

The 2026 Kenyan Real Estate & Land Due Diligence Checklist

A Comprehensive Legal Practitioner's Guide to Property Acquisition, Search Protocols & Ardhisasa Compliance

EXECUTIVE OVERVIEW & STATUTORY NOTICE: A practitioner-grade due diligence checklist designed for commercial developers, institutional investors, and private purchasers navigating land transactions in Kenya. Covers Ardhisasa search protocols, green card physical inspections, beacon verification, spousal consent affidavits, and valuation procedures to ensure foolproof acquisitions.

Key Takeaways & Statutory Checklists

- Step-by-step digital Ardhisasa search & manual registry green card inspection protocols
- Surveyor boundary verification, beacon audits & Registry Index Map (RIM) reconciliation
- Statutory Spousal Consent verification under Section 93 of the Land Registration Act
- Chief Government Valuer processes, Land Control Board consents & Stamp Duty schedules
- **Critical red flags:** encumbrances, road reserves, riparian buffers & power of attorney risks

Phase 1: Pre-Contract Title & Registry Search Protocols

Before executing the Agreement for Sale or paying any deposit, an advocate must conduct exhaustive verification across multiple registers:

- **Digital Ardhisasa Search (Form LRA 83):** Verify proprietor name, parcel number, tenure (Freehold vs Leasehold term remaining), and registered encumbrances (charges, cautions, caveats, court prohibitions).
- **Manual Registry Search (Green Card Verification):** For titles not yet digitized or undergoing conversion, physically inspect the Registry Green Card / White Card to trace the root of title and unbroken chain of ownership.
- **Land Rent & Rates Clearances:** Obtain official Land Rent Clearance Certificate from the Ministry of Lands and Land Rates Clearance Certificate from the County Government.

Phase 2: Technical On-Site & Survey Verification Checklist

Stage	Key Action Item	Critical Legal Risk Mitigated
1. Boundary & Beacons	Commission a licensed surveyor to locate original boundary beacons using Registry Index Maps (RIM) or Cadastral Survey Plans.	Encroachment onto neighbouring parcels, boundary disputes, or fraudulent beacon displacement.
2. Physical Inspection	Conduct on-site inspection to interview neighbours, local chiefs, and identify actual occupiers or squatters.	Unregistered customary overriding interests, long-term adverse possession claims (Section 38 of Limitation of Actions Act).
3. Planning & Public Reserves	Verify approved physical development plans, road expansion corridors with KeNHA/KURA/KERRA, and riparian reserves with NEMA/WARMA.	Demolition of structures constructed on public wayleaves, railway reserves, or environmental wetlands.
4. Spousal & Corporate Consents	Obtain statutory Spousal Consent Affidavit (Section 93, Land Registration Act) or registered Company Board & Shareholder Resolutions.	Nullification of transaction under the Matrimonial Property Act 2013 or <i>ultra vires</i> corporate disposition.

Phase 3: Financial Escrow, Valuation & Stamp Duty

- **1. Stakeholder Escrow:** The purchase price deposit (typically 10%) must be deposited with the vendor's advocate as a stakeholder (not as an agent), releaseable strictly upon successful registration and handover of original title.
- **2. Chief Government Valuer Assessment:** Valuation must be commissioned via Ardhisasa/Ministry of Lands to establish statutory Stamp Duty (4% in Municipalities/Cities; 2% in Rural areas).
- **3. Land Control Board (LCB) Consent:** For agricultural land, mandatory Land Control Board consent must be obtained within 6 months of transaction under the Land Control Act (Cap 302).

CRITICAL RED FLAGS • HALT TRANSACTION IMMEDIATELY IF:

1. The seller insists on cash payment or direct transfer before title registration.
2. The title is subject to an active caution, bank charge, or ongoing succession without a confirmed grant.
3. The survey shows beacons do not align with the Registry Index Map (RIM).
4. Seller claims spousal consent is unnecessary but lacks a sworn Single Status Affidavit.

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