FREQUENTLY ASKED QUESTIONS IN RESPECT OF A SURRENDER OF LEASE

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| No. | QUESTION | ANSWER |
|  | What is a Deed of Surrender of Lease? | In general terms a deed of surrender of lease is an instrument that is signed by both the Lessor and Lessee under which the Lease comes to and end and the Leasehold interest reverts back to the Lessor as the owner. |
|  | What instances may necessitate execution of a Deed of Surrender? | Where both the Lessor and Lessee have agreed the lease should end. To formalize the cessation and extinguish any further obligations or claims from either party, a Surrender of Lease ought to be executed.  A deed of Surrender of Lease is also executed when there is a Change of User. In such instances, the sub Lessor surrenders the Title over the Property back to the Government or the County Government (as the Head Lessor) as the case may be, in order to be issued with a new head Lease indicating the new Term and the Special Conditions in compliance with the Change of Use and Permitted User. |
|  | What happens to any interests that were registered under the surrendered Lease? | Any instruments registered under the Lease to be surrendered should also be surrendered and the interests shall be registered under the new Lease. This means any subleases or charges registered under the Lease to be surrendered shall also be surrendered and upon issuance of the new Lease, replacement subleases and charges shall be registered and noted against the new Lease. |
|  | Will a Surrender of Lease extinguish any instruments registered under it? | The surrender of the head lease does not extinguish the interests registered under it. Any rights and obligations under the subleases registered under the head lease continue to be enforceable unless the issuance of the new head lease may result in some of the covenants or obligations becoming illegal or onerous. |
|  | Must a deed of surrender of lease be registered? | The deed of Surrender of Lease must be stamped (stamp duty is payable) and registered in order to give effect to the surrender of the previous title and subsequent issuance of the new head title. |