



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FIFTH SESSION – 2017

THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE PETITION BY THE HON. CYPRIAN KUBAI IRINGO ON BEHALF
OF THE RESIDENTS OF IGEMBE CENTRAL CONSTITUENCY REGARDING
PARCELS OF LAND ALLOCATED TO THE COMMUNITY

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

MAY, 2017

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ANNEXES

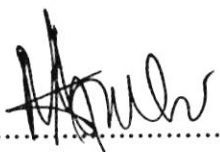
- A. Annex 1: Adoption Schedule
- B. Annex 2: Copy of the Petition
- C. Annex 3: Copies of Minutes – 51st of 19th May, 2016 ,11th of 22nd February, 2017,2nd of 27th January, 2017 1st of 27th January, 2017 71st of 25th August, 2016 & 65th of August, 2016
- D. Annex 4: Submission from the Ministry of Lands & Physical Planning
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CHAIRMAN'S FOREWORD

On Wednesday 6th July 2016 a Petition was tabled before the House pursuant to Article 119 (1) of the Constitution of Kenya 2010 and Standing Order 219 by the Hon. Cyprian KubaiRingo, M.P. on behalf of residents of Igembe Central Constituency regarding parcels of land allocated to the community.

The House pursuant to Standing Order 227 referred the Petition to the Departmental Committee on Lands for preparation of the Report. Thereafter the Committee considered the prayers sought by the petitioners which are to investigate the circumstances under which the boundary of Meru National Park was extended by one kilometer into the adjudication section in the year 2000.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering the petition. Finally, it is my pleasant duty, on behalf of the Departmental Committee on Lands, to present this report in accordance with the provisions of Standing Order 227 which requires that the committee responds to a petition within sixty days through a report addressed to the petitioner(s) and Laid on the Table of the House.

SIGNED:  DATE: 20/05/2017

(HON. ALEX M. MWIRU, MP)

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON LANDS

EXECUTIVE SUMMARY

The Committee in responding to the prayers by residents of Igembe Central Constituency held meetings with various leaders, Government Officers, Petitioners and other stakeholders who in their interaction with the Committee made written and oral submissions.

In considering the petition, the Committee conducted an inquiry in order to determine the pertinent issues. It held meetings with the Member for Igembe Central Constituency, Hon. Kubai Iringo, MP who presented the petition. In addition, Prof. Jacob Kaimenyi Cabinet Secretary Ministry of Lands and Physical Planning accompanied by his Principal Secretary Ms. Mariam El. Maawy, briefed the Committee. Further, the Committee undertook a fact finding tour of Igembe Central Constituency, Ndoleli Athiru Rujine Adjudication Section on 27th January 2017 so as to assess the situation on the ground, collect views and receive representation from residents of Ndoleli Athiru Rujine area.

The report is divided into four where the beginning it stipulates the mandate of the Committee, the second part is the introduction which introduced the facts as enumerated by the Petitioners, and expounded on the evidences collected by the Committee, the third parts is about finding or observations and the report concludes with recommendations.

MANDATE OF THE COMMITTEE

The Departmental Committee No. K on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned ministries and departments;
- b) Study the Programme and policy objectives of Ministries and Departments and effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House;
- f) Vet and report on all appointments where the Constitution or any Law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
- g) Make reports and recommendations to the House as often as possible, including recommendations on proposed legislation.

The Committee is mandated to Consider the following subjects:-

1. Land Policy,
2. Physical Planning,
3. Land Transactions,
4. Survey and Mapping,
5. Land Adjudication,
6. Settlement,
7. Land registration,
8. Land Valuation,
9. Administration of Private, community and Public Land,
10. Land Information and Management System.

Oversight

In executing its Mandate, The Committee oversees the following Government Departments, Namely:-

- i. The Ministry of Lands and Physical Planning;
- ii. The National Lands Commission.

Members of the Committee

Chairperson	Hon. Alex Mwiru, M.P.
Vice Chairperson	Hon. Moses Ole Sakuda, M.P.
	Hon. MutavaMusyimi, M.P.
	Hon. John Kihagi, M.P.
	Hon. Francis W. Nderitu, M.P.
	Hon. KiprutoMoi, M.P.
	Hon. Hellen Chepkwony, M.P.
	Hon. Sarah Korere, M.P.
	Hon. Benson Mbai, M.P.
	Hon. Suleiman Dori, M.P.
	Hon. George Oner, M.P.
	Hon. Mathew L. Lempurkel, M.P.
	Hon. Shakila Abdallah, M.P.
	Hon. Dr. Paul Otuoma, M.P.
	Hon. Thomas Mwadeghu, M.P.
	Hon. Joseph Magwanga, M.P.
	Hon. Ali ShariffAthman, M.P.
	Hon. Francis Njenga, M.P.
	Hon. HezronAwitiBollo, M.P.
	Hon. BenardBett, M.P.
	Hon. Esther Murugi, M.P.
	Hon. OnesmusNgunjiri, M.P.
	Hon. Julius Ndegwa, M.P.
	Hon. Patrick Kingola, M.P.
	Hon. KaniniKega, M.P.
	Hon. EusilahNgeny, M.P.
	Hon. Lawrence Aburi, M.P.
	Hon. Omar Mwinyi, M.P.
	Hon. Charles Nyamai, M.P.

Secretariat

First Clerk Assistant	-	Mr. James Ginono
Third Clerk Assistant:	-	Mr. Joshua Ondari
Third Clerk Assistant	-	Mr. Emmanuel Muyodi

List of Recommendation

That the Ministry of Lands and Physical Planning and the National Land Commission: Ensures

- a) that, beneficiaries / residents of Athuri / Ruujine / Ndoileli adjudication section are issued with title deed for the land they were allocated;
- b) that, status quo of the boundary is maintained and the Community stays and settles in peace where they are currently living.

1.0 INTRODUCTION

1. The Petitioners wished to draw to the attention of the House on the following, that:-
 - a) AthiruRujine/ Ndoleli area is located in Igembe central constituency;
 - b) The residents of AthiruRujine/ Ndoleli adjudication section were allocated parcels of land near the Meru National Park and are awaiting to be issued with title deeds;
 - c) In the recent past the said communities have received information that the parcels of lands namelyAthiruRujine/ Ndoleli adjudication section are situated inside the Meru National Park ;
 - d) As a result the Minister of Lands and Physical Planning has been cautioned by the Sub-County lands demarcation officer to suspend issuance of title to the said parcels;
 - e) The boundary of the National Park and that of the adjudication section is distinct with an electrical wire separating;
 - f) Efforts to resolve the matter through the district adjudication office has been futile;
 - g) The matter in respect in which this petition is made is not pending before any court of law.

2. The petitioners pray that the National Assembly, through the Departmental Committee on Lands:-
 - a) That the Committee makes appropriate recommendations and ensure that the plight of the petitioners is addressed;
 - b) Makes any other order that it deems fit in the circumstances of the case; and
 - c) Investigates the circumstances under which the same boundary of Meru National Park was extended by one kilometer into the adjudication section in the year 2000.

2.0 EVIDENCE

2.1 Evidence from the Member for Igembe Central Constituency

Hon. Kubai Iringo, MP appeared before the Committee and informed the Committee as follows:-

3. The residents of Athiru Ruujine / Ndoleli Adjudication Section were allocated parcels of land near the Meru National Park;
4. Since the allocation the said communities have been waiting for title deeds;
5. In the recent past, the said communities have received information that the parcels of land namely; AthiruRuujine/Ndoleli Adjudication Section are situated inside the Meru National Park;
6. It seems that there is a sinister move to displace over 600 families who claim that the said land is their ancestral land;
7. There are allegations that Government Flagship Projects i.e LAPPSET may have attracted powerful and well connected land speculators, who want to push away the peasant from their clan land with a view of occupying the 3,000 acres of land;
8. The boundary of the National Park and that of the adjudication section is distinct with an electrical wire separating them;
9. The efforts to resolve the matter through the district adjudication office have been futile.

2.2 Evidence from the Cabinet Secretary Ministry of Lands and Physical Planning

Prof. Jacob Kaimenyi, Cabinet Secretary, Ministry of Lands and Physical Planning appeared before the Committee and informed the Committee as follows:-

10. Athiru / Ruujine / Ndoleli Adjudication Section was established on 27th September, 1990 under the Land Adjudication Act, Cap 284;
11. Ascertainment and recording of interests in land within the section was done and completed which was followed by fencing of the Meru National Park as described in the declaration notice;
12. All the land owners within the section including the ones near the park presented their claims to the demarcation officer and they were given land parcel numbers for their land;
13. On completion of demarcation work, the Adjudication Register was published on 21st February, 2011 for inspection and filing of objections during a period of sixty days. The resultant objections were heard, determined and implemented. A total of 13,905 parcels were realized in the section thereafter;
14. During the verification of maps and records, it was realized that 475 parcels of land had encroached onto LR.NO.20249 that according to the Minutes of the defunct County Council of Meru had been reserved for use by GARBA SILCULTURE AND GENERAL, for environmental conservation and improvement purposes. As a result, registration of the affected 475 parcels was deferred but titling process for the unaffected 13,430 parcels is ongoing. The Ministry will issue titles to the affected area once the current dispute is finalized;

15. There are no records in the Ministry showing that the initial survey plan was done in 1966. However, there is a Kenya Gazette Notice No.4618 dated 3rd December, 1966 indicating the area as having been set aside for the Meru National Park;
16. The boundary plan No.204/37 covering 215,000 acres is attached as and the same was gazetted vide Gazette Notice No.4756 of 18th December 1966. This land was later surveyed in 1994 vide survey map F/R 251/62 for Kenya Wildlife Service land;
17. There is no known entity as Garba on records as having been registered as the owner(s) of the said land;
18. Minutes of the defunct County Council of Meru No. SFS & GPC 4/92(q) points to an organization by the name Garba Silculture and General that was allocated the land in question.
19. The Ministry approved the Survey plan for the Garba Silculture and General based on the request from the then County Council of Meru vide their minutes No. SFS & GPC 4/92 (q) that made reference to ex-min 74/82 – lease to Kenya Wildlife Service at Mureta;
20. The survey reflected on F/R 251/63 was allocated LR No. 20249 measuring 498.03 ha (1230.6 acres) and approved on 29th September 2017. The deed plan no. for the land is 190374 which was issued on 19th October 1994 and collected by one Alex M. Kireria of ID. No. 02877869/63. Note that this was inadvertently done since the area had been declared an adjudication section in 1990. The Ministry will therefore review this matter with the intention of recalling / cancelling the deed plan;
21. When the deed plan is revoked, the Ministry will consider the Ndolelei Athiru Rujine Community for titling of the 475 parcels, being the disputed area;
22. The Ministry is not aware of having approved any deed plan overlapping the area in question.

2.3 Evidence from the Deputy County Commissioner, Meru County

Mr. Bixton Mayabi, Deputy County Commissioner – Meru appeared before the Committee and informed the Committee as follows:-

23. Ndoleli / Athiru / Rujine Adjudication Section was declared on 27th September, 1990 in accordance with section 5 of the Land Adjudication Act Cap 284 Laws of Kenya vide notice number ADM/LA/10 VOL. VI/114;
24. The process of land adjudication went on until the adjudication register for the section was completed and Notice No. LA/LND/18/ VOL.IV/197 of 28th February 2011 issued by the district land adjudication and settlement officer Igembe as provided by section 25 (c) and 26 (i) of the Act;
25. Following the publication of the register objection to the same were raised and all of them heard and determined thereafter. Maps for the section were submitted to the Sub-County surveyor for further checking;
26. The surveyor raised a query that some 475 parcels are within the Meru National Park among other queries. ~~Meru National Park was gazetted vide Notice No. 4756 of 18th December 1966 and the boundaries are described in boundary plan no. 204/37 covering 215,000 acres. The gazette notice superseded the adjudication process;~~

27. A team of survey and land adjudication officers visited the area and established that the adjudication process had encroached into the National Park boundary.

2.4 Evidence from the Senior Warden – Meru National Park

Dr. Tugo Jirmo Warden- Meru National Park appeared before the Committee and informed the Committee as follows:-

28. Meru National Park was gazetted as a park vides gazette notice no. 4756 of 18th December, 1966 under the National Parks of Kenya Act (Cap 377);
29. Since its gazettment the Meru National Park has not changed its boundaries and Kenya Wildlife Service does not intend to extend its boundaries;
30. The only part of the park that's needs to be captured in the gazette is the land where the headquarter offices and education centre are located; this parcel measuring 60 acres was donated by the Community.

2.5 Evidence from National Land Commission

Prof. Mohummed Swazuri Chairman National Land Commission appeared before the Committee and informed the Committee as follows:-

31. Meru National Park was gazetted in December, 1966 through a gazette notice number 4756;
32. In 1982 Kenya Wildlife Service requested the County Council of Meru to allocate them 60 acres of land at Murera for the establishment of wildlife education centre and community centre. This request was granted by the Council through minute no. 74/82 of the finance staff and general purpose Committee meeting held on the 7th September, 19982 at the Council's Chamber;
33. Athiru / Ruujine / Ndoleli section was established and declared as an adjudication section on 27th September, 1990 by the Land Adjudication officer for Meru District;
34. In September, 1990 Meru National Park had an existing fence and gate that formed part of external boundary with Athiru / Ruujine / Ndoleli section;
35. The people who had land near the fence of the park presented their claims to the demarcation officer and were given land parcel numbers. This formed the basis under which the land along the fence was adjudicated in 1990;
36. The adjudication register indicating completion of demarcation was published on 28th February, 2011 for all people to inspect and file objections;
37. The Kenya Wildlife Service did not file any objection against the people bordering the park;
38. The Sub County Surveyor while checking the maps that were used by the adjudication team and comparing them with the topographic map sheet that contained the gazette boundary for Meru National Park, he indicated that about 475 land parcels were adjudicated within the park;
39. The District Surveyor informed the department of land adjudication and settlement and the Director of Survey cancel all 475 parcels from the register;

40. The 60 acres land where Meru National Park headquarters offices and Education Centres are based is not part of the land that was gazetted as the park. The 60 acres was carved/hived out of Meru trust land;
41. The Kenya Wildlife Service has not extended Meru National Park extended into the adjudication section because by 1990 when the adjudication section was established already the section where the headquarters and education are located had already been given to the park by Meru County Council in 1982 and this area is not part of the adjudication section;
42. The 475 land parcels that are said to fall within the land that is presumed to belong to the park are outside the park land and area where the education centre is located; and
43. In 30 days affected parcels will be included in the adjudication register for Athiru / Ruujine / Ndoleli section and the affected persons will be issued with title deeds alongside the bonafide land owners of Athiru / Ruujine / Ndoleli section.

2.6 Evidence from the Residents of Igembe Central Constituency

Mr. Zakayo Iruke Njuri Ncheke Elder, Mr. Jackson Mureithi Mbiti, Chairman Ndoleli Athiru Rujine Adjudication Section and Ms. Joyce Mungoi, Mr. Joel Kanampie, Mr. Martin Inyenye residents of Ndoleli Athiru Ruujine Commission appeared before the Committee and informed the Committee as follows:-

44. In 1990 Ndoleli / Athiru / Ruujine was declared an adjudication Section;
45. The process of land adjudication continued until the adjudication register for the section was completed and Notice of 2011 issued by the district land adjudication and settlement officer Igembe;
46. The surveyor raised a query that some parcels were within the Meru National Park;
47. They are the original inhabitants of Ndoleli / Athiru / Rujine Adjudication Section land but they were forcefully evicted by people from neighboring districts;
48. During the evictions people were killed, crops and properties destroyed; and
49. Until now they are unable to access their land due hostility from the new occupiers.

2.7 Dr. Thiakunu C.K.M Community Leader

Dr. Thiakunu appeared before the Committee and informed the Committee as follows:-

50. The area in question is Ndoleli / Athiru / Rujine and Ndoleli / Antubetwe / Kikongo was previously known as Ntoyiri Constituency;
51. The area was adjudicated as one unit but was later separated when Igembe Central Constituency was formed;
52. Initially the National Park had extended its Boundaries to Kiutine, however, in 1960s Mr. Kaira and Mr. Leandrew Baariu took the matter to court and the court ordered that the boundary be returned as it was;
53. In 1982 then Meru County Council together with the Community donated a parcel measuring 60 acres for park's headquarter offices and education centre;

54. In 1990 Meru National park further requested the locals for animal corridor to Ngaya Forest but the local leaders declined and instead requested to be compensated;
55. On 28th February, 2011 adjudication register indicating completion of demarcation was published for all people to inspect and file objections but the Kenya Wildlife Service did not file any objection against the people bordering the park;
56. It is the District Surveyor who informed the department of land adjudication and settlement and the Director of Survey to cancel all 475 parcels that were allegedly adjudicated within the park. However, the 475 land parcels that are said to fall within the land that is presumed to belong to the park are outside the park land.

3.0 FINDINGS, OBSERVATIONS AND CONCLUSIONS

Based on the Observations, Investigations, evidence adduced and submission made, the Committee made the following recommendations Findings, Observations and Conclusions.

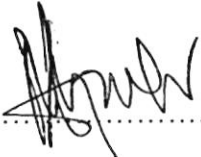
1. THAT, Athiru / Ruujine / Ndoleli Adjudication Section was established on 27th September 1990 under the Land Adjudication Act, Cap 284;
2. THAT, The boundary of the National Park and those of the adjudication section are distinct with an electric fence between them and have never changed since 1966;
3. THAT, When the adjudication register was published the Kenya Wildlife Service did not file any objection against the people bordering the park;
4. THAT, Meru National Park was gazetted on 18th December, 1966 vide gazette notice no. 4756 under cap 377 and since gazettment the park has not changed its boundaries and Kenya Wildlife does not intend to change its boundaries; and
5. THAT, The Community was requested and gave approximately 60 acres of land for the construction of the park's headquarters offices and education centre and the community has no dispute over that piece of land.

4.0 RECOMMENDATION

Based on the Observations, Investigations, evidence adduced and submission made, the Committee makes the following recommendations.

4.1 That the Ministry of Lands and Physical Planning and the National Land Commission:
Ensures

- a) that, beneficiaries / residents of Athuri / Ruujine / Ndoledi adjudication section are issued with title deed for the land they were allocated;
- b) that, status quo of the boundary is maintained and the Community stays and settles in peace where they are currently living.

SIGNED:  DATE: 20th May, 2017

(HON. ALEX M. MWIRU, MP)

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON LANDS

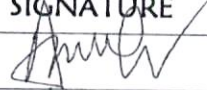
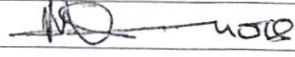



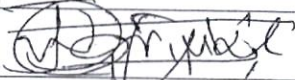


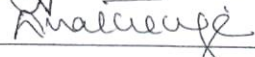




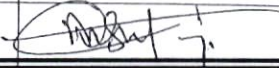

DEPARTMENTAL COMMITTEE ON LANDS
ATTENDANCE LIST

ANNEX 1

Date: May 20th, 2017

Venue: Pier Conference Room, English Point Marina

Agenda: ADOPTION OF THE REPORT ON THE PETITION BY THE HON. CYPRIAN KUBAI IRINGO ON BEHALF OF THE RESIDENTS OF ISEMBE CENTRAL CONSTITUENCY REGARDING PARCELS OF LAND ALLOCATED TO THE COMMUNITY

NO.	NAME	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)	
2.	The Hon. Moses Ole Sakuda, M.P (Vice-Chairperson)	
3.	The Hon. Onesmas Ngunjiri, M.P.	
4.	The Hon. Mutava Musyimi, M.P.	
5.	The Hon. John Kihagi, M.P.	
6.	The Hon. Francis W. Nderitu, M.P.	
7.	The Hon. Francis Njenga, M.P.	
8.	The Hon. Athman. Shariff, M.P.	
9.	The Hon. Eusilah Jepkosgei, M.P.	
10.	The Hon. Benard Bett, M.P.	
11.	The Hon. Kipruto Moi, M.P.	
12.	The Hon. Hellen Chepkwony, M.P.	
13.	The Hon. Sarah Korere, M.P.	
14.	The Hon. Julius Ndegwa, M.P.	
15.	The Hon. Benson Mbai, M.P.	
16.	The Hon. Kanini Kega, M.P.	
17.	The Hon. Esther Murugi Mathenge, M.P.	
18.	The Hon. Hezron Awiti Bollo, M.P.	
19.	The Hon. Suleiman Dori Ramadhani, M.P.	
20.	The Hon. George Oner Ogalo, M.P.	
21.	The Hon. Lekidime L. Mathew, M.P.	
22.	The Hon. Shakila Abdallah, M.P.	
23.	The Hon. Paul Otuoma, M.P.	
24.	The Hon. Thomas Mwadeghu, M.P.	
25.	The Hon. Patrick Makau, M.P.	
26.	The Hon. Magwanga Joseph Oyugi, M.P.	
27.	The Hon. Omar Mwinyi, M.P.	
28.	The Hon. Charles Wanyoni, M.P.	

Approved.
BWA
SVA
6/7/16

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION

Greater
Subsidiary for
your approval
to be passed
this morning

PUBLIC PETITION

BY THE RESIDENTS OF ISEMBE CENTRAL CONSTITUENCY ON
PARCELS OF LAND ALLOCATED TO THE COMMUNITY

Sikani
6/7/16

I, the UNDERSIGNED on behalf of residents of Isembe Central Constituency,

DRAW the attention of the House to the following;

- i) THAT, aware that Athiru Ruujine/Ndoleli area is located in Isembe Central Constituency;
- ii) THAT, the residents of Athiru Ruujine/Ndoleli Adjudication Section were allocated parcels of land near the Meru National Park and are awaiting to be issued with Title deeds;
- iii) THAT, in the recent past, the said communities have received information that the parcels of land namely; Athiru Ruujine/Ndoleli Adjudication Section are situated inside the Meru National Park ;
- iv) THAT, as a result, the Ministry of Lands has been cautioned by the Sub – County lands Demarcation Officer to suspended issuance of titles to the parcels in the attached list;
- v) THAT, the boundary of the National Park and that of the adjudication section is distinct with an electrical wire separating them;
- vi) THAT efforts to resolve the matter through the District Adjudication Office have been futile;

PUBLIC PETITION
BY THE RESIDENTS OF ISEMBE CENTRAL CONSTITUENCY ON
PARCELS OF LAND ALLOCATED TO THE COMMUNITY

v) THAT, the matter in respect of which this petition is made is not pending before any court of law.

THEREFORE your humble petitioners PRAY that the National Assembly, through the Departmental Committee on Land:-

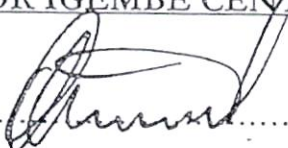
- (i) Makes appropriate recommendations, and ensure that the plight of the Petitioners is addressed;
- (ii) Makes any other order or direction that it deems fit in the circumstances of the case, and
- (iii) Investigate the circumstances under which the same boundary of Meru National Park was extended by one kilometer into the adjudication section in the year 2000.

And your PETITIONERS will ever pray.

PRESENTED BY,

HON. IRINGO CYPRIAN KUBAI, MP
MEMBER FOR ISEMBE CENTRAL CONSTITUENCY

DATE:

 22/6/16

ANNEX 3.

Copies of Minutes



MINUTES OF THE 51ST SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON FRIDAY 19TH MAY, 2014, IN PIER CONFERENCE ROOM, AT ENGLISH POINT MARINA AT 12.00 PM

PRESENT:

- | | |
|---|------------------|
| 1. The Hon. Alex Mwiru, M.P. | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 3. The Hon. Omar Mwinyi, M.P. | |
| 4. The Hon. Kanini Kega, M.P. | |
| 5. The Hon. Dr. Paul Otuoma, M.P. | |
| 6. The Hon. Hellen Chepkwony, M.P. | |
| 7. The Hon. Joseph Oyugi Magwanga, M.P. | |
| 8. The Hon. Francis W. Nderitu, M.P. | |
| 9. The Hon. John Kihagi, M.P. | |
| 10. The Hon. Francis Njenga Kigo, M.P. | |
| 11. The Hon. George Oner, M.P. | |
| 12. The Hon. Eusilah Ngeny, M.P. | |
| 13. The Hon. Shakila Abdallah, M.P. | |
| 14. The Hon. Julius Ndegwa, M.P. | |
| 15. The Hon. Mathew L. Lempurkel, M.P. | |
| 16. The Hon. Esther Murugi, M.P. | |
| 17. The Hon. Benson Mbai, M.P. | |
| 18. The Hon. Suleiman Dori, M.P. | |
| 19. The Hon. Onesmus Ngunjiri, M.P. | |
| 20. The Hon. Hezron Awiti Bollo, M.P. | |
| 21. The Hon. Thomas Mwadeghu, M.P. | |
| 22. The Hon. Charles Nyamai, M.P. | |

ABSENT WITH APOLOGIES:

1. The Hon. Bernard Bett, M.P.
2. The Hon. Kipruto Moi, M.P.
3. The Hon. Athman Shariff, M.P.
4. The Hon. Patrick Makau, M.P.
5. The Hon. Sarah Korere, M.P.
6. The Hon. Mutava Musyimi, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

- | | |
|------------------------|----------------------|
| 1. Mr. Daniel Mutunga | Principal Clerk I |
| 2. Mr. James Ginono | Clerk Assistant I |
| 3. Mr. Joshua Ondari | Clerk Assistant III |
| 4. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 5. Mr. Kefa Ometi | Principal Researcher |
| 6. Ms. Mercy Wanyonyi | Legal Counsel II |
| 7. Ms. Rose Ometere | Audio Officer |

MINUTE NO. DCL/LN/2017/172

PRELIMINARIES

The chairman called the meeting to order at 12.00 pm with a word of prayer.

MINUTE NO. DCL/LN/2017/173

ADOPTION OF THE PETITION REPORT
BY THE HON. CYPRIAN KUBAI IRINGO
ON BEHALF OF THE RESIDENTS OF
IGEMBE CENTRAL CONSTITUENCY
REGARDING PARCELS OF LAND
ALLOCATED TO THE COMMUNITY

The Committee considered the report and upon deliberations made the following observations:

1. THAT, There is evidence of violence in the area whereby people houses were demolished burnt and destroyed at night by hired goons;
2. THAT, There are clear cases of absentee land lords occasioned by people having been allocated land who moved in and left the area because of drought, famine and diseases;
3. THAT, Services e.g roads and water have now been provided in the area making the land attractive and habitable hence increase in the number of people moving into the area;
4. THAT, The ministerial plot committee was formed by the Minister of Lands and settlement in 1994 to solve the problem.

Upon making the above-mentioned observations the Committee resolved as hereunder

1. THAT, the Director of Public Prosecution and the Director of Criminal investigation:
 - a) investigates the perpetrators of the heinous crime of destroying properties and displacement residents of Ndalani ward residents (Kwa Mwaura) from their homes with a view of persecuting the culprits;
 - b) investigates the legality of the eviction orders used to evict the Residents in Ndalani ward residents (Kwa Mwaura) and report back to Parliament within 60 days from the date of tabling the report;
2. THAT, the State Department in charge of Special Programme to consider compensating the victims of the crimes;
3. THAT, The Government through the National Lands Commission and the Ministry of Lands and Physical Planning Implement fully the recommendations of the Ministerial Plot

Committee report of 1994 and also Implement the resolution of County government of Machakos within twelve months of tabling of the report.

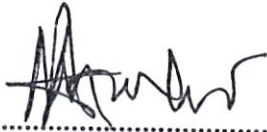
Consequently, the report was proposed and adopted unanimously by the Members present and signed by the Chair.

MINUTE NO. DCL/LN/2017/173

ADJOURNMENT

There being no any other business, and the time being 1:00 pm the meeting was adjourned.

SIGNED.....



(CHAIRPERSON)

DATE.....

20th May, 2017

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MINUTES OF THE 11th SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON MONDAY 27TH FEBRUARY 2017, IN AMANI MEETING ROOM AT BOMA HOTEL AT 9.00 AM

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
3. The Hon. Omar Mwinyi, M.P.
4. The Hon. Onesmus Ngunjiri, M.P.
5. The Hon. Benson Mbai, M.P.
6. The Hon. Mathew L. Lempurkel, M.P.
7. The Hon. A. Shariff, M.P.
8. The Hon. Charles Nyamai, M.P.
9. The Hon. Shakila Abdallah, M.P.
10. The Hon. Hellen Chepkwony, M.P.
11. The Hon. Sarah Korere, M.P.
12. The Hon. Francis Njenga Kigo, M.P.
13. The Hon. Patrick Makau, M.P.
14. The Hon. Francis W. Nderitu, M.P.
15. The Hon. Bernard Bett, M.P.
16. The Hon. John Kihagi, M.P.
17. The Hon. Dr. Paul Otuoma, M.P.
18. The Hon. George Oner, M.P.
19. The Hon. Julius Ndegwa, M.P.

ABSENT WITH APOLOGIES:

1. The Hon. Hezron Awiti Bollo, M.P.
2. The Hon. Kanini Kega, M.P.
3. The Hon. Esther Murugi, M.P.
4. The Hon. Thomas Mwadeghu, M.P.
5. The Hon. Mutava Musyimi, M.P.
6. The Hon. Eusilah Ngeny, M.P.
7. The Hon. Suleiman Dori, M.P.
8. The Hon. Joseph Oyugi Magwanga, M.P.
9. The Hon. Kipruto Moi, M.P.

IN ATTENDANCE:

RENYA NATIONAL ASSEMBLY

- | | |
|------------------------|---------------------|
| 1. Mr. James Ginono | Clerk Assistant I |
| 2. Mr. Joshua Ondari | Clerk Assistant III |
| 3. Mr. Emmanuel Muyodi | Clerk Assistant III |

4. Mr. Simon Muinde Audio Officer

MINISTRY OF LANDS AND PHYSICAL PLANNING

- | | |
|-------------------------------|---------------------|
| 1. Prof. Jacob Kaimenyi | Cabinet Secretary |
| 2. Mrs. Mariam El Maaway | Principal Secretary |
| 3. Mr. Peter Kahuho | S.L. |
| 4. Mr. A.A Ombima | Ag. US |
| 5. Mr. Cesaria Mbaria | Director of Survey |
| 6. Mr. Johson Njuguna | P.A.C |
| 7. Mr. Owino Jacob Cattwright | S.L.R.O |
| 8. Mr. Eustace Kithumbo | PLASO |
| 9. Mr. Edward Kosgei | D.L.A |
| 10. Mr. Paul Ndungu | Ag. A.D |
| 11. Mr. Joseph K. Mwangi | Head/P.C.U |

MINUTE NO. DCL/LN/2017/48 **PRELIMINARIES**

The chairman called the meeting to order at 9.15 a.m. with a word of prayer from the Hon. Paul Otuoma, MP

MINUTE NO. DCL/LN/2017/49 **MEETING WITH THE MINISTRY OF LANDS AND PHYSICAL PLANNING**

Prof Jacob Kaimenyi and the Principal Secretary appeared before the Committee and informed the Committee as follows:-

petition report by the Hon. Cyprian Kubai Iringo on behalf of the residents of Igembe Central Constituency regarding parcels of land allocated to the community

1. The residents of Athiru Ruujine / Ndoleli Adjudication Section were allocated parcels of land near the Meru National Park;
2. Since the allocation the said communities have been waiting for title deeds;
3. In the recent past, the said communities have received information that the parcels of land namely; AthiruRuujine/Ndoleli Adjudication Section are situated inside the Meru National Park;
4. It seems that there is a sinister move to displace over 600 families who claim that the said land is their ancestral land;

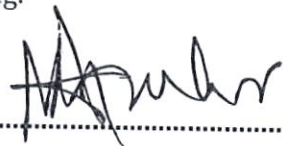
5. There are allegations that Government Flagship Projects i.e LAPPSET may have attracted powerful and well connected land speculators, who want to push away the peasant from their clan land with a view of occupying the 3,000 acres of land;
6. The boundary of the National Park and that of the adjudication section is distinct with an electrical wire separating them;
7. The efforts to resolve the matter through the district adjudication office have been futile.

MINUTE NO. DCL/LN/2017/51

ADJOURNMENT

There being no any other business, and the time being 12:15 pm the Chairman adjourned the meeting.

SIGNED.....



(CHAIRPERSON)

DATE.....

20th May, 2017

11-2-1971

MINUTES OF THE 2ND SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON
LANDS HELD ON FRIDAY 27TH JANUARY 2017, AT OPEN AREA MARKET IGEMBE
CENTRAL AT 2.00 PM

PRESENT:

- 1) The Hon. Alex Mwiru, M.P. - Chairperson
- 2) The Hon. John Kihagi, M.P.
- 3) The Hon. Dr. Paul Otuoma, M.P.
- 4) The Hon. George Oner, M.P.
- 5) The Hon. Julius Ndegwa, M.P.
- 6) The Hon. Eusilah Ngeny, M.P.

ABSENT WITH APOLOGIES:

- 1) The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
- 2) The Hon. Omar Mwinyi, M.P.
- 3) The Hon. Onesmus Ngunjiri, M.P.
- 4) The Hon. Hezron Awiti Bollo, M.P.
- 5) The Hon. Benson Mbai, M.P.
- 6) The Hon. Mathew L. Lempurkel, M.P.
- 7) The Hon. A. Shariff, M.P.
- 8) The Hon. Kanini Kega, M.P.
- 9) The Hon. Charles Nyamai, M.P.
- 10) The Hon. Esther Murugi, M.P.
- 11) The Hon. Shakila Abdallah, M.P.
- 12) The Hon. Hellen Chepkwony, M.P.
- 13) The Hon. Thomas Mwadeghu, M.P.
- 14) The Hon. Mutava Musyimi, M.P.
- 15) The Hon. Sarah Korere, M.P.
- 16) The Hon. Francis Njenga Kigo, M.P.
- 17) The Hon. Patrick Makau, M.P.
- 18) The Hon. Suleiman Dori, M.P.
- 19) The Hon. Francis W. Nderitu, M.P.
- 20) The Hon. Bernard Bett, M.P.
- 21) The Hon. Joseph Oyugi Magwanga, M.P.
- 22) The Hon. Kipruto Moi, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono Clerk Assistant I
2. Mr. Joshua Ondari Clerk Assistant III
3. Mr. Emmanuel Muyodi Clerk Assistant III

4. ~~Mr. David Ngunjiri~~ ~~Audio Officer~~

RESIDENTS OF NDOLELI ATHIRU RUJINE ADJUDICATION SECTION

1. Mr. Jack Mbiti Chairman Ndoleli Athiru Rujine Adjudication section
2. Mr. James Rungu Vice-Chairman Ndoleli Athiru Rujine Adjudication section
3. Mr. Zakayo Iruki Njuri Njeke ELder
4. Ms. Joyce Mwangwa Treasurer Maendeleo ya Wanawake
5. Dr. Thiakunu C.K.M Community Leader

MINUTE NO. DCL/LN/2017/05

PRELIMINARIES

The chairman called the meeting to order at 2.15 p.m. with a word of prayer.

MINUTE NO. DCL/LN/2017/06

EVIDENCE FROM THE RESIDENTS OF NDOLELI RUJINE ADJUDICATION SECTION

Mr. Zakayo Iruke Njuri Ncheke Elder, Mr. Jackson Mureithi Mbiti, Chairman Ndoleli Athiru Rujine Adjudication Section and Ms. Joyce Mungoi, Mr. Joel Kanampie, Mr. Martin inyenye residents of Ndoleli Athiru Ruujine informed the Committee as follows:-

- 1) In 1990 Ndoleli Athiru Ruujine was declared an adjudication Section;
- 2) The process of land adjudication went on until the adjudication register for the section was completed and Notice of 2011 issued by the district land adjudication and settlement officer Igembe;
- 3) The surveyor raised a query that some parcels were within the Meru National Park;
- 4) They are original habitants of Ndoleli Athiru Rujine Adjudication Section land but they were forcefully evicted by people from neighbouring district;
- 5) During the evictions people were killed, crops and properties were destroyed; and
- 6) Until now they are unable to access their land due hostility from the new occupiers.

Dr. Thiakunu C.K.M Community Leader

- 1) The area in question is Ndoleli Athiru Ruyine and Ndoleli Antubetwe Kikongo previously known as Ntoyiri Constituency;
- 2) The area was adjudicated as one unit but was later separated when Igembe Central Constituency was created;
- 3) Initially the National Park had extended its Boundaries to Kiutine; however in 1960s Mr. Kaira and Mr. Leandrew Baariu took the matter to court and the court ordered that the boundary be returned as it was;
- 4) In 1982 then Meru County Council together with the Community donated a parcel measuring 60 acres for Park's Headquarter offices and Education Centre;
- 5) In 1990 Meru National park further requested the locals for animal corridor to Ngaya Forest but the local leaders declined and instead requested to be compensated;

- 6) On 28th February, 2011 adjudication register indicating completion of demarcation was published for all people to inspect and file objections but the Kenya Wildlife Service did not file any objection against the people bordering the park;
- 7) It is the District Surveyor who informed the department of land adjudication and settlement and the Director of Survey to cancel all 475 parcels that were allegedly adjudicated within the park. However, the 475 land parcels that are said to fall within the land that is presumed to belong to the park are outside the park land.

MINUTE NO. DCL/LN/2017/07 ADJOURNMENT

There being no any other business, and the time being 5:00 pm the Chairman adjourned the meeting.

SIGNED.....
(CHAIRPERSON)

DATE..... 25th May 2017.....



MINUTES OF THE 1ST SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON FRIDAY 27TH JANUARY 2017, AT THE OFFICE OF IGEMBE CENTRAL, DEPUTY COUNTY COMMISSIONER'S OFFICE AT 11.00 AM

PRESENT:

- 1) The Hon. Alex Mwiru, M.P. - Chairperson
- 2) The Hon. John Kihagi, M.P.
- 3) The Hon. Dr. Paul Otuoma, M.P.
- 4) The Hon. George Oner, M.P.
- 5) The Hon. Julius Ndegwa, M.P.
- 6) The Hon. Eusilah Ngeny, M.P.

ABSENT WITH APOLOGIES:

- 1) The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
- 2) The Hon. Omar Mwinyi, M.P.
- 3) The Hon. Onesmus Ngunjiri, M.P.
- 4) The Hon. Hezron Awiti Bollo, M.P.
- 5) The Hon. Benson Mbai, M.P.
- 6) The Hon. Mathew L. Lempurkel, M.P.
- 7) The Hon. A. Shariff, M.P.
- 8) The Hon. Kanini Kega, M.P.
- 9) The Hon. Charles Nyamai, M.P.
- 10) The Hon. Esther Murugi, M.P.
- 11) The Hon. Shakila Abdallah, M.P.
- 12) The Hon. Hellen Chepkwony, M.P.
- 13) The Hon. Thomas Mwadeghu, M.P.
- 14) The Hon. Mutava Musyimi, M.P.
- 15) The Hon. Sarah Korere, M.P.
- 16) The Hon. Francis Njenga Kigo, M.P.
- 17) The Hon. Patrick Makau, M.P.
- 18) The Hon. Suleiman Dori, M.P.
- 19) The Hon. Francis W. Nderitu, M.P.
- 20) The Hon. Bernard Bett, M.P.
- 21) The Hon. Joseph Oyugi Magwanga, M.P.
- 22) The Hon. Kipruto Moi, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono Clerk Assistant I

- | | |
|------------------------|---------------------|
| 2. Mr. Joshua Ondari | Clerk Assistant III |
| 3. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 4. Mrs. Farida Ngasura | Audio Officer |

SUB-COUNTY COMMISIONER'S OFFICER

- | | |
|-------------------------|-----------------------------------|
| 1. Mr. Bixton Mayabi | Deputy County Commissioner - Meru |
| 2. Mr. Kimathi Kaberia | Surveyor Ministry of Lands |
| 3. Mr. George Owuor | S.L.A.A |
| 4. Ms. Stacy Isumba | Land Surveyor |
| 5. Mr. Greg Dunman | Land Surveyor |
| 6. Mr. Eustace Githumbu | P.L.A.S.O |
| 7. Mr. Patrick Munyalo | P.L.A.S.O |

MINUTE NO. DCL/LN/2017/01

PRELIMINARIES

The chairman called the meeting to order at 10.15 a.m. with a word of prayer.

MINUTE NO. DCL/LN/2017/02

EVIDENCE FROM THE SUB-COUNTY COMMISSIONER, MERU COUNTY

Mr. Bixton Mayabi, Deputy County Commissioner – Meru informed the Committee as follows:-

1. Ndoleli Athiru Rujine Adjudication Section was declared on 27th September, 1990 in accordance with section 5 of the Land Adjudication Act Cap 284 Laws of Kenya vide notice number ADM/LA/10 VOL. VI/114;
2. The process of land adjudication went on until the adjudication register for the section was completed and Notice No. LA/LND/18/ VOL.IV/197 of 28th February 2011 issued by the district land adjudication and settlement officer Igembe as provided by section 25 (c) and 26 (i) of the Act;
3. Following the publication of the register objection to the same were raised and all of them heard and determined thereafter. Maps for the section were submitted to the Sub-County surveyor for further checking;

4. The surveyor raised a query that some 475 parcels are within the Meru National Park among other queries. Meru National Park was gazetted vide Notice No. 4756 of 18th December, 1966 and the boundaries are described in boundary plan no. 204/37 covering 215,000 acres. The gazette notice superseded the adjudication process;
5. A team of survey and land adjudication officers visited the area and established that the adjudication process had encroached into the National Park boundary.

MINUTE NO. DCL/LN/2017/03

EVIDENCE FROM THE SENIOR WARDEN -
MERU NATIONAL PARK

Dr. Tugo Jirimo Warden- Meru National Park informed the Committee as follows:-

- 1) Meru National Park was gazetted as a park vide gazette notice no. 4756 of 18th December, 1966 under the National Parks of Kenya Act (Cap 377);
- 2) Since its gazettment the Meru National Park has not changed its boundaries and Kenya Wildlife Service does not intend to extend its boundaries;
- 3) The only part of the park that's needs to be captured in the gazette variations is the land where the Headquarter offices and Education Centre are located; this parcel measuring 60 acres was donated by the Community;

Committee resolutions:

After the meeting the Committee resolved to invite the Cabinet Secretary for Lands and the Director of survey with the view of providing information and shedding light on the following:-

1. On what basis the Ministry of lands stopped the titling process?;
2. To provide the initial survey plan of 1966;
3. To Provide the boundary plan no. 204/37 covering 215,000 acres;
4. The identity of the person or entity registered as Garba?;
5. On why the Ministry accepted survey plan for the Garba and rejected the one for Ndolesi Athiru Rujine Community?; and
6. Why the Ministry approved the plan in another area of our dip?

MINUTE NO. DCL/LN/2017/04

ADJOURNMENT

There being no any other business, and the time being 12:15 pm the Chairman adjourned the meeting.

SIGNED.....
(CHAIRPERSON)

DATE..... 20th May, 2017

MINUTES OF THE 65TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 4TH AUGUST, 2016, IN THE BOARDROOM OF FOURTH FLOOR PROTECTION HOUSE PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT:

- | | |
|--|----------|
| 1. The Hon. John Kihagi, M.P. | Chairing |
| 2. The Hon. Francis W. Nderitu, M.P. | |
| 3. The Hon. Bernard Bett, M.P. | |
| 4. The Hon. Hellen Chepkwony, M.P. | |
| 5. The Hon. Kipruto Moi, M.P. | |
| 6. The Hon. Benson Mbai, M.P. | |
| 7. The Hon. Julius Ndegwa, M.P. | |
| 8. The Hon. Sarah Korere, M.P. | |
| 9. The Hon. Esther Murugi, M.P. | |
| 10. The Hon. Omar Mwinyi, M.P. | |
| 11. The Hon. Patrick Makau, M.P. | |
| 12. The Hon. Suleiman Dori, M.P. | |
| 13. The Hon. Mathew L. Lempurkel, M.P. | |
| 14. The Hon. Dr. Paul Otuoma, M.P. | |
| 15. The Hon. George Oner, M.P. | |
| 16. The Hon. Shakila Abdallah, M.P. | |
| 17. The Hon. Onesmus Ngunjiri, M.P. | |
| 18. The Hon. Thomas Mwadeghu, M.P. | |

ABSENT WITH APOLOGIES:

- | | |
|--|------------------|
| 1. The Hon. Alex Mwiru, M.P. | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 3. The Hon. Mutava Musyimi, M.P. | |
| 4. The Hon. Mpuru Aburi, M.P. | |
| 5. The Hon. Hezron Awiti Bollo, M.P. | |
| 6. The Hon. Eusilah Ngeny, M.P. | |
| 7. The Hon. Athman Shariff, M.P. | |
| 8. The Hon. Kanini Kega, M.P. | |
| 9. The Hon. Francis Njenga Kigo, M.P. | |
| 10. The Hon. Joseph Oyugi Magwanga, M.P. | |

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

- | | |
|------------------------------------|--------------------------------|
| 1. Mr. Joshua Ondari | Clerk Assistant III |
| 2. Mr. Emmanuel Nderitu | Clerk Assistant III |
| 3. Mr. Yakub Ahmed | Media Officer |
| 4. Ms. Winnie Atieno | Audio Officer |

MINUTE NO. DCL/LN/2016/262

PRELIMINARIES

The chairman called the meeting to order at 10.20 a.m. with a word of prayer from the Hon. Julius Ndegwa, MP.

MINUTE NO. DCL/LN/2016/263

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as hereunder after being proposed by the Hon. Suleiman Dori, MP and Seconded by the Hon. Francis Nderitu, M.P.

AGENDA

1. Prayers
2. Preliminaries/introduction
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. Bills
7. Petition
8. Papers
9. Statements:-
10. Substantive Agenda:-
 - a) **Meeting with the Hon. Cyprian Iringo, MP regarding a petition on land adjudication issues in Igembe Central Constituency;**
11. Any Other Business
12. Date of the Next Sitting

MINUTE NO. DCL/LN/2016/264

PETITIONS

The Hon. Cyprian Iringo, MP tabled a Petition on behalf of residents of Igembe Central Constituency regarding parcels of land allocated to the community;

He further informed the Committee as follows;

- a) The residents of Athiru Ruujine/Ndoleli Adjudication Section were allocated parcels of land near the Meru National Park;
- b) Since the allocation the said communities have been waiting for title deeds;
- c) In the recent past, the said communities have received information that the parcels of land namely; Athiru Ruujine/Ndoleli Adjudication Section are situated inside the Meru National Park;
- d) It seems that there is a sinister move to displace over 600 families who claim that the said land is their ancestral land;

- e) There are allegations that Government Flagship Projects i.e LAPPSET may have attracted land powerful and well connected speculators, who want to push away the peasant from their clan land with a view of occupying the 3,000 acres of land;
- f) The boundary of the National Park and that of the adjudication section is distinct with an electrical wire separating them;
- g) The efforts to resolve the matter through the District Adjudication Office have been futile.

Committee Resolution

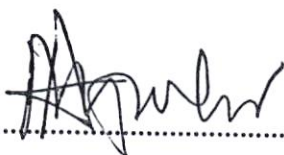
- i. The Hon. Cyprian Iringo, MP was requested to provide the Committee with supportive documents regarding the said land in order for the Committee to interrogate the matter further;
- ii. The Committee resolved to factor the Petition in the Committee work plan and schedule dates to invite the persons of concerns and dates to visit the said areas.

MINUTE NO. DCL/LN/2016/265

ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being 1:05 pm the meeting was adjourned.

SIGNED.....



(CHAIRPERSON)

DATE.....

25th May, 2017

11/11/11

MINUTES OF THE 71ST SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 25TH AUGUST, 2016, IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS AT 11.00 AM

PRESENT:

- | | |
|--|-------------------------|
| 1. The Hon. Alex Mwiru, M.P. | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 3. The Hon. Kipruto Moi, M.P. | |
| 4. The Hon. Sarah Korere, M.P. | |
| 5. The Hon. Mathew L. Lempurkel, M.P. | |
| 6. The Hon. Julius Ndegwa, M.P. | |
| 7. The Hon. Esther Murugi, M.P. | |
| 8. The Hon. Dr. Paul Otuoma, M.P. | |
| 9. The Hon. Benson Mbai, M.P. | |
| 10. The Hon. Hellen Chepkwony, M.P. | |
| 11. The Hon. Bernard Bett, M.P. | |
| 12. The Hon. Joseph Oyugi Magwanga, M.P. | |
| 13. The Hon. Francis W. Nderitu, M.P. | |
| 14. The Hon. Suleiman Dori, M.P. | |

ABSENT WITH APOLOGIES:

- | | |
|---------------------------------------|-------------------------|
| 1. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 2. The Hon. Shakila Abdallah, M.P. | |
| 3. The Hon. Onesmus Ngunjiri, M.P. | |
| 4. The Hon. Omar Mwinyi, M.P. | |
| 5. The Hon. John Kihagi, M.P. | |
| 6. The Hon. Thomas Mwadeghu, M.P. | |
| 7. The Hon. Francis Njenga Kigo, M.P. | |
| 8. The Hon. Patrick Makau, M.P. | |
| 9. The Hon. Mutava Musyimi, M.P. | |
| 10. The Hon. Mpuru Aburi, M.P. | |
| 11. The Hon. Athman Shariff, M.P. | |
| 12. The Hon. Kanini Kega, M.P. | |
| 13. The Hon. Hezron Awiti Bollo, M.P. | |
| 14. The Hon. Eusilah Ngeny, M.P. | |
| 15. The Hon. George Oner, M.P. | |

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

-
-
1. The Hon. Kabai Iringo, MP
 2. The Hon. Aramat Lorinken, MP
 3. The Hon. Lati Lelelit, MP

KENYA NATIONAL ASSEMBLY

- | | |
|-----------------------|----------------------|
| 1. Mr. Joshua Ondari | Clerk Assistant III |
| 2. Mr. Kefah Omoti | Principal Researcher |
| 3. Ms. Mercy Wanyonyi | Legal Counsel II |

NATIONAL LAND COMMISSION

- | | |
|---------------------------|-------------------------|
| 1. Prof. Mohammed Swazuri | Chairman |
| 2. Mr. Tom Chavangi | Chief Executive Officer |
| 3. Mr. Samuel Odari | Deputy Director |
| 4. Protas Appida | Principal Land Officer |

MINUTE NO. DCL/LN/2016/292

PRELIMINARIES

The chairman called the meeting to order at 11.15 a.m. with a word of prayer from the Hon. Moses Ole Sakuda, MP – Vice Chair

MINUTE NO. DCL/LN/2016/293

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as hereunder after being proposed by the Hon. Hellen Chepkwony, MP and Seconded by the Hon. Esther Murugi, MP.

AGENDA

1. Prayers
2. Preliminaries/introduction
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. Bills
7. Petition
8. Papers
9. Statements:-
10. Substantive Agenda:-
 - a) Meeting with the Chairman National Land Commission regarding the following petitions:-
 - i) Petition by the Hon. Cyprian Kubai Iringo on behalf the residents of Igembe Central regarding parcels of land allocated to the Community.
11. Any Other Business
12. Date of the Next SittingAny Other Business
13. Date of the Next Sitting

MINUTE NO. DCL/LN/2016/294

MEETING WITH THE CHAIRMAN NATIONAL LAND COMMISSION REGARDING THE PETITIONS BY THE HON. KUBAI IRINGO, MP

Petition by the Hon. Cyprian Kubai Iringo on behalf the residents of Igembe Central regarding parcels of land allocated to the Community.

Prof. Mohummed Swazuri Chairman National Land Commission tabled information as annexed in the Minutes.

He further informed the Committee as follows: - that,

- a) Meru National Park was gazetted in December, 1966 through a gazette notice number 4756;
- b) In 1982 Kenya Wildlife Service requested the County Council of Meru to give them 60 acres of land at Murera for the establishment of wildlife education centre and community centre. This was granted by the council through minute no. 74/82 of the finance staff and general purpose Committee meeting held on the 7th September, 19982 at the Council's Chamber;
- c) Athiru Ruujine/ Ndoleli section was established and declared as an adjudication section on 27th September, 1990 by the Land Adjudication officer for the Meru District;
- d) In September, 1990 Meru National Park had an existing fence and gate that formed part of external boundary with Athiru Ruujine/ Ndoleli section;
- e) The people who had land near the fence of the park presented their claims to the demarcation officer and were given land parcel numbers for their land. This formed the basis under which the land along the fence was adjudicated in 1990;
- f) The adjudication register indicating completion of demarcation was published on 28th February, 2011 for all people to inspect and file objections;
- g) The Kenya Wildlife Service did not file any objection against the people bordering the park;
- h) The Sub County Surveyor while checking the maps that were used by the adjudication team and comparing them with the topographic map sheet that contained the gazette boundary for Meru National Park, he indicated that about 475 land parcels were adjudicated within the park;
- i) The District Surveyor informed the department of land adjudication and settlement and the Director of Survey cancel all 475 parcels from the register;
- j) The 60 acres land where Meru National Park headquarters offices and Education Centres are based is not part of the land that was gazetted as the park. The 60 acres was curved/hived out of Meru trust land;

- k) The Kenya Wildlife Service has not extended Meru National Park extended into the adjudication section because by 1990 when the adjudication section was established already the section where the headquarters and education are located had already been given to the park by Meru County Council in 1982 and this area is not part of the adjudication section;
- l) The 475 land parcels that are said to fall within the land that is presumed to belong to the park are outside the park land and area where the education centre is located; and
- m) In 30 days affected parcels will be included in the adjudication register for Athiru Ruujine/ Ndoledi section and the affected persons will be issued with title deeds alongside the bonafide land owners of Athiru Ruujine/ Ndoledi section.

MINUTE NO. DCL/LN/2016/295

ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being 12:43 pm the meeting was adjourned.

SIGNED.....



(CHAIRPERSON)

DATE.....

20th May, 2017



MINISTRY OF LANDS AND PHYSICAL PLANNING

Ardhi House
Ngong Road
Nairobi

P. O. Box 30450 - 00100
Tel: +254(0)20 2718050
Fax: +254(0)20 2724470

MEETING WITH DEPARTMENTAL COMMITTEE

a) PETITION BY THE HON CYPRIAN KUBAI IRINGO ON BEHALF OF THE RESIDENTS OF ISEMBE CENTRAL CONSTITUENCY REGARDING PARCELS OF LAND ALLOCATED TO THE COMMUNITY.

Honorable chair, I wish to respond as follows,

i) Circumstances under which the residents of Athiru/Ruujine/Ndoleni Adjudication section were allocated parcels of land near Meru National Park.

Athiru/Ruujine/Ndoleli Adjudication Section within Igembe Central Sub-County/Constituency in Meru County was established on 27th September, 1990 as provided for by section 5 of the Land Adjudication Act, Cap 284. The section shared a common boundary with the Meru National Park (See Annex 1).

Ascertainment and recording of interests in land within the section was done and completed. It followed the fence of the park as described in the declaration notice. All the land owners within the section including the ones near the park presented their claims to the demarcation officer and they were given land parcel numbers for their land.

On completion of demarcation work, the Adjudication Register was published complete on 28th February, 2011 for inspection and filing of objections for a period of sixty days (*See Annex II*). The parcels of land along the Meru National Park fence and within the sectional boundary were included in the Adjudication Register. Objections were filed but none by the Kenya Wildlife Service (KWS) against the people bordering the Park. The resultant objections were heard, determined and implemented. A total of 13,892 parcels of land were realized in the section.

During the checking of maps and records, it was realized that 475 parcels of land had encroached onto the Meru National Park boundary (*See Annex III*).

However, upon further verification of the maps revealed discrepancies between the KWS fence and the Meru National Park boundary a situation that has delayed issuance of title deeds in this area. Due to this discrepancy and in order to facilitate issuance of titles, it has been agreed between KWS and the Ministry that surveyors from both institutions shall be sent to establish the boundary of Meru National Park and the Athiru/Ruujine/Ndoleli Adjudication Section.

- ii) Circumstances under which the boundary of Meru National Park was extended by one Kilometre into the adjudication section in the year, 2000.

The boundary of Meru National Park was not extended by one Kilometre into the adjudication section in the year 2000. However, the defunct Meru County Council allocated 60 acres of land to KWS at Murera vide minute no.74/82 (*see Annex IV*).

The acquisition of 60 acres outside the park created the impression that the Meru National Park had extended its boundary into the Athiru/Ruujine/Ndoleli adjudication section.

- iii) What the Ministry is doing to ensure that the matter is resolved

The Ministry is liaising with KWS to identify the common boundary between the adjudication section and the KWS boundary in order to establish the exact number of the affected parcels.

- iv) What the Ministry is doing to ensure that the said residents are issued with the title deeds.

Once the boundary issue is sorted out and it is established that the said residents are not affected, they will be issued with title deeds.

(b) PETITION BY THE HON. LATI, MP ON BEHALF OF AREA
RESIDENTS OF MURRAMUR REGARDING MURRAMUR LAND

(i) The circumstances under which the said land was allocated to the
Ministry of Defence

Honorable chair, I wish to respond as follows,

Brief History/Location – Murramur Land

1963: Upon attaining independence the Kenya Armed Forces inherited vast grounds from the British Government Army (Kings African Rifle) for purpose of their training requirement in Samburu and Isiolo Districts.

1963 to 1975: The Kenya Armed Forces expanded, modernized and acquired newer and modern weaponry which required wide and large training areas for live firing including two parcels of land in Samburu District (Murramur Area) measuring 2,345 and 1,956 acres (maps annex A and B attached) which were set apart for Army use in 1976 by the Commissioner of Lands.

1977: The said parcels were allocated to the Ministry of Defence through a Gazette Notice No. 3210 of 11th November, 1977– copy of Gazette Notice

ANNEX 5.



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29/8

OFFICE OF THE SECRETARY/CEO

Telegrams: "MINILANDS", Nairobi
Telephone: Nairobi 2718050
When replying please quote

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

REF: NLC/1/7/13

Date: 22nd August, 2016

Justin Bundi
Clerk of the National Assembly
Parliament Buildings
P. O. Box 41842 - 00100
NAIROBI - KENYA

(Signature)
23/8

Dear Sir;

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE PETITION BY THE HON. CYPRIAN KUBAI IRINGO ON BEHALF OF THE RESIDENTS OF IGEMBE CENTRAL CONSTITUENCY REGARDING PARCELS OF LAND ALLOCATED TO THE COMMUNITY.

National Land Commission officer visited Maua Sub county on the 15th. August 2016 and for fact finding on the ground and Wednesday 17th. August 2016 to KWS Headquarters at Langata to ascertain the actual position of KWS regarding the boundary position of Meru National Park viz the Athiru Ruujine/Ndoleli adjudication section in order to make a report to the Departmental Committee on Lands as requested and here bellow is the report.

1. The commission met with the Sub county Land Adjudication and Settlement Officer together with the sub county Surveyor in order to establish the circumstances under which the residents of Athiru Ruujine/Ndoleli Adjudication section were allocated parcels of land near Meru National park.

RECEIVED
23 AUG 2016
CLERK'S OFFICE

2. A team of officers comprising Deputy Director Adjudication from the National Land Commission, the Sub county Land Adjudication Officer and the Sub county Surveyor from Maua office visited Meru National Park and met with Senior Warden Meru National Park on the 15th.August 2016 to establish circumstances under which the boundary of Meru National Park was extended by one kilometer into the adjudication section.

(i) Circumstances under which the residents of Athiru Ruujine/Ndoleli were allocated land near Meru National Park.

- Athiru Ruujine/Ndoleli Adjudication Section was established/declared as an Adjudication Section on the 27th.September,1990 by the Land Adjudication Officer for the then Meru District under the Land Adjudication Act Cap 284 as per a copy of the Establishment Notice herewith attached.
- On the boundary description for the adjudication section with the Meru National Park, it stated as follows: the boundary passes through Kinandumba swamp running towards the same direction to Bisanadi stream on the Meru national Park boundary. From this stream the boundary turns towards south west along the Meru National Park Fence to the Park Gate, then onwards along the same fence to Kanjoo section. It therefore follows that by September 1990, Meru National Park had an existing fence and gate that formed part of the external boundary with Athiru Ruujine/Ndoleli Adjudication section that the Land adjudication Officer observed while establishing Athiru Ruujine/Ndoleli adjudication section. Therefore the people who had land along this fence near the park presented their claims to the demarcation officer and they were given land parcel numbers for their land and this is the circumstance under which the land along the fence was adjudicated in 1990.
- The adjudication Register indicating completion of demarcation work was published on 28th.February 2011 for all people to inspect and file objections. This register included parcels of land along the Meru National Park fence.KWS may not have inspected the register and therefore did not file any objection against the people bordering the Park.
- However ,the sub county surveyor while checking the maps that were used by the adjudication team and comparing them with the topographic map sheet no. 109/1 that contains the gazetted boundary for Meru National Park stated that about 475 land parcels were adjudicated within Meru National Park and thus alerted the department of land adjudication and settlement on the same and the office of Director of Land Adjudication and Settlement cancelled the same from the register hence the present Parliamentary question. These parcels of land are found between where the Gazetted boundary is as shown on the topographic map and where Meru National Park has erected a fence.

(ii) Circumstances under which the boundary of Meru National Park was extended by one Kilometer into the adjudication section in the year 2000.

- Meru National Park was gazetted as a park vide gazette notice no. 4756 of 18th.December 1966 under the National Parks of Kenya Act(Cap 377).The boundaries of the Park are surveyed as per the survey plan obtained at KWS headquarters herein attached.
- However KWS requested for 60 acres of land at MURERA from the County Council Of Meru in 1982 for the Establishment of a Wildlife Education Centre and Community Centre and this was granted by the County Council Of Meru vide minute no.74/82 of the Finance Staff and

General Purpose Committee meeting held on the 7th.September 1982 at the Council's chamber.

- This extra land that is surveyed is therefore curved out of the Meru trust land and is not part of the gazetted Meru National Park .However Meru National Park Headquarter offices and the Education Centre are located on this 60 acre land.
- Meru National Park has not extended into the adjudication section because by 1990 when the adjudication section was established already the section where the headquarters and the Education Centre are located had already been given to the park by Meru County Council in 1982 and this area is not part of the adjudication section.
- The 475 Land Parcels that are said to fall within the land that is presumed to belong to the park are actually outside the Meru National Park land and also outside the area where the Education Centre is located and should be registered to the claimants.

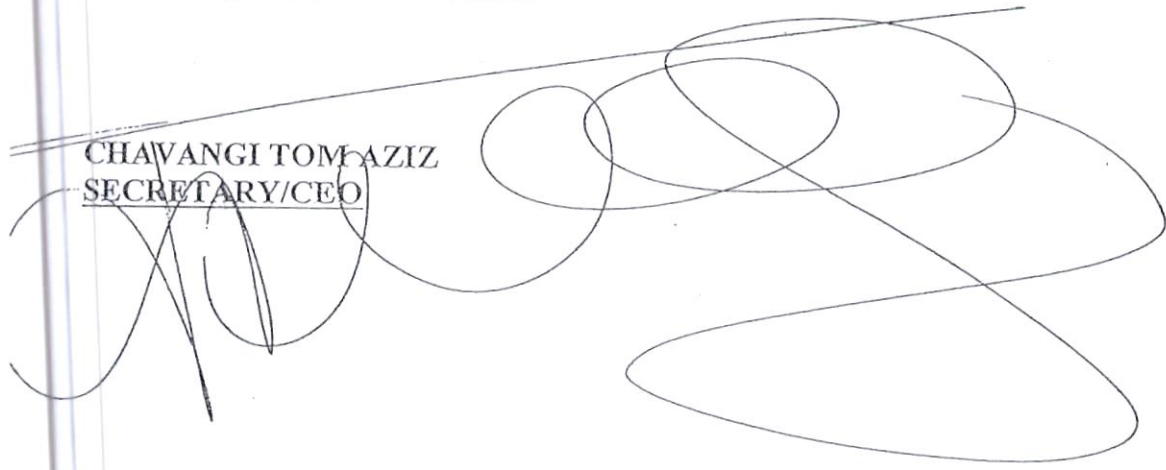
(iii) What the Commission is doing to ensure that that matter is resolved

- The Commission after having established the truth from the ground and from KWS Headquarters recommends that the Ministry of land Surveyors to visit the ground in the company of Surveyors from KWS Headquarters to identify the adjudication boundary with the people on the ground so as to remove the notion that KWS had extended the boundary in the adjudication section.
- After ascertaining the ground position the Ministry should reinstate the cancelled parcels to the owners and correct the register to include the people whose land parcels had been cancelled.

(iv) What the Commission is doing to ensure that the said residents are issued with the title deeds.

- The Commission recommends that the affected parcels be included in the adjudication register for Athiru Ruujine/Ndoleli adjudication section as they are part of the adjudication section and the affected residents be issued with title deeds alongside all the bonafide land owners of Athiru Ruujine Adjudication section.

CHAVANGI TOM AZIZ
SECRETARY/CEO



CORRIGENDUM

IN Kenya Gazette Notice No. 4638 of 20th December 1966—
In the third line of the first column for 30th December
1966 read 30th November 1966.

GAZETTE NOTICE No. 4756

THE NATIONAL PARKS OF KENYA ACT
(Cap. 377)

ESTABLISHMENT OF MERU NATIONAL PARK

IN EXERCISE of the powers conferred by section 3 of the National Parks of Kenya Act (Cap. 377), the Minister for Tourism and Wildlife hereby declares the area of land described in the Schedule hereto to be a National Park.

SCHEDULE

All that area of land containing approximately 215,000 acres situated east of Meru Town in Meru District, Eastern Province, the boundaries of which are more particularly delineated, edged purple, on Boundary Plan No. 204/37 which is signed, sealed with the Seal of the Survey of Kenya and deposited in the Survey Records Office, Survey of Kenya, Nairobi.

Dated this 18th day of December 1966.

S. O. AYODO,
Minister for Tourism and Wildlife.

GAZETTE NOTICE No. 4757

(28/5/17A/Vol. 1D)

THE BORSTAL INSTITUTIONS ACT

APPOINTMENT TO BOARD OF VISITORS

IN EXERCISE of the powers conferred by section 20 of the Borstal Institutions Act, the Permanent Secretary for Home Affairs* hereby appoints—

John Kogo and
John Spencer Bor,

as members of the Board of Visitors to the Borstal Institution at Shikusa in the Kakamega District, Western Province.

Dated this 8th day of December 1966.

A. J. OMANGA,
Permanent Secretary,
Ministry of Home Affairs.

*L.N. 692/1963:

GAZETTE NOTICE No. 4758

(CAB. 16/11/229/37)

THE AGRICULTURE ACT

(Cap. 318)

WITHDRAWAL OF NOTICE TO SHOW CAUSE

WHEREAS a Management Order is in force in respect of the undermentioned holding and a Notice to Show Cause* was published under section 187 (3) (a) and (b)† of the Agriculture Act, on the 1st day of October 1966, I hereby declare that it is not intended that this holding should be sold or leased and I withdraw the said Notice.

L.R. Nos. 11550, 11551, 11563, 11564, 1804/R, 3040, 6828 and 7223, Hoey's Bridge Sisal Estate Limited.

Dated this 16th day of December 1966.

B. B. F. RUSSELL,
Assistant Secretary,
Central Agricultural Board.

*G.N. 3908, 3910 and 3912.
†L.N. 267/1964.

GAZETTE NOTICE No. 4759

THE DAIRY INDUSTRY ACT
(Cap. 336)

REGULATIONS 1964

APPOINTMENT

IN EXERCISE of the powers conferred by regulation 2 (1) of the Dairy Industry (Inspectors) Regulations, the Kenya Dairy Board hereby appoints—

ABAS SHAH

as an Inspector under the said Regulations, with effect from 1st December 1966.

By Order of the Board.

Dated this 16th day of December 1966.

W. WINTER,
Secretary

GAZETTE NOTICE No. 4760

5½ PER CENT KENYA STOCK 1976/80

FOR the purpose of preparing the warrants for interest due on 15th February 1967, the balances of the several accounts in the above-mentioned Stock will be struck at close of business on 15th January 1967, after which date the Stock will be transferable ex dividend.

THE TREASURY,
P.O. Box 30007, Nairobi.

GAZETTE NOTICE No. 4761

EAST AFRICA HIGH COMMISSION

4 PER CENT STOCK 1968/71

NOTICE

FOR the purpose of preparing the payments of interest due on 1st March 1967, the balance of the several accounts in the Local Register of the above Stock will be struck at the close of business on 31st January 1967, after which date the Stock will be transferable ex dividend.

Stockholders wishing to transfer their holdings to the London Register should note that, if the necessary application forms together with Exchange Control approval, where necessary, are not lodged with the Chief Accountant, East African Railways and Harbours, P.O. Box 30066, Nairobi, Kenya, in the time to enable the applications to be transmitted to the Crown Agents for Oversea Governments and Administrations in London, so as to reach them on or before 31st January 1967, payment of interest due on 1st March 1967, will be made by the Chief Accountant, East African Railways and Harbours.

R. W. MacDONALD,
Chief Accountant,
East African Railways and Harbours,
for East African Common Services
Organization.

Nairobi,
15th December 1966.

GAZETTE NOTICE No. 4762

THE REGISTRATION OF PERSONS ACT

(Cap. 107)

APPOINTMENT OF REGISTRATION OFFICERS

IN EXERCISE of the powers conferred by subsection (2) of section 4 of the Registration of Persons Act, I hereby appoint—

Morris Nyongesa Murunga,
Fred Kinyanjui Mungai,

to be Registration Officers for the purposes of the Act, with effect from 14th December 1966.

Dated this 14th day of December 1966.

N. E. HÜCKLE,
Principal Registrar.

GAZETTE NOTICE No. 4763

(LIC/9/43/38)

THE EAST AFRICAN LICENSING OF AIR SERVICES
REGULATIONS 1965

NOTICE OF APPLICATION FOR A LICENCE TO OPERATE
AIR SERVICES

PURSUANT to the provisions of regulations 6 and 7 of the East African Licensing of Air Services Regulations 1965, notice is hereby given that Pan African Air Services (Tanzania) Ltd., P.O. Box 3070, Dar es Salaam, Tanzania, has applied to the East African Civil Aviation Board for a licence to operate the following air service:—

Coach class service including the right to sell individual seats on route from Mbeya to (1) Chunya, (2) Sumbawanga, (3) Abercorn, (4) Mpulungu, (5) Masaba, (6) Badouinville, (7) Albertville, (8) Mpanda, (9) Kigoma, (10) Usumbura, (11) Tabora, and vice versa with the right to omit any point and operate in any order with one Turbo Commander, two Aero Commanders "U" and one Grumman Widgeon, for a period of seven years.

It is further stated that any application for a licence in regard to this application must be made to the East African Civil Aviation Board at the office of the East African Common Services Organization, P.O. Box 30005, Nairobi, not later than 23rd January 1967. Every such representation or objection shall be made in writing, shall state the specific grounds on which it is based, and shall specify any conditions which it may be desired should be attached to the licence if granted. A copy of every such representation or objection shall be sent by the person making the same to the applicant of the licence at the same time as it is sent to the East African Civil Aviation Board.

Dated at Nairobi this 16th day of December 1966.

G. A. SHIROOR,
Secretary

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GAZETTE No.

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MINUTE

COUNTY COUNCIL OF MERU



Telegrams: "CONFRU", Meru.
Telephone: M&T 20781/20782.
When replying please quote
Ref. No.
and date:

COUNTY HALL
P.O. Box 3
MERU 4 KENYA



Date: 8/2/1991

MINUTES OF THE FINANCE STAFF AND GENERAL PURPOSES COMMITTEE MEETING HELD ON 7TH SEPTEMBER, 1982, AT THE COUNCIL'S CHAMBER AT 10.00 A.M.

PRESENT:

- Cllr. Stanley Thikanyi - Chairman.
- Cllr. Stanley Kabeere - V/Chairman of the Council.
- Cllr. Joseph Gikunda.
- Cllr. Wilson Matiri.
- Cllr. Alphonse Muchunku.
- Cllr. Eriastus Mutegi.
- Cllr. Fredrick Mugambi.
- Cllr. Japhet Murungi.

IN ATTENDANCE:

- Mr. C. Mawira - Clerk of the Council.
- Mr. A.M. Muthuri - Deputy Treasurer.
- Mr. R.K. Nabea - Admin. Officer.
- Mr. S.I. Imathiu - Enforcement Officer.
- Mr. S. Makumbi - committee Clerk.
- Mr. Franklin Marangu - Social Services

MIN. NO. 89/80 ACQUISITION OF LAND AT MURERA.

The Committee was informed of the 60 acres of land acquired for the purpose of establishment of Wildlife Education Centre at Murera and directed that the Chairman, Clerk, Ag. Deputy Clerk of the Council Councillor and Asst. Chief of the area concerned to visit the area first before any development takes place in the area.

MIN. NO. 74/82. WILDLIFE EDUCATION CENTRE AT MURERA.

The Committee recommended that both the Wildlife Education Centre and the Community Centre at Murera be extended each to comprise of 60 acres and that the extended area be marked with permanent bescons.

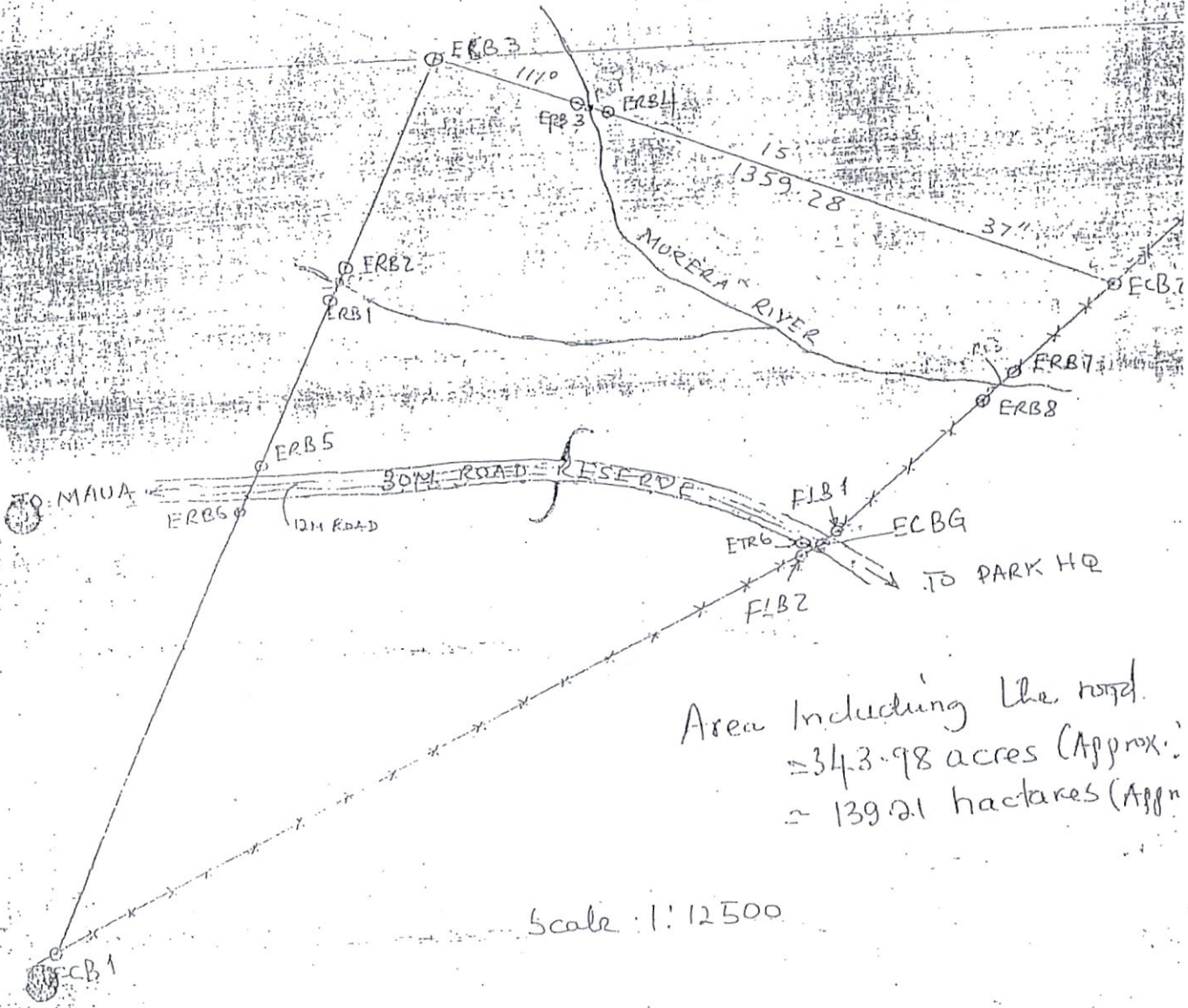
I certify that this is a true and accurate copy of the minutes.

[Signature]
CLERK

COUNTY COUNCIL OF MERU

MERU EDUCATION CENTRE

14.11.21.11



Area including the road.
= 343.98 acres (Approx.)
= 139.21 hectares (Approx.)

Scale 1:12500

NOTICELAND ADJUDICATION ACT, CAP. 284.
NOTICE OF ESTABLISHMENT OF AN ADJUDICATION SECTION
NDOLELI/A/RUJINE ADJUDICATION SECTION IN ATHIRU RUJINE SUB-LOCALITY
IN MERU DISTRICT.

Under section 5 of the Land Adjudication Act I, the Land Adjudication Officer for Meru Adjudication Area, do hereby declare Ndoleli (Athiru/Rujine) of Meru District to be an Adjudication Section and the boundaries of which are as follows:-

" Commencing from a point at the Muthingiri tree on the Ngaya Forest line the boundary runs eastwards to Ndoleli Primary School western side of the School area while bordering with Ndoleli (A/Kiongo) section the boundary passes through Kinanduba Swamp running towards the same direction to Bisanadi stream on the Meru National Park boundary. From this stream the boundary turns toward south west along the Meru National Park boundary fence to the park gate then onwards along the same fence to Kanjoo section boundary; the boundary turns toward Northwest passing at Mr. Paul Kimwere's homestead onwards towards Mr. M'Arimba's homestead then it passes on at Mr. Paul Machini's homestead to the Athiru Rujine Adjudication boundary. From this point the boundary turns Northeastwardly running along the Athiru Rujine Adj. Section boundary to the Ngaya Forest line where it changes direction following the Ngaya Forest line back to the point of commencement. "

All rights and interests in land within this Adjudication Section will be ascertained and recorded in accordance with the provisions of the Land Adjudication Act, and any person claiming any such right or interest is requested to present his/her claim to the Recording Officer either in person or by duly authorized agent not later than 25th January, 1991.

In accordance with Section 30 of the Act, with effect from the date of this NOTICE except with the prior consent in writing of the Land Adjudication Officer no person shall hear any proceedings what-so-ever in which any right or interest in land within this Adjudication Section is called in question, until the Adjudication Register for this Adjudication section has become final in all aspects under section 29th of the Act.

Dated this 27th day of September, 1990.

P.K. MUTISO
LAND ADJUDICATION OFFICER,
MERU DISTRICT.



c.c.

The Director of Land Adjudication/Settlement,
P.O. Box 30297,
NAIROBI.

The Provincial Land Adjudication & Settlement Officer,
P.O. Box 1411,
EMBU.

The Director of Surveys,
NAIROBI.

The Provincial Surveyor,
EMBU.

All Provincial Commissioners
Kenya (Eastern, Central, Nairobi, Nyanza, Western, Coast, N/Eastern
and Rift Valley)

All District Commissioners,
KENYA.

The Clerk,
MERU COUNTY COUNCIL

The Chief,
Athiru/Rujine Location

All Chiefs,
MERU DISTRICT.

All Provincial Land Adj. & Set. Officers
KENYA.

All District Land Adj. & Set. Officers
KENYA.

The Officer Commanding,
(Kenya Army, Navy and 82 Air-Force)

The Commissioner of Police & Prisons
NAIROBI.

The Attorney General,
NAIROBI.

The District Surveyor,
MERU DISTRICT.

All District Officers,
MERU DISTRICT.

All Land Adj. & Settlement Officers and
Asst. Land Adj. & Settlement Officers
MERU DISTRICT.

The District Information Officer,
MERU DISTRICT (Please give this notice a wide publicity)



REPUBLIC OF KENYA
MINISTRY OF LANDS

Telegrams "ARDHI", IGEMBE

Telephone: (064) 21089

If calling or telephoning

Please ask for

When replying please quote

And the date

LA/LND/18 VOL. IV/197

DISTRICT LAND ADJ & SETT
IGEMBE DISTRICT

P.O. Box 55 - 60600

MAUA

28TH FEBRUARY 2011

LAND ADJUDICATION ACT CAP 284 LAWS OF KENYA
NOTICE OF COMPLETION OF THE ADJUDICATION REGISTER FOR
NDOLELI ATHIRU RUUJINE ADJUDICATION SECTION IN NDOLELI
DIVISION, IGEMBE DISTRICT

Under sections 25(c) and 26(1) of the Land Adjudication Act CAP 284 laws of Kenya, I, the Land Adjudication Officer for Igembe Adjudication Area do hereby give Notice that the Adjudication Register (A/R) for the Ndoleli Athiru Ruujine Adjudication Section has been completed.

The Adjudication Register may be inspected at Ndoleli Athiru Ruujine land adjudication office at any time between 8:00am and 5:00pm from Monday to Friday excluding public holidays during the period of Sixty (60) days from the date of this notice.

Any person named in or affected by the said Adjudication Register and who considers it to be incorrect or incomplete in any respect, may within Sixty (60) days from the date of this NOTICE submit a written objection addressed to the Land Adjudication Officer, Igembe District, P.O. Box 55, MAUA, stating clearly the reasons for the objection and pay a fee of Kshs 500/= only per parcel being objection fees.

Dated 28TH FEBRUARY 2011

E. N. KITHUMBU
DISTRICT LAND ADJUDICATION &
SETTLEMENT OFFICER
IGEMBE DISTRICT

C.C.

The Director of Land Adjudication &
Settlement
NAIROBI

The Director of Survey
NAIROBI

The Commissioner of Lands
P.O. Box 30089
NAIROBI

All Provincial Commissioners
KENYA

The District Commissioner
IGEMBE NORTH DISTRICT

The District Surveyor
MERU NORTH

The District Information Officer
IGEMBE DISTRICT (Please give this information enough publicity)

The District Officers
IGEMBE NORTH DISTRICT

The Clerk
NYAMBENE COUNTY COUNCIL

The Provincial surveyor
EASTERN PROVINCE

The Officers Commanding
KENYA ARMY
KENYA NAVY
KENYA AIR FORCE

The Commissioners
KENYA PRISONS
KENYA POLICE

All District Land Adjudication Officers
KENYA

The Chief
KAWIRU LOCATION



REPUBLIC OF KENYA
MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

Telephone ,

DISTRICT SURVEY OFFICE

When replying please quote

P.O BOX 448

MAUA

9/05/2016

REF: LA/LND 18/VOL.VIII/14

THE DIRECTOR OF SURVEYS
P.O BOX 30046,
NAIROBI

RE: FORWARD OF MAPS, SKL 37 AND THE INDEX DIAGRAM- ATHIRU RUUJINE
NDOLELI ADJUDICATION SECTION

Enclosed herein, please find 41 map sheets, 13 unused maps, 2 tracing maps for sheet 10 and 1 tracing map for sheet 8, one file containing the SKL 37 and the index diagram of the section. The attached contents are:-

(a) P.I.D Maps used:

1,2,3,4,6,7,8,9,10,11,14,15,16,17,18,19,20,21,23,24,25,26,27,28,32,33,34,35,36,37,38,41,42,43,
44,45,48,49,50,52 and 53

(b) Unused P.I.D Maps

5,12,13,22,29,30,31,39,40,46,47,48 and 51

(c) Two tracing for sheet 10 and 1 tracing sheet 8.

(d) SKL 37 containing parcels 1 – 13905

(e) Index Diagram for the section.

1. Parcels in the whole of sheet Nos. 44 and 45 were found to be in the Meru National Park
2. Sheets 36, 38, and 43 have some parcels which fall within the National park.
3. A detailed list of the parcels affected is attached.

NB: All queries raised by the district surveyor Meru North regarding Athiru Ruujine Ndoleli adjudication section have been solved with supervision of District Surveyor and D.L.A.S.O Igembe South Sub County.

KIMATHI P. KABERIA

For: District Surveyor

Meru North Sub Counties

CC

Director of Lands Adjudication and Settlement

P.O. Box 30297

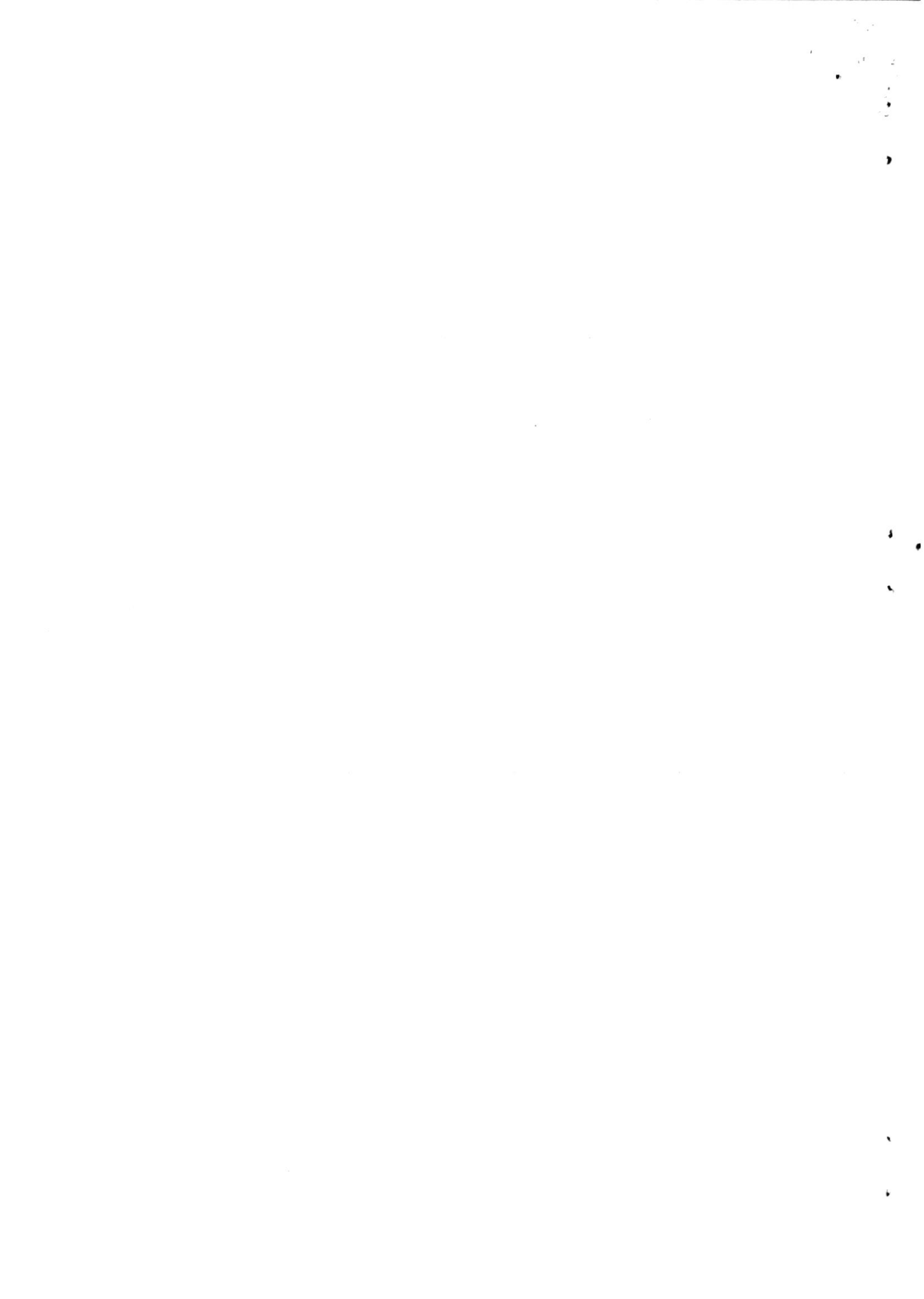
NAIROBI

D.L.A.S.O

Igembe Sub County

P.O.BOX 55

MAUA



PARCELS OF ATHIRU RUUJINE NDOLELI ADJUDICATION
SECTION THAT WERE FOUND TO BE WITHIN MERU
NATIONAL PARK

The following parcels were found to have been plotted within the Meru National park.

1. Parcels in the whole of sheet 44 and 45.
2. Some parcels in Sheet 36, 38 and 43.

(a) Sheet 38

4324, 10544, 13305, 13306, 13307, 13308, 13309, 13310, 10590, 5378, 4458, 5061, 9406, 4657, 11043, 5054, 4328, 13789, 13790, 5863, 13019, 4577, 13388, 4578, 13764, 10038, 13280, 4815, 9931.

(b) Sheet 36

4041, 6292, 4231, 4214, 4635, 9656, 4210

(c) Sheet 43

The following land parcels are inside Meru National Park

4183, 10364, 7989, 11127, 4184, 4284, 4185, 4226, 4209, 11215, 11210, 4234, 4232, 12421, 4375, 10981, 12281, 9676, 13171, 4176, 12744, 13073, 4220, 4210, 12311, 10463, 4205, 4307, 6409, 12241, 4317, 6436, 4317, 4202, 11221, 7552, 13778, 3274, 3390, 3183, 4230, 4304, 5178, 4200, 4197, 9208, 9209, 4373, 4199, 4191, 4192, 4196, 4194, 4195, 4193, 4208, 4229, 13167, 4312, 9656, 4807, 4224, 4642, 4293, 4374, 4228.

(d) Sheet 44

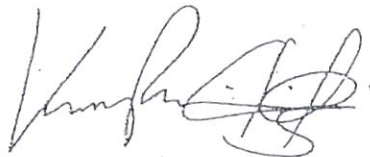
11220, 4216, 4883, 4217, 4319, 4320, 4250, 4242, 7015, 13727, 4222, 4225, 4241, 4420, 4399, 12602, 4300, 4210, 4299, 10097, 4995, 4215, 4227, 4228, 4219, 4186, 4357, 4189, 4360, 4223, 6717, 4989, 4988, 8787, 4987, 6807, 4986, 8052, 4466, 6005, 4293, 4290, 8893, 4294, 4331, 12325, 7587, 11168, 9623, 8660, 13676, 7020, 13675, 4993, 4994, 4996, 4744, 2735, 5004, 4998, 4999, 4997, 4201, 4233, 4203, 4202, 7544, 4470, 6018, 4992, 500, 4613, 5082, 4345, 6019, 4992, 4991, 4990, 4359, 4330,

12495, 4379, 4356, 4367, 11339, 4376, 4378, 8062, 4370, 4190,
11342, 5001, 4398, 11024, 4334, 4363, 12494, 6784, 9519, 4492,
9632, 4369, 12217, 8910, 4408, 9638, 4329, 12415, 13145,
13146, 13051, 8306, 13341, 4368, 4953, 11198, 9876, 7959,
4403, 10702, 7731, 8510, 4326, 12603, 7009, 4964, 4233, 4344,
3211, 13452, 9040, 4355, 9637, 9638, 4406, 8836, 4380, 4318,
4421, 4889, 4419, 4383, 4384, 4385, 4386, 4387, 3946, 4388,
4964, 8031, 6094, 4391, 9143, 4499, 4390, 4389, 11544, 4395,
4392, 4459, 6264, 4394, 4393, 9454, 4460, 4188, 4580, 4465,
11206, 11048, 4649, 4553, 11203, 4328, 1103, 4602, 4467, 9142,
10368, 4549, 4550, 6827, 4548, 10181, 9659, 4455, 9416, 5166,
4434, 4616, 4552, 4551, 9410, 4464, 12645, 2540, 3668, 2680,
13726, 4358, 4630, 4404, 4453, 4396, 4402, 4397, 4381, 10304,
4401, 4404, 4382, 7142, 4635, 4509, 13323, 8394, 4640, 4616,
9667, 4405, 9982, 4381, 9580, 8954, 4212, 9639, 9666, 9098,
8001, 9208, 4418, 11583, 7857, 11583, 4362, 4494, 11582, 4422,
4427, 4482, 12479, 4456, 4455, 9909, 4454, 13487, 7877, 4481,
4533, 12966, 4326, 6804, 7013, 6737, 4423, 4424, 9460, 6773,
12096, 4446, 11211, 9098, 9580, 9019, 7881, 4445, 3754, 4622,
7142, 10325, 9057, 6669, 11221, 9391, 9356, 4425, 9909, 8032,
9696, 7014, 4429, 4634, 7012, 4663, 4400, 6783, 11030, 13174,
4382, 4404, 4615, 5658, 4641, 4558, 9623, 4432, 4433, 4430,
4435, 4436, 11044, 4437, 4438, 4439, 12088, 12090, 4440,
12089, 4441, 4443, 4442, 4561, 6067, 3696, 4447, 4450, 4449,
4448, 10044, 4453, 4451, 4462, 4452, 9209, 4461, 4463, 4488,
6825, 12039, 4471, 4476, 4477, 4483, 4478, 11219, 4486, 3694,
11213, 8001, 6775, 6534, 9500, 4489, 4490, 4499, 4491, 6802,
4474, 4492 5183, 4641, 5689, 4615

(e) Sheet 45

4789, 5932, 6639, 10794, 10744, 10784, 4488, 4487, 4486, 4481,
4482, 4483, 4484, 4485, 4480, 4613, 6142, 9233, 10353, 8450.

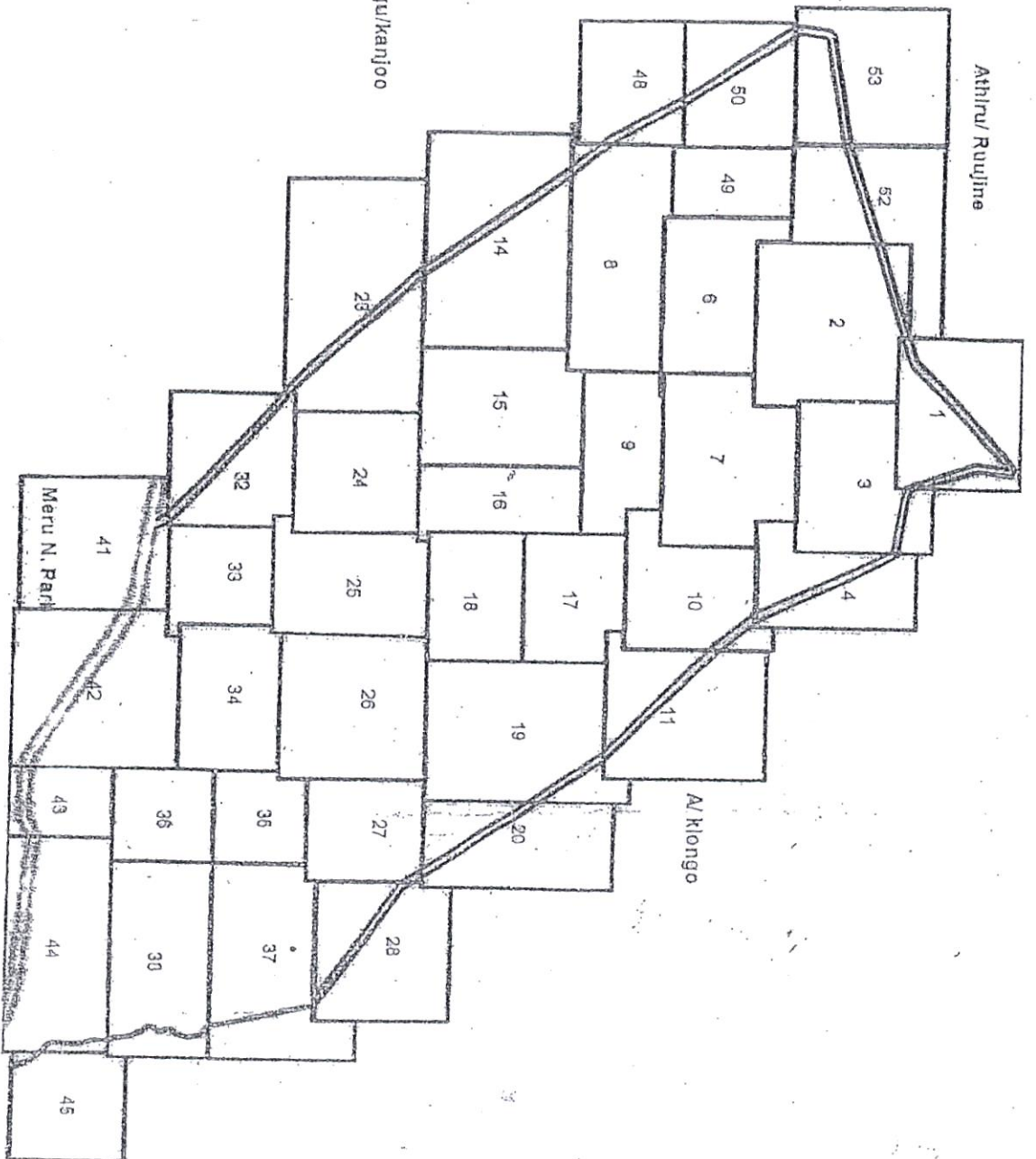
THE END



KIMATHI P. KABERIA

for DISTRICT SURVEYOR
MERU NORTH

Athiru Ruujine Ndoleji - Index Diagram



Scale 1 : 80000

10 Kilometers

Date 30/08/2013

INDEX DIAGRAM

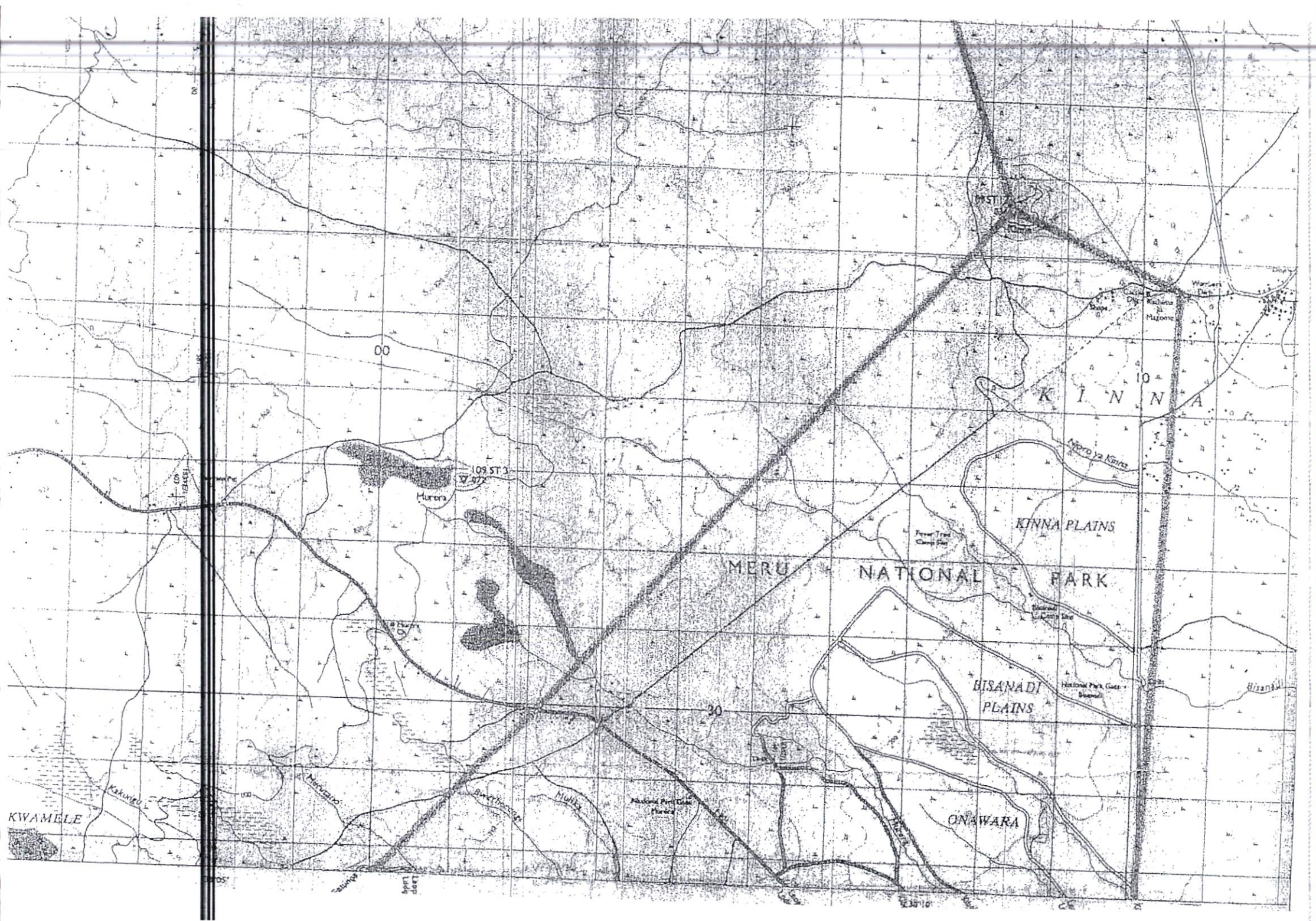
MERU COUNTY

1:2500 ENLARGEMENTS

TOPO SHEET-109/1







DISTRICT

00

109 ST 3

Murrera

10

K I N N A

Muru 12 Kilns

KINNA PLAINS

MERU NATIONAL PARK

HISANADI PLAINS

National Park Gate

Hisanadi

20

ONAWARA

KWAMELE

1:50,000

C.E.

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FIFTH SESSION

THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE PETITION FOR THE REMOVAL FROM OFFICE OF THE
CHAIRMAN OF THE NATIONAL LAND COMMISSION PROF. MUHAMMAD A.
SWAZURI

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

MAY, 2017

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CHAIRMAN'S FOREWORD

On Thursday 23rd March 2017 the Speaker of the National Assembly conveyed a petition before the House submitted by Mr. Mugo Njeru for the removal of a Commissioner pursuant to Article 251(1) of the Constitution. The Petitioner alleged that the petition disclosed grounds for the removal of the Chairperson, National Lands Commission (NLC) for violating:-

- (a) Article 201 (d) and (e) of the Constitution by failing to practice prudent, responsible and clear use of public funds;
- (b) Sections 7(1) and 12(1) of the Leadership and Integrity Act, by failing to uphold a high level of integrity in his conduct during his tenure in office, and allegedly using his influence to have land compensation monies paid to him through a conduit; and,
- (c) Section 19(1) and Paragraph 3(1) of the Fourth Schedule OF the National Land Commission Act, by delivering determinations on behalf of the Commission without requisite quorum.

The petitioner further alleged that the Chairman, NLC used his position to enrich himself, defraud his wife, Editor Mugo of monies she had been awarded as compensation by the National Land Commission during the compensation of the Standard Gauge Railways (SGR) and revoke her land title in favour of another company, thus violating her rights as enshrined in Article 40 of the Constitution. The Petitioner prayed that:-

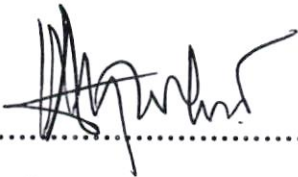
- a) The National Assembly resolves that this petition discloses ground for the removal of the Chairman of the National Land Commission as provided for under Article 251 (1) of the Constitution of Kenya; and,
- b) The National Assembly recommends to H.E. the President the appointment of a tribunal to investigate the Chairman of the National Land Commission in accordance with the provisions of Article 251 of the Constitution.

The House Pursuant to Standing Order 230(3) referred the Petition to the Departmental Committee on Lands.

The mandate of the Committee under Standing Order 230(4) was to *investigate* the matter within *fourteen (14) days* and report to the House whether the petition discloses ground for removal from office of the Commissioner under Article 251(1) of the Constitution.

I wish to commend Members of the Committee for their commitment, and hard work during the long sitting hours under tight schedules which enabled the Committee to complete the tasks. Further, the Committee wishes to express gratitude to the offices of the Speaker of the National Assembly and the Clerk for the support they accorded it, and acknowledges the contribution of witnesses in the preparation of this report by way of submissions and presentations.

Finally, it is my pleasant duty, on behalf of the Departmental Committee on Lands, to present this report in accordance with the provisions of Standing Order 230, to this House for debate and adoption.

SIGNED:  DATE: 20th May, 2017

HON. ALEX M. MWIRU, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON LANDS

EXECUTIVE SUMMARY

This report seeks to respond to the prayers sought from the House by Mr. Mugo Njeru who petitioned the National Assembly for the removal of the Chairperson of the National Land Commission (NLC). In his Petition Mr. Mugo prayed that the House through the Departmental Committee on Land; establishes that the Chairperson contravened the following laws: -

- a) Article 201 (d) and (e) of the Constitution by failing to practice prudent, responsible and clear use of public funds;
- b) Sections 7(1) and 12(1) of the Leadership and Integrity Act, by failing to uphold a high level of integrity in his conduct during his tenure in office, and allegedly using his influence to have land compensation monies paid to him through a conduit; and,
- c) Section 19(1) and Paragraph 3(1) of the Fourth Schedule of the National Land Commission Act, by delivering determinations on behalf of the Commission without requisite quorum.

The Committee held various meetings within Parliament Buildings where it set out its terms of references on the Petition for the removal of the chairperson, National Land Commission as hereunder:- To

- a) Establish whether Prof. Muhammad Swazuri failed to use public funds in a prudent and responsible manner;
- b) Find out if Prof. Muhammad failed to observe the principle of responsible and fiscal reporting;
- c) Confirm whether the National Land Commission Chairperson used his influence to have land compensation monies paid to him through a conduit;
- d) Verify if the National Land Commission Chairperson defrauded the petitioner's wife of the amount she had been awarded as compensation by the National Land Commission;
- e) Demonstrate whether the National Land Commission Chairperson revoked the petitioner's wife land title in favour of another company;
- f) Certify if the National Land Commission Chairperson used his position to enrich himself;
- g) Justify/show whether National Land Commission Chairperson delivered determinations on behalf of the Commission without the requisite quorum;
- h) Prove that the National Land Commission Chairperson in serious violation of the Constitution and the Laws of Kenya and any laws of Kenya.

Further the Committee resolved to invite the following witness to adduce evidence

- a) The general public through an advertisement for Memoranda in relation to the Petition;
- b) The Petitioner;
- c) The Petitioner's wife
- d) Prof. Muhammad Swazuri, the Chairperson of the National Land Commission (Respondent);
- e) The Chief Executive Officer of the National Land Commission;
- f) Chairperson of the Review of Grants and Disposition Committee of the National Land Commission;
- g) Secretary of the Review of Grants and Disposition Committee of the of the National Land Commission;
- h) Chairperson of the Land Valuation, Taxation and Compulsory Acquisition Committee of the National Land Commission;
- i) Secretary of the Land Valuation, Taxation and Compulsory Acquisition Committee of the National Land Commission;
- j) Individual Commissioners of the National Land Commission;
- k) Director, Land Administration of the National Land Commission;
- l) Cabinet Secretary, Ministry of Lands and Physical Planning;
- m) Managing Director, Kenya Railways Corporation;
- n) The Director of Surveys Ministry of Lands and Physical Planning;
- o) The Director of Physical Planning in the Ministry of Lands and Physical Planning;

The report is divided into five parts namely:

- 1) Part 1 is on the mandate of the Committee;
- 2) Part 2 deals with issues of consideration/determination by the Committee;
- 3) Part 3 is on evidence presentation the presentations that were made by various individuals and institutions that appeared before the committee;
- 4) Part 4 is on findings and observations.
- 5) Part 5 is on Committee's Recommendations.

MANDATE OF THE COMMITTEE

The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) and its mandate to: -

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned Ministries and Departments;
- b) Study the programme and policy objectives of Ministries and Departments and effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House;
- f) Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
- g) Make reports and recommendations to the House as often as possible, including recommendations on proposed legislation.

The Committee considers the following subjects:-

- a) Land policy,
- b) Physical planning,
- c) Land transactions,
- d) Survey and mapping,
- e) Land adjudication,
- f) Settlement,
- g) Land registration,
- h) Land valuation,
- i) Administration of private, community and public land,
- j) Land information and management system.

Oversight

In executing its Mandate, the Committee oversees the following Government Ministries and Departments:-

- i. The Ministry of Lands and Physical Planning;
- ii. The National Lands Commission.

Members of the Committee

Chairperson	Hon. Alex Mwiru, M.P.
Vice Chairperson	Hon. Moses Ole Sakuda, M.P.
	Hon. Mutava Musyimi, M.P.
	Hon. John Kihagi, M.P.
	Hon. Francis W. Nderitu, M.P.
	Hon. Kipruto Moi, M.P.
	Hon. Hellen Chepkwony, M.P.
	Hon. Sarah Korere, M.P.
	Hon. Benson Mbai, M.P.
	Hon. Suleiman Dori, M.P.
	Hon. George Oner, M.P.
	Hon. Mathew L. Lempurkel, M.P.
	Hon. Shakila Abdallah, M.P.
	Hon. Dr. Paul Otuoma, M.P.
	Hon. Thomas Mwadeghu, M.P.
	Hon. Joseph Magwanga, M.P.
	Hon. Ali Shariff Athman, M.P.
	Hon. Francis Njenga, M.P.
	Hon. Hezron Awiti Bollo, M.P.
	Hon. Benard Bett, M.P.
	Hon. Esther Murugi Mathenge, M.P.
	Hon. Onesmus Ngunjiri, M.P.
	Hon. Julius Ndegwa, M.P.
	Hon. Patrick Kingola, M.P.
	Hon. Kanini Kega, M.P.
	Hon. Eusilah Ngeny, M.P.
	Hon. Omar Mwinyi, M.P.
	Hon. Charles Nyamai, M.P.

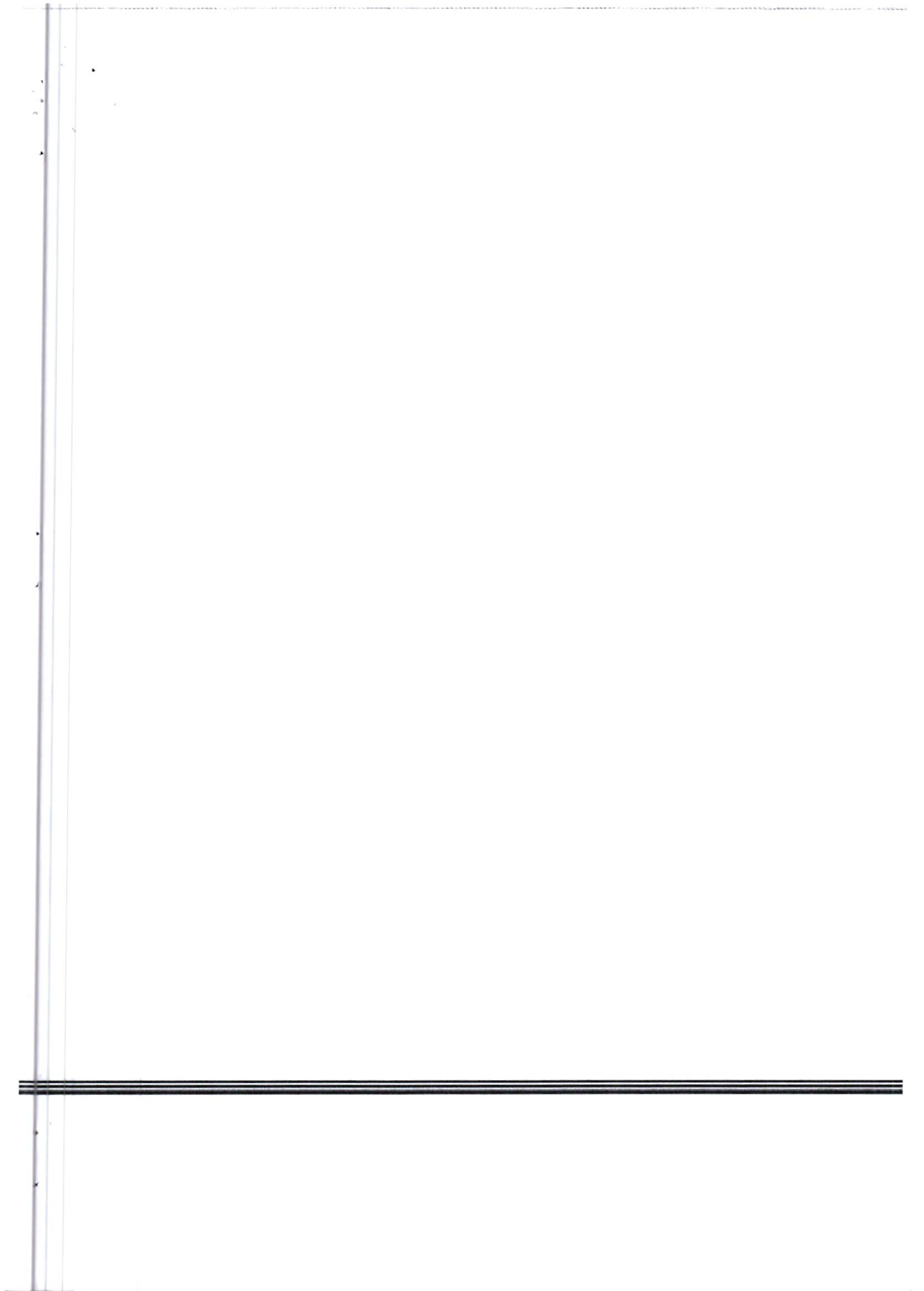
Secretariat

First Clerk Assistant	-	Mr. James Ginono
Third Clerk Assistant:	-	Mr. Joshua Ondari
Third Clerk Assistant	-	Mr. Emmanuel Muyodi
Legal Officer I	-	Ms. Mercy Wanyonyi
Research Officer	-	Mr. Erick Ososi

List of Recommendations

After meeting the Petitioner, the Chairman of the National Land Commission, all Commissioners of the National Land Commission and the Chief Executive officer of the National Land Commission and the Cabinet Secretary for the Ministry of Lands and Physical Planning, the Committee makes following recommendations:-

- 1. That; the Petition has disclosed grounds for the removal of Prof. Muhammad Swazuri as the Chairperson of the National Land Commission as set out in Article 251 (1)(a)(b) and (d);**
- 2. That; H.E. President Uhuru Kenyatta appoints a tribunal in accordance with Article 251 (4) (b) as read together with Article 251 (g) of the Constitution to investigate the matter expeditiously, report on the findings and make a binding recommendation to the President.**



CHAPTER ONE:

1.0 INTRODUCTION

1.1 Background

1. The Petition seeks the removal of the Chairman of the National Land Commission on the grounds of violation of the Constitution and the Leadership and Integrity Act, Cap. 182 and the National Land Commission no.5 of 2012;
2. Article 95(2) of the Constitution provides that the National Assembly deliberates on and resolves issues of concern to the people;
3. The Petition complies with the provisions of Article 251(2) of the Constitution on the removal of a Member of a Constitutional Commission. This Article provides that a person desiring the removal of a holder of an independent office on any of the grounds specified in Article 251(1) may present a petition to the National Assembly setting out the alleged facts constituting the grounds.
4. The petitioner alleges that the Chairman of the National Land Commission, among others: —
 - a) Unduly influenced the Petitioner's wife to enter into a contract of undertaking to pay a person an amount out of the monies she had been awarded as compensation by the National Land Commission; and,
 - b) Delivered determinations on behalf of the Commission without the requisite quorum as provided in section 19(1) and paragraph 3(1) of the Fourth Schedule to the National Land Commission Act, Cap. 5D.
 - c) Contravenes Article 201 (d) and (e) of the Constitution by failing to practice prudent, responsible and clear use of public funds;
 - d) Acted contrary to sections 7(1) and 12(1) of the Leadership and Integrity Act, by failing to uphold a high level of integrity in his conduct during his tenure in office, and allegedly using his influence to have land compensation monies paid to him through a conduit; and,
 - e) Acted in conflict to section 19(1) and Paragraph 3(1) of the Fourth Schedule to the National Land Commission Act, by delivering determinations on behalf of the Commission without requisite quorum.
5. The Petition complies with the requirements of Standing Order No. 230(1) on the form of the petition. Standing Order No. 230(1) (a) provides that a petition for removal of a Member of a Constitutional Commission shall indicate the grounds under Article 251(1) of the Constitution, which the Member of the Commission is in breach of the Petitioner indicates that the Chairman of the National Land Commission

had violated the Constitution as well as the Leadership and Integrity Act, Cap. 182. This was in line with the grounds stipulated under Article 251(1)(a) of the Constitution.

6. Members of the Committee considered the issues to be determined from the prayers of the Petitioners and identified the necessary action to be taken.
7. The Committee held deliberative meetings with the stakeholders identified in the executive summary and the Minutes of those sessions as well as the documents and evidence presented to the Committee are annexed to this report.
8. The Committee received written Memoranda and other documents during the inquiry, which are annexed.

1.2 Legality of the Petition

Prof. Tom Ojienda, Advocate for Prof. Muhammad Swazuri, Chairman National Land Commission while rising on a point of Order objected to the Petition by stating that it was not admissible due to the following grounds: jurisdiction, legality of contract, determinations by the National Land Commission, bribery claims and sub-judice which he further explained as hereunder.

1.2.1 Jurisdiction

1. That the Departmental Committee on Lands did not have power to investigate allegations of bribery and corruption since this was the exclusive mandate of the Ethics and Anti-corruption Commission. Further, the actions of the committee were *ultra-vires* under Article 95 of the Constitution since it was only the Environment and Land Court which could determine the issues of ownership of land.

1.2.2 Legality of contract

2. That the issues of the legality or otherwise of a contract could only be interpreted by a court of law and by asking the committee to recommend the removal from office the Chair NLC, the Committee will be acting illegally as it will be determining the legality of the titles LR. NO. LR. NO. 15100, LR No. 29455 and LR. No. 9084 which is a mandate of NLC;
3. By the Petition is calling illegal a deal / contract entered by parties on matters to do with land dispute solely lies with the courts. The Role of parliament is to legislate and not to interpret.

1.2.3 Determinations by the National Land Commission

4. That the National Land Commission exercises quasi-judicial powers in making any determinations with regards to land issues. As such, an aggrieved person ought to appeal to the Environment and Land Court pursuant to Article 165 (6) of the Constitution, which gives the High Court supervisory jurisdiction over the

subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function;

5. Further, that by looking at the proper determinations made by the NLC, it has clear channels through the High court as provided by laws (Article 165 (3) of the Constitution and Section 113 of the Land Act No. 6 of 2012). That any entitlement question on land ought to go to the High Court.

1.2.4 Bribery

6. That the respondent was not present during the submissions of the Petitioner. As such he ought to be provided with a hansard copy on the same pursuant to Article 50 of the Constitution for purposes of according him a fair hearing. Further, that if the Petitioner had confessed to giving a bribe of Kshs. 1,000,000.00 to the respondent, then he ought to be arrested by the police and charged pursuant to Article 244 (c) of the Constitution.

1.2.5 Sub-judice

7. That the issues for determination before the committee's were pending before court vide Petition No.64 of 2017 and Petition No.41 of 2017 hence the matter is *sub-judice*.

1.3 Communication from the Chair regarding the preliminary objections

8. That the prayers sought in Petition No.64 of 2017 were conservatory orders restraining the National Land Commission either by themselves or by their agents from releasing the compensation amount of Kshs 43,000,000 in respect of LR No.9084 and that pending the hearing and determination of the Petition, the court should grant an order directing the National Land Commission to deposit the said monies in the courts accounts and further that those orders were already in place.
9. The prayers sought under Petition No.41 of 2017 were for a declaration that the Petitioner is entitled to a full enjoyment of all the rights enshrined under Article 35 (Access to information) and an order compelling the National Land Commission to provide information including a certified copy of the determination arrived at in respect to the compulsory acquisition, a certified claim lodged by any party as at 10th June 2015, a certified copy of the minutes of the various meetings held for the statutory inquiries, a certified copy of the award of compensation arrived at, a certified copy of the valuation report and a certified copy of the hansard of the meeting held on 10th June 2015 and any other subsequent meeting.
10. That the matters before Court are not seeking the removal of the Chairman from office consequently, the matter is not *sub-judice* since the matters in respect of which the committee was considering are pursuant to Article 251 on the removal of Prof. Mohammed Swazuri as the chairperson of the National Land Commission;
11. The Departmental Committee on Lands is not seeking to determine the legality of ownership of the properties in question, nor legality of the contract but the culpability of the one Prof. Muhammad A. Swazuri;

12. That the respondent will be provided with a hansard copy of any proceeding which he may not have been present upon request pursuant to Article 50 of the Constitution for purposes of according him a fair hearing;
13. The Committee was guided by requirements of Article 251 of the Constitution on grounds for removal of a holder of an independent office and to reply to the prayers of the petitioners conclusively. The committee set out to determine through its consideration whether the allegations are true and that they meet the threshold that violates the following provisions in the Constitution and various laws.
 - a) Article 201 (d) and (e) of the Constitution by failing to practice prudent, responsible and clear use of public funds;
 - b) Section 7(1) and 12(1) of the Leadership and Integrity Act, by failing to uphold a high level of integrity in his conduct during his tenure in office, and allegedly using his influence to have land compensation monies paid to him through a conduit; and
 - c) Section 19(1) and paragraph 3(1) of the Fourth Schedule to the National Land Commission Act, by delivering determinations on behalf of the commission without requisite quorum.

CHAPTER TWO

2.0 EVIDENCE BY WITNESSES

This section contains the presentations that were made by various individuals and institutions that appeared before the committee.

2.1 Submission from the Petitioner Mr. Mugo Njeru

The petitioner Mr. Mugo Njeru appeared before the Committee on 28th March, 2017 and made a presentation as follows;

17. That he owns land LR. No. 15100 located along old Mombasa Road through an entity called Daimler's Enterprises Limited, Nairobi, and the wife owns land LR. NO. 9084 located in Nairobi;
18. That the whole of Land LR. No. 9084 and 1 acre out of 8 acres of the land LR. No. 15100 were compulsory acquired by National Land Commission for purposes of Standard Gauge Railways Project.

2.1.1 Submission on Land LR. No. 15100

19. That he was invited by the National Land Commission through a letter dated 3rd June, 2015 (**Annex 1**) to attend a public hearing for review of grants and disposition with regard to the mentioned properties Land LR. NO. 15100;
20. That during the said Review of Grants and Disposition Committee meeting which was duly constituted (having at least five commissioners), and chaired by the Vice Chair of the Commission Mrs. Abigael Mbagaya Mukole, he presented documents in support of ownership of the LR. NO. 15100 minutes of the said Meeting held on 22nd July 2015 (**Annex 2**);
21. That another entity by the name Bahkrasa Grain Millers (K) Ltd also claimed the ownership of the same property but with a different (LR No. 29455). The petitioner used a court order to repulse the Bahkrasa Grain Millers (K) Ltd from claiming ownership of the property (**annex 3**);
22. That the National Land Commission inquired from the director of Survey to give a technical advice on the rightful owner of the property. Through a letter dated 4th July, 2016 to the Commission the Director of Survey confirmed that the LR No. 29455 was one and same as LR. NO. 15100 and advised that the LR. NO. 15100 should be upheld (**Annex 4**);
23. That a determination was issued unilaterally by the Chairman NLC acting on his own and without involving the Review of grants and Disposition Committee and the Plenary of the Commission, in total disregard of the advice from the Director of Survey (**Annex 5**);

24. The Chairman NLC ignored the determination by the Committee of the Commission on the Review of grants and Disposition (**attached minutes dated 7th October 2015**) on Lands and administration (**annex 6**);
25. That the petitioner was never served with the determinations by the Chairman, and was forced to go to court to be given the document (**Annex 7 See attached Sued Letter**);
26. That the unilateral determination by the Chairman NLC revoked the title for LR. No. 15100 and upheld the title LR. No. 29455. The Determination also directed the director valuation and taxation of the NLC to proceed and issue letters of award for compensation to Bakhresa Grain Miller (K) Ltd who were the purported owners of LR. No. 29455. The determination lead to a Compensated award and payment of Kshs. 82,818,000.00 by the Commission as part of the SGR compensation (**Annex 5 the determination**);
27. That the petitioner was coerced to enter into a contract, which was prepared by S. Ruwa and Company Advocates. The Contract was to ensure that he pay Kshs. 25 million to S. Ruwa and Company Advocates on behalf of Badhili Elijah Yaa who is an agent of Prof. Muhammad Swazuri for an interest that was never disclosed to him regarding Plot LR. No. 15100 (**annex 8**).

2.1.2 Submission on LR. NO. 9084

28. That his wife Editor Mugo was the only claimant of land LR. NO. 9084, during the public hearing and Review of Grants and Disposition Committee meeting;
30. That after the Public hearing in Paragraph 28 above Dasahe Investment Ltd launched a claim of ownership on land LR. NO. 9084 to the Chairman NLC and not to the Review of Grants and Disposition Committee;
31. That after the clam by Dasahe Investment Ltd the Chairman convened an Alternative Dispute Resolution (ADR) meeting in his office between Dasahe Investment Ltd and the Petitioner, there was no any other NLC Commissioner present during the said Meeting;
32. That the conclusion of the ADR meeting above the Chairman ordered the Parties involved to come up with a solution withi seven days failure to which he would make his own determination;
33. That the Petitioner and Dasahe Investment Ltd failed to agree and as such did not communicate any decision to the Chairman NLC.
34. That after a period of time the Petitioner learnt of the existence of a Determination by the Chairman in which the Petitioner sought a copy in vein (**See Correspondences annex 7**)

35. That the Petitioner decided to seek remedial redress from the Court under the constitutional Petition no. 64 of 2017 to stop any compensation payment in regard to Plot LR. Number 9084;

36. That in the said determination above the Chairman of the NLC had unilaterally decided to award the compensation money between Dasahe Investment Ltd and the Petitioner at a ratio of 4:1 respectively and a further Kshs. 5,000,000.00 as expenses incurred by Dasahe Investment Ltd in the Process of following up on the title;
37. That prior to the ADR meeting the Petitioner and his wife had been coerced to enter into a contract prepared by S. Ruwa and Company Advocates that could ensure his wife pay Kshs. 20 million to be received by S. Ruwa and Company Advocates on behalf of Badhili Elijah Yaa who is an agent of Prof. Mohammed Swazuri for an interest that was never disclosed to the Petitioner's wife (**annex 9**).

2.1.3 Other Submissions

37. That the Petitioner was introduced to one Badhili Elijah Yaa by the Prof. Muhammad A. Swazuri as his agent who would link the Petitioner and the Chairman, The Chairman further provided the telephone contact for Badhili Yaa and thereafter they have been communicating through short messaging services (**See Annex 10 of telephone SMS**);
38. The Petitioner travelled from Nairobi to Mombasa through Jomo Kenyatta International Airport and was picked at Moi International Airport by Mr. Badhili Elijah Yaa while carrying Kshs. 1,000,000.00 and was taken to Lotus Hotel Mombasa to meet Prof. Swazuri;
39. That the Petitioner met Prof. Mohamed Swazuri in Lotus Hote Nyali area in Mombasa Mombasa where he was coerced to bribe the Chairman NLC through a conduit a Mr. Badhili Elijah Yaa with Kshs. 1,000,000.00 in cash;
40. That the Petitioner was directed by Prof. Swazuri to give Mr. Badhili Elijah Yaa the Money since he knew how the Money would reach Prof. Swazuri.
41. That the Petitioner having not received the services for which he had paid for the Kshs. 1,000,000.00 commenced demands for the refund of the money (**Annex 10 the SMS messages**)

2.2 Submission from the Chairperson of National Lands Commission

42. Prof. Muhammad A. Swazuri appeared before the committee on 4 different occasions; between 28th March 2017 and 30th March 2017. During the 1st Meeting on 28th March 2017 he submitted that he had travelled to the US for meetings and had been indisposed on arrival to Kenya and therefore sought indulgence of the Committee to be given more time to address issues in the Petition. Consequently the meeting was rescheduled to the next day;
43. The Chairman NLC Prof. Muhammad A. Swazuri appeared again before the Committee on 29th March 2017. He was accompanied by legal representation Prof. Tom Ojiembo raised preliminary objections as to why the Petition should not be entertained by the Committee. The grounds, which he raised before the Committee, were dismissed as elaborated on 1.0 above. Prof. Swazuri Mr. Badhili Elijah Yaa sought an adjournment to consult his advocates and prepare for the hearings;

43. The Chairman NLC Prof. Muhammad A. Swazuri further appeared before the Committee on 29th March 2017 and made submissions as follows:-
44. That the procedure for compensation is clear in law and that the process starts from notice of inquiry, to inspection of the properties, to valuation and then to determination of awards and finally the payment of awards.
45. That the decision to compensate is not a decision of the chair but the entire commission to resolve in the Plenary;
46. That the NLC has undertaken compensation of many other projects including KeRRA, KURA and KETRACO and the Commission has not had issues to do with misuse of funds.
47. On whether he was aware of the Commission meetings held on 10th June 2015, 22nd July 2015 and 18th January 2017, he clarified that the meeting held on 10th June 2015 was a Commission Review hearing, which was chaired by His Vice Chairperson. He was not present during the hearing;
48. He was aware of the meeting held on 22nd July 2017 but he did not have the minutes of the said meeting;
49. That as for the meeting held on 18th January 2017, he was aware of the Meeting and clarified that the meeting was an ADR meeting in which he had met representatives of landowners who had disputes.
50. That after the ADR meeting he gave landowners suggestions/proposals on behalf of the Commission but not a decision as the letter was subject to ratification at the plenary of the Commission. However he did not have minutes of the meeting but agreed that he was the lone commissioner present during the ADR Meeting;
51. That ADR is a function bestowed upon the Commission under Section 5 (1)(f) of the National Land Commission Act;
52. There are no ADR structures and framework within the Commission. however since parties themselves agree on what case to be attended to, depending on the fact of the matters, the chair sits with officers from the ministry and sometimes officers from the commission to arbitrate;
53. During the ADR meeting held on 18th January the officers present were; David Some director - Dasahe Investment Ltd, his Advocate Migos Ogamba, Mr. Brian Ikol – Deputy - Director Legal Affairs and Enforcement NLC, Mr. Muthiwa – Lands Ministry and the petitioner with his lawyer. However the Chairman could not table the Minutes of the Meeting;
54. On whether the Commission ratified his determination dated 14th November 2016 and 5th February 2017 which were contrary to the Commission determination as per the minutes of meetings held on 7th October 2015 and 22nd July 2015, justification which he did not provide;

55. On whether he was aware that his determination dated 6th February 2017 was tantamount to reinstating a revoked title for Plot LR. No 9084, he claimed that there must have been another Commission meeting after that of 22nd July 2015 reinstating the revoked title, minutes which he did not provide;
56. On whether he was aware of a letter from the director of survey dated 4th July 2016 addressed to him, which upheld LR. NO. 15100, he informed the committee that there was another letter that countered the said letter, which letter he did not provide;
57. Due to fact that the Chairperson of the Commission could not provide any document to support or substantiate his presentation he requested for more time to gather evidence his request was granted and consequently the Meeting was adjourned to a later date;
58. During the Fourth Sitting with the Committee held on 30th March 2017, the Chair of the National Lands Commission was requested by the chairman of the Departmental Committee on Lands to table the documents which had resulted into previous adjournments which include among others:-
 - a) Advisory letter from the Surveys of Kenya that informed his determination on LR. No 15100 and LR. NO. 29455;
 - b) Minutes of the two ADR meeting held in his office;
 - c) Minutes of the commission meeting to revoke the title LR. NO 15100 and uphold LR. NO. 29455;
 - d) Minutes of the Plenary of the Commission which ratified his determination contained in a letter ref. NLC/CHAIR/VOL.XVIII/146 dated 6th February 2017, a Letter ref. NLC/CHAIRMAN/VOL.XVIII/241 dated 14th November 2016 and a Letter ref. NLC/CHAIR/VOL.XVIII/145 dated 11th October 2016 (**Annexes 11, 5 and 12 respectively**).
59. The Chairman of the National Lands Commission claimed that he was in possession of all the documents requested for by the Chairman of the Departmental Lands of Committee but was not ready to table them because he had a Court order stopping the proceedings;
60. The Chairperson when requested, to table the said Court Order claimed that the Court order was on its way to the Committee;
61. Having failed to produce the said Court order and upon refusing to table the requested documents. The Chairman of the Committee declared him a hostile witness and stopped further hearings from the Chairman.

2.3 Submission from the Vice Chair NLC, Ms. Abigael Mbagaya Mukole

Mrs. Abigael Mbagaya Mukole appeared before the Committee on 29th March 2017 and informed the committee that she chairs the Committee on Review of Grants and Disposition of the National Lands Commission.

62. That a Commission hearing of the Review of Grants and Disposition Committee was held on 10th June 2015 and during the said hearing no determination was made;

63. That the Commission Committee on review of grants and disposition resolved to cancel the title for LR. 15100 and uphold title LR. 29455 as per the minutes of the 22nd July 2015 however on 7th October 2015 the same Committee (**Annex 2**), revised their decision to withhold payment for plot LR. No. 15100 pending determination of the rightful owner of the property (**Annex 6**);
64. That the Initial findings through the minutes of a meeting dated 22nd July 2015 revoked Daimler's Enterprises Ltd title and upheld the title for Bahkresa Grain Millers Ltd. However, Daimler Enterprises Ltd appealed to the Review of Grants and Disposition Committee. A meeting was held on 7th October 2015 in which the revocation was withheld and it was resolved that the determination of the properties be withheld to examine the survey records and allocation status of the land. Compensation in respect of the property was to be sent to NLC and withheld until the case was concluded;
65. On whether she was aware of the contents of the chairman determination dated 6th February 2017 and 14th November, 2016 and whether they were ratified at the plenary, the witness informed the committee that she was not part of the deliberations. The determination made on letter Ref. File No. NLC/CHAIRMAN/VOL.XVIII/241 dated 14th November, 2016 was never taken before the plenary. Further, that the committee on Review of Grants and Disposition had not made any determination on either plot LR No. 15100 and plot LR No. 29455;
66. That Plot LR. No. 29455 and plot LR. No. 15100 were the same;
67. That the Committee on Review of Grants and Disposition received three claims on the land LR. No. 15100 who included Daimler Enterprises Ltd, Bahkresa Grain Millers Ltd and Mr. Noor;
68. She was not aware that a Bahkresa Grain Millers Ltd had been paid compensation in respect of LR. No. 29455 and that according to her the status was as per the ruling of the minutes of 7th October 2015 to hold on abeyance until determination was made;
69. That the Compensation award for parcel LR. No. 9084 was yet to be paid due to a conservatory order that was issued after one of the parties went to court (**Annex 13**);
70. That the Commission had recommended for the revocation of parcel LR. No. 9084 among other parcels which were part of the Kenya Railways Reserve land (**Annex 6**);
71. The Vice Chair tabled an attendance schedule or members of the Committee of the Commission present on the meeting held on 22nd July, 2015 and the corresponding minutes (**Annex 2**) in which a revocation of title for plot LR. No. 9084 were revoked;
72. That she was not aware of a meeting of the alternative dispute resolution sitting held on 18th January, 2017;

73. That the officers involved in line of payment were the Chief Executive Officer - Mr. Tom Aziz Chavangi who is the accounting officer and the Director of Finance Mr. Francis Karimi Mugo; are the joint signatories to the payment Schedule (**Annex 14**);

74. On whether there are guidelines on holding ADR meetings, the witness confirmed that the Commission has guidelines, but the scope is usually open and is among the Traditional Dispute Resolution mechanisms. However, minutes are normally captured and the issues that arise are forwarded to the commission for ratification. Matters that escalate to the full Commission Meeting become a matter of the commission and quorum must be observed of at least five Commissioners;
75. That the Commission recommended revocation of parcel LR. No. 9084 among others parcels which were thought to belong to the Kenya Railways Reserve land. However, Kenya Railway Corporation wrote to the Commission informing them that the said parcels were not part of Railways Reserve. The Vice Chair did not table the said Letter from Kenya Railways.
76. On whether she can produce the communication from the Kenya Railways Corporation to NLC advising the commission to uphold the titles for LR. Nos. 9088, 9087, 9086, 9085, and 9084 the witness requested the Committee to ask the Chair NLC for the document as they were not in her possession.

2.4 Submission from Commissioner Dr. Tomiik Mboya Konyimbih

Dr. Tomiik Mboya Konyimbih appeared before the Committee on 29th March, 2017 at 4:30pm and confirmed that he chairs the following three Committees of the Commission:- Committee on Valuation, Taxation and Compulsory Acquisition, Committee on Lands Administration, and Resource mobilization and networking Committee.

77. That the letter NLC/CHAIR/VOLXVIII/146 dated 6th February, 2016 was not ratified by the commission and that he was seeing the letter for the first time during the petition hearing;
78. That he was not aware of the letter Ref. File No. NLC/CHAIRMAN/VOL.XVIII/241 dated 14th November 2015 upholding title for LR No 29455 and subsequent revocation of title LR No 15100;
79. He tabled a valuation report for the two properties as hereunder:
 - a) **Plot LR No. 9084:-**
 - i. Plot LR No. 9084 measures 0.44 Ha (1.087 Acres) and it is situated across the Old railway line, off Mombasa Road and lies on first row from the Railway line;
 - ii. When the Commission made a search on this parcel the search was unavailable and the since it is also a subject to dispute the matter was referred for review;
 - iii. The Plot is occupied by squatters and forms part of Dupoto Darfur Settlement;
 - iv. The said parcel was valued at Ksh. 43, 815, 000;
 - v. However, he was not aware if compensation award had been awarded to the said parcel.
 - b) **Plot LR No. 15100:-**
 - i. What was to be acquired for SGR project measures 0.4462 Ha (1.1 Acres) and
 - ii. It is located along Mombasa road. It was valued at Ksh. 82, 818, 000.

80. That an award is the final process for compensation during the claims. The Review of Grants and Disposition Committee of the Commission does a ruling that informs the determination. The review of grants and disposition report is forwarded to the Committee on Valuation, taxation and Compulsory Acquisition before compensation is made;
81. That he had directed an internal Audit of the SGR compensation project from Mombasa to Nairobi and the report has been tabled at the Commission for discussions and he has also directed an internal audit of all the other land acquisition projects and in two weeks' time the reports would be ready and he shall forward to the Departmental Committee on Lands;
82. That the commission has measures of controls to verify every compensation made, these include; valuer do investigate and bring valuation and schedule, director valuation and taxation goes through the schedule then signed by valuer and director, the director does a letter through Director Finance to CEO for award. A directive was issued effective January 2017 that every single schedule must be tabled before the Committee on Valuation, Taxation and Compulsory Acquisition;
83. The witness confirmed that the registered property for the two LR. No 15100 and LR. No. 29455 are missing and he was not aware that the LR. No. 29455 had been paid compensation for Kshs. 82,818,000.00.

2.5 Submission from the CEO of the Commission

Mr. Tom Aziz Chavangi appeared before the committee on 30th March 2017 and informed members that he was served with a court order that stops the proceedings of the Committee;

84. That the Chair ruled that the Parliamentary Committee enjoys same powers of a High Court and that the committee had not been served with the alluded court orders. The chair ruled the committee to proceed with its hearings.
85. The CEO informed the Members of the Committee that he forwarded minutes dated 7th October, 2015 from the Vice Chair of the Commission and also the Chair of the Review of grants and Disposition Committee to the Director Valuation and taxation;
86. The Committee revoked the title for land LR No 9084. The Committee also resolved that the determination of the properties LR. No. 15100 was to be withheld to determine the survey records and allocation status of the land. Compensation in respect of the property was to be sent to NLC and withheld until the case is concluded;
87. That he did not report the two matters to the Plenary of the Commission since the decision of the Commission Committee needs to be ratified by the Commission for a decision to be made;
88. That the Commission did not ratify the determination unilaterally made by the chairman NLC through a Letter referenced NLC/CHAIR/VOLXVIII/146 to Managing Director Kenya Railways Corporation;

89. He confirmed that there were no minutes to show that the ratification of the aforementioned decision regarding the revocation of Land Parcel LR. No. 9084 as per the minutes of the Committee of the Commission on review of grants and disposition held on 7th October, 2015 was reinstated;
90. He claimed that he was not aware of the content of the letter NLC/CHAIR/VOLXVIII/146, and stated that the letter was not under his purview.
91. That it was a normal process for a letter with such magnitude not to be copied the CEO since eventually the matter will find its way to his office. Sometimes orders can be issued and ratification done later;
92. On the authority to pay Bahkrasa Grain Millers Ltd Kshs. 82,818,000.00 he stated that the Chairman NLC made the authorization unilaterally without any further reference to the Plenary of the Commission and was given through an internal memo dated 14th December 2016 to Director of Finance, through the CEO and was authorized by the Chairman NLC, Prof. Muhammad A. Swazuri (**Annex 15 entry No. 19**);
93. Although he is the overall custodian of the Commissions documents, he is not in possession of some documents due to the busy nature of his work he delegates especially the setting of agendas to his directors who subsequently report quarterly to him.
94. That he was not aware of minutes that reinstated the revocation of titles of LR Nos. 9084 – 9088.

2.6 Submission from the Director Finance Mr. Francis Karimi Mugo

Mr. Francis Karimi Mugo appeared before the committee on 30th March 2017 and informed the Committee as hereunder, that:

96. He did not come across any payment request for plots LR No 9084 and LR. No. 15,100. However, he is aware of a voucher for parcel LR. No. 29455 paid to Bahkresa Grain Millers (k) Limited.
97. That the Authority to pay Bahkrasa Grain Millers Ltd of Kshs. 82,818,000, in respect to Plot LR. NO. 29455 vide a letter from the director Valuation and Taxation through the Chief Executive Officer was attached with a payment schedule authorizing the payments;
98. That the authorization letter was informed by the determination from the office of the Chairman National Lands Commission directing the director Valuation and Taxation to prepare award letters;
99. That a notification of transmission through SWIFT, sender National bank and receiver Standard chartered bank and the beneficially customer name of the 82,818,000 is Bahkrasa Grain Millers Ltd;
100. That a Valuation report is not forwarded to him during the request for payment and he only relies on the legal copies to pay the Project Affected Persons (PAPS) is the award letter;

101. That his directorate comes in on payment at the tail end of paying for the properties acquired;
102. That the process involves the director valuation and taxation writing to the Chief Executive Officer seeking approval for payment of a finalized list of Project Affected Persons (PAPS);
103. The approved internal memo from the Director Valuation and taxation is forwarded to Director Finance and Administration by the Chief Executive Officer with instructions to process the payments;
104. Then the director finance and accounting forwards the payment to the accountant in charge of compensation payments through the deputy director finance and accounts who then prepare the payments.
105. The accountant in charge confirms names in the list of Project Affected Persons (PAPS), identification and bank details thereafter, prepares a payment schedule instructing the bank to transfer the said funds to the bank accounts of Project Affected Persons (PAPS);
106. The payment documents and all supporting documents are forwarded to the deputy director finance and accounts or senior accountant for cross checking who thereafter forwards payment to the two available bank signatories. The bank account signatories are; Director Finance and Administration, Director Valuation and Taxation and Chief Executive Officer;
107. That to determine the owners of the land, the process is done by the acquiring body and the directorate of valuation and taxation who forwards the authorization memo through the chair to the directorate of finance and accounts who then processes payment.

2.7 Submission from the Director Land Administration

Ms. Mercy Njamweya appeared before the committee on 30th march 2017 and informed members that she was the director Land Administration, which deals with lands in urban areas where leaseholds are concerned:

108. That she was commissioned by the Commission to carry out an investigation regarding the plot LR. No. 9084 which was gazetted as SGR area under file for 209/16455 original number was 209/10208/16 owned by Mr. Omar Warsame and she concluded her report on 8th June 2015 (**Annex 16**);
109. That the plot LR. No. 9084 had acreage of 0.0240 ha which was outside Dafur Dupoto near Embakasi an SGR area, and the title was questionable because it fell within the ~~category of non-land and her recommendation was that the Land should not be~~ compensated;
110. That the Plot LR. No. 15100's file was missing and there were no records about the Land;

111. That although Plot LR. No. 15100 appeared in the name of Daimler Enterprises Ltd, with a card at SPRO indicating a file number 223421. The physical file (223421) is for LR. 209/14220 a plot in Langata measuring 0.0156 Ha allocated to Metra Investments Ltd in 2000 which was later transferred to Stanley Kipyegon in 2002. The card for LR 15100 must have been introduced to SPRO irregularly. It is not possible to trace the history of LR. 15100, the allocation may not have been procedural and it requires thorough investigation before any payments are made;
112. That she was not aware that the Commission intended to pay for the Plot LR No 9084 and had paid for Plot parcels LR No. 9085 - 9088 against her advisory since the said Plots were found to fall within the railway reserve land and as such, they were not to be acquired and compensated;
113. That she passed on her advisory to the Deputy Director Legal Affairs who is the Secretary to the Commission Committee on the Review of Grants and Disposition which relied on her recommendations to revoke the titles to the said plot numbers;
114. That she was not aware when the Commission reinstated the plot LR No. 9084 and Plot LR No. 15100;
115. That she was not aware when the ADR meeting between the chair and the parties claiming ownership to LR No. 9084 was convened and what was discussed;
116. That as the Director land Administration, in theory she is the custodian of land records in the Commission;
117. That she does not sit in any of the review of grants and disposition committee meetings;
118. That she was not requested to give information in line with the determination unilaterally made by the chairman through his letter/memo dated 14th November 2016 and she was not aware of the same;
119. That normally when the commission makes a determination, they don't consult the director land administration;
120. That procedurally, the director land administration should always be notified of the determination of review but in the case of the two properties she was not involved.

2.8 Submissions from the Director Valuation and Taxation

Dr. Salome Munubi appeared before the Committee on 30th March, 2017 and stated that she is the Director of Valuation and Taxation of National Lands Commission and also the Secretary to the Commission Committee on Land Valuation, Taxation and Acquisition. Further she informed the Committee as hereunder; that,

121. The minutes of 23rd April 2014 resolved that the Commission compulsory acquires properties plot LR. No 15100 and LR No. 9084. They looked at several issues but minute number 3/23/2014 resolved to acquire the two plots subject to KRC providing pre-requisite information (**Annex 17**);

122. The Committee on Valuation, Taxation and Acquisition was requested to acquire the whole corridor for the Standard Gauge Railway Project and after the fulfillment of the preliminary requirements, gazette notice was done to allow implementation done on specific plots;
123. As the Secretary of Committee on Land Valuation, Taxation and Acquisition and she receives request of parcels of land to be acquired for the project;
124. The directorate then sends valuer to the field who values parcel of land and forward to director who further forwards the valuation report to the director of finance and accounts for payments. However, properties that have disputes are taken to the Committee on Review of Grants and Disposition who then sends their findings of determination for compensation award to the Committee on Valuation, Taxation and Acquisition;
125. On valuation report for the two said properties the witness informed the Committee that the search was unavailable. However, for LR NO 9084 and LR NO 15100 were valued at Kshs. 43,815,000 and Kshs. 82,818,000 respectively;
126. She was not aware if the Commission made the determination of ownership of the two parcels of Land in question and she was not able to trace the minutes of the said meeting;
127. On the memo dated 14th December 2016 to the Director finance, she stated that the document plus the schedule ought to have had her signatures on each page. However, the same were missing in the said document and the schedule prepared on December 15th, 2016 was signed by the Chairman NLC (**Annex 15**);
128. The acquiring body did not provide documents of ownership of LR. No. 29455. It is only during the review of grants and Disposition that subsequent documentations were provided where records and titles documents exist the committee requests parties to present them together with the latest land search. However, in a situation where the records are missing NLC expected to look for the records.
129. On whether there was any communication from the Review of grants and disposition to pay for LR Nos. 9084 – 9088, she stated that there was no such communication; she only relied on the determination unilaterally made by the Chair NLC;
130. The acquiring body submitted survey maps NLC;
131. The Committee on Valuation, Taxation and Acquisition considered request for acquisition for infrastructure corridor and not parcel per parcel. The request like in the case of SGR project was railway route superimposed on cadastral maps that indicate the land parcel to be acquired.
- ~~132. The Committee subsequently issues a gazette notice of the properties to be acquired (**annex 18**);~~
133. In this case the Gazettement of the two said plots was vide Gazette notice of 27th March 2015 (**Annex 18**);

134. As the Director, she assigned Valuers in various sections of the SGR route in order to meet the timelines of the acquisition. In practice, Valuers are professionals who in the Commission undertake projects independently and only inform the Director of outcomes, on which the Director relies on for compensation;
135. She handled Sections of Makeni, Kwale and Mombasa Counties. The Deputy Director Mr. Bernard Nzau handled the Kajiado and Nairobi Counties. She did not do the inspections where the two parcels of land were located. Mr. Nzau informed her on the need to refer the proprietorship issue to the Commission Committee on Review of Grants and Disposition due to multiplicity of interest and claims on these parcels;
136. The Deputy Director Mr. Bernard Nzau would better explain the findings on these plots as he received the Inquiry notes and made the valuation returns. However, the officer left the employment of the Commission in February 2017, as the Director, and being invited to the Departmental Committee on Lands, she was obliged to sign off the two Valuation Reports because the property assessment had been done by Mr. Nzau and valuations are time specific – **Annex 19 (a) and 19 (b)**;
137. As the Director of Valuation and Taxation, she does not sit in Commission meetings on Review of Grants and Disposition. The Directorate gets the Review determinations through letters communicating to land owners, claimants with interests, and the Chief Land Registrar, copied to NLC Officers for action and implementation as instructed. These are detailed letters on the proceedings, issues/complaints on specific parcels, basis of the findings and recommendation, with a final note on action/implementation;
138. The general mode of instructing officers in Public Service are by noting action / implementation areas on letters or interdepartmental / ministry correspondence markings or copies to officers and not by direct letters to the officers.
139. That as the Director Valuation and Taxation, she pick the action points as directed in the determination letters as declared to parties interested on the land. These letters are signed by the Chairman NLC and are therefore instructive to the valuers where proprietorship issues need guidance;
140. That the award for Plot L.R. No 9084 was not given out as the instruction were issued subject to the proposal on sharing of the award being ratified by the plenary of the Commission. However, award for Plot L.R. No 15100 was paid out as the determination letter to Kenya Railways Corporation and the Ag. Chief Land Registrar Ardhi House and all affected landowners indicated that the Commission had upheld Plot. L.R No. 29455 and revoked Plot. L.R NO. 15100; Annex 33 (a (i)) Letter to KRC on Determination of Plot L.R. No 9084;
141. That though allegedly ‘forwarded’ minutes of meeting of 7th October 2015, both sets of Minutes were availed to her on 31st March 2017, and she reiterated that she does not sit at the Review of Grants and Disposition meetings and therefore the minutes were not in her records;
142. That after inquiries from the Vice-Chair, she was informed that there has been no meeting ratifying the Alternative Dispute Resolutions;

143. That the discussions on compensation amounts of projects are discussed at the Commission Land acquisition Committee or with the Chairperson of the Acquisition Committee who is also a Valuer and the deliberations ratified by the Committee;
144. That the Status reports on compensation of the SGR have been discussed in land acquisition meetings. The Chair of the Committee as a Valuer has been privy to all compensation schedules that have been availed to him at each stage. Minutes of 16th May 2016 and 28th June 2016 discussed all the payment schedules and disbursements by KRC - Appendix 5;
145. That as an Officer of the Commission instructions to her were drawn from letters of determination to Kenya Railways Corporation and all affected landowners (Appended 6 or minutes of the Commission).

2.9 Submission from the Director Legal Affairs and Enforcement

146. Mr. Brian Ikol appeared before the Committee on 29th March 2017 and informed the committee that he is the director Legal Affairs and Enforcement Directorate and also the secretary to the Review of Grants and Disposition Committee of the Commission;-
147. Alternative dispute resolution meetings held on 18th January 2017 and 25th January 2017 were convened by the Chairman and as an officer of the Commission he was directed by the CEO to attend on his behalf;
148. There are no minutes for the ADR meeting, as it was informal to seek a resolution to the dispute between the parties;
149. However, the meeting did not come to a determination since the two parties i.e Dasahe Investment Limited and Editor Irima Mugo failed to agree on the compensation formula / method presented by the Chairman. The chair NLC gave them seven days to resolve failure to which he was to make a determination;
150. The Commission has not developed an ADR framework and does not have a structured way of conducting alternative dispute resolution meetings;
151. The meetings are informal in nature and whenever the differing parties resolves their issues they sign an agreement prepared in the same meeting;
152. Section 14 of the National Land Commission Act clearly provides what can revoke a title and the determination made in the chairs office during the ADR was illegal and did not meet the quorum for a full commission;
153. That the Payments to the earlier revoked titles to plots parcel LR. No 9085, 9086, 9087, 9088 excluding LR. No.9084 was done after confirmation from Kenya Railways Corporation that the said parcels are outside the railway reserve land. The parties had made an appeal and clearance letter from the Kenya Railways Corporation was received. The appeal and clearance letters have not been submitted.
154. There was no commission meeting held to discuss the letter from Kenya Railways Corporation and to uphold the revoked titles and there was no communication from

the Review of grants and disposition committee that upheld the revoked titles for the properties under question;

155. He is not aware of the letter by the director survey Ref. CR 237/Vol.4/92 upholding land parcel LR No 15100.

2.9.1 Written Submission from Mr. Brian Ikol

156. That the Commission did not hold any hearing for determinations on 10th June, 2016 and therefore there are no such minutes. However, it held public hearings, which are recorded on hansard (*Evidence to that extend was not provided*);
157. That there was no Commission meeting held and therefore there are no Minutes of a Commission meeting ratifying the contents of the letter Ref: NLC/CHAIR/VOL. XVIII/146;
158. That as the Secretary of the Review of Grants and Disposition Committee he attend meetings as and when directed to do so by the Chairman and Commissioners for public hearings and determinations when summoned, he also record minutes as directed by the Chairman and Commissioners;
159. That the Commission held several hearings regarding plots LR. No. 9084 and 15100 (*Evidence to that extend was not provided*);
160. That the Commission received a Survey slip on property LR. No. 15100 also LR. No. 29455 (*Evidence to that extend was not provided*);
161. That as a Secretary of the Review of Grants and Disposition Committee he has at all times emphasized the need to have a quorum for meetings. However, in some instances his advise has not been heeded to but has been largely ignored by the pressing Chairman;
162. That the Commission has prepared a draft policy on ADR and Regulations (the same have been forwarded to the Office of the Attorney General for Gazettement) (*Evidence to that extend was not provided*);
163. That the Commission received a report from the Chief Valuer, Ministry of Lands (*Evidence to that extend was not provided*);

2.10 Submission from Commissioner Mr. Silas Kinoti Muriithi

The Commissioner appeared before the committee on 3rd April 2017, and informed the Committee as hereunder, that;

164. The people claiming ownership of the plot LR 9084 and 15100, presented themselves during the Review of Grants and Disposition Committee hearings;
165. The last meeting of the committee was held on 7th October 2015 and it resolved to revoke Plot LR No. 9084 since it is a railway reserve land and put on hold for further

- information the ownership of LR 15100 as it required thorough investigations before any payments;
166. The position of the Review of Grants and Disposition Committee on plot LR 9084 remains revoked and that of LR 15100 requires thorough investigation before payment.
 167. That he was not aware that LR 29455 had been paid for as it is one and the same as LR 15100;
 168. The commissioner had not seen the determination letter by the chairman of the Commission but had requested the letter from the CEO, but he (the CEO) declined to avail the letter to him;
 169. The commissioner had no information on a letter claimed to be from Kenya Railway Corporation that clarified that the Plots LR 9088, 9087, 9086, 9085 and 9084 were not part of the railway reserve;
 170. The commission did not hold any other committee meeting where it reinstated the earlier revoked titles for the Plots LR 9088, 9087, 9086, 9085 and 9084 and had no information as to why those properties had been paid for;
 171. The National Land Commission Act had given the ADR function to the NLC, but this has since been removed through a repeal of Section 5(2)(f) of the National Land Commission Act. What the Constitution provides for in Article 67 (2) (f) is the Traditional Dispute Resolution mechanisms, also provided for in Section 5 (1) (f) of the Land laws.
 172. Alternative Dispute Resolution could only be used if parties in dispute agreed when a solution has not been arrived at in Review of Grants and Disposition proceedings. During a Review hearing quorum is three (3) commissioners, but for a determination to be made the number of commissioners must be at least five (5). Any determination done by less than 5 commissioners is illegal and null and void;
 173. The letter NLC/CHAIR/VOL.XVII/146 is abnormal and the Commission did not ratify it, it is irregular. It communicates a decision that has not been ratified by the Commission to an outsider.
 174. That he was not aware of a letter NLC/CHAIR/VOL.XVII/241 dated 14th November 2016, and that he saw it for the first time during the hearing of the petition. Therefore, he is not aware that the compensation for the property has been paid.

2.11 Submission from Commissioner Dr. Rose Mumbua Musyoka

The Commissioner appeared before the Committee on 3rd of April 2017, and informed the ~~Committee that she is a member of four committees that include: committee on human resource, land use committee, committee on land and administration, and Valuation, Taxation and Acquisition committee.~~ Further she stated as hereunder;- That

175. Plot LR No. 9084 was claimed by Editor Irima Mugo, although the title was revoked for being on a railway reserve whereas Daimler Enterprises Ltd, Bahkraser Grain

Millers Ltd and Mr. Noor claimed Plot LR No. 15100. Mr. Noor had requested for more time and therefore the process was never concluded;

176. That she had never seen both the letters referenced NLC/CHAIR/VOLXVIII/146 and NLC/CHAIR/VOLXVIII/241 before. She was not aware of any case in which the commission resolved to pay for the parcels with revoked titles.

2.12 Submission from Commissioner Dr. Samuel Kipng'etich Tororei

The Commissioner appeared before the committee on 3rd April 2017, and informed the members that;

177. That he did not sit in the review of grants and disposition committee sittings that deliberated on the subject of the properties in question.
178. That though he was aware of the said minutes of 22nd July 2015 and 7th October 2015, that had an ultimate resolution on the properties plot LR No 15100 was to be shelved until further information was availed since LR No 15100 and LR No 29455 was one and the same plot, whereas Plot LR No 9084 was revoked as it fell under the railway reserve;
179. There was no meeting that was held by the Commission to reinstate the revoked titles for LR No 9084 nor for the other plots LR No 9088 to 9085. The determination by the chair referenced NLC/CHAIR/VOLXVIII/146 and NLC/CHAIR/VOLXVIII/241 was never taken to the commission and was never ratified by the Commission Plenary;
180. There is no framework on how to carry out ADR. It was an issue of dispute between the Ministry of Lands and the NLC. The land laws had since been amended and section providing for the ADR repealed, the Commission is now restricted to Traditional Dispute Resolution as provided for in Article 67 (2) (f) of the constitution.
181. In practice, it has been 3 commissioners sit during an ADR meeting to try and bring the parties involved in a dispute to an agreement. However, quorum for a determination is 5 commissioners. Unless there is a previous decision by the commission that the sub-committee to decide and report back to the full commissions any such resolutions is irregular.

2.13 Submission from Commissioner Ms. Emma Muthoni Njogu

The Commissioner appeared before the committee on 3rd of April 2017, and informed the members that;

182. The meeting on 10th June 2015 was a public hearing and submissions to the review of grants and disposition Committee were recorded verbatim through Hansard;
183. That during the meeting of 22nd July 2015 the committee made a ruling that plot LR No 9084 fell under a railway reserve land and therefore could not be compensated.
184. That the committee deferred any payments for compensation and needed further information for LR No 15100. The commission had not sat down to make a determination on both LR No 15100 and LR No 29455.

- 185. That the title for Plot LR No 9084 remains revoked as per the minutes dated 7th October 2015 of the Review of Grants and Disposition committee. The determination by the chair referenced NLC/CHAIR/VOLXVIII/146 and NLC/CHAIR/VOLXVIII/241 were never tabled before the plenary of the Commission and whatever contained in it has no legal basis.
- 186. She has never seen the letter mentioned to have come from Kenya Railways Corporation, but she had seen the maps and the properties under question and was convinced that the plots fell on the railway reserve.
- 187. That the aforementioned letters ought to have been tabled before the plenary for a decision to be made. To the best of her knowledge there were no meetings held to reinstate the revoked titles and was not aware that the parcels LR No 9088 ~9085 were compensated for.
- 188. There was no framework on how to carry out ADR meetings. However, the land laws had since been amended and the section providing for the ADR repealed, the commission is now restricted to Traditional Dispute Resolution as provided for in Article 67 (2) (f) of the constitution.
- 189. That decisions made during the ADR are ratified by the commission. In practice, it has been 3 commissioners sit during an ADR to try and bring the parties involved in a dispute to an agreement. However, quorum for a determination is 5 commissioners.
- 190. The two determinations unilaterally made by the chair NLC was an isolated case, there are no many Centers of power in the National Land Commission.

2.14 Submission from Commissioner Mr. Abdulkadir Adan Khalif

The Commissioner appeared before the committee on 3rd of April 2017, and informed the Committee as follows, that;

- 191. Determination of land ownership is done by way of land search or by Review of Grants and Disposition. The meeting of 22nd July 2015 brought to Review the properties under question; LR No 15100 and LR No 9084.
- 192. Under normal circumstances when meetings are held, minutes are done and shared to all commissioners;
- 193. That a lot of payments were made during the month of December of 2016, at which time most commissioners were away and minutes of this period and few months before were never shared by the Chairman and the CEO of the Commission;
- 194. That he wrote to the CEO on numerous occasions demanding among many other things copies of minutes that a determination was made to pay for the parcels LR No 15100 and LR No 9084 but was not responded to; **(annex 20)**
- 195. That he wrote a letter dated 12th January 2017 requesting for details on compensation for SGR project to the CEO and the Chair of the Commission but he received a response that was not satisfactory from the CEO; **(annex 21)**

196. That on 17th March 2017 he wrote another letter requesting information on a meeting that was held to reinstate revoked titles but the CEO has not responded to him to date; **(Annex 22)**
197. The letters NLC/CHAIR/VOL.XVII/146 and NLC/CHAIR/VOL.XVII/241 were not ratified by the commission;
198. He also didn't have the letter in which KRC wrote clarifying that the plots LR No 9088 - 9085 were not on the railway reserve land and no meeting were held to discuss the information contained in the said letter.
199. The National Land Commission Act of 2012 had made ADR a function of the NLC, since it has been amended and the section providing for the ADR repealed, the commission is now restricted to Traditional Dispute Resolution as provided for in Article 67 (2) (f) of the constitution and Section 5 (1) (f) of the National Land Commission Act;
200. That a lot of times the chair NLC goes out alone to do hearings, but he report back to the commission for ratification of the decision made. Sometimes the commission has disagreed with the decisions by the chair NLC and sometimes agreed to them. He was surprised that payments were made for some of the properties without coming to the attention of the Commission.
201. That as a constitutional commission, mandated on matters to do with land, they are doing their best despite budgetary constraints. Records are also difficult to come by whenever they request from the Ministry of Lands. Finally, the dynamics in law makes the commission work difficult.

2.15 Submissions from C.S Ministry of Lands and Physical Planning

Prof. Jacob Kaimenyi appeared before the committee on 4th and 5th April 2017, and informed the members that;

202. They have checked their records and established that the land parcels LR. Nos 9084 – 9088 fall within the are disgnated as a railway reserve land around the Embakasi railway station;
203. They further established that the only approved part development plan that was prepared to facilitate allocation of land around the said area is PDP Ref. 42/14/90/2A which was prepared 0n 4th June, 1990 and approved on 22nd August 1991 as approved PDP No. 269;
204. PDP Ref No. 42/14/90/2A proposed creation of plots for industrial development within the vicinity of the railway station but left the designated railway station, railway reserve and marshaling yard intact;
205. That to date no other PDP has been prepared and approved by the department of Physical Planning to vary of redesignate the sites originally meant for railway station, railway reserve and marshaling yard;

- 206 In view of the foregoing the status of the railway station, railway reserve and marshaling yard remain as initially planned and therefore any purported allocation of land within the three designated areas should be treated as invalid;
- 207 There was no information for LR No 15100 in the Ministry of Lands records.

2.16 Submission from Director Survey, Mr. Cesare Mbaria

Mr. Cesare Mbaria appeared before the committee on 4th April 2017, and informed the members that;

208. The origin of LR 21185 and 29455 is traced into Survey plans FR 217/41. The LR 21185 was created upon instruction of Commissioner of lands in September 1995 when LR 15100 was amalgamated with Uns' plot "B". It was involved in a series of cases; CID intervened resolving to removal of LR 26661 from LR 21185. The remainder was re-surveyed as LR 29455. In 1991, the survey plan there was no Uns' Plot "B". LR 29455 is one and same as LR 15100 the difference is only the different survey plans and deed plans;
209. The deed plan for LR 9084 was surveyed on FR number 209/16455 and a deed plan number 364447 was prepared and issued in November 2014.
210. The purported letter from the Director of Survey, addressed to the chair NLC signed by Mr. Mwaniki did not originate from the Survey of Kenya.
211. It was un-procedural to amalgamate the un-surveyed plot B and LR No. 15100.

2.17 Response from Managing Director, Kenya Railways Corporation

Mr. Atanas K. Maina, appeared before the committee on 5th of April 2017, and informed the members that;

212. The Corporation does not have in its records any correspondence from the NLC requesting whether the parcels LR No 9088 ~9084 were part of the railway reserve; neither do they have correspondence confirming that the said plots were not part of the railway reserve land;
213. The Marshaling Yard is part of the Railway land; it was set aside for future development and expansion of the railway. Part of the Marshaling Yard land was allocated to individuals, but it was never compensated for. The corporation had written to NLC protesting that the affected land was part of the Railway Marshaling Yard land. The money has not been released from the Railway Development Levy Fund for the said properties;
214. The Dafur/Dupoto area was a planned Embakasi Township.

2.18 Submission of a Memoranda from Residents of Mariakani

Through their advocate Mr. Jackson Muchiri the residents of Mariakani – mitangoni informed the Committee as follows, that:-

215. The residents of Mitangoni Mariakini have been involved in land dispute with one Mr. Mwangala Chome, who claims to own 7800 acres of land in Mitangoni;
216. This land dispute stemmed from a minor land dispute in 1977 where neighbors were fighting over a 3-acre piece of land; one of the people involved in the said dispute was a relative to Mr. Mwangala Chome;
217. There are over 20,000 people residing in Mitangoni area, there are also public institutions serving the said residents;
218. They presented the said land dispute to the Chairman National Land Commission Prof. Muhammad Swazuri, who promised to resolve the issue in a shortest time possible;
219. The Chairman convened a public hearing where the residents presented their grievances however, Mr. Mwangala Chome failed to appear to defend his claim of ownership of the said land;
220. Six (6) months later the Chairman issued a determination indicating that the said land rightfully belongs to Mr. Mwangala Chome;
221. Mitangoni Mariakani has section A and B. Adjudication for section A was done in 2012 and during the adjudication for Section Mr. Chome presented a fake Court order stopping the exercise;
222. It later established that Mr. Chome was issued with a block title deed for Section B;
223. KETRACO had requested the community to set aside land for the power lines to which the community was to be compensated Ksh. 26M. However, the said compensation award was taken by Mr. John Dimo together with Prof. Muhammad Swazuri.

CHAPTER THREE

COMMITTEE FINDINGS, OBSERVATIONS AND CONCLUSIONS

Based on the Investigations, evidence adduced and submission made, the Committee made the following observations.

3.1 Under Article 201 (d) and (e) of the Constitution of Kenya which stipulates that;-

(d) Public money shall be used in a prudent and responsible way; and

(e) Financial management shall be responsible, and fiscal reporting shall be clear;

1. THAT, Prof. Muhammad Swazuri unilaterally made a determination to award compensations for the Plot Nos. LR. No. 9084, LR No. 9085, LR No 9086, LR No 9087 and LR No 9088 whose determination to award compensation had been revoked by the plenary of the National Land the plots were public land;
2. THAT, Prof. Muhammad Swazuri unilaterally made a determination to award compensations and further approved payments to plots LR No. 9084, LR No. 15100 and LR No. 29455 whose determination had been revoked by the plenary of the National Land Commission because such plots were public land and the decision has not been rescinded by the plenary of the Commission to date;

Consequently the Committee finds that Prof. Muhammad Swazuri caused the mismanagement of public funds entrusted to him as the National Land Commission Chairperson hence contravening Chapter 12 of the Constitution on Public Finance Management.

3.2 Under Section 7(1) of the Leadership and Integrity Act 2012 states:-

“A state officer shall respect and abide by the Constitution and the law”.

In addition; Section 12(1) of the same Act provides that

“A state officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person”

3. Prof. Muhammad Swazuri failed to uphold a high level of integrity in his conduct, and allegedly used his influence to have land compensation monies paid to him through a conduit;
4. Prof. Muhammad Swazuri took up administrative work of the Secretariat of the Commission by countersigning the payment Schedule a role that should be carried out procedurally by the Director of Valuation and Taxation and the valuers;

Consequently the Committee finds that Prof. Muhammad Swazuri through this acts betrayed the public trust bestowed upon the National Land Commission Chairman as he had failed the integrity test.

- 3.3 Under Section 19(1) of the National Land Commission Act 2012 Fourth Schedule states as follows:-

“The business and affairs of the Commission shall be conducted in accordance with the Fourth Schedule”

Paragraph 3(1) of the National Land Commission Act Fourth Schedule further stipulates:-

“That the quorum of the meeting shall not be less than half of the members”

5. Prof. Muhammad Swazuri contravened the National Land Commission Act 2012 by;
- a. Unilaterally delivering numerous determinations on behalf of the Commission without the requisite quorum;
 - b. Disregarding the resolutions of the National Land Commission Committee on review of grants and dispositions of public land while making a determination in his correspondence in regard to Plot LR. No. 15100, Plot LR No. 29455 and Plot LR .No.9084;
 - c. Further disregarding the resolutions of the National Land Commission Committee, he unilaterally made a determination on the ownership of Plot LR. No. 9084, Plot LR. No. 15100 and Plot LR. No. 29455 without reverting to the Commission and consequently using his authority to direct officers of the Commission to act contrary to the Law;
 - d. Unilaterally making a determination that the land in which the Mombasa Cement Company conducts its business in Kilifi belonged to the company contrary to the Committee’s findings on Mombasa Cement Report tabled in the House on 24th November 2015 and consequently adopted by the House (Report Annexed).

- 3.4 Articles 125 of the Constitution of Kenya States as Follow:

“(1) Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), a House of Parliament and any of its committees have the same powers as the High Court—

- (a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;***
- (b) to compel the production of documents; and***
- (c) to issue a commission or request to examine witnesses abroad.***

6. Consequently the Committee finds that Prof. Muhammad Swazuri through this acts by declining and flatly refusing to provide and table documents requested for by the Committee contravened to Article 125 of the Constitution of Kenya 2010, Further, the Committee observes that his actions amount to a breach of the Powers and Privileges Act, the Standing Orders and the House Rules of Procedures.

3.5 Under Chapter 6 of the Constitution of Kenya, on Leadership and Integrity. Article 73(2) of the Constitution of Kenya, 2010:

“Which provides for the guiding principles of leadership and integrity which include objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices and discipline and commitment in service to the people”.

3.6 Under section 12(1) of the same Leadership and Integrity Act, 2012 which provides that:

“ a state officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person”.

7. Prof. Muhammad Swazuri caused the Petitioner (Mr. Mugo Njeru) to give Mr. Elijah Fadhili Yaa (His Conduit) a sum of Ksh. 1,000,000 meant to persuade and expedite the compensation award on the Plots LR. No.9084 and Plot LR. 15100;

8. Prof. Muhammad Swazuri Coerced the Petitioner to enter into a contract, which was prepared by S. Ruwa and Company Advocates. The Contract was to ensure that the Petitioner pays Kshs. 25 million to S. Ruwa and Company Advocates on behalf of Badhili Elijah Yaa who is an agent of Prof. Muhammad Swazuri for an interest that was never disclosed to him regarding Plot LR. No. 15100.

9. Prof. Muhammad Swazuri during an alternative dispute resolution meeting in his office, he coerced the Petitioner and his wife to enter into a contract prepared by S. Ruwa and Company Advocates that would ensure his wife pays Kshs. 20 million to be received by S. Ruwa and Company Advocates on behalf of Badhili Elijah Yaa who is an agent of Prof. Mohammed Swazuri for an interest that was never disclosed to the Petitioner’s wife.

Consequently the Committee finds that Prof. Muhammad Swazuri through this acts in observation 7, 8 and 9 contravened Article 73(2) of the Constitution of Kenya, 2010 and section 12(1) of the same Leadership and Integrity Act, 2012

Further the Committee finds that;

10. Mr. Mugo Njeru was treated by the Committee as a Petitioner but not as a Landowner since the land which he was to be compensated for were public land and had not been allocated to him and his wife (Mrs. Editor Mugo) legally;

11. Prof Muhammad Swazuri unilaterally conducts Alternative Dispute Mechanism since the Commission has no framework and structures to carry out the activity;

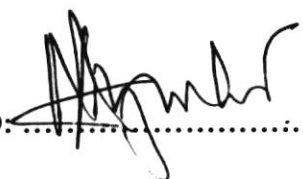
12. The quorum for the Commission Committee Meeting is three whereas that of the Plenary of the Commission is Five Commissioners;

CHAPTER FOUR

4.0 RECOMMENDATIONS

Based on the Observations, Investigations, evidence adduced and submission made, the Committee made the following recommendations.

1. That; the Petition has disclosed grounds for the removal of Prof Muhammad Swazuri as the Chairperson of the National Land Commission as set out in Article 251 (1)(a)(b) and (d);
2. That; H.E. President Uhuru Kenyatta appoints a tribunal in accordance with Article 251 (4) (b) as read together with Article 251 (g) of the Constitution to investigate the matter expeditiously, report on the findings and make a binding recommendation to the President.

SIGNED:  DATE: 20th May, 2017

(HON. ALEX M. MWIRU, MP)
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON LANDS

MINUTES OF THE 53RD SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON FRIDAY 19TH MAY, 2017, IN PIER CONFERENCE ROOM, AT ENGLISH POINT MARINA AT 4.00 PM

PRESENT:

- | | |
|---|-------------------------|
| 1. The Hon. Alex Mwiru, M.P. | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 3. The Hon. Omar Mwinyi, M.P. | |
| 4. The Hon. Kanini Kega, M.P. | |
| 5. The Hon. Dr. Paul Otuoma, M.P. | |
| 6. The Hon. Hellen Chepkwony, M.P. | |
| 7. The Hon. Joseph Oyugi Magwanga, M.P. | |
| 8. The Hon. Francis W. Nderitu, M.P. | |
| 9. The Hon. John Kihagi, M.P. | |
| 10. The Hon. Francis Njenga Kigo, M.P. | |
| 11. The Hon. George Oner, M.P. | |
| 12. The Hon. Eusilah Ngeny, M.P. | |
| 13. The Hon. Shakila Abdallah, M.P. | |
| 14. The Hon. Julius Ndegwa, M.P. | |
| 15. The Hon. Mathew L. Lempurkel, M.P. | |
| 16. The Hon. Esther Murugi, M.P. | |
| 17. The Hon. Benson Mbai, M.P. | |
| 18. The Hon. Suleiman Dori, M.P. | |
| 19. The Hon. Onesmus Ngunjiri, M.P. | |
| 20. The Hon. Hezron Awiti Bollo, M.P. | |
| 21. The Hon. Thomas Mwadeghu, M.P. | |
| 22. The Hon. Charles Nyamai, M.P. | |

ABSENT WITH APOLOGIES:

1. The Hon. Bernard Bett, M.P.
2. The Hon. Kipruto Moi, M.P.
3. The Hon. Athman Shariff, M.P.
4. The Hon. Patrick Makau, M.P.
5. The Hon. Sarah Korere, M.P.
6. The Hon. Mutava Musyimi, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

- | | |
|------------------------|----------------------|
| 1. Mr. Daniel Mutunga | Principal Clerk I |
| 2. Mr. James Ginono | Clerk Assistant I |
| 3. Mr. Joshua Ondari | Clerk Assistant III |
| 4. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 5. Mr. Kefa Ometi | Principal Researcher |
| 6. Ms. Mercy Wanyonyi | Legal Counsel II |
| 7. Ms. Rose Ometere | Audio Officer |

The chairman called the meeting to order at 4.10 pm with a word of prayer.

The Committee considered the report and upon deliberations made the following observations:

-

Under Article 201 (d) and (e) of the Constitution of Kenya which stipulates that;-

(d) Public money shall be used in a prudent and responsible way; and

(e) Financial management shall be responsible, and fiscal reporting shall be clear;

1. THAT, Prof. Muhammad Swazuri unilaterally made a determination to award compensations for the Plot Nos. LR. No. 9084, LR No. 9085, LR No 9086, LR No 9087 and LR No 9088 whose determination to award compensation had been revoked by the plenary of the National Land the plots were public land;
2. THAT, Prof. Muhammad Swazuri unilaterally made a determination to award compensations and further approved payments to plots LR No. 9084, LR No. 15100 and LR No. 29455 whose determination had been revoked by the plenary of the National Land Commission because such plots were public land and the decision has not been rescinded by the plenary of the Commission to date;

Consequently the Committee finds that Prof. Muhammad Swazuri caused the mismanagement of public funds entrusted to him as the National Land Commission Chairperson hence contravening Chapter 12 of the Constitution on Public Finance Management.

3.2 Under Section 7(1) of the Leadership and Integrity Act 2012 states:-

“A state officer shall respect and abide by the Constitution and the law”.

In addition; Section 12(1) of the same Act provides that

“A state officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person”

3. Prof. Muhammad Swazuri failed to uphold a high level of integrity in his conduct, and allegedly used his influence to have land compensation monies paid to him through a conduit;
4. Prof. Muhammad Swazuri took up administrative work of the Secretariat of the Commission by countersigning the payment Schedule a role that should be carried out procedurally by the Director of Valuation and Taxation and the valuers;

Consequently the Committee finds that Prof. Muhammad Swazuri through this acts betrayed the public trust bestowed upon the National Land Commission Chairman as he had failed the integrity test.

3.3 Under Section 19(1) of the National Land Commission Act 2012 Fourth Schedule states as follows:-

“The business and affairs of the Commission shall be conducted in accordance with the Fourth Schedule”

Paragraph 3(1) of the National Land Commission Act Fourth Schedule further stipulates:-

“That the quorum of the meeting shall not be less than half of the members”

5. Prof. Muhammad Swazuri contravened the National Land Commission Act 2012 by;
 - a. Unilaterally delivering numerous determinations on behalf of the Commission without the requisite quorum;
 - b. Disregarding the resolutions of the National Land Commission Committee on review of grants and dispositions of public land while making a determination in his correspondence in regard to Plot LR. No. 15100, Plot LR No. 29455 and Plot LR .No.9084;
 - c. Further disregarding the resolutions of the National Land Commission Committee, he unilaterally made a determination on the ownership of Plot LR. No. 9084, Plot LR. No. 15100 and Plot LR. No. 29455 without reverting to the Commission and consequently using his authority to direct officers of the Commission to act contrary to the Law;
 - d. Unilaterally making a determination that the land in which the Mombasa Cement Company conducts its business in Kilifi belonged to the company contrary to the Committee’s findings on Mombasa Cement Report tabled in the House on 24th November 2015 and consequently adopted by the House (Report Annexed).

3.4 Articles 125 of the Constitution of Kenya States as Follow:

“(1) Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), a House of Parliament and any of its committees have the same powers as the High Court—

(a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;

(b) to compel the production of documents; and

(c) to issue a commission or request to examine witnesses abroad.

6. Consequently the Committee finds that Prof. Muhammad Swazuri through this acts by declining and flatly refusing to provide and table documents requested for by the Committee contravened to Article 125 of the Constitution of Kenya 2010, Further, the Committee observes that his actions amount to a breach of the Powers and Privileges Act, the Standing Orders and the House Rules of Procedures.

3.5 Under Chapter 6 of the Constitution of Kenya, on Leadership and Integrity. Article 73(2) of the Constitution of Kenya, 2010:

“Which provides for the guiding principles of leadership and integrity which include objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices and discipline and commitment in service to the people”.

3.6 Under section 12(1) of the same Leadership and Integrity Act, 2012 which provides that:

“ a state officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person”.

7. Prof. Muhammad Swazuri caused the Petitioner (Mr. Mugo Njeru) to give Mr. Elijah Fadhili Yaa (His Conduit) a sum of Ksh. 1,000,000 meant to persuade and expedite the compensation award on the Plots LR. No.9084 and Plot LR. 15100;
8. Prof. Muhammad Swazuri Coerced the Petitioner to enter into a contract, which was prepared by S. Ruwa and Company Advocates. The Contract was to ensure that the Petitioner pays Kshs. 25 million to S. Ruwa and Company Advocates on behalf of Badhili Elijah Yaa who is an agent of Prof. Muhammad Swazuri for an interest that was never disclosed to him regarding Plot LR. No. 15100.
9. Prof. Muhammad Swazuri during an alternative dispute resolution meeting in his office, he coerced the Petitioner and his wife to enter into a contract prepared by S. Ruwa and Company Advocates that would ensure his wife pays Kshs. 20 million to be received by S. Ruwa and Company Advocates on behalf of Badhili Elijah Yaa who is an agent of Prof. Mohammed Swazuri for an interest that was never disclosed to the Petitioner's wife.

Consequently the Committee finds that Prof. Muhammad Swazuri through this acts in observation 7, 8 and 9 contravened Article 73(2) of the Constitution of Kenya, 2010 and section 12(1) of the same Leadership and Integrity Act, 2012

Further the Committee finds that;

10. Mr. Mugo Njeru was treated by the Committee as a Petitioner but not as a Landowner since the land which he was to be compensated for were public land and had not been allocated to him and his wife (Mrs. Editor Mugo) legally;
11. Prof Muhammad Swazuri unilaterally conducts Alternative Dispute Mechanism since the Commission has no framework and structures to carry out the activity;
12. The quorum for the Commission Committee Meeting is three whereas that of the Plenary of the Commission is Five Commissioners;

Upon making the above-mentioned observations the Committee resolved as hereunder

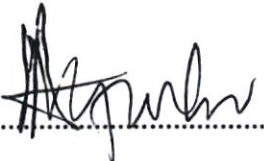
1. That; the Petition has disclosed grounds for the removal of Prof Muhammad Swazuri as the Chairperson of the National Land Commission as set out in Article 251 (1)(a)(b) and (d);
2. That; H.E. President Uhuru Kenyatta appoints a tribunal in accordance with Article 251 (4) (b) as read together with Article 251 (g) of the Constitution to investigate the matter expeditiously, report on the findings and make a binding recommendation to the President.

Consequently, the report was proposed and adopted unanimously by the Members present and signed by the Chair.

MINUTE NO. DCL/LN/2017/176

ADJOURNMENT

There being no any other business, and the time being 5:50 pm the meeting was adjourned.

SIGNED.....
(CHAIRPERSON)

DATE..... 25th May, 2017

