

SUMMARY OF THE GUIDELINES FOR EXTENSION AND RENEWAL OF LEASES

The Cabinet Secretary for the Ministry of Lands and Physical Planning in consultation with the National Land Commission have published the Guidelines for Extension and Renewal of Leases to guide persons dealing with matters relating to the extension and renewal of leases.



- **Extension of Leases**

1. Issuance of Notice

- a. By virtue of Section 13 of the Land Act No. 6 of 2012, the Commission (NLC) shall issue notices to lessees on the expiry date of their lease and inform them of their pre-emptive right to apply for an extension of lease and whom to apply to.
- b. The notices shall be issued through registered mail five (5) years before the expiry of the lease.
- c. If within one (1) year after the notice is issued there is no response, the commission shall publish the notice in 2 newspapers that have countrywide circulation.
- d. If there is still no response, the commission may undertake physical verification of the land to establish its status. If the lessee is in occupation, the commission shall advise on the lessee's pre-emptive right to apply for an extension and the consequences of not applying for the same.

2. The process of Application

- a. An application in the form of a letter is made by the registered owner who shall attach the following documents to the letter:
 - i. A copy of ID/Passport;
 - ii. Letters of administration or confirmation of grant (if applicable);
 - iii. Current official search over the property (not more than 1 month old);
 - iv. Certificate of Incorporation and CR12 if owner is a company; and
 - v. Clearance certificates from the relevant authorities.
- b. The National or County Government will consider the following factors:
 - i. Whether there is large scale investment on the land; and

- ii. If the investment is beneficial to the economy and in accordance with the national development goals (National Spatial Plan).
- c. The National or County Government shall seek representation from the following people in deciding whether to approve or reject the application:
 - i. The County Executive Member responsible for land;
 - ii. The County Government Surveyor;
 - iii. The County Government Physical Planner;
 - iv. A land administration officer of the commission; and
 - v. Other relevant officer.

3. Approval

- a. If the application is approved, the National or County Government shall extend the lease for a specified time and forward their decision to the Commission for implementation whereby the Commission shall:
 - i. Re-value the land to determine the rent payable;
 - ii. Re-survey and geo-reference the land;
- b. The lessee shall then surrender the existing lease and shall be issued with a new certificate.

4. Rejection

- a. The commission shall give reasons and notify the lessee of their decision. The reasons for the rejection could be:
 - i. The lessee has not complied with the terms and conditions of the existing lease; or
 - ii. The land has been included in the National Spatial Plan and Cities and Urban Areas Plan.
- b. The lessee shall not put up any other development on the property once notice is issued on the rejection.
- c. The National/County Government shall then carry out an inventory of the development on the land and the lessee shall be required to approach the respective government for compensation of the development on the land.

5. Appeal

- a. A lessee who is aggrieved by the decision can appeal to a committee that shall be established by the committee that shall consist of:
 - i. The Chairman of NLC
 - ii. County Executive Member in charge of land
 - iii. County Commissioner
 - iv. Representative of Kenya Institute of Planners
 - v. Representative of Kenya Institute of Surveyors of Kenya
 - vi. Representative of the Law Society of Kenya
 - vii. Representative of the Kenya Bankers Association
 - viii. Representative of the Kenya Private Sector Alliance
 - ix. Member of the Land Control Board

- **Renewal of Leases**

An application for renewal occurs where prior notice of expiration by the Commission has not been given as required under Section 13 of the Land Act No. 3 of 2012.

1. Application process

- a. The application is done by the registered owner or administrator and the same is addressed to the Chairman of the NLC. The application can be made by physically delivering the documents at Ardhi House or online by forwarding the application and supporting documentation to info@landcommission.go.ke
- b. The application should be accompanied with:
 - i. A copy of ID/Passport;
 - ii. Letters of administration or confirmation of grant (if applicable);
 - iii. Current official search over the property (not more than 1 month old);
 - iv. Certificate of Incorporation and CR12 if owner is a company;
 - v. Clearance certificates from the relevant authorities; and
 - vi. Proof of compliance of the terms and conditions of the lease.
- c. If the owner is a large scale investor, the National and County Government shall consider if renewal is beneficial to the economy and is in accordance with the National Spatial Plan.
- d. The Commission shall seek representation from the following prior to approving the renewal:
 - i. The County Executive Member responsible for land;
 - ii. The County Government Surveyor;
 - iii. The County Government Physical Planner;
 - iv. A land administration officer of the commission; and
 - v. Other relevant officer.

2. Approval

- a. If the recommendations are favourable, the Commission shall approve the renewal and:
 - i. Re-value the land to determine the rent payable;
 - ii. Have the land re-surveyed and geo-referenced; and
 - iii. Issue a new letter of allotment in the prescribed form and a new lease shall be issued.

3. Objection

- a. If the application is objected by the recommending authorities, the commission shall require the said authorities to issue their reasons within thirty (30) days.
- b. If the land is needed for public purpose and is included in the National or County Plans, the same shall be an adequate reason and no appeal may be accepted.

4. Appeals

- a. An aggrieved party may appeal to an independent appeal committee established by the committee and shall be made up of:
 - i. The Chairman of NLC
 - ii. County Executive Member in charge of land

- iii. County Commissioner
- iv. Representative of Kenya Institute of Planners
- v. Representative of Kenya Institute of Surveyors of Kenya
- vi. Representative of the Law Society of Kenya
- vii. Representative of the Kenya Bankers Association
- viii. Representative of the Kenya Private Sector Alliance
- ix. Member of the Land Control Board

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