

LAND REGULARIZATION CHALLENGES OF INFORMAL CHANGES IN THE CADASTRAL ATTRIBUTES OF GOVERNMENT LAYOUTS IN BAUCHI METROPOLIS

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ABSTRACT

Indeed, human settlement is dynamic, so also, land use, land value and land ownership. Even in land administration system and planning authorities acknowledged and considered possibilities of land changes in statutory land parcels cadastral attributes. Thus, the Land Use Act of Nigeria set a policy prohibiting any form of change without authorization by relevant authorities. This is to ensure effective control and achievement of government's spatial development objectives, expressed in physical and land use plans, is not negated and to protect the sanctity and functionality of cadastral records. Data were collected from a low and a medium density layout in which the changes were observed via interviewed purposive samples. Responses of the participants were transcribed and coded into themes using Nvivo 10 Software. This study found that in the government layout studied in Bauchi metropolis, these policies were contravened. Up to 45% beneficiaries of statutory land allocations, informally conducted land transactions that changed the cadastral attributes with informal ownerships. Respondents that attempted to utilize the official windows to regularize the informal changes are challenged by high costs, bureaucracy, obtaining tax clearance, uncooperative attitude of some stakeholders based on limited awareness about the benefits of regularization, and analogue operations of land administration agencies. These challenges have reduced the efficiency of regularization of the informal changes and made efforts at it difficult thereby militating against its derivable benefits. Government should deliberately address the identified challenges to regularization by automating the processes, reducing costs, and deliberately raising public awareness of the benefits of regularization.

Key Words: Informal change, cadastral attributes, land parcels in government layouts, informal change regularization

1.0 INTRODUCTION

Urbanization fuelled increasing population, increasing economic land use and changing demand and utilization of space which have great impact on the land use pattern that re-design the urban landscape. Land acquisition and land rights played significant roles in the land development process and control or management in any given settlement. Land rights are powers

to have a factual ownership (legitimacy) to occupy, utilize, consume, and to gain income from it. Thus rights over a parcel of land are the legal powers vested to use or improve the land and to gain/make profit through it. These rights can be either fixed legal rights or economic variable rights. Legal (formal) land rights are those protected legally and documented by government in its cadastral system (Aderibigbe *et al* 2015).

There are quiet discontinuities in the condition of access to land, land speculation, hike in land price, informal alienations, multiple problems of ownerships and tenure in most cases arises. The land rights can only be transfer or alienate in accordance with relevant legislation or approval by the relevant authority. However, unauthorised alienations and transactions on government residential layout allocation will be a potential problems to cadastral system. Thus, resulted to manifestation of problems of land use regulation, control and management that are connected to issues of land accessibility (acquisition) and proliferation of informal alienations or unauthorized changes of statutory allocations, changing to multiple ownerships. This gives rise to multiple land issues that distort the fabric of cadastral attributes and overwhelmed the management capacity of land governance (Imam & Rostam, 2011).

In a broad context, governments superintend land governance in their jurisdictions through the frameworks of Land Administration Systems (LAS) empowered to create land parcels, conceptualize and implement rights, restrictions and responsibilities related to the parcels, and manage records about the parcels. Creation of land parcels entail land acquisition, survey, subdivision, demarcation, and mapping according to approved procedures. The created parcels are then allocated to competing users and uses with clearly defined rights, restrictions and responsibilities. Land rights define allowed uses, restrictions control the uses, while responsibilities relate to obligations to be discharged by land right owners (Williamson, *et al* 2010). Records about all the created land parcels and their associated rights, restrictions and responsibilities are then kept in land registries of the LAS and constitute cadastral records. Such records should unambiguously identify land parcels, their associated use rights and the person allocated the right (Molen, 2002). The benefits of formal LAS (security of tenure, sustainable land use, better physical planning, equity, enhanced revenue collection, good governance, facilitation of property markets, etc.) derive from the quality of cadastral records and their effective management (Enemark, 2016; Aminigbo and Hart, 2022). Hence, to serve their purpose, such records should be accurate, assured, authoritative, up to date, complete, simple and effective (Williamson, *et al* 2012; Enemark, 2013; Chehrehbargh, *et al* 2023).

In land administration system, it is a known fact that, much interest on land leads to placing high values and attachment to it. With this, land administrators, planners, surveyors and other land related professionals in the built environment, appropriately consider possibility of changes in land uses, values, and ownership. Often changes arises from multifarious operations of general economic forces on a highly differentiated set of social and locational attributes. In general, the policies of formal LAS prohibit any form of change in the cadastral attributes (spatial and non-spatial) of statutory land parcels without prior approval by relevant authorities. The essence of such prohibition is to ensure that the achievement of government's spatial development objectives, expressed in physical and land use plans, is not negated and to protect the sanctity and functionality of cadastral records. For instance, in Nigeria, section 22 of the Land Use Act of 1979 (the contemporary land policy framework) prohibits any form of alienation (through sale, mortgage, transfer of possession, sublease, bequeath or otherwise) and change in the geometry (subdivision, extension, merger) of land parcels allocated by the government without prior official

approval. The institutional frameworks of formal LAS are supposed to ensure compliance with this policy requirement.

In spite of the policy prohibition and institutional arrangements to ensure compliance with it, the geometry, ownership, and land uses in government layouts are changed without government approval (Imam &Rostam, 2011; Dan-Jumbo, Metzger& Clark, 2018; Okosun, Ogbazi&Nwachukwu, 2019, &Wali, 2019). This creates mismatch between policy and practice with implications on the integrity and utility of cadastral records especially in urban areas in the countries in the Global South that are experiencing fast spatial dynamics due to high population growth (Hajiheidari, Delavar, &Rajabifard, 2022; Cienicala, Mikulska, &Sobura, 2021; Maeng, 2023 & De Soto, 2000).The implication of these unauthorized changes is that they are unrecorded and hence, are `unseen` by the government. Thus, the changes undermine the benefits derivable by governments and those concerned from de jure tenure.

Formal land administration agencies have windows for the regularization of unapproved changes to parcels in government layouts. Such agencies process applications for land titles that reflect the new spatial and non-spatial attributes of land parcels hitherto informally changed. The benefits of such regularization is important that it is recognized as an emerging planning tool (Zakayo, Mhache&Magigi, 2018).

It is observed that the cadastral attributes of government layouts in Bauchi metropolis, the headquarters of Bauchi State, North eastern Nigeria have been informally changed. The aim of this paper is to study the issues concerning regularization of the informal changes to the ownership, size and use of land parcels in a government residential layout that were changed without official approval.

The objectives of the study are to;

- i) Highlight the official procedures for the regularization of informal changes to the cadastral attributes of land parcels in government layouts.
- ii) Identify the challenges of regularization of the informal changes to the cadastral attributes of land parcels in government layouts.

2.0

METHODOLOGY

2.1 The Study Area

Bauchi metropolis is located in North-eastern Nigeria (Figure 1). Its geographical coordinates are latitudes $10^{\circ}19'15''$ and $10^{\circ}20'58''$ N and longitudes $9^{\circ}50'50''$ and $9^{\circ}51'29''$ E.

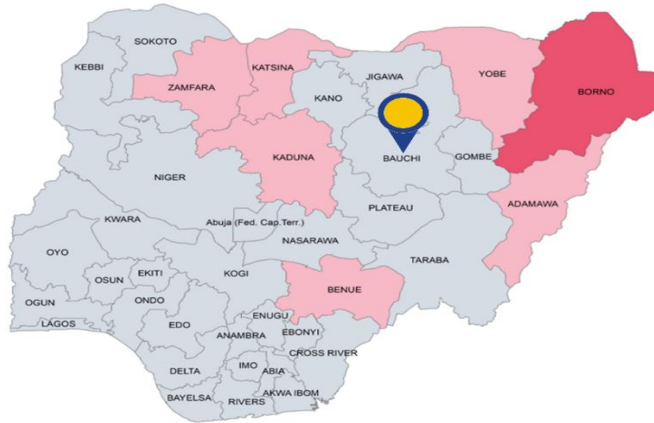


Figure 1: Location of Bauchi Metropolis, North-eastern Nigeria

Since 1976, the metropolis has been a State and Local Government headquarter (Encyclopaedia Britannica). As at 2023, the town is estimated to be populated by about 670,000 people (www.macrotrends.net). Morphologically, the town comprises of two parts: the walled part and the part outside the city wall. While developments in the walled part are largely made on land under customary tenure, those on the part outside the city wall are mostly on statutorily administered land principally guided by the provisions of the Land Use Act, 1979, the Bauchi State Urban Planning and Development Board edict 163 of 1989 (amended 2012), and the Nigerian Urban and Regional Planning Act No. 88 of 1992 (Gumau, 2004; Bogoro&Nghalmi, 2014; Victor, Abdulkadir, &Bwala, 2019).

2.2 Procedure

A low-density government designed and allocated residential layout coded DP 23 was purposively sampled because field reconnaissance guided by the official plan of the layout and literature as Usman & Ibrahim (2015) and Falola & Wali (2019) suggested that the sizes and uses of several plots in the layout have been informally changed from what is official. Such plots were identified among which purposive sampling was used to identify and select respondents with potential for providing required data. This is in line with the assertion of Creswell (2012) that to properly address an issue under study in qualitative research, the selection of respondents should be intentional and purposeful. Data was collected through interviews with fifty-one beneficiaries of the informal changes and six officials (key informants) of the Bauchi State Ministry of Lands and Survey. The interviews were guided by different question templates designed to elicit answers relevant to the objectives of the study. The template for the respondents sought answers about government requirements before changes can be affected on government approved layouts. Data saturation (levels at which the collection of additional data did not have any significant difference with what has been collected) as recommended by Barneth, Vasileou, Thorpe & Young (2015) and availability of respondents were the basis for determining the sample size of fifty-seven used for

this study. Audio records of the interviews were transcribed and coded by creating nodes (themes) using the Nvivo 10 software. The themes were summarized into tables and a bar chart (produced from Microsoft Excel) and content described

3.0 RESULTS AND DISCUSSION

3.1 Official procedures for regularization

On recognition of the need for a window to regularize informal changes in land rights granted on statutory plots, the Bauchi State Ministry of Lands and Survey instituted some procedures to that effect. With respect to change of ownership, the procedures require the plot allottee to apply to the Commissioner of the Ministry (who holds delegated powers over land matters on behalf of the Governor of the State) for approval to surrender the title granted to him so that those with new interests in the plot can apply for issuance of titles in their names. Approval for the surrender is granted after confirmation of the signature of the allottee on the application letter with the signature in his file and that the plot is free of all third party considerations. In addition, he is expected to pay a surrender fee and all outstanding ground rent due on the plot. Thereafter, the new interests will apply for grant by filling application forms that require the attachment of a tax clearance certificate and the payment of processing, certificate and other statutory charges. Details of the new rights owner are then entered into the land register. In a similar vein, changes that involve geometric and land use changes can only be effected through application to that effect by the allottee to the Commissioner. The application is passed to the Planning Directorate for professional appraisal and advice (planning recommendation). The essence of the planning recommendation is to ensure that the intended geometric changes conform to minimum spatial standards and do not have adverse consequences. Intended land use changes are appraised so that incompatible land uses are not allowed. Recommended changes are approved for further processing which in the case of geometric changes, include survey and setting out. The original title document is then surrendered for replacement with a new one that reflects the changes effected which are accordingly entered into the land register.

3.2 Reasons for regularization

Out of the fifty-one respondents of the study, 45%, informally conducted unrecorded land transactions that changed the cadastral attributes of government layouts and only 22% acquired land informally (the unofficial owners) attempted to regularize the informal changes they altered on government plots. The reasons that prompted them to seek for the regularization, presented in Table 1, were basically related to tenure security: incidence or fear of ownership disputes, fear of revocation without compensation, and rejection of application for mortgage loan on account of not having the original land title document.

Table 1: Reasons for Seeking Regularization of Informal Changes

Reasons	Frequency	Respondents %
Fear of revocation	1	9.09
Fear of challenge of ownership	6	54.55
To apply for a loan	1	9.09
Claim by others	2	18.18
To comply with regulations	1	9.09
Total	11	100

Source: Field work 2024.

From Table 1, more than half (54.55%) of the respondents sought to regularize the change of ownership to fortify their security of tenure on the plots i.e., as safeguards against others challenging their ownership arising from fraud. The significance of this reason is that some of the respondents anticipated challenges to the ownership of their plots (through counter claim of the same plot) due to the possibility of fraud associated with informal ownership changes. One of the respondents contended that he sought the regularization to safeguard the possibility of someone claiming the same plot in the future as experienced by his friend elsewhere five years after he bought his plot. The experience of such counter claim was the reason why two of the respondents sought the regularization. Multiple claims of ownership of the same plot arise in spite of social safety precautions to prevent them due to breach of trust, the basic capital of informal land transactions. Deliberate multiple sales of the same plot have been reported among the shortcomings of informal land markets.

The rejection of the informal sales agreement and photocopy of the certificate of occupancy to serve as collateral documents for a bank loan was what prompted one of the respondents to attempt to obtain the required regularization so, he can access the loan. One of the utilities of land title documents is serving as collateral for loans (Nwokoro, 2023). This utility derives from the guarantee by the government of the sanctity of the land rights evidenced in the title documents. This gives formal financial institutions the confidence of advancing loans for investments that can stimulate economic growth to applications backed by title documents as collateral. For this reason, land without title documents cannot attract formal credit and is thus `dead capital` (De Soto, 2000). One of the respondents sought the regularization for fear that without the proper documents, he might not be compensated in the event of revocation by government (for overriding public interest) in the future.

3.3 Challenges to Regularization

Respondents that sought regularization were faced with several challenges due to the circumstances of the informal changes and shortcomings of the institutional framework. The challenges are presented in Figure 2.

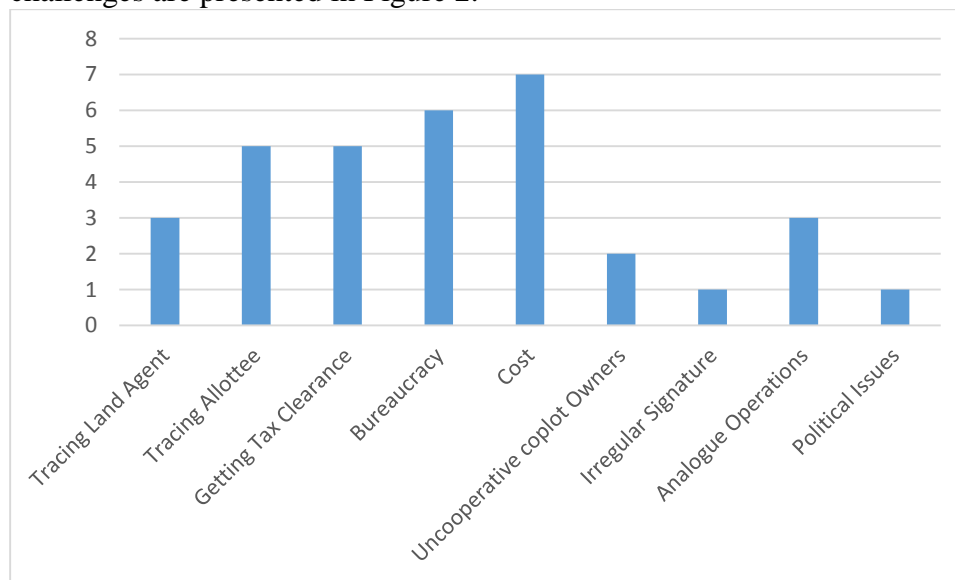


Figure 2: Challenges of Regularization

3. 3. 1 Difficulty of Tracing Land Agent

Informal sale of formal land is mediated by land agents. Often, the transactions were concluded with the land agents without the buyer and seller physically knowing each other. In such a case, the buyer that required to regularize his ownership must trace the land agent to link him with the seller to surrender or withdraw his interest in the land to enable the buyer proceed with the regularization. A respondent narrated that he spent six months before he could trace the land agent through whom he bought his plot. Inability to trace the land agent that mediated the sale of a plot; on account of relocation, denied a respondent the opportunity for regularization. To this respondent and others with similar experiences; unless the institutional procedures are modified, the window for regularization is permanently closed.

3. 3. 2 Difficulty of Tracing Allottees

This difficulty is consequent upon the practice of using photocopies of the title document to conduct informal transactions or the use of contact addresses that are not definitive e.g. care of a worker in a government Ministry who might have left the Ministry or a post office box on the title documents. To regularize, only plot allottees can initiate the process by applying to surrender the title of the plots. Where the allottees were at large, the retrieval of original title documents or getting them to initiate the regularization process became problematic. One of the respondents narrated his experience with this difficulty thus:

“It took me time to locate the allottee of the plot to initiate the regularization process. The allottee`s contact address was care of a worker in a government Ministry. The worker had retired and tracing him to lead me to the allottee was very difficult. Tracing the allottee was equally difficult because he had relocated to another town”.

This difficulty was especially more when the plots involved had changed ownership severally or with transactions conducted through land agents that are now at large. Inability to trace allottees on account of death or relocation has denied some respondents the opportunity to regularize their tenure.

3. 3. 3 Getting Tax Clearance

Among other requirements, getting access to allocation of land by government is conditioned on providing evidence of payment of tax (as required by section 85 of the Personal Income Tax Act) for three consecutive years prior to the date of application. This evidence is the tax clearance certificate issued by the Bauchi State Board of Internal Revenue. For land administration, the essence of the certificate is to provide evidence of the income of the applicants and their abilities to develop the plots to be allocated to them. Thus, the certificates are used to guide decision on the size of plot (low, medium, high density) to allocate to applicants. In tune with this requirement, those seeking to regularize their ownerships are also required to submit tax clearance certificates along with their applications for regularization. Some of the respondents reported meeting this requirement as difficult on account of bureaucratic delays and the cost involved. The civil servants among them whose tax is deducted directly from their salaries complained of having to pass through bureaucratic webs in the Ministries they work, the State Treasury, and the Board of Internal Revenue before they were able to get the certificates. The business men among them complained of the cost; paying all outstanding tax due from them for three years and associated administrative charges. There was unanimity of opinion among the respondents that the requirement for tax clearance before regularization was unnecessary since it is not a fresh allocation. In addition, they questioned the propriety of using tax clearance

certificates as guides for the allocation of land while the purpose can be more appropriately and easily achieved with statements of the bank accounts of the applicants.

3. 3. 4Bureaucracy

More than half of the respondents complained of delays due to the slow bureaucracy involved and the poor attitude to work by the staff concerned. Apparently simple actions that should be treated by an officer are made to pass through a web of different offices, a situation most common with manual systems. This situation compelled applicants for regularization to make several visits to the Ministry to keep track of their applications. According to a respondent:

“The bureaucracy of processing the application made me spend extra money and several visits to the Ministry that made me loose valuable time and interest in getting the regularization”.

The narration of the respondent is a common occurrence in most land administration agencies in Nigeria. For instance, cumbersome bureaucratic procedures exacerbated by poor work ethics by staff of land administration agencies, and the demand and payment of `extra money` (unofficial charges to facilitate the processing of applications) have been identified among the challenges of land registration in Nigeria (Bichi, 2010; Aliyu, Kasim& Martin, 2011; Transparency International (2010) in Butler, 2012; Ojo, 2016; Ghebru&Okumo, 2016; Ekemode&Aderibigbe, 2017; Aderibigbe *et al* (2015); Adekola, Krigsholm&Riekkinen, 2020). Among public officials in Nigeria, direct requests for bribes by land administration officials were reported to increase from 21% in 2016 to 26% in 2019 (UNODC2020 in Ahiakwo, 2023).

The key informants of this study attribute the delays experienced in processing requests for regularization to centralization of operations, poor coordination, inadequate funding for logistics, and shortage of staff. This is in consonance with the findings of Ghebru&Okumo(2016)that land administration agencies are challenged by outdated hierarchical and organizational structures that are irresponsive to contemporary challenges, inadequate funding, and poor coordination (especially in Bauchi State). Ahiakwo(2023)highlighted issues of competence and capacity building for staff in land registries. Overall, the bureaucracy and corruption associated with land registration point at the need for systemic overhaul of land administration agencies in line with global best practices.

3. 3. 5 Cost of Regularization

To regularize informal changes, those involved are required to pay surrender fees, all outstanding ground rent due on the designed plot, planning, survey, and other charges related to the processing and issue of new title documents that reflect the correct cadastral attributes of the plots. In all cases, the ground rent due from the designed plots was never paid for several years, (since allocation). Responsibility for the payment of this rent as well as the surrender fee was borne by the respondents because both the allottees and the co plot owners refused to contribute in paying these fees. Among all the challenges, this was complained most (7 out of 11) by the respondents that adjudged the costs as being high. A similar finding was reported in Bauchi by Aliyu, *et al* (2011)and other States in Nigeria (Butler, 2009; Nubi&Ajoku, 2009; Ekemode, *et al* 2017;Nwuba&Nuhu, 2018;Olayinka *et al* 2022). Ghebru and Okumo (2016), reported average costs of registration at between ₦50,000 to ₦ 500,000, amounts that are indeed high considering the prevailing low average per capita income in Nigeria.

While there is unanimity by respondents and literature that land registration costs are high, the key informants of this study were equally unanimous that the official charges for the regularization are reasonable when compared to its associated advantages and the cost of purchase

of the land. They justified their opinions on the fact that the official charges for regularization are only small percentages of the purchase prices of the plots. This implies a difference of opinion between the respondents of the study and literature on the one hand, and the key informants on the other. Therefore, there is the need for a review of the charges after wider consultations with stakeholders with affordability as a principal consideration. Affordable charges can stimulate more regularization with attendant benefits. The payment of the unofficial charges is further proof of corruption in land sector governance and measures to curtail the practice can improve/ reduce the cost of land regularization.

3. 3. 6 Uncooperative Co-Plot Owners

This was common with subdivided plots where other persons that bought parts of subdivided plots refused to contribute to efforts at regularizing informal changes. The cooperation of the co-plot owners was needed not only in making monetary contributions to defray the cost of paying accumulated land charges due on the plot, but also in tracing and collectively requesting the custodian of the original title documents to surrender them to the unofficial multiple owners of the plots. Such custodians usually insist on the presence of all involved for a particular plot before surrendering the original documents. In the words of a land buyer respondent:

“Getting my neighbours to appreciate the need for us to retrieve the original certificate from the man that sold the plot to us was difficult as most of them do not see it as an issue while some are not based in the town. The seller insisted that he can only release the certificate to us when we collectively come to him. This took me close to a year to accomplish”.

Most of the co-plot owners were not appreciative of the need for the regularization unless threatened by a counter claim to their occupation of the plot. The reluctance to regularize derived from the general satisfaction of the respondents with social recognition of their tenure on the plots and the low levels of awareness, Nwuba&Nuhu (2018) and Ahiakwo (2023) expressed misconception that regularization is unnecessary in practice on account of the fact that in most developing countries informality is normative and socially adequate. This contention is reinforced by the fact that the people have not seen the formal advantages and repercussions of their informal spatial practices (UN Habitat, 2017 &Agyehisi, 2018).

3. 3. 7 Irregular Signature by Allottee

Though only one respondent had this challenge, it is worth drawing attention to it. Because of time lapse, the allottee of the plot concerned had forgotten the signature he used while applying for the plot in the first instance. As a result, he was unable to replicate it on the application to surrender title to the land because of which the application was rejected thrice. This involved shuttling between the allottee who is not resident in the town and the Ministry with associated cost and time delays. This is one of the challenge among the difficulties of obtaining government’s approval to alienate land.

3. 3. 8 Analogue Operations

The system of keeping land records and other operations of the Ministry is largely analogue. The land registry records, kept in paper forms in files stacked on shelves, have deteriorated due to wear and tear from age, improper use and storage conditions. Associated with this is the difficulty of tracing required files or the loss of some documents in the files. As narrated by a respondent: “the file containing details of the designed plot took months to trace from the registry with some of its contents missing. Replacing these contents from other records equally took time”. Among other factors, the use of manual systems for has been identified among the challenges of land registration and the management of land records (Ojo, 2016; Adekola *et al*

2020;Ahiakwo, 2023). To overcome this challenge, several States have attempted to migrate their land administration services from analogue to digital (Geographic Information) systems. Thontteh and Omirin(2015)reported improved effectiveness of land registration in Lagos State consequent to such migration. It is observed that in Bauchi State, this migration has been epileptic, implying that this problem will linger for some time.

4.0 CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

Being unrecorded informal changes to the cadastral attributes of government layouts have created new attributes that vary with the official land records. Even though there are official windows for the regularization of the informal changes, attempts at utilizing the windows are challenged by high costs, bureaucracy, obtaining tax clearance, uncooperative attitude of some stakeholders based on limited awareness about the benefits of regularization, and analogue operations of land administration agencies. These challenges have reduced the efficiency of regularization of the informal changes and made efforts at it difficult thereby militating against its derivable benefits.

4.2 Recommendations

It is recommended that remedial measures be put in place to upscale the process and encourage the utilization of the regularization window.

- i) Review of the cost of regularization primarily factored by affordability and the adoption of fit for purpose concept of cadastral records management.
- ii) Automation of the process backed by adequate capacity building and monitoring will reduce bureaucracy and its associated problems.
- iii) Improvement of public awareness about the process and benefits of regularization. Print, audio, and online media adverts, and billboards can be helpful in this regard.

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