

# Know Your Land Rights, Protect Your Land

*A step by step guide on how to secure your land or property*



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# A step by step summary on how to secure your land or property



Every person has a right to own and use land or property in Kenya. The Constitution of Kenya 2010, which is the supreme law of the country, provides in Article 40(1) that subject to Article 65, every person has the right, either individually or in association with others, to acquire and own property (a) of any description; and (b) in any part of Kenya. Article 65 (1) states that a person who is not a citizen of Kenya may hold land on the basis of leasehold tenure only, and any such lease, however granted, shall not exceed ninety-nine years.

How this right is acquired and passed to another person is provided by the land laws of the country. To gain or give such rights, a person needs to apply for the consent of the Lands Office, who may either reject the request or register the request and issue a confirmation document.

The Lands Registrar (Officer in charge of the Lands Office) is the keeper of the land register and gives registration documents. Therefore, any action that requires registration must be registered at this office.

To protect your land rights, you need to understand various steps you can take to secure the land or property. The steps include:

### **Step 1: The land search**

This is a process used at the lands office (registry) to confirm the name of the person that a given piece of land is registered in, the land number, size, and the address of the person.

#### **How to search for your property**

*Step 1(a): Have the right documents and fees at hand*

To search for your land, you will need the following:

- i. A copy of the land title deed,
- ii. A copy of your national identity card (ID),

- iii. A copy of your KRA PIN certificate,
- iv. A service charge fee of Kshs. 500, and
- v. An application for search form LRA 84 available at the Ministry of Lands website accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-84.pdf>.

#### Step 1(b): Where to begin the land search

- i. Download the search form LRA 84 from the Ministry of Lands website and print a copy.
- ii. Fill the form LRA 84.
- iii. Attach a copy of your identity card (ID) and your KRA PIN certificate.
- iv. Pay the Kshs. 500 service charge fee at the lands registry. You will be given a receipt after payment.
- v. Present the search form at the registry and go back after five working days to get the land search results.

#### Step 1(c): What information you will get in the land search document

1. Name and address of the registered landowner.
2. Size of the land and the type of ownership, either freehold or leasehold.
  - Freehold ownership is where you do not pay the government anything for use of the land.
  - Leasehold is where you have to pay rent to the government for the use of the land every year.
3. Hindrances or conditions that prevent your free usage of land. Examples include court orders, loans (where the land is used as security), and caution (a condition that stops other people from interfering with the land) if any.

4. Title and search numbers.
5. Date of the land search.
6. The search must be signed and sealed by the Lands Registrar who is the custodian of the documents in the lands office.

## Step 2: The Green Card

This is a document kept at the lands registry that gives the history of a given land or property, from the time that the land was opened or divided to the current time.

### *Considerations for the green card*

- i. Being a reference document, the information recorded in it must be the same as the information that is given on any document relating to your land.
- ii. When a new ownership document is given when your land is divided, a new green card must be opened for it. Any activity conducted that affects your ownership of the land is recorded there.
- iii. When the land is divided, a new green card is opened for each of the subdivided plots.
- iv. A green card is found at the land registry.

## Step 3: Inhibition

This is a process where a person goes to court, asking the court to give orders that will prevent or stop any intended or current activities being conducted by other people that affect your land ownership or use.

### *Step 3(a): How to get an inhibition order*

To get an inhibition order from the court, you need to:

- i. Prepare a document asking the court to issue the order.

- ii. Swear a supporting affidavit (a written testimony given on oath) showing why you need the court to give you the order.
- iii. Take the document to the court registry. You will be advised on the amount of money to pay. Make the payment. Get a receipt to confirm the payment.
- iv. The court will inform you when you will present your case.
- v. Go to court and say why you need the order.
- vi. The respondent (person who does not want the court to give you that order) will also present their case.
- vii. The court will weigh your case and that of the other person.
- viii. The court may or may not give the order.

*Step 3(b): What to do when you are given the inhibition order*

- i. Download form LRA 66 from the Ministry of Lands website via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-66.pdf>
- ii. Fill the form, and take it for stamping by an Advocate or Court Magistrate.
- iii. Attach your passport photograph on the form and the inhibition order.
- iv. Present the form at the lands registry for registration.
- v. The inhibition is registered within seven working days.

## Step 4: Caution

This is a process where you go to the lands office and request the Lands Officer, called a Registrar, to stop activities of other people on your land.

### How to place a caution on your property

#### *Step 4(a): Have the right documents and fees at hand*

To place a caution on your land, you will need the following:

- i. A copy of your passport photograph,
- ii. A copy of your identity card (ID),
- iii. A copy of your KRA PIN certificate,
- iv. The fee to be assessed by the Registrar,
- v. A copy of the application for caution form, LRA 67, available at the Ministry of Lands website accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-67.pdf>

#### *Step 4(b): Where to begin the caution process*

- i. Download caution form LRA 67 from the Ministry of Lands website.
- ii. Fill the form LRA 67 stating why you want the caution to be placed and how you are using or own the land.
- iii. Support the request with a sworn statutory declaration (a written declaration given under oath) and have an Advocate or a Magistrate stamp it.
- iv. Attach a copy of the ID card and KRA PIN certificate.
- v. Pay the assessed fee at the lands registry. You will be given a receipt after payment.
- vi. Present the caution form at the registry.

#### *Step 4(c): The results of registering a caution on your property*

- i. The Registrar Registrar shall send a notice to the person(s) affected by the caution.
- ii. Any transaction that is prohibited by the caution shall not be registered.

#### *Step 4(d): Removal of caution from your property*

To remove a caution registered by another person, go to court and ask the court to issue an order removing that caution by following these steps:

- i. Prepare a document asking the court to issue the order removing the caution.
- ii. Swear a supporting affidavit (a written testimony given on oath) showing why you need the court to give you the order.
- iii. Take the document to the court registry. It will be assessed and you will be advised on the amount of money to pay. Pay. Obtain a receipt as proof of payment.
- iv. The court will inform you of when to present your case.
- v. On the selected day, go to court and say why you need the order.
- vi. The respondent (a person who registered the caution) will also present their case.
- vii. The court will weigh your case and that of the other person.
- viii. The court may or may not give the order.

#### *Step 4(e): What to do when the order is given*

You need to take the given order for registration at the lands registry, following these steps:

- i. Download caution form LRA 70 from the Ministry of Lands website accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-70.pdf>.

- ii. Fill the form LRA 70 stating why you want the caution to be removed and how you are using or own the land.
- iii. Support the request with a verification certificate. This is a certificate given by an Advocate, Magistrate, or Kadhi that proves you filled and signed the form LRA 70.
- iv. Attach a copy of your passport photograph.
- v. Pay the assessed fee at the lands registry. You will be given a receipt after payment.
- vi. Present the form at the registry for registration.
- vii. If there is an objection, opposition to the removal, the Registrar shall hear the parties and determine the course of action. If there is none, then the caution is removed.

#### *Step 4(f): Withdrawal of caution*

This is where you had registered the caution but now you want to take it out.

- i. Download a copy of the caution form LRA 69 from the Ministry of Lands website accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-69.pdf>.
- ii. Follow the steps used in the removal of caution.

## Step 5: Restriction

This is where you ask the Lands Registrar to stop other people from conducting activities on your land. The Registrar may also stop activities without your request where he or she thinks there is a need to prevent fraud or any other illegal activity.

### How to restrict your land

#### *Step 5(a): Have the right documents and fees at hand*

To restrict your land, you will need the following;

- i. A copy of your passport photograph,
- ii. The fee to be assessed by the Registrar,
- iii. A copy of the application for restriction form LRA 75, available at the Ministry of Lands website via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-75.pdf>.

#### *Step 5(b): Where to begin the restriction process*

- i. Download a copy of the caution form LRA 75 from the Ministry of Lands website.
- ii. Fill the form LRA 75 stating why you want the restriction to be placed and how you are using or own the land.
- iii. Follow the steps given in the removal of caution.

## Step 6: Power of Attorney

This is a process where you give another person the right to sign on your behalf. You can allow them to sell, hire out (lease), or even take loans on your land and sign on your behalf.

You can give specific power of attorney or general power of attorney. Specific power is only for the action that you have written in the application form. A general power is open and can be used for various activities that require you to make a decision and sign.

## How to give the power of attorney

### *Step 6(a): Have the right documents and fees at hand*

To give another person power of attorney, you need the following:

- i. A copy of your passport photograph,
- ii. A copy of your identity card (ID),
- iii. A copy of your KRA PIN certificate,
- iv. A fee assessed at the lands registry,
- v. For specific power of attorney, fill form LRA 6 available at the Ministry of Lands website, accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-6.pdf>,
- vi. For general power of attorney, fill form LRA 6 available at the Ministry of Lands website accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-5.p>

### *Step 6(b): Where to begin the power of attorney process*

- i. Download form v. LRA 5 or v. LRA 6 above from the Ministry of Lands website.
- ii. Print and fill the downloaded forms, stating the name of the person you are giving powers and what powers in the case of the specific power of attorney.
- iii. Sign the form before an Advocate who will also sign and stamp.
- iv. Attach a copy of your passport photograph next to your name.
- v. Attach a copy of passport photograph of the person you are giving power next to their name.
- vi. Pay the assessed fee at the lands registry. You will be given a receipt after payment.
- vii. Present the form at the registry for registration.
- viii. Collect the registered power of attorney within seven working days.

## Step 7: Registration as a spouse

This is a process where a married woman or man applies to be registered as either the wife or husband of the person who owns the land or property.

### How to register as a spouse

#### *Step 7(a): Have the right documents and fees at hand*

To register as a spouse, you will need the following:

- i. A copy of the land title deed,
- ii. A copy of your identity card (ID),
- iii. A copy of your KRA PIN certificate,
- iv. A fee assessed by the lands registry,
- v. A copy of your marriage certificate,
- vi. A copy of the application for search form LRA 10, available at the Ministry of Lands website, accessible via this link: <https://lands.go.ke/wp-content/uploads/2018/08/Form-LRA-10.pdf>.

#### *Step 7(b): Where to begin the registration as a spouse process.*

- i. Download form LRA 10 from the Ministry of Lands website.
- ii. Fill the form LRA 10, stating the dates of the supporting documents.
- iii. Support the request with a sworn statutory declaration (a declaration on oath) and have an Advocate or a Magistrate stamp it.
- iv. Attach a copy of your ID card and KRA PIN certificate.
- v. Pay the assessed fee at the lands registry. You will be given a receipt after payment.
- vi. Present the form at the registry for registration.

*Step 7(c): Result of application as a spouse*

- i. When the Registrar receives your application to be noted as a spouse, a notice will be sent to the person you are saying you are married to, informing them of your application and ask them if they are opposed to it.
- ii. The person is given 30 working days to oppose such a registration. If the person is not opposed to the registration, the Registrar shall register you as a spouse within 10 working days.

*Considerations for registration as a spouse*

When registered as a spouse, you will be better placed to protect your right to use the property by giving consent (agreeing) or refusing to let certain activities like selling, hiring, giving to other people of the land by your husband or wife.





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