

## LAND TITLE CONVERSION

January 2021

### Introduction

The Cabinet Secretary for Lands & Physical Planning (“**Cabinet Secretary**”), through Legal Notice No. 277 in Kenya Gazette Supplement No. 175 of 22/11/2017 issued the Land Registration (Registration Units) Order, 2017 (the “**Regulations**”). The Regulations require the Cabinet Secretary to establish a uniform land registration unit in all the respective counties across the country. The Nairobi Land Registration Unit is the first registration unit to be put in place. [Gazette Notice](#) of 31<sup>st</sup> December 2020 Special Issue (Vol.CXX11-No.242), publishes a list of parcels of land in Nairobi County intended to be converted to new parcel numbers. It is our view that the listing of parcels for Nairobi County shall be undertaken in phases and we expect to see other Gazette Notices relating to properties in Nairobi.

### What necessitated this?

Due to the different land registration regimes in Kenya created under the repealed Indian Transfer of Property Act, 1882, the Government Lands Act (Cap.280), the Registration of Titles Act (Cap.281), the Land Titles Act (Cap.282) and the Registered Land Act (Cap.300), land registration became complex and confusing as all these pieces of legislation created different registers.

To protect the right to own property as envisioned in Article 40 of the Constitution of Kenya, 2010, the Constitution requires Parliament to revise, consolidate and rationalise all the existing land laws.

The Land Registration Act was enacted in 2012 with a view of unifying all the registration regimes in Kenya. However, to date the country has not migrated to the exclusive use of this Act and thus, the Cabinet Secretary has begun the process of converting all the parcels of lands from the repealed statutes to comply with the Act.

The conversion process involves changing a title number issued under the old regime into a new title number recognized under the new regime. The proprietor and acreage of each plot shall remain the same and cadastral maps (registry index maps) shall replace deed plans.

It is intended that from 1<sup>st</sup> April 2021, all old registers shall be closed and all transactions shall be carried out in the new register and the Ministry aims to complete the migration process in the entire Country by December 2022. This seems to suggest that the Cabinet Secretary intends to finalise the issuance of the new titles by December 2022, which in our view is an optimistic agenda.

### So what do you need to do?

Each property owner must interrogate the conversion list and confirm if their title number is listed. The owner must also engage a registered surveyor to confirm if there are any inconsistencies in the acreage stated in the conversion list.

## **Lodging a Complaint**

In case the acreage does not match or there are any inconsistencies then the landowner must lodge a complaint with the Land Registrar. The Land Registrar is to resolve the issue within (90) days of receipt. Any person aggrieved by the decision of the Registrar may within thirty (30) days appeal to the High Court.

## **What is the application process?**

A notice will be published in at least two newspapers of nationwide circulation and announced in radio stations of nationwide coverage inviting property owners to make an application for replacement of title documents from the closed registers. The application shall be accompanied by:

- a) The original title document.
- b) Certified copies of the owner's identification documents.
- c) Certified copies of certificate of registration/incorporation as well as copies of national identity cards/passports of the directors/officials (for companies)

The Registrar will then replace the title deeds with new titles under the Act. The new titles will retain the ownership, size and other interests registered against the respective title. No timeline has been given as to how long it will take for the Registry to issue the new title deeds.

## **Are there any charges?**

No fees have been prescribed.

## **What happens if my original title is currently lost or misplaced?**

The Act and the Regulations are silent on this. It is our view however that the Registrar will require the landowner to issue an indemnity in favour of the Government of Kenya to enable the Registrar to issue a provisional certificate of title.

## **What happens if a third party holds my title?**

Title documents held by third parties including banks, hospitals, courts etc. shall only be replaced on the application by a proprietor. The proprietor will have to liaise with the third party to facilitate the replacement process.

## **What if I choose not to apply for a replacement?**

Your title will not be recognized under the new registry unit system and therefore any transactions and or dealings relating to your property will not be effected and or registered until the conversion process occurs.

If you require any further information or clarification on the contents of this note, please:

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