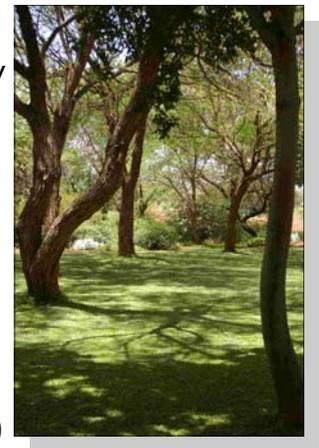


# Protecting Land Values

2 6 7 8 L a n d C l a i m A c t i o n G r o u p

## How do you protect the value of your land when under land claim.

One of the challenges we all face when our land has been gazetted is how to protect the value of our land. The reality is that land sales slow down dramatically once the land claim becomes public. The slow down is usually linked to two key factors, the first being that prospective buyers are terrified of the land claim and the second is that very few people, including the estate agent community, actually understand what the implications of the land claim are.



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Let us review what the facts are.

1. You are entitled to sell your land—all that is required of you is to inform the Regional Land Claims Commissioner of your intention to sell. You have to inform him with 30 days notice.
2. If the Regional Land Claims Commissioner (RLCC) does NOT approach the court for an interdict which prohibits your intended sale you may continue with the your intentions. An application of such nature is highly unlikely.
3. The RLCC does not have the jurisdiction to “consent” or “withhold consent”. Your only obligation is to comply with the Act (by giving notice).

### Special points of interest:

- You can sell your land.
- You can protect your property value.
- We are able to help you manage price.
- Your buyer may not be at risk.

So what does all that mean. Well in practical terms it tells you, and the RLCC will acknowledge this, that your property may be sold, that there is little or no reason why you shouldn't take your property to market at a market related price and that the buyer will enjoy the same protection and rights as those that you currently have.



# What Rights and Protection does the Buyer have?

When buying a property under land claim there are a number of factors that the buyer will need to consider. Amongst others these will include the following:

- When buying the property do not be misled - you are in effect buying into the land claim. However all is not doom and gloom . .read on!
- There is objective evidence to suggest that this claim will not succeed. This does not suggest that there is no risk . . however it suggests that if there is risk it is reasonable.
- By concluding the sale the transaction adds to the current transactions listed for the area - and that forms a basis for future valuations.
- Were the recently purchased property to be expropriated there is good cause to show what the value of the property is, especially given the recent transaction. Whilst there are no guarantees this suggests that the property should not lose any value at all. Remember that the regulations determine that where property value is to be

determined that determination should be just and equitable.

Assuming the new owner buys the property, what do the best case and worst case scenarios look like. At best the transaction continues unhindered, the seller makes his price and the buyer gets value for money all under current market conditions. The buyer becomes a contributor to the Land Claim Action Group and the buyer enjoys the final outcome when the land claim is resolved.

At worst case the property becomes a target for the RLCC restitution programme and the RLCC commences a purchasing strategy. Should the new owner agree to sell then the

only sticking point will be price. Should the new owner decide not to sell then the RLCC will need to expropriate the property. Either way the property owner, as part of the land claim action



group, enjoys the benefit of collective action. Either way the chances of losing money on that specific property will be reasonably small. The price paid determines the price required and the RLCC will have very little room to maneuver.



## What is the 26778 Land Claim Action Group doing to protect property Values in our District?

As an Action Group Committee we believe that there are a number of things that can be done to ensure that our properties don't de-value during this difficult time. The first and probably most important thing that we have to do is to ensure that you are fully informed and further that you, as a member of the group, are comfortable with what is going on. We will continue to update the web page, as and when we have new information. This is likely to be every 4 - 6 weeks.

The second and equally important aspect of managing this claim is to keep the pressure up and ensure that we resolve this claim as quickly as possible. We are maintaining pressure on the RLCC office and they, albeit very slowly, seem to be getting their things done. We need to get to court to have this matter adjudicated - they hold the cards in getting us there.

So lets talk about the period whilst we continue waiting for a solution.

If you need to sell your property you should be able to do so. We will help you engage the RLCC and wherever possible we will ensure that you are dealt with by them quickly. We need to ensure that wherever possible values are maintained. To do this we encourage the following:

We are presently tracking all sales in the area through the deeds office register and through an electronic data programme. This is no different to what most professional estate agents would do - we will however share

prices with you.

At the same time we would ask that if you do have a property for sale - let us know. If we are able to manage a data base of property for sale, and more importantly if we can keep you informed of what pricing trends are, this will help you take the decisions that you need to.

We are doing this to maintain values - we will not share this information with anyone, we will not publish any data associated with you or your property, and most importantly we won't deal with you any differently just because you are a seller. Our interest is to maintain value whilst at the same time ensuring that those who do sell get what is rightfully theirs.

We will advertise our intent through the local press and will of course talk to this in more detail at our next public meeting.

So please do the following . . . .

- If you are seller please let us know and let us help you get the best possible price for your property.
- If you are instructing an estate agent please ensure that you talk through price very carefully - yes you may to forfeit something for a quick sale, but you don't need to give your property away for nothing. Ask your Estate Agent if they are in contact with us - we are delighted to liaise with them.



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*“The best way to predict the  
future is to create it.”*

**Peter Drucker**

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**“The power of the collective is far  
greater than the power of one”**

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## **Expropriation - our reaction to the recent announcements.**

Tozi Gwanya (National Land Claims Commissioner) announced farm expropriations on a large scale with effect from March 2006 to fast track the land redistribution programme. In addition he announced the removal of willing buyer willing seller as a principle of land redistribution. The National Land Claims Commissioner made this announcement recently. What does this mean for our land claim?

This new dimension simply suggests that the present system is not producing results fast enough and the authorities are looking for ways of speeding up the process. The likelihood of blanket expropriation notices being issued in our claim is small - however realistically not impossible - simply unlikely.

The Minister has always had the power of expropriation - this is not new. To date they have not pursued expropriation particularly hard. We are all aware of the hype that accompanied the first expropriation announcement - to date little has happened. There are a number of complications with expropriation and there is a sense that many of the legal principles will be tested in the courts. In addition there is limited clarity associated with opposed expropriation where the merits of the claim have not been adjudicated.

There is no doubt though that the introduction of an aggressive expropriation campaign adds a new dimension to managing our claim. We will obviously engage our lawyers and where appropriate counsel to ensure that we understand the way forward.

The second issue is that of willing buyer / willing seller. For some time we have recognised that this has not been the case - there have been few willing sellers and the only buyer generally is the Government - in fact most sales are in effect “forced sales”. They will pay what they perceive to be a realistic price and often this has little to do with market value. This current shift in political ideology suggests that the government chooses to pay less than market value for land. What is important though is that the modification of this principle will require the Land Claim Court, or more likely the Constitutional Court, to adjudicate on this principle. Section 25 (3) of the Constitution determines how the court should act - they will now need to interpret the Governments new ideology and rule - and this is likely to end up in the Constitutional Court. (And remember the basis of valuation hasn't necessarily changed - recent sales of similar land in the same area have always provided a realistic barometer.)

In addition the President indicated in his opening of Parliament speech that the production value of the land rather than the market value of the land should be used to calculate land values for redistribution. Again we will monitor this and react accordingly.

In the final analysis we are of the opinion that we should carry on as we are. We will continue to test the merits of the claim and only when there is a material change to the way the Land Claims Commissioner approaches our claim will we react.

