Influence of Early Assessment on Resolving Public Property Management Disputes in Kenya Railways Corporation

Kenedy Kaunda Mbulo[*], Dr. Isaac Abuga[**]

[*] Department of Management, Mount Kenya University
[**] School of Business & Economics, Mount Kenya University,

Abstract- This study aimed at examining the influence of early assessment on resolving public property management disputes in Kenya Railways Corporation. This study was anchored on the Theory of Justice and Conflict Resolution Theory. This study employed a descriptive design. The study targeted 6 legal officers, 4 land surveyors, 12 property officers and 5 valuation officers drawn from the various departments of the Authority and the 80 tenants with active disputes with KRC. The sample involved 21 KRC staff: 5 legal officers, 3 land surveyors, 9 property officers, 4 valuation officers and 63 tenants with active disputes with Kenya Railways Corporation. The study used proportionate random sampling to involve 84 respondents. The study used primary data which was collected using questionnaire. Quantitative data both descriptive and inferential statistics was analyzed using SPSS version 28. The findings were presented using frequency tables and graphs. The findings indicated the various aspects of early assessment positively influences resolving public property management disputes. These aspects include the control costs by narrowing the scope of review, streamlines of workflows, reduction of data volumes, early risk identification and analysis and enhanced ability to evaluate potential end-game solutions. The study recommends that technical staff involved in land matters to be trained in ADR mechanisms through capacity building and exchange programs. This will enhance their skills in practicing ADR mechanisms that positively influences resolving public property management disputes.

Index Terms- Early assessment, Resolution, Public property management, Disputes, Kenya Railways Corporation.

I. Introduction

Early Case Assessment (ECA) is the process of seeking to swiftly surface significant paper documents, ESI, and other potential evidence early in a legal action. Creates a crucial role in reducing data volumes by doing the background checks of cases to enable legal practitioners to concentrate on the pertinent information at hand and in cost management to allay worries about going over budget. Legal teams may effectively assess the financial impact and legal liability of taking on a possible case by conducting a thorough evaluation at the beginning, which inevitably helps manage and decrease expenses.

A descriptive study findings of Rule (2020) on online dispute resolution and the future of justice revealed that early assessment allows one to gather knowledge about the case early on so as to be in a better position to make strategic decisions about the case. However, the conventional method for conducting Early Case Assessments (ECA) has required legal teams gathering and assessing vast amounts of Electronically Stored Information (ESI), without first conducting any preliminary analysis to identify the potential extent, relevance, or significant connections between their data. The ineffectiveness of this approach costs legal teams time and money because they must not only sift through redundant and irrelevant data but also risk missing important early insights that could otherwise provide tactical advantages. Teams that switch from conventional ECA methods to contemporary ediscovery technologies, however, gain the advantage of being able to evaluate crucial material regarding a legal problem at the outset. They are consequently better equipped to find pertinent documents, focus their collection efforts, and develop a winning case plan.

Johnson (2020) did a study on public participation in China's Environmental Impact Assessment (EIA) process and the regulation of environmental disputes. It was found out that one of the most crucial aspects of early case assessment is complex searches. To make it easier to identify documents with precise and pertinent information, legal teams need to be able to construct, perform, save, distribute, and manage complicated searches. These legal departments must manage decreasing budgets, a skill shortage, and a growing volume of data in litigation in addition to an increase in the number of complex and protracted lawsuits. As a result, a balance between value and cost savings is prioritized by both law firms and in-house legal teams. To choose the best course of action in a case for instance, whether to use negotiation, arbitration or mediation amongst other ADR mechanisms, they must have the ability to anticipate expensive and time-consuming ediscovery issues.

II. STATEMENT OF THE PROBLEM

An analysis of the KRC property portfolio has shown that it has about nine thousand (9,000) tenants in its properties generating approximately Kshs.1.3 Billion per year as rent with a potentiality to upscale this to over Kshs. 1.5 Billion per year (KRC, 2017). Over the years, KRC has had an increased number of property management disputes arising from the high number of properties and tenants utilizing the leased properties. KRC database (2023) indicate there are 205 disputes on property management that adversely impact on its property rental revenue generation and overall administration. Some other disputes have been mutually resolved at their very early stages or are currently being resolved via ADR mechanisms before they reach the courts under litigation. Moreover, other cases have been referred for ADR mechanisms by the courts or tribunals related to property management such as Business Premises Rent Tribunal (BPRT) (GoK, 1965) and Restriction Rent Tribunal (GoK, 1959).

The wide use of litigation in solving the disputes wastes time; it's costly and breaks relationships between parties in dispute (Maigua, 2018). ADR mechanism is a dispute mechanism that has the advantage of flexibility, less costly, saves time and sustains relations between parties (ibid). Nevertheless, for effective ADR adoption, there is need for early assessment of the cases, parties involved must have good negotiation skills and a proper dispute management system being in place (Kisi, Lee, Kayastha & Kovel, 2020). Therefore, this study examined the influence of early assessment on resolving public property management disputes in Kenya Railways Corporation.

III. LITERATURE REVIEW

Noone and Ojelabi (2020) studied Alternative dispute resolution and access to justice in Australia. A large number (80%) of the respondents indicated that having access to data is one thing, but knowing what that data means in full is quite another. Data visualization software provides legal teams with a contemporary and visual interpretation of data elements, facilitating the early case evaluation process. This speeds up a time-consuming and laborious procedure by enabling legal teams to quickly scan documents without having to go through each one individually or run a planned search (Noone & Ojelabi, 2020).

Early case evaluation is crucial for identifying patterns that emerge from the material gathered during the discovery phase. Legal teams can use early assessment to conduct search term reports to find documents that include particular keywords or terms that are crucial to a case. For instance, they may quickly determine the number of documents that match any given search within a particular report by simultaneously running many metadata and content searches. Early ediscovery management enables legal teams to efficiently reduce material, boost reviewers' productivity, and guarantee the process is defendable. Using ediscovery software for ECA to review documents from collections and find pertinent documents that are probably responsive in the matter is a necessary step in gaining that much-needed control.

By increasing communication between the parties and giving them a realistic view of their case early in the process, early assessment aims to lower the expenses of litigation by enhancing interpersonal communication. It is frequently defined as a way to give the parties a realistic assessment of the advantages and disadvantages of their position (He, Puranam, Shrestha, & von Krogh, 2020). It provides organizations with a thorough evaluation of legal liabilities and prospective expenses at the outset of a case, boosting their confidence in their choice. The objective of the early neutral evaluation they offer is to speed up the resolution of claims that do have validity by quickly identifying those that do not.

Staff members are urged to try everything possible to settle the issue amicably before filing a grievance with the formal component of the system. Early attempts at informal resolution are frequently more successful (Ling, 2018). Staff members should familiarize themselves with the policies and procedures pertaining to the issue that is raising their concerns as part of the informal process. In order to gain their views and suggestions on how they might be able to handle the issue inside their office or department, staff employees are also encouraged to communicate with their peers, supervisors, executive officers, or a management they trust. The staff member is always free to get in touch with the Ombudsman for support and potential intervention. It may be desirable for the staff member and any other parties involved to resolve a disagreement amicably. Compared to conventional legal proceedings, informal bargaining typically yields more pleasant agreements, offers greater influence over the result, and is less stressful. In contrast to matters brought before the Tribunal, where the decision may only be in favor of one side, the verdict is accepted by both parties in this situation (ibid).

IV. RESEARCH METHODOLOGY

Research Methodology
This study used a mixed-methods approach called triangulation, which included gathering and analyzing data using both qualitative and quantitative techniques. The researcher favoured this approach because it allowed for the complementarity of quantitative and qualitative methodologies, particularly when gathering and combining quantitative and qualitative data (Pandey & Pandey, 2021).

Research Design
Descriptive research design was used since this research sought to examine the relationship between Alternative Dispute Resolution (ADR) mechanisms and resolving public property management disputes, which was generalized to a larger population. As indicated by Mugenda and Mugenda (2003), this sort of study design was a methodical yet empirical examination in which the independent variables' manifestation has already taken place or cannot be controlled, depriving the researcher of a direct control.

Location of the Study
This research was done at the Kenya Railway Corporation whose headquarter is in Nairobi City County. Kenya Railway

Corporation is a State Corporation, recognized under Kenya Railways Corporation Act Cap 397 laws of Kenya with the responsibility for the development, maintenance, rehabilitation and management of the railway line in Kenya. After World War I, the original Uganda Railway became the East African Railways and Harbours Corporation (EAR&HC). Up and until the disbanding of the East African Community in 1977, the EAR&HC was in charge of managing the railways in Tanganyika, Kenya, and Uganda. The Kenyan portion of the EARHC was then taken up by KRC. Kenya Railways has vast land and landed assets across the country in Mombasa City and its environs, Nairobi City and its environs, Nakuru City and its environs, Kisumu City, Eldoret town, Kitale town and Malaba town amongst many other towns in the country. Its desire to optimize revenue base over the ears has seen it adopt several strategies of property management that include property sales and property leasing in accordance with the law with more inclination to property leasing.

Target Population
According to Asenahabi (2019), target population is the part of the larger population that the researcher draws the sample and generalize the findings from it. This study targeted the 6 legal officers, 4 land surveyors, 12 property officers and 5 valuation officers drawn from the various departments of KRC. The study involved the 80 tenants who have active disputes or complaints with KRC. They were involved so as to give information on their embracing of the ADR or not. Table 1 presents the target population.

Table 1: Target Population

Respondents	Number
Legal officers	6
Land surveyors	4
Property officers	12
Valuation officers	5
Tenants	80
Total	**107**

Source: (KRC, 2023)

Sampling Procedure and Techniques
Sampling is the methodical selection of a small number of elements from a population of elements that is theoretically defined. This is justified by the fact that it makes it easier to make generalizations about the entire population. The final evaluation of a sample design, according to Kothari (2009), is how well it captures the features of the population it is intended to represent. The proportionate random sampling strategy, according to Berndt (2020), is employed when the population is made up of numerous subgroups that have very diverse numbers of members. The proportion of each subgroup's members to the entire population is used to calculate the total number of participants. Therefore, this research used proportionate random sampling to select the legal officers, land surveyors, property officers, valuation officers and the tenant respondents.

Sample Size
Sample size is a small group of people/elements taken from the entire population and used to represent the whole population and inferences are made from them about the whole population

(Malterud, Siersma & Guassora, 2016). The sample size was obtained using Yamane's formula (Yamane, 1972):

$$n = \frac{N}{1 + N(e^2)}$$

Where
e = precision level ±5% i.e. the margin error.
N = population size = 107,
n = sample size
Substitution in the formula;

$$\frac{107}{1 + 107(0.05)^2}$$

Where n= sample size is (84 respondents)

Proportionate random sampling was used to get the 84 respondents as shown in Table 2.

Table 2: Sample Size

Category	Target	Sample size
Legal officers	6	5
Land surveyors	4	3
Property officers	12	9
Valuation officers	5	4
Tenants	80	63
Total	**107**	**84**

Source: (KRC, 2023)

Data Collection Instruments
The study used a questionnaire to collect data from the legal officers, land surveyors, property officers, valuation officers and the tenants. Questionnaires were administered directly to the respondents. The questionnaires had two sections; Section A, the respondents were expected to fill in their demographic information and in section B; the questionnaire contained questions (statements) on the three study objectives in form of a Likert scale. The respondents were expected to rate the statements of each of the three research questions. The Likert scale had five scale areas: 1= Strongly Agree, 2=Agree, 3=Not sure, 4=Disagree, 5= Strongly Disagree. With the Likert scale, a respondent gave answers quickly and different opinions can be expressed even for those who are not sure with what to say. Scaling of responses thereafter eased interpretation and analysis of data. There were open ended questions provided for further explanations.

Pilot of Research Instruments
The researcher carried out a pilot study to pretest and validate the questionnaires before the actual research. The pilot testing was done using a small section of the respondents. The study used 10% of the sample size; therefore, eight (8) respondents were used. The justification of the 10% is as indicated by Snyder, (2019) that, a pilot study should be conducted using a range of 1% to 10% of a sample size. The pilot study involved 8 respondents at Kenya Power and Lighting Company (KPLC). The selected respondents were not used in the actual data collection. Pretesting of research instruments enhanced validity, reliability and accuracy of the data to be collected. The researcher also had a chance to check the questionnaire on areas

such as insufficient space to write the response, ambiguous questions which would be interpreted differently by respondents.

Validity and Reliability
Validity
As indicated by Saunders et al. (2019), the degree to which the analyzed data accurately depicts the phenomenon being studied is known as validity. This is because, according to Saunders et al. (2019), these tests assess the extent to which the scale items' collection of questions determines the existence of the target constructs. Validity was ensured through discussion with the supervisors and other experts in the field of ADR mechanism and dispute resolutions.

Reliability
The consistency with which the tool measures a specific attribute is referred to as reliability. According to Saunders et al. (2019), it is crucial to examine if the instrument yields consistent results under varied circumstances and at various times, for instance, with different respondents. Test-retest reliability and split half reliability are both components of external/stability reliability. 10% of the sample size, or eight (8) respondents, were used to test the questionnaires' 'applicability and effectiveness at Kenya Power and Lighting Company (KPLC). A value of 0.6 to 0.7 indicates reliability that is within acceptable bounds, whereas 0.8 and above indicates good reliability.

Data Collection Procedures
Before starting the study, the researcher got Mt. Kenya University's consent. The National Commission of Science, Technology, and Innovation (NACOSTI) was also consulted for approval and grant of permit for data collection before the questionnaires were distributed to the respondents by the researcher and assistants. A pre-visit or contact was made to make appointments with the respondents before the actual data collection. The researcher then conducted the survey, physically, online, or as agreed with the respondents. During the survey, participants were not needed to indicate their names to ensure confidentiality and anonymity concerning their responses. The survey used emails and face-to-face delivery of the survey instruments where applicable.

Data Processing and Analysis Methods
Data analysis, according to Dannels (2018), refers to the process of inferring meaning from the data that has been gathered in order to identify a consistent pattern and summarize the pertinent findings from a particular research. The study utilized the qualitative and quantitative techniques for data analysis.

Data was first cleaned by deleting any questions that were left unanswered or incompletely filled out. Following cleaning, SPSS version 28 was used to code and analyze the data. Missing data was handled using imputation. This study used the "Missing Values Analysis" add-on module in light of Mohajan's (2018) revelation that missing data might be substituted by the use of various estimation methods. There were two levels of data analysis: descriptive statistics and inferential statistics. Multiple linear regression model was employed to establish the relationship between independent variables (Early assessment, negotiation skills and dispute management systems) and the dependent variable (public property management dispute). The model was:

$Y = \beta_0 + \beta_1 X_1 + \varepsilon$
Y = Public property management disputes,
β_0 = Constant, $\beta_{1,2,3}$ = Coefficients
X_1 = Early assessment
ε = error term
The data was presented using frequency tables.

Ethical Considerations
Being a human activity, research is governed by a few fundamental principles (Nayak & Singh 2021). The researcher used a confirmation letter from the Department of Management at Mount Kenya University to apply for a research permission from the National Commission of Science, Technology, and Innovation (NACOSTI). For the respondents to voluntarily participate in the study, the researcher made sure that the goal of the study was made apparent as for academic study. The names of the respondents and the their organizations were not released. The participants were assured of anonymity and confidentiality regarding all information provided during the study. This was done by not requiring the participants to disclose their names and personal details. Furthermore, significance of the study was communicated to the participants. The respondents also filled a consent form before filling the questionnaire.

This study made sure that the participants were aware that participation is entirely voluntary and made it clear to them that, while their contribution to the case study was greatly appreciated, they were free to forego answering any particular questions or to stop the interview or questionnaire at any time they found fit. The case study's aim and fundamental procedures was made plain to the respondents, who were also informed about a variety of other topics related to the case study. Additionally, it offered to react to any inquiries from the respondents and provided an explanation of the potential benefits to the KRC staff and tenants.

V. FINDINGS

The respondents highlighted early assessment of cases used in resolving public property management disputes at KRC. These included; cause root of the dispute or complaint, similarity with other cases, case precedence and the solution, existing procedures and processes and the legal provisions.

Table 3: Aspects of early assessment in public property management disputes

Aspects of early assessment	N	Mean	Std. Deviation
Control costs by narrowing the scope of review.	68	3.90	1.081
Streamlines workflows.	68	4.04	1.057
Reduce data volumes.	68	4.15	.919
Early risk identification and analysis.	68	3.96	1.099
Enhanced ability to evaluate potential end-game solutions.	68	4.04	1.057
Improved client satisfaction.	68	3.76	1.161
A reduction in settlement and resolution costs and the time it takes to come to a resolution.	68	3.84	1.128

The aspect of early assessment in public property management disputes included control costs by narrowing the scope of review as indicated by a mean of 3.90 and a standard deviation of 1.081. A large number of respondents agreed that there was streamlines of workflows as shown by a mean of 4.04 and a standard deviation of 1.057 while some indicated reduction of data volumes as indicated by a mean of 4.15 and a standard deviation of .919. According to Noone and Ojelabi (2020) early case evaluation is crucial for identifying patterns that emerge from the material gathered during the discovery phase. Legal teams can use early assessment to conduct search term reports to find documents that include particular keywords or terms that are crucial to a case. For instance, they may quickly determine the number of documents that match any given search within a particular report by simultaneously running many metadata and content searches. Early ediscovery management enables legal teams to efficiently reduce material, boost reviewers' productivity, and guarantee the process is defendable. Using ediscovery software for ECA to review documents from collections and find pertinent documents that are probably responsive in the matter is a necessary step in gaining that much-needed control.

Early risk identification and analysis is also another aspect of early assessment as revealed by a mean of 3.96 and a standard deviation of 1.099. Majority indicated that there was an enhanced ability to evaluate potential end-game solutions as indicated by a mean of 4.04 and a standard deviation of 1.057 and many showed that there was improved client satisfaction as shown by a mean of 3.76 and a standard deviation of 1.161. A reduction in settlement and resolution costs and the time it takes to come to a resolution is also practiced as indicated by a mean of 3.84 and a standard deviation of 1.128. Johnson (2020) study found out that one of the most crucial aspects of early case assessment is complex searches. To make it easier to identify documents with precise and pertinent information, legal teams need to be able to construct, perform, save, distribute, and manage complicated searches. These legal departments must manage decreasing budgets, a skill shortage, and a growing volume of data in litigation in addition to an increase in the number of complex and protracted lawsuits. As a result, a balance between value and cost savings is prioritized by both law firms and in-house legal teams. To choose the best course of action in a case for instance, whether to use negotiation, arbitration or mediation amongst other ADR mechanisms, they must have the ability to anticipate expensive and time-consuming ediscovery issues.

Regression Analysis
In order to examine influence of ADR mechanism; dispute management systems, negotiation skills and early assessment on public property management disputes, this study performed a multiple regression.

Table 4: Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.602ᵃ	.362	.347	5.43019

a. Predictors: (Constant), Dispute management systems, Negotiation skills, Early assessment

Through checking the R squared coefficient of determination, the deviation of dependent construct owing towards variations in independent variables was revealed. From the results, the R squared was 0.362, this indicates that there was variation of 36.2% on public property management disputes because of changes in dispute management systems, negotiation skills, and early assessment at 95% confidence interval. The research revealed a positive relationship among the research constructs as revealed through 0.602.

Table 5: ANOVA

Model	Sum of Squares	df	Mean Square	F	Sig.
1 Regression	2.009	3	.670	4.086	.010ᵇ
Residual	10.489	64	.164		
Total	12.498	67			

a. Dependent Variable: Public property management disputes
b. Predictor: (Constant), Early assessment

The outcome variable was predicted with a high degree of accuracy by the regression model, as shown by the ANOVA findings in Table 4.8. The whole model was significant since the F calculated (value = 4.086) is larger than the F critical (value = 2.7581). A 5% significance threshold was used to determine the F crucial. In this situation, public property management disputes is the dependent variable, and because the significance threshold is less than 0.05, it's likely that the predictor variables are what's responsible for explaining its variability. If the P value is less than 5%, as it is in this case (0.010), then the model employed to predict the outcome variable is sufficiently good.

Table 6: Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients		
	B	Std. Error	Beta	t	Sig.
1 (Constant)	7.131	.752		9.485	.000
Early assessment	.233	.085	.321	2.743	.008

a. Dependent Variable: Public property management disputes

The equation is thus as shown below:
$$Y = 7.131 + 0.233 X_1$$

The findings from regression equation revealed that early assessment, resolving public property management disputes were significant at 7.131. A change of a unit in early assessment results to increase in resolving public property management disputes by a factor of 0.233. At 95% level of confidence and 5% level of significance, early assessment indicated 0.008 significance level. Therefore, interest rate was most significant.

VI. CONCLUSION

From the findings, it can be concluded that the various aspects of early assessment positively influences public property management disputes. These aspects include the control costs by

narrowing the scope of review, streamlines of workflows, reduction of data volumes, early risk identification and analysis and enhanced ability to evaluate potential end-game solutions. There was also improved client satisfaction and a reduction in settlement and resolution costs and the time it takes to come to a resolution is practiced.

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AUTHORS

First Author – **Kenedy Kaunda Mbulo**,
B.A Land Economics, University of Nairobi, Full Member of the Institution of Surveyors of Kenya.
Email: bulloho@gmail.com

Second Author – Dr. Isaac Abuga,
PhD. Economics, M.A. Business Economics, Madurai Kamaraj University, India.
Email: amokono@mku.ac.ke