

GOVERNMENT NOTICE NO. 177 published on 13/05/2016

THE LAND DISPUTE COURTS ACT
(CAP. 216)

CODE OF CONDUCT

(Made under section 56(2)(j))

THE DISTRICT LAND AND HOUSING TRIBUNALS CODE OF
CONDUCT, 2016

WHEREAS there is a desire for a strong, efficient, effective and independent system of Land dispute Settlement in the country;

Cap.216 WHEREAS for that purpose, the District Land and Housing Tribunal was established in terms of section 22 of the Land Disputes Courts Act;

WHEREAS section 23 of the Land Disputes Courts Act, requires each established District Land and Housing Tribunal to be presided over by a Chairman to be appointed by the Minister in terms of section 25;

WHEREAS it has been noted that there is a need to establish a Code of Conduct for Chairmen of the District Land and Housing Tribunals in the Country which can be used as guidance in their daily conduct and a reference point in case there is a need for disciplinary action;

WHEREAS there is a need to have the code of conduct to guide the Chairmen of the District Land and Housing Tribunals in their offices and outside their offices, to ensure an independent, respected, and committed system of Land Disputes Settlement;

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- shall neither initiate nor consider any matter *ex parte*;
- (e) always adhere to directives issued by Registrar and act accordingly; and
 - (f) refrain from drafting court documents or pleadings or giving legal advice to any person.

Impartiality and
fairness

5. The Chairman shall-
- (a) resolve disputes by making findings of fact and applying the appropriate law in a fair hearing, which includes the duty to:
 - (i) observe the letters and spirit of the law;
 - (ii) remain manifestly impartial;
 - (b) in conducting tribunal proceedings, remain patient and courteous to legal practitioners, parties and the public and require them to act likewise; and
 - (c) not apply undue influence in order to promote a settlement or obtain a concession from any party.

Transparency and
the conduct of the
tribunal

6. The Chairman shall-
- (a) take reasonable steps to ensure the accessibility of the tribunal and to improve public understanding of the Tribunal proceedings;
 - (b) unless special circumstances require otherwise:
 - (i) conduct Tribunal proceedings in open session where the public is accessible; and
 - (ii) pronounce written decisions before all the parties and explain the reason for the decisions;
 - (c) establish appropriate boundaries in his or her relationships with subordinates and he shall

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not abuse his position for personal, sexual and or financial gains.

Diligence

7.-The Chairman shall-

- (a) dispose of the business of the Tribunal promptly and in an efficient manner;
- (b) give judgment or ruling in a case promptly and in all cases within three months of the last order;
- (c) not engage in any conduct that is prejudicial to the effective and expeditious administration of justice or the business of the Tribunal;
- (d) take reasonable steps to maintain the necessary level of professional competence in the law; and
- (e) upon transfer or expiry of contract or period of service, deliver all reserved judgments as soon as possible.

(2) No application shall remain pending in the Tribunal for a period exceeding twenty four months (24) from the date of registration without permission in writing from the Registrar of the District Land and Housing Tribunal and if it so remains the Chairman shall explain in writing and such explanation may be used as a tool for disciplinary action.

(3) No ruling or judgment shall be reserved for a period exceeding three months (3) without permission of the Registrar of the District Land and Housing Tribunal in writing.

(4) A party to a case before the Tribunal shall have a right to be supplied with a copy of the ruling or judgment within 21 days of its delivery and the Chairman shall be duty bound to ensure that it is typed by him or by any other person under his direction.

(5) The Chairman shall-

- (a) be punctual in attending the Tribunal sessions,

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- conducting hearing and delivering judgments in time;
- (b) be in the office at 7.30 am and continue to work up to 3.30 pm; and
- (c) shall further ensure that cases commence at 8.30 am.

Disqualification

8. The Chairman shall disqualify himself from hearing a case where his impartiality is reasonably questionable as in the following situations;

- (a) where he has a personal bias or prejudice or where he has personal knowledge of the facts of the case;
- (b) where he is personally interested or any of the members of his family or friend has a financial or fiduciary interest in the matter;
- (c) where his spouse or a person close to his family is a party or involved in the case; and
- (d) where he has a relation with any of the parties which is likely to affect the outcome of the case.

Procedure for disqualification

9.-(1) Where a party to the proceedings has raised a complaint against a Chairman requesting him to disqualify himself from the conduct of the proceedings, the Chairman shall-

- (a) require the complaint to be tabled in the Tribunal either in writing or orally before him and in the presence of all other parties;
- (b) thereafter consider the merit of the complaint or request for disqualification and raise few questions if any, to the parties and their advocates, and proceed to make a ruling on whether or not to disqualify himself.

(2) The Chairman may, after consideration of the complaint, make a ruling to proceed with the hearing of

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the case if in his opinion the complaint is baseless, or leave the case for another Chairman with a fresh mind.

Conduct before
the public

10.-(1) The Chairman shall:

- (a) not comment publicly on the merits or demerits of any case pending before the Tribunal;
- (b) not enter into a public debate about a case irrespective of criticism leveled against him in the case;
- (c) avoid familiarity and friendship with parties, their lawyers and or colleagues.

(2) The Chairman may participate in public debates on matters pertaining to legal subjects or administration of justice, but shall avoid making statements prejudicial to the Tribunal or pending proceedings.

Association

11.-(1) The Chairman-

- (a) shall not belong to any political party but shall have a right to vote in an election;
- (b) may speak, write and participate in activities concerning the law, the legal system and administration of justice;
- (c) may serve as a member, an officer of an organization or government agency devoted to the improvement of the law or the administration of justice and may assist such organization in raising funds, management of such funds and investments.

(2) The Chairman may-

- (a) participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with his duties as a Chairman; and
- (b) serve as an officer, director, trustee or *non-*

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legal advisor of an educational, religious, charitable or civic organization not conducted for the economic or political advantage of its members subject to the condition that if the organization or institution happen to have a case he shall not sit in those proceedings.

Extra-judicial
activities of the
Chairman

12.-(1) The Chairman's duties shall take precedence over all his other extra-judicial activities.

(2) The Chairman may be involved in extra-judicial activities, including those embodied in his rights as citizens, if such activities:

- (a) are not incompatible with the confidence, or the impartiality or the independence of Tribunal, or
- (b) do not affect or are not perceived to affect the Chairman's availability to deal attentively and within a reasonable time with his or her tribunal obligations.
- (3) The Chairman shall not:
 - (a) accept any appointment that is inconsistent with or which is likely to be seen to be inconsistent with an independent tribunal or that could undermine the separation of powers or the status of the Tribunal;
 - (b) act as an advocate, attorney or legal adviser to a party to any legal proceedings;
 - (c) become involved in any undertaking, business, fund raising or other activity that affects the status, independence or impartiality of the Chairman or is incompatible with his duties; or
 - (d) sit as a private arbitrator.

Sanction for
breach of these
Codes

13. Any willful misconduct or gross negligence resulting to breach of the terms of this Code can be taken as a ground upon which a complaint against the Chairman

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Cap.113 may be lodged and enquiries be initiated against him in
terms of Section 18 of the Land Act.

Dar es Salaam,
8TH April, 2016
and

WILLIAM V. LUKUVI,
*Minister for Lands Housing
Human Settlement Development*