



MURANG'A COUNTY ADR AND LAND SUCCESSION PROGRAMME (MALP)

BY: H.E GOVERNOR MWANGI WA IRIA

PARTNERS

Judiciary

National Ministry of Lands and Physical Planning

Ministry of Interior

National Land Commission

Mount Kenya University

STEERING TEAM MEMBERS

H.E Governor Mwangi Wa Iria

County Secretary

High Court Judge Murang'a

Murang'a County Commissioner

Commissioner Chairman National Land Commission

Chief Land Registrar

Vice chancellor

FEBRUARY 2021

SECRETARIAT

1. Masaki S.T
2. Albert Mwaniki
3. Mbiyu Kamau
4. Steven K. Kuria
5. Alice County Land registrar
6. Regina N. Njue
7. County Physical planner
8. Coordinator NLC Murang'a
9. Judicial Heads of Stations
10. Mr. Mwangi ACC

1.0 INTRODUCTION

Definition of succession

Succession is the right and transmission of the rights and obligations of the deceased to his heirs. The Kenya law of succession prescribes the rules which determine what ought to happen to a person's estate after his or her death. The rules of succession identify the beneficiaries entitled to succeed to the deceased's estate and the extent of the benefits they are to receive. Succession process ensures Inheritance of property is done in a fair and transparent manner.

Definition of Alternative Dispute Resolution

It is a mechanism of amicably settling disputes while avoiding the court processes, It aims at creating a win/win situation and a lasting solution and involves a mediator and the persons in dispute, The constitution of Kenya and National Land Commission Act among others provides for resolution of conflicts through this method.

2.0 JUSTIFICATION/ WHY THE PROGRAM?

Land succession issues are usually marred by quacks and opportunists who prey on unsuspecting and uninformed members of society making the process long, time consuming and expensive. The court system is very good but due to the many pending cases it takes long to determine cases. In case of disputes, once the court makes judgment it ends up dividing the family unit because in its nature; it is divisive and imposing.

The process of succession is not well understood by common man. In addition, court process is way out of reach to the common man due to expenses and long procedures

This program will contribute to security of tenure, hence social (sense of security, family stability, sense of belonging) and economic empowerment (use of title as a collateral, development).

It is against the above background that H.E Governor Mwangi Wa Iria conceptualized this program. The program intends to make the process as open and affordable as possible. It is intended to sensitize members of public on land succession and processes. The target group of MALP is the less fortunate members of Murang'a County. In partnership with main stakeholders and well-wishers, County government will spearhead succession process and finally enable beneficiaries access to property rights.

The many conflicts and disputes amongst family members relating to land shall be resolved through a system of Alternative Dispute Resolution. Mediation will be a key component in the program to assist courts resolve issues outside of courts. It is anticipated that on completion of the program a minimum of 20 county officials will receive training of trainers on mediation and make mediation a continuous program within county.

The six-month program brings together all players in the sector namely the judiciary, National Ministry of Lands and Physical Planning, National Land Commission. Program seeks to partner with development partners with a vision to assist find workable solutions in land sector.

3.0 GOAL

To deepen access to property justice among the population in Murang'a County through assisting the most unfortunate populations access ADR, courts for succession and registration of their Properties.

3.0 OBJECTIVE

- a) Mobilize two thousand (2000) or more, less fortunate members of the public to access courts for filing of their succession causes through, churches, radio and TV advertisement, by the end of MARCH 2021.
- b) Provide Legal succession services to 2000 most vulnerable populations in Murang'a County by APRIL 2021 in Partnership with the JUDICIARY, MKU and trained volunteer educators/ mobilizers/legal officers.
- c) Develop and distribute materials targeting to educate the population of Murang'a County on the importance of keeping up-to-date their property records by April 2021.

- d) Provide access to and institutionalize alternative dispute resolution mechanism in land sector
- e) Facilitate provision of subdivision schemes, survey services and titles

3.1 Objective 1 Activities

Mobilize 2000 most unfortunate members of the public to access courts for filing of their succession causes through radio and TV advertisement, by the end of FEBRUARY 2021

- i- Mapping of vulnerable groups hotspots and families in each Sub County in Murang'a County
- ii- Establish Contacts with volunteer health workers and in collaboration with the chiefs who will then identify and contact the most vulnerable persons in need of legal assistance
- iii- Conduct one week of mobilization, and education for selected the selected county officials, final year MKU law students on requirements for the filling of the succession documents.

3.2 Objective 2 Activities

Provide Legal succession services to 2000 most vulnerable populations in Murang'a County by August 2021 in Partnership with the JUDICIARY and trained volunteer educators/ mobilizers

- i- Organize a launch presided over by His Excellency the Governor identified
- ii- Publicize planned launch sessions through posters and announcements in media.
- iii- Carry out a pilot on one sub county and establish the best strategy to help work within given timeframes

- iv- Prepare schedules and work plans for the sub counties
- v- Prepare petitions in readiness for filing
- vi- Provide filing services of succession documents in conjunction with the County Attorney at the local courts
- vii-Prepare paupers briefs
- viii- Prepare gazette notices
- ix- Prepare letters of administration

3.3 Objective 3 Activities

Develop and distribute materials targeting to educate THE POPULATION OF Murang'a County on the importance of keeping up-to-date their property records by June 2021.

- i- Develop artworks for proposed materials
- ii- Pretest dummy materials with targeted MARPs
- iii- Print and distribute through Huduma centres, churches, trained volunteer health workers/educators

3.4 Objective 4 Activities

Provide access to and institutionalize alternative dispute resolution mechanism by May

- i. Resolve and advise on simple issues
- ii. identify cases that require ADR
- iii. Refer some cases to mediators
- iv. Identify mediation training institutions and train at least 20 officials as TOTs in mediation
- v. The TOTs to be engaged in continuous process of training local mediators.

3.5 Objective 5 Activities

Provide subdivision planning, survey services and titles

- i. Acquisition of materials for subdivision for 2000 families
- ii. Scanning and digitization of maps
- iii. Site visits for proposed parcels
- iv. Preparation of sub-divisions
- v. Preparation of mutation forms
- vi. Certification of subdivision schemes
- vii. Certification of mutations
- viii. Calculations of stamp duties/waivers
- ix. Issuance of titles to over 10,000 people

4.0 BENEFITS

1. Over 2000 VULNERABLE FAMILIES assisted in filing their succession causes
2. Over 300,000 people trained on land matters
3. 95% uptake of access to corridors of justice for those requiring to update their property records
4. 98% of the records at the land registry and Sub County offices are up to date by December 2021
5. Several land disputes resolved/reduction in land disputes
6. Reduced court cases relating to land
7. Titles for over 2000 needy families (APPROXIMATELY 10,000 people)
8. Existing Alternative Dispute Resolution Committee at constituency level

5.0 PROCESS OF SUCCESSION

Starting the succession process depends on whether succession is testate & intestate.

In testate succession, you need to file the following documents

- Form P.A 78 (petition)
- Form P & A 3 (affidavit)
- the original will plus 2 photocopies of the will &
- original death certificate.

In intestate succession, there are various things that should be considered. This includes whether there are beneficiaries and the value of the deceased's property. For property less than Kshs. 300,000/- file the matter in the magistrate court and if more than Kshs. 300,000/- file the matter in the high court.

- You need to file the following documents
 - a. search on the property;
 - b. A letter from the chief stating the surviving beneficiaries;
 - c. The death certificate (original)

After obtaining the above stated documents, the applicant is to file four forms in the court:

- ✓ One, to identify proposed administrators and at least three witnesses;
- ✓ Two, to list of the deceased person's property (shares in a company, money held in account, moveable property and immovable property (land), liability);
- ✓ Three, list of beneficiaries and dependants;

- ✓ P & A 80 - The main petition that is accompanied by the above stated forms. It contains the prayers, if one wants to be an executor or administrator.
- The cost of filling the succession petition is three to four thousand. After the filling, the petition will need to be gazetted which one is required to pay for it Kshs.2700/-. Thereafter, you need to wait until it is printed in the gazette within three (3) months from the date of filling the matter.
- Once printed, you will need to have a copy of the gazette notice. Therefore, you can print it or buy it at fifty Kenya shillings (Kshs.50/-). You are required to attach the gazette notice to an application for a hearing date of the petition. This will be a hearing for letters of administration.
- **After you are granted the letters of administration, you will wait for six months then file an application for confirmation of grant.** Here, you can also file a schedule of the subdivision among the beneficiaries and/or dependents.
- After that, you get a confirmation of letters of administration from the court. The confirmation is a monitoring mechanism of the court that confirms that the personal representatives have been administering the estate and empowers the personal representative to distribute any capital assets, including land.
- For land, you take the certificate of confirmation to the land registry and file an application for transmission of the land. Details that will be required in the transmission form include:
 - ✓ The details of the parcel of land;
 - ✓ How much you are transferring and to who;
 - ✓ Photos (three (3) passport size) of the administrator and beneficiary;
 - ✓ One form for each beneficiary.

6.0 OPPORTUNITIES/CHALLENGES/LESSONS LEARNT

- ✓ There is generally lack of information and need for civic education on succession matters
- ✓ There is immense demand for succession of land and other properties
- ✓ The program is noble and will touch the hearts of Murang'a people most especially the common mwananchi
- ✓ It was realized that some people have never gotten their initial titles that were issued upon adjudication (after independence) further complicates succession because of the generations involved
- ✓ Succession and dispute resolution mechanism if implemented will empower people socially and economically.
- ✓ There is need for collaboration of all players namely: political, administration, executive, judiciary and the religious organizations for success of program
- ✓ There is a great opportunity in terms of: political will, support from Judiciary, National Ministry, MKU, beneficiaries and other players.
- ✓ The county may require to train some mediators who shall handle disputes and form a TOT program
- ✓ The challenge of financing the program which may require to be institutionalized for perpetuity.
- ✓ Challenge of change of leadership may affect continuation of program
- ✓ The threat of cartels that benefit from the long process of succession
- ✓ Succession is a long process, expensive and time consuming

7.0 RECOMMENDATIONS

- ✓ Organize a consultative meeting with major players ASAP to inform them and commit them to the program
- ✓ The program to be launched in each of the sub counties by H.E Governor
- ✓ Have two separate teams working in a sub county to cut on cost of movement of populace
- ✓ Make announcements on media, churches and mosques inviting beneficiaries to the grounds where their matters will be handles
- ✓ The players to waive fees for the success of program

PATRON AND VISION CARRIER

H.E GOVERNOR MWANGI WA IRIA

MURANG'A COUNTY GOVERNMENT