

**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
(Office of the Ombudsman)



*Hata Mnyonge ana Haki*

**Our Ref: CAJ/AO/4/12 (93)**

**Your Ref: TBA**

**The Attorney General**

Office of the Attorney General  
Sheria House, Harambee Avenue  
P.O. Box 40112-00100

**NAIROBI**

**16th April 2025**

Dear

*A.G*

**RE: ADVISORY OPINION; SECTION 33 (5) OF THE LAND REGISTRATION ACT, 2012 AND REGULATION 28 (4) OF THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017**

Kindly receive warmest compliments from the Commission on Administrative Justice (Office of the Ombudsman).

The Commission is in receipt of a matter raised by A.B. Patel and Patel LLP (a law firm) in regards to the above captioned matter (copy of their letter enclosed for ease of reference).

The firm has drawn the Commission's attention to Section 33(5) of the Land Registration Act, 2012, which authorizes the Land Registrar to reconstruct a lost or destroyed land register after conducting necessary inquiries and issuing a 60-day Gazette notice. The firm contends that the requirement under Regulation 28(4) of the Land Registration (General) Regulations, 2017, that an applicant should provide an indemnity in such cases, is unfair and unjust. The firm argues that this obligation violates Article 10 of the Constitution, specifically the principles of equity and accountability in governance.

The Commission observes that, in accordance with Section 7 of the Land Registration Act, a land register is a record maintained within a land registry. This section requires each registration unit to maintain a land registry, where a land register—in a form determined by the Cabinet Secretary—is kept under the custody of the Land Registrar.

The Commission as the enforcement agency of the Access to Information Act, 2016 notes that the Act establishes clear obligations regarding the management of public records. Section 17 of the Act defines records broadly to include documents stored in any form. It further requires all public entities to:

1. Maintain accurate, authentic, and accessible records;
2. Ensure records are properly stored and managed to facilitate public access; and
3. Establish and computerize records management systems within a set timeframe to enhance efficiency.

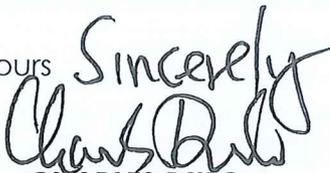
Given these legal provisions, the Commission affirms that public entities bear the primary duty to maintain and safeguard records relevant to their mandate. Since the land register is a public record housed at land registries, the responsibility for its upkeep—and, where necessary, its reconstruction—rests squarely with the Land Registrar.

It therefore follows that, requiring an applicant to provide indemnity for a lost or destroyed land register, as prescribed under Regulation 28(4), constitutes a misplaced responsibility. This obligation unjustly shifts the responsibility of public record-keeping onto individuals, contrary to established principles of fairness and accountability. The Commission, therefore, considers this requirement an administrative injustice that warrants urgent review.

In light of the foregoing, this matter is hereby referred to your Office for consideration and appropriate action, particularly under Section 5(1)(e) of the Office of the Attorney General Act, which mandates your Office to draft legislative proposals for the Government and provide legal advisory services to the Government and its agencies. We request that this matter be reviewed and appropriate corrective action be taken.

Accordingly, we kindly request your Office to review this matter and respond within 21 days from the date of this letter, indicating your position on the same, any actions taken, or proposed steps toward resolving the issue.

We appreciate your attention to this matter and extend our highest regards.

Yours Sincerely  


Mr. CHARLES DULO

**CHAIRPERSON OF THE COMMISSION**

**Cc: complainant**