



# PROPERTY OWNERSHIP – OBTAINING GOVERNOR’S CONSENT IN LAGOS STATE

## INTRODUCTION

Ownership of land is one of the most fundamental weapons of control and economic growth for nations, communities and individuals. The acquisition and ownership of land is an essential tool for economic development. As Babatunde Fashola, the Former Governor of Lagos State, noted in 2015 *“In our basic economics, land is a very important asset to capital formation... you can't start a bank, you can't start a business, you can't farm; you can't even extract crude oil without identifying a particular piece of land or oil well (embedded in land). So it's the basics of capital formation, it's the basics of prosperity; it's the basics of economic well-being and the basics for job”*.

With the significance of land comes high competition in the desire for its ownership and control. In response to this competition, Governments over the world have evolved various means of managing, regulating and controlling the access to and acquisition of ownership of land. This article looks at the Nigerian perspective on land ownership while giving attention to the procedure for obtaining Governor's consent to transfer of title to land in Lagos State.

### **Regulating Ownership of Land in Nigeria**

In Nigeria, the Land Use Act, 1978 (LUA) regulates the ownership of land. Section 1 of the LUA vests all land within the territory of each State in the Governor of the State to be held in trust and administered by him for the use and common benefit of all Nigerians in accordance with the provisions of the Act. An individual can

only be granted occupational right to land by the issuance of a Certificate of Occupancy (C of O) by the Governor.

Having only the right to occupational right, an individual cannot alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of the Governor being obtained [\[1\]](#). The grant of such consent would usually require the instrument transferring title between parties [\[2\]](#)

### **Regulating Transfer of Title to Land in Lagos.**

The 2018 *Doing Business Report*, published by the World Bank ranks Nigeria at No. 182 out of 190 Countries in its bench marking of the ease of property registration as a vital aspect of the ease of doing business [\[3\]](#). This highlights the challenge of perfecting title to land in Nigeria. However, most of the laws regulating perfection title are State legislations.

In Lagos State, the Land Registry Directorate has the responsibility of keeping an up-to-date record of all land transactions in the State. The Directorate stores registered documents relating to land by virtue of the Land Instrument and Registration Law, CAP L58 (Laws of Lagos State 2003), the Registration of Titles Law, Cap 4 (Laws of Lagos State 2003), the Registered Land Law, Cap R1 (Laws of Lagos State 2003), the Registration of Titles Law, (Laws of Lagos State 2015) [\[4\]](#).

## **PROCEDURE FOR TRANSFER OF TITLE TO LAND IN LAGOS STATE**

### **Conducting a Search**

Before the conclusion of purchase of a property or land in Lagos State, it is important to conduct a search at the Land's registry. A search is usually conducted to enable Purchasers ascertain that the Vendor has a good root of title [\[5\]](#) and would determine that the land is free from encumbrance, litigation, Government acquisition, or other overriding interest(s). This report of a search gives intending Purchasers vital knowledge on the state of the property or land. A search on the land requires due-diligence and it is advisable to consult a legal practitioner to conduct it.

### **Payment for the purchase of Property**

Once the title of the Vendor of the land is ascertained, the Purchaser may proceed to purchase the land by payment of the purchase price and the execution of a contract of sale with receipts of payment given to the purchaser.

The contract of sale does not however transfer title, but evidences an agreement to purchase and the exchange of money for the transfer of title.

### **Execution of the Deed of Assignment**

A duly executed Deed of Assignment ('deed') is an instrument transferring of title to land from the Vendor (Assignor) to the Purchaser (Assignee). The deed is required to apply for Governor's Consent [\[6\]](#).

A legal practitioner is always required to prepare the deed [\[7\]](#) and it is to be executed by the Parties in the presence of witnesses.

*At this stage, it is prudent for Parties to fill a Form 1C in applying for Governor's consent to the transaction.*

### **Obtain Certified True Copy (CTC) of title documents**

Obtain CTCs of the document of title with which the Vendor (Assignor) of the land obtained his title to the land along with the survey plan [\[8\]](#) of the land which has been lodged are to be obtained.

### **Pay Charting and Endorsement fee**

A fee is payable for charting and endorsement. This payment is to be made into the Lagos State Government account through its authorized banks. Evidence of payment will be submitted for the application to obtain Governor's Consent.

### **Submit application for processing Governor's Consent**

The following completed documents are to be forwarded to the Director of Lands Services for an assessment of applicable statutory fees for obtaining Governor's consent:

1. Completed form 1c
2. CTC of title document
3. 4 originals of the Deed.
4. Evidence of payment of Charting and Endorsement Fee.
5. Site Location Map/ Sketch of the Property [\[9\]](#)
6. Photocopy of identification card (optional)
7. Passport Photographs (size=5X5 taken on a white background) 5 copies
8. Application Letter (4 copies)
9. Photograph of location. (3 copies taken from different angles)

## **Charting of survey plans attached to the Deeds**

After submitting the application documents, the application is given a file and unique reference number [\[10\]](#), subsequently the processes are delivered to the Surveyor General's office for charting to ensure that plans were prepared in accordance with survey rules and the property is free from the government acquisition. If there are no queries, the Deeds are returned to the Directorate of Lands Service for issuance of the Assessment Notice. Where the Survey Plan is queried, a notice of the query is issued to the Applicant.

## **Obtain demand notice for fees payable**

After investigation and assessment [\[11\]](#) of the true value of the property, the Applicant will be issued with an assessment letter containing the amount for the Registration fee, Consent fee, neighbourhood improvement charges and the Capital Gains Tax, as well as Stamp Duty payable to the Lagos State Government.

## **Submission of Receipts**

Payment receipts are to be submitted to the Land's Registry. Once the payments are confirmed, the Land Services Department sends the file a designated commissioner who will grant the Consent on behalf of the Governor.

## **Stamping**

Once the Governor's Consent is granted, the deeds are to be taken for stamping and this is usually done by the Assignee's lawyer. Stamp duties on deeds are payable at the Lagos State Internal Revenue Service. Stamping will not be done unless payment of stamp duties has been confirmed by the lands registry and the receipts confirming payments of stamp duties accompany the document.

## **Registration**

The duly stamped deeds are then to be taken by to the Lands Registry for registration and perfection of the transfer.

## **Conclusion**

The entire process of perfecting a sale of land in Nigeria takes between three months to two years, depending on the expertise and experience of the person

handling the transaction and his understanding of the system. The bureaucratic processes at the Land registries in most States make property transacting an unattractive area for the inexperienced. However, with the inevitability of dealing in and the utility of land, every investor appreciates the expertise of a real estate expert with an understanding of the nooks and crannies in getting the job done. Throughout the process it is advisable to seek professionals.

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## END NOTES

[\[1\]](#)See. Section 22 of the Act.

[\[2\]](#)By Section 22 (2) The Governor when giving his consent to an assignment mortgage or sub-lease may require the holder of a statutory right of occupancy to submit an instrument executed in evidence of the assignment, mortgage or sub-lease and the holder shall when so required deliver the said instrument to the Governor in order that the consent given by the Governor under subsection (1) may be signified by endorsement thereon.

[\[3\]](http://www.doingbusiness.org/data/exploreconomies/nigeria)<http://www.doingbusiness.org/data/exploreconomies/nigeria>

[\[4\]](https://landsbureau.lagosstate.gov.ng/2017/05/16/directorate-of-land-registry-2/)<https://landsbureau.lagosstate.gov.ng/2017/05/16/directorate-of-land-registry-2/>

[\[5\]](#)A good root of title confirms that the Vendor is the rightful owner of the land that the land is free from any encumbrance or pending litigation

[\[6\]](#)Section 22 (2) of the Land Use Act.

[\[7\]](#)Section 22(1)(d) of the Legal Practitioners' Act Cap 207 LFN, makes it an offence for any person other than a legal practitioner to prepare an instrument for the transfer of interest in immovable properties for reward.

[\[8\]](#)The survey plan is usually lodged at the Cadastral Records department in the Office of the Surveyor General of the State by the Surveyor who conducted the survey. A survey plan is worthless until it is lodged.

[\[9\]](#)This mandatory map can be prepared by officers at the registry for a fee of N5000.

[\[10\]](#)The opening of file and assigning of reference number usually takes about four days.

[\[11\]](#)The valuation of landed property for the determination of tax and other charges payable shall be by reference to the Statement of Fair market Value produced by relevant professionals, adopted by the State Government and published from time to time in the Official Government Gazette.

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**The above information is for educational purposes only and does not constitute professional advice by Blackwood & Stone LP.**

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