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The Senate
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NAIROBI



Date: 8TH JULY, 2014

RE: UPDATE ON DETERMINATION OF REVIEW GRANTS AND DISPOSITION OF PUBLIC LAND – LAND RESERVED FOR NAIROBI CITY WATER & SEWERAGE

We refer to the above subject and your letter dated 11th May, 2015 Ref. No. SENATE/SCLNR/2015(015) inquiring on the status of Review of Grants and Disposition of the following titles, all which were vested in the then City Council of Nairobi:

1. Nairobi/Block 90/599/ (Parcel No. 596) Loresho Pumping Station and Water Reservoir.
2. L.R. No. 12037 Karen Sewerage Treatment Plant.
3. L.R. No. 8285/161 Kariobangi Sewerage Treatment Plant.
4. Farasi Lane Reservoir.
5. L.R. No. 12979/1 – Dandora Sewerage Treatment Plant.

The Commission wishes to address you as hereunder:

The Commission received a complaint from the Managing Director of the Nairobi Water & Sewerage Company, to review the legality and/or propriety of the respective grants, on the basis that the properties have been illegally and or fraudulently appropriated.

Pursuant to a public notice issued in the dailies on 9th February, 2015 the Commission held public hearings in respect of the subject properties at the N.H.I.F. Auditorium.

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The Commission heard presentations from all interested parties including the County Government of Nairobi and is currently preparing its determinations in the following terms:

1. L.R. NO. 209/12037, KAREN DISUSED SEWERAGE POND

The land referred above originally served as a sewerage pond which after a long period stopped functioning and became a source of environmental public nuisance in terms of emission of obnoxious gases and becoming an environmental health and public safety risk. The situation elicited numerous public complaints from the residential neighborhood. In addition some of the waste water from the pond floods/flows into the neighboring areas particularly during rainy seasons. In the context of urban planning the site became a disused sewage pond site and needed to be converted to viable land use to forestall environmental health deterioration created by the disused status of the pond.

On 6th December, 2000 the then City Council of Nairobi obtained change of use of the land in order to release it for development which is compatible with the surrounding developments. Records indicate that the parcel of land was allocated to Stephen Okallo and Joseph Kinuthia on 20th December, 2002. The allottees however never processed title for the same. The parcel of land was transferred to Davjon Ltd on 19th May, 2009 who went ahead and processed the title.

Currently, the pond is water logged, spots some solid materials, marshy vegetation and has since ceased to function as originally planned. Reports from the County Government indicate that the extent of degeneration is such that it would be extremely costly to reclaim this pond.

Arising from the above, the County Government of Nairobi has confirmed that it does not have any material objections against conversion of the land to an alternative sustainable use and its alienation for private development.

2. LR NO. NAIROBI BLOCK 90/956

The above referred parcel of land is carved out of plot Nairobi Blk.90/229 which is a site for Nairobi Loresho reservoir, a major Water Distribution System. The subject land is properly surveyed but untitled. It measures approximately 1.939 hectares in land area. The said land has been the subject of illegal alienation resulting in the creation of the parcels Blk 90/596 and 90/599 after consolidation of several parcels initially excised from it. Nairobi City has only three water supply distribution systems comprising of; The Ndakaini-Ngethu-Gigiri system which supplies all areas East of Uhuru Highway and Upper areas through bulk transfer, Sasumua-Loresho-Kabete system which supplies areas West of Uhuru Highway and Kikuyu Springs-Uthiru System which supplies areas around Naivasha and Kikuyu roads. Expansion of the water distribution infrastructure is likely to be concentrated on the existing systems owing to lack of availability of suitable public land for expansion.

The Loresho land which is the subject of the inquiry has a 11,000 cubic meter reservoir from where water is distributed as follows:

- i. To Kyuna tower from where it gravitates to Kyuna, Loresho, Gigiri UNEP, Whispers Estates, Roslyn, Muthaiga North and Lower Runda.
- ii. From the reservoir water gravitates to Kitisuru, Spring Valley, Lower Kabete and Adjoining areas.

These areas have no alternative source of supply apart from the Loresho Reservoir. Pressure from urban growth and development is increasing demand for water in the areas served from the reservoir. The County Government has informed the Commission that there is a current programme of building another 11,000 cubic meter reservoir together with a pumping station facility on the said land to ensure adequate supply to the areas.

The excision and alienation of the said land resulting in parcels 90/596 and 90/599 present a threat to water supply security in the city of Nairobi. It is noted that the Sasumua pipeline which feeds into the reservoir are located on a specific path and the location of the reservoir fits in with the current and future water distributions plans. Relocation of the reservoir will not be a viable option for the Government at all due to requirement of the new construction of long lengths of pipelines and acquisition of wayleaves for the same. In view of the foregoing the title to these properties stand revoked.

3. LR NO. 12979/1 RUAU SEWERAGE TREATMENT PLANT

This is as a result of subdivision of LR No.12979, which was in the name of Settlement Fund Trustees.

LR No.12979/1 was later subdivided into LR Nos. 12975/2, 12979/3, 12979/4 and 12979/1/R.

LR No.12971/1/R is the Ruai Treatment Sewerage Works Plant and extends to 4242.4017 Acres. There are people who claim to have allotment letters and the matter is subject to a court case.

LR No. 12979/2 is registered in the name of Embakasi Ranching Co. Ltd and extends to 8927.1064 Acres.

LR No. 12979/3 is in the name of offshore Trading Co, Ltd and measures approximately 1000 Acres.

LR No.12979/4 is the name of Renton Co. Ltd and extends to 1606.1994 Acres.

It should be noted that:-

- i. The former City Council allocated LR No.12979/3 to Offshore Trading Co. Ltd as compensation for other land that they had lost to the Department of Defence (DOD) in Embakasi. However, they have never relinquished their interest to DOD and have since got a judgement for compensation.
- ii. LR No. 12979/4 was allocated to Renton Co. Ltd. The Title was later revoked through a Gazette Notice by the Minister for Lands. However, Renton moved to Court and successfully challenged the revocation and the title was restored. This land was once planned to be purchased by the Government for resettlement of squatters and letters of allotment were issued but the process of purchase was discontinued in 2002 thus leaving the allottees with no land. In addition, about 80 acres of the land had been earmarked for development of a state of the art sanitary landfill for final waste disposal. Over Kshs.150 Million was spent to carry out comprehensive environmental study prior to confirmation of suitability of the site. The provision of approximately 80 Acres for sanitary landfill must still be catered for within the land as Government to Government agreements between Japan and Kenya were long concluded and the project is on the verge of commencement. As regards the earlier allottees when the site was partly to settle squatters and

Mathare 4A displaced persons. The claims by the allottees have since been directed erroneously to LR 12971/1/R which is a treatment plant site.

4. LR NO. 8285/161

The subject parcel of land constitutes the site for the existing mechanical sewerage treatment at Kariobangi under management of the Nairobi Water Sewerage Services Company. The land is about 23 hectares and its owned by the County Government vide a lease certificate inherited from the then City Council of Nairobi. The lease has stringent conditions which restrict use of the land to sewerage treatment plan only, prohibit subdivision of the land and its alienation. Recently, a contractor was awarded a contract to build a new water facility on the site but did not gain access to the site because of the obstruction by invaders. The referred restrictions, notwithstanding, there are other activities that have located on sections of the land with consent of the then City Council of Nairobi. These are:-

- i. A secondary School-our Lady of Fatuma.
- ii. Kariobangi Chiefs Camp.
- iii. A residential settlement for Kariobangi Farmers Self Help Groups planned to cover an area of 3.5 hectares approximately. The area Settlement is about 1.0 hectares.


The primary purpose of the land to accommodate sewerage plant and water facilities must be preserved as there is no land available in the Eastlands which can be used as an alternative site for development of similar facility. At present the site is occupied by the school and 1 hectare of land area is currently settled on by the above referred Farmers group can be considered for excision to ensure the threshold required to accommodate the primary services is sufficiently met. This proposal will require temporary lifting of the lease restriction to permit excision and drawing of subleases in respect to the above mentioned interest.

5. FARASI LANE RESERVIOR-LR NO. 13071(PART)

This parcel of land was planned for use as a water treatment works. There is an operational facility on site. However, the Nairobi Water and Sewerage Services Company have had experience of people visiting the site claiming ownership. The County Government has recommended that the land should not be alienated for the private use due to the strategic nature of the service and in view of unavailable land to relocate the service within the locality.

The land has always been a public utility land. It has not been available for alienation to benefit private interest. In view of the foregoing the title to these properties stand revoked.

Yours faithfully,



ABIGAEI MBAGAYA MUKOLWE (MRS.)
VICE CHAIRPERSON
NATIONAL LAND COMMISSION