MOSES GITONGA

PETITIONER

GILGIL LELESHWA COMMUNITY

P.O. BOX 438

GILGIL

Tel: 0724-646800

Email:gitongaggovernance@gmail.com

10th July 2018

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THE SENATE RECEIVED

12 JUL 2018

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Please Verisi and deal

12/1/18

RE: LELESHWA/GIL/PETITION/01/18

THE CLERK OF SENATE

PARLIAMENT BUILDING

P.O. BOX 41842-00100

NAIROBI

Dear Sir

Mr. Chamba
Ptease deal-

RE: PETITION TO THE SENATE CONCERNING GRABBING OF PUBLIC UTILITY AND PRIVATE LAND AT LELESHWA – GILGIL TOWNSHIP.

Enclosed please find petition on above as per the template.

This note is for contact person.

thanking you for your cooperation

Yoursfaithfully

Moses Gitonga

3) Ur. Mungua

Kinelly reviewanel facilities the Petition as appropriate.

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12/7/18.

27th June 2018

Clerk of the Senate
Parliament buildings
P. O. Box 41842 – 00100

Nairobi

Email: csenate@parliament.go.ke

RE: PETITION TO THE SENATE CONCERNING GRABBING OF PUBLIC UTILITY
AND PRIVATE LAND AT LELESHWA – GILGIL TOWNSHIP BY COUNTY
GOVERNMENT LANDS DEPARTMENT OFFICERS OF NAKURU COUNTY AT THE
PRETEXT OF REPLANNING, DESPITE THE FACT THAT THE AREA IN QUESTION
HAD BEEN PLANNED AND APPROVED BY THE MINISTER OF LANDS ON 6TH
AUGUST 2008

We the undersigned, citizens of the Republic of Kenya and residents of Gilgil town, Gilgil Sub County, Nakuru County do hereby wish to draw the attention of the senate on to the following:

1. MINISTRY OF LANDS - PHYSICAL PLANNING DEPARTMENT

- 1.1 THAT, the former Local Authority of Nakuru County Council, whose one of its mandate was to do local planning in accordance with the Physical Planning Act 1996 did undertake planning of Leleshwa land in Gilgil Town, Gilgil Division, Nakuru District now Gilgil Ward of Gilgil Sub County of Nakuru County.
- 1.2 THAT a surveyor was appointed on 11th October 2000 by Clerk Nakuru County Council and authorized to survey Leleshwa Plots Gilgil Township of approximately 200 plots as per Physical Planners Map through a letter of ref. NCC/SURVEY/VOL.11 M.4/6
- 1.3 THAT the surveyor submitted his work on completion of his work on 21st March 2002 through letter of Ref FLS/NCC.
- 1.4 THAT in his submission he did attach a survey map indicative of boundary measurements, and numbering of every plot.
- 1.5 THAT amongst the surveyed area, were two institutional land marked for (a) proposed secondary school with an acreage of 4.472Ha marked No. 216 and (b) proposed primary school 1.9186Ha marked 215.
- 1.6 THAT a public utility plot reserved for proposed Nursing Home of 0.686Ha marked 424.
- 1.7 THAT all the other Residential plots of sizes ¼ numbering 67 plots, 1 Acre plots numbering six and those of ½ acres numbering 17 parcels, were given serialized numbers.

2. APPROVAL OF AREA DEVELOPMENT PLAN AS SURVEYED BY THE RELEVANT AUTHORITIES

- 2.1 THAT the Minister of Lands approved the plan on 6th August 2008 as Approved Development Plan No. 91.
- 2.2 THAT Department Reference of Plan was given as No. R35/2007/04
- 2.3 THAT the plan was certified by director of Physical Planning, Nairobi, on 3rd June 2008.

- 2.4 THAT the plan was prepared and published in accordance with the requirement of part IV of physical planning Act 1996, by Physical Planner Mr. C.O Konyango on 20th June 2008.
- 2.5 THAT there is no other approved plan other than plan No. 91 above which has not been repealed.

3. PLOTS ALLOCATION AT LELESHWA

- 3.1 THAT plots at Leleshwa, Gilgil were advertised for allocation, people applied and allocation was done in 2004/5.
- 3.2 THAT Gilgil Community in development committee meeting at locational and divisional level in the late 1990 had recommended for a start of a girls only secondary school to be given to Kenya Police (Read A.S.T.U) after the success of Utumishi Secondary School built by police officers contributions.
- 3.3 THAT the Nakuru District Development did approve Gilgil Division development committee recommendations for a girls only secondary school and hence the setting aside the proposed secondary school land of 4.481Ha marked as No. 216.
- 3.4 THAT a primary school for girls was also recommended and a developer did apply, was allocated and did undertake development in 2007.
- 3.5 THAT other individuals did undertake to develop their allocations after paying the requisite fees and rates to the local authority.

4. ARMED EVICTION BY A.S.T.U (Anti Stock Theft Unit) OFFICERS ON THE ALLOTEES THROUGH POLITICAL MACHINATIONS

- 4.1 THAT in 2007, just before the elections, A.S.T.U officers invaded the Leleshwa site, of about 40Acres, demolished developments by Kenya citizens claiming (without proof) that all the 40acres belonged to the proposed Utumishi Girls Secondary School.
- 4.2 THAT the A.S.T.U officers opened a camp at the contentious land and would lock up anyone laying claim to his/her land, documents not withstanding.
- 4.3 THAT despite several delegates to the Clerk, Nakuru County Council over the years, no solution was forthcoming as they (Local Authority) kept on saying that they were in talks with A.S.T.U to have them move to their designated plot No. 216.
- 4.4 THAT the A.S.T.U as an institution of government had no legal backing as they had no court order, nor did they have Letter of Allotment to show that they had been allocated the land they were claiming and evicting legally allocated owners.
- 4.5 THAT it was very evident that there was no political goodwill on the part of Nakuru County Council, as words started doing round that there were plans to further subdivide the Leleshwa plots to lesser sizes, to benefit the political supports and for prospective purposes as shall be shown hereunder.

5. ATTEMPT TOO HAVE ISSUE RESOLVED BY THE COUNTY GOVERNMENT

5.1 THAT two meetings were called at Gilgil through the Provincial Administration on 19th June 2013 (by Chief) and on 7th August 2013 (By the Deputy Commissioner Gilgil Sub County)

- 5.2 THAT nothing positive came out of this meeting as it lacked community goodwill when participants realized that the MP and MCA were pushing for their political supporters to head taskforce to address the myriads of double allocations and A.S.T.U intrusion.
- 5.3 THAT Gilgil Chief, Mr. Gabriel Kamau, supported by MCA Hon. Jane Ngugi and Gilgil MP, Hon. Mathenge with the full protection of Police went and demolished peoples fences on 13/5/2013 that had not been affected by A.S.T.U demolition of 2007.
- 5.4 THAT the political takeover of our parcels of land was only stopped when a Notice of Intent to Sue was sent on 14.08.2013 to Nakuru County Government.
- 5.5 THAT on 2nd February 2017, a delegation led by M.C.A Gilgil Ward, Hon. Jane Ngugi met the Nakuru Governor, then Hon. Kinuthia Mbugua in his Boardroom at 8.00am.
- 5.6 THAT it is important to point out that the delegation was a political one, made of supports of the MCA and MP to convince the Governor to assent to the subdivision of the Leleshwa plots to lesser sizes and to have Anti Stock Theft Unit officers move to their plot No. 216.
- 5.7 THAT the Governor was categorical that you cannot take up private land leave alone subdividing without consent of the owners.
- 5.8 THAT the Governor directed that a meeting of all stakeholders be called on 9th February 2012 to chart the way forward.
- 5.9 THAT a stakeholders meeting was called on 9th February 2017, chaired by the Director of Physical Planning, Nakuru County and attended by Regional Representative of National Lands Commission, ASTU Deputy Commandant and 64 stakeholders resolved that:
 - a) THAT plan No. 91. Approved by the minister of Lands is the reference map.
 - b) THAT ASTU camp be moved to the Utumishi Girls Secondary School designated land, plot No. 216, once they are shown their boundaries.
 - c) THAT Leleshwa issue was not on boundaries BUT on ownership, hence a committee be elected to look into any plot(s) in dispute on double allocations and committee to report back to the stakeholders.
 - d) THAT a committee of eleven was elected and the 1st petitioner hereunder elected Secretary and the 2nd petitioner elected Treasurer.
 - e) THAT it was quite evident on the onset that the government delegation from Nakuru County Government and the Hon MCA Jane Ngugi who was present were not pleased with the outcome of the public participation in proposing for a committee to look into the issue and did plan to frustrate the committee as shall be shown hereunder.
 - f) THAT the committee held their 1st meeting on 14th February 2017 where they agreed that (i) a government officer shall be present in all Task Force Committee meetings to guide it on technical issues.
 - (ii) All minutes shall be distributed to office of (a) Governor (b) Director of Physical Planning (c) C.E.C Lands (d) Regional Coordinator, National Lands Commission (d) map to be used shall be plan No. 91.
 - (iii) The surveyor who surveyed subject land be office invited through, Director of Planning Office to come and meet the Taskforce to explain how he did survey subject land.

- g) THAT a letter was sent to Director of Planning on 22nd February 2017 requesting him to ensure that surveyor Kamau met the Taskforce on a date convenient to him within the week. This was never to be.
- 6. OUTRIGHT ATTEMPT BY THE COUNTY GOVERNMENT (LAND DEPARTMENT)
 TO FRUSTRATE THE PUBLICLY ELECTED TASKFORCE COMMITTEE ON
 LELESHWA LAND WITH A VIEW TO SUBDIVIDING THE PLOTS TO LESSER
 SIZES AS HAD ALWAYS BEEN THE WISH OF THE POLITICIAN SUPPORTED BY
 SOME COUNTY GOVERNMENT OFFICERS
- 6.1 THAT on realizing that the taskforce was being procedurally driven under the stewardship of the Secretary, the County Government Officers under the directive of the Hon. MCA Jane Ngugi applied the divide and rule strategy to exclude the Secretary (Petitioner 1) and Treasurer (Petitioner 2) and chose to work with the chairman, who's a known campaign manager of Hon. MCA.
- 6.2 THAT the Ag. Director of Survey of land in the County a Mr. James Kariuki took the lead in subdividing plots assisted by M.C.A's team lead by Designate chair of the Taskforce a Mr. James Kariuki (Baba Joel) to do the beaconing inside the already surveyed/allocated parcels of land in the Approved Development Plan No. 91.
- 6.3 THAT a spatial survey plan was used to sub divide the Leleshwa land where the plot 216 for Utumishi girls was subdivided into 158 parcels of sizes measuring 40ft by 50ft, a slum in the making.
- 6.4 THAT to conceal their thirst to grab primary school land No. 215 of 1.98Ha, they purported to have moved Utumishi Secondary school land on top of Primary School (Plot 215) that no longer exists in their unapproved map/plan in question.
- 6.5 THAT 34 plots of ½ Acre size have now been created and are allegedly allocated to National Lands Commission Officers (Read whos who in Nakuru County Government) as was disclosed by Chief Officer, Madam, J. C. Waihenya in the lands department/Taskforce Committee meeting on 17th May 2018.
- 6.6 THAT a meeting was called at Director of Physical Planner's Boardroom Nakuru, on 4th June 2018 to approve the "new" plan subdividing the Leleshwa plots.
- 6.7 THAT in attendance were Chief Officer, Director of Physical Planning and Ag. Director of Survey James Kariuki who was explaining and justifying through Powerpoint reasons for subdivision.
- 6.8 THAT petitioner 1 did raise objection stating that the taskforce committee elected on 9/2/2017 was the one to oversee issues of double allocation(s) in the said area, and that at not time was subdivision or relocation of parcels of land (plots) discussed hence map under deliberation null and void.
- 6.9 THAT the Chief Officer Md. J. G Waihenya and Hon. Jane Ngugi MCA called to vote those for the subdivision, which was accented to by all those present except Petitioner 1 and 2 on the following grounds:- That
 - a) Plan No. 91 accented to by the Minister of Lands in accordance with the Physical Planner Act 1996 was still valid.

- b) The Taskforce had not submitted it's report to the appointing authority who were the stakeholders as by law required.
- c) Professional member organization e.g. Teacher Educators, churches, medical, institution of government were never called to give their input before this "subdividivision"
- d) There was no complaint from key owners of said plots calling for replanning or subdivision of their plots for whatever reason e.g. no roads, drainage etc.
- e) The said two lists meant to benefit officers of (i) National Land Commission (ii) County Government should be made public.
- f) Lists not vetted and are suspect.
- g) Acts by the officers and the "partisan" committee was illegal and unconstitutional.
- h) Respective institutional land should be maintained to be used for intended purposes.
- i) The rightful owners on the allocated plot should be left to enjoy their rightful allocation(s).

7. STOPPING THIS ILLEGAL ACTIVITY BY NAKURU LANDS DEPARTMENT OFFICERS SUPPORTED BY HON. M.C.A GILGIL WARD

- 7.1 THAT the plot owner were never informed on action of subdivision of the plots contrary to Article 47 of Constitution of Kenya on Fair Administration
- 7.2 THAT I took it upon myself to seek redress in relevant offices and did write a petition dated 4/06/2018jointly with Taskforce Secretary Mr. George Ouma, amongst others and served the same on:
 - a) Governor Nakuru County.
 - b) C.E.C Lands, Housing and Physical Planning Nakuru County.
 - c) Regional Coordinator National Lands Commission Nakuru County.
 - d) Director Physical Planning Nakuru County
 - e) Legal Department Nakuru County
- 7.3 THAT its only the Regional Coordinator National Lands Commission, Mr. Ole Kibelekenya who called me to his office to put more light on the petition a few hours after receiving the petition on 4th June 2018, which I honoured.
- 7.4 THAT Mr. Ole Kibelekenya asked me to do a complaint letter to him so that he can take action, which I did on 7th June 2017.
- 7.5 THAT on 18th June 2018, I sought and got a meeting with C.E.C Lands where I laid the facts as herein above, the C.E.C promise to take action within a week.
- 7.6 THAT on 19th June 2018 I wrote a letter to the governor Hon. Lee Kinyanjui seeking for a one on one meeting in view of subject issue.
- 7.7 THAT on 19th June 2018, I wrote a letter under Article 35, Access to Information: seeking information on
 - (i) All correspondences,
 - (ii) Minutes of meeting touching on subject issue since 9th February 2017 to date, and
 - (iii) Copy of the map/plan of new subdivision
 - (iv) Copy of the two lists of beneficiaries, namely National Lands Commission and County Government.

7.8 THAT as outlined above we have made all efforts to have issues resolved amicably by various government officers as shown here above.

What is clear to us is that there is clear conflict of interest by the said officer in conjunction with our representatives.

7.9 That none of the issues raised in this petition is pending in any Court of Law.

WHEREFORE we as humble petitioners pray that the Senate:-

- 1. That the Senate Land's committee, do give us a hearing where we can present all documents mentioned herein above, to justify this petition.
- 2. That we do urge the Senate to uphold Physical Planning Act 1996, by recognizing plan approved on 6th August 2008, by Minister of Lands and gazette thereafter as the valid document, having not been repealed.
- 3. To uphold citizen's rights to own property of any description in any part of Kenya (Article 40), as a fundamental right that cannot arbitrarily be taken away without due process which have not been the case herein.
- 4. To uphold and protect the public utilities, being the two schools, No. 216 and 215 and the Nursing Home No. 424 as they would be of great service to the residents and communities therein and a source of employment to our youth.
- 5. To ensure that the genuine allottees do enjoy their allocations and are free to develop their properties in line with Agenda 4 of our President by encouraging and facilitating their investment take-up as local investors.
- 6. To take appropriate action(s) on any person(s) found to have acted in violation of the constitution, to benefit oneself which amounts to fanning corruption which the senate has declared war on.
- 7. Join us in praying that God bless all our Senators and grant them best of health as they serve this nation.

Dated this	day of	2018
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