

OUTDATED LAND RECORDS POSE RISKS TO REAL ESTATE INVESTMENTS

Posted on Jul 02, Posted by [Mwathane](#) Category [Land Governance](#)

Runda demolition threat about incomplete land records

The plight of some Runda property owners whose homes have been identified for demolition humbles. But it's all because of maps and title deeds not amended after properties were compulsorily acquired and compensated. In the course of my work, I have witnessed the problem in the urban and the rural areas where bands of land had been acquired for the construction of expansion of roads. This could happen where land is compulsorily acquired for the development of other facilities like dams, airports or other public projects too. Unfortunately, anyone prospecting for land can unknowingly fall victim and purchase such land. Counties where many new roads or infrastructure projects have been developed or proposed could easily be sitting on such problems. A combination of State omissions and land owner commissions inform the problem.

Land Acquisition

It all starts when public offices seek to acquire private land for public projects. In the past, such requests have been directed to the Commissioner of Lands. This duty now falls under the National Land Commission. Plans are then submitted reflecting the location and extent of the land required. The Commissioner's office would then use such plans to identify the land parcels affected then gazette the intention to acquire following which affected owners would negotiate and agree on due compensation.

Surveyors then mark out the land to be surrendered. Where entire land parcels are affected, the respective title deeds should be surrendered to the government. Where only parts of land parcels are acquired, a survey to reflect the new boundaries should be undertaken and original titles deeds and survey maps immediately amended to reflect the new status. In the ideal, the acquiring authority should immediately take possession of the land; else clearly mark it out for easy identification. But this doesn't always happen.

Maps and titles should be amended

Fundamental omissions do occur. One, the survey records supporting such land acquisition are not always presented to the relevant survey offices so that the affected maps may be amended. Two, the relevant title deeds are not always immediately retrieved for amendment to reflect the status after acquisition. So with passage of time, insincere land owners or brokers can use such titles or maps to sell or even subdivide for sale what belongs to government. With roads for instance, interested buyers will deal since they see no roads on the ground or on maps. And new title deeds can be issued since the sellers remain possession of the original title deeds. Land registrars issue new titles innocently, unaware that in reality, some of them would be in conflict with the initially acquired reserves.

To reign in the problem, the government must work to ensure that all public land compulsorily acquired from private ownership in future is charted on survey maps and title deeds immediately amended. And to sort out the accumulated mess, a special unit should be set up to meticulously go through all the past acquisitions to ensure that all the affected titles are surrendered and amended and the respective survey maps also updated.

Buyers should ask around and involve surveyors

Without this, we shall continue to witness more Kenyans suffer painful demolitions when government wishes to implement public projects for which compulsory land acquisition was done. The sincerity of land owners could make a big difference too. So next time you go buying land, ask around. The road reserve you see may have been widened but not charted. The land you see may have been compensated for a road, airport or dam. Those who live around always know. Where maps show the features, get surveyors to confirm the correct boundaries.

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