

LEGAL ALERT ON THE CONVERSION OF LAND TITLES



1. *The Press Statement by the Cabinet Secretary for Lands and Physical Planning*

The Ministry of Lands and Physical Planning issued a Press Statement on January 12, 2020 concerning Land Title Conversion under the Land Registration Act No. 3 of 2012 and the Land Registration (Registration Units) Order, 2017. The essence of the Press Statement was that all titles issued under the repealed laws shall be cancelled and replaced with titles issued under the Land Registration Act.

The cancellation and replacement of titles will have the effect of migrating all the parcels of land in Kenya to the new regime while retaining the ownership, size and other interests registered against the respective title.

2. *The Procedure of Conversion of Titles*

The process begins by the Cabinet Secretary establishing registration units which shall be taken through land survey by the authority responsible for land survey to prepare cadastral maps together with a conversion list indicating the new and the old numbers for parcels of land within each registration

unit or each registration section/block. Once the cadastral maps and a conversion list has been prepared by the authority responsible for land survey, the same is submitted to the Registrar.

The process of migrating the titles then starts once the Cabinet Secretary publishes in at least two newspapers of nationwide circulation and makes announcements in radio stations of nationwide coverage, a notice inviting registered owners to make applications for replacement of title documents from the closed registers. The land owners whose properties are mentioned in the said notices respond by making formal applications through the Form LRA 97 issued under the Land Registrations (General) Regulations, 2017 before being issued with new titles once the old ones have been cancelled.

3. *The Effect of the Gazette Notice No. 1133*

So far, and in a bid to start the implementation process, the Cabinet Secretary for Lands and Physical Planning has already published under **Gazette Notice No. 11348 of 2020** pursuant to Regulation 4 (4) of the Land Registration (Registration Units) Order, 2017, the conversion list and the cadastral maps of the **Nairobi Land Registration Unit**. It is noteworthy that all transactions or dealings relating to parcels within this registration unit shall from April 1, 2021, be carried out in the new registers unless any affected person makes a formal complaint to the Registrar challenging the details of any property contained therein within Ninety (90) days from the date of publication of the Gazette Notice.

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Therefore, there will be need for the proprietors of the parcels of land to pursue the acquisition of new titles to enable the undertaking of future transactions on the said parcels.

It would appear that while the Ministry has opted to start with **Nairobi Land Registration Unit**, the program is likely to be rolled out across the country in the coming days unless the process is stopped by a court order or the Ministry advises otherwise. There is, therefore, need for prior planning ahead of the roll-out.

4. *Concerns/Fears*

While the Government has assured the public that this process will proceed smoothly, it is inevitable that it will encounter a few challenges besides the gray areas which seem not to have been clarified.

Firstly, it is to be hoped that the transition will not cause disruptions in dealing with the properties by the public.

Secondly, those who have charged their titles to third parties will have to discuss with them on the best way to have those titles cancelled and replaced without affecting the encumbrance registered against it since only the proprietors can apply for the issuance of the new titles.

Banks may likely suffer from lack of co-operation by defaulters who may not be very keen on co-operating with them. These, coupled with fears of uncertainty surrounding the act of giving away one's title, portend a rough path ahead in the implementation journey. Therefore, there will be need for vigilance throughout the process.

5. *How We Can Help You*

The Firm of **Ngeri, Omiti & Bush Advocates** has extensive knowledge and experience in providing excellent services to clients in a wide range of property transactions. We are available to assist you with conducting due diligence to confirm whether your property (if in Nairobi) has been captured in the **Gazette Notice**. Where our due diligence yields any negative outcome, we can assist you with filing the formal complaint in the prescribed manner with the Registrar and pursue the complaint until its logical resolution. But where the due diligence report turns out to be positive, we are available to assist you with making applications for the cancellation and replacement of your title at the expiry of the notice period when the Registrar shall move all those properties whose details appear in the Gazette Notice to the new register.

In the event that you may want us to assist you go through this process and manage the transition on your behalf, kindly feel free to contact us on email through tngeri@nobadvocates.co.ke with a copy to partners@nobadvocates.co.ke.

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