or application;
- (d) the relief sought by an appellant or applicant;
- (e) the nature of an appeal or an application;
- (f) the decisions made the date thereof.

Recognised representatives

**8. (1)** A party may file or respond, to an appeal or an application, in person or be represented by —

- (a) an advocate of their choice; or
- (b) in case of a corporate body, an officer of the corporate body who is duly authorized in writing by such body.

(2) Despite sub rule (1), a party may substitute the person whom he has appointed as his recognised representative to any other person whom the party so desires in an appeal or application.

(3) An appointment of or a substitution of a recognized representative, shall be in Form NCAB1 set out in the First Schedule.

(4) Subject to sub rule (5), a party shall file at least five copies of an appointment of or a substitution of a recognized representative, with the Registry.

(5) A party shall ensure that there are sufficient copies of an appointment of, or a substitution of a recognized representative, to be served on every party.

(4) A party shall ensure that, within three days of service of an appointment of, or a substitution of a recognized representative, file a return a service in Form NCAB2 set out in the First Schedule.

Language of the Appeals Board.

**9.** (1) The language of the Appeals Board shall be English and Kiswahili.

(2) Despite sub rule (1), a party may make an application for orders allowing it to make a representation in a hearing in the Appeals Board in any language of his choice.

(3) An application under sub rule (2) shall be filed at least seven days before the hearing of the appeal or the application.

(4) The Appeals Board may, on its own motion, or on an application made under sub rule (2), avail an interpreter, during the hearing, at the cost of the applicant.

Statement of Appeal.

**10.** (1) A person who wishes to appeal to the Appeals Board shall file a Statement of Appeal that is signed by the appellant or the appellant's recognized representative in Form NCAB3 set out in the First Schedule.

(2) A Statement of Appeal shall contain —

- (a) the names and addresses of the parties;
- (b) the name and address of the appellant's recognized representatives (if any);
- (c) the facts and grounds on which the appellant relies, specifying the issues which are alleged to have been wrongly decided and the nature of the decision appealed against;
- (d) the reliefs sought;
- (e) a list of all the documents annexed to the statement of appeal;
- (f) any principle of policy, law or construction registration procedure that is relied on in the appeal; and
- (g) a list of witnesses.

(3) An appellant shall annex to a Statement of Appeal —

- (a) a copy of the written record of the decision being appealed against (if any);
- (b) the documents the appellant wishes to rely on during the hearing of the appeal;
- (c) witness statements;
- (d) a case summary;
- (e) an affidavit by the appellant verifying the facts contained in the Statement of Appeal and the authenticity of annexures filed therewith; and
- (f) the minutes of meetings, reports or proceedings, if any, which arrived at the decision being appealed against.

(4) Subject to sub rule (5), an appellant shall file at least five copies of a Statement of Appeal with the Registry.

(5) An appellant shall ensure that there are sufficient copies of a Statement of Appeal to be served on every party.

(6) On receipt of a Statement of Appeal, the Registrar shall —

- (a) acknowledge receipt by stamping on the face of the Statement of Appeal the date of receipt, which date must be the date of filing;
- (b) record the particulars of the appeal in the register of appeals;
- (c) assign a case number to the appeal and inform the parties of the case number of the appeal; and
- (d) advise the appellant of any other matter which the Registrar deems fit.

(7) An appellant shall, within seven days of filing a Statement of Appeal, serve the Statement of Appeal and the supporting documents on all the respondents.

(8) An appellant shall ensure that, within three days of service of the Statement of Appeal and its annexures, file a return a service in Form NCAB2 set out in the First Schedule.

Response to a  
Statement of  
Appeal.

**11.**(1) A respondent who intends to oppose an appeal shall, within fourteen days from the date of service of a Statement of Appeal, file a Statement of Response that is signed and dated by the respondent, or the respondent's recognized representative, in Form NCAB4 set out in the First Schedule.

(2) A Statement of Response shall contain —

- (a) the names and addresses of the parties;
- (b) the name and address of the respondent's recognized representative (if any);
- (c) a summary of the arguments of fact and law on which the respondent intends to rely;
- (d) a list of all the documents annexed to the Statement of Response; and
- (e) a list of witnesses.

(4) Subject to sub rule (9), a respondent shall lodge at least five copies of the pleadings and the annexures thereto with the Registry.

(5) A respondent may file grounds of opposition that is signed by the respondent or the respondent's recognized representative, in response to a Statement of Appeal.

(6) A respondent may file a preliminary objection that is signed by the respondent or the respondent's recognized representative, in response to a Statement of Appeal.

(7) A respondent may file a cross-appeal that is signed by the respondent or the respondent's recognized representative in Form NCAB3 set out in the First Schedule, in response to a Statement of Appeal.

(8) A respondent shall annex to their pleadings in response to an appeal —

- (a) the documents the respondent wishes to rely on during the hearing of the appeal;
- (b) witness statements;
- (c) a case summary; and
- (d) an affidavit by the respondent verifying the facts contained in the statement of response and the authenticity of the annexures filed therewith.

(9) A respondent shall ensure that there are sufficient copies of the pleadings in response to an appeal to be served on every party.

(10) On receipt of a pleading in response to an appeal, the Registrar shall —

- (a) acknowledge receipt by stamping on the face of the pleading the date of receipt, which date must be the date of filing;
- (b) record the particulars of the response in the register of appeals; and
- (c) advise the respondent of any other matter which the Registrar deems fit.

(11) A respondent shall, within seven days of filing a pleading in response to an appeal, serve the pleading in response to an appeal and the annexures thereto on all the parties of the appeal.

(12) A respondent shall ensure that, within three days of service of the pleadings in response to an appeal and its annexures, file a return a service in Form NCAB2 set out in the First Schedule.

(8) Where no pleadings in response to an appeal is filed by a respondent, the Appeals Board may set a date for the hearing of the appeal or issue such orders or directions as it may deem appropriate in the circumstances.

Dismissal.

**12.** (1) On an application made by a party to the appeal or on its own motion, the Appeals Board may dismiss an application or an appeal if the Appeals Board determines that —

- (a) the subject matter for determination is outside the jurisdiction of the Appeals Board;

- (b) the appeal is frivolous, scandalous, vexatious, trivial or an abuse of the process of the Appeals Board; or
- (c) the application or appeal was made in bad faith or for an improper purpose; or
- (d) the pleadings do not disclose a reasonable cause of action.

(2) Where the Appeals Board dismisses an appeal or an application on its own motion, the Appeals Board shall notify the parties in writing giving reasons for the decision within seven days of its decision.

(4) If the appellant does not set the appeal down for a case management conference within a period of thirty days being served with the pleadings in response to an appeal, the respondent may —

- (a) apply for the appeal to be dismissed for want of prosecution; or
- (b) set the appeal down for a case management conference.

Additional documents and additional witnesses. Amendment of pleadings.

**13.** A party who intends to annex additional documentary evidence or call up additional witnesses shall apply for leave from the Appeals Board.

**14.** A party who intends to amend the pleadings that the party has filed, may apply for leave from the Appeals Board.

Joinder of parties.

**15.** (1) Where it appears to the Appeals Board, on an application or on its own motion, that it is necessary that a person becomes a party to an appeal or an application, the Appeals Board may order that person to be enjoined as a party and may directions for the delivery and service of the pleadings to the person.

(2) A person who has sufficient interest in the outcome of an appeal may apply to the Board for leave to be enjoined in the proceedings prior to the hearing of the appeal.

(3) An application for leave to be enjoined shall contain —

- (a) the names of the parties to which that application relates;
- (b) the name and address for service of the person wishing to join or intervene;
- (c) the grounds the applicant relies on to be enjoined;
- (d) a copy of every document on which the person relies; and
- (e) the relief sought.

(4) The applicant shall, within seven days from the date of filing, serve a copy of the application on every party to the proceedings.

(5) A party who has been served under sub rule (4) may, within seven days of service, file a response in accordance with rule 11.



(6) A party who serves pleadings in accordance with this rule shall ensure that they file a return of service in Form NCAB2 set out in the First Schedule, within three days of serving the pleading.

Consolidation of appeals.

**16.** (1) The Appeals Board may, on its own motion or on an application, consolidate two or more appeals where —

- (a) the appeals involve the same or similar issues of fact or law; or
- (b) the Appeals Board considers it practical and appropriate to proceed with the issues raised in the appeals or applications simultaneously.

(2) The Appeals Board shall invite the parties to the proceedings to make their submissions as appropriate when determining the application.

Withdrawal of an appeal.

**17.** (1) Where no pleadings in response to an appeal has been filed, an appellant may, at any time before the determination of an appeal, give an oral or written notice to the Appeals Board of their intention to withdraw an appeal.

(2) An appeal against which a response has been filed shall not be withdrawn except by consent of both parties and an order made by the Appeals Board.

Case management conference.

**18.** (1) The Appeals Board shall set an appeal down for a case management conference within thirty days after all the parties have filed their pleadings.

(2) The Appeals Board shall issue a notice to all the parties when it sets a case management conference in accordance with sub rule (1).

(3) Despite sub rule (1), the Appeals Board shall encourage the parties of an appeal to conduct an independent case management conference at least fifteen days after all the parties have filed their pleadings.

(4) Despite sub rule (3), on an application by a party of an appeal, the Appeals Board may extend the period within which an independent case management conference may be conducted.

(5) While conducting a case management conference, the Appeals Board may —

- (a) enquire from the parties on the contents of their pleadings;
- (b) direct the parties to make written or oral submissions on certain aspects of the hearing;
- (c) direct for documents relating to the appeal to be availed to a party who requires them;
- (d) make a direction on the hearing of an application;
- (e) make a direction on the hearing of a preliminary objection;
- (f) make a direction on the hearing of the appeal;

- (g) summon the parties or their recognized representatives to appear before the Appeals Board; or
- (h) make any other direction on the hearing of an appeal which the Appeals Board deems necessary.

Quorum of the Appeals Board.

**19.** (1) The quorum of the Appeals Board at a hearing of an appeal or an application shall be the three members of the Appeals Board.

(2) The chairperson shall preside at the hearing of an appeal and an application.

Conduct of a hearing.

**20.** (1) The Registrar, in consultation with the Chairperson, shall set the time and date of a hearing of an application or an appeal.

(2) At the beginning of a hearing, the Chairperson shall direct the parties of the order in which they shall argue the appeal.

(3) The testimony of a witness may be adduced at a hearing of an appeal orally or, if the Appeals Board so orders, by an affidavit or a written statement.

(4) A party to an appeal may apply to the Appeals Board to issue summons to —

- (a) a witness;
- (b) a deponent of an affidavit;
- (c) an author of a written statement; or
- (d) an expert,

to personally attend or to produce a document or exhibit at the hearing of an appeal.

(5) Unless the Appeals Board determines otherwise, an applicant under sub rule (4) shall pay the witness fees, and travel and subsistence allowances to a person summoned at a reasonable rate determined by the Appeals Board.

(6) The Appeals Board, on an application made pursuant to sub rule (4) or on its own motion, may issue a summons in Form NCAB5 set out in the Schedule.

(7) The summons issued under sub rule (6) shall be signed by the chairperson and shall —

- (a) require the person named therein to appear before the Appeals Board;
- (b) state the date and time when the person named therein shall appear; and
- (c) sufficiently identify any document or exhibit that is required to be produced by the person named therein.

(8) The Appeals Board shall administer an oath or accept an affirmation from any person called or summoned to give evidence before it.

(9) The Appeals Board may conduct a hearing of an appeal or application in the absence of any party to an appeal who was served with a summons if —

- (a) the party has notified, with reasons, the Appeals Board that the party would not be available to attend the hearing;
- (b) the party fails to appear for the hearing without providing any reasons; or
- (c) the Appeals Board is satisfied that, the reasons stated in accordance with paragraph (a) are not of such a nature as to prevent the attendance of the party.

(10) The Appeals Board may, at a hearing of an appeal and if it is satisfied, permit a party to rely on grounds not stated in their pleadings where such grounds were not within the knowledge of the party at the time of lodging their pleadings.

(11) Where an exhibit is offered in evidence, it shall be marked for identification during the hearing of the Appeal, and shall remain in the custody of the Appeals Board until the determination of the appeal.

(12) Upon the conclusion of a hearing of an appeal, the parties may lodge written submissions with the Appeals Board.

(13) A party who files written submissions in accordance with sub rule (12), shall ensure that there are sufficient copies of the written submissions to serve all the parties of the appeal.

(14) A party who serves summons or written submissions in accordance with this rule shall ensure that they file a return of service in Form NCAB2 set out in the First Schedule within three days of serving the written submissions.

Alternative  
Dispute  
Resolution.

**21.** (1) The Appeals Board shall encourage the parties to an appeal to engage in alternative dispute resolution.

(2) Where the parties to an appeal comply with sub rule (1), either of the parties shall lodge the decision made with the Appeals Board within seven days after the decision is made.

(3) A decision lodged with the Appeals Board in accordance with sub rule (2), shall be adopted as the decision of the Appeals Board.

(4) Where the Appeals Board makes a decision under this rule, it shall issue an Order in Form NCAB6 set out in the First Schedule.

Consent orders.

**22.** (1) Where the parties of an appeal agree to settle an appeal out of court, either wholly or in part, a party to the appeal may apply to the Appeals Board for a consent order.

(2) A party who makes an application under sub rule (1) shall annex to the application —

- (a) a draft consent order; and
- (b) a statement that is signed by all the parties to the appeal containing the agreement that was reached by all the parties to the Appeal.

(3) The Appeals Board may, after ensuring that the consent is within the law, adopt the consent order as a decision of the Appeals Board.

(4) An Order made by the Appeals Board under this rule shall be in Form NCAB6 set out in the First Schedule.

Determination of an appeal.

**23.** (1) A decision on an appeal or an application shall be by a majority of votes of the members.

(2) The Appeals Board may make the following determinations in an appeal —

- (a) affirm the decision of the Board;
- (b) direct the Board to undertake an action or decision with regard to the appeal under the Act; or
- (c) quash the decision of the NCA Board.

(3) The decision of the Appeals Board shall be recorded in a document which shall also contain a statement of reasons for its decision and which shall be signed and dated by the Chairperson and may be delivered orally.

(4) Where the Appeals Board makes a decision under this rule, it shall issue an Order in Form NCAB6 set out in the First Schedule.

Costs.

**24.** (1) The Appeals Board may, at any stage of the hearing of an appeal or an application, make an order for the payment of costs in respect including an order for security for costs.

(2) The Appeals Board may, the order made under sub rule (1), direct that the sum be paid as a lumpsum or in such proportion as it deems just.

(3) The cost awarded under sub rule (1) shall be assessed by the Registrar.

(4) The order made under sub rule (1) may include the expenses incurred by a witness or an expert.

(5) An Order made by the Appeals Board under this rule shall be in Form NCAB6 set out in the First Schedule.

Record of proceedings and decisions.

**25.** (1) The Registrar shall keep a record of proceedings and decisions of the Appeals Board in all appeals and applications.

(2) A party to an appeal or an application may apply to the Registrar for a copy of the record of proceedings and decisions of the Appeals Board.

Applications.

**26.** (1) The appellant, when filing the Statement of Appeal, may apply for orders to have an appeal be heard on a priority basis, or requesting for an early hearing date for the appeal, by filing a notice of motion application.

(2) A party to an appeal or an application may apply for dismissal of an appeal or an application, by lodging a notice of motion.

(3) A party to an appeal or an application may apply for leave to annex additional documentary evidence or call up additional witnesses, by lodging a notice of motion application.

(4) A party to an appeal or an application may apply for leave to amend their pleadings, by lodging a notice of motion application.

(5) A party to an appeal or an application may apply for consolidation of appeals, by lodging a notice of motion application.

(6) A person may apply for leave to be enjoined as a party to an appeal or an application, by lodging a notice of motion application.

(7) A party may apply, by lodging a notice of motion application for an order to —

(a) suspend, in whole or part, the effect of any decision of the Board which is the subject matter of an appeal; or

(b) grant any remedy which the Appeals Board would have granted in the final determination of an appeal, for a reasonable period or until the matter is determined.

(7) A notice of motion application shall be in Form NCAB5 set out in the First Schedule.

**Commented [Sb1]:** This is a new provision.

(8) An applicant shall annex a supporting affidavit to a notice of motion application stating the grounds and reasons upon which the orders sought are based on.

(9) Where the Appeals Board considers it necessary, it may hear a notice of motion application in the absence of a respondent.

(10) A notice of motion application heard in accordance with sub rule (9), may be heard by at least two members of the Appeals Board.

(11) Despite sub rule (10), a notice of motion application shall be heard by all members of the Appeals Board.

(12) Where a notice of motion application is made during the hearing of an appeal, the Appeals Board, the application may be heard and determined by the chairperson or any other member the Chairperson designates to determine it.

(13) An applicant shall ensure that a notice of motion application, is served on all parties within seven days of lodging the application.

(14) A party who intends to oppose an application may file and serve a replying affidavit, grounds of opposition or a preliminary objection, within three days of being served with an application.

(15) Despite sub rule (14), the Appeals Board may hear a party to an application who has not filed a replying affidavit, grounds of opposition or a preliminary objection if the Appeals Board deems it just.

(16) A party to a notice of motion application who does not intend to appear for the hearing of an application may lodge written submissions of their arguments and serve a copy thereof on the other parties to the application.

(17) A party shall ensure that, within three days of service of the pleadings or written submissions under this rule shall file a return a service in Form NCAB2 set out in the First Schedule.

(18) An Order made by the Appeals Board pursuant to an application made under this rule shall be in Form NCAB6 set out in the First Schedule.

Interim orders.

**27.** (1) Where the Appeals Board considers it necessary, it shall make such orders or give such directions as it considers appropriate to —

- (a) prevent substantial loss or irreparable damage to a particular person or category of persons; or
- (b) protect the public interest.

(2) When making an order under this rule, the Appeals Board shall consider all the relevant circumstances, including —

- (a) the urgency of the matter;
- (b) the possible effect on the applicant if the relief sought is not granted; and
- (c) the possible effect on any interested party if the relief is granted.

(3) An order under this rule may be made against a person who is not a party to the proceedings, provided that such a person shall be enjoined as an interested party to the appeal or application, as the case may be.

(4) An interim order made in the absence of a respondent shall not be for a period exceeding fourteen days.

(5) Despite sub rule (4), the Appeals Board may —

- (a) extend period of interim orders;
- (b) give directions as to costs, security for costs or an undertaking on the applicant, to prevent an abuse of process and in the interests of justice; and
- (c) grant such further orders and directions as it deems just.

(6) An Order made by the Appeals Board under this rule shall be in Form NCAB6 set out in the First Schedule.

Further Appeals. **28.** A party who is aggrieved by a decision of the Appeals Board may appeal to the High Court within thirty days from the date of that decision.

Fees. **29.** The Appeals Board may levy fees for the services offered at the Registry as set out in the Second Schedule.

**FIRST SCHEDULE**

**FORMS**

FORM NCAB1

(r. 8(3))

**REPUBLIC OF KENYA  
IN THE NATIONAL CONSTRUCTION APPEALS BOARD  
APPEAL/APPLICATION\* No ..... OF 20.....**

.....**APPELLANT/APPLICANT**

**-VERSUS -**

.....**RESPONDENT**

**AND (where applicable)**

.....**INTERESTED PARTY**

**APPOINTMENT/SUBSTITUTION\* OF RECOGNISED REPRESENTATIVE**

I.....being the Appellant/Applicant/Respondent/Interested Party\* authorise .....to appear on my behalf in the above Appeal/Application.

I authorise that service of all pleadings shall be effected upon my recognised representative.

**SIGNED ON THIS.....DAY OF.....20.....**

.....  
**APPELLANT/APPLICANT/RESPONDENT/INTERESTED PARTY\***

.....  
**REPRESENTATIVE'S NAME AND ADDRESS**

**TO BE SERVED UPON:**

Insert the names and address of the other parties to the Appeal/Application.

Note

\*Delete whichever is not applicable.

.....

FORM NCAB2

(r. 8(4), 10(8), 11(12), 15(6), 20(14), 26(17))

**REPUBLIC OF KENYA  
IN THE NATIONAL CONSTRUCTION APPEALS BOARD  
APPEAL No ..... OF 20.....**

.....**APPELLANT**

**-VERSUS -**

.....**RESPONDENT**

**AND (where applicable)**

.....**INTERESTED PARTY**

**RETURN OF SERVICE**

I .....(insert name of person who served) of P. O. Box.....being an Appellant/Applicant/Respondent/Interested Party/Recognised Representative/Process Server\* make oath and state as follows:

1. THAT.....(insert name of party being served) was known to me/identified\* for me by.....(insert name of person who identified the party) and admitted that he/she/they\* were the.....(insert the party being served).
2. THAT on the .....day of.....20.....at.....(insert time of service) I served the.....(insert the name of the pleading/summons/written submissions being served\*) by tendering a copy of the same to .....(insert name of party being served) and required an acknowledgment of receipt from the..... (insert the party being served) on the original of the ....(insert the name of the pleading/summons/written submissions being served\*).
3. THAT .....(insert name of party being served) acknowledged/denied\* receipt of the .....(insert the name of the pleading/summons/written submissions being served\*) by stamping/signing\* on the face of the original copy thereof and



annexed herewith is a copy of the stamped/signed ....(insert the name of the pleading/summons/written submissions being served\*).

4. THAT not being able to find the .....(insert name of party being served), on.....day of .....20.....at.....(insert time of attempted service), I served the .....(insert the name of the pleading/summons/written submissions being served\*) on .....(insert name of the served person) being an adult family member residing with/authorised officer/employee\* of the ..... (insert the party being served) who acknowledged/denied\* receipt of the .....(insert the name of the pleading/summons/written submissions being served\*) by stamping/signing\* on the face of the original copy thereof and annexed herewith is a copy of the stamped/signed ....(insert the name of the pleading/summons/written submissions being served\*).

*(Insert this paragraph if necessary)*

5. THAT not being able to find the .....(insert name of party being served), on.....day of .....20.....at.....(insert time of attempted service), or an adult family member residing with/authorised officer/employee\* of the ..... (insert the party being served), I affixed a copy of the ....(insert the name of the pleading/summons/written submissions being served\*) to the outer door/conspicuous place\* of .....(insert name of party being served) being the house on which the ..... (insert the party being served) ordinarily resides/carries on business/works for gain and which was identified to me by.....(insert name of person who identified the party).

*(Insert this paragraph if necessary)*

6. THAT the averments in this Affidavit are true.

Sworn by

.....  
(insert name of the person who served).....(insert signature of the person who served)  
On this.....day of.....  
20.....

In the presence of  
.....  
Commissioner for Oaths

Note  
\*Delete whichever is not applicable.

.....

FORM NCAB3

(r. 10(1), 11 (7))

**REPUBLIC OF KENYA**  
**IN THE NATIONAL CONSTRUCTION APPEALS BOARD**  
**APPEAL No ..... OF 20.....**

.....**APPELLANT**

**-VERSUS -**

.....RESPONDENT

**AND (where applicable)**

.....INTERESTED PARTY

**STATEMENT OF APPEAL/CROSS-APPEAL\***

**IN THE MATTER OF AN APPEAL UNDER SECTION .... OF THE NATIONAL CONSTRUCTION AUTHORITY ACT**

7. TAKE NOTICE that the Appellant/Respondent/Interested Party appeals against the decision of the Board of the National Construction Authority made on the.....day of.....20.....

8. The Appeal/Cross-Appeal\* relates to .....

9. The decision appealed against is .....

10. The Appeal/ Cross-Appeal\* is based on the following grounds: (set out each ground concisely)

- a. ....
- b. ....
- c. ....

11. The principle of policy, law or construction registration procedure that is relied on in the appeal:

- a. ....
- b. ....
- c. ....

12. The documents the Appellant/Respondent\* intends to rely on in the Appeal:

- a. ....
- b. ....
- c. ....

13. The witnesses the Appellant/Respondent intends to call up at the hearing of the Appeal:

- a. ....
- b. ....
- c. ....

14. The reliefs sought in this Appeal/Cross-Appeal\* are as follows: (set out each relief concisely)

- a. ....
- b. ....
- c. ....

**SIGNED ON THIS.....DAY OF.....20.....**

.....  
**APPELLANT/RESPONDENT\***

.....  
**REPRESENTATIVE'S NAME AND ADDRESS**

**TO BE SERVED UPON:**

Insert the names and address of the other parties to the Appeal/Application.

Note

\*Delete whichever is not applicable.

.....

FORM NCAB4

(r. 11(1))

**REPUBLIC OF KENYA  
IN THE NATIONAL CONSTRUCTION APPEALS BOARD  
APPEAL No ..... OF 20.....**

.....**APPELLANT**

**-VERSUS -**

.....**RESPONDENT**

**AND (where applicable)**

.....**INTERESTED PARTY**

**STATEMENT OF RESPONSE**

**IN THE MATTER OF AN APPEAL UNDER SECTION .... OF THE NATIONAL  
CONSTRUCTION AUTHORITY ACT**

1. TAKE NOTICE that the Respondent opposes the appeal against the decision of the Board of the National Construction Authority made on the..... day of.....20.....
2. A summary of the arguments of fact and law on which the Respondent intends to rely on:
  - a. ....
  - b. ....
  - c. ....
3. The documents the Respondent intends to rely on in the Appeal:
  - a. ....
  - b. ....
  - c. ....
4. The witnesses the Respondent intends to call up at the hearing of the Appeal:
  - a. ....

- b. ....
- c. ....

SIGNED ON THIS.....DAY OF.....20.....

.....  
**RESPONDENT**

.....  
**REPRESENTATIVE'S NAME AND ADDRESS**

**TO BE SERVED UPON:**  
 Insert the names and address of the other parties to the Appeal/Application.

.....

FORM NCAB5

(r. 19(6))

**REPUBLIC OF KENYA  
 IN THE NATIONAL CONSTRUCTION APPEALS BOARD  
 APPEAL No ..... OF 20.....**

.....**APPELLANT/APPLICANT**

**-VERSUS -**

.....**RESPONDENT**

**AND (where applicable)**

.....**INTERESTED PARTY**

**SUMMONS**

**TO:** .....  
 .....  
 .....  
*(Insert the Name and Address of  
 the person being served)*

YOU ARE SUMMONED to appear in person before the National Construction Appeals Board at ..... on ..... day of ..... for the hearing of the appeal/application\* and thereafter to remain in attendance until excused by the Appeals Board regarding all matters within your knowledge relating to the appeal/application\*.

YOU ARE REQUIRED to bring and produce to the Appeals Board the following; *(Insert the document to be produced)*

- a. ....
- b. ....

- c. ....
- d. ....

TAKE NOTE that if you do not comply with this Summons the National Construction Appeals Board you will be subject to Contempt of National Construction Appeals Board proceedings.

SIGNED ON THIS.....DAY OF.....20.....

<b>REGISTRAR, NATIONAL CONSTRUCTION APPEALS BOARD.</b>	<b>CHAIRPERSON, NATIONAL CONSTRUCTION APPEALS BOARD.</b>
--	--

Note  
\*Delete whichever is not applicable

FORM NCAB5

(r. 25(7))

**Commented [Sb2]:** This is a new form.

**REPUBLIC OF KENYA  
IN THE NATIONAL CONSTRUCTION APPEALS BOARD  
APPEAL No ..... OF 20.....**

.....**APPLICANT**

-VERSUS -

.....**RESPONDENT**

*AND (where applicable)*

.....**INTERESTED PARTY**

**NOTICE OF MOTION**

TAKE NOTICE that on the.....day of.....20.....at.....in the morning/afternoon\*, the Applicant intends to move the National Construction Appeals Board for the following Orders:

- a. ....
- b. ....
- c. ....

THIS APPLICATION is based on the following grounds:

- a. ....
- b. ....
- c. ....

THIS APPLICATION is supported by the affidavit of ..... sworn on the ..... day of.....20.....

SIGNED ON THIS.....DAY OF.....20.....

.....  
**APPLICANT**

.....  
**REPRESENTATIVE'S NAME AND ADDRESS**

**TO BE SERVED UPON:**  
Insert the names and address of the other parties to the Appeal/Application\*.

Note  
\*Delete whichever is not applicable

.....

FORM NCAB6 (r. 21(4), 22(4), 23(4), 24(5), 26(18), 27(6))

**REPUBLIC OF KENYA  
IN THE NATIONAL CONSTRUCTION APPEALS BOARD  
APPEAL No ..... OF 20.....**

.....**APPELLANT/APPLICANT**

**-VERSUS -**

.....**RESPONDENT**

**AND (where applicable)**

.....**INTERESTED PARTY**

**ORDER**

In the Appeal/Application/on its Own Motion\*, The Appeals Board on hearing the Appeal/Application on the ..... (insert final date of hearing) and determined by the Appeals Board on the .....(insert the date of the decision of the Appeals Board)

It is ORDERED that:

1. ....
2. ....
3. ....

Made this.....day of.....20.....

.....  
**REGISTRAR,  
NATIONAL  
APPEALS BOARD.**

**CONSTRUCTION**

.....  
**CHAIRPERSON,  
NATIONAL  
APPEALS BOARD.**

**CONSTRUCTION**

Note

\*Delete whichever is not applicable.

.....  
**SECOND SCHEDULE**

**FEES**

(r. 29)

	<b>Description</b>	<b>Fees in Kshs.</b>
1.	For filing a Statement of Appeal	15,000.00
2.	For filing a cross appeal	5,000.00
3.	For filing a Statement of Response	1,250.00
4.	For filing grounds of opposition in response to a Statement of Appeal	1,250.00
5.	For filing a preliminary objection in response to a Statement of Appeal	1,250.00
6.	For issuance of an Order after the determination of an Appeal	6,000.00
7.	For filing a notice of motion application.	2,500.00
8.	For the orders sought in a notice of motion application.	150.00 per order
9.	For filing an affidavit	100.00
10.	For filing an annexure to an affidavit.	10.00 per annexure
11.	For filing written submissions	250.00
12.	For filing a replying affidavit in response to a notice of motion application.	250.00
13.	For filing a preliminary objection in response to a notice of motion application.	250.00
14.	For filing grounds of opposition in response to a notice of motion application.	250.00
15.	For issuance of a certified copy of the proceeding of a hearing	60.00 per page
16.	For issuance of a copy of the proceedings of a hearing	30.00 per page

Made this.....2018.

.....  
**Jane Wanjiru Michuki**  
**Chairperson,**  
**National Construction Appeals Board**