



UNIVERSITY OF NAIROBI

Department of Real Estate & Construction Management

School of Built Environment.

***"An investigation into land registration process and its effects
on urban land development"***

CASE STUDY; NAKURU MUNICIPALITY

Done by:

PATRICK SOMBA NZOMO

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A project paper submitted in partial fulfillment for the award of Bachelors of Arts
degree in Land Economics at the University of Nairobi

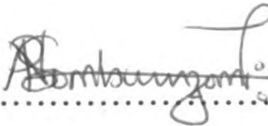
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DECLARATION BY THE CANDIDATE

I, **PATRICK SOMBA NZOMO**, hereby declare that this research project is my original work and has not been presented for the award of any degree in any other university.

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DEDICATION

To:

My departed maternal father Raphael Nzomo (R.I.P),

My ever loving and caring mum Annah Nzomo,

All my sisters and brother

You all know the true meaning of the words perseverance, hope and love.

For

It's not the man with a motive but the man with purpose who prevails.

YOU ARE GIFTS FROM GOD.

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Great men needless to say, had invaluable input to this work. With this regard I am highly indebted to all those extended a hand in making this study a success. THANK YOU ALL!

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I wish to extend my gratitude to all my classmates for their moral support and encouragement throughout my course and stay in the University. Am who I am because of you.

Finally I wish to specially thank my mum, my sisters especially Margaret who is currently staying in U.S and my brother Lenny for their timeless support and constant encouragement.

I LOVE YOU ALL!

GOD BLESS YOU ALL.

JULY 2008.

ABSTRACT

The history of land policies from the time of colonial administrators to the time of development planners and reform programmes (resettlement schemes, adjudication and demarcation for registration purposes) underscores the history of most Kenyan citizens losing their rights and access to land and its committant benefits.

The study established that the importance of land ownership hinges on socio-economic and political considerations especially in developing countries such as Kenya. Land enables one to have security mainly in terms of access to credit. It can be utilized for both, economic and subsistence purposes. To some people, land gives power and prestige. Indeed, land ownership has been a true manifestation of power and wealth in Kenya. This myth has been fueled by the rampant land grabbing, misallocation and other underhand dealings by those with administrative, political and economic powers.

Unfortunately, this is carried out at the expense of the weaker sections of the society in general, and in particular mainly at the expense of the poor. To make matters worse, the laws governing real property that should be employed as a solution, have been found by a section of legal experts to be archaic, outdated, retrogressive and alien. The introduction of the individual land tenure system translated into a tenure arrangement based on an indefeasible title and not use. Registration process has not given individual title holders the security and power to deal with their land.

Key components of Draft National Land Policy were examined, analyzing why, in many respects, informal systems work better than formal ones and suggesting some ways in which this might inform improvements to land administration. The main focus was on property rights (tenure, registration and titling), although use regulation, direct public participation in the land market and infrastructure provision were also of importance.

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Abbreviations and Acronyms

UNCHS:	United Nations Centre for Human Settlements
Cap;	Chapter
RLA:	Registered Land Act
RTA:	Registered Titles Act
LTA:	Land Titles Act
GLA:	Government Lands Act
RDA:	Registered Documents Act
ITPA:	Indian Transfer of Property Act
IR:	Inland Registry
CR:	Coast Registry
RIM:	Registry Index Map
LIS:	Land Information Systems
GIS:	Geographic Information Systems
LDCs:	Less Developed Countries

CHAPTER ONE

1.1 INTRODUCTION

The process of land registration considered in its totality starts with the establishment of the status of land, entails the sequential steps of identification, planning, allocation and survey of the land to produce documents required to support registration and issuance of either title deeds or certificate of leases.

The maintenance and updating of the registers after the transactions in registration makes land registration a dynamic and continuous process (Nyadimo, 1990).

Land is a central issue in the development process, secure land rights underpin sustainable development by making it possible and attractive to undertake long term investment the more liquid land and real estate assets become and the greater the possibility of their use as collateral for mortgage purposes, the more likely they are to contribute to the economic growth and alleviation of poverty. In order to enable and stimulate the growth process, government needs to monitor and manage the ownership and value of land. It is for this reason that land registration plays an important role in the growth process.

A good registration system is a prerequisite for sound economic development which largely depends on land information which aims at;

- Gives government the capacity to manage a valuable natural resource.
- sustains the rule of law by regulating real estate and land markets
- Provides security for landowners but also for national and international investors and the finance sector.
- Assists the development of labour markets by easing labour mobility.
- Assists the development of finance markets by providing collateral security
- Assists in the creation of new business entrants
- A good registration process will involve good linkage between cadastral surveying and title registration in which they operate as interactive system (Sarah Gitau, 2002).

The process can be seen as three legged stool, one leg representing a data, other one physical data or thematic data and the other survey data. This implies a linkage and cooperation between notary, registrar, I.T manager and surveyor in which;

Notary; is responsible for correctness of the documents to be presented to the register.

Surveyor; is responsible for correct and workable identification of the real property being object of the right.

Land registrar; is responsible for the land records and more precisely for their aim to contribute to a correct picture of the legal situation of the real properties.

I.T manager is responsible for covering all modern advanced technology necessary for supplying and recording land information.

If the above cooperation works well we will have an authoritative, complete, up to date, consistent, valid and legal land information system in Kenya (Njambi, 1999).

1.2 BACKGROUND TO THE PROBLEM

Land registry system is far from being perfect with many properties unregistered and true landowners untraceable. That has led to many landowners thinking that cadastral surveys and registration are unimportant until they find that they have located hundreds of thousands of money of improvements, buildings, etc on someone else's land, suddenly the value of knowing where your land is comes into perspective e.g. last phenomenon of house demolitions in Mlolongo which were built on road reserves.

Kenya land registration process has been faced with such a quagmire of challenges which take more than political will and political commitment to ensure proper functioning and transparent registration process. Delays, dubious land transactions, corruption, illegal/irregular allocation of public land and land grabbing as investigated by the 2003 Ndung'u commission of inquiry are good examples of inadequacies in our land registration process in Kenya.

1.3 PROBLEM STATEMENT

At the heart of a good land management system is the development of land market which in turn depends on the land delivery systems comprising planning, survey, registration, approvals and allocation; including subdivision and renewal of leases. At present the registration process is over-centralized in District headquarters where records are hardly ever up to date (Konyimbih 2000; 50).

Land registration process is usually long and involves various stages which should be followed and strictly adhered to for the registration to be official and recognized. For example, in case of land subdivision of agricultural land, the owner must get consent from land control board upon which the surveyor does the setting out of the plot, present it to the physical planner for approval and necessary amendments. The surveyor then draws mutation forms before physical survey is done to provide new parcel numbers for amendment of registry index map and for the issuance of titles or certificate of leases by the registrar. Registration process is undertaken in different sections or offices although all documents are eventually stored or deposited in lands registry or local authority registry. The process is cumbersome, involving large numbers of steps and considerable period of time, and has failed to keep pace with urban growth, due to their slowness and

complexity. This leads to registration dilemma which discourages ordinary developers, delays the development processes and activates informal land transactions. (Sarah Gitau 2002).

Land registration process that is simple, accurate, quick and affordable speeds up official access to secure land tenure by many citizens and thus propel motivation for equitable land allocation and purposeful urban land development. But in Kenya, the length of time it takes to survey and process documents for registration, actual registration, issuance of titles or certificate of leases to land owners and amendment of registry index maps is extremely long. This is because the registration process is haphazard, uncoordinated, chaotic and inaccessible by many land owners hence it cannot support timely decisions about land.

The role of title registration is to provide security of property rights to landowners but preparation of cadastral maps, amendment of R.I.M and distribution of the land ownership certificate to each individual land owner has been faced with several problems. Title deeds are issued without amendment of R.I.M and land parcels quoted in the land registers as well as ownership certificates are at variance with the true physical area. This has led to uncertainties regarding the status of land documentation and delays in the process, slowing the development of land and property markets and has made development of lending difficult to advance or sustain. These problems have been the major drawback in property valuation, land taxation, infrastructure provision and real estate investments. This is true because the parcel should be unambiguously identified on the map and cross-referenced on the register through conducting a search which reflects the legal situation on the ground. This is important especially in today's mortgage market which is faced by many defaulters.

The biggest clientele of valuations in Kenya are the financial institutions which have relied on them to make decisions on loans and mortgage relying on properties as collateral. From the above statements, its evident that quick and reliable land registration process will facilitate timely valuations, improve tax collection by local authorities, assist government in providing infrastructure and more important restore investors confidence.

1.4 OBJECTIVES OF THE STUDY

- 1) To highlight the land registration process in Nakuru Municipality.
- 2) Investigate the causes of the delays in the land registration process.
- 3) Critically look into effects of these delays on urban land development.
- 4) Make recommendations on the way forward.

1.5 PROJECT HYPOTHESIS

Poor land registration process has led to slow rate of urban land development.

1.6 SCOPE OF THE STUDY

The study was restricted to Nakuru municipality and the information held in Nakuru lands office, survey department and the municipal council of Nakuru. The research was carried out in the context of the case study. The case study was chosen because of high incidences of land subdivisions which have taken long time to be registered and has greatly affected property valuations, land taxation and real estate investments. Again the case study area has high cases of land grabbing hence sanctity of land titles has attracted a lot of scrutiny from Valuers, property buyers, landowners and even financial institutions.

The research sought to establish the above objectives and give recommendations that will help improve land registration in Kenya.

1.7 SIGNIFICANCE OF THE STUDY

I want to support local administrators and State government who have already recognized the necessity for reform and refurbishment of our land registries in Kenya to reach their objectives. The study aims at highlighting the importance of simple, quick and accurate land registration process as a powerful tool that can promote growth of viable property market and purposeful urban land development. Well coordinated land registration process cheapens and expedites land transactions and conveyance which improves credit flow to land development and facilitate more effective land investments planning. Land registration process has been slow and gradual exercise, costly bureaucratic and has led to informal land transactions.

1.8 LITERATURE REVIEW

Wayumba and Ogola (2001) argued that most cadastral surveys made for purpose of title registration are inaccurate and lead to misleading information to property owners and financial institutions accepting such properties as collateral in loan agreements. The study looked into legal framework governing land registration process, cadastral problems facing 3rd world countries other books looked at included:

- ❖ Land information service in Kenya. By DR SARAH GITAU; UN habitat
- ❖ Cadastral systems and their impact on land administration in Kenya; TSIO.2, ALEXANDERINO NJUKI
- ❖ Land administration in Kenya; by PETER F. DALE, JOHN .D. MCLAUGHLIN
- ❖ Innovation in land administration processes; by BOBAMOT

- ❖ An assessment of the cadastral survey systems in Kenya; by MWENDA J.N.
- ❖ Role of cadastral surveys in land administration and management in Kenya.
- ❖ Land information management systems by NJAMBI KINYUNGU.
- ❖ Handbook on land use planning, administration and development procedures, document from Ministry of Lands.

1.9 RESEARCH METHODOLOGY

The research adopted both primary and secondary method of data collection. Secondary data was collected through reading books and accessing internet. Also the research was carried out through actual observation. The research involved serving questionnaires to various groups of people including municipal council, financial institutions, planners, land registry officials, real estate investors and even landowners. Interviews were conducted especially to Valuers and Surveyors.

1.10 ORGANIZATION OF THE PROJECT

The project is organized in several chapters as follows;

Chapter one: Introducing the project stating the problem, indicating objectives of the research project, indicating the research hypothesis, scope of the project, significance of the project, research methodology and organization of the project.

Chapter two: Reviewing various literature and research related to subject under research to get the conceptual framework.

Chapter three: Discusses the case study.

Chapter four: Research methodology, data analysis and presentation.

Chapter five: Research findings, conclusion and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter presents the literature review and conceptual framework of the study. The chapter commences with definition of various terms used in the study and proceeds to review work done by other scholars and researchers on the subject of land registration, its benefits and deficiencies, land tenure and property rights, cadastral systems, land management and administration, land taxation, land use planning and urban land development. The emphasis is placed on the place of land registration process in enhancing purposeful and viable urban land development.

2.1 Land registration

Land registration is a process of official recording of rights in land through deeds or as titles on properties. It means that there is an official record (land register) of rights on land or of deeds concerning changes in legal situation of defined units of land. Land registration is the documentary manifestation of land as a commodity in the world of commerce. It performs the overall function of providing information regarding the quantum of rights in land and transferability of the same in the production and exchange process. Land registration is not only an expression of the type and nature of tenure operative in a given society but also an information data bank (Wanjala, 1990).

2.1.1 The origin of land registration in Kenya

Land registration began in the heartland of kikuyu ethnic group. When the Europeans started settling in the interior parts of the country, they settled in the fertile Kenya highlands mostly occupied by kikuyu. This was after completion of Uganda railway in 1902. the settlement was encouraged by the colonial government so as to develop a viable agricultural economy because the protectorate showed no evidence of minimal wealth (Sorrenson, 1968; Mbithi, 1996).

The alienation of land to the settlers was done under the authority of the East African (lands) order in council of 1904 and the crown land ordinance (1902). many settlers kept the kikuyu on their holdings to provide labour. These squatters had no legal rights to the land. Later, these squatters were removed from the farms. This agitated the kikuyu and they started claiming for the land. Their claims assured more significance after the Second World War when they became an important stimulant to political action (Sorrenson: 1968).

Alienation of land, the expulsion of squatters and land tenants, restriction on participation in politics, taxation and restriction on cash crop production combined to result in the Mau

Mau rebellion and also the explosive growth of African nationalism which was widespread in the country. Mau Mau originated among the squatters and landless kikuyu in the rift Valley whose frontiers for expansion had been foreclosed by the continued expropriation of land by the colonial government and local chiefs (Mbithi, 1996).

The growing uneasiness over the whole Kenya land problem led to the appointment of the Kenya land Commission of 1962. This was to investigate and make recommendation on African claims to alienated land. It compensated the land lost but rejected the kikuyu claims for the returns on alienated land which was by then under coffee and sisal plantations. It also attempted to straighten the boundaries between the kikuyu and the settlers by carrying out several exchanges so as to eliminate some kikuyu land from the Europeans. It was assumed that the tribe had suffered most by the alienation of land to the Europeans the kikuyu people united in opposition to the Commission's report (Mbithi, 1996: Sorrenson, 1968).

Due to overcrowding in the reserves, some kikuyu people demanded individual titles to land on the assumption that if such titles were given, kikuyu landowners would have as much security as Europeans who own titles. The first sign change in official attitudes came in 1948 when a meeting of provincial commissioners suggested an inquiry about the possibility of setting apart land for individuals who wanted to obtain titles. The 1950's Mau Mau rebellion and the declaration of the state of emergency in 1952 to check on the issues of rebellion hastened the resolution of the colonial disagreements over land policy (Sorrenson, 1968).

The Swynnerton plan of 1954 sought to change the system of land tenure through land consolidation and registration of individual freeholds to improve on production in the reserves (Angelique, 1989). the plan aimed at increasing economic growth in the reserves with hope that such would undermine the spirit of the political uprising. It also aimed at promoting consolidation of holdings and issuing of titles, which would provide collateral for credits to smallholders so as to improve their agricultural production and growth of cash crops. It encouraged the labourers and squatters to pay claims to land they had occupied or worked in (Karuti, 1997).

The plan reproduced intense disputes regarding rights and ownership claims as the principle of individual property in land became institutionalized. This led to further migration to Rift Valley of former tenants and others who lost their rights provided by customary communal tenure arrangements. To avoid the seizure of European lands and to reduce the possibility of more revolt, a settlement scheme that gave more land to Africans was initiated in 1961. By 1960, all of the kikuyu reserves had been registered (Sorrenson, 1968). Kenya was the first black African government to opt decisively for the western model of land tenure.

2.1.2 Development of the land registration regimes in Kenya

When land for settlement and cultivation was plentiful in proportion to the size of population and hence there was little need for land management and administration. But with growth of sedentary agriculture and competition for available space due to increase in population, land rights and controls over land ownership, use and disposal began to emerge. Land registration then became important tool and concerned itself with documenting such rights and relating them to the land with which they are associated. It concerned with all forms of property rights (Simpson, 1976).

Kenya has two systems of registration. Land registration was a consequence of colonial incursion spurred by economic concerns. Kenya's high agricultural potential of land led to the colonizing power alienating it for economic exploitation. Land alienation and exploitation were achieved through enactment and application of English laws in the colony. The two systems of registration are the registration of documents deeds system and the registration of title system.

2.2 Registration of Documents or Deed System.

Under this system, it is the deed that is registered, not the title. A deed is a written instrument which has been signed and delivered by one individual (the grantor) conveys title to real property to another individual (the grantee). Before a dealing is effected safely, an apparent proprietor of land must stress his proprietorship to the satisfaction of an intending purchaser to a good root of title. This is proved through a satisfactory search of recorded events sequentially.

In registration of deeds, a record of isolated transactions and evidence that a transaction has taken place is done. Dealings are affected by making necessary entries and the document evidencing the entries become the registrar's authority for affecting the entries. Documents are recorded and their abstracts entered into the register in an uncoordinated manner. The document is not examined by the registrar for correctness but is taken at face value. There is no guarantee (state indemnity) to title (Jackson, 198).

The following three systems chronologically embody the deed registration system in Kenya:

2.2.1 Registration of Documents Act 1902 (Cap 285)

This was the first registration statute in Kenya. All documents registered pursuant to its provisions pertained to land which was the subject to either 999 agricultural land leases which had been converted into freeholds by commissioner. This Act was first enacted in 1901 and was aimed at registering transactions relating to land in order to give publicity of land dealings for the avoidance of concealment and fraud. The R.D.A is a simple form of registering of documents that had been borrowed from the neighboring Zanzibar.

Documents relating to land transactions would be produced to the registrar who would take copies of these and keep them in deed files. Isolated transactions would be recorded in the register with short particulars. It was difficult to relate any particular dealing to a particular piece of land because recording was done in a haphazard and in uncoordinated manner.

The Act mainly applies to coastal region where private claims to land have not been determined or adjudicated upon by registrar of titles. It is a symbol system of registration of documents or deeds. Isolated transactions are recorded and the record provides evidence of the transactions having taken place. Under the regime, two registers were established. A compulsory register required compulsory registration of all deeds relating to any dealing in land. a voluntary register provided a record in which were copied any deeds or instruments which might incidentally be lost (Wanjala, 1990)

2.2.2 The Land Titles Act, 1908 (Cap 282)

This Act was first enacted as land titles ordinance in 1908 and had two main purposes mainly;

- To distinguish between public and private land at the coast.
- To record transactions relating to these pieces of land.

The Act established the office of the recorder of titles to determine between private and public land. Rights under this Act are grants from the government arising from a separate system of rights that was already in place prior to the enactment of the Act. When the L.T.A was enacted in 1920 new adjudications of existing rights were registered under R.T.A cap 281 and after the enactment of R.L.A on 1963.

The L.T.A which is eventually falling into disuse introduced an advanced system of registration of documents in which separate folios refer to separate pieces of land. It made provisions for the removal of doubts that had arisen to titles to land and was to remedy the shortcomings of the R.D.A.

Section 58 of the act provides for the mandatory registration of the certificate of ownership and the subsequent documents. All documents not registered are deemed void against any person who may have subsequently registered an interest. Section 21 provides that registration of a certificate becomes conclusive evidence against all persons of all particulars on it (Muchiri, 2002).

2.2.3 Government Lands Act, 1915 (Cap 280)

This enactment is no doubt a replacement of the 1915 crown lands Ordinance. It was enacted to make further and better provisions of regulating the leasing, disposition of government land and related issues. It abolished the compulsory registration under the RDA in respect of transactions relating to unalienated government land.

This Act relates to all land granted by government before the year 1920 be it freehold or leasehold with exception of leaseholds converted to 999years or to freeholds under the RTA. The G.L.A system of registration is modeled on the L.T.A system and involves;

- ❖ Abstract registers-where particulars of the transactions or documents presented for registration are noted on the register or on the folio in the particular volume.
- ❖ Copies of the documents are kept in big envelopes at the registry. What is being registered is the document not the title.
The document does not need to be examined to ensure accuracy as no title is being guaranteed by the documents. The government is not legally concerned with the validity of these documents. The G.L.A is more systematic than the R.D.A in that there is a separate folio for each piece of land. It also provides for accurate survey and survey plans (Jackson, 1988)

2.3 Registration of Titles System

According to Jackson (1988) this system follows the Australian Torrens system of registration. The Torrens system is based on the following principles;

- 1) Accuracy and completeness of the register whereby the register should reflect accurately, completely and beyond any doubt all the facts that are material to a title.
- 2) Finality of the register where it is the source of all information regarding a title.
- 3) Should there be an error in the register any person who suffers loss as result of the error should be put in the same position as far as money can do it as the register were correct.
- 4) Litigation should be reduced to a minimum.

The first two principles are embodied under section 3 of R.T.A which also deals with the fourth principle.

The basic unit for registration is the land parcel not the deed. Each parcel is identified on a map or plan that is cross-referenced to the register that lists the name of the owner, nature of the tenure and other auxiliary information .In title registration every document presented for registration is thoroughly examined and if found acceptable is then registered against the title (Sarah Gitau, 1997)

The following acts embody the registration of titles system in Kenya;

2.3.1 The Registration of Titles Act 1920, (Cap 281) The RTA was enacted principally for the purpose of improving the issuance of titles to land as well as regulating transactions in the same. It was modeled upon the registration of title enactment of the Federal Republic of Malaysia and the transfer of land Act, 1890 of Victoria. The Act also introduced conveyance by statutory form. The Act was enacted by settlers who wanted to have security of tenure from the government to relate to land with the conception of English property law. The registration of deed system under RDA, LTA and GLA had failed to guarantee security of tenure.

The Act was instigated by the colonial settlers who insisted on title registration based on Torrens system of registration borrowed from Australia. This Act was enacted with the

objective of improving issuance of titles to land as well as the transactions on the land for the benefit of the colonialists. Apart from introducing a form of title registration based on the Torrens system, it introduced conveyance by statutory form.

On introduction of RTA in 1920, all newly successfully claimed plots were registered under the RTA, therefore RTA was supposed to replace the registration provisions of G.L.A and L.T.A and the register kept under these Acts were to be converted on a voluntary basis, title for title. This was largely unsuccessfully done due to costs and the reluctance of landowners. Indeed, this was the first Act that brought a simplified method of conveyance in Kenya and more important state guaranteed title (Macoco, 1999:4)

The procedure for initial composition under the act was inadequate. It failed to make adequate provision to bring under the Act the titles already existing when it was enacted. This ordinance was itself unsatisfactory and it was severely criticized from the outset. It is an example of bad statutes under which many systems of land registration have had to operate because would be reformers have been unable to overcome legislative inertia (Jackson, 1988).

The registration under this Act conferred on landowners an indefeasible title, which is guaranteed by the state. It was expected that the registration under the earlier acts would eventually be phased out so that in future all land in the country would come under one umbrella Act.re-registration was however not made compulsory under the Act and most landowners chose not to seek re-registration. Land registration under the three Acts continued side by side (Simpson, 1976).

2.3.2 The Registered Land Act 1963 (Cap 300)

The Act was meant to replace all the other registration statutes. The Act contains both substantive and procedural law related to land under the Act. The substantive law for the other statutes is mainly to be found in the Indian Transfer of property Act (I.T.P.A)

The idea was mooted to create a uniform system of land registration leading to the enactment of the registration of land ordinance in 1959 which eventually became the registered land act cap 300 laws of Kenya. The R.T.A and R.L.A are both based on the Torrens system of registration but RLA is more comprehensive statute. The system of registration embodied in the RLA is the one of title. It is arguably by far the most advanced system of registration. It is even simpler in form than the one embodied in the Registration of Titles Act. It is intended to perform the two functions of registration which include the manifestation of the type of tenure and provisions of information regarding land transactions (Wanjala, 1990).

Muchiri (2001) notes that the manifestation of tenure is captured in sections 27 and 28 of the Act. Section 27, provides that registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto. Section 28 stipulates that the rights of a proprietor whether acquired on first registration or subsequently for valuable consideration or by a court order, shall be rights not liable to be defeated except as

provided in the Act and shall be held by the proprietor, together with all the privileges appurtenant and belonging thereto, free from all interest and claims whatsoever.

The process of conversion of all other registration statutes to R.L.A as well as registration of new titles under the same statute is still going on but the idea of a uniform system of land registration is far from being realized in Kenya. Since however re-registration is not yet complete, we still have five different systems of land registration operating concurrently.

In the registration process for every instrument presented for registration under the Act, a fee is charged. The registration procedure is as follows;

a) Submission to the registry the first document of title by which ownership of piece of land is initially conferred on a person. The first document must have deed plans attached which is given registration numbers prefixed I.R(inland registry) for all upcountry land and C.R (coast registry) for all coastal land. The registration under the act is undertaken in Nairobi and Mombasa.

b) A copy of the document is retained in the registry and the original retained to the owner. Both the original and the copy are sealed with the registry seal.

C) The copy retained at the registry constitutes the registers for the piece of land and all subsequent documents relating to the land are endorsed on the document.

The method of registration under R.L.A involves preparation of a map called R.I.M in which all the pieces of land in an area are shown and numbered. Each piece of land is known as a parcel and for each parcel a form of ledger card (called register) is opened in which the details of land such as size, ownership, encumbrances are shown. The opening of card constitutes the first step in land registration under the Act.

There are two categories of cards; one for freehold land which is green in colour and one for leasehold which is white in colour. Each card has three sections as follows;

Part "A" _property section in which the numbers of the parcel, its size and location are shown.

Part "B" _proprietorship section in which the particulars of the owner are shown

Part "C" _encumbrances section in which interests adverse to the owner e.g. charges, leases, caveats etc as shown

Each parcel of registered land has its own register which is supposed by a R.I.M... Whenever a transaction is effected there is always a supporting document which gives the details of the transaction. A title deed is the proof of absolute ownership which is given to a registered owner of the parcel under R.L.A and similarly a certificate of lease is the proof of a leasehold interest in the property.

It is important to note that a title deed or certificate of lease is merely evidence of what was shown in the register at the time it was issued. It is the register and the entries there in which are kept in the land registry which matters. Once the title or lease certificate has been issued, however it must be produced if there are subsequent dealings with the land (Syagga 1994).

2.4 The process of land registration

2.4.1 Land Adjudication

Entails an ascertainment of existing rights in land and recognizes and confirms rights are actually in being. The process does not create rights (Simpson 1976).it is stipulated for by the Adjudication Act cap 284.

The procedure

The adjudication often determines whether the declared area can be dealt with as a single adjudication section or should be divided into two or more sections. Each section is assigned its own demarcation and recording officers and its size depends on what the team can manage within a reasonable time.

A notice of the intended adjudication and registration in respect of each sector is published by the adjudication officer. The information should reach everybody concerned. The officer holds a public meeting with the local people and land claimants to explain to them what is proposed. The officers also discuss the nature and extend of the rights to be record in the case where customary land is involved.

Proceedings on the ground are started by the demarcation officer who first sends a note giving the name, date and place where he is to begin. The officer must ensure that the boundaries of each part of the land, public roads and rights of way are properly marked out. Each plot within a section is given a number in sequence. The larger sections containing many parcels are divided into separate registration blocks so that parcels numbers do not rise too high and become difficult to find on the map. The numbers are later used for the compilation of the register. The unclaimed parcel are given numbers so as to be able to decide all rights in the whole are (Dale, 1988)

Mbithi (1996) notes that roads and rivers running over privately owned land are shown as part of the parcel they run through. Those in the public lands need not be numbered though in some jurisdiction they must be, if all land is to be shown on the register. The boundaries are straightened and reparcellation carried out by the demarcation officer. The loss caused by such adjustment should be recommended to the adjudication officer by the demarcation officer for compensation. Where the existing layout is unsuitable for intended purpose and the demarcation officer is unable to adjust it adequately, a decision has to be made on whether or not to proceed with adjudication before replanning has taken place.

The register of existing rights (the adjudication record), is prepared by the recording officer. The adjudication then summons the claimants and admits the claim she considers valid. He applies the procedure followed on hearing civil actions but the strict rules of evidence are released. He compensates in money or land for any loss caused by a boundary adjudication or demarcation or a road. A local assessment board and a professional valuation officer carry out the assessment. For land, adjudications are on a give and take cost but not cash payment (Mbithi, 1996).

2.4.2 Land Consolidation

The land consolidation Act cap.283 provides for the bringing together an owners scattered fragments to give him a solid and practical benefit. When the consolidation process began in Kenya, it was carried out together with adjudication as one process. The officers who effect this process are the same as those in adjudication .land consolidation was regulated by the Native lands Registration Ordinance, later named Land adjudication act and now called the Land Consolidation Act(Simpson, 1976).

The procedure

A committee for each adjudication section is appointed by the adjudication officer from amongst persons resident in the location and should not be more than 25 persons. The adjudication officer then appoints an executive officer for each committee who can attend and speak the meeting but not vote. The minister for lands and housing consults the local authority in which the land is vested to appoint between 6 and 25 residents in the area to form a panel from which the adjudication officer chose 5 persons to form an arbitration board for that area. The minister appoints the executive officer of any arbitration board.

The committee or arbitration board gives 7 day's notice of its intention to carryout adjudication or arbitration specifying the parcels, the place and time. Every person claiming any right or interest within the adjudication section or one whose presence is required by committee or arbitration board should appear in person or representative. If the committee or arbitration board finds that a person who had not made a claim has, they proceed as if he had made the claim

The committee or arbitration board is headed by a chairman elected from members record of existing rights in accordance with the findings of the committee should be prepared, signed and dated and a notice of such completion made.

Any person in the record who considers the record to be inaccurate or incomplete lodges an objection with the executive officer of the committee concerned, stating in what respect the record is inaccurate or incomplete. This is done within 60 days from the date of notice of completion of the record.

The executive officer refers the objection to the committee if the inaccuracy or incompleteness is a consequence any decision of the committee. If it is a consequence of the arbitration, he refers it to the adjudication officer.

After the objection is considered, it is submitted to the adjudication officer who notifies in writing and after signing, he submits it to the executive officer. Land required for the needs of the community is set aside by the committee. In allocating land to each landowner, the committee considers the site, quality, and extent of the land to which each landowner is entitled and to any interest, lease, and right of occupation, charge or encumbrance affecting the land. The committee then consolidates all the land to which a landowner is entitled to (Mbithi, 1996).

2.4.3 Demarcation

The demarcation officer with the assistance of the committee then demarcates the boundaries of all the parcels of land within the section in accordance with the record of

existing rights. The committee then prepares in respect of every parcel of land in the plan, a form containing;

- (a) Name of landowner, description and number of the parcel of land and its approximate area.
- (b) Any interest, lease, right of occupation, charge, encumbrances affecting the land, name and description of person(s) entitled to benefit thereof.
- (c) Any restriction on the power of the landowner, any person to deal either with the land or his interest, lease, right of occupation, charge or encumbrance affecting the land.
- (d) Name of the guardian in case of any landowner under a disability.
- (e) The date on which the form is completed

The chairman of the committee or the executive officer and the demarcation officer sign each form. The form and the demarcation plan are termed as Adjudication register and delivered to the adjudication officer. After the certificate is completed, the executive officer signs it and dates a certificate to that effect. He then gives notice of the completion and of the place(s) within the adjudication section where it can be inspected. Any objection should be taken to the adjudication and the procedure for objection or stated above is followed (dale, 1988).

After expiry of 60 days from the date certificate of completion of consolidation is signed, the adjudication register becomes final.

2.4.4 Land Group Representative

The land (Group representative) Act cap 287 provides for the incorporation of groups who have been recorded as owners of land under land adjudication Act.

The procedure: The minister of lands and settlement appoints a public officer to be registrar of Group representative by notice in the Gazette, to perform the duties and exercise the powers imposed and conferred on him by the act. He may appoint a Deputy Registrar who should be subject to the directive of the Registrar. When a group is advised to apply for Group Representative under the Land adjudication act, the convenes a meeting of members of the group at a specified time and date to;

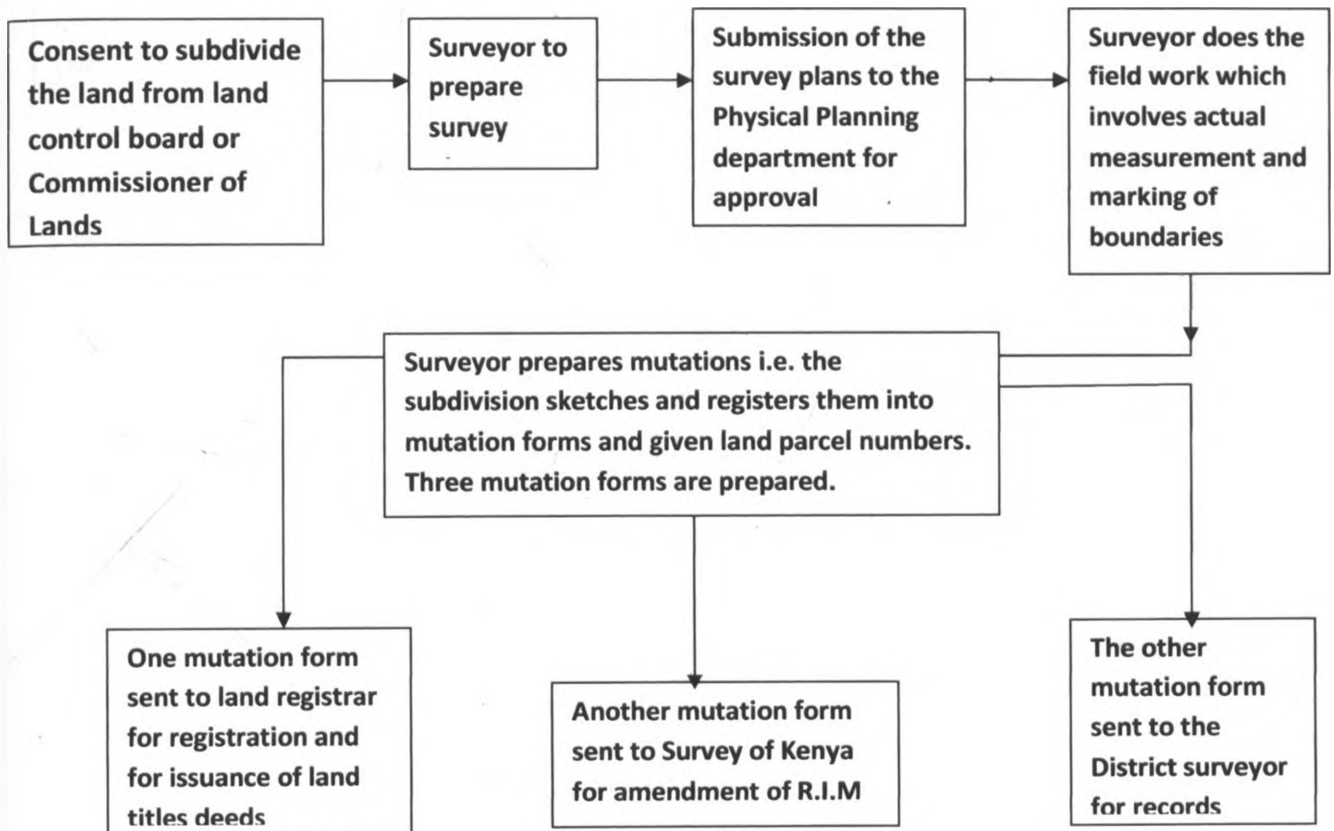
- (a) Adopt a constitution
- (b) Elect between 3 and 10 persons to be group representative, and
- (c) Elect persons to be the officers of the group in accordance with the constitution

After the Registrar is satisfied that the constitution of the group is acceptable, he issues a certificate of incorporation of the group representatives subject to any conditions, limitations or exemptions he considers appropriate. The certificate confers on the group the power to sue and be sued in their corporate name and to acquire, hold charge and dispose off property of any kind and to borrow money.

The end result of the above land registration process is issuance of land title deeds to landholders which bring about security of ownership of land (Walubengo, 2004)

During land subdivisions a second land registration process takes place and the process repeats itself again and again. The following is an illustration of the land subdivision process.

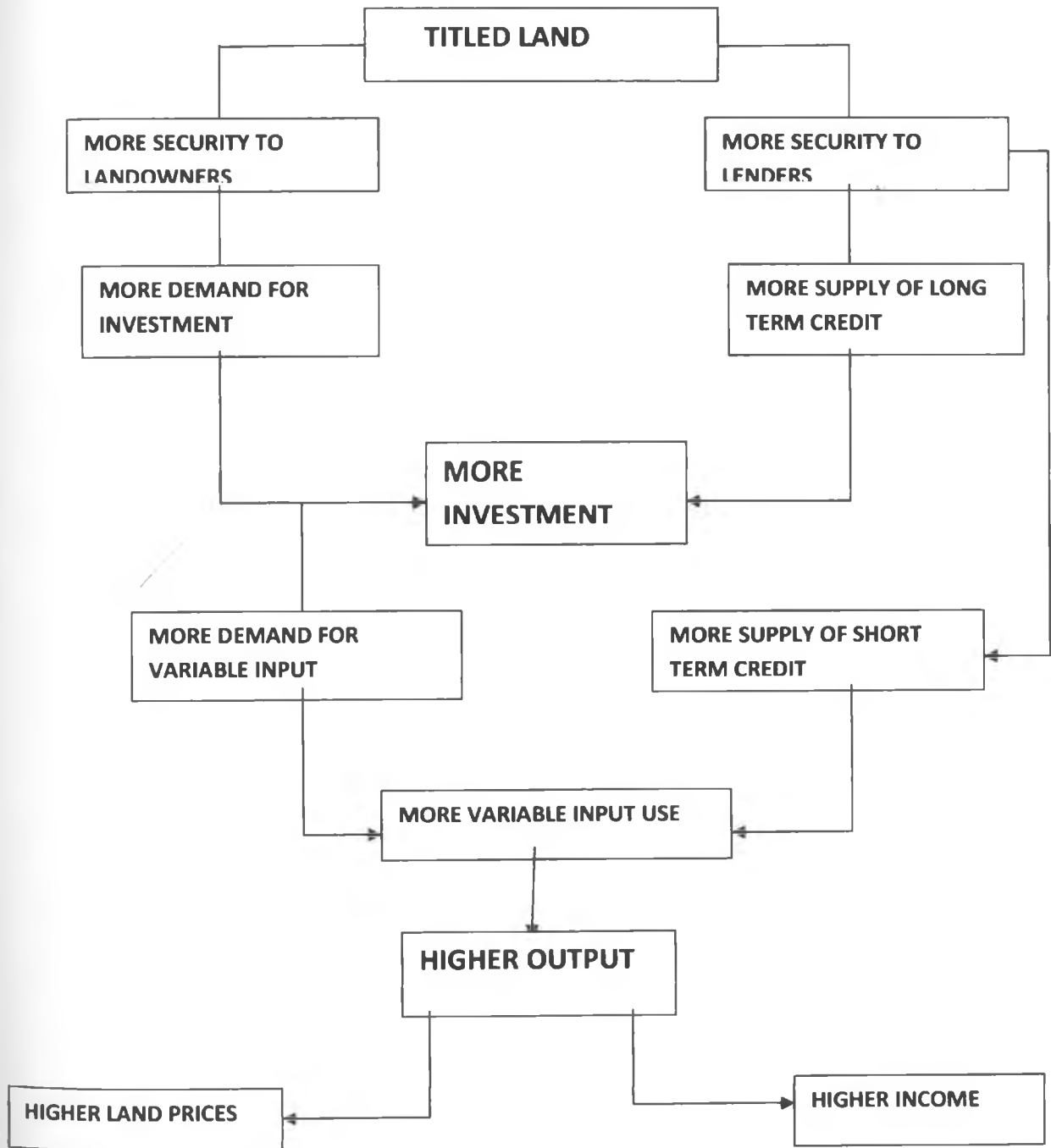
Fig 1: Shows land subdivision process



Source (Mbithi, 1996).

2.5 NECESSITY OF LAND REGISTRATION:

Fig 2: Show the necessity of land registration



Source :(Feeder, 1986)

Information system that underpins land registration is known as juridical cadastre. Land registration cannot operate effectively without some form of a cadastre. The cadastre is defined as a comprehensive register of the real property of a country, and commonly includes details of the ownership, the tenure, the precise locations, dimensions (area) and the value of individual parcel of land.

Although cadastral systems already exist in many countries a few operate efficiently simply because many are out of date, expensive to maintain, inefficient or largely ineffective in practice and irrelevant to modern conditions and requirements. Land registration plays around with written records or register containing information about each parcel such as name of the owner and the rights to the land. The introduction or upgrading of cadastral systems when combined with land registration has brought a number of benefits which include;

- 1) **Certainty of ownership**-the compilation of land records will necessitate the formal identification and recognition of the ownership of land through a process known as adjudication. This should provide certainty not only to the landowners but also what other rights exist in that land. This in turn leads to greater social cohesion.
- 2) **Security of tenure**-through adjudication process existing defects in any title to land can be cured by the judicious use of appropriate powers. In many countries the official record is supported by the state guarantee of title to land .greater security in turn leads to greater productivity, improve landowners confidence and thus investing more in land. The land again becomes secure and can be used as collateral to secure a loan from a financial institution. More important one can transfer the land at a fair value
- 3) **Reduction in land disputes**-disputes concerning land and boundaries can give rise to very expensive litigation. Land clashes have resulted into court cases hence landowners incurring a lot of costs due to time and money wasted in litigation. Land registration aims at reducing the chances of disputes which has been a major manifestation that our registration system is far from being perfect. This is because most disputes over land are transactional which may have been brought by dubious land dealings e.g. illegal allocation, land grabbing, corrupt officials, illegal extensions etc.
- 4) **Improved conveyance**-the cost and delays in transferring property rights can be reduced substantially through the operation of a quick, simple and accurate land registration system.
Landowners have a right to dispose or sell their property at fair value. Land registration aims at making land conveyance easier by updating the registers to reflect the true picture on ground. It also aims at providing cost effective land transactions to support economic development of the country

- 5) **Stimulation of the land market**- the introduction of a cheap, secure, and effective system for recording and transferring interests in land should improve the operation and efficiency of the land market. It should not only lower transaction cost but also permit the market to respond effectively to all the needs of users. Again land registration provides equitable and efficient access to the economic benefit of land and real estate markets.
- 6) **Security of credit**-the land title can be used as a security against any loan. Evidence suggests that the combination of a sound title with the ability to raise long term credit can give rise to a substantial increase in productivity of the land. It can also improve the efficient use of land resource to support the rapid growing population.
- 7) **Monitoring of the land market**-the cadastral system may be used to monitor and if necessary to control land transactions and ownership. Registration can help in protecting the natural environment from degradation.
- 8) **Facilitating land reforms**-land redistribution, land consolidation and land assembly for development and redevelopment can be expedited through the ready availability of information on who currently owns what. It can also be used as a tool to ensure the identification of new problem and evaluate the effect of land policies.
- 9) **Management of state land**-the state is often the major land owner in a country. The development of a cadastral system and in particular the creation of cadastral maps in a systematic manner will benefit the state in the administration of its own land, which will often give rise to improved revenue collection from the land that it leases. The government will be in a position to formulation and implementation of appropriate land policies and strategic plans to address land problems e.g. corruption and land clashes. Also the public acquisition of land through compulsory purchase prior to redevelopment can be expedited.
- 10) **Support for land taxation**-the potential benefits that accrue from establishing an effective and equitable land tax system are numerous .many countries have some form of land assessment and derive revenue from charges made on land, often the cost of improvements in the cadastral system are offset by greater efficiency in tax collection and the consequential greater rate of tax recovery. It will ensure equitable and efficient property taxation systems
- 11) **Improvement in physical planning**-the land registration system can be used to support physical planning in both urban and rural sector. Better land administration should lead to greater efficiency in local government.

Many development programmes have failed or been unnecessarily expensive because of lack of knowledge of existing land. Registration will support land use planning and land development activities.

12) Recording of land resource information-land registration leads to greater land recording and availability of up to date information on land resources for many administration and management activities. Land registration is extremely necessary simply because it provides information about units of land which is intensively used by a cross section of individuals, parastatals, public institutions (government agencies, land authority, N.G.O.s, donors, foreign investors etc.) Land registration is heavily relied on as demand for landed information continues to increase. The information is crucial for various urban land development purposes which include;

- To get details of titles for the purpose of land sales and obtaining loans from banks to built owner occupier houses
- To plan for infrastructure e.g. roads, electricity, water, telecommunication, waste disposal sites and sewerage
- To plan for site acquisitions especially for mobile communication companies e.g. Safaricom and Celtel in Kenya,
- To make analysis on ownership for micro/macro planning and asset management.

2.6 Urban land development

The term development may mean different things to different people but in common parlance, it means growth and change .in developing countries development includes social and political change as well as economic growth. Hence development refers to change plus growth (Sharma, 1995).

Scott (1980) argued that urban land is a product of a “complex collective dynamic” or “socially embedded collection of land uses or locations, across a geographical advantages through which broader social and property relations of capitalism are intermediated”. Regarding urban land Scott again observes that although produced as a result of “an intricate communal process” or “aggregate actions” of both private and state actions, it’s finally capitalized for most part in the form of privately appropriated land rents. Lefebvre calls this a “pulverization of space by private property”

Mattingly (1996) argues that land development is a process of promoting and achieving the effective function of urban settlements so that they sustain and boost the social, economical, physical and cultural well being of the people. This process concerns with:

- ❖ the maintenance of land for sustainable use
- ❖ the operation of activities which use land and
- ❖ the search for resources for development and use of land

Urban land development has been practiced in Kenya for long time. The process aims at regulating and organizing the proper layout and usage of land and its resources. Urban land development and management are governed by both national statutes and local authority by-laws. The rationale for having an acceptable urban land development policy in a country are obvious realities to both, the learned land economist and informed urbanite: good urban land development leads to better organization of activities, a controlled pace of development of the city, where land uses are made to compliment each other, and this leads to better living in a planned physical environment. The lack of policy to control and direct urban land development will, of course, lead to all the opposite manifestations of the above (M.A Swazuri, 2002).

Owing to pressure from natural population growth within urban areas coupled with the increasing populations of migrants from rural areas, there is ever increasing demand for land and space for many urban functions. While the importance of having control over planning and land development of urban areas of developing cities like those in Africa is paramount, there is mismatch with what is happening on the ground. In some urban areas in Kenya, for example, planning and control of land uses has been poorly done, is not adhered to, or is completely lacking. Yet it is urban areas where the focus of such nation attention is directed, where industrial production and commercial development is highest (M.A Swazuri, 2002)

2.7 Urbanization in Kenya.

Urbanization today is the most important phenomenon in mankind's history such that by the year 2015, the majority of human population will, for the first time in history, be living in urban surroundings. Although urban centers are centers of production, employment and innovation, rapid urbanization has had negative consequences such as an alarming increase in the incidence of urban poverty, urban sprawl and physical infrastructure deficiencies, deterioration of human settlement conditions, depletion of natural resources, and increased discharge of unprotected wastes. Urbanization and urban growth form part of major current issues facing land use in the whole world especially the developing countries (Obudho, 2002)

Rapid growth of urban centers in Kenya and the rest of the least developed Countries (LDCs) represent a major aspect of the social and demographic changes that have been experienced during the last century. Most LDCs have pursued a policy of urbanization as a means of achieving modern technology. This policy is based on the More Developed Countries' (MDCs) notion that the degree of urbanization is a measurement of the level of industrialization, modernization, westernization and socio-economic development (Williamson 1977:15)

However, these attributes of urbanization are lacking in the LDCs. Instead, the LDCs have become victims of a strong rural-urban migration than has often led to an average urban

growth rate as high as 8% per annum, more which double the average national growth rates (Obudho/EI-shakhs 1979).As a result the rate of urbanization in Kenya does not correspond to that of economic development , social change, and technical advancement .the accelerated rate of urbanization has generated and intensified a number of urban problems, the result of which has been a continuing state of deterioration affecting most of the urban centers. One of the most critical aspects of this process is that the urban population growth rate is far outstripping the growth of formal employment, housing and services provision.

2.8 Theory and Policy of urban land development

Urban land development throughout modern history has been considered to adhere to one or a combination of the traditional theories namely: the “Concentric Zone Theory” of Ernest Burgess postulated in 1925 and “Axial Development theory” proposed by Babcock in 1932.Others are Homer Hoyt’s “Radial Sector Theory” of 1939 and the *Sprow* “Multiple Nuclei Theory” first postulated by Chancy Harris and David Ullman in 1939, and later in 1945 modified and developed by Mackenzie (Bourne/Simmons, 1978).many cities exhibit some degree of relevance to these theories, although the arrangement of land uses may not be found exactly in the same way as postulated by the authors of these theories

The development of urban land in Kenya has been guided by the physical planning rules and regulations together with local authority by-laws. Numerous policy statements have been issued to direct land development, and these fall into four categories:

Distributive - those policies that make land available for urban uses

Accumulative-those policies that take custody of gathered land, and direct the financial and informative development of urban land for the benefit of the public.

Adaptive-those policies that promote actual development

Control-those policies that regulate and administer the use and development of urban land including its distribution and exchange (Yahya, 1980)

As part of national strategy, Kenya authorities have had to create other short and long term policies for urban development. But the excellent paper policies and plans in Kenya development plans are sharply contrasted by what is happening on the ground. Only a few parts of cities and towns follow the plans to the letter. The act of violating these plans has indeed gained momentum in the last two decades when the case for private land development took over the public role of physical land development.

We should not be surprised by this turn of events. It had to happen sooner or later, especially given the inept attention the authorities gave to earlier defaulters of the rules governing patterns of urban developments. Golany (1978) saw this coming when he

hypothesized that if current trends in urban development and growth continue, government will have to make three choices of policy:

- To have a policy of no policy, which permits growth to occur without planning, in which interest groups such as private developers or politically connected people gain advantages not available to others. Without a policy, these people gain because they do not have to pay the social and administrative costs of large-scale urban development. Already, Kenyan urban centers are suffering from this situation;
- To sporadically attempt to influence development trends by establishing partial policies for future urban growth with little or no effective coordination among them. Countries with seriously divided political option, or those with limited planning experience or shortage of resources, and those that do not have a strong private sector are likely to be found in conditions that lead to such policy;
- To direct and control urban development with an effective, coordinated and comprehensive national policy for urban growth that incorporates the many growth and development determinants, including exploitation and management of other natural resources without posing serious threats to the social and physical environments.

One may sarcastically add that a fourth option is to combine two or all of these choices into an amorphous haze of control-no control but somehow workable systems. Such a system is likely to spark off crises from time to time but will still allow urban development to function miraculously (Swazuri, 2002).

2.9 Urban development strategy

The urbanization policies for Kenya started in a rudimentary form in the first half of twentieth century, when the colonial government decided to locate periodic markets, trading centers and urban centers in various parts of the colony. Their plans required that a two-level system of periodic centers and trading centers be created in an attempt to organize partial structure. In 1950s, a plan was introduced that altered the cultural and economic landscape of the nation (Olima 2002)

Royal East Africa Commission plan was introduced and attempted to set a national urban policy for all the three East Africa countries. Its aim was to identify the causes, conditions, and trends of overpopulation in the urban areas and to suggest measures for economic development in East Africa. One of its most important recommendations was the nation abolition of racial distinctions in land holdings.

Safer (1972; 33) summarized the national urban policy well when he wrote that the initial concerns of town planning in East Africa were in health and hygiene and the laying out of

well demarcated areas. These concerns are still found enshrined in a large portion of the existing planning legislation: *“the properly planned areas, well laid out and serviced to a high standard, were and are the main administration, commercial, and industrial quarter, and restricted ...residential zones....are closely allied with predominantly eternal oriented modern urban sector”*

During colonial era, most physical planning in Kenya was done within the statutory boundaries of the urban centers and most was ad hoc, with the plans usually in the form of fully developed land-use maps. Comprehensive national, regional and planning that took account of strategic elements of promoting urban growth was promoted until 1964. Even after that period, however spatial development plans were focused on the urban centers. Practically all the studies on the urbanization process in Kenya were concerned with social surveys until 1962 when Fair (1962:150) proposed his regional approach to the economic development in Kenya.

2.10 Urban land management and administration

Urban land management and administration is supposed to ensure the most efficient allocation and utilization of urban land. It is aimed at enabling the orderly growth of towns and cities and their efficient functioning. It is also concerned with facilitating the access of the urban poor to the urban land markets by assigning sufficient land and by providing adequate land information, secure tenure arrangements and appropriate mechanisms for providing land for public requirements. Many governments have resorted to “strong medicine” to achieve these goals, namely nationalization of land, public land development, and highly centralized property registration systems to control and monitor land ownership (Dowell/Clark, 1996:1)

Among the outputs of a successful urban land management policy and practice is the supply of adequate and affordable buildable land. However, like in the colonies times most African governments continue to focus more on controlling the ownership and the utilization of urban land (Mattingly, 1996), as opposed to the creation of an enabling environment for its efficient management, which includes the emergence of land markets simply because urban land is increasingly becoming a commodity. Urban land management has to reconcile private interests in land and public concerns about urban land development. The relationship between land ownership and land use is still a highly controversial subject in national and urban land policies (Kreibich, 2002).

2.11 Urban land management instruments

2.11.1 Land- use planning

Land use planning can be defined as the art and science concerned with formulating policies and plans on the use and development of land. According to Chapin (1999) land use planning is concerned with the location, intensity and amount of land developments for various spaces using functions of the city life; industry, wholesaling, business, recreation, housing and education. Planners therefore try to balance the social objectives with the often conflicting demands of the different pressure groups that are involved in the creation of the urban development matrix.

Land-use planning utilizes various tools in order to be effective and successful in urban land management. Various land-use plans are prepared as guides for land development. Basically, three different types of land-use plans are prepared by the planners. These include “Structure Plans” (SP) which are long term plans, covering a period of 20 to 30 years. These plans give broad guidelines for the use of land.”Physical Development Plans” (PDP) with a life span of between 5 to 10 years usually cover towns, giving details of land-use in terms of plot sizes and site coverage. Finally “Action Plans” (AP) that are called development plans, are prepared to alienate government and trust land for specific projects for immediate implementation (Olima 2002:3)

2.11.2 Zoning as a tool used in land use planning

Zoning is the regulation of land use involving the separation of parcels of land in a locality by giving them broad classifications of appropriate uses in the context of a structure plan. These include residential areas, industrial areas, educational facilities, recreational areas, public purpose areas, public utility, and transportation. This is important aspect in regulating land use, in that, only those uses specified in the Structure Plan can be undertaken in that areas hence avoiding the various lands use conflicts that may arise.

2.11.3 Extension and change of user

This is another planning aspect that ensures effective urban land management. Change of user is the process of converting an existing use of land to another user, mostly change of user is from a low rewarding user to a higher rewarding one. Extension of user, on the other hand, refers to alteration of a restricted user of a plot, for instance, from one residential house per plot to additional extensions or other houses.

2.11.4 Development control regulations

Development control seeks to harmonize the different uses of urban land according to the approved plan of an area and to ensure that buildings constructed adhere to standards specified in the building by-laws and planning regulation. Development controls

emphasis proper land use planning and includes among activities subdivisions, extension of leases and building plans.

2.11.5 Subdivisions

Before any subdivision of a plot, development applications have to be made to the ‘Commissioner of Lands’ for freehold land and to the local authority for council land to ensure that the resulting sub-plots are accessible and adequately served with social infrastructure. This process also serves to ensure proper population density in accordance with available services such as water, sewer, Roads, drainage and to coordinate planned development.

For land to be subdivided by private developers, the application for subdivision and proposed subdivision plans are to be submitted to the relevant authority for approval. In case of government allocations, the ‘‘Commissioner of Lands’’ is responsible for subdivision, servicing and development of the infrastructure as well as collection of the stand premium from allottees. Some of the statutes that govern subdivisions of land are the ‘‘Town planning Act’’ (cap.134). The Government Land Act’’ (cap.280) section 9, ‘‘Land Control Act’’ (cap.302), ‘‘Local Government Act’’ (cap.265) section 166 and ‘‘Trust Lands Act’’ (cap.288).the mammoth Act is the ‘‘Physical Planning act’’ (cap.303 (Olima 2002:8)

2.11.6 Extension of leases

The extension of leases, which is also a planning issue, is a significant method of regulating land-use in urban areas. Most existing leases in urban areas in Kenya are granted by government for a period of between 33 and 99 years before approval of the extension of the lease, the ‘‘Commissioner of Lands’’ or his agent checks the nature of the proposed developments and confirm whether the infrastructural development conditions have been met. This in itself regulates the utilization of the land.

2.11.7 Building plans

The approval of building plans as stipulated under the conditions in a lease or grant of government or trust land is another tool used in regulation of land use. It is a requirement that before any construction or development on the land is carried out; a building plan must be prepared and submitted for approval by the ‘‘Commissioner of Lands’’ and the local authority. This is supposed to guard against dangers to human life, health and general environment. There have been numerous complaints from the public and the professional firms of long delays in the approval process.

2.11.8 Plot allocations

Urban land use may be regulated through land allocation procedures. Plot allocations are a useful tool in land use planning because of the close scrutiny that is undertaken

throughout the process. The very land use that is planned for is the only one that can be undertaken in the allocated plot .Kenya's experience reveals a lack of adequate guidance and procedures in formulating decision rules for the allocation of land, for the control, approval and regulation of urban development.

According to Olima (2002: 6), the most easily recognizable manifestation of improper use of land and irrational land use patterns in Kenya's urban centers include: urban sprawl, proliferation of informal and slum settlements, deterioration of the urban physical environment, problems of overcrowding and congestion, absence of social and community facilities, unbalanced land development patterns, land use conflicts, land speculation, and escalating land property values. Olima 2002:7, further argues that the urban planning and development approach has so far been unable to solve the problems relating to: availability of land and accessibility to land, land ownership, land tenure system, efficient land use, rational land development patterns, land and environmental management and socio-cultural relations.

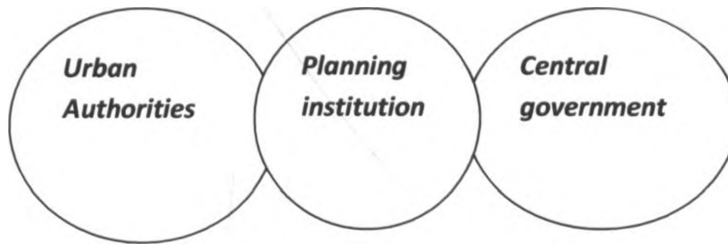
2.12 Role of planning in urban land use

Planning law as a land use development control has been widely used in Kenya and development control is achieved by a system of planning. Land development process involves land utilization transforming bundles of rights to the physical form of land, economic value of land and building (Larbi, 1995; 3).The requirements involved in planning are legal guidelines and statutory power, which are set by the state to avoid social and physical conflict in land matters.

The Physical Planning Act cap 286 of 1996 empowers local authorities to control the use and development of land and buildings in urban areas through preparation and implementation of physical development plans. The local authorities give development permission after applications have been approved for various urban land uses which include; commercial, industrial, residential, recreational, educational, transportation and deferred land uses.

The plans prepared by the Director of Physical Planning form the basis upon which land allocation, land registration, issuance of titles, leasing and general management and administration of land falls. This shows that planning institution is interfused with other urban land gatekeepers mostly the urban authorities and the central government. The following is an illustration of interfusion between planning institution, urban authorities and the central government department.

Fig 3: Showing interfusion between various departments



Source (planning handbook)

The following instruments and processes are also important in day-day urban land management in the context of the various urban plans:

2.13 Access to land for urban development

Urban land in Kenya has continuously belonged to the government and held on lease by private individuals, organizations and institutions. Accessibility to these lands has however been linked to the question of land allocation, the registration process and urban land use planning. The implementation of planning regulations is guided by large scale documents; the “Master Plan” to guide the land use, and the “Building Code” to guide building infrastructure standards.

Under conditions of unprecedented rapid growth, an attempt to enforce planning standards in the 168 urban authorities in Kenya has only been mythical. The very rapid expansion of urban centers has, however, not only exhausted pockets of government land but also necessitated the expansion of municipal boundaries.

This means that the land previously held on freehold tenure by individuals and and/or companies, or trust land not registered in individual or group titles but occupied by a given community and governed by customary law, is being brought into jurisdiction of local authorities. Kenyans also have a special attachment to land, which further creates difficulty in having access to it for either development of infrastructure facilities or public use. Thus, throughout Kenya, many urban developers have great difficulties in identifying and securing land for urban development.

The physical shortage are perhaps less significant as compared to the problems pose by interventions by public authorities through land allocation, land use regulation, land registration and titling procedures, the difficulties of gaining access to often large holdings of land owned by different government agencies, poor records and speculative hoarding.

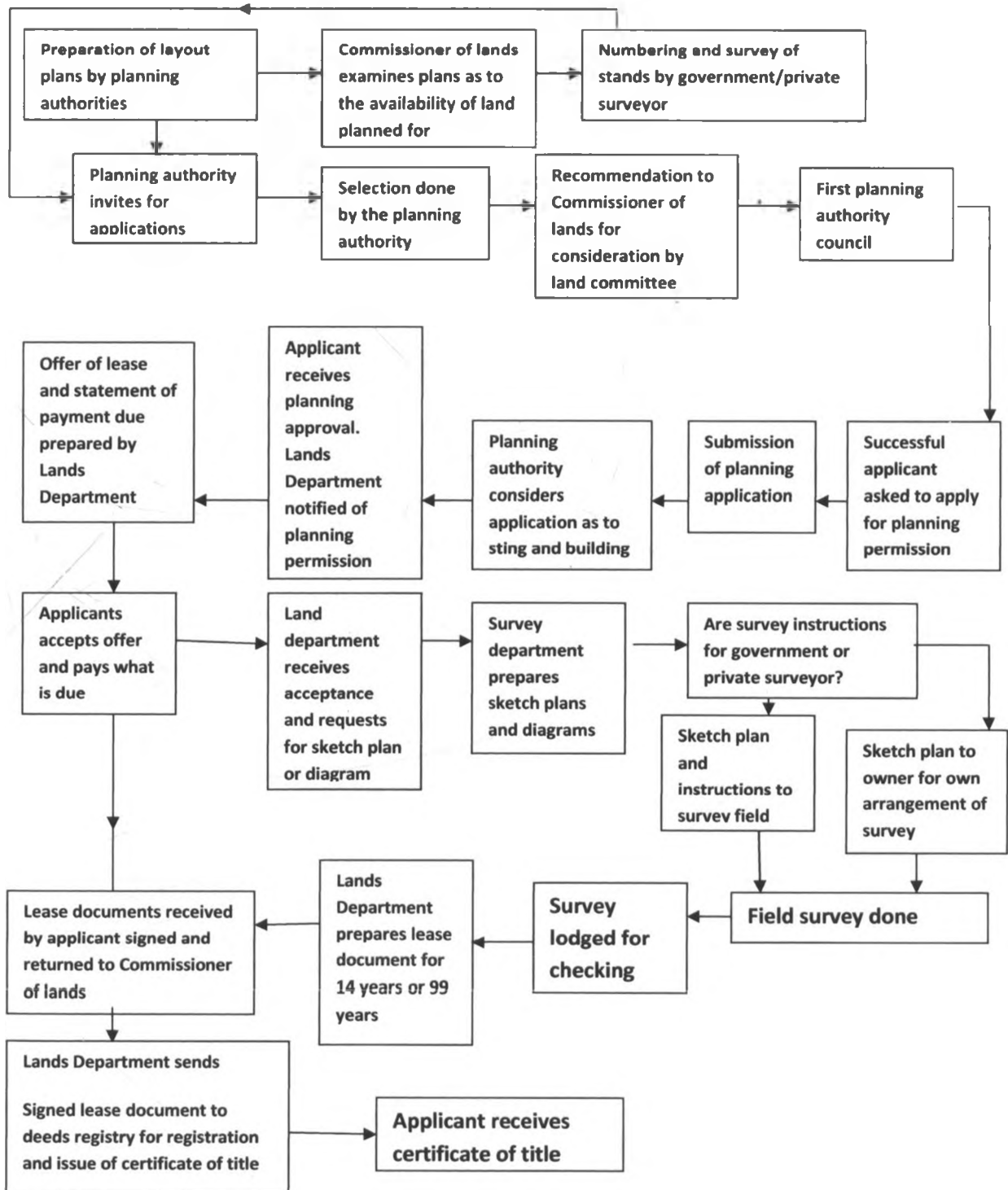
In 1970s, the government role was to ensure that land was made available whether from its own land bank or through purchase from land owners, usually by expropriation. Each beneficiary would initially obtain letter of allotment for the first five years and thereafter be provided with a lease of 50 years if the lot was fully consolidated. In 1980s saw further emphasis towards settlement upgrading in the existing informal settlements through re-planning, provision of minimum infrastructure and services and issuance of 50 years lease titles to urban land owners (Syagga/ Aligula 1996).

Rapid urbanization has led to great pressure on existing urban land; therefore greater need for land to accommodate the ever growing population. This has led to massive conversion of rich agricultural land in the fringe of municipal boundaries through land subdivisions in order to provide land for urban uses. But with complex, expensive and time consuming land registration process, the motive of providing land for timely developments has failed many urban dwellers

The economic, ideological and developmental assumptions underlying government intervention in urban land markets and infrastructure provision were largely reviewed. The outcomes of attempts to apply formal rules to land supply and infrastructure provision in Africa cities are shown to be limited supply, resulting in disproportionate benefits being captured by those with social and political influence, bureaucratic connections or access to financial resources. The result of land supply shortfalls is that the formal rules are ignored and the formal procedures bypassed. There is a divergence between the formal rules (law process and procedure as written), the rules that legal actors actually enforce, and the rules people observe in practice

The following figure show a complex linkage and processes involved in providing land for urban development.

Fig 4: Urban land allocation, development permission, registration and titling.



Source (Syagga, 1996).

3.1 SIGNIFICANCE OF NAKURU MUNICIPALITY

“Neither dream, nor reality, a vision is nourished by the ambitions, aims and motives rooted in the reality but at the same time transcending day-to-day constraints and limitations”. Nakuru is a town that incites more than one vision. Its natural beauty, its urban dynamism, its history summons ambitions that do not merely consent “restoring past glory” but rather seek “installing future glory”. Nakuru’s aiming for an urban development of the 21st century can be summarized in six statements:

1. *Nakuru is a Regional Capital.*

Emphasizing the role of Nakuru as a regional (i.e. provincial and district) capital helps to articulate its particular urban character in different ways. In functional sense it entails a concentration of activities, investment, headquarters and infrastructures. Such functional, political, cultural and symbolic dimensions of the regional capital obviously demonstrate themselves in the overall image of the city as well as countless urban facts

2. *Nakuru is a regional Service centre*

Nakuru, surrounded by a fertile and well developed agricultural hinterland was throughout its history an important service and delivery centre. An urban centre whose prime importance is not being a settlement as such but a centre that has to service a wide residential and productive hinterland does develop a particular mode of urbanity. Nakuru has to offer the kind of urbanity that is to the proportion of the scale, the reach and ambition of an entire region. On the more symbolic level, an urban centre of service has to provide urban atmosphere and behavior within an urban form that conveys a certain collective identity.

3. *Nakuru is a rail and Road Town*

Nakuru is a node situated on a double international transportation network: it is a road relay of East Africa highway on the one hand, and a station on the Kenya-Uganda railway on the other hand. Both networks have high infrastructural potentials in spite of their present technical and physical condition. The parallel rail and highway lines, crossing Nakuru town from east to west, define a clear morphological structure that completes the natural crater-lake, north-south bipolarity. Traffic thoroughfare is not a just a technical problem to be solved but equally constitutes a potential resource.

4. *Nakuru is an international Centre for Eco-tourism and Encounter.*

The lake and the national park form a unique but very fragile eco-site with international reputation. The combination of these two sites, valorized by a careful opening to interested and informed visitors, strengthens the tourist attraction of Nakuru and compensates for the eventual decline of the lake’s flamingo population. The town links settlement and nature, human activity and ecosystem, residents and visitors. By that it becomes a meditating scale that generates encounter and exchange in a multiple way. The urban frame replacing

the enclosed tourist resort can realize the necessary diversification of tourist economy.

5. *Nakuru is an "Eco-town"*

The main characteristic of Nakuru is the unique co-existence between on the one side a vulnerable eco-site of international importance (the lake park) completed by an untouched natural reserve (the crater) and on the other side a booming medium size town. The awareness of the close relationship between the ecological dimension of the natural, the human and the built environment constitutes an important breakthrough in the present debates and practices of ecology, urban and community development, which too have been characterized by sect oral and even dogmatic viewpoints.

A sound urban ecology is therefore part and parcel of the ecological soundness of the lake park. The urban ecology of a town like Nakuru encompasses every aspect of environmental ecology in a strict sense: solid waste treatment, sewerage, water supply, urban green, air pollution etc.

6. *Nakuru, Prototype Town of the East African Highlands*

Within the range of medium size towns, Nakuru is developing a model of urbanity that may become a prototype of modern African urban development. This model of African urbanity refers simultaneously to qualities of the built environment, the urban life and the social interaction.

The African Highlands town marries nature and landscape. Urban green of all kinds complements the built fabric. This kind of urbanity relates to a management of built and open spaces that favours spaciousness and openness mainly in the more public oriented urban area.

Against the sprawl of an unarticulated shanty town carpet, the urban village articulates a manageable scale of neighborhood and community (Loeckx, 2002).

3.2 POSITION AND SIZE.

Nakuru town is believed to be the fourth largest town in Kenya after Nairobi, Mombasa and Kisumu. It is located in Nakuru district, one of the districts of the Rift Valley province which borders seven districts, Kericho to the west, Baringo and Laikipia to the north, Nyandarua to the east, Narok to the southwest and Kajiado and Kiambu to the south. Nakuru municipality covers the whole of Nakuru town and its environs and is located about 165 kilometers north-west of Nairobi city, the capital of the Republic of Kenya.

It is within the drainage of Lake Nakuru and is connected to Nairobi and Kisumu. It is by both national highway A104 and railway, both of which pass through Naivasha and Gilgil towns.

The municipal area extends to the northern slope of Menengai crater which has an altitude of 2,000 meters mean sea level (M.S.L.) and 1,859 meters above sea level. It borders

Menengai crater to the north, Lake Nakuru National Park and several volcanic hills to the south; Lake Nakuru is located at the lowest part in the floor of Rift Valley at 1760 meters above sea level. Nakuru municipality is located in the centre of the Great Rift Valley, rendering it geologically unstable due to incessant seismic influence.

3.3 TOPOGRAPHY AND CLIMATE.

Nakuru municipality which is also known as Nakuru town experiences a warm tropical climate given the fact that it is situated near the equator at an altitude of around 1880M above sea mean level. The topography found in the municipality has greatly influenced economic activities in the area. In the areas where volcanic soils are found, farming and dairying are common. In the drier parts, livestock keeping is practiced in addition to other activities linked to tourism.

The soil profile consist of a thin covering of greyish brown soil that varies from about 0.3m to 1.0 m thick overlying buff colored diatomaceous silts. In its natural state these silts are remarkably water absorbent due to their relatively open texture.

The climate of the entire district is influenced by altitude and physical features such as escarpments, lakes, the Rift valley and volcanic hills/peaks. There is a considerable variation in climate throughout the district. The municipality area has three broad climatic zones with temperature varying between 24°C and 29°C, and a mean of 26.7° C

Zone I receives an average annual rainfall of 1,270mm per annum covering areas over 2,400 (Meters) m above sea level. The zone covers Mau-Narok, Molo, Oenguruone, Upper Subukia, Dundori, Keringet and Kamara.

Zone II covers area with altitude between 1,800m and 2,400m above the sea level receiving an average rainfall of between 760 and 1,270mm per year. tis is a dry sub-humid equatorial climate. tis zone covers lower forest of Molo, Njoro, Bahati and parts of Rongai

Zone III covers the Rift valley with altitudes between 1,520- 1,890m above the sea level and receives rainfall of less than 760 mm annually. The zone covers Gilgil, Longonot, Solai, Lanet and parts of Rongai. These are the marginal areas of the municipality. Olkaria geo-thermal has an important source of power to serve not only Nakuru but also the entire municipality. Hot springs and streams are also sources of water in the municipality especially in Eburu in Gilgil Division.

Natural resources found in Nakuru are in form of forests, rivers, escarpments, lakes and tourist attraction including good soils for farming gives this area a firm economic base. Lakes Naivasha with fresh water, Lake Nakuru and Elementaita with saline water are major tourist attractions.

The forests of Nakuru district are a major source of timber ad firewood employing high numbers of the area population either directly or indirectly. The same forests do generate

income to the government in form of revenue and income to saw millers' too. These resources if utilized will assist the district to lower its levels of poverty from 43 percent to 20 percent by the year 2008.

Table 1: Climatic zones in Nakuru District

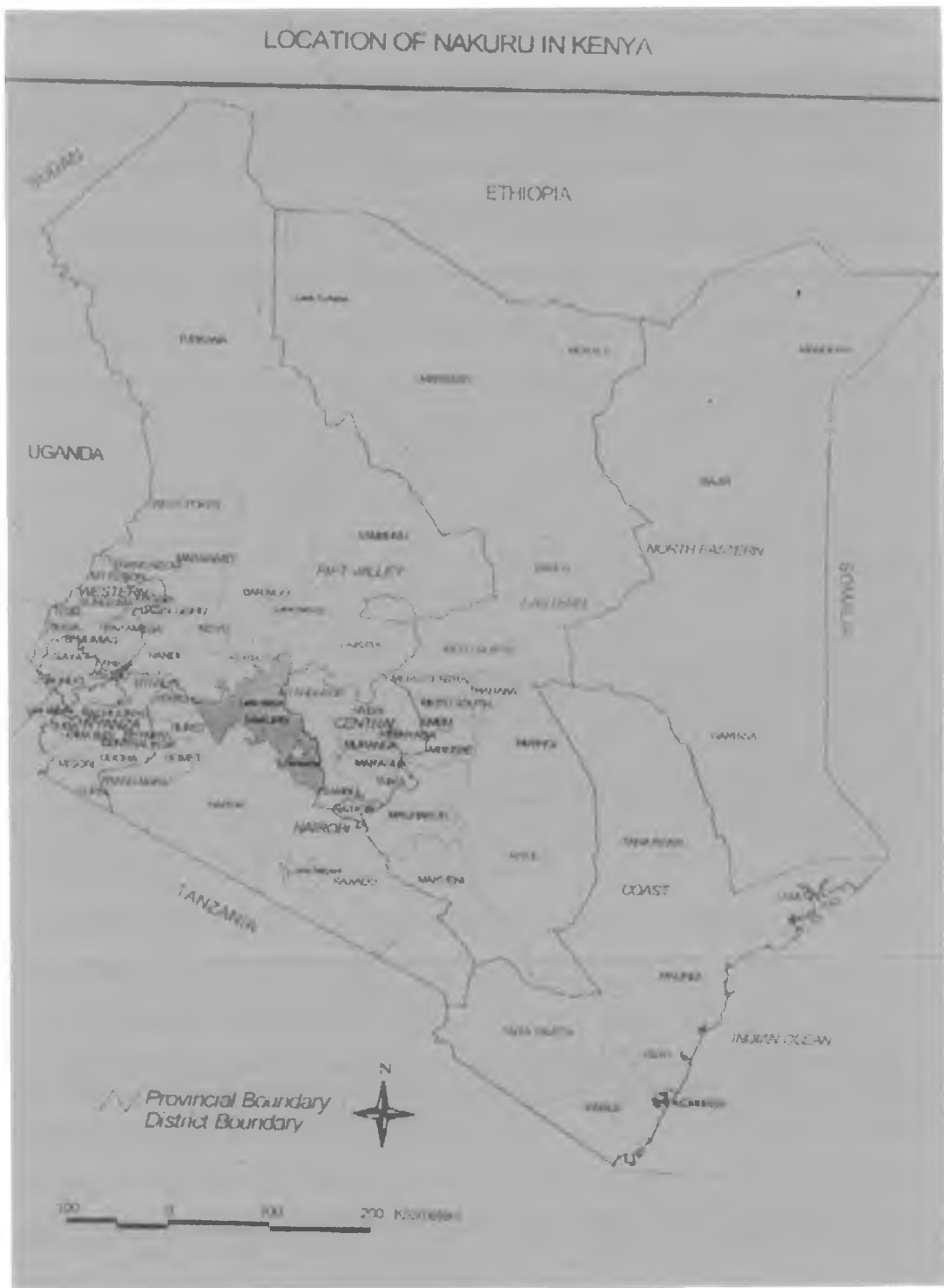
zone	Altitude	Rainfall received	Area
I	Over 2400m above sea level	1270mm (humid)	Mau Narok, Molo, Upper Subukia
II	1800-2400m above sea level	760-1270mm (sub-humid equatorial)	Lower parts of Molo, Njoro, Nakuru town, Bahati and parts of Rongai
III	1520-1800m above sea level	<760 (semi-arid)	Gilgil, Longonot, Solai, Lanet and lower parts of Rongai

Source: Nakuru District Development plan 2002-2008.

Nakuru municipality which is also known as Nakuru town has an altitude of around 1,859 above the sea level hence falls in zone II. It receives 900mm of rainfall annually with maximum in the months of April-May and again in July and August. The highest rainfall record as shown in table 3.2 is in May and driest month is January.

Nakuru municipality experiences windy conditions almost every month of the year, thus speeds the evaporation process. Meteorological annual reports show that annual evaporation outweighs the annual rainfall by 880mm. It is only in April that rainfall exceeds evaporation by mean of 24mm.

Map 1: Location of Nakuru in Kenya.



Source (Nakuru District Development plan 2002-2008).

Map 2: Reference diagram with names of various places within the Municipality.



Source: (Strategic Nakuru Structure plan 1999).

3.4 PHYSIOGRAPHIC AND NATURAL CONDITIONS.

The main topographic features in the municipality are the Mau Escarpment covering the Western part of the district, the Rift Valley floor, Mau escarpment in the South Eastern part (Naivasha area), Menengai crater with its drainage and relief system and the various inland lakes on the floor of the Rift Valley that form drainage for nearly all permanent rivers and streams in the country.

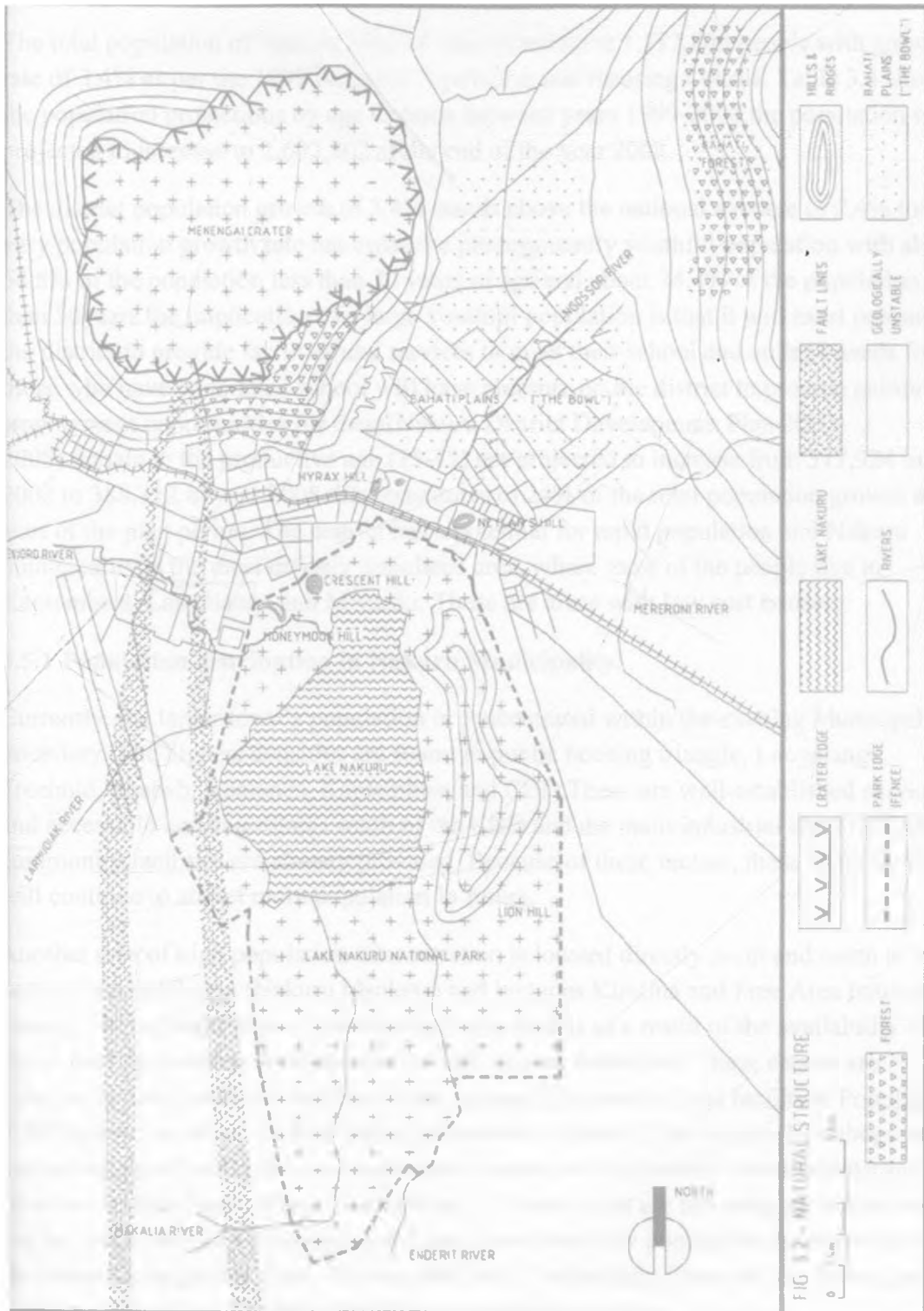
Nakuru district has three major lakes namely Lake Naivasha with fresh water, Lake Nakuru and Elementaita with saline water. The Mau-Escarpment with an average altitude of 2,500 meters above sea level is very important for the municipality, as most of the forests are located on it. The forests do influence rainfall pattern in the district, while most of the rivers originate from the same Escarpment. All the high potential areas of the municipality are around the same Escarpment.

The catchment of Lake Naivasha includes the Malewa and Turasha Rivers. There are minor streams from the Escarpment and Bahati forest, which drain into Lake Solai basin. These rivers are major sources of water in the municipality. Farming under irrigation is highly practiced in Subukia valley using water from the local streams. The natural resources found in Nakuru municipality are in form of Forests, Rivers, Escarpments, Lakes and tourist attraction features including good soils for farming which gives the municipality a firm economic base. Lake Naivasha with fresh water, Lake Nakuru and Elementaita with saline water and Menengai Crater are major tourist attractions. Lake Nakuru and Elementaita are inhabited with flamingoes.

The forests of Nakuru are major source of Timber and firewood employing large number of Nakuru districts' population either directly or indirectly. The same forests do generate income to the government in form of revenue and income to saw millers. These resources if utilized will assist the district to lower its levels of poverty from 45 percent to 20 percent by the year 2008. this will be in line with plan theme (Nakuru District Development Plan 2002-2008).

Driven by prime necessity, the survival of the park-Nakuru could promote itself as pilot town for urban ecology in East Africa. The awareness of the close relationship between the ecological dimension of natural, the human and the built environment constitutes an important breakthrough in the present debates and practices of ecology, urban and community development, which too often have been characterized by sectorial and even dogmatic viewpoints.

Map 4: Shows natural structure of Nakuru Municipality.



Source (Strategic Nakuru Structure plan 1999).

3.5 POPULATION GROWTH.

The total population of Nakuru District was estimated at 1,197,800 people with growth rate of 3.4% as per the 1999 National Population and Housing Census. Table 3.4 shows the population projections by age Cohorts between years 1999-2008. the population is projected to increase to 2,602,802 at the end of the year 2008.

The district population growth of 3.4% stands above the national average of 2.4%. the very population growth rate has created a predominantly youthful population with about 54.8% of the population less than 20 years of age and about 74.4% of the population less than 30 years. the implication of a large youthful population is that it will exert pressure on the district to provide facilities and services to meet their school and college needs for those who have completed school will have pressure on the district to provide gainful employment opportunities for them (Nakuru District Development Plan 2002-2008). female in the productive age (15-49) are projected to increase from 317,924 in 2002 to 388,712 in year 2008. this constitutes to 24% of the total population growth at the start of the plan period. The district has a potential for rapid population and Nakuru municipality is the most densely populated area, where most of the people live in Kaptembwa, Langalanga and Mwariki. These are areas with low cost houses.

3.5.1 Population distribution in Nakuru Municipality.

Currently, the larger town's population is concentrated within the existing Municipal boundary. The highest densities are found in public housing triangle, Langalanga, Freehold, Shabab, Kenlands, Kaptembwa and CBD. These are well-established serviced and accessible housing estates south of the CBD and the main industrial area. Here, most community facilities are already provided. Because of these factors, these areas do and will continue to attract more population in future.

Another area of high population concentration is located directly north and south of the eastern industrial area (Nakuru blankets) and includes Kiratina and Free Area housing estates. The concentration of population in this area is as a result of the availability of cheap land for housing development through private initiatives. These estates are however not well serviced and lack basic support/community level facilities. Population in the peri-urban areas, such as Ngata, Engashura, Mbaruk, Wanyororo, Kiambogo etc, is increasing significantly for the same reasons. Areas with relatively lower population densities include Naka, Block 14 and Block 17. these areas are not adequately opened up due to lack of services. Milimani and Lanet areas have low population densities due to the relatively large plot sizes. The national park, Technology Farm and the Menengai forest are not settled and have the lowest population densities.

Table 2: Population projections by Age Cohort in Nakuru District

Age Cohort	1999	2000	2004	2006	2008
0-4	191,979	212,279	226,991	246,722	259,544
5-9	162,520	179,705	192,159	205,477	219,717
10-14	159,986	176,903	189,163	202,273	216,291
15-19	135,854	150,219	160,630	171,762	183,666
20-24	129,028	142,671	152,559	163,132	174,438
25-29	104,334	115,366	123,262	131,911	141,051
30-34	75,356	83,324	89,099	95,274	101,877
35-39	61,204	67,676	72,366	77,381	82,744
40-44	40,343	44,609	47,700	51,006	54,541
45-49	32,840	36,312	38,829	41,520	44,398
50-54	25,837	28,569	30,549	32,666	34,930
54-59	17,487	19,336	20,676	22,109	23,641
60-64	13,694	15,152	16,191	17,314	18,513
64-69	9,811	10,848	11,600	12,404	13,264
70-74	8,108	8,965	9,587	10,251	10,962
75-79	5,843	6,461	6,909	7,387	7,899
80+	7,933	8,965	9,380	10,030	10,725
Age Ns	4,482	5,398	5,772	6,172	6,600

Source (Nakuru District Development Plan 2002-2008).

3.6 STRUCTURE OF LAND TENURE.

Land tenure refers to the ownership and management of land. The present land tenure arrangement in Nakuru has evolved from the pre-colonial traditional communal land ownership to private and public land ownership in the present.

Broadly therefore, there are three distinct types of land ownership-council, government and private (see map.5).the former two categories are either used for municipal or government purposes e.g. public utilities/purposes or leased out for a specified period to individuals for various predetermined urban land-use activities. Generally, public land (for government and municipal public purpose use, and government and municipal leases) covers the greater part of the current municipal area.

Different land tenure types are subjected to different land administration processes and have different implications on urban planning and development.

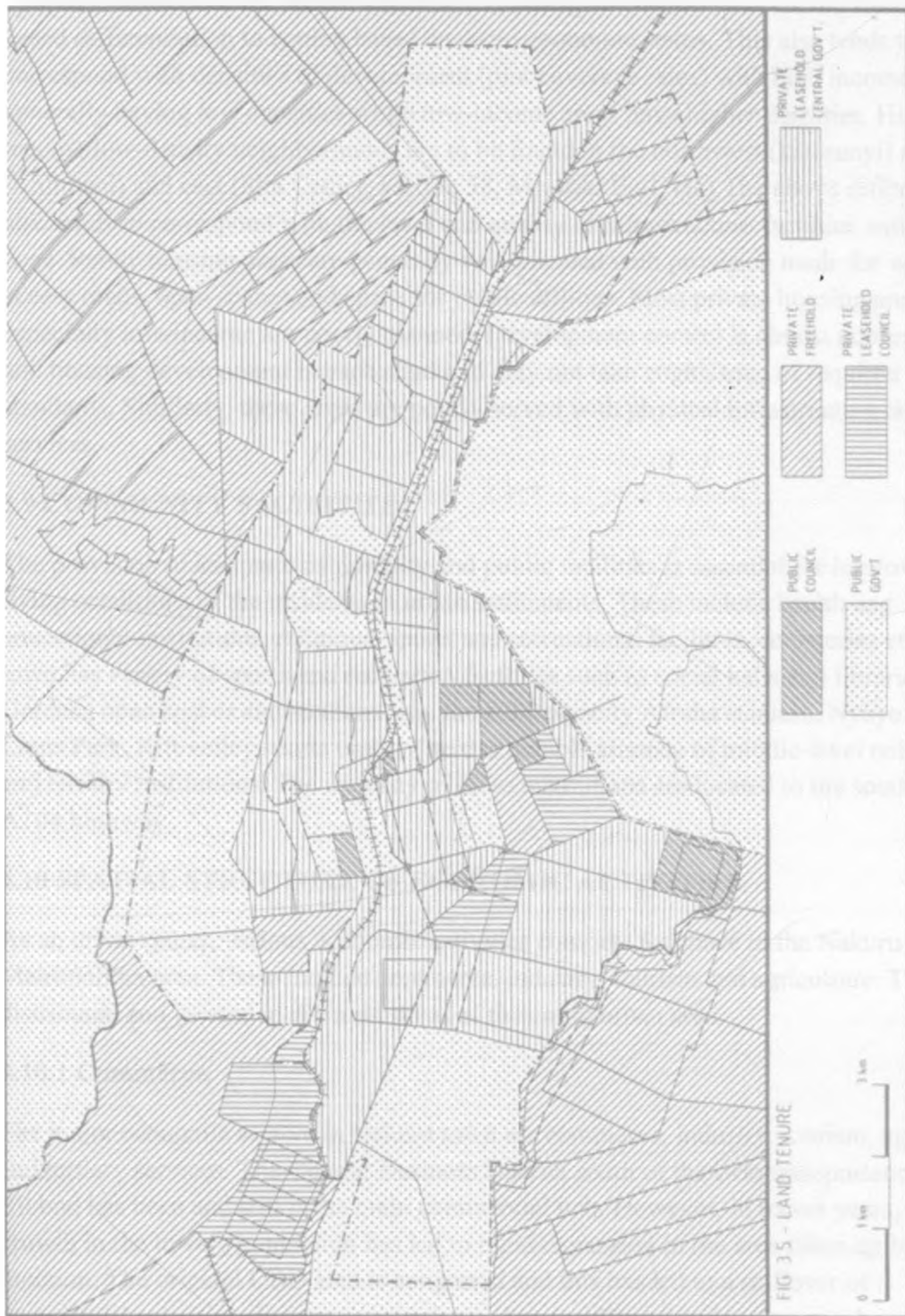
Traditionally, public land (leased to individuals by government and municipal authorities), was much more suitable for urban development as provision was made to plan and service it. Recently however, there hardly exist any stocks of this land, and it is therefore unavailable for lease to private developers. Most of it is already committed to various public purposes. This means that compulsory acquisition and voluntary sale/purchase present the only options for increasing the much needed land for future development of public purposes and utilities.

Private land is readily available for urban development. This is held as leaseholds (public land leased to private individuals) or freeholds. Leaseholds are generally more expensive due to the value added by planning and servicing or the rigorous procedures involved in transferring ownership. Freehold land on the other hand is cheaper since it is not planned and serviced and also easy to acquire. Currently, much urban development is taking place on freehold and this presents numerous planning and development control problems.

3.7 SETTLEMENT STRUCTURE.

The settlement structure refers mainly to the pattern of settlement that has emerged with time as people migrate into Nakuru from different areas. Although settlement defines the volume and nature of human activities, the section will mostly dwell on the distribution of population and the nature of settlement with special emphasis to housing and community facilities. Their relation to other human activities such as commerce, trade and industry will therefore be mentioned briefly.

Map 5: Shows land tenure pattern of Nakuru Municipality.



Source (Strategic Nakuru Structure plan 1999).

3.8 HOUSING.

Spatial distribution; the spatial structure of housing in Nakuru has evolved from racially based differentiation to zoning based on socio-economic status. This also tends to correspond with densities of development (plot coverage rates) with high income areas generally having low densities while low-income areas have higher densities. High income/low-density neighborhoods are to be found in the northwest (Kiamunyi) north (Milimani) and east (Sita Center, section 58, Mwariki East, etc). The above differentiation also tends to correspond with the level and quality of infrastructure facilities within each zone. Public housing areas are generally well planned with provision made for wide access roads, open spaces and space for public utilities. Most private housing areas, especially low-income are poorly planned. Development control is almost non-existent and housing development is haphazard and may not take cognizance of required standards. Similarly, these areas are poorly served with physical infrastructure and services.

3.9 COMMUNITY FACILITIES.

The provision of adequate community and public facilities is essential for improving the living conditions of the residents in urban settlements. These include health and educational institutions, religious, sports and recreational facilities, cemeteries etc. Nakuru town has variety of sports and recreation facilities such as social halls and libraries, parks. Gardens open spaces and stadiums e.g. the 8200 capacity Afaa stadium, Nyayo gardens, Lions Park, Rift valley sports clubs. There is notable absence of middle-level colleges and tertiary institutions. The majority of these institutions are located to the south of the A104 highway.

3.10 SPATIAL STRUCTURE OF ECONOMIC ACTIVITIES.

As an urban center, various economic activities compete for space in the Nakuru Metropolitan area. These include commerce, industry; tourism and agriculture. These are distributed and located in different areas of the entire urban area.

3.10.1 Commerce.

The major economic sectors in Nakuru town are commerce, industry, tourism, agriculture and tertiary services. The Central Business District south of the twin transportation Ribbon has been and still is the main commercial hub. However, in recent years, the growth in the town's population has led to rapid expansion in the area taken up by this function. The original CBD area is congested and this has led to a spillover of commercial activities along various strips and nodes. Strip development can be observed along the town's major roads such as the Nakuru/Nairobi Road (A104), Kanu Street, Nakuru/Nyahururu Road, Nakuru/Dundori road.

Nodal concentrations of commercial activities can be observed within residential areas and at major road junctions such as Race-course, Milimani, Maili Sita, Lanet junction, Kunste and stem junctions. While the northward expansion of the CBD has been constrained by the Railroad Ribbon, the transportation grid facilitates its southward expansion. Its Westward expansion is hindered by the presence of a built industrial zone and an unstable geological structure. Growth in the East is seemingly unhindered and is easily facilitated by the roads linking Nakuru to other major towns.

Informal commercial activities are now a common feature in the town. Small scale business and hawking activities are located around major transport termini and other reserves of busy internal roads.

3.10.2 Industry.

Nakuru is famous for being home to the majority of agro-based industrial in the country. In total, there are over 100 industrial establishments ranging from food processing, farm machinery assembly etc. These industries mainly serve the rich agricultural hinterland. The main industrial zone, where most large-scale industrials are placed, is located west of the CBD. More recently; an industrial zone has developed in the east, the main industry being the Nakuru Blankets. This has attracted related urban development activities to the East of the town. The light industry area is found South of the A104. Informal and small-scale industrial activities can be found virtually anywhere within the town though Bondeni area seems to attract a substantial number.

3.10.3 Tourism.

The presence of key natural environmental valuables (Lake Nakuru national park, Menengai Crater) and a few archaeological sites (Hyrax Hill, Silcon Holes) has given rise to tourism potential in Nakuru. The Lake Nakuru with a large population of unique bird species (Flamingoes) is a major attraction to tourists from all over the world. Apart from the local attraction, Nakuru offers a central point of departure where tourists can access the numerous other attractions in its Rift valley region. These include, Lakes Bogoria, Baringo and Naivasha, Longonot crater, Aberdare Ranges and Mau escarpments among others. Tourists facilities have however not been developed to fully exploit the high potential that the natural assets present.

3.10.4 Agriculture.

Nakuru is the "*farmers' capital*" in Kenya. It serves as a centre for agro-based industry for its immediate region. The town is largely dependent on the rich agricultural hinterland. Increasingly, there is a growth in small scale agricultural activities within the metropolitan area. This is mostly located in the peri-urban areas of Bahati, Kiamunyi, Engashura and Mwariki where the sub-division of large agricultural farms into smaller holder portions and urban residential plots is rampant. Besides small-scale agriculture;

large farms can be found to the west including the giant Rift Valley Institute of Science and Technology (RVIST) farm. Urban expansion is posing a threat to good agricultural land. Economically, urban agriculture is a transitory activity, which eventually gives way more traditional urban functions.

3.11 TRANSPORT STRUCTURE.

Nakuru municipality has a fully developed transport system, which includes travel ways, modes and support facilities. The major travel ways consist of roads and the railway. The modes include public and private passenger and goods transport, rail and a variety of non-motorized transport options (bicycles, walking, carts etc).

Nakuru district is well served by a network of International and National trunk roads. The Trans African highway from Mombasa to Uganda-Rwanda and beyond traverses the Nakuru municipality. The other major road is the old-Naivasha road through Longonot which is designated for heavy trucks to western Kenya and neighboring countries

The Railroad Ribbon of both the Mombasa-Uganda railway and Mombasa-Eldoret road runs through the center of Nakuru town. The ribbon is major structuring element acting as the city's spinal cord into which all functions connect. Nakuru also has a network of numerous others roads. Although Nakuru town is famed for having a well-developed railway infrastructure, its role as a transport mode has continued to diminish in recent years as it faces stiff competition from road transport modes. The lines are confined to the industrial areas alone and the railway yard and the station are completely under-utilized though they represent a fully developed infrastructure. Air transport is the most underdeveloped and the town lack air transport facilities. The only airstrip in the town is found in the Lanet military installation and is not available for public use (UNCHS, Habitat).

3.12 STRUCTURE OF SERVICES AND INFRASTRUTURE.

Adequate and timely provision of infrastructure facilities and services including electricity, water, sewage and drainage is essential for the efficient running of urban level activities. Apart from enhancing the general welfare of urban dwellers, the availability and spatial location of varied infrastructures and services also plays a significant role in shaping the physical form of the town by determining the location and character of key urban functions such as industry, commerce etc.

3.12.1 Water supply.

Nakuru municipality is already a water deficit area. Up until 1995, Nakuru municipality was adequately served with water. In the recent past however, the supply of water has been characterized by chronic shortages affecting mainly the residential and industrial functions. The town gets its water from both surface (Rivers Malewa and Meroroni) and

underground (Kabatini, Baharini and Lanet boreholes) water sources. The municipal council has about six major water reservoirs (Nairobi road, Prison high level, Western, Water works and Eastern storage).

Although the capacity of the above water sources is high, activity areas within the town continue to experience acute water shortages. The water reticulation system is inadequate with only about 35km.sq. (34%) of the municipal being covered. The lakes within the district only Lake Naivasha is fresh water lake and in other lakes water salinity is too high and cannot be used for domestic purposes. The basement rock formation and rainfall intensity gives the area good potential for ground water development. Indeed this potential is being exploited as boreholes are being sunk in various places.

3.12.2 Sewage Disposal/Storm Water Drainage

Disposal of domestic (human waste) is done through sewer reticulation, septic tanks and cesspools and pit latrines. Nakuru has two sewage treatment works-the Town and Njoro treatment works with a combined capacity of 16,200m/day. The capacity of the sewerage is under utilized mainly because of an inadequate reticulation network. The use of pit latrines is limited to low-income, high-density settlements.

Regarding storm water drainage, the steep slope of the Menengai Crater (1859-2100m) gives rise to intense and fast moving surface run-off during rainy seasons. While physical development between the crater and the lake has further complicated the storm water drainage situation by reducing the amount of ground for normal seepage, man-made drains are inadequate, poorly developed and maintained. In many instances therefore, surface run-off runs directly into physical developments.

3.12.3 Electricity and Communication.

Nakuru municipality is linked to the national Grid, which passes through the town. The main substation (step down) is found in Lanet where distribution for domestic consumption is organized. The old town, including the CBD, Milimani, Industrial area and the Southern residential area, has good service network. Newly settled areas are especially under-serviced since they are expensive to service owing to the scattered nature of development.

3.13 Urban Nature interface.

Nakuru municipality has experienced a rapid growth and spread of urban level activities. This has in turn led to a relationship characterized by urban-nature conflicts especially along the edge of the crater, the Lake and park to the south and the faulting Zone to the west of Central Business District.

Park edge-Established in 1960's, the boundary of the Lake Nakuru National Park marks the southern limit of the built up area of Nakuru town. High density physical

development in low-income residential areas fronting the park edge produce large amount of surface run-off, which discharges pollutants into the park posing a threat to the fragile ecology. In Barut area there are conflicts as wildlife encroaches on farmlands. A detailed study is necessary to assess the developments and land alienation along the park edge with a view to assessing possibilities of establishing a desirable transitional zone along the edge.

Crater Edge: The crater edge fronts the Menengai forest and private farmlands. While the edge fronting the Menengai forest is under no threat from human activities, subdivisions of the southern part of the forest pose serious threat of encroachment. The private farmlands to the northeast have encroached up to the top of the Crater Edge, making it susceptible to degradation (UNCHS, Habitat).

Faulting lines: presently, the fault zones are is marked by a series of natural surface and sub-surface drains running in a North-South direction. Most of this area is under agriculture. However, there are some encroachments on the northern parts of London and west of the CBD where industrial and residential developments have come up.

3.14 Land suitability for urban development.

The Nakuru Metropolitan Area can be divided into various land units on the basis of their suitability for urban development, which in turn takes consideration of the slope, soil and drainage characteristics as a basis for analysis. The following categories can be observed.

Category 1: *area of high suitability*; this area covers mainly the old town and is considered suitable because it has a flat or very gentle slope, absence of faulting apart from western strip, well drained and very deep soils.

Category 2: *areas of moderate suitability*; this covers the area around the old town and its considered moderate because of gentle slope, few incidences of faulting/subsidence, shallow depth of ground water, sensitive watershed and very low moderate occurrence of surface rock.

CHAPTER FOUR

RESEARCH METHODOLOGY, DATA ANALYSIS AND PRESENTATION

RESEARCH METHODOLOGY

4.0 Introduction

The methodology is merely an operational framework within which certain facts are placed so that their meaning may be seen more clearly (Leedy, 1996). This chapter describes in detail how the research process was conducted and outlines data collection procedures, measurement and analysis used to accomplish the research objectives.

4.1 The research process

The first step in the research process was the identification of the research problem. Once the research problem was identified and stated, the researcher reviewed related literature to enable the formulation of a theoretical framework for the study. The literature formed the secondary data for the research process. The primary data collected based on the objectives.

4.2 Research design

Leedy (1996) has defined research design as the visualization of the data and the problems associated with the employment of these data in the entire research project. Research design requires the researcher to have some structural concept, some idea of how the data will be secured and how they will be interpreted so that the principle problem under research will be resolved.

A case study approach was chosen as the methodology of carrying out the research. Mugenda and Mugenda (2003) defines a case study as an in-depth investigation of an individual, group, institution or phenomena and assert that most case studies are based on the premise that a case can be located that is typical of many other cases. This was to enable the researcher to get on spot survey of the actual situation on the ground and to ensure that the findings were as objective as possible. Thus the Nakuru

Municipality was chosen and the researcher endeavored to get the details of the entire region and record exactly what had been done.

4.3 Sampling process

Sampling is a process of selecting a subgroup of a population to represent the entire population. Purposive sampling is a technique that allows the researcher to use cases that have the required information with respect to the objectives of the study. Cases of the subjects are therefore handpicked because they are informative or they possess the required characteristics.

4.3.1 Population: According to Mugenda and Mugenda (2003) population refers to an entire group of individuals, events or objects having a common observable characteristics, in other words population is the aggregate of all that conforms to a given specifications. Population is well-defined group or set that have specified properties e.g. banks, valuation and property management firms and professional firms like surveyors and planners. These firms in their own cluster are subject to the same land information challenges and constraints. This research targeted these firms to help in evaluating constraints in land registration process and their effects on urban land development.

The researcher used purposive sampling in order to allow the researcher to use the areas where land registration problems are worst experienced. These areas included new and upcoming estates which include Kiamunyi, Kaptembwa, Mwariki, Langalanga, Bahati, Lake View, Lanet and Free Area. Random sampling was then applied and a target of five households was set for each area.

4.3.2 Determination of sample size

The researcher used a minimum of 50 cases i.e. 40 landowners, 7 banking institutions, the District Physical Planner, Nakuru District Land Registrar and finally the Municipal Council of Nakuru. The sample was arrived at by making the following assumptions that the response achieved will be within + or -5 percent of the true state of affairs i.e. 95% of confidence level. The sample size was taken to be true representation of the target population at the Nakuru Municipality. The sample size is limited to this size due to time limitations and budgetary constraints.

4.4 Data collection methods

4.4.1 Observation: This method relies on visual observations. In this research, observation schedules were used to determine the current land records situation in the Nakuru District land office. The major aspects being observed were the nature of land information storage and retrieval, the rate of customer service, the number of people seeking land related information and time taken to serve the customers.

Again observation was used by the researcher to check the level of development on land parcels particularly those with land registration problems. The range used was good, fair and poor.

4.4.2 Photography; During the field survey several photographs were taken especially within the areas with new developments. The developments include some residential and commercial buildings and other sites used for telecommunication and land reserved for various public uses.

4.4.3 Related literature (*published and unpublished*): This method was used to capture already existing literature in form of secondary data collected and analyzed by other researchers. Relevant literature on land registration process and urban land development were collected using this method.

4.4.4 Interview: This was done using structured interview techniques. The researcher visited various valuation firms and private surveyors' offices. And using questionnaires as a guide conducted the interviews. The researcher noted down the answers which were later analyzed.

4.4.5 Questionnaires: All questionnaires were administered by the researcher to the respondents and clarifications given to questions where the respondents had some difficulties. The questionnaires were issued to landowners, Municipal council of Nakuru, Land Registrar in Nakuru lands office, financial institutions and the District Physical Planner.

4.5 Administration of the questionnaires

The following people were interviewed:

1. The Director and a Registered Valuer from Vineyard valuation firm
2. Two site acquisition officers from Gimco limited
3. Branch manager and a Valuer from Gimco limited Nakuru branch
4. A private Surveyor/Planner from Olweny and Associates Limited
5. Two employees from Lands office in Nakuru
6. One employee from Municipal council of Nakuru
7. Branch manager N.I.C bank Nakuru branch
8. Two employees from Equity bank Nakuru branch
9. Loans and Advances manager from S&L Nakuru branch

The heads of households were targeted to respond to the questionnaires. The sampling was random and the researcher issued forty questionnaires to landowners in different parts and estates within the municipality, one questionnaire to the Land registrar, one questionnaire to the municipal council of Nakuru, seven questionnaires to different banks in Nakuru town, and one questionnaire to the district physical planner. All the questionnaires were filled up and returned which makes a total of fifty questionnaires.

4.6 DATA ANALYSIS AND PRESENTATION

The objectives of this study were to highlight the land registration process in Nakuru, identify the major causes of delays in land registration process and the effects of these delays on urban land development. The researcher highlighted the registration process and identified major causes of delays and some effects on urban development through interviews and questionnaires administration. The analysis of data combined with literature review forms the basis for the summary of findings, conclusions and recommendations.

4.7 Land registration process and the organizational procedures; The organizational procedure that facilitates the operation of land registration process was not clear and could not be understood by most of the potential users of the system. The

research proved that the land registration issues are mostly known to the educated people, big percentage of the population lack basic information about land registration. The process of land registration involves steps and procedures which are complex and cumbersome. Land registration did not facilitate access to land and hence it could not guide spatial organization and orderly urban development

Land transactions were highly centralized and all necessary procedure were accomplished at district or higher level as well as registration of individual rights and resolution of land conflicts

Fig 5: Document of ownership.

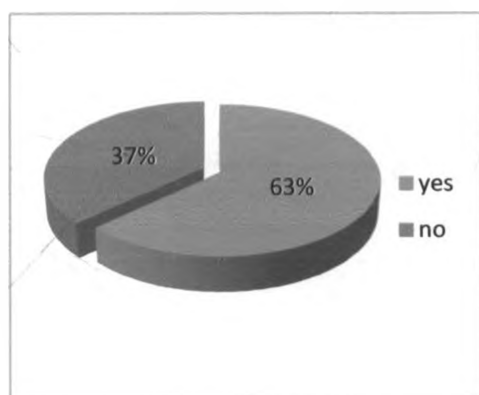
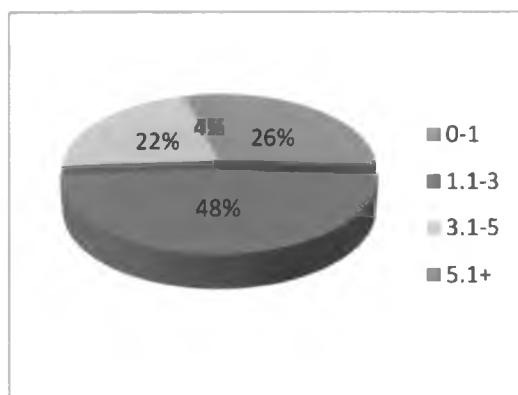


Fig 6; Size of land (acres).



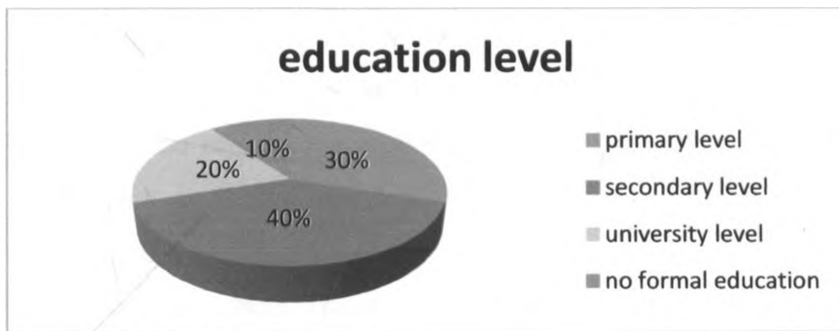
Source; Field survey April 2008.

Land registration in urban and sub-urban areas by conventional techniques was difficult due to rapid urban expansion, erratic rural-urban migration, insecurity, hostility and inability of surveyors to determine such boundaries adequately. Large-scale subdivision of state land was problematic in the face of diminishing supplies of land in public ownership which led to delays in issuing leases to various groups of people. The supply of formal sector plots by either public or private subdividers was, therefore, generally restricted. As a result, the allottees or purchasers are either those with social and political influence, bureaucratic connections, and access to financial resources, or those who can trade a promise of political support. Land registration and consolidation which were

made to solve problems associated with land fragmentation and prevent chronic and costly litigation did not work as expected.

Urban land in Nakuru town has continuously belonged to the government and held on lease by private individuals, organizations and institutions. Accessibility to these lands has however been linked to the question of land registration process, standards and urban planning. Therefore the need to develop efficient land registration based on systems of uniquely defined, surveyed and recorded land units, and how such systems can be used for land planning, development, management, valuation, taxation and as a means to protect rights in land remains not met by our current land registration process.

Fig7: showing education levels of landowners.



Source: Field survey April 2008.

Interviews between the researcher and some landowners, who purchased land in Nakuru town in recent years, revealed that the majority of them were assisted since they could not fully understand the process of registering and transferring land. For some found the process very complex and intricate. It was clear that a few land occupiers have taken initiative to get their land surveyed or process land titles and the security of tenure for the majority of the land buyers was based on social recognition. Discussions with elderly settlers and prominent land vendors in Nakuru town revealed that in the recent past affluent people from the town have been grabbing land in tens of hectares and later subdivide them and sell them to individuals with or without titles and at lower cost. This practice seems to have been accelerated by the poor land registration systems, liberalized political and economic environment which favour private property.

4.8 Causal factors of delays (Situation analysis)

The researcher had to first establish the major causes of delays in land registration process from the Surveyors, Planners and the Nakuru District Land Registrar and the challenges and effects of these effects were expressed by the Valuers, Banking institutions, Municipal council of Nakuru land owners and other land information users like real estate investors, site acquisition officers among others. The following are some of causal factors of the delays:

4.8.1 Non-amendment of Registry index maps

The land registration process was found to be long, complex and expensive. It was not easy for most Kenyan especially the illiterate and the poor to access it. There are so many steps in the process which have to be fulfilled before the registration is over and for the title deed to be legal and recognized by law. One of the major causes of delays in land registration process was cited as due to non-amendment of Registry index maps. In Kenya title deeds are issued and later the Registry index maps are amended. But in this particular case most of maps have not been amended to reflect the change on ground. This is prevalent especially where land subdivisions are done following each other.

During a visit to Nakuru lands office, there was a case whereby land title deeds were issued in 1992 after a land subdivision but the Registry Index Map was not amended. Later another subdivision took place and up to now the maps was not amended to reflect the change which is about fifteen years down the line. To complicate the matter, all the mutation forms were missing during that time and could not be traced. One of the land owners previously wanted to use his land which is developed with a residential house as collateral to secure a loan in which he did not go through. This particular case is a clear indication that our land registration system lacks the urgency needed to register land and therefore gain all the benefits of land registration. The following plate shows a residential house which was being used as the collateral in the above mentioned case. To solve the problem the owner was advised to repeat the whole process of registering his land afresh which he did.

Plate 1: Showing a residential house.



Source: Field survey April 2008.

4.8.2 Legal framework

The legal framework which must protect the rights to vital information necessary to ensure good governance in the management of land was found wanting and cumbersome. The formal rules for land supply and those provided by the legislative framework for tenure, transactions, registration, land-use planning and development control, public land acquisition and land taxation were not known to many Kenyans. Complex conflicts over land rights deterred government from guaranteeing title, although private title insurance was a possible substitute

From my research, I managed to meet women who own land and one of their biggest problems especially the married women was about the law of succession which does empower women to inherit, hold or dispose of land on unequal terms as their male counterparts. This is notwithstanding the fact that it abolished the distinction between sons and daughters as far as inheritance of their parent's property was concerned. When a person dies intestate (without making a will), the wife can inherit and thereafter distribute the property to the children as gifts. However, with the traditional influences still widely prevailing, the in-laws create problems in a lot of cases. This problem was prevalent

especially in Nakuru central district where some prime plots have been subject to succession problems and hence have not been developed

The following pictures show two prime plots along Kenyatta Avenue in Nakuru which have been affected by the succession problems and it has affected their developments for about ten years now.

Plates 2&3: Showing prime plots along Kenyatta Avenue in Nakuru town.



Source: Field survey April 2008.

To access land through the legal land market system (whether based on transplanted European law, recognized and incorporated customary law, or post-independence legislation) is often time consuming and cumbersome, especially where it can only be allocated by government agencies. State law was regarded as a means for securing power, rather than a reflection of mutual accommodation between state power and the rights of citizens; and the legal process (e.g. for adjudication) was dominated by gatekeepers and not equally accessible to all. In other words, the formal rules rarely operate as codified.

The laws and regulations applied are too numerous, complex and cumbersome to the majority of the people

4.8.3 Institutional linkage

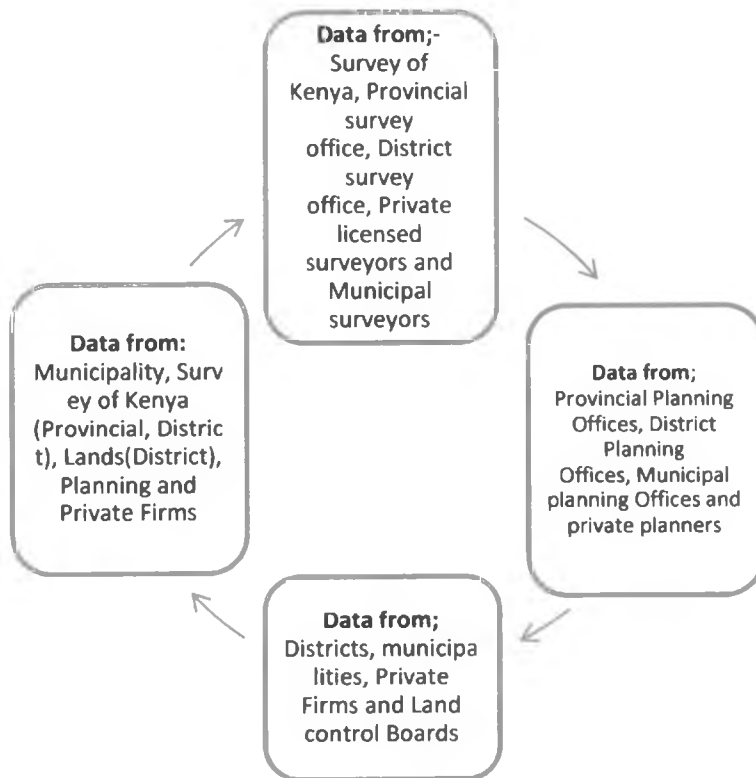
The institutional set-up in Kenya puts all the land components under one roof namely the ministry of lands. It was clear that one of the problems bedeviling the existing system is the multiplicity of institutions dealing with and having legal jurisdiction over land information or information based on land-it should be pointed out that not even the best land information system would solve the problems that have been identified, unless it operates within a conducive institutional set-up.

Generally how can we improve the cooperative efforts between central and local government, various departments, and the private sector? The study found out that there is poor coordination between departments of surveys and physical planning and land registration offices. This has been the major reason for delays in the registration process. Lack of coordination and poor linkages have led to massive delays in land registration. Figure 8 below shows how information should flow foreword and backward, within and to all departments but this was not the case in Nakuru which experienced uncoordinated information flow within various land departments.

The researcher found out that survey data took long time to reach other departments especially the Land registry. Some private surveyors did not forward their survey work on time hence leading to unnecessary delays. Again, the whole institutional set-up of the authorities and their relationship with other organs of Central Government was somehow intricate. The two departments within the government with the responsibility of cadastral surveys i.e. Survey and Mapping, and Physical Planning Departments are in separate departments. Faced with problems that result from poor co-ordination with limited resources, a lot of time and money is taken to undertake cadastral surveys. It was again clear that a lot of information was required for undertaking cadastral surveys and is distributed among several government ministries, departments, local authorities and the private lawyers(conveyance process) These are some of the reasons why it takes long to plan, survey and register land in Kenya .

Lack of autonomy by the local government interfered with its function as a crucial stakeholder on the physical planning and development of its areas. The urban authority was weak, very little was to be achieved in terms of proper urban planning and development. It is important to note that there exists a multiplicity of agencies dealing with land and there were no clear-cut definitions of roles and responsibilities of each of the agencies. Hence there was little coordination amongst the numerous agencies resulting to conflicts and duplication of responsibilities.

Fig 8: Land information flow:



Source: Field survey April 2008.

Functions of the Nakuru Municipal Council and problems/difficulties it faces.



Nakuru Municipal council collect a lot of land information from various functions e.g. subdivisions, allotment of council land and building approval process among others. All the data collected from the various sections, departments or received from District Lands, Survey and Planning Departments was recorded and stored in the registry

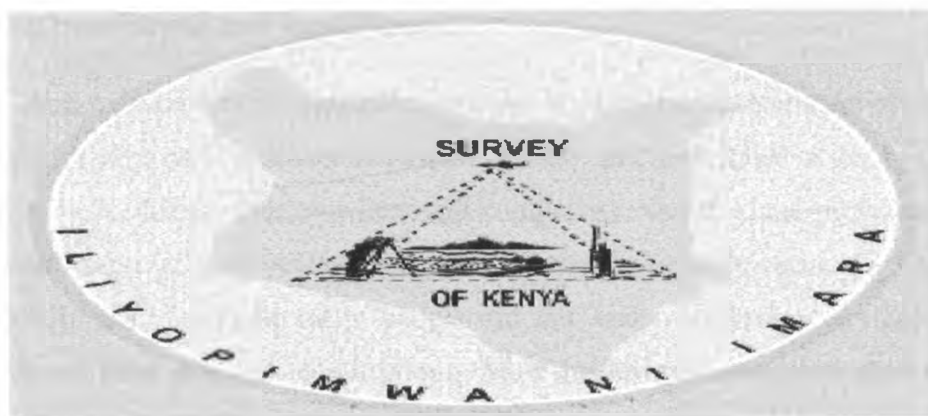
Table 3: Land information from Nakuru Municipal Council and problems/difficulties faced by the Council

Purpose	Type of information	form	storage	Problems/difficulties
Subdivision	Subdivision scheme plans	Copies of plans	Ammonia paper(chests)	Takes time to amend any plans.
Building approval applications	Building permits	Plots file	Cabinets and shelves	Adequate storage space but lack of files
Plot ownership details	Plot owners, sizes, ground rent etc.	Plot files	Cabinet and shelves	Adequate storage space but lack of files
Area information or lists	Parcel nos., owners, rates book, uses etc.	Block files	Cabinet and shelves	Adequate storage space but lack of files

Building	Building plans, checks and inspection	Copies of plans	of Ammonia sheets kept in Plot files and shelves	Lack of ammonia due to massive subdivision
Allotment	Copies of allotment letters	Plot folders	file shelves	Inadequate storage space and missing files
Valuation	Rating for tax purposes	Master roll and supplementary rolls	Shelves top of tables	Adequate storage space

Source: Field survey April 2008.

4.8.4 Land surveying



The study established that there are gaps and bottlenecks existing in survey information. An interview with a district surveyor in Nakuru it was clear that most of the urban areas in Nakuru are inadequately mapped and where the maps are available the scales were used inappropriately. The result was that the maps are out of date at the time of production. The maps are not available in digital form thus hindering effective urban land management practices.

Again there were problems of litigation emanating from boundary disputes with many cases still pending in courts. Instrumentation was another major problem facing surveying profession. The cost of modern equipment was very high and therefore, most public survey department did not have them. For private surveyor, the costs are passed on to the landowners who need surveying work.

Cadastral surveys have been blamed for being too costly and not affordable. The regulatory framework, technical standards and methods as well as the administrative procedures that go with the operations of cadastral surveys have been cited as culprits of high costs and delays in the delivery of land to the needy. On recapitulation, the encumbrances encountered in the formulation and implementation of cadastral systems in Kenya was attributed to the persistent shortage of surveyors and their inability to cope with the survey demand. To avoid being blamed for causing delays surveyors have occasionally succumbed to public pressure to produce maps urgently with total disregard of survey regulations and procedures. The Survey Act cap 299 was found to be complex and archaic and has been the major setback to surveying profession.

4.8.5 Time, location and cost implications

In practice, existing formal registration systems are very cumbersome, involving large numbers of steps and considerable periods of time, and have failed to keep pace with urban growth, due to their slowness and complexity, and the lack of financial and technical (especially surveying) resources in the responsible agencies. From the research it was clear that many people did not seek registration services simply because of time and cost implications. Most landowners were not able to seek registration services due to location factor of most land offices. Some of them did not know where lands offices were located and hence did not bother to seek registration services the following was the response.

Table 4: Response to registration needs;

Response to registration needs	response	percentage
1. Sought registration services.	15	30%
2. Didn't seek registration services because they didn't know where to go.	5	10%
3. Didn't seek registration services because they are not close to them.	5	10%
4. Didn't seek registration services because of cost implications.	10	20%
5. Didn't seek registration services because of time implications.	10	20%
6. Didn't make any effort at all to seek registration.	5	10%
Total	50	100%

Source: Field survey April 2008.

During the research, I was informed that there was an ongoing debate by various land information stakeholders in Nakuru over the relative merits of a full (legal) cadastre as a way out to solving the problems of time, cost location among others, based on accurate plot surveys and registration and guarantee of individual title, which can be used for multiple purposes, including registration of title transactions and property tax, and a limited cadastre, land inventory or addressing system, which registers occupancy, may record claims (without adjudicating or guaranteeing them or judging their legality), registers transactions and can be used for purposes of urban land tax. Registration may involve a greater or lesser degree of compulsion. If that was to happen for landholders to register their plots, then the incentives (increased security and property values, provision of some services, and possible access to credit) was to outweigh the costs (liability to

taxation, cost of registration and other costs). In the land registration system, the relative costs of survey represented a part of the total costs of land registration. It was brought to my attention that Nakuru district had few licensed surveyors and they charged high fees and this discouraged many landowners. Again, licensed surveyors added costs of survey work where additional time was spent on checking their results and some ended up taking too long to forward their survey work for registration hence causing chronic delays.

The RLA section 41 gives the Chief Land Registrar powers to compel registration of any instrument, which is registrable under the Act. Under the RTA, the principal Land Registrar is the government Conveyancer as well as principal Collector of stamp duties. For land adjudication the fee is charged per hectare.

The major constraints relating to cadastral surveys in Kenya revolve around affordability or sustainability. The cadastral surveys are only undertaken for a few areas given the cost of surveying

4.8.6 Land grabbing and corruption

Corruption and land grabbing were the most obvious reasons for delays in land registration process. Nakuru municipality as envisaged in Ndung'u Report has over 450 cases of land grabbing and it's among the top municipalities with highest number of land grabbing cases.

Convincing the gatekeepers to urban land who are mainly politicians, large landowners and senior public servants is nearly impossible in Nakuru municipality. The lower and middle servants and many intermediaries who make a living from the existing confused, complex and multi-layers land administration systems have vested interests in perpetuating them. For a change to occur, the support of both these gatekeepers and those doing reasonably well out of the system was needed, recognizing intermediaries roles and skills and incorporating them into a reformed system was likely to work better than labeling their activities as illegal and excluding or penalizing them. There have been several demonstrations in Nakuru area against land grabbing and most affected are public schools land in which the parents and the boards have subsequently felt helpless because the land grabbing menace seemed

firmly rooted in their area. Currently, the restructuring process in the public sector has been taken as an excuse by the elite to grab public land and housing, selling both for huge profits, thereby accumulating personal fortunes. Most registers from the lands office lacked green cards and in others the cards were fluked off. An interview with one of the resident Valuer told me that there are some missing files in the registry and the registry officials claim to have misplaced them within the registry or are in use somewhere else and that greatly affected valuation work.

The registry had no organized mutation form registers and some mutation forms were missing. From a search carries out in the registry, there were some mutation forms which were not accurately done and title deeds had been issued. The mutation forms were returned from survey department and reported to have mistakes. This was an intricate matter in which the landowners were required to surrender the former titles and be issued with new correct ones. This was of course going to take time and affect land development potentials due to lack of secure tenure. The following picture shows a land encroached by a private developer which was set aside for Nakuru Municipality Jua Kali sheds. Urban land grabbing has led to near violent scenes where fences erected around grabbed public utility have been forcefully destroyed like the example below.

Plate 4: Public Land encroached by a private developer



Source: Field survey April 2008.

4.8.7 Inefficient Land Allocation Process

In Nakuru, both the public servants, politicians and bureaucrats have abused land allocation process by bending rules, regulations and the process in favour of their desires as opposed to public interests. As identified, it allows an individual to acquire land hitherto planned for public utility. The land so acquired in this process is used for speculation. The desire to reduce the gap between the poor and the rich has not stopped and it is incumbent upon the state to facilitate this process. The desire to have this allocation process implemented efficiently by state bureaucracy that is neutral and rational has never been realized in Nakuru and the land allocations are done mainly in favour of the rich. During the field survey, it was clear that big landowners were less compared to small landowners who were rampant in almost all the estates. I will support the Minister for Lands in his move to introduce heavy taxation to those people with big and idle land such that all the available land is put into good use. Also the issue of expired leases issued before 1909 which reverts back to the government is a good move for the government to recover its lost land for urban developments and expansions.

4.8.8 Issuance of title deeds without comprehensive documentation

Uncertainty and confusion over land ownership in urban areas has continued to increase following increasing ownership disputes. This problem has also been attributed to inefficient, inaccurate, and expensive and time consuming land registration process and corruption. Politicians and professionals such as planners, valuers, land managers and urban economists often blame each other for the problems. Professionals attribute these problems to poor public attitude towards land, poorly developed administrative and legal framework for handling public land and political interference. In the process of carrying out administrative work, the legal procedures are often ignored as individual interests take precedence over law. A recent discussion with a district planner indicated that there are several cases in court over boundary disputes as individuals extend their boundaries into other people's plots. In some cases, it is lack of proper identification of plot boundaries that have contributed to extension of boundaries

Lack of proper adjudication and demarcation has been cited as causal problems leading to delays in registration and thus bring about land disputes. Most land disputes as revealed in the field arise mainly from double or multiple allocations which is a clear evidence of lack of proper land documentation in the lands registry.

The land adjudication section in Nakuru did not process the field records even though demarcation and survey have been completed. The Land Adjudication Act has a requirement that the processing of titles should not commence until the adjudication register is declared complete and final upon the determination of all board and objection cases. The use of outmoded mapping and survey techniques in adjudication results in inaccuracies sometimes making the area of parcels quoted in the title deeds to be at variance with the true physical areas. This causes problems in land adjudication, which revolve around the issues of delays and therefore disputes on the type of boundaries. Land consolidation on the other hand, which is the gathering of all fragmented land units of group of people into one single unit and then redistribute the parcels in economically viable parcels creates some problems since it does not cater for land values at the time of implementation and this was found to be unreasonable.

4.8.9 Political will and commitment

Most difficult, perhaps, are the key political and other gatekeepers to urban land. The political will and stability of the country especially towards elections adversely affect land registration. Politicians and elected councilors in the municipal council have adversely perpetuated land grabbing in the region and hence the status of most pieces of land is yet to be known .the politics in land is a matter we cannot do away with easily and the best way is to find ways of adjusting to the political waves positively. The best that can be hoped is that moments of political or economic transition provide opportunities to gain the support of existing gatekeepers, as they defend their interests in new economic or political circumstances, or of new decision makers anxious to make rapid political capital from populist change.

4.8.10 Inadequate storage facilities

Inadequate storage facilities was not a major cause of delays in land registration process but lack of well organized storage of the information produced from land registration can significantly affect the registration process.

In Nakuru district lands office, land information is held mostly in paper form and managed manually. This is inefficient, time consuming and cannot support timely decisions making about land. Therefore Kenyans are currently experiencing a lot of difficulties and expense in accessing land information. However, even the papers records themselves are not optimally organized, and this can significantly slow down their systematic computerization. In addition, Nakuru lands office lacks an up to date inventory of the amount of land under different uses such as forests, parks, open spaces, public land, water and infrastructure among others. Lack of this vital information complicates effective planning, zoning and overall management of urban land.

During the field survey I found out that several survey plans and maps computations, office copies of deed plans even the index cards are still in the analogue form and lying loose on shelves in all records offices a method which is slow, subjective and open to abuse. In this confusion, important data although available somewhere, is not easily accessible for use or updating in other departments. The storage of survey documents has implications on boundary dispute resolution. Original photographs are the last recourse on general boundary disputes as there are no co-ordinates that can be relied upon for accurate re-establishment. Other problems results from the lack of enough trained staff to run the record system, undue influence from powerful individuals and where knowledge of registration is almost non-existent.

Table 5: District Lands/Survey Office Data types and Forms of Storage

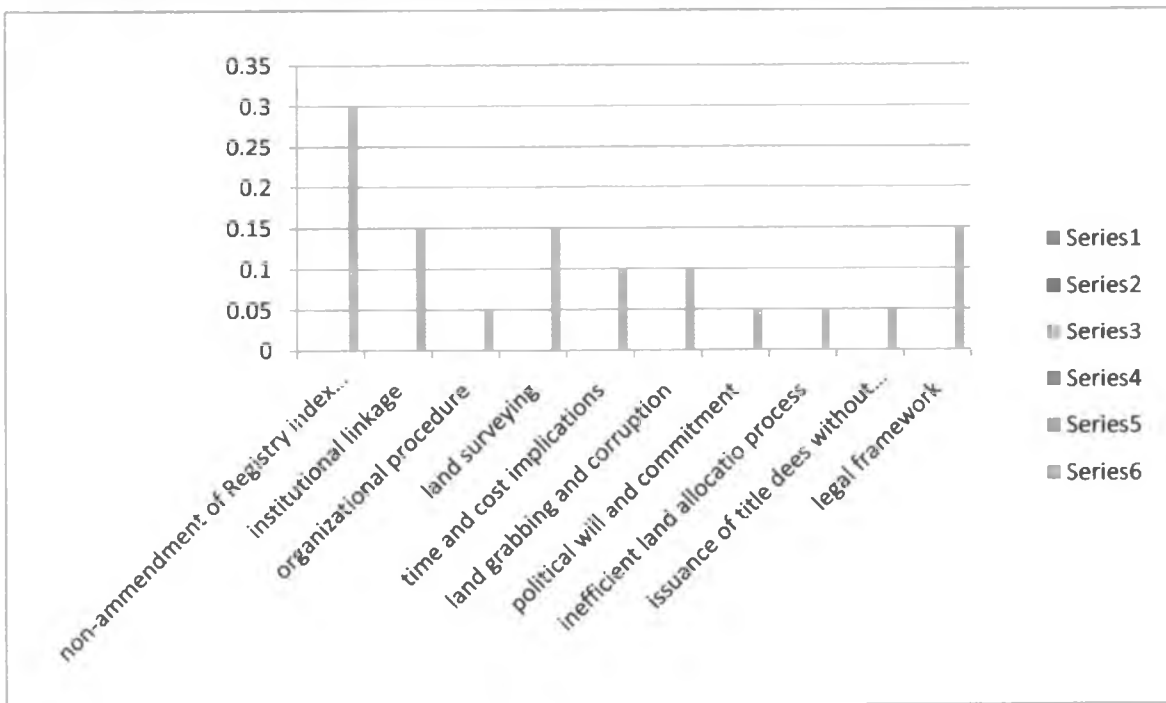
purpose	Types of information	form	storage	Problems/difficulties
Subdivision	Mutation details, old LR No, new	Ammonia sheets	Parcel files(records	Un-organized registers, no or

	No, size. RIMs used for registration of title in land	Mutation forms Folio and registers	office)tempo rally cabinets Rolls kept in cabinets	limited storage space for all.
Consolidation	Old/New No, Acreage, photographs, mutation forms	Combination form, ammonia sheets, durafilm	Parcel files(cabinets	Parcel files lacking/few destroyed
Registration	Registration of new plots, charges, transfer boundary plans	Application forms, receipts, official search, copy of mutation form	Parcel and correspondence files, temporary cabinets	No proper arrangement therefore they wear out faster
Adjudication and demarcation	Records on parcel No, owner, size, preliminary index Diagram (PID).	Forms of transfer of land, development plans. Field sheets	Parcel files cabinets, drawers and shelves	Limited storage space for all
Change of user	Part development plan, application approval by Physical Planner	Plans and letters of approval	Parcel file/register(filling cabinets)	Lack of adequate storage space
Land transfers and conveyance	Letters, application forms, transfer forms.	Application forms	Parcel and correspondence files	Parcel files lacking/few destroyed

Titles	Ownership, L.R No size, ground rents	Copy of title for leaseholds(white), freehold(green)	Green card and white cards in Kalamazoo	Kalamazoo no longer available
Building plans	Plot sizes, coverage drawings	Approved building plan	Plot files	Plans put in parcel files often destroyed
Municipal land	Boundaries, area of parcel usage	Fields area/block files	archives	No space for storage. Often lost/misplaced or destroyed

Source: Field survey April 2008.

4.9 Evaluation of the factors causing delays in land registration process



Source: Field survey April 2008.

4.10 Effects of delays on urban land development

Delays in land registration process have really affected urban developments, the researcher has noted that together with formal system of master plans, development controls and building regulation, land registration process if not effective may restrict the supply of land and limit density increases, fuelling further land and property prices increases, especially if the standards are unrealistic. Land disputes are a serious problem.

Multitude of disputes from land registration issues is an indication that land management mechanisms are not adequate enough. Even though master plans and physical development plans typically pay little attention to administrative feasibility of implementation and adopt ideal rather than realistic standards, delays and disputes emanating from land registration frustrate the implementation of urban plans.

Poor land registration has led to overprovision of roads, delayed developments, allocation of sites for facilities or open spaces that are not developed, and unrealistic standards increase cost per plot while plot ratios and other building regulations may unnecessarily restrict densities. The process through which development control takes place is lengthy and tedious. After applying for a building or subdivision permission, the application has to go through several levels within the local authority before being tabled at the council meeting. As a result, land control measures have been relaxed and this manifests itself in unpermitted uses and densities, and building standards, which are sometimes detrimental to urban environment.

Table 6: Planning services sought by landowners

Type of Planning service	Number of respondents	% of respondents
1. Preparation of building plans and formulation of policies	3	7.5%
2. Approval of building plans and advise developers	20	50%
3. Preparation of site plans and planning programmes	2	5%
4. Approval of site plans and enforce planning regulations	5	12.5%
5. Planning for land division	5	12.5%
6. Approval of survey plans for land subdivision	5	12.5%
7. Total	40	100%

Source: Field survey April 2008.

The above services are sought by those with land titles. This has a negative effect to those landowners who have no land titles to their land.

4.10.1 Proliferation of informal developments and slum/squatter settlements

These informal and unregulated slum settlements as well as illegal and unapproved commercial structure like kiosks have occur because of the failure of land use planning to cater for the needs of the low income groups. These people most often lack title deeds and hence insecure land tenure. The following plate shows informal settlements in Nakuru town.

Plate 5; Showing informal settlement in Nakuru town.



Source: Field survey April 2008.

4.10.2 Incompatible land uses.

Delays in land registration process often leads to developing land without due regard to planning and zoning regulations. Landowners who lack titles to land usually put up informal structures which do not conform to lay down land uses. These are informal structures in Nakuru town.

Plate 6: Showing informal structures along a busy street in Nakuru town.



Source: Field survey April 2008.

4.10.3 Infrastructure provision

The Nakuru Municipal council is responsible for provision of basic infrastructure to residents within its jurisdiction. From observation, there were instances where some areas were over-provided with services and facilities while others have deficits. Some areas have good infrastructural facilities like drainage and water supply than others. This plate shows a newly constructed drainage system.

Plate 7: Showing a newly constructed drainage system.



Source: Field survey April 2008.

Some areas lack the basic infrastructure, for instance the feeder roads in some new estates have never been constructed. A municipal officer indicated that such problems occur because these areas were not really planned for by the municipal simply because of poor land registration and lack of amendment of Registry index maps to show which new areas to plan for, property boundaries and their exact positions on ground especially the roads. The following plates show a badly done feeder roads with water pools in one of the new upcoming estates.

Plate 8: Badly done feeder road with water pools.



Plate 9: Showing earth-surfaced feeder road.



Source: Field survey April 2008.

4.10.4 Valuation for rating

Valuation for rating was cited as the major form of revenue collection by the Municipal council. Lack of proper land registration affects rating work. The problems emanate from non-amendment of Registry index maps and hence affecting property coverage and failure to trace true land owners. This may leads to tax evasions by landowners who their properties are not reflected on the map. This in turn will affect the service delivery by the Municipal council to the residents due to lack of enough funds.

4.10.5 Site acquisition

Site acquisition for telecommunications is a phenomenon which requires land for .installation of their equipments. An interview with one of site acquisition officers; he admitted that delays in land registration are a major drawback in their profession. They usually acquire land through leasing which need to be registered in land office but where the land has no proper documents this usually takes long time to register the lease. The following plate shows a newly constructed receiver on newly acquired site in Nakuru town.

Plate 10: Newly constructed receiver on a newly acquired site.



Source: Field survey April 2008.

4.10.6 Solid waste disposal by the Municipal council

The Nakuru municipal council has the responsibility of collecting waste and disposing it. Recently the dumping site got filled up and the council was forced to relocate its dumping site to new area which is near residential areas. This led to enormous pollution causing adverse effects on the health of people. At the time of the study there was evidence of garbage heaps on the streets and the new dumping site is not well managed. The relocation of the dumping site has greatly affected the land values around it and some landowners had lodged some complaints to the municipal council. The land was initially set for public use and then turned to a dumping site

Plate 11: Showing a dumping site.



Source: Field survey April 2008.

There is no doubt that unregulated land parceling; transaction and change of use, especially from agriculture to housing, without provision for basic infrastructure are tantamount to future coherent urban land development. The sprawling housing land-use along the town arterial roads present challenges depicting prohibitive future servicing costs.

The rapid expansion of urban centers has, however, not only exhausted pockets of government land but has also necessitated the expansion of municipal boundaries. This means that land previously held on freehold tenure by individuals and/or companies, or trust land not registered in individual or group titles but occupied by a given community and governed by customary law, is being brought into jurisdiction of local authorities. Kenyans also have a special attachment to land, which further creates difficulty in having access to it for either development of infrastructure facilities or public use. Thus, throughout Nakuru town, many urban developers have great difficulties in identifying and securing land for urban development. The physical shortages are perhaps less significant as compared to the problems posed by interventions by public authorities through land use regulations, titling procedures, the difficulties of gaining access to often large holdings of land owned by different government agencies, poor records, and speculative hoarding.

CHAPTER FIVE

RESEARCH FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter comprises the major sections of this study namely; summary of findings, conclusions and recommendations. It looks at some of the major findings of the study and recommendations which if incorporated in the Land registration systems in Kenya will go along way in addressing the existing problems in the system.

The government has invested considerable time and money in collecting, managing and disseminating a vast stock of land records as is evidenced from the land information. However, much of this information is still in the manual form, often disorganized, outmoded with inefficient methods of collection, management and dissemination. There is also lack of storage space in most departments major problem results from the land records being independently generated, collected and maintained by different ministries, departments sections or offices, and found in variety of forms e.g. white/green cards, registry index maps, mutation forms registers etc.

Consequently, it's therefore often difficult to interrelate these records due to their varying levels of analysis and presentation, availability, accessibility and quality. Moreover in a number of cases, such information lacks copies or back up in case of misplacements, destruction or corrupt practices that result in the disappearance of files.

5.1 Summary of findings

1) The first objective of the study was to highlight land registration process in Nakuru Municipality.

-The process of registering land was found long, complex expensive, time consuming, cumbersome and not accessible to majority of Kenyans. The study also established that, there were several problems emerging from land adjudication, demarcation and consolidation in the area of study. In the case of land Adjudication, the registrations of former Native Reserves are still based on non-rectified data consisting of many geometric distortions. The land titles are therefore not accurate and do not reflect the position on

ground. Moreover, delays are common due to protracted adjudication of claims. Land consolidation was said not to cater for land values at the time of the implementation. Demarcation of land parcels in the informal settlements through land adjudication with aerial photographs is difficult to achieve due to the unplanned nature of these areas, which are constantly changing without approval. Therefore, it's difficult or impossible to prepare accurate title deeds in these areas due to dangers posed to surveyors in determining the boundaries on the ground.

-The status of land survey was found wanting and the study established that most beacons are in total disagreement with the map(survey plan).the importance of confirming the beacons positions by both linear and angular measurements before using them as data, the problem is perpetuated, the long-term effect being disastrous. Placing beacons which do not tally with the maps is therefore a problem which is occasionally found.

2) The second objective was to find out the causal factors of delays in land registration and the study found out several causes of delays some of which included;

- ❖ Lack of amendments of Registry Index Maps after subdivisions was found to be rampant in the area. This has greatly affected land transaction simply because the maps do not show what is on the ground and are at variance with the land registers and this affected subsequent subdivisions of that plot. Again it greatly affected land valuations since Valuers mainly rely on maps for their day to day work. The standard and accuracy of the maps to support land registration was found not good enough to unambiguously define parcels on the ground. During land registration, the problems that occur to the availability of the area files. Area files cover plots and it's therefore common to find the files being elsewhere when it is required for new job in the registry. This causes delays in the registration processing.
- ❖ There are over 20 land related Acts of Parliament which influence and have a bearing on the cadastral systems and land registration in Kenya. These laws have led to the parallel application of often conflicting codes to different pieces of land that sometimes are adjacent to each other. The Survey Act was found to be the major obstacle in surveying work.
- ❖ Institutional set-up in Kenya has led to several problems and delays in land registration. It is clear that that Kenya government ministries concerned with land

information and other spatial/geographic information hold their information exclusively. This happens at ministry level, departments and sections; even at the different offices in Local Authorities e.g. engineering rates, planning etc. Within and across the various sources of cadastral information, there lacks proper coordination. Indeed, this is one major obstacle in the fast and speedy execution of Cadastral Surveys. A position that is critical because one department, e.g. Registration at the Lands office function or procedures, depends on the survey records from survey department delay emerging from poor coordination in surveying will ultimately affect the operations at the Lands Registration department resulting in overall delays in the whole system.

- ❖ The time and cost implication of both surveys and registration was found to be a major drawback. For example for surveys and beaconing for alienation and first registration of any Government or trust land, each plot shall cost a certain cost depending the size of the plot. And the same for boundary disputes and beacon replacements. In the land registration system, the relative costs of the survey represent 40% the total costs of introducing and maintaining a system for registration of title. Unnecessary time and money is wasted in finding survey data. The Registry index map which is so vital to the processes of registration of title is maintained at the department of survey. Licensed surveyors add to costs of survey work here additional time is spent on checking their results.
- ❖ Land grabbing and corruption in various department dealing with land information was rampant. There are cases of missing registers, green cards and mutation forms at the registry coupled with incompetent staff and lack of proper storage facilities. One effect of this is the unnecessary delays and loss/misplacements which hampers fast registration, proper cross-referencing (which may result in registration of two surveys for the same plot i.e. overlapping).examples have emerged where the Lands office which controls titles to land at least two valid title deeds to different people for the same plot. Investigations by press revealed that a syndicate of land grabbers colluded with unscrupulous officers at the offices to destroy the valid files. In such cases, the plot is subdivided and sold to the unsuspecting individuals on the basis of

completely new plans and surveys. There have been cases of issuance of title deeds without proper documentation at the registry.

3) The third objective of the study was to find out the effects of the delays in land registration on urban land development. From the field survey and observation; it was evident that the plots which were faced with land registration problems and delays had little or no developments on it. In other cases, there were massive developments but the owners were not aware of the existing problems in land registration especially emanating from non-amendment of Registry index maps. Some landowners' were not able to secure loans from banking institutions simply because their land parcels were not secure enough to be used as collateral a problem which emanated from poor, expensive, complex and time consuming land registration process. From the above findings it was clear that delays inherent in land registration process have negatively impacted on urban land developments in Nakuru Municipality.

.5.2 CONCLUSIONS

Land is very sentimental, sensitive and thorny issue in Kenya and within every society there is a need for some form of land registration. New systems must be created or old systems improved. The present systems of registration are often steeped in tradition, inflexible in operation, oblivious of true cost and not aware of alternatives.

In no other area or locations are conflicts in land use more eminent than urban areas, especially those of transition economies. The rapidly increasing population to urban areas find themselves largely uncultured for by the bureaucratic land assembly, allocation, planning and use. Official land policies and formal land administration systems are neither effective nor appropriate in the present form in African cities. The features of customary tenure despite the inability of formal urban management mechanisms, planning procedures and housing supply to keep pace with rapidly increasing demand. In one view, indigenous tenure is inefficient, encouraging wasteful use of land, discouraging infrastructure installation and investment in building, and complicating land administration systems. Lack of administrative capacity is likely to restrict the issues of title to those who can jump the queue.

Investments in improvements will only occur if owners have resources or access to credit.

Land delivery and management rank among the touchiest issues related to urban physical development. Much of the proper realization of the plans hinges on questions of the registration, property rights, their adherence and enforcement. Unclear and ambiguous formulation of laws and regulations tend to fuel disputes rather than preventing them. In this regard, a number of improvements are overdue. However, improvement of land registration, management and delivery of land in urban areas alone is not enough. Actually, this cannot effectively take place without having a properly functioning urban planning institution that will be smart enough to guide physical investments ahead of people's initiatives.

Whatever the government may wish to believe, it's inevitable that the greater part of future urban growth in Nakuru will be characterized slow pace of urban development and growth if there is little attention paid to land registration matters. Without positive government intervention, such growth will continue to be illegal, unplanned, uncontrolled, unbalanced, detrimental to health and well-being and ultimately difficult and costly to upgrade, thus compounding already massive existing problems of the town.

Alternatively, if such growth constitutes part of official urban and development policies and programmes, formulated in advance of need, it can be legal, planned, controlled, balanced, salubrious, and not problematic to upgrade over time only if land registration issues are well taken care of by the relevant authorities. As such, there is need to place urban land policy within the broader context of overall planning and development policy. Concert with urban land policy, tenure regularization policies and programmes should aim to optimize the use of land, analyzing growth and development processes in the town as a whole.

Finally, it is clear that there is need to review the legislation that deal with surveying, planning and land management to make them more efficient and effective. It is also important for surveyors and land administrators to adopt new technologies in their areas in order to provide current and reliable maps. This is particularly crucial when it

comes to data integration. For many years, urban land managers have relied on single-sourced data on various maps, photographs and other survey data. The resource personnel concerned with title registration rarely looks at the soil type, land use, land cover, infrastructure etc while these aspects dictate the value of property.

5.3 TESTING OF HYPOTHESIS

Summarily, the above empirical research, analyses and findings do prove right that poor land registration process has led to slow rate of urban land development in Nakuru municipality. From the research it was evident that there are delays in land registration and poor coordination between different departments responsible for providing information needed for land registration. Again there is an incoherent link between land surveying and registration which need to be streamlined. Delays inherent in land registration process have led to;

- Delayed mortgage lending by the bank hence landowners are not able to use their land to secure a loan
- General fear by landowner and investors to start long term investments due to insecure tenure
- Inability of landowners to sell, transfer and subdivide land hence limiting their potential to use their land and reap maximum benefits from it.
- Landowners not able to seek planning services due to lack of secure tenure hence fueling growth of haphazard, informal and uncoordinated urban developments.
- Local authority not able to provide the required infrastructure which is essential for supporting developments simply because they lack up to date land information.

5.4 RECOMMENDATIONS

First and foremost, the government should make available land information, processes, requirements and procedures in a form and language that can be understood by most citizens and put in place mechanisms to minimize the cost of land information. Again I strongly recommend that land registration process be reviewed. Kenya as a country inherited most of its land laws from colonialists and has lost touch with our present land issues. The process of registering land was long complex and cumbersome and it's not accessible to majority of Kenyans. The process should be made more simple, less costly and accessible to the poor and less educated people in Kenya.

Lack of amendment of Registry Index Maps was cited as the most common cause of all problems related to delays in land registration. I would recommend that the land registration process be reformed and that the linkage between different departments be improved. Again my suggestion is that all the land title deeds be issued after the amendment of the Registry Index maps. This is because the current registration procedure allows for issuance of title deeds first and later the Registry Index maps are amended. This is based on the notion that mutation forms will be used as evidence in case a transaction regarding that piece of land is needed. But from the research it was clear that most of those mutation forms are missing, and if not missing they are not optimally organized. To end this problem it crucial to amend the Registry Index maps first then title deeds are issued later. This may take some time but it will have solved most of the problems inherent in land registration in Kenya. The researcher also recommends the following;

1. Computerization of Local Authorities (municipal) Land Records

The local authorities are the structures which generate process and store land information at the Municipal level. Most of the information is generated in conjunction with District survey, Lands and physical Planning departments as well as that information from private practitioners i.e. Planners, Surveyors, Valuers, Lawyers (conveyance, transfer of ownership etc.) and other real estate developers. All the information is eventually recorded and stored at the Municipal Registry/Records office. This information found in this depository office includes text data (field

notes), mutation forms, plans, computation sheets, maps and plans (deed plans, cadastral maps, building plans and extensions etc).

2. Urban planning

Planning should involve the beneficiaries and stakeholders i.e. urban residents and land developers and professionals in landed matters. Where possible land readjustment programmes should be adopted as desirable to achieve planned urban expansion. The rationale for planning should be explained as part of the town civic education and exercise especially the reason for zoning, extension, change of user, development control, subdivisions and leasing etc.

Current laws and regulations should be revised to scrap out irrelevant and inadequate laws whilst consolidating and updating policies which reflect the needs of the public. The coordination of activities, policies and development agencies should be applied to all the areas in which the interaction takes place, such as development control, the administration of land, provision of infrastructural services for instance procedure for granting leases and planning should be able to facilitate quick development.

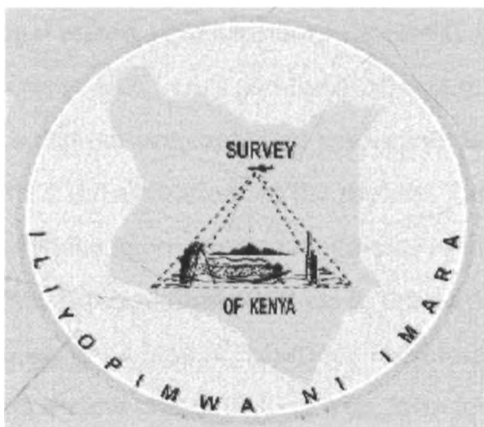
3. Embrace partnership

There should be partnerships between the local authorities, central government, survey of Kenya, Physical planning department, NGO's and local communities for timely assessment of redevelopment needs, neighborhoods, re-planning and improvements, renewed economic activity and other infrastructural demands.

The different public organizations that generate land information should acknowledge that such information is a resource that needs to be kept in some well-organized order or form and managed properly. Moreover, the information generated by the private institutions and private professional bodies like Valuers, Surveyors, Planners, Engineers and Architects should be closely guarded and availed to public organizations that are entrusted with the roles of planning, making policies and other important decisions regarding land. Public-private partnerships in urban planning can aim at achieving an objective of transferring costs for urban development and services to the beneficiaries and users (e.g. surveying and lay-out planning).



Nakuru Municipal Council.



Survey of Kenya.



Government of Kenya.

4. Institutional reforms

Institutional reforms are necessary to encourage and control urban land development. However, it requires the strengthening of capacities of the central and local governments, their re-orientation, and restructuring. There is need to devolve power from the centre to the districts through decentralization of institutions. Again this is not possible without employing qualified staff and retaining the existing ones.

For the institutions to effectively undertake land management there is an immediate need for the coordination of all activities and policies in all areas of interaction such as development control, the administration of land, land registration and titling and the provision of infrastructural services. Furthermore there is need for coordination of development agencies to avoid parallel development within urban centers. There is need to put in place a well structured Land Information Management Systems and an

appropriate pricing strategy that will take cognizance of the need to generate sufficient revenues to sustain the management systems and apply differential pricing for different categories of users such as Government bodies, private individuals and corporations not forgetting the poor. Political will and commitment may imply designing and sequencing reforms to deliver some short term benefits/political gains, in order to maintain support for the longer term, less visible and perhaps unpopular changes which may also be needed.

5. Legal reforms

Legal reforms are necessary especially in the corruption-riddled and reform-averse Ministry like Lands and the local authorities. Current laws and regulations will be revised to scrap out irrelevant and inadequate laws whilst consolidating and upgrading those that reflect the aspirations of the society. There is need to rectify any obstructive laws and undertake appropriate amendments to all laws and regulations that restrict the availability of land information products to the market. There are many laws that influence and have a bearing on land registration. Therefore, there is need to have these laws harmonized with a view to establishing a uniform law providing for a single system of land tenure which would be applicable uniformly to all in the country.

The most important law which needs immediate attention is the Survey Act cap 299 which need to be amended since it poses a serious setback and a constraint to effective urban land management. Private surveyors are encouraged to play a bigger role in the exercise of cadastral surveys. The Act should be amended to allow for the use of modern instruments and technology such as Global Positioning Systems(GPS), Geographic Information Systems (GIS), etc so as to cope with ever increasing demand for surveyed land especially in urban areas. The Act should allow for establishment of a unitary and homogeneous network of control points of adequate density, preferably using dynamic technology such as Global Positioning Systems. The preceding overview has identified and looked at weaknesses, problems and pitfalls inherent in our cadastral systems and has established that in we cannot afford to lag behind in the use of new technology and application of modern land information systems if we have to collect, process and disseminate accurate geospatial data in time.

6. Implement the national land policy.

One way of addressing most land related problems and a dispute in Kenya is to revive the debate on Land Policy published last year under Ministry of Lands. It's ironical that although land related disputes continue to hit our country, the government has been operating without a Land Policy since independence. Land matters have been governed by a plethora of laws that have never been harmonized and which have made the quest for justice frustrating many Kenyans. Rather than reinvent the wheel, the government should consider evaluating the current Land Policy, redefine it and implement it immediately. It's my sincere hope that the National Land Policy will transform land institutions and act as a building block to writing the new constitution in Kenya.

5.5 AREAS OF FURTHER RESEARCH

- (i) The impact of land size on the incentive towards land registration.
- (ii) An evaluation of the role of Cadastral Land Surveyor and the need to seek professional services when buying land in Kenya
- (iii) The place of a multi-purpose cadastre in urban land development, administration management.

5.6 LIMITATIONS OF THE STUDY

The study was faced by a number of limitations mainly in data collection. First Nakuru municipality has complex political, social and cultural issues affecting it. The researcher was not able to go to each and every part of the study area due to security issues.

During the field study there was the ongoing issues of resettlement of the internally displaced peoples affected by last year's general election. Nakuru town which harbors the headquarters of Rift Valley Province was adversely affected by the last year's violence and had many internally displaced people hence the researcher was not able to quickly get the identity of some of the respondents.

Another problem encountered in the field study was the outright refusal by some residents to answer the questionnaires since land issues at that time was a sensitive matter due to crackdown of Land Sabaot Defense members by police in Rift Valley

province. Another reason was mainly due to the fact that by the time of the survey, there was another general survey on HIV/AIDS being carried out in the same area of study. Due to the sensitive nature of those questions, most households, especially the ones in high-density areas, were suffering from 'questionnaire fatigue'. They were, therefore, not ready to take any more questions from the researcher thinking that he had the same types of questions. This at one time led to the households playing a 'hide and seek' game with the researcher. This refusal problem was solved by 'replacing' the outright refusal households since the sampling was random, but only after more than three attempts of persuasion.

There were also a number of 'call-backs' for the household heads who were working during normal working hours in the week. This forced the researcher to go back to the households late in the evening and during weekends and some professionals who were not in their offices. This problem occurred particularly in the low-density/high-income cluster of Milimani. Time here was limited and of essence. It was dealt with by making appointments (call-backs) to the convenience of the household head. In case of more than three call-backs the household was replaced and another one randomly picked.

In some low and middle-density clusters, there was a problem of suspicion leading to reluctance by some of the respondents to cooperate. This problem was overcome through careful introduction and statement of the purpose of the research and asking whether the respondent had any questions, concerns or reservations about the study. Some residents were reluctant to disclose true information about the land they own due to their own personal reasons which they did not disclose to the researcher. Finally the researcher was faced by time and financial limitations especially by the fact that he was to travel to the study area which was not within easy reach.

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Appendix

QUESTIONNAIRE TO THE LAND OWNERS

Good morning/Afternoon

This questionnaire is in aid of a research being conducted by *Patrick S. Nzomo*, a student at the University of Nairobi, Department of Real Estate and Construction Management, as partial requirement for the award of a degree in Land Economics.

The aim of the study *is to investigate the effects of land registration process on urban land development in Nakuru Municipality*, and from the findings propose the way forward. The information collected through this questionnaire as well as your identity shall be treated as confidential and will be used only for the purposes of this research. Your assistance and cooperation will be highly appreciated.

Questionnaire No.....

1. Name of the respondent.....

2. Household size

3. Education level

- Primary Education.....
- Secondary Education.....
- No formal Education.....
- University level.....
- Other (specify)

4. What is the size of land in acres?

5. Does the Municipal council provide the following services to your land?

(a) Provide and repair the access roads.....

(b) Sanitation and sewerage.....

(c) Water supply.....

(d) Community services and amenities.....

(e) Others (specify).....

6. Response to registration needs.

Response to registration needs	Yes	No
1.Sought registration services		
2.Didn't seek registration services because i didn't know where to go		
3. Didn't seek registration services because they are not close to me		
4. Didn't seek registration services because of cost implications		
5. Didn't seek registration services because of time implications		
6.Didn't make any effort at all to seek registration		

7. What purposes do you use your land for? See below:

- (a) Mortgage
- (b) Subdivision.....
- (c) Leasing.....
- (d) Developments.....
- (e) Others (specify).....

8. Incase of land subdivision, how long does it take to get a title deed?

.....

9. How long does it take to have Registry Index Map amended?

.....

10. After getting your title, how long does it take for Registry Index Map to be amended?

.....

11. What do you think are the major causes of delays in the land registration process?

.....

12. Do these delays affect you in ANY of the following ways?

- (a) Delayed mortgage lending by the bank [Yes] [No]
- (b) Fear to start long term investments [Yes] [No]
- (c) Inability to sell, transfer and subdivide the land [Yes] [No]
- (d) Can't seek planning services due to lack of a title deed [Yes] [No]

13. Response to planning needs from various land information users?

Response to planning needs	Yes	No
1. Sought planning services		
2. Didn't seek planning services since I didn't know where to go for the services		
3. Didn't seek planning services because they are not close to me		
4. Didn't seek planning services because of cost implications		
5. Didn't seek planning services because of time period implications		
6. Didn't make an effort at all to seek planning services.		

14. What do you think should be done to ensure quick, accurate and affordable land registration process?

.....

.....

Thank you.

QUESTIONNAIRE TO THE NAKURU MUNICIPAL COUNCIL

Good morning/Afternoon

This questionnaire is in aid of a research being conducted by *Patrick S. Nzomo*, a student at the University of Nairobi, Department of Real Estate and Construction Management, as partial requirement for the award of a degree in Land Economics.

The aim of the study is to *investigate the effects of land registration process on urban land development in Nakuru Municipality*, and from the findings propose the way forward. The information collected through this questionnaire as well as your identity shall be treated as confidential and will be used only for the purposes of this research. Your assistance and cooperation will be highly appreciated.

Questionnaire No.....

1. Name of the respondent.....

2. Position in the Municipal council

3. What type of land information do you generate in your daily activities?

.....

4. Which of the following request land information from your department?

- central government []
- sections within departments []
- private sector []
- Individual landowners []
- Parastatals e.g. Kenya Power and Lighting Company, mobile service providers like Safaricom and Celtel companies []

5. Do you register land in your own name?

.....

6. If yes, how did you find the land registration process?

.....

7. Do you think land registration process is complex, expensive and time consuming?

.....

8. What are some of the causes of these delays in the land registration process?

.....
 9. Do you think delays in land registration process have any influence on the following?

(a) Valuation rolls []

(b) Service provision (access roads and trunk sewers) []

(c) Urban land management and administration []

(d) Others (specify) []

10. If yes, how?

11. Responsibilities of local Authority in Urban land Development [indicate with “y”]

Type of service	Formulate policy	Prepare programmes and projects	Facilitate financing	Service delivery	Give advise
1.zoning					
2.waste collection and disposal					
3.industrial land development					
4.housing development					
5.infrastructure provision					

12. Do you think delays in land registration have any effect when planning for urban land developments?

13. What do you think should be done to ensure quick, accurate and inexpensive land registration process?

Thank you.

QUESTIONNAIRE TO THE PHYSICAL PLANNER

Good morning/Afternoon

This questionnaire is in aid of a research being conducted by *Patrick S. Nzomo*, a student at the University of Nairobi, Department of Real Estate and Construction Management, as partial requirement for the award of a degree in Land Economics.

The aim of the study is *to investigate the effects of land registration process on urban land development in Nakuru Municipality*, and from the findings propose the way forward. The information collected through this questionnaire as well as your identity shall be treated as confidential and will be used only for the purposes of this research. Your assistance and cooperation will be highly appreciated.

1. Respondent.....

2. Position in agency/Department;

3. Which of the following mostly use your planning services?

- (a) Sections within the departments [] (b) Private sector []
- (c) Site acquisition officers [] (d) Individual landowners []
- (e) Commissioner of Lands [] (f) Ministry of lands []
- (g) Survey Departments [] (h) Urban Local Authorities []
- (I) District Development committees [] (j) Private sector Organizations []

4. Planning services sought by landowners?

Type of Planning service	Yes	No
1. For preparation of building plans		
2. Approval of building plans		
3. For preparation of site plans		
4. For approval of site plans		
5. For planning for land division		
6. For approval of survey plans for land subdivision		

5. Planning of land in Nakuru Municipality [indicate with "X"]

Type of land	Allocate urban land to developers	Prepare urban plans	Approve land use plans	Approve building plans	Enforce planning regulations	Advise on planning
Trust land						
Government land						
Private land						
Cooperative land						

6. Implementation of urban Development plans in the region [indicate with "Y"]

Type of Land	Finance development (<i>development unfunded</i>)	Enforce planning regulations	Advise Developers	Prepare planning programmes	Formulate policies
1 Trust land					
2. Crown land					
3. Company land					
5. Individual landowners					

7. What is your role in land registration process?

.....

Thank you.

QUESTIONNAIRE TO THE MORTGAGE INSTITUTION

Good morning/Afternoon

This questionnaire is in aid of a research being conducted by **Patrick S. Nzomo**, a student at the University of Nairobi, Department of Real Estate and Construction Management, as partial requirement for the award of a degree in Land Economics.

The aim of the study is to *investigate the effects of land registration process on urban land development in Nakuru Municipality*, and from the findings propose the way forward. The information collected through this questionnaire as well as your identity shall be treated as confidential and will be used only for the purposes of this research. Your assistance and cooperation will be highly appreciated.

Questionnaire No.....

1. Name of the institution.....

2. Name of the respondent.....

3. Position in the institution

4. What services is your institution responsible for its provision to your clients?

.....

5. Are those services satisfactorily provided?

.....

6. If no, why?

.....

7. Is mortgage lending the major source of revenue to your institution?

.....

8. If yes, what do you require as collateral for the loan?

9. Do you accept title deeds to land as collateral?

.....

10. Do you require valuations for the land?

.....

11. How often do you handle valuations?

.....

12. Are valuations done on time?

.....

13. If no, what are some of the reasons for the delay?

.....

14. Do you think land registration process has any effect on the mortgage lending?.....

.....

15. If yes, how?

.....

16. Do you accept other collaterals apart from title deeds?

.....

17. Do you think land registration process is complex, expensive and time consuming? ...

.....

18. What are some of the causes of these delays in the land registration process?

.....

.....

19. Do you think delays in land registration process have any influence on the following?

- | | | |
|---|---------|--------|
| • reduced mortgage lending | [Yes] | [No] |
| • valuations taking long time to be ready | [Yes] | [No] |
| • lack of confidence on title deeds | [Yes] | [No] |
| • problems incase of forced sale | [Yes] | [No] |
| • reduced long term investments | [Yes] | [No] |

20. What do you think should be done to ensure quick, accurate and inexpensive land registration process?

.....

Thank you.

QUESTIONNAIRE TO LAND REGISTRAR

Good morning/Afternoon

This questionnaire is in aid of a research being conducted by *Patrick S. Nzomo*, a student at the University of Nairobi, Department of Real Estate and Construction Management, as partial requirement for the award of a degree in Land Economics.

The aim of the study is *to investigate the effects of land registration process on urban land development in Nakuru Municipality*, and from the findings propose the way forward. The information collected through this questionnaire as well as your identity shall be treated as confidential and will be used only for the purposes of this research. Your assistance and cooperation will be highly appreciated.

Questionnaire No.....

1. When was land registration started in Nakuru Municipality?

.....

2. Which areas in the municipality has land registration not yet taken place and why?

.....

.....

3. Which of the following mostly apply for land registration?

(a) Sections within the departments []

(b) Private sector []

(c) Site acquisition officers []

(d) Landowners []

4. How long does it take to have R.I.M updated after issuance of title deeds?

.....

5. How often do you handle land registration arising from land subdivisions in Nakuru Municipality?

(a) Monthly? []

(b) Annually? []

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6. What has been the trend for the following in the said years in Nakuru Municipality?

YEAR	Titles registered	Land subdivisions	Sale/transfers
2005			
2006			
2007			
2008			

7. Which Departments do you coordinate with?

Department/Agency	Area of coordination
1. Physical planning Department	
2. Department of Surveys	
3. Agricultural Land Control Board	
4. District Development Committee	
5. Urban Local Authorities	
6. Others (specify)	

8. Do you think land registration process is complex, expensive and time consuming?

.....

9. What causes delays in land registration especially in Nakuru Municipality?

.....

10. Is the time frame satisfactory to act as an incentive to land investment, management and urban land development?

.....

11. What do you think should be done to improve land registration process?

.....

Thank you.