

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Preamble

Throughout history, property has been considered a symbol of wealth. Property is a source of earnings in the form of returns. Owners create wealth while the tenants use the wealth so-created to earn their living and generate own wealth. Landed property includes agricultural, industrial, commercial or residential classes. Landlords and tenants engage in economic activities that are formally supported by contract. Any social benefits attaching to this are voluntary and not part of contract.

High-rise commercial buildings as found in urban areas represent a heavy financial investment in the form of construction cost or purchase price and expectations. Commercial buildings provide space where people (tenants, employees) spend most of their active working lives. People retire to residential houses to rest and sleep. A Commercial Building however is akin to the 'African garden', where the family cultivates, plants, harvests and grazes through the seasons. The garden is perennially in use, so is the commercial building. This centrality of activity makes it a critical factor of production. Unmitigated conflicts over it have far reaching implications to both the owners and the users. It impairs and slows wealth creation.. The parable of the stewards attests to this severity. The tenants said "Let us kill him, and his property will be ours!" (Good News Study Bible. 1997:1548).

Conflict represents an expression, a manifestation of a peoples' way of thinking, its foundations indicate a unique frame and worldview of a people(Ford & Ford, 1994). People in different places think, feel and react differently to similar promptings. Frequently misleading generalizations are made, to avoid this, it is necessary to explore landlord-tenant conflicts from a Kenyan context.

1.2 Overview on Property

Property has both physical, social and economic characteristics. Owners, users and other stakeholders have interactive interests over it. To the landlord/owner, property is a physical investment that should generate a tangible financial return and contribute to shareholder value. It represents an investment that is expected to grow in value. Property Managers view it as an asset to be managed, operated and administered for the benefit of the principals thereby earning the manager a fee. The manager acts at the behest of the owners. Financial costs, skills, time and energy are expended in its management. The occupants/tenants consider commercial property a spatial base 'home' in which economic activities are undertaken to generate income for sustenance and self development. To the tenant it is shelter for which rent is paid. It therefore represents a rent cost in financial terms. That it is also a home and shelter are important perspectives.

Respective stakeholders, landlords, tenants, agents and government agencies use the commercial property as a means to generate income or revenue. They all have distinctive claims and interests. The orientation of each stakeholder is different from the other. The specific claims by each lead to internal pressures, which could in turn result in disputes and conflicts. The constrained space over which these stakes are exercised is subject to differences in views, interpretations, rights and attitudes by the different entities. These differences and expectations by respective interest groups could expose the groups to conflict.

The changes occurring in the global environment affect respective stakeholders in different ways, both in nature and magnitude. The changes in scale and dimension could also predispose the owners and occupiers to different levels of conflict. The cultural orientations of the different users, the leadership styles of managers, lack of participative management or the use of it could also give rise to conflict. Fagothey (1967:361) says

"Property is that which is owned or that over which one has the exclusive right of control and disposal at will".

He avers that ownership is “the right of exclusive control and disposal over a thing at will” (Fagothey, 1967:360). Lai, [1995: 24] referring to Cheung identifies “freedom to use, freedom to derive income, freedom to alienate,” as three characteristics of private property rights. Most writers concur that property rights comprise three dimensions that interact in the ownership, use and enjoyment of a piece of property.

Ownership ties the three dimensions of the substance, its use and fruits. Complete ownership has control over all three, while limited ownership has control over one or two aspects. Landlords have the ownership rights while the tenants enjoy limited (partial) occupancy rights. Managing agents have delegated agency rights deriving from the owners and accepted by tenants. These rights and interests actively interact over the substance of property, its use and fruits. These interactions often result in conflicts. Property as a social institution is important for life and self-development. The sources of conflicts affecting this institution must not only be understood and mitigated but also effectively managed, in order to optimize financial and social returns. Gounder(2005:69), writing on the Fiji context says, “The nation needs a strategy for domestic factors of production [but also]; a sound framework for handling conflicts...,” however these conflicts occur.

Property can be examined from three different angles, as a physical asset, financial asset and space (place) where organizational activities are undertaken (Gibson, 1994:12). This study transcends the three orientations.

1.3 Problem Statement

Conflicts are prevalent in Management. From experience a property manager expends a lot of time, energy and resources on handling property related disputes. A property manager represents a landlord to the tenants and also represents tenants to the landlord. The professional property manager is expected to handle and resolve all disputes and conflicts that arise between landlords and tenants. Often the manager has a ‘blinkered’ perception (Gibson,

1994:11) and is not fully aware of the drivers, origins, motivators and benefits of such conflict. This lack of knowledge leads to low management productivity.

Although prevalent in the property management process conflict is largely unacknowledged. As a result it is not managed beneficially and so it cascades into bitter legal contests, and frequently translates into court battles. The fatalist manager says, "Let matters take their course." A procrastinating one concludes, "Time is a healer." Irrespective of the consequences the reactive manager "digs in for a fight" while the proactive manager asks, "What is the problem?"

Uninformed management easily downplays conflict. When conflict is not acknowledged, it leads to inept methods of resolution and settlement and otherwise simple conflicts become complicated, requiring lengthy and expensive resolution processes. The effects on enterprise are low productivity, poor returns and profitability. The social and financial returns to the stakeholders are low. The ultimate results are undeveloped conflict management processes that lead to stalemates and social suffering.

If measured and computed the financial, implications, emotional downtime, man-hours and opportunity costs would possibly be considerable. These costs affect both financial and social returns leading to low profits and business losses. Search has not revealed any study undertaken to measure this, but lack of measurement does not detract from the experienced effects of conflict in property management business. However, if effectively managed, conflict will enhance

relationships, use of resources, improve productivity and increase earnings and therefore business profit.

1.3.1 Main Research Question

What are the real causes of conflict between landlords and tenants of modern high-rise commercial buildings in Kenya?

1.3.2 Subsidiary Questions

- (i) How prevalent are conflicts in property management?
- (ii) Is this phenomenon recognized and acknowledged by managers?
- (iii) What effect does conflict have on the property management processes?
- (iv) Can conflicts be managed to produce beneficial results to both landlords and tenants?

1.3.3 Importance of Problem

Property ownership and use are very central to people's lives. In business rents for land and buildings are the second largest cost after payroll. Following labor, capital, physical resources (buildings) are now under intense scrutiny. The state considers commercial relationships between Landlords and Tenants important in the provision and use of space. An Act of Parliament (Cap. 301 of the Laws of Kenya) creates structures(tribunals), and commits State resources to regulate these relations. This connotes a critical area of potential difficulties, controversy, disputes and conflicts. It also underlines the importance of conflict management in property.

Existing research (Ayiecho, 2002) acknowledges existence of conflict, but has concentrated on post-conflict dispute settlement in the broad areas of valuation and property management. Some literature is content with descriptive, others with prescriptive management of conflict. Little is committed to causative study.

This study intends to understand sources of conflict as an essential prerequisite to its management before escalation occurs to require third party intervention. Post conflict disputes resolution is akin to postmortem in medical science and therefore not panacea for conflict management. This study recognizes that, conflict emerges in stages, and that, it is preventable or manageable in its earlier stages, if tell-tale signs are observed, claims and interests (even if cognitively) are aligned. Further conflicts can be productively channeled if properly managed. Cognitive (beneficial) conflicts can degenerate into affective (destructive), due to failure to manage it.

Court processes are known to be tedious, lengthy and expensive. They consume human, financial and organizational resources that would have been spent on more productive activities towards goal achievement. Litigation although often inevitable is considered hazardous, hence the search for alternative conflict management models.

Individuals and organizations will perform better if they commit themselves to continuous learning. This study is an attempt to influence conflicts management by provoking landlords and tenants (the managers) to understand the interests, expectations, motivations, biases and perceptions that generate conflict between owners and occupiers of commercial space.

While the phenomenon of conflict among societies and nations is well articulated, there is limited literature on inter-organizational conflict. There is even less material on conflict within the context of property management. There is considerable material on conflicts in construction and project management which have been referred to in this study.

The outcomes of this study will be important to both academic and practitioner, in the growing and complex field of property management. In a rapidly evolving society, fixed social attitudes have become anachronistic. It is also argued that it

may have a role to play in creating initiatives for expanded curricula in the training of property managers. By identifying the underlying logic of both landlords and tenants, new ways of thinking and scrutiny, will become available thereby increasing abilities to prevent and resolve conflicts. This enhanced capacity will broaden by adding to professionalism and improving standards in the property management discipline. It will also bridge the divide between owners and users thereby improving relationships and hopefully asset productivity. It will also seek to define a property management process that reflects the changing business and societal landscape, by integrating conflict management in the process.

1.4 Propositions

- i. The non-observance of covenants by tenants which lead to attempted enforcement by landlords is a secondary cause of conflict between landlords and tenants, but fear and mistrust are the root causes.
- ii. The failure to provide services to the tenants' satisfaction and perceived misuse of maintenance funds by landlords is responsible for creating mistrust which yields feeling of exploitation thereby causing conflict.
- iii. Conflicts in commercial property cannot be eradicated but can be minimized and prevented from becoming full-blown conflicts to consume enormous resources of energy, emotions, time and money.

1.5 Research Objectives

- i. To explore and document deeper causes that ignites conflict between landlords and tenants.
- ii. To explore relational factors that would enrich property management processes if adopted.

- iii. To investigate what landlords and tenants consider preventive conflict management and preferred methods.
- iv. To propose a property management process that underpins the importance of conflict management as an integral part of property management.

1.6 Description of Research Methodology

To be acceptable and achieve the intended purpose, this research is designed along the lines of established, tested and suitable research methodologies.

Essentially, methodology is the general principle and approach by which the research is conducted. It is the overall approach in the study of a topic. Issues that are considered in the methodology include constraints, dilemmas and ethical considerations within the research framework.

Broadly, research is undertaken by use of qualitative or quantitative methods of inquiry. Qualitative approach explores attitudes, behaviors and experiences. In this, data may be collected by interviews or focus groups including in-depth probing of opinions of the interviewees. Specialized refinements of the qualitative method include ethnography, feminist approach, grounded theory, interviews, case study, critical research among others.

Quantitative research on the other hand generates statistics through the use of large scale surveys by extensive use of questionnaires or structured interviews. This approach is large scale and involves many people as respondents. However, the contact with the interviewees is short span and some questionnaires are self administered.

Debate has continued over which of the two is more scientific and therefore preferred. Each methodology has its weaknesses and strengths. Different methods are appropriate for given situations while the other is suited for another.

None is superior to the other as they explore different dimensions of a subject. However, the appropriateness of a methodology to each research study is critical. Sometimes triangular method is used when both qualitative and quantitative methods are used in the same study. This study adopts qualitative research method. Detailed discussion on the methodology is undertaken in chapter three.

1.6.1. Process of Research

Qualitative approach, through, interview method of inquiry was adopted in this study whereby the following procedure was followed;-

- i. Extensive literature review was undertaken on the subject of commercial property management and the phenomenon of conflict. This includes review of relevant journals, books, court cases.
- ii. Out of a population of 50 major high rise commercial buildings identified in Nairobi's CBD, a random sample of 10 buildings was drawn and each coded.
- iii. From each of the 10 buildings lists of all the tenants were obtained.
- iv. From the respective tenants lists, three categories were created based on size. Large, medium and small categories are based on areas occupied by each tenant as follows;-
 - a) Large - over 3000 square ft.
 - b) Medium – 1500 to 3000 square ft.
 - c) Small – Below 1500 square ft.

This categorization reduced the likelihood of sample bias, where a variable may have been attributed to a class of tenant (by size). This stretch allows greater scope of generalized inferences.

- v. Five tenants were drawn from each category, to make a sample of fifteen (15) tenants. Five (5) sampled landlords from among the 10 buildings were included in the survey. Two (2) agents were also sampled. Interviews were conducted among the complete sample of twenty two (22) respondents

- vi. Based on experience and knowledge from the literature review, identified variables were pre- grouped in clusters of likely conflict 'igniters'.
- vii. As part of the interview process [stage 1], each of the interviewees were asked to identify likely key igniters of conflict based on experience, knowledge and perceptions.
- viii. Following the identified variables, discussion interviews were undertaken in stage two along the lines of likely igniters to probe for deeper causes of conflicts.
- ix. The study instrument consisting of discussion and objective questions is outlined under Appendix 1.
- x. Before its use among the sample interviewees the instrument was pre-tested and was adjusted as the interviews progressed. The complete interview process is discussed under 3.4.4. to 3.4.6.

1.6.2 Data Collection Method

Data was obtained in stage I whereby likely causes/contributors of conflict were identified, followed by in-depth interviews with the tenants, landlords and managing agents in stage 2. Searches for reported property related court cases were undertaken from the reported case records. These were studied and reviewed and secondary data recorded. Court cases formed part of the theory in chapter two.

Appointments were scheduled by telephone ahead of time and the questions to be used were availed to the respondents for adequate preparation (as desired). Appointments were confirmed ahead of the interview times. All the Interviews were conducted in the comfort of the interviewees' premises. The in-depth interview lasted one (1) hour with each interviewee, except in extra-ordinary circumstances where it took longer or shorter times. In all instances the interviewer sought the indulgence of the respondents for the inordinate amount of time the interview process consumed and the intensity of probing for personal views. The honest personal contributions were appreciated.

The research instrument was designed and employed in two stages. The first stage was identification of broad perceived sources of conflict, while the second stage was personal in-depth interviews by the researcher, probing for the deeper underlying causes. All responses were recorded in notebooks and/or questionnaire forms.

1.6.3 Justification for the Research Approach

Attributes of conflict are not measurable quantitatively. The number of incidents, duration and some effects may be quantifiable but causes are not entirely measurable. Conflict is understood in qualitative terms. To some degree, its effects are observable and measurable. Collection of primary data from court cases, landlords and tenants is preferred because of its proximity to the truth and control over error. Data from secondary sources may be subject to recording and interpretation error.

The distinction of tenants as small, medium and large was necessary to avoid a sample bias, where a result may have been attributed to a class or size of tenant.

The two-stage research process allows for investigation of the broad issues arising from the first stage. The first stage is a form of experience survey. Tenants and landlords are considered persons experienced in the area of study, and therefore tapping into their collective memories and experiences. In the second stage, the researcher interviewed the respective respondents on the specifically relevant aspects based on their first stage and other responses by the interviewee. This research deals with opinions, preferences, and interests, attitudes that may vary from one person/organization to another. Their quantitative measures would require complex psychological/scientific models, which are beyond this survey.

The internal attributes, views and opinions can only be understood through interview and probing (interrogative) questioning. Observations would be subject to biases, inaccuracies and interpretation errors. Although longitudinal approach

would have been preferred but for the stated constraints, the cross sectional approach is modified by the use of the two-stage methodology.

1.6.4 Scope of Study

Due to the constraints of time and financial resources the study was limited to conflict between landlords and tenants in high-rise commercial buildings, within the Central Business District of Nairobi, Kenya. High-rise commercial buildings embrace the latest building and engineering technologies whose structural attributes could be considered likely ignite conflict. They also house diverse tenants with intense interactions and requirements, which environment is prone to conflict. Buildings included are those with eight floors and above.

Due to its business and cultural diversity and also the concentration of modern commercial buildings, the choice of Nairobi was thought of as representative and likely to bring out the issues under study. Smaller commercial buildings were considered less likely to bring about the whole range of conflict causing factors. Owner occupied buildings were not included in this study.

High-rise commercial buildings outside the Central Business District were excluded from this study for the reasons of time, finance and logistics. Further, the study did not include government buildings and purpose built hotels.

1.6.5 Assumptions

The study holds the view that conflict is inevitable and that some levels of conflict are desirable for learning and continuous improvement while other aspects of conflict lead to destructive engagement.

- (i) The study assumes that while not entirely avoidable, conflict can and should be managed by applying effective management and leadership tools. Although distinctive, forms of conflict are experienced during the process of management, the study does not delve into distinguishing the respective types. The presence of the respective types is however acknowledged.

- (ii) The study assumes any conflict has an originating cause(s) and may develop from one stage or form to another and that acknowledging conflict, understanding of its sources is the critical first step towards preventing destructive conflict. It also leads to adoption of effective property management practices.
- (iii) That investors in property, whether landlords or tenants will want to avoid the risk of destructive conflict and therefore put into place appropriate management practices, in order to avoid it and mitigate against possible losses.
- (v) Instead of being treated passively and ignored as an inevitable consequence of contract and interaction as argued by some writers conflict in commercial property is a serious risk to be managed. It deserves to be understood and researched, in order to bring about and improve on the best property management practices.
- (v) The win-lose decisions as delivered in the courts do not lead to acceptable or durable conflict resolutions. Courts adjudicate or control but do not resolve. They could in fact sustain high levels of conflict and lengthy court suits and counter suits.
- (vi) There is empirical evidence to inform the circumstances under which conflict occurs, but these are presumed, un-researched and unconfirmed. This study seeks to meet this need.

1.7 Organization of the Study

The research project is organized in six chapters and the foregoing material comprises chapter 1. The second chapter provides the theoretical framework through literature review on property and conflict in context. Chapter three discusses the research methodology and its justification in the context of the propositions. Chapter four presents the research findings and data obtained from the study. Chapter five is a synthesis and analysis of survey data, integrating the research outcomes, propositions and the problem in context. Finally, chapter six is a summary of the study together with conclusions, implications and recommended actions, for further research.

CHAPTER 2

THEORY AND PRACTICE OF CONFLICTS

2.1 Introduction

In order to inform and form a broad theoretical framework on conflict, a wide spectrum of literature is reviewed in this chapter. The literature is on conflict from diverse disciplines of organizational conflict psychology, team dynamics, conflict in educational institutions, property management practices and the phenomenon of trust have been reviewed and presented in the following sections.

2.2 Concept of Conflict

Conflict as a social phenomenon, is as old as mankind. It first occurred in primordial garden of Eden (The Holy Bible:1996) with the entry of competition leading to the sin of disobedience. There is substantial literature on socio-political conflicts among people, communities and nations. Conflict is also extensively addressed in the fields of project management, work teams, leadership, and organizational development, etc. Very little however is written on conflicts occurring in the context of property management processes. Several writers have however alluded to it while dealing with other subjects. Property managers do not appear to have acknowledged it. Even though it occurs frequently and has far reaching implications in business they are trivialized and presumed. Can its negative outcomes be eliminated? This requires sharp focus and, there appears to be increased interest in the subject among practitioners.

The lack of published materials and information gap in this un-quarried mine has encouraged this study. The study is specifically on conflict management in the context of high-rise commercial buildings. The general subject of management of commercial buildings is covered in textbooks and research reports. Study of conflict in the direction of this research does not appear to have been addressed before. This review relies on literature available from other disciplines and suggests its applicability in the field of property management.

2.3 Definitions of Conflict

Many definitions abound as there are actors and occasions for conflict occurrence. Conflict is understood differently by practitioners, researchers and those who experience it. Empirically conflict is seen as tension, fight or clash between interests, motives, ideas, values, by opposing forces. Writing on change, Ford & Ford (1994:759) state that conflict is an overt expression of frustration, arising from “a once useful way of thinking [becoming] ineffective or counterproductive”, Esquivel & Kleiner (1996), as ‘disagreement regarding interests and ideas’, while Darling & Fogliasso (1999) view conflict as “incompatible concerns within a unit”. Ury (2000:41) distinguishes between three meanings which are easily confused clashing of “people’s needs and desires”, clashing of “positions” and “power struggles.” Appelbaum, Abdullah & Shapiro. (1999: 71), refer to it as a social process, “a struggle of claims to resources, power and status, beliefs, and other preferences and desires”.

From a psychologists perspective, conflict is “a class of frustration, the class characterized by pulling in two directions at the same time” (Leavitt, 1967:53). Conflict situations are about choices, resources and decision making. Often, these are not clear-cut. Atkinson *et al.* (1990.570-571) explain conflict as ‘must choice’ “between incompatible or mutually exclusive goals or causes of action”. Further, Leavitt argues that troublesome conflicts [hard to resolve] are those that involve needs “central or internal” to the personality. This difficult to resolve position is supported by Atkinson *et al.*(1990) who argue that conflict occurs ‘when two inner needs or motives are in opposition’ These opposing motives are “pervasive and difficult to resolve”. Examples of such motives include “independence vs dependence’ ‘intimacy vs isolation’ cooperation vs competition, impulse expression vs moral standards”. Conflict happens in individuals who encounter differences that do not fit their understanding of situation (Wright, 2000). These represent the difficult to reconcile motives.

In the context of this research, the difficult to resolve motives may include needs of survival for the enterprise/tenant or landlord and needs for appreciation, support and affirmation. Much supervision is considered an attempt to control others through conflict, such as, threatened disciplinary action. Threats and ultimatums are common in property management, such as legal, auctioneer involvement and other unpleasant consequences. Leavitt argues that such supervision and threats do not necessarily create internal conflict, the class which is troublesome to deal with. Threats do not introduce dangerous conflicts that may be irresolvable. It is apparent that most writers define conflict from its cause and effect perspectives and also from their frame of reference and worldview. Jones, George & Hill,(2000: 575) summarize organizational conflict as;

“the discord that arises when the goals, interests, or values of different individuals or groups are incompatible and these individuals or groups block or thwart each other’s attempts to achieve their objectives.”

Respective definitions give weight to real or perceived differences, competitive intentions, or conflict processes. The attention given depends on the researchers’ background, preferred methods of conceptualizing and investigating conflict. Appelbaum, Abdallah & Shapiro(1999) conclude ‘No one definition is dominant’. Carell, Jennings & Hearvin(1997) have identified perceived struggle, interdependence, incompatible goals, scarce resources and interference as necessary elements in any conflict.

Carell, Jennings & Hearvin(1997) say it is a normal occurrence resulting from human interaction. Conflict does not occur in passivity, it occurs when the respective groups/parties/people actively go about their business exercising their rights, claims interests and driven by motives in opposing directions to others. Ury (2000), has observed that while violent conflict is minimal in primitive communities (hunters and food gatherers), it increases substantially among settled agrarian communities due to competition for scarce resources. ‘Settlement’ in commercial building is an advanced and complex form of investor community hence implied likelihood of heightened conflicts.

2.4 Nature of Conflict

Whatever the definition, conflict arises from a host of factors; such as differences in goals, expectations, competing values, interests, proposed causes of action (Darling & Fogliasso, 1999), uncertainties, anger and fear (Ury, 2000), negative effects by another (DiPaola & Hoy, 2001), a perception (Webb & Hoggan, 2002), opposing motives and choices, (Leavitt, 1967; Atkinson *et al.*, 1990).

Traditionally, conflict has been viewed as negative while today, most management theorists consider it as necessary growth procedure. Conflict will always exist. Wherever there are “human beings there will be conflicts”. DiPaola & Hoy (2000) note that, early scholars such as Getzeber & Guba (1957), focused on conflict as a problem, ‘a dreaded disease’ to be eliminated. Lewis, *et al.* (1997), refer to Mullins (1993) who, held the view that healthy organizational climate ought to reflect complete harmony as conflict obstructed goals of another. This perspective led to the goal and research focus aimed at conflict avoidance at all costs, resolution and minimization of its negative effects.

Darling & Fogliasso(1999:384) quoting Blome (1983) say, today conflict is considered as unavoidable and a “*sign of very good organization*” while DiPaola & Hoy (2001:239) consider it as:

“an everyday reality with benefits and costs” [and can be used] “to simulate personal development, internalize the problems, increase critical vigilance and self appraisal, when making decisions”.

In reference to Senge; Lee (1998) says “Conflicts [are] a sign that a team is learning” (Senge, 1990:249), and according to Pascale (1990), there is need for “creative tension”. Conflict may be considered as an accepted and important part of organization, a necessary part of change and development for organisations and society (Stacey, 1993: 236) as well as individual learning (Vasilynk, 1984)” (Lee, 1998). The dialectician view change as coming out of conflict and that conflict is essential for change to occur (Ford & Ford, 1994).

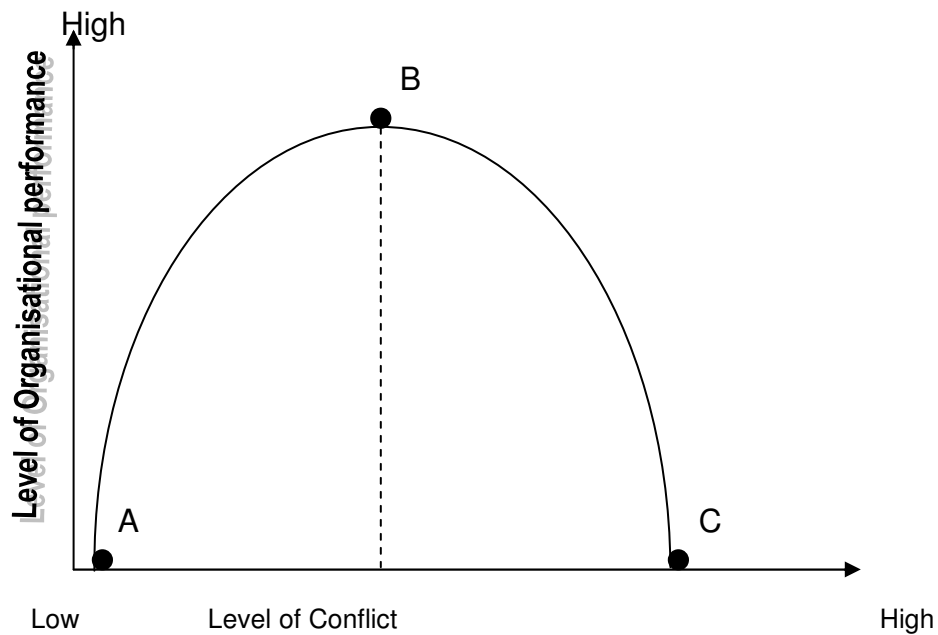
Wright (2000:69) says conflict may be a “necessary by-product of community” and an “important catalyst for growth’. The proponents of this view encourage managers to embrace conflict, encourage it as an important development strategy and learn to manage it effectively. However, conflict can also be highly problematic (Lee, 1998).

DiPaola & Hoy (2001), distinguish conflict as destructive force, that interferes with achieving organizational goals; and constructive force that jolts, to bring life into an otherwise “pathetic, uncreative, stagnant and unresponsive organization”. Because social functioning requires some form of “cohesion and mutual tolerance”, managers styled in destructive form of conflict, try to eliminate conflict. A manager with the constructive orientation will however tend to develop strategy and tactics of conflict management. Well managed conflict fosters understanding and appreciation of differences, introduces new possibilities, and shifts the status quo paradigm. It has been said that managers who seek to eliminate conflicts do not last long while those who manage it experience organizational benefits and personal satisfaction (Darling & Fogliasso, 1999).

In spite of the attendant benefits it brings to organizations, conflict has a negative connotation, ‘undesirable’, to be “avoided”, Esquivel & Kleiner (1996), refer to an experiment by Boulding, where groups eliminated members they considered troublesome although they (expellees), were the unique competitive advantage within the group. The person having played the devils advocate had improved group performance, but in the process had made others uncomfortable, by being creatively provocative. Reference to Ross Perot who was removed from the Board of General Motors for being overly critical and challenging the status quo amplifies the attitude to conflict in most organizations.

Jones, George & Hill (2000) graphically capture the effects of conflict in an organization as demonstrated in figure 2.1.

Figure 2.1: The effect of conflict on organizational performance



Source: Jones, George & Hill (2000)

It is observed that in Figure 2.1, the 'conflict loop' 'A' represents too little conflict, resulting in under performance. 'B' is the optimal level of conflict leading to high performance, and effective decision making, whereas at 'C' represent too much conflict resulting in dissonance and divergence, yielding poor results in spite of efforts and energy expended.

2.5 Types of Conflicts

Most writers have identified conflict types mainly by outcomes and effects on individuals or organizations.

Lee (1998) identifies two forms of conflict in a diversified cultural group. First; conflict as a competitive game in which winners and losers are determined by open confrontation and negotiation. It assumes that there can always be a return match. This class of conflict is short term and resolvable. As argued by Leavitt,(1967), it is external to them and does not threaten individuals' view of themselves [identity] or their existence.

Secondly, conflict appears to represent a fundamental threat to the persons and their existence. It strikes at the core of an individual's being. This type is more long term and problematic to manage. It is reminiscent of internal motives in Atkinson *et al.* which are in opposition and provide examples of such motives. It is further argued that the importance of opposing or dealing with this form of threat will be made above the value of life and property. The result is sacrifice by the threatened in order to achieve the higher ideals.

Esquivel & Kleiner (1996) classify conflict into two types; C-type or A-type. The C-type has a substantive focus on issue related differences and tends to improve team effectiveness. On the other hand, A-type introduces personal feelings and agenda resulting in hostility, anger and trust elimination which inhibit creativity, commitment and decreases group effectiveness.

Similar to Esquivel & Kleiner (1996), DiPaola & Hoy (2001) categorize conflict into cognitive (task related) and affective (social–emotional) forms, and demonstrates the orientation of each to conflict issues. These are represented and summarized in table 2.1

Table 2.1: Conflict Issues

Cognitive	Affective
Task related	Social emotional
Roles policies, resources, goals	Norms, values, group identity
Enhance performance or satisfaction	Reduce performance or satisfaction

Source: DiPaola & Hoy (2001)

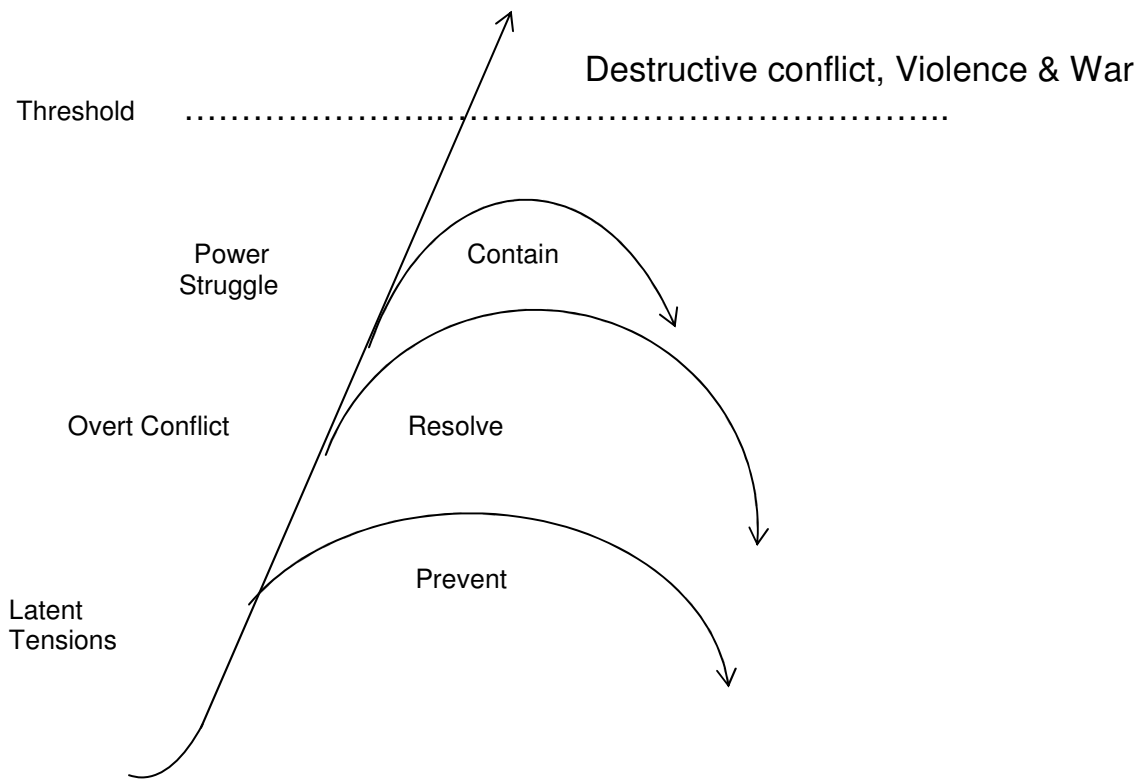
Darling & Fogliasso (1999) identify the personalized and de-personalized forms of conflict. The later has an objective focus on issues and facts, while the personalized concentrates on the immediate disagreement and ignores the long-term effects of difference.

Although seen as mutually exclusive, this study assumes, one form can degenerate into the other in the 'conflict cycle'. However, appropriate management practices may forestall the escalation from 'creative' conflict into 'destructive' conflict (Lewis, French & Steane(1997). Effective and superior management practices may also convert the 'destructive' 'negative' form into a 'creative' form.

Further, Harrison (1999) distinguishes between disagreement [leading to heated discussion and arguments] and conflict. This distinction is based on intensity of emotion involved the extent to which the arguments go beyond the subject matter; and multiplicity of the underlying sources. In this research however, the position adopted is that disagreements and disputes are in themselves forms of conflict at lower levels, which ought to be managed.

It is admitted that because of the differing goals, competing interests from respective stakeholders [landlords, tenants] rapidly evolving environments and personality differences in people conflicts are virtually inevitable. Unfortunately, these diverse goals will often give rise to unresolved conflicts which generate bitter lawsuits spanning years (Jones, George & Hill, 2000). Handy (1999), distinguishes two causes, goals and ideologies (including contemplated objectives) and territory. Territory as a metaphor embraces 'desire to possess, acquire, preserve territory' and rights. (Ury, 2000), distinguishes three levels of conflict as in Figure 2.2 and suggests mechanisms for its management by interrupting its vertical momentum and spreading it into horizontal movement before it translates into destructive conflict. He asserts, "Contain if necessary resolve if possible best of all prevent".

Figure 2.2: Catching Conflict before it escalates



Source: Ury, (2000)

Figure 2.2 represents three engagement opportunities to channel the conflict vertical momentum, which leads to destructive struggle to horizontal impulse leading to constructive change. These engagement opportunities include prevention, resolution and containment.

Concurring with Ury (2000), Anan (2000:13) in his 2000 Annual Report authoritatively states that;-

“Preventing armed conflict is critical to achieving lasting human security. Conflict prevention is where it starts. Shifting from a culture of reaction to one of prevention is highly cost effective both in human and in financial terms. In the early stages of a dispute, parties tend to be less polarized and more flexible and thus more inclined to settle their disputes peacefully rather than after violent conflict has become entrenched. Prevention also

offers the best possible chance to address the root causes of a conflict, and not just its consequences”.

Although made in the context of armed conflict and world peace, the principles enunciated in this statement are relevant and applicable to the property context. What are the early warning systems of an impending landlord and tenant clash? How could conflict prevention capacities be built in the property management context? What lessons can be gathered from such conflict to improve current and future relations?

2.6 Contributors and Effects of Conflict.

Largely conflicts are fueled by competing, opposing interest, goals, concerns, motives, uncertainty, irreconcilable differences, structures (formalizations) adopted and perceived infringement on autonomy. DiPaola & Hoy (2001) observed that coercive and enabling formalizations have distinct effects on conflict, as demonstrated in table 2.2. The formalization setting will provide a context for effective conflict management or its escalation.

Table 2.2: Formalization as organizational conflict: A typology of likely consequences for change.

Types of formalization	Types of conflict	
	Cognitive	Affective
Enabling	Catalyst for change	Facilitation of change
Coercive	Frustrator of change	Inhibitor of change

Source: DiPaola & Hoy (2001)

As demonstrated in Table 2.1, cognitive conflict, is likely to be task related, role focused, policies; resources and enhance group performance. It however requires an enabling environment table 2.2 to produce the desirable results. Conversely affective conflict is social emotional, focus on norms and values, reduces performance and satisfaction. If properly understood and directed in an

enabling environment, it may facilitate desirable change. Coercive environment will however inhibit or frustrate both affective and cognitive types, and tend to escalate conflict.

Irrespective of the type of conflict, the environment, the formalization within which the conflict occurs, is a critical factor in the generation of conflict. In this context formalization may fuel conflict or may be instrumental in its prevention (management), in most contexts.

DiPaola & Hoy (2001:249) advise that different types of conflict require different handling mechanisms.

“Mediate affective conflict as it arises and manage cognitive conflict, which has a greater potential to produce positive change”.

Ury (2000:xviii), considers fatalism a key contributor to conflict, because it denies people a chance to be proactive, to predict its occurrence and therefore prepare for it. Fatalism “paralyses the will to act.” Viewed from this perspective unanticipated conflict can have devastating effects, on organizational or even individuals, unprepared property managers could react to conflict situations and aggravate tension and conflict.

Harrison (1999) has observed, behaviorists assume individuals are well-balanced human beings able to work unselfishly together towards a common objective. Contrary to these assumptions, rarely do individuals, groups, companies and even nations behave as assumed. For instance, respective players in team or the project settings have differing objectives, aims and interests which when selfishly exercised result in conflicts. These conflicts in turn produce lack of respect and trust; harmony and co-operation, and breakdown in communication, with often-distorted information. Superior long term objectives are often subordinated to narrow partisan short-term goals. When attitudes have polarized into, “we/they”, problem solving, decision-making become slow and difficult with anger and frustration resulting in reactionary decisions. It is noteworthy that peoples, groups and organizations rarely achieve their true performance potential

because of the effects of [destructive] conflict. Further Appelbaum, Abdallah & Shapiro(1999), avers that humans are unable to understand conflict because they relate it to negative social attributes. This frame inhibits objective discovery and does not reap full benefits arising from conflicts.

Handy (1999) notes poor communications, hostility and jealousy, frictions, escalation of arbitration, multiplicity of rules and regulations, frustration and low morale are symptoms of organizational conflict.

Appelbaum, Abdallah & Shapiro. (1999), summarize the destructive outcomes of conflict, as physical or psychological injury, increased hostility, misrepresentation, hardened antagonistic positions and emotional exhaustion. These lead to low productivity, less efficiency and effectiveness. Handling of conflict in such environment becomes routine, reactionary and less innovative, with likely outcome of Ury's fatalism.

This study assumes that competitive [constructive] form of conflict is good in that it generates new ideas and fosters change needed for organizational long term survival. The critical question becomes; how to ensure that conflict does not degenerate into the unproductive and wasteful form. How can benefits of conflict be optimized at Point B as in Figure 2.1? Can these benefits be harnessed? Can this level be realized in the context of property management? These are some of the questions the ensuing study seeks to address.

The researcher agrees with the view of Ury (2000) and Jones, George & Hill (2000). that "conflict is a force that needs to be managed rather than eliminated". Lewis, French & Steane(1997:278), observe that resolution implies reduction and elimination while management "involves recognition, [understanding] interpretation, encouragement or discouragement", for obtaining of appropriate outcomes. This could be achieved through acknowledging the legitimacy of conflict and recognizing its antecedents. This is the thrust of this study. Among techniques for conflict management Jones, George & Hill(2000), recommend integrative bargaining, through emphasis on super ordinate goals, focusing on problem not people; focusing on interests not demands, and creating new

options for joint gain. The integrative bargaining is preferred to distributive (adversarial) negotiation often advocated. As advocated by Ford and Ford (1994), change can occur not only from conflicts but from attraction as well. Cognitive conflict in table 2.1 ought to be recognized and encouraged and affective conflict mediated for optimal results.

2.7 Conflict in Commercial Buildings

The occurrence of conflict during interactions between Landlords, Tenants and Agents in commercial buildings is the content and context of this study. These conflicts become apparent during the management processes.

2.7.1 Property Management

Ayiecho (2002) has referred to two definitions of property management. Quoting Thorncroft (1969), he notes it as “the direction and supervision [of] land and buildings” with the aim of optimizing financial or social returns. Macey *et al.* (1978) defines it as “the application of skill in caring for land and buildings, its surroundings and amenities [and] developing sound relationships between landlord and tenant”.

Thorncrofts’ emphasizes the traditional approach to management that is, direction and supervision’, with focus on social and final returns. Macey *et al.* appear more process oriented. Although in the second part of this definition Macey seems to treat landlord and tenant as independent from the building, his outlook is consistent with the researchers’ point of view. The building is the focus around which relationships are built.

The media and general stereotypes about the landlord have influenced alienation between landlord and tenant. Rugg & Rhodes (2003) referring to residential sector have argued that the landlord is popularly portrayed in the media as “grasping, [and] exploitative,” often acting outside the law and this appears to have been accepted as an essential truth. Two pieces of legislation, The

Landlord and Tenant (Shops, Hotels and Catering Establishments) Act and The Rent Restriction Act of the Laws of Kenya are specifically aimed at protecting the tenant from a perceived capitalist and exploitative landlord. The Acts also presume one focus in industrial and the other residential properties respectively, that the tenant is vulnerable and at mercy of the landlord. These tend to distort the landlord image. Tenants and policy makers tend to embrace this lopsided view of the landlord. This anti-landlord culture pervades even in commercial buildings which affects the formation and maintenance of commercial relationships.

2.7.2 Contrasting Interests

Generally, commercial buildings are required “as a means of production or as a commodity to consume” (Stone; 1980:1). Ordinarily, landlords view it as a means of production and tenants as a commodity to consume. Tenants as consumers estimate value of buildings not for revenue, but satisfaction obtained in terms of comfort, convenience, prestige and delight as it undertakes its economic activities. In acquiring a commercial building, for investment a landlord gives prominence to revenue generation and cost incurred in the generation of that revenue (Stone, 1980). Referring to Veblen, Nodoushani (1996) identifies conflict inherent between ‘business’ and ‘industry’. Business has focus on profit, pecuniary gain regulated by the market. Industry on the other hand is a production process which leads to standardization of goods and services. The landlord would appear to be in business but the tenant in industry. The tension between the two is always manifest and are inherent in the relationship. Maximization of returns and minimization of costs are in permanent tension.

Irrespective of the producer or consumer perspective, the principle of value for money is cardinal. The producer aims at maximizing on revenue with minimum costs while the consumer’s goal is to achieve maximum utility value at least cost. Gibson, (1994:11), articulates this clearly,

“A landlord is concerned with maintaining and enhancing the value of the asset, while the tenant is concerned with minimizing the cost of occupancy and obligations”.

These two competing orientations are rarely aligned and often become the genesis of intense conflicts in multi-occupation commercial buildings.

For example; Wilkinson & Goodacre (2002), found that, prudent investment in energy saving installations beneficial to both tenant and landlord was deterred by split-incentives. Because the landlord was not responsible for payment of the energy bills the installation was perceived as being of little benefit to them, while tenants complained that they could not recoup the high investment due to short-term tenancies. As a result inefficient energy utilizations continued unabated. Resultantly, the tenant suffers by incurring of exorbitant energy bills. Sadly split-incentives and short term interests quickly become sources of conflict when long term interests and benefits are overlooked.

Whereas a landlords' singular most important goal is profit maximization, the tenant objectives are those of satisfaction and value enjoyment. Walters, (1999:98) notes that the tenant :

“has to fulfil the much more complex task of efficient utilization of the property [premises] to meet the requirement and the goals of the [tenant] organization”.

Most property managing professionals and manager-landlords fail to appreciate these contrasting interests and tend to poorly manage conflict or generate conflicts by not aligning and balancing the interests.

2.7.3 Costs of Services

Landlords are required to provide common services and facilities for the mutual enjoyment by all tenants. This is aimed at increasing productivity of the building. It is recognized that building “maintenance expenses are one of the largest budget line items” (Rothenberg, 2003:16).

Ordinarily the charges levied for services or common area maintenance (CAM) by the landlord are additional to rent. Most modern building leases specify them in detail, especially under a full repairing and insuring lease”(Enever,1981:68). Writers, (Young, 1992), (Thomas, 2001) and (Rothernberg, 2003), advocate the incorporation of clear Common Area Maintenance (CAM) definition, landlords rights for reimbursement, details of allowable expense categories, in order to forestall any disputes. Proactive negotiations with tenants, and predetermined charges give them certainty and planning ability. After expenses have already been incurred, open ended, unclear and un-negotiated clauses become major sources of confusion and intense disputes, at the reimbursement and recovery stage.

However, tenants may “justifiably object to paying” (Enever, 1981:70) certain outgoings incurred by the landlord. In spite of there being a lease, this subject continues to generate disputes and contests, frequently escalating into conflicts fought in courts. This is particularly so because service charge is subject to “unpredictable and substantial charges, usually upwards in times of inflation” (Britton; Davies & Johnson, 1980:57). Rotherberg (2003) observes that tenants believe the landlords use CAM charges as a profit centre instead of legitimate reimbursement of genuine expenses. Young (1992) in his introduction notes;

“While the principle of paying such a charge in order to have a well-maintained and well-managed building has gradually become acceptable to occupiers, the practice has remained a source of conflict and misunderstanding.”

Further Young (1992) enumerates difficulties experienced in practice. Contentions arise from the apportionment methods used by landlords, the frequent misuse of the service charge funds by landlords, the extraneous costs introduced into the charge by charge managers, the standards of maintenance and upkeep achieved in the use of these funds, and generally the suspicion of

each others activities. Resulting disputes endure and may take many years to resolve. They often spill over into courts, with attendant costs and losses to the parties (Thomas, 2001).

Although not limited to the service charge, 3450 cases were handled at the Business Premises Rent Tribunal (BPRT) from 1997 to 2001(Ayiecho, 2002). Many more cases were pending in the magistrates and superior courts. Blatt and Wollert 11, (1999), have said that disputes can originate for varied causes, but are generally associated with defective tenant improvements, contractual obligations, contractor delays, and business interruption claims. This demonstrates the level of potential litigation and diversity of conflict causes involving commercial buildings.

2.7.4 Court Cases

As reported by Ayiecho(2002) in a period of five years from 1997, there were 3450 cases handled at the BPRT. The cases were exclusive of those filed at the Magistrates Court, The High Court and the Court of Appeal. Besides, there were 4500 pending cases in the same period. This suggests that the contrasting and contending interests in property easily degenerate into litigation. The originating issues are as diverse as there are cases.

Table 2.3: Sample of determined cases, issues and outcomes

Case/Name/No./year	Issues	Decisions/Duration
Rogan-Kamper Vs Lord Grosvenor (No2) 1977 KLR 123, EACA	Letter of intent and non-registration of lease. Surrender notice for ½ of the premises	Landlord could not terminate based on the draft lease. Controlled tenancy had been created. Matter continued in court from 1971 to 1977.[6 years]
EAPL Vs The Attorney General (1978)	Tenant allowed to take possession of premises in anticipation of formal lease execution. Essential elements not agreed but rent	Appeal to a 1977 case. NSSF was a monthly tenant High court and appeal took 2 years

	accepted.	
CA No. 2 (1978)	Unregistered lease does it form contract Termination	Valid inter parties even if not registered Tenant having had full benefit of the negotiated term should give up possession. High court application in 1976. Appeal decision 1982. – 6 years
CA No. 1981 (1979)	Tenant in breach of covenant. Was tenant entitled to renewal of lease and when is the landlord entitled to forfeiture.	The landlord is entitled to forfeiture. Renewal having been extinguished by the breach. 2 years in high court
CA No. 8 (1980)	Oral agreement for lease reduced into writing 1 year later. Registered after two years following oral agreement. Does this result in controlled tenancy	Tenancy was not controlled. 3 years
CA No. 38(1986)	Tenant ordered by Tribunal to vacate premises for renovations. Upon renovations tenant demanded to re-occupy premises in their original arrangement.	Previous tenancy had come to an end having been lawfully terminated. Landlord could lease the premises elsewhere Demand by tenant failed.1976 to 1988.[2 years]
CA No.25 (1987)	Landlord failed to accept possession of premises due to tenants breach of repair covenant	Tenant incurs an obligation to repair. Landlord cannot refuse to accept possession 1 year in appeal court
CA No. 79 & 80 (1987)	Tenant ordered by tribunal to vacate. Could tribunal order stay of its own orders	Tribunal could order stay of its orders From 1979 to 1987, in tribunal, High Court and Appeal [8 years]
CA No.184 (1999)	Illegal termination of tenancy	2 years Termination was proper in accordance with the lease
HCC No. 1970 (2000)	Landlord attempted to alter terms of controlled tenancy Harassed and tried to evict tenant without following the legal procedures	Notice required in the prescribed form. Two years in court.

HCC No. 679 (2001)	Application for injunction Distress over undue or disputed rent Distress over service charge	Landlord is entitled to distrain for outstanding rent Landlord can distrain for service charge expressly provided for in the agreement.
CA No. 12(2002)	Tenant was in default in breach of covenant, adequate notice given and distress levied.	Tenant was in default Matter extended from 1994 in High court to 2002 in CA 8 years.
HC No. 125 (2004)	Unilateral variation of tenants, covenants and effect of non registration of agreement	1 year Landlord could not vary terms unilaterally
Source: Compiled by Researcher from reported court cases.		

As evident from table 2.3 above, court references are either made by landlord or tenant. The cited cases have lingered in courts for between one (1) year to over 12 years. The periods prior to the suit filing are not specified. The satisfaction of the parties on the outcome of the suits is entirely doubtful. The legal interpretations of the issues appear to notoriously depart from the spirit of good landlord and tenant relationships.

The reviewed cases hinge around breach of covenant, controlled tenancies and service charges with their attendant implications. Interpretations are based on legalism, not morality, law and not spirit, imported law and not intentions of the parties.

2.8 Management of Conflicts

There is a dearth of reference material on property management both for practice and academic work (Syagga & Aligula, 1999). This is more so in respect to conflicts in the contexts of the buildings. Property management has to learn from related project management field by realizing that conflicts are inevitable and therefore develop procedures and techniques for prediction, identification, prevention and resolution [Kerzner, 1997]. Blatt & Wollert 11 (1999), contend that with great care disagreements could be prevented from becoming destructive disputes. However, a manager's style is informed by his "logic,

frame, world view, interpretive schemas and deep structures” (Ford & Ford: 1994:758).

Admittedly Lipsey, (1997:19), notes “conflict tends to arise mainly from lack of shared concerns or values”; with parties feeling disenfranchised, and excluded from the vital process. Those disenfranchised tend to seek affiliation of others who share their values and interests (Lipsey,1997). This was witnessed in 1998 when Kenya Tenants Welfare Association was founded to foster tenants’ interests against landlords. Landlords in turn established their own forum (Mbithi, 2003). For this reason Lipsey (1997:20), advocates that:

“Action taken to resolve and prevent conflict [must] seek to find ways to maximize the extent to which individuals and groups feel that they have a stake in the system – any system”.

Contrary to Lipsey, traditional property management practices and court decisions tend to re-channel and/or temporarily contain the conflict situation in a superficial manner. Their assumptions and processes do not address issues central to the individual or group such as affective concerns. As a consequence conflicts tend to recur and bring about further conflicts.

Observation has it that property management is most undemocratic, least participatory, poorest in governance and lags behind other contemporary management processes such as human resource, projects and modern management. Briffet (1987:20); has argued that:

“The main aspects of professionalism include independence of judgement, dedication to the public interest, conformance to a code of ethics and aquisition of a high standard of expertise.”

There is urgent need for property managers to cultivate and develop these attributes. Since user needs are in constant state of accelerating change,

especially in the modern high-tech-world (Briffett,1994) there is need to develop performance measures distinct from traditional shareholder profit maximization perspectives (Walters, 1999). For instance, the U. K. Human Rights Act 1998, prohibits depriving of possessions from a natural or legal person, thus a landlord distraining for rent will be in breach of this Act (Thomas; 2001). Further a recent High Court decision in Kenya ruled that an occupier of premises owes a duty to all its visitors to ensure that a visitor will be reasonably safe in using the premises, for the purpose for which he was invited or permitted by the occupier to be there (Case No. 1517 of 2002: Hassan & Another vs Soma Properties Ltd. [2004] KLR). How does a tenant or landlord satisfy this? This may result in conflict “internal” to the tenant, who has limited control over a small aspect of the entire building. These emerging trends make it obligatory for the property manager to be abreast of dynamic changes.

Referring to findings from several studies on public sector in UK on operational property management, Gibson, (1994), cites four identified weaknesses facing it, reactive management, landlord versus tenant objectives, lack of performance monitoring and inadequate information.

Relationships in commercial buildings are regulated through lease covenants, but as (Thomas, 2001) observes rent default is often a symptom of poor landlord and tenant relationship, from non-communication or early solutions seeking. Reading most property management literature gives the impression that most writers side with the landlord. This perspective has persisted through the years because of capitalist orientation where the landlord as the provider of capital lords over all, but the times are gradually changing. The tenant appears more the ‘hunted’ than being part of the ‘hunting’ team. Leases are calibrated to protect the landlord rights with little protection for tenants, often in unclear complicated language beyond comprehension of lay persons.

Property leases with “staircased” rents (Murdoch, 1994) are observed to be a source of conflict especially in declining economic conditions. For instance, In the late 90’s, landlords in Kenya found themselves having to freeze the rent reviews

and escalation clauses due to a declining and contracting economy. Other clauses that render the landlord – tenant relationship one sided include, guarantees, rent deposit, forfeiture, penalty interests, peaceable re-entry, open ended service charge clauses. Leases incorporating clauses that are indifferent to the tenants are common place and result in conflict at onetime or another.

According to Pottinger, Dixon & Marston, (2002) “occupier and investor interests are set to coincide.” The question is unlocking this potential for both parties. Pottinger *et al.* argues; this will largely depend on how finance and investment vehicles align their needs. But perhaps more critical role played by the real estate professionals in the educating, training of various stakeholders and also by their own management practices. Could this be the beginning of collaboration between landlords and tenants? Occupiers want value above current arrangements and improved level of trust so that they feel securer to share information. On the other hand, Pottinger, Dixon & Martson(2002), notes, investors and providers are driven by the potential to generate income from property, through provision of additional services. This looks like pulling in different directions at the same time.

In the local context, traditional property management practices are very pragmatic and highly reactive in dealing with changing situations. Reactionary behaviour and attitudes aggravate conflicts as they ignore changing conditions. Conflict prevention requires trust and pro-activity for optimal management. The absence of growth in property management professionalism as a distinct discipline may in part explain the emerging discipline of facilities management (Pitt & Hinks, 2001), running parallel to that of property management. It slices away a market share from property management.

Unlike residential leases, commercial leases are complicated and problems between commercial landlords and tenants tend to be more complex (Emrich, 2002). Real estate management is so complex due to the fact that every transaction [including exchange relationship] is unique and is performed in a complex environment. No customer, no two sites, no two negotiations is akin to

another (Zappile, 2004). Due to these complex problems and intricate relationships; arising conflicts are compounded by the multiplicity of potential causes. Emrich (2002), who notes that these could range from “sublime to the ridiculous”, argues that a well crafted lease detailing responsibilities, obligations, specific spatial details may prevent costly disputes. However even the best crafted lease can never be ‘conflict proof’. The parties need to build confidence, trust and goodwill towards each other. Further create an enabling environment as demonstrated in Table 2.2, that will culture further development of sound relationships.

2.9 Inter-party Trust.

Munns(1995:19) defines trust simply as becoming “vulnerable or dependent” on another and notes that trust is “necessary for processes to operate efficiently and effectively” in any society Trust has three facets; benevolent expectation; vulnerability and risk that cannot be compelled; and dependency (Whitener *et al.* 1998).

Conflicts in property are grounded in the structure and unique nature of real estate business. Traditionally, Estate Agency business has been perceived negatively as integral with ‘conmanship’. Trust can however be generated through “regular discharge of obligations” or by “gradual expansion of exchanges over time”. This notwithstanding commercial property is a major factor of production whose management ought to be embraced positively. Instead of adopting exclusive techniques for evaluating real estate, Bon, *et al.* (1994) advocate for measures which blend the language of real estate with the language of finance and human resources. Landlords and tenants are independent yet interdependent entities. Their ability to gain trust of each other encourages cooperative efforts, with the likely result of conflicts reduction. Trust is based on expectation; it includes perceptions of the trustor – trustee behavior (Brockner, Sigel, Daly, Tyler & Martin: 1997).

Being independent, trust building initiatives can be commenced by any of the parties. The expectation that the landlord should be the initiator of such moves is

based on the 'aged' false notion that the landlord is superior over the tenant. The landlord could be coercive which could erode the basis of trust between otherwise mutual partners. The tenant may tend to view the landlord as superior because of economic strength (owner of capital) verses economic dependence (use of capital). The landlord "creates" the building structure and tenant (uses) depends on it. Munns(1995) has presented Zands (1972) model examining the 'dynamics of trust' when both parties lack trust in each other thereby setting in motion the downward 'spiral of trust'. The very agreement between tenant and landlord is based on trust, that each will do what they have promised to do (whether in writing or verbal) without requiring external motivation, coercion, monitoring or control. Such a trust or will expect reciprocity. When this does not happen, the downward 'spiral of trust' sets in. Brockner *et al.* cite Blau (1964) who said, "people will support a social exchange partner in proportion to the perceived benefits provided by the partner".

Trust as organizational behavior has been explored in many studies. No studies have been found that discuss trust between landlords and tenants. References from other disciplines are adopted. Relationships between landlord and tenant tend to be taken for granted and presumed. Possibly they are not considered worthy of study or investigation. Are they ordinary market interactions? Yet the relationship between landlord and tenant is of major economic interest. The landlord and tenant have similar micro economic goals and depend on common subject (building) in achieving their goals. The outcomes have major aggregate effects on the macro economic outputs of a nation.

Although not documented, experience shows that a property manager spends a substantial portion of time handling conflict situations. Therefore, the occurrence of conflict in property as a phenomenon cannot be ignored. If productivity must be increased, returns improved, social structures and resources preserved or gainfully employed conflict must be understood and its overall management improved. Court time and man hours, entrepreneurs time and finances, the investors time and financial costs; lost opportunity costs, destroyed relationships,

and emotional effects arising from property conflicts are too serious to be trivialized.

Due to the disappointing returns on property, coupled with traditional illiquidity of property, investments in property in UK have fallen behind other portfolio investment options (Booth & Matysiak, 1995). A study by Newell & Fife (1995) demonstrated the strong support for property securitization to improve access [ownership] to physical property and to increase its liquidity. This new focus requires new methods and attitudes in property management, where transparency and trust will play a pivotal role.

Commercial property is an important platform for critical economic activities that affect whole populations. A stage on which there is serious engagement between contending interests, motives, claims and expectations with serious ramifications on both consumption and production. It is therefore incumbent upon the academic and practitioner to take this subject with serious interest to unearth real causes of conflict and its management for sustained industry growth and professional development.

Syagga & Aligula (1999) suggest that in the face of increasing property portfolios, there is greater demand for property managers. The emerging property manager requires a “high degree of specialization, “this in turn needs support from new level of special inputs from service disciplines.”

In this age of demanding standards and accountability there are higher expectations and increased demands upon managers (DiPaola & Hoy, 2001), and this includes owner-manager and professional property managers. Trust between parties is a catalyst for enhanced relationships.

2.10 Conclusion

In order to gain understanding into the nature of conflicts and how they occur a large body of references have been consulted and reviewed. Although referred

to differently by respective writers, cognitive and affective conflicts are generally the two principal types of conflict. Conflicts are known to have negative and positive consequences and may grow from one stage to another. From the foregoing, it is clear that conflict as phenomenon in property cannot be ignored nor wished away. Different mechanisms are effective in its management at respective stages.

Commercial buildings are an economic and social platform on which competing interests, between landlords and tenants interact vigorously. These interactive processes require trust to be effective and efficient. Because of the diversity of interests, expectations and environmental pressures; rarely is there continuous high level of trust. Management of conflicts therefore become an intricate act of tightrope balancing, the needs, concerns, interests, goals and motives of different parties. Understanding the source and type of conflict is critical as the first step to efficient and effective management of conflicts.

CHAPTER 3

RESEARCH METHODOLOGY

3.1 Introduction

The previous chapter has reviewed the theory of conflict in general (definitions, types, characteristics) and in the context of commercial buildings. The final section of the chapter was committed to the concept of trust which is necessary for efficient and effective operations of processes.

This chapter is divided into four (4) sections. The first two review the problem being studied, and expound on the propositions. The next section discusses the research methodologies in general and attempts to specifically integrate the research instrument in the arguments. Section 3.4.4 details the specific process used in obtaining the sample; as a preliminary step towards data collection and use of the research instruments under 3.4.5 to 3.4.6. The purpose of this chapter is to build on the foundation established in the preceding chapter by demonstrating understanding and providing justification for the research methodology adopted.

3.2 Problem under Study

The phenomenon of conflict in property management is easily ignored and underrated. Mostly it is considered normal and inseparable with the class of real estate business. Little wonder that scanty resources have been spent on understanding it and the means of its management.

Although prevalent, most property managers do not seriously address it. This failure lends itself to inept conflict management practices often witnessed. For one reason or another, conflicts that would have been managed and settled easily are allowed to drag on for long periods. Preventable conflicts often escalate into full blown wars. Cognitive conflicts are mistakenly considered

confrontational and disruptive. Benefits that would have accrued through their effective management are not realized. The system continues to recycle conflicts with disputes and mistakes of yesterday rehearsed over and over again.

A high-rise commercial building represents a huge financial investment and its performance depends on both stability of relationships and efficient management processes. Experience has shown that a property manager spends disproportionate amounts of time dealing with conflicts. Further, the tangible benefits gained through this investment are not shared in the industry and its beneficial value is limited to individual, or small circle of colleagues.

The market place changes occurring in the global environment influences landlord and tenant in different ways and to varying degrees. At the micro-level some of these effects manifest themselves through conflict between landlord and tenants.

Each year, conflict issues are referred to advocates, tribunals and courts for assistance and determination. On average property related disputes usually take a minimum of 3 years to settle through judicial processes. These delayed settlements are expensive both in time, money and emotions.

This research explores the root causes of conflict in commercial buildings and how they can be prevented from becoming disruptive and destructive to businesses and relationships. Secondary issues related to prevalence of conflict, its acknowledgement or lack of it and its effects on property management processes are also investigated.

The section below articulates the propositions to be supported or rejected in the light of the problem being studied.

3.3 Research Propositions

It is agreed that conflict could be a beneficial social phenomenon. However, it needs careful and consistent channeling. Although it takes time, space and energy [resources], it can lead to improved relations, improved management models, review covenants, less wasteful judicial references, learning and reduced tensions. Further, it leads to life commitment to learning. All practitioners in property management who must be students of conflict management will watch out for fatalism which 'paralyses the will to act'.

When conflict is ignored it remains unaddressed and unresolved. This failure to acknowledge it leads to un-informed decisions where the bare rudimentary facts are considered primary causes, whereas they are secondary causes. Consequently, it does not produce beneficial results that could be harvested from effectively managed conflicts. Yet most conflicts in the property simmer under the surface while conflicts are avoided rather than encouraged, resolved, or managed. This tends to happen among tenants enjoying beneficial business relationship with their landlords thereby avoiding property related conflicts in preference to secure business benefits. Some tenants are admittedly intimidated by the relative size of the landlord and tend to cower and avoid confrontation. The potential gains that would have been realized are finally never obtained.

Relations between landlords and tenants are governed by leases or statute. Statutes remain static for many years while circumstances change. Leases are fixed for a minimum of 5 years 1 month. Leases as management tools are more

dynamic than statute as they could be varied every 5 years or less by alternative agreement duly executed. They can be varied in response to changing landscapes.

Tenants as renters and users of commercial space are subject to complex and rapid market and environmental changes. Some of these affect the ability of tenants to legally perform their covenants. These changes could mean the death or survival of the enterprise. For instance, during cash flow difficulties the primary survival instinct of a tenant is to use available resources to pay employees first. This means a tenant could inadvertently renege on its rent promises. Contractually this would attract punitive measures that are oppressive to the tenant.

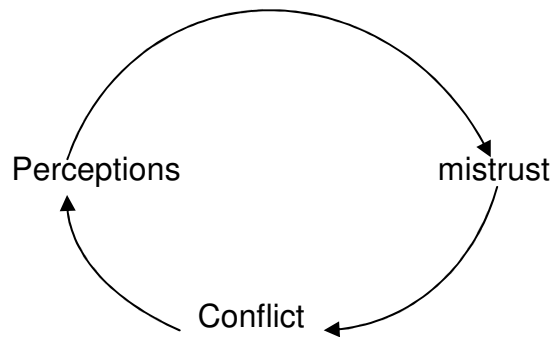
Consequently the landlord could default on its covenants with financiers, arising from a defaulting tenant(s). Without understanding the peculiar circumstances and motivating factors, blind enforcement of the covenant(s) and resistance thereof, could precipitate conflict. Landlords, like tenants, have lease obligations. Their relationship is active and involving deliverables from either side. The key responsibilities of landlords are to maintain safety of premises and ensure their suitability for the tenants' use. The landlord is also obligated to utilize the tenants' funds in an ethical manner and to account for their diligent use. These overarching covenants are responsible for the bulk of conflicts between tenants and landlords. The covenants are about payment of rents and service charges by the tenants, and the corresponding maintenance of the

property by the landlords and the use of monies entrusted to them by the tenants.

Failure by tenants to meet their rent payment obligations due to landlords could provoke conflict. On the other hand, failure by landlord to maintain the premises to the expected standards approximating the rents and service charge monies paid to it generates intense conflict between tenants and landlords. The question arises; does the frustration of bare contractual obligations of themselves lead to conflict? To the contrary, it is hypothesized that real causes of conflict are the underlying perceptions by the landlord and tenants. Perceptions about the reason for failure to honor rent payments coupled with perceptions and expectations as to ethical use of the receipts for the optimal benefit by the tenants also generate conflicts.

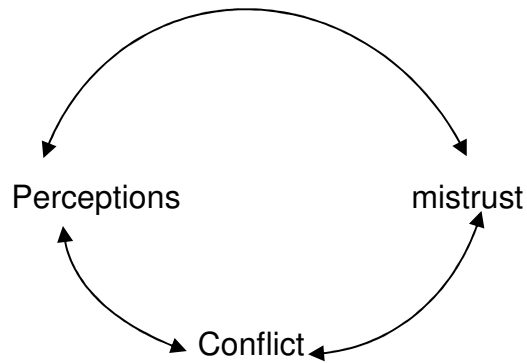
When these perceptions remain uninformed and unaltered about the predisposing factors leading to the contractual failure, they become ingrained and difficult to eradicate. They tend to have a cyclic effect on conflict. The perceptions lead to mistrust and fear which breeds conflict as figure 3.1. These attitudes in turn fertilize each other entrenching the conflict loop, as in figure 3.2.

Figure: 3.1 Cyclic effect of conflicts.



Source: **Researcher's illustration**

Figure: 3.2 Two way conflict loop.



Source: **Researcher's illustration**

3.3.0 Propositions Restated

3.3.1 The non-observance of covenants by tenants which lead to enforcement by landlords is the immediate cause of conflict between landlords and tenants, while fear and mistrust are the root causes.

3.3.2. The failure to provide services to the tenants' satisfaction and perceived misuse of maintenance funds by landlords is responsible for creating mistrust which yields feelings of exploitation thereby causing conflict.

3.2.3 Conflicts in commercial property cannot be eradicated but can be minimized and prevented from becoming full blown conflicts to consume enormous resources of energy, time and money.

In the following section, the researcher explores the theory of research methodology with a view to identifying the appropriate method of studying the conflict phenomenon in buildings in order to support or reject the above propositions.

3.4 Discussion of Research Methodology

Research methodology is the general principle and approach by which research study is conducted. It is the framework and overall approach for study of a topic. This section discusses the issues that are considered in the methodology. The issues include constraints, weaknesses, strengths, dilemmas and ethical considerations within the framework of research.

Methods of inquiry used in research are broadly classified as qualitative or quantitative approaches. Under each, there are sub-categories and refinements. Qualitative approaches explore attitudes, behavior and experiences such as experiences of conflict. Data may be collected by interviews with in-depth probing for opinions of the interviewees or focus groups. Specialized refinements of the qualitative method include ethnography, feminist approach, grounded theory, interviews, case study, critical research etc.

Qualitative approaches mainly answer questions of what, why and how. Question No. 3 of the research instrument, addresses, the commonest disputes in buildings, its main focus is the context of discovery or its justification. It encourages exploration and understanding of the problems in the real world, in relation to their contexts. Unlike quantitative approaches, it does not treat people as mere measurable objects, but recognizes independence of their historical, cultural and social contexts. The outcomes of qualitative studies become

relevant to the intended audience as it speaks its language and understands its contexts. This research methodology is more holistic and view subjects in their entirety. Quantitative approaches are reductionist and assume that subjects can be understood in respect to their small units.

Qualitative methodology does not seek to control or manipulate the subject as in experimental studies. The data obtained is natural and familiar, gaining understanding of people from their own frame of reference in attempt to probe the existence of conflict. In attempting to probe the existence of conflict, question No. 4 delves into the respondents experience and personal perspectives.

In addition to examining phenomenon in context, it develops theory from the actor's perspective. The research and the subject (respondent) are active participants, in a two way process in which understanding develops to the formulation of the theory. In an attempt to understand complex social phenomenon by questioning, it penetrates the experiential social world through spoken or written word and reconciles context, detail and complexity. It seeks to understand and gain knowledge about the fundamental characteristics of an issue before theorizing about it. The researcher by fielding question No. 11 seeks to gain understanding on how conflict can be effectively managed from the respondents' experience and expectations.

The process facilitates close contact with the subject of study, permitting the researcher to understand their points and experiences (needs, concerns and feelings), on the phenomenon. The qualitative technique of questioning is therefore a rich resource of gathering genuine information about the participants' perceptions, experiences and attitudes, thereby providing a basis for theory building. Further, the method is more open-to adjusting and refining of the researchers' ideas as the inquiry progresses. The researcher adjusted the

questions and method of questioning as the data collection progressed. The questions were re-organised at an early stage to follow a logical pattern of thought. Subsequently, additional questions were included to clarify certain issues.

Like any method or process, it has strengths and weaknesses. Due to its characteristic, only limited sample can be taken and analyzed.

The key benefits are that natural occurring phenomenon is studied in its natural occurring state. This safeguards against data corruption. Data gathered is well grounded having rich descriptions and explanations. The questions(s) allow explanations with examples. The data demonstrates preservation of time flows, chronologies and casualty. It has a quality of undeniability and suitable for theory building.

Its general weaknesses are that generalizations are not possible and the data collected is only true of the specific subject. The interpretations are applicable to the specific respondents. In order to overcome this weakness, data would need to be collected in a variety of contexts which would be costly, time consuming and therefore prohibitive. The design of the instrument aims at interviewing small, medium and large tenants, landlords and agents with a view to obtaining broad spectrum of views.

Further, the method is less popular among the scientifically oriented. It has also been said to lack objectivity and prone to subjectivity. In order to reduce subjectivity, standards must be established whereby data collection and analysis

techniques must fit and answer the research questions. The research questions (s) must drive instruments design, data collection and analysis techniques rather than vice-versa. A number of objective questions in stage 1, question 4, 6, 13 and 14 in the interactive interview are included to minimize the effects of subjectivity.

In data presentation, it is essential that the researchers' subjectivity be made explicit. The research being undertaken must be balanced with broader knowledge basis from other bodies of knowledge. Data and investigation subjectivity could be minimized through methodological triangulation which is a combination of qualitative and quantitative approaches. The qualitative methodology is also considered softer and less scientific, however, as analyzed, it has solid basis and value in research studies. It must however be appropriate to the area and subject of the study.

On the other hand, quantitative research methods are considered more scientific and more acceptable for research work. It has been argued that quantitative methods are more suited for theory testing, while qualitative approach are suited for theory building.

Quantitative methods are represented by experimental designs, examining causal relationships between variables which are controlled and removed from their natural setting. The observations are quantified and statistically analyzed to

establish probability and certainty of the outcomes. The basis of analysis for quantitative methodologies is numbers and statistical methods. Its adoption is limited to those with scientific and statistical skills. Outcomes of the process render themselves to generalization and wider application.

Quantitative research has a narrow and concise focus, thus generating statistics through the use of large scale surveys by use of questionnaires or structured interviews. This approach is large scale and involves many people as respondents. However, the contact with the interviewees is short, but analysis are larger and more involved. This gives the benefits for generalizations.

It has been presumed to be more objective and provides a basis for knowing cause and effect relationships. It is however weak on exploratory studies.

This approach makes the epistemological assumption that the social world lends itself to objective forms of measurement. The form of measurement removes data from natural settings to artificial settings. This translocation raises questions, about validity and data corruption. The methodology is however considered superior due to logistic reasoning and deductive analysis which tradition has considered 'brainier'. The labeling of the methodologies as 'soft' and 'hard' is unfortunate as it perpetuates the notion that analysis by numbers is superior to that by words.

Debate has continued over which of the two is more scientific and therefore preferred. Each has weaknesses and strengths. One method will be

appropriate for given situations while the other is suited for another. None is superior to the other as they explore different dimensions of a subject. However, the appropriateness of the methodology to each research study is critical. Sometimes triangular method is used where both qualitative and quantitative methods are used in the same study.

This research seeks to understand the deep seated attributes of conflict in commercial buildings. Qualitative methodology has been adopted for use, with a number of objective questions to confirm attributes.

3.4.1 Research Method Adopted

In this research the method adopted is qualitative through personnel interview of the sampled tenants, landlords and agents. A number of objective questions have been included in order to confirm certain aspects of the phenomenon under study.

3.4.2 Justification of Methodology

Conflict is a phenomenon influenced by internal personal attitudes, behavior and experiences. These attitudes can comprehensively be studied through qualitative methodology by answering the questions of 'why?' 'what' and 'how?'. Quantitative approach would be inappropriate for this study. These questions have been used in the instruments. Qualitative approach has mainly been selected as suitable methodology for this study through interviews because of its ability to bring understanding of internal attributes, which cannot be quantified.

3.4.3 Review of Theory

In order to find likely support for the propositions or otherwise, extensive reviews of conflict and property management theory and court cases were undertaken and recorded in chapter 2. These reviews inform the instrument design, questions and the structure of the study. The study was conducted along the lines of the process outlined in the following section.

3.4.4 Sampling Process

- (i) A physical count of the high rise commercial buildings was undertaken in the Central Business District of Nairobi within the polygon formed between Haile Selassie, Moi Avenue, University Way and the Uhuru Highway. A list of all the identified buildings was prepared.
- (ii) High rise commercial buildings numbering 54 with over 8 floors were identified and each given a district code ranging from P₁ to P₅₄.
- (iii) Out of the population of P1 to P54 high rise buildings, a random sample of 10 buildings was drawn through a ballot. The ten (10) buildings sampled were P31(BH), P42(IB), P43(KM), P29(NHC), P26(PB), P3(RH); P6(CO); P25(UT); P40(CH); P21(HR), representing Bima, ICEA, Kimathi, NHC, Posta sacco, Rehema, Corner House, Utalii House, Chester and Harambee Plaza respectively.
- (iv) After the ballot; evaluations showed that buildings which were owner occupied were non representative. These buildings are only occupied by their owners and have no tenants. A fresh ballot was taken to replace the owner occupied buildings which had been considered non-representative. The above list does not include the exclusively owner occupied buildings.
- (v) (a) The researcher negotiated with the landlords and agents to obtain tenancy schedules for the 10 buildings. Assurances were given that the material so obtained would not be published without their consent. The tenants in each building were given a distinctive code before a sample was drawn. The coding was based on the building

and size of the tenants; (L; representing Large, M; medium and S; small).

- (b) Negotiations for the obtainance of tenancy schedules for these buildings owned by state corporations proved difficult, cumbersome and lengthy. Three of the originally sampled buildings are P31(BH), P25(UT), and P29 (NHC). Another ballot was drawn to replace these three buildings. The new buildings were P53 (KC); P28 (EH); P17 (SO).
- (vi) From each category, two tenants were sampled from each building. Where there were two or less tenants, they were automatically sampled.
- (vii) All the tenants in the respective categories were mixed together and a final ballot was drawn.
- (viii) In the small[s] category, 5 tenants were sampled out of 16; in the medium, out of 11 tenants, 5 were sampled and from 16 tenants in the large (L) category, 5 tenants were sampled.
- (ix) From a total of ten buildings in the sample a ballot was drawn to select five (5) landlords for interview.
- (x) After the sample of tenants and landlords was drawn, the researcher scheduled interview appointments with each sampled tenant and landlord or representative. The interviews were scheduled at times convenient to the respondents and took place in their familiar environments. On average, each interview took one hour to conclude.
- (xi) To prepare for use among the sampled respondents the interview instruments were tested on one non participating tenant and one managing agent. The managing agent tended to provide subjective and “ought to be” answers while the tenant was more practical and experience based. Following this outcome, buildings which were owner managed, were preferred to those that were agent managed. This is because owners tend to refer issues of property management to their agents, feigning ignorance of the relevant issues. The managers of the owner-managed buildings were interviewed on behalf of landlords.
- (xii) Out of the 10 buildings, six (6) buildings were owner managed. From the six a sample of five buildings was drawn. These owner-managed

- buildings were coded as follows;- [P40 (CH), P3(RH), P26 (PB), P28 (EH), P21(HR)].
- (xiii) From the sample of buildings, 4 are managed through agents. A sample was drawn and two agents were sampled for interview and coded as A1 and A4.

3.4.5 Interview Process

Before data is gathered, sampling of tenants and landlords is done from among the building population. The process undertaken to obtain the sample is described under 3.4.5 below. Once a sample of interviewees was drawn, interviews were scheduled with each of the respondents. The interview processes will commence with stage 1, by identification of clusters of variables/factors thought to cause conflict and the degree to which they bring about conflict. Stage 2 will have general questions fielded to respondents which will be followed with discussions and probing questions to gain deeper insights into the respondents mind, attitude, perceptions and experiences.

3.4.6 Interview Questionnaire

(i) Stage One

The questionnaire was structured in two parts; stage I and stage II. In stage I, respondents were required to indicate which respective factor clusters were considered likely to cause conflicts and what degree. The choice ranged from most unlikely, unlikely, likely to most likely. Later most likely were regrouped as likely, while unlikely and most unlikely were grouped as unlikely.

Interviewees were also asked to indicate additional factors and/or clusters that played a role in the causation of conflicts. Stage I outcomes formed the basis of the later discussions in stage 2.

ii) **Stage Two**

This consisted of interview questions for discussions. The thrust of the interview questions was to find out the root causes of conflict and all the questions were directed towards this outcome. Some questions focused on the subsidiary problems of study, on prevalence, effects and management.

Questions were fielded from different perspectives to try and collaborate responses to other questions fielded in the interview. In order to confirm various attributes and phenomenon with certainty, objective questions were asked. The objective questions were qualitative in dimension, but yielding quantitative data. These questions assisted in confirming existence or non existence of the attributes but do not necessarily rule out other possibilities.

There were fifteen 15) questions with related subsections clearly identified for recording purposes.

3.4.7 Conclusion

Following the conclusion of the sampling process, the drawing up of interview schedules, reviewing of the research instruments, the researcher personally proceeded to interview the respondents. All responses from the interviews are recorded in the interview forms and note books. The interview outcome from each respondent was reviewed and analyzed on the respective date of interview. The research findings are provided in the next chapter.

CHAPTER 4

RESEARCH RESULTS

4.1 Introduction

Following the sampling process, interviews were scheduled and conducted. Here below is the analysis of the sample and respondents from various perspectives. A total of 22 interviews were scheduled, 18 were responsive while 4 were non-responsive. A response rate about 82% was achieved. Tenants in the large category were least responsive.

Outcomes of the research are presented in sections 4.2 through to 4.9; both in tabular and graphic formats and interpretations for each provided. In order to support the propositions or otherwise and meet the study objectives; results are organized and presented in five (5) broad sections to respond to the research problem and sub problems on prevalence of conflict (4.2), its recognition and acknowledgement (4.4), causes and effects (4.3); benefits (4.7) and management of conflicts (4.6). The chapter closes with a property management outlook (4.7). The results and implications are fully discussed and analyzed in the next chapter.

The profile of the sample and respondents is first analyzed and reported below under 4.1.1 (i) to (vi).

4.1.1 Profile of Respondents

This section analyses the sample and respondents from various perspectives, to test for its representativeness.

(i) Sample and Response Rate by Category

<u>Size/class</u>	No. Sampled	No. Responses	Response Rate
Small Tenants	5	5	100
Medium Tenants	5	5	100
Large Tenants	5	1	20
Landlords	5	5	100
Agents	<u>2</u>	<u>2</u>	<u>100</u>
Total/Average	<u>22</u>	<u>18</u>	<u>81.82</u>

(ii) Types of tenants

Shops	3	23.8%
Offices	10	76.92%

(iii) Landlord types

State owned corporations	1
Co-operative Societies	2
Private organizations	<u>2</u>
Total	<u>5</u>

(iv) Status of sampled tenants

	<u>No.</u>	<u>%age</u>
International organizations	2	11.76%
Local Enterprises	12	70.59%
Computer/Secretarial Colleges	2	11.76%
Religious organizations	<u>1</u>	<u>5.88%</u>
Total	<u>17</u>	<u>100%</u>

(v) Respondents by Gender

<u>Gender</u>	<u>No.</u>	<u>%age</u>
Females	4	22.22
Males	14	77.78

(vi) Analysis of respondents as owners or managers

	<u>Owners</u>	<u>Managers</u>
Landlord	0	5
Tenants	9	4

Sources: Data analysis compiled by researcher.

4.1.2 Conclusion

The sample which includes diverse categories of commercial tenants in size, uses, private and public was considered representative. However there were no restaurants and cafes in the sample. The number of respondents about 82% 81.82% was representative as it included male and females, owners and managers, State Corporations, cooperatives and private organizations. Tenants sampled include, international organizations, local enterprises, religious organizations and training institutions. This sample is considered representative of landlords, tenants and agents.

4.2 Prevalence of Conflict

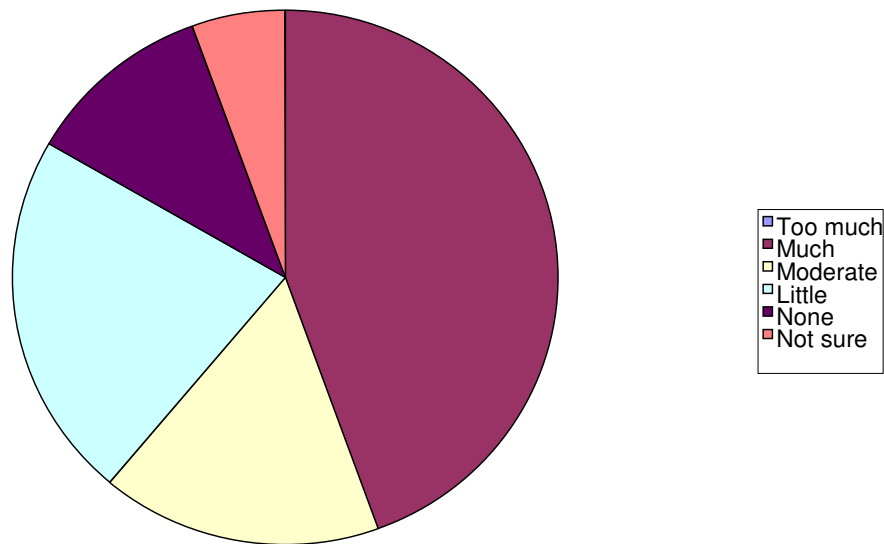
Based on experience, interviewees indicated that conflict indeed exists among Landlords and Tenants. They also indicated that Conflict is a substantial problem in varying degrees. These responses are recorded below in Table 4.1 and graphically demonstrated in Figure 4.1.

Table 4.1. Respondents views on prevalence of conflicts

	Tenants	Landlords	Agents	Total	Percentage
Too much	0	0	0	0	0
Much	3	3	2	8	44.4
Moderate	1	2	0	3	16.6
Little	4	0	0	4	22.2
None	2	0	0	2	11.1
Not sure	1	0	0	1	5.56
Totals	11	5	2	18	100

Source: Data gathered by Researcher from interviews.

Figure 4.1 Respondents views on Prevalence of conflicts.



Source: Interpretation of data in Table 4.1

The above data in table 4.1 and figure 4.1 indicate that prevalence of conflicts in commercial buildings ranges from little, moderate to much. A threshold of above 40% has been considered significant. 60% of respondents confirmed presence of moderate and much levels of conflict. 22.2% indicated little conflict. The results indicate that conflict is a substantial problem warranting attention and study. During the interviews it was noteworthy that respondents tended to increase their perception of conflict as interview progressed. Some would recall the many hours of sleep and waking hours spent thinking and agonizing over conflict issues.

4.3 Evidence, Effect and Experience from Conflicts

Common concerns and disputes in commercial buildings represent areas where interests, goals and objectives are out of alignment and therefore suggest existence of conflict or cause of it. Respondents identified critical areas of concern as follows:

4.3.1 Stated Key Concerns

	No. of Responses	Total Sample
Cleanliness	5	18
Rent issues	6	18
Selection of Tenants	4	18
Slow response by landlord	3	18
Lifts	6	18
Mechanized systems	2	18
Inadequate technology	2	18
High status building not matched by reality	3	18
Noise levels	2	18
Parking problems	5	18
Leases	3	18

The above factors are stated individually but they conform to the clustering of factors as under Stage 1 of the interview (see 4.5 below) except for the environment issues (noise), which emerged as a factor in the causation of conflicts.

4.4 Effects and Experiences from Conflicts

Experience and results from the study indicate that unmet and unfulfilled obligations are symptoms of conflict. Respondents' experiences arising from unmet and/or unfilled expectations and obligations fall into three broad categories, emotional, business and process effects. These outcomes of conflict further produce and create fertile ground for more conflicts. Upon the conclusion of the interviews, responses were analyzed, organized, interpreted and reported in nutshell as follows:-

Emotional effects	-	10 items
Business effects	-	4 items
Process effects	-	6 items

More information, on the particularized details of the mentioned effects are provided in Appendix 2

4.4.1 Conflict Experiences from Diversified Perspectives

Respective respondents expressed emotions that arise when any of the parties has failed to deliver, thus enhancing conflicts. The full list of experiences is documented on Appendix 3.

(i) Landlords:

The following experiences were mentioned more than once:-

	No. of Responses	Total Sample
Frustration and anger	4	5
Fear of losing money	3	5
Reacting from business performance	3	5
Let down feelings	3	5

Leasing premises to tenants requires trust and when this is betrayed or frustrated, anger, reactions and fears are natural outcomes. These emotions are directed at tenants.

(ii) Tenants:

Many experiences were mentioned, but those mentioned more than once are recorded below:-

	No. of Responses	Total Sample
Traumatized, afraid and anxious	3	11
Fear of being ousted	2	11
Fear of exploitation	8	11
Fear of business loss/closure	3	11
Loss of Trust/misunderstood	2	11
Fear of business collapse	2	11
Anger and frustration	5	11

Divided attention through wasted time	2	11
Fear of humiliation and dented personal image	2	11

Tenants experiences are mainly about their business, costs of operating, market conditions, and their Landlords likely actions. Experiences are as diverse as there are tenants.

(iii) Agents:

All the experiences listed below were mentioned more than once. Appendix 4 contains all the mentioned experiences.

	No. of Responses	Total Sample
Fear of losing business	2	2
Fear of not measuring up	2	2

Building owners are regularly evaluating the performance of their employees (agents). Agents are forever aware that management contracts may be terminated for performance below expectation. Loss of business is real in the very competitive environment.

4.4.2 Conclusion

Unmet obligations create conflicts which have various effects on those who experience it. These obligations may be the outcome of conflict, cause or effect of it. As expressed by respondents, conflicts have emotional, business and relational consequences, which further influence processes that are employed in management. Emotional effects appear to outweigh the other effects.

4.5 Potential Causes of Conflict

Respondents identified cluster factors that contribute to conflict and also ranked them for their potential to cause conflict. The arising data is presented in tabular form and also translated into graphic details on Figures 4.2 and 4.3.

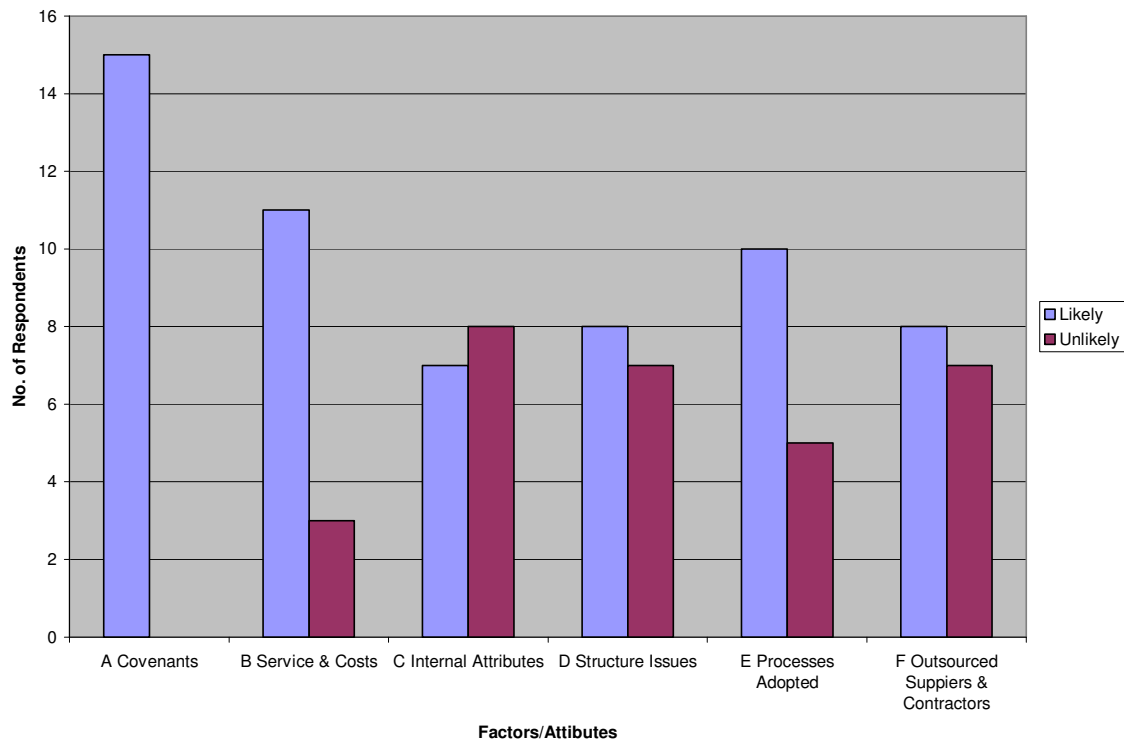
Table 4.2. Cluster Factors and their Likelihood to Cause Conflicts

	Factors /Attributes	Likely	Unlikely	Not Sure
A.	Covenants	15	0	0
B	Services & Costs	11	3	1
C	Internal Attributes	7	8	0
D	Structural Issues	8	7	0
E	Processes Adopted	10	5	0
F	Outsourced Suppliers & Contractors	8	7	0
G	Others : <ul style="list-style-type: none">• Mix of tenants• Conflicting interests• Diplomatic Immunity• Management Transitions• Anti-landlord feelings	Considered and included in the respective clusters A to F above		

Source: Data gathered by Researcher from interviews.

The above table 4.2 shows the number of respondents, on each cluster and the degree to which the cluster is likely to cause conflicts. The factors under G were allocated to their corresponding clusters A to F. G as a category was eliminated.

Figure 4.2 Comparative graph depicting character of responses for each cluster



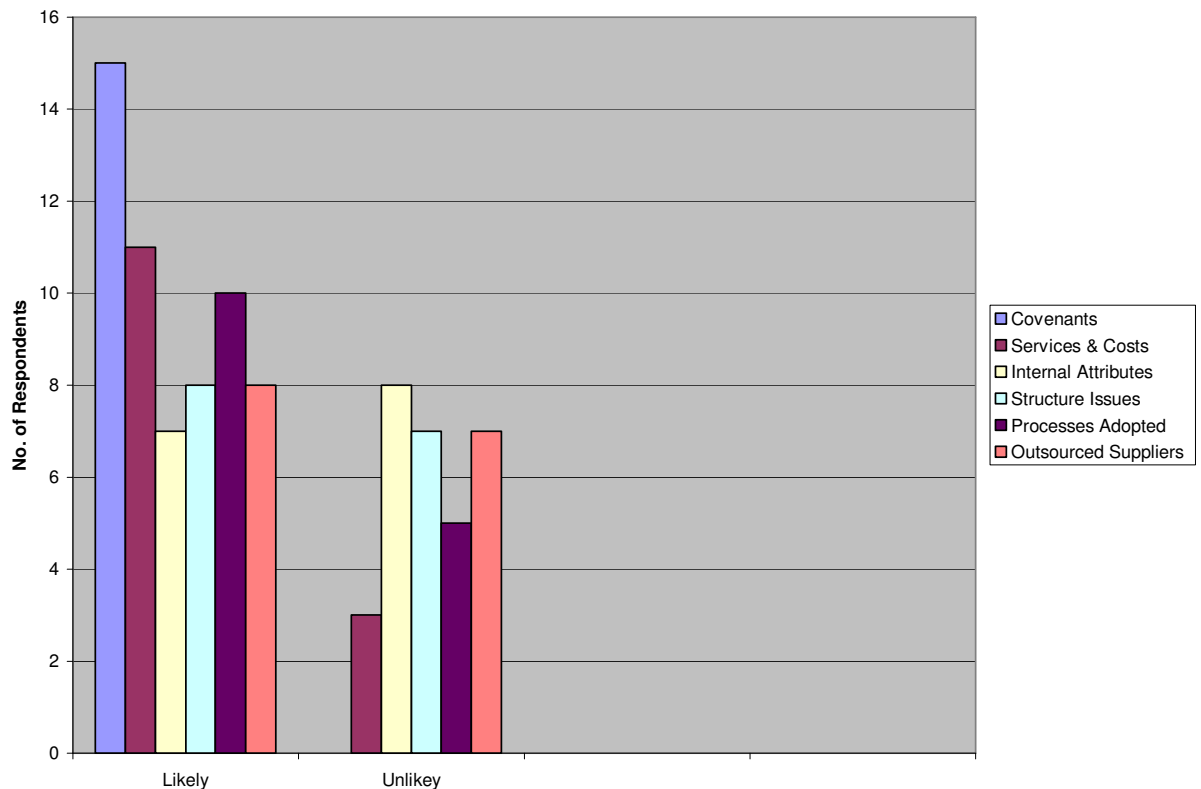
Source: Representation of data in Table 4.2

This above graph represents data on table 4.2 depicting interviewees perceptions about each of the clusters likelihood to cause conflict. Covenants were entirely likely to cause conflict. Services and costs were to a great extent likely to cause conflict, and unlikely to a lesser degree.

Processes adopted were substantially more likely to cause conflict than otherwise.

Internal attributes were considered least likely to bring about conflicts.

Figure 4.3: Comparative Graph demonstrating cluster factors causation of conflicts



Source: Representation of data from Table 4.2

The data presented in table 4.2 and demonstrated in graphs on figure 4.3 compare the degree to which each cluster is likely or unlikely to cause conflicts. All the six clusters have generally varying profiles in their likelihood to cause conflicts. Five of all the clusters excluding covenants are considered unlikely to cause conflicts but to varying degrees.

4.5.1 Sources of Conflict from Diverse Perspectives

In trying to solicit wide response on the causes of conflict, four questions were fielded from various dimensions. The responses to the four questions and sub-questions are organized and presented in table form, indicating the landlord, tenant and agent responses.

Item	Landlords	Tenants	Agents	Total mentions
Rent issues	6	6	3	15
Car parking needs	1	7	0	8
Response to Tenants	2	3	0	5
Building lifts	3	0	0	3
Service charges	3	4	3	10
Building design	2	1	0	3
Lease issues	2	2	3	7
Quality of outsourced Services	1	3	0	4
Transition Problems	0	2	0	2
Image of building	2	2	0	4
Power supply	1	2	0	3
Security lapses	0	3	0	3
Business Performance	0	6	0	6
Trust issues	1	2	1	4
Inadequate Communication	0	4	1	5
Conflicts of Interest	2	0	0	2
Noise levels in building and Outside	1	2	0	3

The above data indicate rent issues, car-park needs, service charge concerns and lease issues, stand out as likely to cause conflict from the combined

respondents. All above issues can be clustered and allocated to the respective clusters identified in table 4.2.

4.5.2 Emotional Causes of Conflict

From the choice of five (5) attributes, interviewees selected what they considered the real cause of conflict.

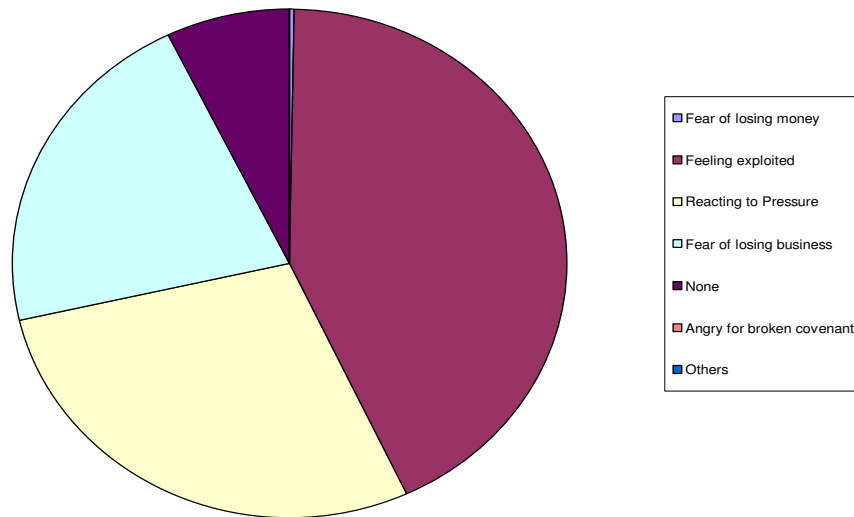
Table 4.3 Underlying Causes of Conflicts

Attribute	Number of Respondents	Respondents by Category			Percentage
		L	T	A	
Fear of losing money	3	3	0	0	17.65
Feeling exploited	6	0	6	0	35.29
Reacting to Pressure	4	1	2	1	23.53
Fear of losing business	3	0	2	1	17.65
None	1	0	1	0	5.88
Angry for broken covenants	0	0	0	0	0
Others	0	0	0	0	0
Total	17	4	11	2	100%

Legend: L = Landlord T= Tenants A= Agents

Source: Data gathered by Researcher from interviews.

Figure 4.4 Emotional causes of conflicts



Source: Interpretation of data on table 4.3

Table 4.3 and Figure 4.4 demonstrate that emotional reactions, attributes of fear whether by landlords or tenants are an important part in generation of conflicts. These underlying emotional causes are not explicit, are rarely acknowledged, yet they appear to contribute significantly to the emergence of conflicts, between landlords and tenants.

4.6 Benefits of Conflicts

Among the respondents, 5.8% contended that conflicts are fights and have negative outcomes and therefore not beneficial. However, 92.2% of the interviewees suggested that conflicts are beneficial if well managed. Some of the potential on benefits identified include the following;-

- (i) Conflict is not beneficial as both combatants are losers but when outcomes are win-win, conflicts are beneficial because they could lead to learning.

- (ii) Build confidence of managers, build trust between parties depending on how well handled.
- (iii) May contribute to improved services, and therefore improved business outcomes, it could lead to loss of business time and goodwill if perpetuated.
- (iv) Issues that may have been ignored are brought sharply into focus by conflicts. Continuous improvement is possible through effective conflicts management.
- (v) Shared out experiences among managers could expand knowledge and improve management skills.
- (vi) If unresolved [read, unmanaged] it has no benefits but credibility of the combatants increases with well resolved conflicts.
- (vii) Understanding is established, trust built, and benefits accrue to both parties.
- (viii) Conflict is a fight, a confrontation or a fight which are not beneficial. It could however have the advantage of helping to avoid similar mistakes in the future. Conflict of itself could serve a preventative [deterrent] to conflict.
- (ix) When experiences, exposures, are documented and shared, they help in improving property management techniques.
- (x) Excessive conflict drains energy but focused conflict puts all parties on their toes.

4.7 Conflicts Management Processes

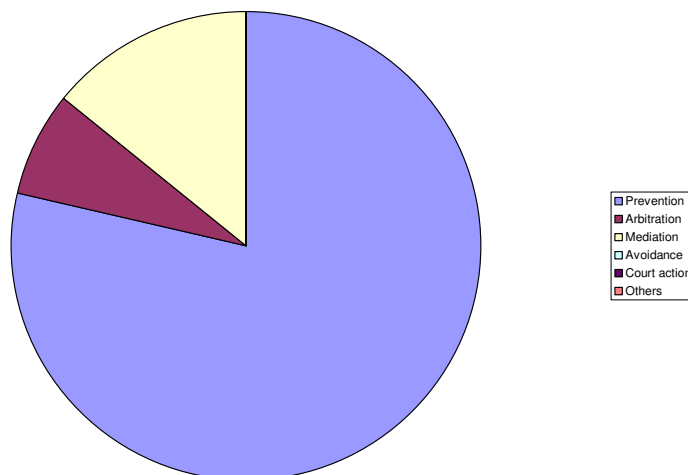
All the respondents (100%) confirmed that conflicts are not preventable from occurring but whereas conflicts can never be eliminated, they can be reduced and effects ameliorated for the benefit of protagonists.

Table: 4.4 Preferred methods of conflict management

Method	No. of responses	Percentage
Prevention	11	78.57
Arbitration	1	7.14
Mediation	2	14.29
Avoidance	0	0
Court action	0	0
Others	0	0
Total	13	100

Source: Data gathered by Researcher from interviews.

Figure 4.5: Preferred Methods of conflict management



Source: Interpretation of data from Table 4.4

Both table 4.4 and figure 4.5 demonstrate the huge preference of conflict prevention to other management alternatives: Only three methods out of the six (6) listed were selected, with mediation receiving 14.29%, while arbitration was supported by 7.14% of the respondents. Conflict prevention was supported by 78.57% of the respondents.

4.7.1 Possible Preventive Mechanisms and Processes

All respondents made suggestions on how conflict can be prevented in the context of commercial buildings. The suggestions were recorded, analyzed and organized. These suggestions are presented below indicating the number of mentions and particular cluster received.

Process adopted	9 mentions
Relational	5 mentions
Communication	6 mentions
Covenants	<u>6 mentions</u>
	<u>26 mentions</u>

4.7.2 Management of Conflicts

In response to question 15 in appendix 2, respondents provided what was considered optimal means of conflict management. Interviewees were requested to state in one word what they would advocate as a means of preventing conflicts between landlords and tenants. The various words were recorded, analyzed and clustered together and found to fit into three orientations as provided below.

No of respondents	
Covenant orientation	3
Communication orientation	3
Relational orientation	12

From the above data, approaches that are relational are suggested as more effective ways of preventing and managing conflicts. Covenant and

communication orientations as ways of preventing and managing conflict received little support.

4.8 Property Management Outlook

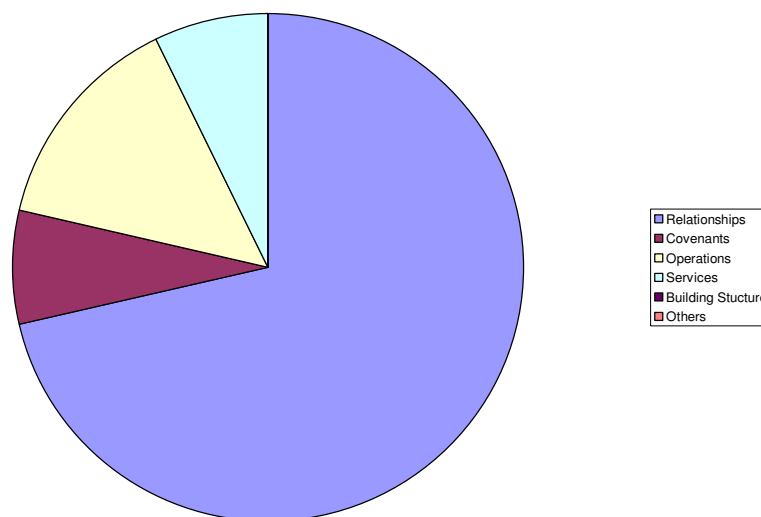
In response to Q 13, (see Appendix 1) on the most appropriate description of property management, about 71% of the respondents described the work of Property Managers as the management of relationships while 29% was divided among three other options covenants, operations and services management. The responses are presented in the Table 4.5 and depicted graphically in Figure 4.6 below.

Table 4.5. Property Management Outlook

Factor	Responses	%age
Relationships	10	71.43%
Covenants	1	7.14%
Operations	2	14.29%
Services	1	7.14%
Building structure		0%
Others		0%
Total respondents	14	100%

Source: Data obtained from scheduled interviews

Figure: 4.6 Importance of Relationships in Property Management.



Source: Interpretation of data from Table 4.4

Whereas the maintenance of the building structure, provision of services, efficient building operations and administration of covenants are all important in property management, it is possible that the management of relationships between the landlord and tenants is the critical component in the successful management of a commercial property. Table 4.4 and figure 4.6 indicate a convincing response of 71.49% suggesting that property management is primarily the management of relationships. Covenants and building services that hitherto had appeared likely to marshal generous support only received about 14% between themselves.

4.9 Conclusion

From 82% of the sample, respondents have provided a diverse and rich mosaic of data. The data demonstrates the complexity of conflicts in the context of investments [landlords and tenants/agents are investors]. The interrelatedness of issues and factors (business, legal, physical, emotional and management) come sharply into focus as key ingredients to conflict.

The major factors identified in stage 1 as being potential causes of conflict have recurred throughout the study. However, the outcomes in the later parts of the study highlight the degree to which the emotional factors initially downplayed have emerged as significantly prominent in the causation of conflicts in commercial buildings. Further, a new factor of external environment has appeared to demonstrate the interrelatedness of internal and external factors in the causing of conflict among landlords and tenants.

The next chapter discusses and analysis these results in detail with a view to understanding the root causes of conflicts and the associated issues, and how to effectively manage conflicts in the context of commercial buildings.

CHAPTER 5

ANALYSIS, DISCUSSION AND SYNTHESIS OF THE RESULTS

5.1 Introduction

The preceding chapter has reported and recorded results of the study. The data is presented in tables, graphs, charts and narrative reports. This chapter analyses, discusses and integrates theory from literature review in responding to research questions and propositions in the arguments. The discussions follow the same outline as the results format. The format enables logical discussion from preliminary issues to final ultimate practice issues.

5.1.1 Sample and Respondents

The results indicate a response rate of approximately 82% on the sample. In order to avoid a likelihood of sample bias it was necessary to include large, medium and small categories of tenants in the sample. The response rate by the small and medium and landlord categories was 100%. The large tenant category recorded a low response rate of 20% on the target sample. The reasons for the low response rate by this category are uncertain. Their lack of availability for interview may have been influenced by their perception of the relevance of study against their pressing motivations. This class of sample included the 'owner tenants' whose preoccupation, priority and pressing needs appeared overwhelming. Two of these tenants were reportedly experiencing strained relations with their landlords. That background may have created suspicions about the researchers' intentions therefore influencing their non-availability. The researcher had expected to achieve 100% response rate, but achieved a 20% response rate in one category. This is more than compensated for by the 100% response rates in the other categories.

The landlords interviewed were drawn from across-section of commercial property owners in Nairobi. The sample included savings and credit co-operative

societies, state corporations and private owners. Co-operative Societies own a large number of commercial buildings in Nairobi. This sample is considered representative of landlords. The tenant categories include local, international organizations, church and training institutions occupying shops and offices. This broad spectrum of tenants is considered representative of the tenants occupying space in commercial buildings.

The two agents sampled are among the largest and leading property managing agents in the country. This sample is considered representative of agents. It was necessary to include agents in the study because of the increasing importance of the professional property managers in the industry. The size of commercial building assets has significantly increased in recent years and so is the need for external property managers.

The number of women interviewed was about 22% of the total interviewees. This number is fair considering that women are recently emerging as a contending factor in business. The number of men interviewed is reflective of the past where male dominance in management and business has predominated. The ratio of women to men in the sample is indicative of the numbers in the business and management and therefore representative. However, this female-male ratio is not representative of numbers in the national population, which is roughly 1:1.

The sample also drew respondents from across the racial boundaries. There were African, Asian and White respondents. Respondents of Asian origin were less inclined to granting interviews. This is perhaps indicative of the closed nature of their business communities. This diverse outlook provides a broad base within which research was conducted and data obtained. The sample drawn is considered representative.

The interviewees of the landlord category show the elusiveness of the 'owning landlord.' Analysis of the respondents under 4.1.(vi) shows all the five interviewed were landlords' internal managers. These are distinct from external agents, as they are under the employment, direction and control of the owner(s)

and readily speak the mind and language of the landlord. The outcome of this study attests to this position. A large number of tenants interviewed are owners of enterprises and only four (4) were managers of the tenants' enterprises.

The results of the study are discussed under five major headings, Prevalence; symptoms and effects of conflict; Causes; Benefits and Management of conflicts.

5.2 Prevalence of Conflicts

In this exploratory study, it was necessary to first establish whether the phenomenon being investigated is real or a mirage. If so, assess whether it is considered a substantive problem. It was necessary to investigate this in order to support or disapprove the propositions. The propositions are based on the assumption that conflicts do exist and they form a substantive problem with economic and social effects and therefore worth studying and investigating. The three groups of interviewees responded in very distinct ways concerning the prevalence and occurrence of conflicts in commercial buildings.

5.2.1 Tenants

Out of 11 tenants interviewed, 3 tenants indicated existence of '**much**' conflict. These tenants were drawn from different buildings but belonging to the small and medium categories. The rest indicated nonexistence of conflict, '**little**' or '**moderate**' conflicts. A businessman of Asian origin who indicated '**none**' had a court case in the Business Tribunal against the landlord. The understanding of conflict may be different in diverse communities. Perhaps litigation is a way of business among this community and therefore not considered a conflict at all. The perception and understanding of conflict between different communities may require further investigation. Another tenant reported '**none**' but described disturbing unmet obligations on the part of the landlord, which were costly to the business. This tenant appears so acclimatized to the conflict situation that it had become normal. The contradiction may also imply that the manager tenant naively was not overly bothered about the business performance.

Respondents who indicated **'little'** conflicts were in the medium and large category of tenants. Some were in stable and more established businesses and indicating high level of trust with their landlords. The majority of those indicating **'little'** conflicts were new tenants in their current buildings. They had been in these buildings between six (6) months to 1 year and were possibly heavily impressed by current situations. When urged to share past experiences, they told tales of intense conflicts with past landlords. One such tenant described how over a period they spent up to 90% of their time dealing with conflict issues in previously rented premises. They literally had no time for their core business and as a result the business partner developed high blood pressure. Others spoke of poor services rendered as being the reason behind relocation from previous to current premises. In a sense, new tenants experiencing improved and better environments tended to overlook past experiences of conflicts. Apparent absence of familiar past conflicts seems to compensate for the past sufferings.

Tenants were very diverse in their assessment of conflict, ranging from not sure, through **'none'**, **'little'**, to **'moderate'** and **'much'**. No respondent indicated experience of **'too much'** conflict. These diverse choices seem to have relationship with size of tenant, past experience, type of business, landlord type; stability of business, age of business and tenancy, management styles, trust and relationship with landlord, etc.

The original questionnaire did not include a choice of **'moderate'**. Respondents introduced this category when they selected a position between **'much'** and **'little'**. This was included in the study results.

5.2.2 Landlords

Unlike tenants, landlords indicated that the existence of conflict ranged from **'moderate'** to **'much'**. This is possibly because landlords have to deal with multiplicity of relationships (tenants, suppliers etc) and issues, while the tenants deal with one landlord and micro issues (more personalized orientations). The landlords' constituency is a larger, more diverse and complex but the tenant deals with a smaller specific and singular constituency. Landlords of private owned buildings reportedly experienced lower levels of conflict than publicly owned buildings. The private owned buildings reported **'moderate'** conflict while public owned buildings reported **'much'** conflict. Whereas the private investor mainly is akin to the 'classical merchant adventurer', the public owned buildings are more part of a political economic system. The latter has larger sets of socio-political-economic equations to balance simultaneously.

5.2.3 Agents

Managing agents were agreed that there was **'much'** conflict between landlords and tenants. Independently each placed prevalence of conflict between 55 to 65% and 65 to 75%. Each of the agents indicated that the bulk of their time is spent handling conflicts between landlord and tenants. The agents handle multitude of commercial buildings with several landlords and scores of tenants. The conflicts of the single tenant and landlord are magnified exponentially on the Agents.

5.2.4. Conclusion

The study indicates 60% of respondents consider prevalence of conflicts in commercial buildings to be **'much/moderate'**. This prevalence is however perceived in varying ways by tenants, landlords and agents. The degrees to which conflicts are prevalent also differ with the respective respondent

categories. To confirm measurable levels of prevalence it would be necessary to undertake quantitative studies where measurements of **'none'**, **'little'**, **'moderate'**, **'much'** and **'too much'** are undertaken.

The above study outcomes answer subsidiary question number 1.2.2(i) on prevalence of conflicts which suggests a **'moderate/much'** prevalence of conflict that cannot be ignored nor trivialized if the industry has to enhance production and service.

5.3 Evidence, Effects and Experiences from Conflicts

Conflict as a social phenomenon exhibits certain symptoms. In the interviews, tenants identified common disputes and concerns, in of the buildings they occupy. Landlords and agents also indicated common sore points. From another perspective, these concerns translate into indications of the existence or cause of conflict. The concerns mentioned point to diverging interests and concerns between the landlord and tenant. This divergence signifies tension and conflict. Converging interests and expectations would flow in one direction with the anticipated deliverables while the deliverables would meet and match expectations. The fact there are so many mentioned concerns points to many points of departure between the supplier and the consumer, the landlord and the tenant. Although inherent in relationships; these conflict symptoms are not obvious. Rarely are they acknowledged or recognized as evidence of conflict. They are merely treated as events, incidents until they have become explosive.

Effects of conflict unlike symptoms are more explicit, and are easily expressed. They are the logical outcome of conflict. The dividing line between the symptoms and effects is however not clear-cut. While symptoms are general indicators of an underlying cause, the effects are natural outcomes (whether intended or unintended) of the cause. The symptoms are often ignored while effects are more real, succinct and more threatening and therefore less likely to be ignored.

5.3.1 Symptomatic Concerns

Before looking at the effects and causes of conflict, it is necessary to first consider the symptoms and related effects. The respondents identified these symptoms as varying concerns of varying magnitudes. These are broadly categorized as management (services, costs and suppliers); (internal attributes) rent (covenants); structure and external environment issues.

i) Management Issues

The raised management related concerns rotate around delivery of services, their costs, mode of delivery, administration of leases, services and covenants. Cleanliness of building and its facilities has repeatedly been highlighted as a major issue by many tenants in most of the buildings. The state of a building cleanliness affects its status, usability and it gives satisfaction to its users.

Tenants find leases oppressive and unnecessarily expensive. Most tenants will look for loopholes to exit from a lease arrangement. A Lease has been viewed as tenant-unfriendly and akin to entry into the 'open jaws of a crocodile'. Technically, a tenant without a lease falls under the protection of the Landlord and Tenant Act (Cap. 301). Most tenants would prefer this situation because of protection against exploitation, unfair rent increases, termination and unjust distresses. The law requires applications be made to the Tribunal in order to vary the tenancy terms.

Conflict of interest was specifically mentioned in publicly owned buildings. There was no mention of conflict interest in privately owned buildings.

Allocations of space to incompatible users are a recent development (less than 10 years). This is due to oversupply of office space where over 25% of office premises had fallen vacant. In order to increase occupancy, space was offered

indiscriminately to applying tenants. This in itself while creating unstable inter-tenant-landlord relations increases managers' headaches.

Tenants are concerned about the image of 'their building' both in terms of its external outlook, internal appearance and the character of its management. Perceptions are that the more prestigious a building, the greater prestige its tenants carry and perhaps the better prospects for business.

Often time landlords respond rather passively to tenant complaints, queries or enquiries. This tends to give the impression of an uncaring landlord. These concerns are evidence of conflict. They also represent common areas of dissatisfaction and therefore likely causes of conflict.

ii) **Rent and Service Charge Issues**

Money issues are at the core of investments in property. The landlord expects receipts from tenants in the form of rent. Collection of rents and service charges (receivables) is constantly an area of concern to the landlord. The landlord expects to maximize on rent returns while the tenant is concerned about high rents, unjustified rental and service charge levies and increases. The landlords' income is an expense, a cost to the tenant. Tenant's main interest would be to minimize expenses in the form of payments to the landlord. The landlords also wish to minimize on expenses, in the form of repairs, maintenance and outgoings.

Some landlords unethically divert funds contributed by tenants towards building maintenance to other non common services. They have also been known to overload service charge account with capital and other expenses that practically should be borne by the landlord.

Each party expects to maximize on its interests, pursuits, goals and objectives. These constantly mentioned areas of concern mean that none of the parties is fully satisfied with the outcomes from other. There must be constant negotiation

and trade off inter-parties. Each has to make-do with less than ideal positions from the other.

iii) **Structure Issues**

Key issues highlighted include insufficiency and biased allocation of parking facilities, irregularity of power supply, poor lift performance and building design problems.

Competition for available parking both inside and outside buildings poses a major problem to space renters. Building users whether tenants or visitors prefer parking as close as possible to the destined building. Best of all within the respective building. The acute inadequacy of parking presents a special problem. This pressure leads users to find fault with allocation systems by managers, even where no such fault exists. It also places demands on landlords to provide parking beyond their capacity. Often tenants demand free parking as a means of attracting customers. When this is declined, it could aggravate conflict as party's interests and concerns diverge.

Due to unreliability of the energy supply by the monopolist state Corporation, tenants demand connection to the standby power generator. This energy demand far out-strips the capacity of any landlord to provide, support and maintain. The design and purpose of standby generator is providing stop gap power supply for critical facilities. In the meantime, tenants expect continuous and uninterrupted power supply for their operations however long it takes. Demand versus capacity to meet the demand plays havoc on tenant-landlord relationships. Some tenants are known to request permission to install their own back-up systems. This is indeed so for ISP firms.

Operation of lifts as a structural issue has been mentioned repeatedly. It is very significant because modern high-rise buildings require efficient, fast and available means of upward lift to the entire upper and higher floors. Lifts are not a critical area for shops but office users dread breakdown or shut down of lifts. Persistent

non-functioning lifts hinders access to offices on higher floors with likely huge business losses. Losses are points of departure between owners and users. Tenants suffering such disadvantage are known to have withheld rent payments until lifts are restored. Managers are also known to have declined to pay contracted lift maintenance charges for extended breakdown periods.

Buildings designs rarely pose irreconcilable problems. Where existing, they relate to poor ventilation of premises; poorly lit service core in the absence of power, shop arcades which should otherwise be through, among others. These concerns lead to high energy bills, stuffy offices and business losses. User needs 'out of sync' with ownership concerns.

iv) **External Environment**

Property owners and tenants do not 'live in Islands'. They affect and are affected by their external environments. Concerns raised relate to noise from outside the buildings, poor access to buildings due to persistent traffic jams and lack of secure public parking. Due to threats of terrorism building users often wonder if there was adequate and vigilant security. Although these are external to both landlord and tenant, they nonetheless are concerns because they create conflict generating pressures on both parties. Tenants will often expect their landlords to lobby the removal of external sources of conflict. Landlords on the other hand feign no control of public policy.

v) **Conclusion**

Incidence of these concerns could easily be ignored and treated with indifference except for the fact that they portend deeper problems of which they are symptoms or causes. Some of these symptoms will be evidence of, while others are causes of conflict. The effects arising out of the concerns are discussed in the next section ahead of discussion of the causes.

Although the study results are not conclusive in answer to subsidiary question number 1.2.2.(ii) the expressed concerns as signs of conflict are not always clear, recognized nor acknowledged in the property management processes. The results seem to suggest non acknowledgement of conflicts. Indeed the respondents reversal of real causes from covenants, services, to the emotional root cause, discussed under 5.5.7 to 5.5.8 seem to suggest that ordinarily, conflicts are not acknowledged as such in practice.

5.4 Effects of Conflicts

As indicated in the preceding section, expressed concerns are evidence of conflict or actual causes of it. Undeniably conflict has significant effects on those who experience it. It affects relationships and associated processes. Results under 4.4 demonstrate effects from unmet (whether denied or awaited), expectations and obligations. Unmet obligations may raise concerns but since they are direct conflict situation, they bring about certain definite effects as identified by the respondents. These effects are distinguished from the emotional experiences. Findings under 4.5 define emotional experiences arising from conflicts and how they affect landlords, tenants and agents respectively.

If conflict were without negative impact, it would not require attention nor attract management and preventive efforts. From the literature review, it is clear that conflict has destructive effects such as physical, psychological injury and also unsettles preferred equilibriums. It is therefore, necessary to minimize its occurrence and its negative effects while promoting its benefits. Conflicts generate both cognitive and affective outcomes.

5.4.1 Effects from Unfulfilled Expectations and Obligations

From the study, unfulfilled deliverables have both emotional (personal and organizational), business and process effects. This section reviews these effects in turn.

i) **Affective Outcomes**

Individual tenants' have personal experiences while organizational tenants acquire emotionally charged positions. The emotions of disappointment, bitterness, and feelings of exploitation, misunderstanding and negative perceptions are shared by individuals as well as organizations. The potency of these affective attributes lie in their ability to influence and infect other relations. As affective experiences, they are less objective and tend to generate further conflicts, thus compounding already strained relationships.

Polarization of positions tends to cement perceptions and create negative perceptions that are difficult to eradicate. When a landlord forms a stereotype impression about a tenant or vice versa, the shaped position tends to harden with increasing negative impressions. These stereotypes become permanent features and may be passed on with changing managements or ownerships. Decision making becomes slow and difficult, often resulting in reactionary decisions. Feelings of exploitation and frustration persist therefore perpetuating bad blood between landlord and tenants.

ii) **Business Effects**

Depending on the unmet obligation, it could adversely affect the landlords' or tenants' business. The adverse effects cause to the business become engraved in the mind, and become difficult to erase. The loss forms an indelible framework that provides a memorable reference and therefore perpetuating conflict. Tenants tend to prefer controlled tenancy as a strategy of dealing with landlords. Business relocation is expensive, as goodwill is lost. Some tenants however resign themselves to a state of helplessness and bear quietly even in degenerating situations.

iii) **Process Effects**

Arising from the emotional effects and business effects, relationships are injured and work processes are hampered. For instance, when trust has been lost, it becomes difficult to regain. The lost trust aligns future relationships, activities and behavior. Because of the already strained relations processes of communication become impaired with often distorted information. Tenants react to innocent notices while landlords issue demanding ultimatums at the slightest prompting. This circus of events lead to annoyance and feelings of oppression.

Property managers operating in such a conflict prone environment also find their work difficult, stressful and unfulfilling. This gives room to further conflict generating actions and activities.

iv) **Conclusion**

Affective outcomes from unfulfilled and unmet obligations and expectations tend to create negative effects on the person, organization, business and processes. Such effects often lead to reactionary and poor conflict management. Based on this, parties could easily find themselves in court or perhaps contending with less than optimal situations while they could have been mitigated.

5.4.2 **“Merging of Emotions”**

The section above has dealt with responses to an open question on effects. This section is on response to question No.10, which specifically inquired into emotional experiences. Emotions although an effect, are considered a distinct form of experience. The emerging profile of fear across the landlords, tenants and agents gives the impression that all the parties experience the same type of fear. On closer scrutiny, the class of fear experienced by the three parties is different and distinctive.

i) **Landlords emotional experiences**

Frustration and anger at non-compliance with covenants, fear of losing money and reactions due business performance are major landlords' experiences. According to results, all the emotional attributes seem to be experienced equally, while anger and frustration has a slight edge.

ii) **Tenants' Emotional Experiences**

Tenants' experiences are more and diversified, but the fear of exploitation is dominant. Anger and frustration received important mentions during the interviews.

iii) **Agents Emotional Experiences**

Agents were mainly affected by the likelihood of losing business and the fear of not measuring up. Loss of a building means loss of business. Failure to measure up leads to loss of a building and therefore its one and same thing.

iv) **General Comment**

Although all the parties have expressions of fear, these fears do not necessary merge. They all radiate to different directions and angles. These fears are motivated by different concerns and give yield to different outcomes. Diverging fears give rise to conflicts; setting in motion the downward spiral of conflict that is constantly experienced in property matters. It confirms the saying 'like begets like!' Fear begets fear, while conflict begets conflict.

5.4.3 Conclusion

In the landlord organizations a fear of loss of employment was specific arising from fear of board members who may have conflicting interests. It is more of a

manager's fear than landlord fear. This manager-fear is akin to agents fear. It does appear that beneath the façade of landlords, tenants and agents, interactions, there is a common subtle but powerful influence of fear. A 'Secret resource' influencing decisions, methods and outcomes. Affective fear as expressed is akin to a nerve centre that relays and receives messages along the nerve fibres. Immediate causes play the nerve fibre role. Other emotional experiences seem to be subordinate to fear. Emotional experiences shape paradigms, inform the worldview and create a reference in those who undergo the experience. The references, paradigms, and worldviews provide assumptions, guide behavior and interpretations. Is it possible therefore that property business is governed by fear?

This section has diagnosed the effects of conflict as required in the subsidiary question 1.2.2 (iii), as being emotional, business and process effects. The fear factor experienced across the respondent categories has an overriding effect on a property managers' work, methods and outcomes, and also the Landlords and Tenants perceptions, behaviour and handling of conflict. The list of effects is in Appendix 2.

5.5 Causes of Conflict

In answering the subsidiary research questions, previous sections in this chapter have addressed the issues of conflict occurrence, its symptoms and recognition, effects on management processes and emotional effects from it. In the discussion, it was found that subjects meshed into each other. The immediate last section [5.3 and 5.4] recognized that symptoms and effects although distinct, they are in reality effects, causes, or catalysts to conflict causation. This section now deliberates on the main research question, the 'root' causes of conflict in the context of commercial buildings.

5.5.1. Preliminary Investigation

The study interviews were conducted in two stages. The first stage was the identification of conflict causing factors in clusters and the degree to which they are considered likely or unlikely to bring about conflict.

In addition to the listed clusters respondents were encouraged to suggest additional factors or clusters. The additional factors identified were mix of tenants, conflicting (vested) interests, diplomatic immunity, management transitions and anti-landlord feelings. Upon consideration, these were found to fit into the existing clusters A to F. They were accordingly considered as part of the existing clusters. Mix of tenants and management transitions were placed under processes adopted, conflicting (vest) interests and anti-landlord feelings under internal attributes while diplomatic immunity was classed under covenants.

The analysis and discussion of the results maintains six (6) clusters. However, in the ensuing discussion, the distinctiveness and uniqueness of individual factors and attributes within clusters will be highlighted for emphasis.

5.5.2 Clustering of Factors

Factors that influence decisions and also affect tenants and landlords are as many as there are parties to it. Consideration of individualized factors would be a very exacting exercise within the existing study framework. It was found prudent and realistic to organize factors into six clusters according to their considered relatedness. It is acknowledged that factors within a cluster carry different weights both in the cluster and also as individual conflict causing factors. The factors in clusters are not homogenous and admittedly some are more important and critical towards causing conflict than others. This weakness is readily accepted but 'the strong carry the weak'.

5.4.3. Explanation of the Clusters

These are discussed as they appear in the study instrument.

[A] **Covenants:**

Covenants embrace all the provisions of the agreement between the tenant and landlord. They are usually spelt out in the lease but may also include other mutual agreements or understandings. Although not exhaustive, the list provides the backbone to the lease agreement. The critical factor in this cluster is the rent clause which stipulates the amount, the mode of payment, collection and management of default. This factor has an overbearing influence on this cluster of factors.

In the cluster, a unique agreement factor is included. The statutory protection under cap 301, [The Landlord and Tenant (Shop, Hotels and Catering Establishments) Act] governs the relationships for those tenants without leases. In practice, this form of statutory covenant has been a major headache to landlords as highlighted in the literature review. Statutory control aggravates conflict more than it resolves. Defaulting and nuisance foreign embassies and mission is out of the ordinary and it is a rare phenomenon.

[B] **Services and Costs:**

A clause on service charge and its use is usually incorporated into the lease agreement but because of the importance it has attracted in recent years as an individual factor, it is treated as a distinct category of cluster. The factor attracts a lot of attention from tenants, because tenants' money is used to provide requisite services. It is therefore an expense and additional cost to tenants. Parking was also included due to emotional demands it places on tenants who turn to their landlords for its provision. Parking is a form of service to the users of the building. The aspect of parking considered is that which is provided within the building.

[C] Internal Attributes

Emotional attributes include trust, fear, anger that are best visualized through perceptions. Traditional anti-landlord feelings are also included in this cluster. Statement that “landlords and tenants will never be friends” often made, appears to be loaded with emotions. This cluster captures the subjective emotional factors in conflicts as distinct from the cognitive factors.

[D] Structure Issues

This has to do with the building fabric, its components and design, its location and technologies provided. It addresses issues of its suitability by its renters for the intended purposes.

[E] Processes Adopted

The cluster deals with the actual mechanisms and processes employed by landlords and tenants, in transacting with each other. Methods, management style and communication or lack of it are considered a distinct cluster. The skills, understanding of issues, tolerance and leadership employed fall under this category.

[F] Out-sourced Contractors and Suppliers

In a bid to reduce costs, increase efficiency and maximize productivity, landlords procure services of managing agents, building contractors, lawyers, specialized building component contractors and other providers. These providers, suppliers and contractors interact with both landlord, tenant and building and are clustered together.

5.5.4 Analysis and Discussion of Causes

The causes are reviewed in the order they were considered likely to bring about conflicts according to the results.

i) **Covenants**

Breaking of covenants or lack of their observance and general lease administration was considered most likely cause of conflict in commercial buildings.

All the respondents identified breach of covenants as likely to cause. The rent covenant was particularly singled out as the single most important factor in this cluster. This is more so because its default leads to automatic enforcement attempts by the landlord. Failure to do so would lead the landlord becoming vulnerable to the feared ‘fear’ of financial loss.

On the whole, the lease in its current structure, format, language and cost was considered unfriendly to the tenants. Most tenants would rather decline its execution in order to claim protection under the Landlord and Tenant Act.

In answering the main research question, the outcome supports part of Proposition 1 that non observance of covenants and attempts to enforce compliance appear to be at the heart of conflict in property management. Default and enforcement tend to be the immediate causes of conflicts. Results discussed under 5.5.7 in this chapter however reveal the primary cause to be ‘**fear**’ while breach of covenants is a secondary cause.

ii) **Services and Costs**

The provision of services, their quality, costs of services was considered the next most important cluster in the causation of conflict. To a large degree, it was identified as more likely and least likely to cause conflict after covenants. Respondents who found it unlikely were either protected tenants or shop owners who are clearly less affected by the provision of services to the building. Shop owners do not require lifts, have exclusive use to sanitary facilities and clean their own premises. Dependence on services provided by the landlord is limited indeed. Provision of services affects the standard, status and usability of the building and its facilities.

Inept provision of services could set in motion other consequences such as non value for money, too high rents, loss of business etc and it also increases default rates.

This outcome supports the proposition number 2 that failure to provide satisfactory services, costs of services and misuse of service charge funds, generates a spiral of conflict that is most important after covenants under (i) above. Underlying this is the ' fear of exploitation ' that pervades tenant attitudes.

iii) **Processes Adopted**

The methods adopted and used in the management of property were considered a major source of conflict. These include verbal, written and telephone communication. The language used, tactics and approaches, caliber of staff deployed and general treatment of each other. The bulk of respondents considered that it was more likely to cause conflict. A significant number of respondents also argued that it was unlikely because the offending methods are mechanisms which are only employed to renegade tenants. The unlikely stance

was taken mainly by landlords and stable tenants enjoying high levels of trust with landlords. On the average, this category was considered to be more likely and less unlikely to cause conflict, after (a) and (b) above.

iv) **Out sourced Suppliers and Contractors**

This cluster was not considered a major factor in conflict. Respondents were evenly divided between likely and unlikely.

It is surprising that this cluster did not receive greater support given the reputation of agents, cleaning firms and lawyers in igniting conflict. Cleanliness and lifts problems had earlier been identified as common area of concern. It is possible that although lifts were repeatedly mentioned, the culprit could be the equipment and the landlord, not the maintenance contractor. The service provider is not considered as part of the problem. It is also possible that the level of interaction with suppliers and the tenants/landlords is low. This remoteness of contact may have influenced the respondents. The ultimate responsibility for the choice and performance of the outsourced suppliers and contractors rests with the landlord.

v) **Structure Issues**

This cluster alongside (d) above was considered as moderately likely to cause conflict. Although most important as the platform (building) on which all the interactions take place, because of its static nature there is limited active interaction with it. Most respondents argued that tenants are voluntarily in buildings by choice and could relocate at will. In other words, conflicts due to structure are avoidable. The structure issues are taken for granted in their importance as causes of conflicts.

vi) **Internal Attributes**

Respondents considered this category as the least likely to cause conflict. Only seven respondents identified this cluster as likely cause to conflict while a higher number of eight (8) respondents indicated it was unlikely to cause conflict. This result is consistent with the proposition that emotional attributes although cardinal are not considered important in the property management processes. It recognizes that emotional attributes are generally not considered important players in the causation of conflict yet they form a large mass of personalized, affective, long term form of conflicts. Theory states that affective forms of conflict are destructive form which yields poor performance or satisfaction. Affective conflicts also have lasting effects on relationships. At the outset, the first stage of study confirmed that internal, emotional attributes are not recognized as critical causes to conflict. This appears to contradict the earlier discussions under 5.4 on the effects, evidence and experiences from conflict where emotional attributes, featured prominently.

Stage 1 results collaborate empirical evidence that since emotional attributes (internal) are less regarded, unrecognized and they remain unmitigated in management processes. Perhaps this failure to acknowledge and recognize internal attributes are the key drivers to conflict that may be responsible for frequency and large numbers of property related cases in Courts. “The stone builders rejected has become the capstone “(The Holy Bible; 1996:1023)

vii) **Overview**

Other than covenants, service charge and costs, and process adopted, which have clear cut edge as likely causes of conflict, other three factors are considered moderate in their roles. These three clustered are evenly matched in their likelihood and un-likelihood to cause conflicts Further, study may be necessary to confirm results by incorporating weighted measurements of most likely, likely, unlikely, most unlikely, that were used likely in this study.

5.5.5 Conclusion

Clearly, all the factors play interactive roles in creating conflict. None of the factors can be ignored in causation of conflict. Whereas some will be pivotal in some situations, others become cardinal in different circumstances. Largely however covenants, service charge issues and processes adopted appear as the most likely causes to conflict in commercial buildings. Elements of greater perceived interdependence, incompatible goals, scarce resources and forms of interference are inherent to a large degree in the three categories considered more likely to cause conflict. According to theory, these elements are necessary for any conflict to occur.

5.5.6 Additional Source of Conflict

In order to confirm the preliminary inquiry at stage 1, additional questions (3 (i), 5, 9.02) were fielded from which the large data was obtained from respondents. The different questions were the following;-

- a) Reasons for considering lease/tenancy termination
- b) Cause for commonest disputes/concerns experienced
- c) Cause for a specific conflict experienced.

Responses by the parties fell into categories similar to those identified above, that under covenants, services and costs, structure and processes adopted. This affirms the outcomes of stage 1. An additional dimension of external environment emerged as a source of conflict. Whereas the arising factors are basically those already discussed above, the external environment introduced by tenants gives a new dimension worthy of consideration.

i) **Business Performance: External Environment**

Tenants often find themselves operating in a difficult business environment which results in poor organizational results. This environment is created by external

competition, global trends, technological changes and other external factors to which both landlord and tenant have no control.

Tenants under this pressure have also to contend with covenants, increasing landlord demands for higher and timely rent payments in spite of downward business returns.

Tenants view landlords as being product [building] driven while tenant operations are subject to market conditions in the form of markets, suppliers, competitors, new entrants etc. Tenants felt that landlords are often un-amenable to reality of business circumstances facing its tenants. It was argued that rent reviews (escalation) at 10% p.a. or 20% (approx) every two years are unrealistic in the face of local interests at 6%. The differential of 4% is against tenants. The contention is that landlords must among other factors take cognizance of the market place dynamics of interests; inflation; cost of living indices and the performance of the respective industries in setting rental levels. Traditionally, landlords and agents compare rental rates between buildings and apply them indiscriminately to tenants. The Business Premises Tribunal also adopts a similar approach in determining rent levels for such premises.

ii) **Conclusion**

Whereas the macro-economic conditions affect both landlord and tenant equally, the tenant experiences greatest pressure at the micro level and tends to blame it on its landlord. Just like the tenant the landlord is subject to the same inflation interest and cost of living. Perhaps the impression that the building has no feelings may be responsible for this argument. During the interviews, it was remarked that 'landlords may be out of touch with reality, but tenants overestimate the value, use and effect of their money'. The landlord and tenant are interdependent and this necessitates that both understand each other as they face same market conditions.

In order to be market driven, property managers will do well to consider

additional parameters in their estimation and setting of rent levels by employing an assembly of tools. In the emerging dispensation, it will be necessary to go beyond the traditional comparables approach, as each building, transaction and relationship is unique of itself. Specific comments suggesting sources of conflict by landlords, tenants and agents are contained in Appendix 4.

5.5.7 Emotional Causes of Conflict

The foregoing sections have considered the immediate causes such as external environment as direct causes of conflicts. This section addresses emotional causes of conflicts.

From their experience and perspective interviewees were asked to identify and select a factor that they considered the real cause of conflict in the context. Detailed comments by the respective categories of respondents is confound in Appendix 3.

The distribution of respondents was in the following order:-

Fear of being exploited	35.29%
Reacting to Pressure	23.53%
Fear of losing business	17.65%
Fear of losing money	17.65%
None	5.6%
Angry for broken covenants	0%
Other	0%

Earlier discussions on (5.3.3) suggested expressed fear as a dynamic factor that drives processes, shapes decisions and influences relationships. The responses under this section confirm the earlier indications that fear is a major influence in the causation of conflicts.

i) **Fear of Exploitation**

From the results, tenants suggested that fear of being exploited was the underlying cause to conflict. Another category of tenants indicated reaction to pressure and fear of business loss from external sources as the cause to conflict. Fear puts tenants on guard and any incident, event or circumstance threatening the tenants' 'guarded territory' provokes a reaction to counter the threat/invasion or violation.

The fear of exploitation manifests itself in the form of rent overcharge, receiving less value than monies worth and poor quality services among others. Due to perceived vulnerability, tenants are constantly on guard to check against being taken advantage of by their landlords. This fear seems to be grounded in the logic that landlords are capable of exploiting their tenants by applying unfair means. Accompanying this fear is the possible lack of trust in the landlord's fairness. Some tenants felt that corporate landlords were more likely to be fair than individual landlords.

ii) **Reacting to Pressure**

Whereas this is not a fear it is an emotional reaction to forces outside the control of the operators. Like other behavior, it is an attempt to bring itself into equilibrium (Leavitt,1967). The forces to which landlords, tenants and agents react are both internal and external. External forces are more difficult to influence hence their pressure.

iii) **Fear of losing money**

Landlords having invested in the commercial building, expect to harvest where they have planted. Non payment of rents, activities by tenants/agents that are likely to involve loss of money by the landlords will be seen in bad light. Fear of losing money will not be tolerated. These include covenants non-observance.

Fear of losing money is a permanent phenomenon among investors. This is indicative of the importance of risk management in portfolio management today. The aim of this is to lessen the chances of financial loss, by optimizing income and minimizing costs.

iv) **Fear of Business Loss**

Agents and tenants are on guard about anything that would lead to business loss. Threats to business could occur from tenants' activities or landlords' activities. Loss of business inherently would lead to loss of income.

v) **Angry for Broken Covenants**

Finally, although broken covenants have featured in earlier sections as the most likely cause of conflict in this section, fear takes over as a dominant influence in the causation of conflict. This is in keeping with Carell, Jennings & Heavrin,(1997:502) who state that "Anger is not the most common emotion associated with conflict. Fear and feeling of loss are the most common". Breach of covenant may ultimately lead to financial loss, but the underlying driver is '**fear**'. The apparent contradiction between the initially stated causes and the root (real) causes is captured by Ford & Ford(1994:758), who say "people do not think or feel their points of view, they think and feel from them". This notion appear to motivate the responses in stage 1. Landlords indicate that assurance of their income, covenant breach notwithstanding could lessen tensions and conflict.

5.5.8 **Conclusion**

Some of the causes are identical to some symptoms, effects and experience, discussed in section 5.4 and 5.5. Several causes are in themselves seeds for further conflicts while most are not the prime causes since they have their roots in more fundamental conflicts.

Whereas the covenant observance is objective, explainable, cognitive form of conflict, fear is emotional providing the affective form of conflict. Affective aspect of conflict is rarely acknowledged. Awareness and recognition of it could lead to improved property management skills and processes. It could orient managers, towards conflict management as a critical step towards risk management within property management. Affective conflict is the less beneficial and destructive type. It appears to be an underlying influence in property matters. The managers should be aware of it, its implications and devise ways on how to manage it effectively to minimize the destructive effects. Conflicts in property are both cognitive and affective. Fear as found out is internal both to landlord, tenant and agent. It is of the nature that is pervasive and difficult to resolve, as argued by Leavitt(1967) & Akitnson *et al.* (1990). It may be argued that the sound relationship advocated by respondents may be intended to assuage this fear or at least restore the equilibrium. It is difficult to suggest proportions of their presence.

In summary, whether fear is viewed from landlord, tenant or agents perspectives, it ultimately translates into fear of losing money. This is reminiscent of the situation reported by Wilkinson & Goodacre(2002), over split incentives by landlord and tenant. Neither party wished to invest in the energy saving devices because they were perceived as being loss of money. The various language adaptations of fear of losing business/work by tenants and agents are careful ways of speaking a language that society respects. On the other hand, the investing landlord who owns a commercial building speaks undisguised language of wanting money back. The risk of loss influences decisions, methods, processes and resource commitments to obviate the threatened loss. The language and methods used by the landlord is concomitant with its money.

While breach of covenant, provision and cost of services, processes adopted, appear to be superficial causes of conflict, the primary causes to which the bulk of property related conflicts are attributed is '**fear of loss**'. Consequently, the fear affects perceptions of trustworthiness, leading down the spiral of conflict. Breach of covenants, provision and costs of services, processes adopted are manifestations of the existing conflict. Leavitt, (1967) avers that conflicts are only perceived to be so. This outcome confirms that part 2 of hypothesis 1.4 (i)

5.6 Benefits of Conflict

The preceding discussions have focused on causes and effects of conflicts. From the literature review it was argued that although conflicts are undesirable, they have some benefits. This section discusses the study outcomes on what respondents considered benefits.

5.6.1 Identified Benefits

Out of the sampled respondents 92.2% indicated that although conflicts are perceived negatively, they nonetheless have benefits if well handled. It was felt that poorly managed or protracted conflicts have little benefit if any. Such benefits tend to disappear when the weight is concentrated on the negative effects of the conflict. In poorly managed conflicts, disadvantages overwhelm benefits and they carry the day. This need not be so, as a retrospective analysis, careful evaluation of the conflict may reveal important lessons including reasons for its poor management and protraction. The theory indicated that cognitive conflicts tend to have superior outcomes and benefits. Affective conflicts on the other hand are destructive and have little benefits. Further, the environment in which these conflicts occur are often charged and combative and therefore less enabling to beneficial outcomes. The dominating and underlying presence of fear seems to suggest affective conflicts which lends itself to little benefit.

The study results indicate the following as potential benefits that could accrue from conflicts, if well managed.

- i) The management of conflicts by whatever means or process should not leave any of the contestants with 'sourness in the mouth'. The situation ought to be handled such that a win-win outcome ensues. Win-lose outcomes tend to recycle and reactivate conflicts over and over again.
- ii) Conflicts related to provision and management of building services is objective and goal oriented and could lead to improved services for the mutual benefit of both the landlord and tenants and business could be improved. This however requires a conducive environment to succeed, when the blame culture is avoided in preference to objective standards and measurements.
- iii) Well handled conflicts could build understanding and trust between the parties and therefore improve relationships and processes.
- iv) Dormant issues that may have been ignored over time by the parties are highlighted, brought into sharp focus for attention and action. Such resolved issues and matters may bring about hitherto unrecognized benefits.
- v) Where managers document and share their experiences, it expands knowledge and improves property management skills and techniques for the benefit of landlord, tenants, managers and the industry as a whole.
- vi) Rarely do conflicts viewed as fights bring about tangible benefits because there is always a winner and a loser. However, when conflicts are considered contests, it has the benefit of getting parties understand their contests prepare for it and thereby improve their systems and processes. Issues are well defined and better understood through this and contestants avoid past mistakes. This could lead to creative ways of handling business issues and conflicts.

- vii) Conflict itself could serve as a deterrent against further conflict, thereby placing all the parties on their toes in check of conflict thereby reserving their resources to other activities.
- viii) Experiences in past conflicts should lead managers, landlords and tenants to evaluate events, situations and actions fully so that the possibility of conflict prevention in the future is enhanced.

5.6.2 Conclusion

Conflicts are not desirable but since they inevitably must occur, of necessity, they must be managed for beneficial outcomes. Conflict is the unfortunate school of learning for all people and institutions. Managers must continuously have their skills and techniques honed on the rock of conflicts. Each experience will have specific and unique lesson, distinct from generalized benefits; such is the nature of learning from conflicts.

Discussions of the results under section 5.6, answer the subsidiary question 1.2.2(iv), in the affirmative, that conflicts can have beneficial effects to both landlord and tenant if well managed.

5.7 Management of Conflicts

Discussions in the preceding sections dealt with prevalence of conflict, affects and experiences causes and its benefits. The study has also established that various objective and emotional factors play distinctive roles in causing conflict. The study has suggested that two primary types namely cognitive and affective conflict are present in property management. On the face of it, the affective form is neither rarely recognized nor acknowledged, however, it is substantive and requires understanding for effective management of conflicts in property.

In the light of benefits from conflicts, this section discusses results on how conflicts that occur in commercial buildings can be effectively managed and creates those benefits, while minimizing negative consequences. The section

also discusses preferred means of conflict management from the landlord, tenant and agent perspectives.

5.7.1. Elimination of Conflicts

All the respondents (100%) concurred that conflicts cannot be eliminated. They also suggested that conflicts can be nonetheless reduced and effects ameliorated to benefit the protagonists. This outcome agrees with the literature review, that it would be difficult if not undesirable to attempt to eliminate conflict. It was however proposed that conflicts can be prevented from becoming costly and unmanageable wars.

5.7.2 Preferred Methods of Conflict Management

From the results presented on table 4.3 and figure 4.8, 78.57% of the respondents recommended prevention as the best means of managing property related conflicts. Arbitration and mediation were preferred by 21.43%. During the interviews, clarification was sought on the difference between prevention and avoidance. Avoidance is reactive and non engagement while prevention is proactive, endeavoring to understand and seek to bring conflict to an effective conclusion at the earliest. Prevention is comparable to the 'good Samaritan' while avoidance is comparable to its antithesis.

It is noteworthy that the route of court action frequently adopted in property conflicts is not preferred at all. Most respondents argued that court outcomes are unpredictable, costly, time consuming and divert energy and resources. It was indicated that court references are often taken as a defensive measure and not a resolution mechanism. Courts often contain and adjudicate but do not resolve. Several respondents reported that their engagement of lawyers for assistance has in the last analysis not been overly beneficial. Prevention as a form of conflict management was overwhelmingly proposed.

5.7.3 Practical Preventive Mechanisms

The ideas flowing from the respondents were recorded, analyzed and grouped into four distinctive categories, including processes adopted, relational aspect, communication and covenants. The respondents urged pursuit of these as most effective means of reducing and managing property related conflicts.

i) Processes Adopted

Preventive management of conflict requires managers to do their job in a professional and ethical manner by involving tenants as they should and getting the right people to do the right jobs. Accountability by managers to the landlords and tenants in respect to budgeting, service charge accounts and planned maintenance of buildings is a pre-requisite condition for preventive management. It was argued that attending to the issues of concern promptly and before they happen could play a major role in conflicts prevention. It was further suggested that serious attempt to understand the tenants business would help avoid conflicts. In the same token however, tenants should endeavor to understand the landlords business and environment for reciprocity to take place.

ii) Relational Aspect

This is distinct from the above process because it hinges on building a relationship. Although landlord and tenant relationship is an economically driven one, social relationship elements evolves. The study indicates need for objective sincerity and honoring of obligations by all parties. Obligations could be the lease covenants or other forms of inter-party agreements. The relationship will be built from mutual respect, understanding, consideration and deserved treatment of each other as equals. Tenants, landlords and agents exist in a symbiotic relationship.

At the conclusion of each research interview the researcher asked for one word that would lead to conflicts prevention. 16.67% of the sample respondents urged covenants observance. Another 16.67% appealed for communication while 66.67% advocated for relational orientation. This underlines the importance of relationships in the efficient and effective property management process.

iii) **Communication**

A culture of careful, caring, effective and non threatening communication was suggested as means of conflict management. It was also confirmed that face-to-face talk with understanding-listening may be an integral means of conflict prevention and enhancing relational property management.

iv) **Covenants Observance**

Admittedly, covenants remain at the core of property management, therefore their clarity, faithful observation, compliance, strict enforcement, understandable leases are central to conflict management through prevention.

5.7.4 Conclusion

Prevention of conflicts is by no means an easy task. However clear, deliberate and mutual understanding, effective communication, based on covenant, promise and agreement will build relationships that mutually benefit landlords, tenants and agents. Mutually beneficial relationships form stable foundations upon which performance and growth of investments is based. Such foundation includes trust, and goodwill among the parties. Such relationship building require long term development, understanding of the needs, preparedness and training. Most of property managers are less equipped for such diverse tasks. Detailed suggestions on some of the value adding activities are contained in Appendix 5.

This study has clearly confirmed proposition No. (3) that conflicts cannot be eliminated, nor is it desirable to have them eliminated, but they can be managed before escalating into full-blown costly conflicts.

5.8 Property Management Process

Five preceding sections have discussed and analyzed prevalence of conflict, the effects, causes, benefits and preventive management. Conflicts have costs, consequences and benefits. On the basis of the findings in the study, this section closes with discussion and suggestion of an appropriate property management process.

5.8.1 Outlook of Property Management

Discussions have established the dominance of covenants and services as the arena over which most property conflicts occur. Undeniably, these two form important areas of interest to landlords, tenants and management in commercial buildings. At the beginning, it was thought that covenants and services would provide the keys into effective property management. To the contrary, this study suggests relationships to be the key to successful property management among others.

Section 5.6 above has turned tables on covenants and services as the dominating factors. Results recorded on table 4.4 on suitable description of property management suggests this to be management of relationships. The outcome is in tandem with the definition by Macey *et al.* that property management is “the application of skill in caring for land and buildings, its surroundings and amenities [and] developing sound relationships between landlords and tenants”.

These outcomes also underline the significant contribution of the affective component of conflict in property management. Relationships tend to be more emotional than cognitive.

The implied sound relationships appear to have their foundation in the hard work of preventive mechanisms and processes. It includes application of skill, continuous learning, tightrope balancing of interests, claims, motives and objectives. Preventive management presupposes pro-activity, pre-emptive work, nipping troubles in the bud, acting early and promptly.

The aim of preventive conflict management is to change tenants and landlords perceptions about each other “enabling each to embrace new perspectives” and to facilitate alternative ways of thinking and behavior thereby changing the underlying assumptions. This is brought about by each party complying with covenant, treating the other with due diffidence and eliminating the symptomatic causes promptly and effectively. To achieve this requires a lot more than passive and reactive styles management.

In meeting the research objective number 1.5(iv) successful property management should be a proactive, continuous process of learning, anticipating, initiating, negotiating, balancing and sustaining of sound relationships between various stakeholders, as they interact over land and building in order to optimize on capital, financial and social returns while adjusting for equilibrium with its environment.

This entails preparedness, experience, multi disciplinary skills and rigorous questioning of the status quo. The property manager requires authority and leadership beyond the rigid and inflexible boundaries that exist in the industry.

Preventive management of conflict appears to be more aligned to Ford’s conception of change through attraction rather than through conflict. However, if well managed conflict could be a starting point for initiating the process of attraction.

5.9 Study Overview

The study was aimed (1.5) at finding out the root causes of conflict in commercial buildings, the preferred management methods, and how property management processes can be improved.

In meeting the study objective the main and subsidiary research questions (1.3.1 and 1.3.2), have been explored in depth and discussed against the theory framework. The propositions (1.4) have been tested and supported that, conflicts however perceived, cannot be eradicated, and that although covenants and service charge issues are empirically considered the main causes, they are in fact secondary causes. The real causes being emotional attributes of fear.

The key conclusions, recommendations and implications from this study are recorded in the ensuing chapter.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

- (i) Conflicts in commercial property originate from multiplicity of factors. These factors could be business, emotional, relational, environmental, management, personality and/or processes employed. The study suggests that property related causes arise from deep seated emotions of fear and feelings of loss which causes are not readily acknowledged by the parties.
- (ii) Roots of conflict grow from deeper causes of emotional fear from threatened loss or risk, so fights over broken covenants; undelivered services and unsuitable processes employed are manifestations of conflict.
- (iii) The cure for these conflicts lies in the development of deliberate mechanisms and processes for creating, building and maintaining understanding relationships between landlords, tenants and other stakeholders. It is debatable whether these can be established overnight or whether individually they can achieve the intended objectives given the complexity of the causing factors and dynamic landscape. The study however suggests, development and maintenance of these relationships in critical in successful property management.
- (iv) Although the reviewed literature give the impression that clear-cut distinction exists between cognitive and affective conflicts, the study seems to indicate interconnectedness whereby cognitive causes could arouse affective emotions thus compounding conflict. Neat compartmentalization of conflicts between affective and cognitive is perhaps more in theory than practice. Both could reside along each other

within the same entity with each affecting the other in a simultaneous manner, within the property context.

- (v) Property management is an ongoing, long-term relational process between landlords, agents and tenants and there are no shortcut answers to prevalent conflicts. Preventive management as discussed is no magic wand. All parties particularly property managers need to improve their processes through continuous learning, rigorous review of processes and outcomes, recording and sharing of experiences and lessons. The offshoot of this will be developing better ways of dealing with issues, through effective communications, instrument design and implementation. Prevention entails a life of learning vigilance and improvement for which there is no quick remedy. In short it is hard work connoting intense professional development. It involves aligning landlord and tenant goals into “clear, shared common purposes”.
- (vi) The study has demonstrated that the often taken paths of judicial and extra judicial process are unpopular to both landlords and tenants in the management and resolution of their conflicts and disputes. Landlords, tenants and also agents overwhelmingly prefer alternative dispute resolution mechanisms of which conflict prevention is considered the most appropriate as it is proactive, cost effective and beneficial to relationships.
- (vii) The study found general lack of understanding of the nature of conflicts and lack of preparedness to efficiently handle them. Most efforts at conflicts management are defensive, reactive and tend to be oppressive and therefore ineffectual.
- (viii) Setting of building rents has traditionally been on the basis of comparison of passing rents in one building with others. There has been overwhelming indication that additional parameters ought to be considered and used. A property manager requires an array of tools including

understanding interests, cost of living, inflation in the macro economy and the performance of various industries, relevant to the tenants.

- (ix) The Landlord and Tenant Act which was designed to regulate relations between landlords and a tenants appears to have outlived its usefulness and seems to create more headaches and litigations than are legitimately necessary. There is need to devise different tools of regulating relationships in business premises in Kenya. The property management profession is well placed to guide, advice and create resolution frameworks.
- (x) Practitioners, owners and users need to create enabling structures, frameworks and standards within each landlord-tenant set up, in order to build environments, where sound relationships are cultivated and nurtured. These relationships are economic, social and psychological.

6.2 Recommendations

6.2.1 Implications

The study outcomes have important implications for the training and development of the property management professionals.

- (i) The field of property management has increasingly become complex with high expectations among stakeholders. A practicing Property Manager needs to be equipped and remain abreast of the contemporary management skills in areas of risks and conflicts. The Training Institutions producing them need to integrate these areas in their curricula.
- (ii) Further, a professional discipline needs to evolve around the existing core to specifically deal with the development and promotion of property management processes.
- (iii) The practitioners and academics need to undertake regular research in the field, in order to keep abreast of changing attitudes, needs and

challenges within its 'society' so as to meet rising productivity, efficiency and return expectations. This need was underlined during the study.

6.2.2 Further Research

Following the study, certain issues have arisen that may require further research work in the development of the subject. Issues such as how conflict is related to size of tenant; why female entrepreneurs were less accessible and management of publicly owned building versus privately owned ones are less significant. However the study has touched on key strategic areas relevant to the industry and further study on the areas could have significant impact in the industry.

- (i) Since judicial references are unpopular as avenues of disputes processing, why then, are there so many court cases related to property management determined and/or pending in courts and tribunals. Is there a possibility that the extensive litigation could be linked to poor management practices? Or is there a possibility that our Society is a conflict prone society? Alongside such studies could be investigation of the relevance of the Landlord and Tenant (Shops, Hotels and Catering Establishment) Act Cap 301 as an avenue of regulating and adjudicating landlord-tenant relations.
- (ii) The lease, as a traditional instrument of contract between landlord and tenant in its current structure is considered costly and unfriendly to tenants, what other instruments would be proposed and accepted in replacement, or in conjunction with leases.
- (iii) The study has suggested preventative conflict management as integral part of property management, and that management of relationships is critical to successful property management. The implications of these findings to the property management profession need to be explored and followed up.

- (iv) Fear has been suggested as being core in the causation of conflicts; further study is needed to establish the relationship between conflict, risk and performance of investments in the commercial sector and to quantify '**much**' effects.
- (v) Other investigations relevant to the study outcomes would be to confirm through quantification of the '**much**' attributes and the degrees of likelihood that were suggested for respective causation factors in this study.

References

- Annan, A. A. 2000. “ *Common Destiny: New Resolve*”. *Annual Report on the work of the Organisation*. United Nations. New York.
- Appelbaum, S. H; Abdallah C. & Shapiro, B.T. 1999. The Self-directed team: A conflict resolution analysis. *Team Performance Management*, 5 (2):60-77.
- Atkinson, R.L, Atkinson, R.C; Smith, E. E; Bem D. J. & Hilgard E. R. 1990. Introduction to Psychology. 10th Edition. Harcourt Brace Javanorich College Publishers. New York
- Ayiecho, K. J. 2002: Resolving Valuation and Property Management Disputes in Kenya. “A case study of the City Valuation Court, tribunals and the alternative dispute resolution methods: a thesis presented in partial fulfillment for the award of the degree of Master of Arts in Valuation and Property management. University of Nairobi.
- Beggs, C. B. and Moodley, K. 1997”. Facilities Management of Passively controlled buildings. *Facilities*, 15 (9/10): 233-240.
- Blatt, E. K. and Wollert II, L. 1999. Resolving Disputes. *Journal of Property Management*, 69 (5):46-50.
- Bon. R; Mchan, F. J & Garder, P. 1994. Property performance management: From Theory to Management Practice. *Facilities*, 12 (12): 18-24.
- Booth, P. and Matysiak, G. 1995. Commercial Property investment and the Pensions Act 1995. *Journal of Property Finance*, 7 (3):23-37
- Briffett, C. 1994. An Evaluation of Postgraduate Management Education for project and Property Managers. *Property management*, 12(1):16-25

- Briffet, C. 1987. "Professionalism in Property Maintenance," *The Singapore Professionals*; 11(2).
- Britton, W., Davies. K. & Johnson, T. 1980. Modern methods of Valuation. 7th edition. The Estates Gazette Ltd. London.
- Brockner, J; Siegel, A.P; Daly, J.P. Tyler, T. & Martin; C. 1997. When trust matters: The Moderating effect of outcome favorability. *Administrative Science Quarterly*. 42(3): 558-584.
- Carrell, M.R., Jennings D.F., & Heavrin C. 1997. Fundamentals of Organizational Behaviour. Prentice Hall Inc. New Jersey
- Chung, G. B. and S. Schneider, B. 2002. Serving Multiple Masters: Role conflict experienced by service employees. *Journal of services marketing*. 16(1):70-87.
- Darling, J. R and Fogliaiasso, C.E. 1999. Conflict Management across cultural boundaries: a case analysis from a Multinational bank. *European Business Review*, 99(6): 383- 392.
- DiPaola, M. F. and Hoy, W.K. 2001. Formalization, conflict and change: Constructive and destructive consequences in schools. *The International Journal of Educational Management*, 15 (5): 238-244.
- Ebohon, O. J., Field, B. G. & Mbuga R. R: 2002: A conceptual analysis of the problems associated with real property development in Sub-Saharan Africa. *Property Management*, 20(1): 7-22.
- Emrich, A.B. 2002. Carefully drafted Leases Help Avoid Costly Disputes. *Grand Rapids Business Journal*, 20 (43) B4, B8,B9.

- Enever, N. 1981. *The Valuation of Property Investments*. 2nd edition. The Estates Gazette Limited. London.
- Esquivel, M. A and Kleiner, B. H. 1996. The importance of conflict in work team effectiveness. *Team Performance Management. An International Journal*, 2 (3): 42-48.
- Fagothey, A. S. J. 1967. *Right and Reason: Ethics in Theory and Practice*. 4th Edition. The C.V. Mosby Company: Saint Louis.
- Ford, J. D. and Ford, L.W. 1994. Logics of identity, contradiction, and attraction in change. *Academy of Management Review*, 19 (4): 756-785.
- Gibson, V. 1994. Strategic property management: How can Local Authorities Develop a Property Strategy? *Property Management*, 12 (3): 9-14.
- Goodhue, B.N. 2000. Adapting Commercial leases to a world of change. *Journal of Property Management*, 65(3): 72-76.
- Good News Study Bible*. 1997. Ed. by Lane S, Kirby L, & Shaw, L. 2nd ed. UK. The Bible Societies/Harper Collins.
- Gounder, R. 2005. Neglected dimensions of development: inequality, conflict and aid. *International Journal of Social Economics*, 32(1/2):60-76.
- Handy, C. 1999. *Understanding Organizations*. 4th edition. Penguin Books. London.
- Harrison, F. L. 1992. *Advanced Project Management: A structured Approach*. 3rd Edition. Gower publishing Co. Ltd. Aldershot. England.
- Jones, R. G., George, M. J. & Hill C. W. L. 2000. *Contemporary Management*. 2nd Edition; McGraw Hill Higher Education. Boston.

- Kerzner, H. 1998. Project Management. A systems approach to planning, scheduling and controlling. 6th Edition. John Wiley & Sons inc. New York.
- Knights, D. and McCabe, D. 2001. A road less traveled: Beyond Managerialist, Critical and processual approaches to total quality management. *Journal of Organisational Change Management*. 15(3): 235-254.
- Lai, L. W. C. 1995. Land use rights reform and the real estate market in China. A synoptic account of theoretical issues and the property rights systems. *Property Management*, 13 (4): 21-28
- Lai, W. L. and Chan, P.Y. 2004. The formation of owners' corporations in Hong Kong's Private housing estates: A probit evaluation of Mancur Olsons group theory. *Property Management*, 22(1): 55-68.
- Leavitt, H. J. 1967. Management Psychology: An introduction to Individuals, Pairs, and Groups in Organisations. 2nd edition. The University of Chicago Press;. Chicago and London.
- Lee, M. 1998. Understanding of conflict: a cross cultural investigation. *Personnel Review*, 27(3):227-24
- Lewis, D. S; French, E & Steane, P. 1977. A culture of conflict. *Leadership and organizational Journal*, 18 (6):275 – 282.
- Lipsey, Von R. 1997. "The intervention cycle". In Lipseys Von R, eds. Breaking the Cycle. Macmillan Press Ltd. London. 3-50

- Mbithi, E.N. 2003. Challenges facing the application of the Rent Acts and their future in Kenya [unpublished]. A paper presented in partial fulfillment for the award of Diploma of the Institute of Surveyors of Kenya. Nairobi.
- McAllister, D. J. 1995. Affect and cognition – Based Trust as Foundation for Interpersonal Co-operation in Organisations. *Academy of Management Journal*, 38 (1): 24-60
- Munns, A.K. 1995. Potential influence of trust on the successful completion of a project. *International Journal of Project Management*, 13(1) : 19 – 24.
- Murdoch, G. 1994. Property Leases with “Staircased” Rents. Some specialist market applications. *Journal of Property Finance*, 5(3):33-40
- Newell, G. and Fife, A. 1995. Major Property investor attitudes to property securitization of property. *Finance Journal*, 6(2): 8-19
- Nodoushani, O. 1996. The promises of Managerial revolution theory. *Journal of Management History*, 2(4): 3 – 20
- Ooi, J. T. L. 2000. Managerial Opportunism and the capital structure decisions of property companies. *Journal of Property investment and Finance*. 18 (3): 316-331.
- Pindur, W., Rogers, S. E & Kim P.S. 1995. The history of Management. A global perspective. *Journal of Management History*, 1(1):59-77
- Pitt, M. and Hinks, J. 2001. Barriers to the operation of the facilities management: property management interface. *Facilities*, 19(7/8): 304-307.

Pottinger, G., Dixon, T & Marston, A. 2002. Occupational futures? Divesting real estate and corporational futures? Divesting real estate and corporate PF1. *Property Management*, 20(1): 31-48.

Republic of Kenya. 1972. *The Landlord and Tenant (Shops, Hotels and Catering Establishments) Act*. Chapter 301

Republic of Kenya. 1982. *The Rent Restriction Act*. Chapter 296.

Rothenberg, P. V. 2003. Fighting the Good Fight. *Journal of Property Management*, 69 (5: 46 -50.

Rugg, J. and Rhodes, D. 2003. "Between a rock and a hard place"; The failure to Agree on Regulation for Private Rented Sector in England. *Housing Studies*; 18(6): 937-946

Stone, P. A. 1980. Building Design Evaluation Costs-in-use. 3rd edition. E & F. N Spon Ltd. London.

Swierczek, W. F. and Onishi, J. 2003. Culture and conflict: Japanese Managers and Thai subordinates. *Personnel Review*, 32(2):187-210.

Syagga, P.M and Aligula, E. M. 1999. Management and Agency in the Urban Real Property Market in Kenya. Shaker Verlag, Aachen

The Holy Bible. 1996. New International Version. Grand Rapids, Michigan: Zondervan Publishing House.

Thomas, P. N. 2001. Rent default: Minimizing the risk and making effective use of the remedies available. *Briefings in Real Estate Finance*, 1 (2): 155-161

Ury, W. 2000. The Third Side: Why we fight and how we can stop. Peguin,

Putnam Inc. New York.

- Walters. M. 1999. Performance measurement systems – a case study of customer satisfaction. *Facilities*, 17 (3/4): 97-104.
- Webb, K. L and Hogan, J. E. 2002. Hybrid Channel Conflict: Causes and Effects on Channel Performance. *Journal of Business & Industrial Marketing*, 17 (5): 338 – 356.
- Wilkinson, S. J. and Goodacre, C. 2002. Promoting energy efficiency in the private rented sector. *Property Management*, 20(1):49-63.
- Whitener, E.M; Brodt, S.E; Korsgaard, M.A & Werner, J.M. 1998. Managers as initiators of Trust: An Exchange Relationship Framework for Understanding Managerial Trustworthy behaviour. *Academy of Management Review*. 23 (3): 513-530.
- Wright, W.C. 2000. Relational Leadership. A biblical model for influence and service. Paternoster Press. Carlisle, Cumbria.
- Young, M. 1992. Service Charge in Commercial Property. Leaf Coppin Publishing Limited for Estates Gazette Ltd. London
- Zappile, R. P. 2004. A quality process approach to corporate real estate management. *Journal of Corporate Real Estate*, 6 (3): 215-226.

APPENDIX 1

I. Instrument and Discussion questions

Stage 1.

From your experience, indicate the likely causes of conflict from among the factors combined into clusters A to F. Select the degree to which the clustered factors are likely to cause conflict between the landlord and tenant.

Attributes/Factors	Most Likely	Likely	Unlikely	Most Unlikely
A. Covenants <ul style="list-style-type: none"> • Usage of premises • Subletting • Tenants' improvements • Rent charged • Distress for rent • Rent arrears • Interpretations of lease clauses • Dispute settling processes • Claims of statutory protection 				
B. Services & costs <ul style="list-style-type: none"> • Service charge levied • Quality of services • Additional service charge apportionments • Accuracy of accounts • Accountability in use of service charge • Lease preparation costs • Parking 				
C. Internal attributes <ul style="list-style-type: none"> • Lack of trust • Fear and anger • Interference with possession and quiet enjoyment • Reactionary attitudes • Behaviour of landlord/tenant 				
D. Structural issues <ul style="list-style-type: none"> • Building design • Location of property • Adequacy of technology 				
E. Processes adopted <ul style="list-style-type: none"> • Communication • Notifications • Language used • Adequacy of notices 				

F. Outsourced contractors/suppliers <ul style="list-style-type: none"> • Managing agents, • Lawyers • Utility suppliers[water, telephone, electricity] • Specialized contractors (Lifts, escalators, generator air conditioning] • Building contractors(maintenance, plumbers, electricians) 				
G. Other(Key) Specify <ul style="list-style-type: none"> • • • 				

Stage 2

II. Discussion Questions

A. Administrative

- 1) How long have you been a tenant in this building?
- 2) How much space are you renting in this building?
- 3) To what use do you put these premises?
- 4) May I contact you if I need to clarify any issue with you after this interview?

B. Questions for Discussion

These questions were adopted to suit the tenant and landlord and agent situations

- 1.00 **How long have you been a tenant in this building?** T
 - 1.01 How long have you been a manager in this building? L
 - 1.02 Did you at that stage anticipate any conflicts?
 - 1.03 Were you prepared to handle conflicts?
 - 1.04 How did this affect your way of handling of conflicts?
 - 1.05 How much of your time do you spend addressing conflicts? L & T
- 2.00 **What aspects of this building are of major concern to you?**
 - 2.01 Why are they of concern to you?
 - 2.02 How would these concerns be addressed?
 - 2.03 What aspects of management would you like improved?
- 3.00 **What are the commonest disputes/issues encountered within this building?**
 - 3.01 What are the causes?

- 3.02 How have you addressed them in the past?
- 3.03 Have you had occasion to refer any issues to your advocate for assistance?
- 3.04 Was the outcome a favorable resolution?

4.00 In your experience, do conflicts really exist among landlords and tenants in commercial buildings? Is conflict really a problem? Why? How much?

None	<input type="checkbox"/>	Much	<input type="checkbox"/>
Little	<input type="checkbox"/>	Too much	<input type="checkbox"/>

5.00 Have you at any time considered terminating any of your current tenants? L

- 5.01 Have you at any time considered relocating from this building? T
- 5.02 What brought about this consideration?
- 5.03 Is this consideration still on?
- 5.04 Why has it not been effected? (if)

6.00 Why are there conflicts between landlords and tenants?

Fear of losing money	<input type="checkbox"/>	Angry for broken promises	<input type="checkbox"/>
Fear of losing business	<input type="checkbox"/>	Reaction to Pressure	<input type="checkbox"/>
Feeling Exploited	<input type="checkbox"/>	Other	<input type="checkbox"/>

If there was guarantee that all the landlords' money would be received although after some delay, would there be need for enforcement?

7.00 Are there landlord/tenant obligations or expectations that are currently unmet or unrealized?

- 7.01 How does this affect your management or tenancy?
- 7.02 Would you refer these to an advocate or court/arbitration for determination?
- 7.03 Why (not)?

8.00 How does the cluster(s) identified earlier impact on the landlord-tenant relationship?

- 8.01 Do you have any experience? Narrate

9.00 Have you had any experience of conflict between landlord and tenant?

- 9.01 What was it?
- 9.02 What in your honest opinion brought about this conflict?
- 9.03 Could this conflict have been avoided? By
- 9.04 Do you think conflicts have benefits in management?
- 9.05 How much time do you spend dealing with conflicts?
- 9.06 What can be done to realize these benefits?

10.00 **What emotional experience do you undergo when you have not received commensurate services? T**

10.01 What emotional experience do you undergo when covenants are broken/violated? L

11.00 **When you experience or face conflict situations, how would you like it addressed?**

11.01 At what stage?

11.02 Can Landlord-tenant conflicts really be stopped from occurring?

12.00 **What level of trust do you enjoy with your tenants/landlord?**

12.01 What influences the level of trust? Is this trust reciprocated?

12.02 Do you harbour any fears?

12.03 What are these?

13.00 **In your management experience, what should be the most appropriate description of property management processes?**

Management of services ☐

Management of building structure ☐

Management of relationships ☐

Management of covenants ☐

Management of building operations ☐

Any other(state) ☐

14.00 **What means of conflict management would you adopt for this building?**

Court Action ☐

Prevention ☐

Arbitration ☐

Mediation ☐

Avoidance ☐

Other ☐

15.00 **In one word, what relationship would you advocate between landlord and tenant to prevent conflicts?**

Appendix 2:

Effects of Conflicts

1 Emotional Effects

- Disappointment of the denied party
- Loss of goodwill between parties.
- Provokes confrontational posturing
- Loss of trust
- Bitterness and dissatisfaction.
- Generates animosity between tenants and landlords.
- Tenants feel exploited.
- Tenants experience frustration and feeling of exploitation
- Creates bad blood between landlord and tenants.
- Feeling misunderstood as originating factors are not fully appreciated.
- Negative perceptions are created

2 Business Effects

- Affects business performance with possibility of loss of business
- Controlled tenancies introduce instability in relationships
- Stability and status quo reduces conflicts
- Confidence in business is tested and challenged
- Some tenants resign themselves to helplessness as relocating is both inconveniencing and expensive.
- Acclimatizing to less than ideal situations due to fear of conflict.
- Goodwill is lost in relocating of business.
- Tenants consider landlord as asking for too much. [exploiting].

3 Process Effects

- Negative impact on relationships
- Bad tenant or anti-landlord syndrome is created, thereby shaping and hardening stereotype positions which colour future relations.
- Loss of goodwill between the parties
- Party enjoying advantage prefers – status quo with assertion ‘let matters take their course’ – polarization.
- Trust is broken and regaining it takes lengthy processes and interventions.
- Manager’s work become difficult, stressful and unfulfilling
- Relationships are strained.
- Notices and ultimatums yield feelings of annoyance and oppression
- Slows down pace of interaction and management process.

Appendix 3

Conflict Experiences from Diversified Perspectives

<u>Landlords</u>	<u>Tenants</u>	<u>Agents</u>
<ul style="list-style-type: none"> • Frustration and anger • Fear of losing money • Fear of loss of income • Reacting to external pressures • Fear of job loss through double crossing Board members. • Reacting to pressure from a poorly performing business. • Angry for broken promises • Indignation at the perpetration of contract violation. • Let down feeling • Fear of litigation • Fear of losing tenants and business • Bitterness & frustration, 	<ul style="list-style-type: none"> • Traumatized, afraid & anxious • Fear of being ousted by landlord • Fear of landlord using crude methods to enforce covenants • Fear of losing money from exploitation/overcharging. • Fear of Loss of business/closure • Loss of trust/misunderstood • Fear of rent increases • Fear of business collapse – huge fixed costs. • Reacting to pressure due to threats and business performance. • Anger and frustration for inconveniences • Divided attention through wasted time. • Emotionally drained and sickness • Fear of humiliation and dented personal image/Auctioneers • Fear of Losing earnings and employment • Fear landlord will not honour obligations 	<ul style="list-style-type: none"> • Fear of losing business • Fear of being seen as not measuring up. • Feeling of being taken for a ride by tenants • Image protection • Reacting by punishing tenant • Desire to salvage reputation with landlord. • Stress from many conflicts • Reacting to situations. • Fear of not satisfying tenants as customers who could lead to business loss. • Fear of not measuring up in performance evaluations by landlord.

Appendix 4

Sources of Conflicts from Diverse Perspectives

Landlords	Tenants	Agents
<p>Covenant issues</p> <ul style="list-style-type: none"> ▪ Non payment of rent by tenants ▪ Arrears accumulation beyond 3 months deposit held ▪ Non compliance by tenants resulting to enforcement through distresses. ▪ Interpretation of Lease clauses ▪ Leases unfriendly to tenants. ▪ Low rent levels paid by protected tenants. ▪ Poor payment record by protected tenants. ▪ Reference to courts and tribunals which are costly and take long to finalise. <p>Structural issues</p> <ul style="list-style-type: none"> ▪ Unmet car parking needs ▪ Excessive human traffic affecting limited building capacity and facilities ▪ Landlords failure to think and plan about the building and its 	<p>Covenant issues</p> <ul style="list-style-type: none"> ▪ Delayed rent payments ▪ High rents levels compared with business performance ▪ Unfair rent increases [Reviews] ▪ Changes in tenant rent payment obligations introduce conflict. ▪ Refusal by tenants to sign (execute) leases and therefore claiming protected tenant status. ▪ Thefts and break-ins. ▪ Attempts to enforce the written agreement, other agreements such as (gentleman's agreement) not withstanding. <p>Structural issues</p> <ul style="list-style-type: none"> ▪ Parking arrangements ▪ Reputation of cleaning contractors. ▪ Deterioration of once prime buildings ▪ Maturation of businesses while buildings deteriorate 	<p>Covenant issues</p> <ul style="list-style-type: none"> ▪ Defaulting tenants ▪ Misuse of premises ▪ Broken payment covenants. ▪ Tenants plan to buy time by rushing to court to block landlord actions, over outstanding rent payments. ▪ Tenants lack of understanding of lease issues ▪ Claim of protection status. ▪ Leases are complicated, not understandable, thus requiring expert interpretations <p>Process Adopted</p> <ul style="list-style-type: none"> ▪ Mute channels of communication with tenants. <p>Internal Attributes</p> <ul style="list-style-type: none"> ▪ Short term treatment of tenants. ▪ Feeling that services being delivered are not value for

<p>components as it ages (building cycle issues)</p> <ul style="list-style-type: none"> ▪ Building design problems e.g. lack of natural lighting and ventilation on the service core. ▪ Mechanised ventilation systems without sufficient backup in event of power failure. ▪ Frequently malfunctioning of building lifts ▪ Inadequate maintenance including external and internal repainting of building. <p>Usage issues</p> <ul style="list-style-type: none"> ▪ Approved but conflicting usage of the space e.g. schools. ▪ Fights among individual tenants ▪ Tenants noisy activities interfering with other tenants operations ▪ Interference with other users rights e.g. communication signals. ▪ Conflict between tenants legitimate activities and expectations by the landlord i.e. International press centre. <p>Process adopted</p> <ul style="list-style-type: none"> ▪ Slow response to tenants needs due to bureaucratic processes. ▪ Landlord inefficient dealing with 	<ul style="list-style-type: none"> ▪ Wrong timing of building works – noise, dust, interruption to office operations. ▪ Power interruptions, without adequate power backups. ▪ Parking inadequacy. ▪ Poor communication connectivity(fibre cable, communication equipment interference) ▪ Connection to standby generator in the event of power failure. <p>Process Adopted</p> <ul style="list-style-type: none"> ▪ Notices issues by landlord for enforcements. ▪ Inadequate notification and poor communication from landlord. <p>Internal Attributes</p> <ul style="list-style-type: none"> ▪ Misuse of existing facilities by landlord at expense of other tenants/users e.g. kitchens ▪ Long standing tenants of several decades charged rent similar to new tenants and compared ultra modern buildings. ▪ Unjustified rent increases ▪ Unilateralism by landlord ▪ Management insensitivity to tenant/client needs 	<p>money</p> <ul style="list-style-type: none"> ▪ Mistrust of the landlord actions and motivations <p>Services and costs</p> <ul style="list-style-type: none"> ▪ Inadequate funds to render services. ▪ Capital budgets mixed up with operating budgets and charged to tenants
---	--	---

<p>tenant problems/issues.</p> <ul style="list-style-type: none"> ▪ Erroneous accounts delivered to tenants <p>Internal Attributes</p> <ul style="list-style-type: none"> ▪ Failure to consider tenants as clients/customers ▪ Conflicts of interest by management boards in procurement of service providers ▪ Untrustworthy tenants e.g. trickster and fraudster who can not keep promises. <p>Services and costs</p> <ul style="list-style-type: none"> ▪ Quality of outsourced services ▪ Overloading of the service account with land rents, rates, management costs(director's salaries) i.e. inflated expenses. 	<ul style="list-style-type: none"> ▪ Tenants feeling they pay landlords too much rent and service charge ▪ Lack of co-operation with tenant ▪ Lack of interest by landlord about things tenants consider important affecting their welfare e.g. "tenants fittings & improvements. ▪ Unfair distribution of available parking. <p>External environment</p> <ul style="list-style-type: none"> ▪ Poor business turnover ▪ Costly going to meet clients away from their premises ▪ Poor access into building leading to customers unwillingness to visit ▪ Competition from hawkers and other retails, decreasing market share ▪ Levels of rent vs business performance ▪ Landlord facing financial problems could divert financial resources to creditors leaving tenants gasping for services. <p>Transitions</p> <ul style="list-style-type: none"> ▪ Change of ownership and/or management could easily affect the equilibrium or relationships. 	
--	--	--

	<p>Services and costs</p> <ul style="list-style-type: none"> ▪ Cleanliness of facilities e.g. toilets & kitchens ▪ Noise levels from repairs and the environment ▪ Reputation of cleaning contractors. ▪ Poor supervision of workers resulting in poor results. ▪ Service charges levied and apportionments ▪ Wrong timing of building works – noise, dust, interruption to office operations ▪ Services and utilities poorly maintained. ▪ Landlord's failure to utilize service charge for the intended purposes. ▪ Lapsed security resulting in thefts and break-ins ▪ Poor provision of services results in poor business performance leading to non remittance of rent, enforcement by landlords, legal battles, resulting in poor service ▪ Lapsed security operations 	
--	--	--

Appendix 5

Possible Preventive Mechanisms and Processes

i) Process Adopted

- By managers doing their job as they ought.
- Understanding the tenants business
- Tenants management of services rendered to them.
- Planned building maintenance and repairs.
- Budgeting for service charges
- Provision of detailed service charge accounts.
- By addressing issues of concern before or as they happen.
- Right people doing the right jobs,
- Professional way of doing things.

ii) Relationship Aspect

- Sincerity and honouring obligations.
- Landlords must consider tenants as clients/customers
- There must be good consideration for the payment of rents (quantum element)
- Reliance on past records of a tenant or client – assurance.

iii) Communication

- Proper communication – no threats
- Effective communication.
- Communication must be improved.
- Careful communication, including notification for working schedules and introduction of workers.
- Need for face to face talk and understanding listening.

iv) Covenants

- Clarity of covenants from the outset
- Faithful observation of covenants by all parties.
- Strict enforcement of lease requirements.
- Compliance with requirements.
- Reduction of agreement into clear understandable writing (verification)

