



Strategy for Public School Land Surveying: Delivery as One

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Executive Summary

This strategy is developed by ShuleYangu Alliance. It offers a critical path for surveying of all public schools in Kenya over the next two years. This strategy proposes an interagency and public-private partnership approach in surveying of public schools land in order to expedite the process.

Kenya's land sector has in the past been riddled with challenges in the legislative and institutional framework that resulted in widespread grabbing of public land. Powerful individuals took advantage of the gaps in law and poor land governance to irregularly acquire land categorized as public land. In the late 1990's through active citizenship and civic awareness, the public became vigilant of public parks, forests and green spaces scaring off land grabbers. Land grabbers changed tact and started aiming at institutional land such as prisons, hospitals and schools land. Conspicuously public schools have been at the center of land grabbing and are the most adversely affected. Despite governments efforts to reform the land sector through institutional and legal reforms to promote good land governance, public schools land are still at risk of land grabbing. This has been evidenced by media reports on attempts to grab public school land including reportsⁱ from Lavington and Lang'ata in Nairobi County, and Nyali in Mombasa County over the last two years.

A major challenge that school heads face in managing school land and protecting school land from land grabbing is the inability to ascertain/ prove the extent of the land. Without the appropriate documents as evidence, the problem of land grabbing will continue to plague our public schools unabated. Surveying of all public school land and subsequently generating the related maps and certificates of title is paramount in ensuring public school land is secure from land grabbing. Once school heads have the accompanying registration documents acknowledged by the Ministry and the Lands Commission, the public schools will have the power to ward off any attempts to grab their land.

Since the inception of this Alliance, we have worked with the government and citizens to secure public schools land from land grabs with a target of having at least ten thousand schools in Kenya titled by 2018. A key milestone reached in these efforts is successfully petitioning the government to waive all statutory fees relating to surveying and titling of schools (March 2016). **[H1]**

A study conducted in June 2015 by the Alliance revealed that 55% of public schools in Kenya are yet to be surveyedⁱⁱ. Surveying being a prerequisite for titling, this necessitated the Alliance to develop a comprehensive survey project to have all public schools planned and surveyed in eighteen months.

The survey project will see the Ministry of Lands and Physical Planning (MoLPP), Ministry of Education Science and Technology (MoE), the National Land Commission (NLC), respective county governments and the Institution of Surveyors Kenya (ISK) working together to attain this goal. This strategy outlines the respective function of each organization and the work plan.

1. Introduction

Kenya boasts of 29,404 public schools of which 21,718 are primary and 7686 secondary schools spread across the 47 countiesⁱⁱⁱ. Each school is estimated to be sitting on average of 5-6 hectares^{iv}. In recent years we have experienced increasing incidents of grabbing of public land which if goes unchecked might cripple the whole education sector. Some of the public schools sit in what is perceived to be prime land and the property's highest and best use would be commercial or residential use as opposed to educational use. This calls for protection of these schools lest they are illegally converted to private property as has happened in the past.

ShuleYangu Alliance in collaboration with government and private stakeholders seeks to secure public schools from landgrabbers. A sure way to do this is to ensure that all schools are surveyed, titled and fenced. With statistics showing that about sixteen thousand, one hundred and seventy two schools are not surveyed. There is an urgent for a multistakeholder approach to ensure all this schools are surveyed paving way for their titling.

2. Background

Since our inception, ShuleYangu Alliance has worked with public and private sector stakeholders to secure registration documentation for public schools in Kenya. The Alliance seeks to have more than 10,000 schools titled and secured in Kenya by the year 2018. Previously with the support of government agencies such as the National Land Commission, Ministry of Lands and Physical Planning, Kenya Primary Schools Head Teachers Association (KEPSHA) and Kenya Secondary Schools Heads Association (KESHA), the alliance has achieved interalia: developing guidelines for title deeds applications, reaching out on all the public schools head in Kenya to apply for titles and assist reclaiming a number of grabbed public schools, and waiving of all statutory fees resulting to titling of public school land.

However, according to a study conducted by the alliance, 55% (16,172) of the schools in Kenya are yet to be surveyed hence at risk of being grabbed. According to the Land Registration Act Cap 300 of the laws of Kenya cadastral survey is mandatory for titling process to commence. Survey in Kenya is statutory regulated with the Director of Survey as overall supervisor of all the cadastral surveys in Kenya for quality assurance. Normally, public land surveys are usually conducted by government surveyors but realizing the high number of schools vis-à-vis the number of government surveyors it will take longer to survey the schools, while leaving them schools exposed to land grabbers for a longer period. 93% of all the survey process in Kenya being privatized^v, we shall used private licensed surveyors from the Institution of Surveyors of Kenya.

Cadastral survey is not a standalone and one-off activity but an interlinked process that is backed up by other processes from different agencies. The whole process involves the Ministry's Physical Planning Department (development of a Part Development Plan), the National Land Commission (issuing a letter of allotment based on the PDP), a surveyor (surveying the parcel), the Ministry's Survey Department (authenticating the survey, Deed Plans and Registry Index Maps), and the Lands Registry Department (registration and issuance of title). It is important to map all the stakeholders and initiate a systematic approach where all the processes will be synchronized to minimize of costs and accelerate the work. Previous attempts in securing of public schools land have been characterized with agencies operating in silos and no attempts made to synchronize the processes, the effect is that little is achieved.

3. Campaign objective

- Expand the capacity of the Ministry to expedite the survey of public school lands with private surveyors registered and identified for the work by the ISK
- Expedite the survey of public school lands, with a priority on school lands that are planned and uncontested
- Expedite the verification and authentication of surveys of public school lands submitted by private surveyors

4. Taskforce Workplan;

Land in Kenya is categorized into public, community and private land. Public land is defined as land held by the national or the county government in trust of the people of Kenya. Public land is used for the general public good and includes land occupied by state organs, national parks and forests. Public schools land unless otherwise stated is public land used for educational purposes.

Hence, the titling process is the same as the process of issuing new grants on public land with an exemption that this land is not being issued to an individual, a legal person or a body corporate. The titling process of public schools involves five government agencies the Ministry of Education Science and Technology, Ministry of Lands and Physical Planning, the National Land Commission and Environment and Lands Court (land disputes that cannot be solved with Alternative Dispute Resolution and tradition Disputes resolution mechanism) and Ministry of Finance as the custodian.

A conveyor belt approach will be adopted for this project. All the steps to be undertaken are earmarked and matched to the individual responsible agency. Each lead agency is required to set up a rapid initiative desk to expedite on the delivery of the respective tasks as shown in the table below.

The surveying process includes under of steps which will be under taken at different institutions as shown below.

Task	Responsible
Identification of schools and sorting	
i. Provision of lists of all public schools	Ministry of Education
ii. Establishing of the status of the school land- Land search	NLC/School heads
iii. Sorting of schools (surveyed/not surveyed/ not planned)	NLC
iv. Write report on the status of all the schools in county	ShuleYangu Alliance Secretariat
Surveying and planning	
v. Preparation of Pdp for unplanned schools	MoLPP-Director of Physical Planning
vi. Preparation and issuance of Letters of Allotment and pdp	NLC
vii. Surveying Field work -Field capture and compilation	Institution of Surveyors Kenya
viii. Checking and authentication of survey records	MoLPP-Director of Survey
ix. Preparation of Deedplans and Registry Index Maps	TBC
x. Submission of Deedplans to NLC/ MoLPP for registration	Ministry of Education

Tasks v-x are a series of processes, the MoLPP is implored to setup a rapid initiative desk to fasten the processes.

The overall strategy is to have each institution involved in this process committing to the project either by offering financial support or by subsidizing costs of the different transactions in the process. The Ministry of Lands and Physical Planning has waived all statutory fees relating to surveying and titling of schools. Effectively the cost of surveying the schools will be shared out between the County Governments, ShuleYangu Alliance, the Ministry of Education through individual public schools and well-wishers such as companies and alumni associations. In addition to this, private surveyors will provide their survey services at a subsidized cost.

The project will first be piloted in Uasin Gishu County. This will entail surveying the 600 public schools within the county over a period of 6 months and subsequently initiating the process of titling for the same. Beyond the pilot phase of the project, the ShuleYangu Alliance will develop a booklet and other knowledge sharing material to that will detail the procedure of surveying public school land within counties through rapid initiatives. The booklet developed from the pilot will also include key lessons learnt and other opportunities to look out for in implementing such an initiative. This booklet will be shared with all respective county governments (county lands departments), district education boards, and surveyors (through the Institution of Surveyors of Kenya). Thereafter the project will be rolled out in all the county of the country in clusters.

5. Budget, Resource Required and Role Identification

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The roles of the respective institutions/ stakeholders are as below:

i. Ministry of Lands and Physical Planning

The Ministry of Lands and Physical Planning is the key government agency in charge of land administration and management. In line with this project, the departments of lands, physical planning and survey will all have key roles to play in ensuring success of this initiative. Setting up of a rapid initiative desk at all these departments will be vital in fast-tracking of public schools land applications and follow-up of any other processes. Director of Physical Planning is requested to instruct all government planners in the counties to plan and prepare part development plans for all the schools that are not yet planned. The Director of Survey is asked to set rapid initiative desk that will handle all the schools survey data from surveyors for cross checking and authentication so as to fasten the process.

ii. National Land Commission

The commission manages public land on behalf of county and national government. The commission's department of land administration is critical in processing of letters of allotments to pave way for surveying and thereafter titling of the schools. The commission is required to work closely with the county government and the Ministry of Lands and Physical Planning to ensure that all the requirements for surveying are meant and schools are issued with letter of allotment in time. The commission is also tasked with coming up with an inventory of all the public schools in Kenya including their total acreage.

iii. Institution of Surveyors Kenya

It is the professional body that licenses surveyors in Kenya. Has a membership of professional licensed and associate surveyors, and approved assistants. The institution has offered to appeal on its members to offer schools survey services at a subsidized fee. In addition, ISK will play a key role in providing oversight over the private surveyors, ensuring standards are met and integrity is upheld in carrying out surveys. The Institution is also asked to set up a Community Service Ward to all surveyors who offer to survey schools land.

iv. ShuleYangu Secretariat

The secretariat sits at the Society for International development offices at Timau Plaza. The secretariat is composed of an Associate Director, a Campaigns Manager and an Assistant Programme Officer. The secretariat will be in charge of the daily operations of the campaign and act as a link between the different Ministries, School communities and professional bodies involved in the surveying process. Roles of the secretariat will include: fundraising, communication within the Alliance and with relevant stakeholders in the project; generating and developing public communication content and material; organizing capacity building and engagement forums to be held to bring together the various stakeholders; documentation and knowledge management; and coordination of any other project activities.

v. Project Advisory Committee

A Project Advisory Committee (PAC) will be established to provide oversight and strategic guidance on the project implementation. PAC will comprise of key project stakeholders including the Ministry of Lands and Physical Planning, NLC, Institution of Surveyors of Kenya, Institution of Planners. ShuleYangu Alliance will take the lead and constitute the PAC in consultation with the key partners (MoLPP and NLC). The PAC will comprise of eleven people two from each organization including the Alliance and a survey consultant who will double up as PAC secretary.

Land Disputes Board^[H2]

6. Risks that could affect the project delivery

Institutional bureaucracy

Government processes and communication between different government agencies are a times. The success and timeliness of this project may be adversely affected due it being a multi-agency (Ministry of Education initiating the process, Ministry of Lands Departments in planning and approving relevant documentation, National Land Commission issuing allotment letters and County Governments contributing to cost of survey). The rapid initiative desk established by the Ministry of Lands, working with the ShuleYangu Secretariat will be instrumental in resolving this by assisting in follow-up of issues specific to the project. Secondly, the ShuleYangu Secretariat will be in charge of conducting regular progress update meeting where the milestones reached will be presented to the leadership of the various stakeholders and call for fast-tracking of delayed processes.

Ownership of schools between county and national government

Public land under the Constitution can fall under the authority of national governments (e.g. national parks, national game reserves), or county governments (e.g. conservancies within a county, town parks within the county). Even though the constitution states clearly that primary, secondary and tertiary education are the serve of the national government, there has been contention over where school land falls, with County Governments' claim based on their uptake of spaces previously controlled by the former local governments, and the National Government's claim based on education being a national government function. To resolve this, the initiative will engage the State law Office, Ministry of Lands and Physical Planning and the Ministry of Finance to clarify the issue and give guidelines on the proper authority over public school land management.

Land disputes resolutions

Land disputes in Kenya have historically been lengthy with some cases taking over decades to resolve. The establishment of an Environment and Land Court to deal specifically with land cases only slightly improved the situation. Nevertheless, public school land grab has in recent years become an issue of great public interest (e.g. the Lang'ata Primary incident). The ShuleYangu Alliance has managed to leverage this to ensure prioritization of issues surrounding public school land grab with great success. The Alliance encourages the use of alternative dispute resolutions and Traditional Dispute resolution to avert delay experienced in going to the court of law.

Lack of integrity among private surveyors

There is a risk of the private surveyors colluding with school heads to grab public school land during the survey process. To avert this risk, the Institution of Surveyors of Kenya will be instrumental in calling on members to ensured integrity and maintaining set standards. The ISK will also have the task of establishing the necessary checks for school heads to ensure all survey works are carried out by licensed surveyors. Additionally the Ministry of Lands will be in charge of certifying that each survey job was carried out by a registered surveyor before approving any survey works and initiating the titling process.

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