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KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT- THIRD SESSION

THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON  
THE NATIONAL SOCIAL SECURITY FUND (NSSF) TASSIA II SETTLEMENT SCHEME  
INFRASTRUCTURE DEVELOPMENT

Clerk's Chambers  
Parliament Buildings  
NAIROBI

February, 2015

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## 1.0 PREFACE

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to the provisions of Standing Order No.216, it is my pleasure and duty to present the Committees report upon conclusion of the investigation of Tassia II Settlement Scheme Infrastructure Development according to its mandate to the House.

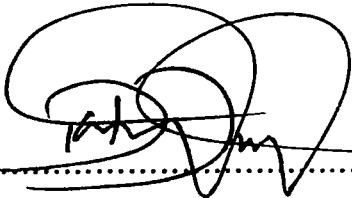
### Committee Membership

The Departmental Committee Labour and Social Welfare was constituted on Thursday 16th May, 2013 and its membership comprise of the following:

1. Hon, David Were, MP - **Chairperson**
2. Hon. Tiyah Galgalo, MP - **Vice Chairperson**
3. Hon. Janet Teiya, MP
4. Hon. George Muchai, MP
5. Hon. Peris Tobiko, MP
6. Hon. John Ndirangu Kariuki, MP
7. Hon. Winnie Karimi Njuguna, MP
8. Hon. Janet Nangabo, MP
9. Hon. John Serut, MP
10. Hon. Samuel Gichigi, M.P.
11. Hon. Elijah Lagat, MP.
12. Hon. Cornelly Serem, MP
13. Hon. Abdi Noor Ali, MP
14. Hon. Daniel Wanyama, MP
15. Hon Regina Nyeris, MP
16. Hon. Wesley Korir, MP
17. Hon. Kinoti Gatobu, MP
18. Hon. Elijah Mosomi Moindi, MP
19. Hon. James Onyango K'Oyoo, MP
20. Hon. Omondi John Ogutu, MP
21. Hon. Aisha Jumwa Karisa, MP
22. Hon. Patrick Wangamati, MP
23. Hon Rose Museo Mumo, MP
24. Hon. Silvanice Onyango Osele, M.P.
25. Hon. Mustafa Idd, M.P.
26. Hon. Nyasuna Gladys Wanga, MP
27. Hon. John Owuor Onyango Kobado, MP
28. Hon. Mwanyoha Hassan Mohammed, M.P.
29. Hon. Mlolwa Jones, M.P.

8. The NSSF should suspend the Tassia II project until money is collected from the plot buyers after which the project can proceed.
9. There should be no executive interference with the NSSF Management thus the Cabinet Secretary should only deal with NSSF as per the requirement of the Law.
10. The NSSF Board should ensure that all managerial decisions that are made at management level are within the Law and in case of any irregularity, it should act on time.
11. The officers responsible for advertising the tenders without a budget should take responsibility for violation of Law.

Thank you.

SIGNED..........DATE. 16-10-2014

Hon David Were, MP  
(Chairperson)  
Departmental Committee on Labour and Social Welfare

## 2.0 CHAPTER ONE

### 2.1 INTRODUCTION

The Departmental Committee on Labour and Social Welfare was seized of the matter regarding Tassia II Settlement Scheme Infrastructure Development Project following a press statement issued on 5<sup>th</sup> January, 2014 by Mr. Francis Atwoli, the Secretary General of COTU and workers representative in the NSSF Board. In his statement he alleged that the approval of Ksh 5,053 billion towards the Project was illegal, fraudulent and abuse of office hence NSSF would lose billions of shillings through shoddy procurement process.

Pursuant to Standing Orders No. 216(5) and in line with the Committee's mandate, the Committee commenced investigation into the matter to:-

- (i) Understand the Tassia II Settlement Scheme Infrastructure Development Project;
- (ii) Determine whether relevant law was followed in the approval and procurement in respect of the Project;
- (iii) Determine whether there was intention to irregularly spend NSSF Members contributions on the Project.

The Committee held 22 Sittings to deliberate on the matter during which, it received oral evidence and written submission from the following:-

1. Mr. Francil Atwoli – Secretary General (COTU)
2. Ms Jacqueline Mugo– Executive Director, Federation of Kenya Employers
3. Hon. Kazungu Kambi, MP – Cabinet Secretary, Ministry of Labour, Social Security & Services
4. NSSF Board of Trustees and management
5. Former NSSF Managing Trustees (Ms Hope Mwashumbe, Mr. Naftali Mogere, Mr. Alex Kazongo, Mr. Tom Odongo)
6. Tassia II “Plot Owners”
7. Mr. S. N. Maugo -Managing Director, Multiscope Consulting Engineers
8. Ms Lilian Ndegwa, Nairobi County Secretary.

## **2.2 BACKGROUND ON TASSIA II SETTLEMENT SCHEME PROJECT**

- (i) The NSSF holds titles for Block 97, Block 21189 and Block 21190 respectively in the expansive Tassia Estate, Embakasi region, along Outering Road, Nairobi all measuring 350 Acres. The land was purchased between 1992 and 1995 at a total cost of Kshs.2.2 billion from Tassia Coffee Estate Ltd and Nokin Investment Ltd. with the objective of developing the land into residential/commercial properties as part of its investment portfolio.
- (ii) In September 2001, illegal squatters / land grabbers invaded and subdivided the land into 5,500 plots claiming to have been sold the same by various land buying companies. NSSF took the matter to Court and in October, 2004 a ruling was made in favour of the Fund to evict the grabbers and demolish structures that had been developed thereon.
- (iii) The NSSF Board of Trustees realized that given the level of unplanned subdivision, encroachment and development on the land, effecting the Court Order on eviction and demolition presented a great logistical and security challenge. Following comprehensive consultations between NSSF and the Government, through the then Minister for Labour, Office of the President, and local leaders, the Board of Trustees agreed in 2005 to sell the 5,500 plots to the squatters/grabbers and regularize it.
- (iv) Under the Physical Planning Act, the NSSF needed approval from the City Council of Nairobi. Since the original agreement between NSSF and the buyers did not provide for infrastructure, which was one of the conditions for approval, NSSF came up with Tassia II Project to comply with the City Council requirement

## **3.0 CHAPTER TWO -SUBMISSIONS BY STAKEHOLDERS ON TASSIA II**

The Committee met various stakeholders who made oral and written submissions as presented below;

### **3.1 MR. FRANCIS ATWOLI, SECRETARY GENERAL (COTU)**

Mr. Francis Atwoli appeared before the Committee on 22<sup>nd</sup> January, 2014 and informed the Committee that:

- (i) The management team had entered into a Kshs 5 billion contract with a Chinese company to construct infrastructure to service the Tassia II plots without getting proper approval from the NSSF Board. He was not aware of where the issue of awarding of Kshs5 billion contract came from since the last time the Board discussed it, was in 2011 and the matter was dropped. The last Board meeting was held on 9<sup>th</sup> December, 2013 and no such issue was discussed.
- (ii) He had travelled to the United Kingdom and when he returned on 18<sup>th</sup> December 2013, he learnt through Mrs. Jacqueline Mugo, the Executive Director of Federation of Kenya Employers that an e-mail had been circulated seeking approval for the Kshs 5billion project.
- (iii) He was shocked because he never received the e-mail and wondered why such a huge project was being approved by email and worse still, the contract was hurriedly awarded to a Chinese company, just two days after the e-mail was purportedly circulated.
- (iv) The approval of Tassia II Infrastructure Development was illegal, abuse of office and fraudulent and that is why he decided to go public by issuing a press statement (Annex 1). He called for the prosecution of officers who were involved in its approval and asserted that the NSSF management, led by Acting Managing Trustee Mr. Richard Lang'at, should be taken to court for "abuse of office and fraud" regarding the Tassia II infrastructure development project.
- (v) The Public Procurement and Disposal Act, prohibits procurement of services without a budget as the law also requires that money must be allocated before any such procurement. The right procedure would have been to collect the contributions first before tendering. Advertising the tender without following the laid-down procedure exposed the Fund to immense losses in the event that the tenants failed to pay the Kshs920,000/= meant for the development of the infrastructure.

(vi) The First Schedule to the NSSF Act that was fully in operation at the time as the New Act's commencement date is yet to be gazetted is clear under section 7 that:-

*"The Quorum for any meeting of the Board of Trustees shall be two thirds: Provided that there shall be no quorum unless there is present at the meeting at least one Trustee representing Government, one Trustee representing Employers and one Trustee representing Employees....."*

In this case, employees were not represented in the meeting and if this meeting was substantive as opposed to being held through e-mail circulation, in the wisdom of both the Chairman of the Board and the Ag. Managing Trustee, they would have realized that there was no quorum to transact such serious business.

(vii) All Board decisions are made by resolution and not through e-mail circulation and a notice must be issued to the Board of Trustees in time to look at it critically before a meeting. There is no provision in the Act for approval of such a colossal sum of money by the Board of Trustees through circulation of an e-mail without any subsequent full disclosure to the Board on the project's viability so far as safeguarding the Fund is concerned.

(viii) A comprehensive presentation was necessary on the projections involved including how the NSSF would secure its funds bearing in mind that the squatters were yet to pay Kshs 2.5 billion being the principal amount owned on plot.

(ix) It made no economic sense to keep on reviewing the figures upwards in total disregard to the economic plight of the squatters and consistently exposing the Fund to a likelihood of further losses because the squatters were unable to pay for the plots based on the initial amount. This informed the decision by the previous Managing Trustees who were deliberately reluctant to pressurize the Board of Trustees to grant approval for the development of the said infrastructure despite insistence from the then City Council of Nairobi because somebody had to take responsibility.



- (x) The NSSF Board of Trustees flouted Article 227 of the Constitution, the Public Finance Management Act and provisions of the Public Procurement and Disposal Act in awarding the tender to China Jiangxi Company. The NSSF Board members who approved the multi-billion shilling infrastructure development tender for Nairobi's Tassia Estate should be responsible as individual trustees and be made to pay back Sh5.03 billion if the project is cancelled.
- (xi) Hon. Kazungu Kambi, MP, Cabinet Secretary, Ministry of Labour, Social Services and Security should be censured for taking sides with NSSF management over the multi-billion shillings saga by stating that the tender was above board instead of remaining a neutral arbiter.
- (xii) An amendment of the NSSF Act was enacted in December, 2013 in order to give the Board mandate to oversee and audit the decisions of the Fund's Managing Trustee.

### 3.2 MRS JACQUELINE MUGO - EXECUTIVE DIRECTOR, FEDERATION OF KENYA EMPLOYERS

Mrs. Jacqueline Mugo appeared before the Committee on 15<sup>th</sup> January, 2014 and informed the committee that;

- (i) The Ag. Managing Trustee of NSSF Mr. Richard Langat circulated an email on 18<sup>th</sup> December, 2013(Annex 2 ) requesting for approval of Kshs 5.053 Billion being a revised total cost estimate of infrastructure and development and Kshs. 920,000/= per plot to be advised to plot owners as their contribution towards the cost of development and related professional services in respect of TASSIA II Scheme infrastructure development.
- (ii) The email justified the revised cost on grounds that comprehensive project designs had been approved by Nairobi County Government in July 2013(Annex 3) and the consultant had submitted to the Fund the estimate of Kshs 5.053billion up from ksh. 3.304 billion. Kshs 3.304 billion had been approved on 5<sup>th</sup> August, 2011 by the Board as the total preliminary cost estimate for infrastructure and payment of Kshs 650,000/= by plot owners as their contribution towards the cost of infrastructure and related professional services.



- (iii) The email further stated that the project was self-financing through sharing the project cost of Kshs 5.053 billion by the estimated 5500 owners on pro-rata basis whereby collections would be made through the individual Tenant Purchase Scheme Accounts upon approval.
- (iv) She agreed to the proposal in her first response to the email on 19<sup>th</sup> December, 2013 with an assurance that it would not incur additional cost to the Fund . On 1<sup>st</sup> January, 2014 she wrote an email to the Chairman (Annex 4) and Ag Managing Trustee for clarity on what needed to be done by the board and the email was not responded to. This email was followed up with a formal letter to the Cabinet Secretary, Ministry of Labour, Social Security and Services (Annex 5 ) and Ag. Managing Trustee of NSSF on 18<sup>th</sup> January, 2014 in which she stated that;
1. The emails circulated by the Ag. Managing Trustee on 18<sup>th</sup> December, 2013 would not constitute Board approval of an expenditure of Kshs. 5 billion of NSSF funds.
  2. A comprehensive presentation on the rationale, justification and viability of the TASSIA II project should have been made to the Board of Trustee for consideration and determination including the reports on feasibility studies done.
  3. No Board resolution in a formally constituted Board meeting had been made to form the basis of the award of a contract on this project and requested the Ag Managing Trustee to urgently convene a meeting for the Board to deliberate on the matter as per the normal procedure.
- (v) She had not received a response by the time she went to the press(Annex 6) and stated further that it was misleading for the Cabinet Secretary and the Ag. Managing Trustee to report to the public that the Board approved the TASSIA II project. She questioned the hurried manner in which a project purportedly approved on 18<sup>th</sup> December, 2013 had been awarded to a contractor the following day.

- (vi) She stated that employers were opposed to the approval of the project and that the idea of spending a colossal sum of Kshs 5 billion on project based on a purported email approval was indeed ill- advised.

### 3.3 TASSIA II “PLOT OWNERS”

A group calling itself Tassia II “Plot Owners” led by their representative, Mr. Lawi Nyateng appeared before the Committee on 28<sup>th</sup> January, 2014 and informed the Committee that:-

- (i) They are the proprietors of Tassia, being leaders of the following registered groups which are stationed in Embakasi East Constituency:-
- i. Fedha Self-help Group
  - ii. Kassim Self-help Group
  - iii. Tassia-East Self-help Group
  - iv. Tassia Resettlement Scheme
  - v. Kwandege Self-help Group
- (ii) The groups were initiated to ensure that school leavers and unemployed citizens have something to do to earn a living. They recruited more members in Jua- kali sector to work as Carpenters, Tailors, block smiths, plumbers, cobblers, grocery vendors, etc. Due to lack of work space, they started looking for idle land around the region and identified the one in Tassia. They informed the Embakasi Local Development Committee (LDC) and the then District Development Committee (DDC), where the matter was positively discussed and approved (Annex 7 ). They moved to the ground in the year 2001 and occupied the said scheme to block land grabbers.
- (iii) Each of the five groups were allocated a portion of the scheme and surveyors were hired to put up beacons to individuals using identification certificate as the required document of ownership as per the regulations of the Groups .Members engaged themselves in building structures since they didn't have anywhere to dwell and they did not have any problem of ownership on the said scheme up to 2004.

- (iv) On the 6<sup>th</sup> of March, 2005 some strangers who only identified themselves as NSSF officers came claiming ownership of the scheme and consequently served them with an eviction order (Civil Suit No. 529/2002) dated 4<sup>th</sup> March 2005. Since they had already put up permanent structures on the site by then, they had no option but to have a dialogue with the NSSF, involving the Provincial Administration and local leaders including politicians.
- (v) On 26<sup>th</sup> July 2005, they reached a consensus with the NSSF which was signed by then Managing Trustee Mr. Nafatli Mogere and agreed that:-
1. A plot measuring 33x 66ft to be paid Kshs 315,000/=
  2. A plot measuring 50 x 100ft to be paid Kshs 800,000/=
- They were given only six months to clear payments, a matter which they argued bitterly about, but fell on deaf ears. They agreed that the group leaders submit names of their members to open individual accounts with the Fund (NSSF).
- (vi) Within this process and period, the Fund breached the agreement by recruiting their own Members from Staffs and friends to sell those pieces of plot from the scheme thereby causing a lot of double allocation, a matter which has never been tackled and some cases are still pending in court. About 800 plots were taken by the Fund and while some of their members made full payment within the period, they did not get the title deeds because the Fund was to do the physical planning and a final survey before issuance of titles, an activity which has never been finalized to date despite paying an extra Kshs12,000/= for the exercise.
- (vii) This activity made them delay payments due to moving of the beacons and double allocation of plots and nothing was done by the Fund despite presentation of the matter by the leaders of the groups in every meeting with the NSSF. The survey is now on-going to identify and create more

plots for some of the Tenant Purchase Scheme (TPS) Staffs to sell and that is why the activity cannot be finalized.

- (viii) A divide and rule tactic arose when the NSSF decided not to work with the group leaders to enable them approve whatever they wanted like forcing them to pay Kshs550,000/= and Kshs1,200,000/= for plots measuring 33x66ft and 50x100ft respectively without agreement. It had been difficult to work with the NSSF because the Fund failed to honor the agreement they signed which clarified the following:-
1. How to get the title deed
  2. How to reposes unpaid plots
  3. How to secure road reserves
  4. Dispute resolutions
- (ix) Considering all these agreements, it was not easy for them as group leaders to respond to them due to lack of access to even their own files from the NSSF to enable them keep the correct record. NSSF has further changed some plot numbers in a bid to confuse those who should be dealing with the arising disputes and also refused to comply with the Physical Planning Act of approval condition which directed them to surrender all public utility plots for free to the County Government instead of selling them out.
- (x) On 30<sup>th</sup> May, 2013 all Members were given 30 days to clear the payments which was not agreed upon of Kshs 550,000/= and Kshs 1,200,000 for plots measuring 33x66ft and 50x100ft respectively, which made the Members to riot. This called for intervention by Nairobi Senator, Hon. Mike Mbuvi (Sonko), MP, Nairobi County Women Representative, Hon. Rachael Shebesh, MP and Embakasi Member of National Assembly Hon. John Omondi, MP who visited the site and resolved that the matter be left to the Cabinet Secretary Ministry of Lands and Urban development Hon. Charity Kaluki Ngilu.

- (xi) A formal agreement on extension was drafted following a meeting in the office of Hon. Charity Ngilu with the then Managing Trustee, Mr. Tom Odongo which NSSF has never signed to-date and which the group termed as another delaying tactic. On 9<sup>th</sup> January, 2014, they were surprised upon reading in the Daily Nation Newspaper that a new price of Kshs920,000/=had been put up by the NSSF, a matter which was not within their knowledge as nobody had communicated to them and the NSSF does not recognize their office.
- (xii) The increment on the selling price of the said plots was intended to ensure Members are evicted from the plot upon failure to pay so as to give way for NSSF Officers (TPS Department) to sell those plots to tycoons who are even ready to bribe their way to the Scheme. They requested the Committee to investigate the fraudulent conduct of NSSF and County Government of Nairobi and to assist their innocent members to be granted the following:-
1. All closed accounts with the NSSF to be re-opened unconditionally to allow individuals to make payments.
  2. Title deeds to be issued to all individuals who have made the agreed payments in full.
  3. All prices that were not agreed upon be done away with and refunds be made to affected members as this act can be justified as daylight robbery.
  4. All plots under the scheme to be owned by registered members .
  5. Group leaders be recognized and be involved in all development plans of the area in question.
  6. NSSF to stop charging land rates, rents, and etc. as this should be made to the County Government after acquiring title deeds.
  7. An audit of all plots surrendered to the County Government as per the original approval (CPD/PIS/000522/97/21189).
  8. Motives behind the delaying tactics of NSSF be looked into and plot owners be compensated in terms of payment period.

9. Questionable closure of accounts, endless survey, huge price increments, etc. by the NSSF to be put under investigation and those involved to be brought to book.
10. All infrastructures in Tassia are welcome, as these are their rights expected from the National and County Government as citizens of the Nation.

### 3.4 NATIONAL SOCIAL SECURITY FUND (NSSF)

#### 3.4.1 NSSF BOARD OF TRUSTEES

The Board appeared before the Committee on 16<sup>th</sup> January, 2014 and through its Chairman, informed the Committee on the matter regarding Tassia II Settlement Scheme Infrastructure Development Project as follows:

##### 1. BACKGROUND

- (i) The National Social Security Fund (NSSF) holds titles for Block 97, Block 21190 and Block 21189 respectively in the expansive Tassia Estate, Embakasi region, along Outering Road, Nairobi all measuring 350 Acres. The land was purchased between 1992 and 1995 at a total cost of Kshs.2.2 Billion from Tassia Coffee Estate Ltd and Nokin Investment Ltd with the objective of developing them into residential/commercial properties as part of its investment portfolio.
- (ii) In September 2001, illegal squatters and land grabbers invaded and subdivided the land into 5,500 plots claiming to have been sold the same by various land buying companies. NSSF took the matter to Court and a ruling was made in favour of the NSSF October, 2004 to evict the grabbers and demolish structures that had been developed thereon.
- (iii) The NSSF Board of Trustees however realized that given the level of unplanned sub-division, encroachment and development on the land, effecting the Court Order on eviction and demolition presented a great logistical and security challenge.(Annex8). Following comprehensive consultations between NSSF and the Government, through the then Minister for Labour and the Office of the President, and local leaders, the Board of Trustees agreed in 2005 to sell the 5500 plots to the squatters/grabbers. (Annex 9 and 10).

- (iv) At the 2<sup>nd</sup> Audit and Risk Committee Meeting of the Board of Trustees of NSSF held on 7<sup>th</sup> December, 2009(Annex 11) it was decided that the Tenant Purchase Agreements be reviewed and payments for properties be made in full. Of the 5,500 plots, 792 were sold through the NSSF Tenant Purchase Scheme and the balance of 4,708 on cash terms. All were sold as un-serviced plots subject to approval of the Physical Development Plan by the then City Council of Nairobi.
- (v) Due to the unplanned manner in which the land had been sub-divided, this required the land to be re-surveyed and re-planned. A Land Surveyor, M/s Geoinfo Surveys Limited was appointed to carry out land re-survey works and physical re-planning of the sub-divided plots. Unfortunately, the Land Surveyor passed away in April 2008 before completing the re-surveying exercise and submitting any survey reports. However, the Physical Planner, M/s Njuguna & Associates who was working under M/s Geoinfo Surveys Ltd had already submitted Physical Development Plans to the City Council of Nairobi and obtained in May 2008 on behalf of the Fund conditional approval by City Council and the conditions were that:- (Annex 12)
- (a) The settlement should be linked with existing neighborhoods of Baraka Estate, Nyayo Estate, Embakasi Village and Donholm with Outer Ring Road as the main entrance.
- (b) There should be a major through transport corridor (bus route) to service the scheme, inclusive of some functional terminal for use by the large number of residents likely to be generated by the proposal. All feeder roads were to link to the proposed bus route(s).
- (c) NSSF is to organize and/or mobilize funds needed for the provision of adoptive and reticulated infrastructure services to service the proposed development. Proposed regularization would be granted conditional approval subject to the proposed scheme being fully serviced. Any transfers to the requisite developer(s) had to be based on finally approved scheme plans in accordance with the provisions of existing statutes.



- (d) Designated access roads, storm water drains and natural drains must be free from any encroachments and/or super-structure developments and the same to be made functional to service the proposal adequately.
  - (e) The proposal should incorporate functional type developments likely to observe the residential amenity, aesthetics and sustainable development character.
- (vi) Upon receipt of the conditional approval, NSSF through the mainstream media and individual letters advised the buyers of the requirement by the City Council on the infrastructure development and that the cost of such development would be borne by the buyers. **Annex 13.**

## 2. LAND SURVEYING

To complete the re-surveying and re-planning exercise, the NSSF competitively procured the services of another Land Surveyor, M/s Survey Plans Ltd in September 2010 and the re-surveying exercise commenced afresh in January 2011 and the preliminary report submitted to NSSF.

## 3. INFRASTRUCTURE DEVELOPMENT

- (i) To fulfill the terms of the conditional approval set by the then City Council of Nairobi, the NSSF in September 2010 competitively procured a. Civil Engineer, M/s Multiscope Consulting Ltd. to carry out comprehensive design works, prepare cost estimates, obtain necessary regulatory approvals of the designs and oversee the project implementation.
- (ii) On 1<sup>st</sup> March, 2011 vide letter Ref. No. MCE/112/NSSF/snm/4, **Annex14(i)** MS Multiscope Consulting Engineers Ltd. submitted to NSSF a Preliminary Design Report and a Comprehensive cost estimate of Kshs.4.5 billion, including individual plot access roads, pipe culvert, headwalls and culvert crossings to all plots Excluding the cost of individual plot access estimated at Kshs.1.2 billion, would reduce the preliminary costs to Kshs.3.3 billion(**Annex 14 ii**) However, the Consultant advised NSSF through the same letter that City Council would not approve the preliminary designs without provision of access to each individual plot.

- (iii) On 3<sup>rd</sup> October 2012, the City Council wrote to the Managing Trustee advising that, development proposals arising from Tassia Estate could not be approved until conditions appended to the subdivision for the Tassia Estate Plot No.20189 are fully met. **Annex 15(i and ii)**. Under the circumstances, Ms/ Multiscope Consulting Engineers Limited was advised to proceed and finalize with the comprehensive project designs and submit them for necessary statutory approvals after which they were to submit to the Fund an updated cost estimate.
- (v) Ms/ Multiscope Consulting Engineers Limited finalized the designs and submitted the same to the City Council vide letter Ref.MCE/112/NSSF/tnm/20 dated 4<sup>th</sup> February 2013 (**Annex 16**) which were approved by the Nairobi City County Government in July, 2013 and approval fee of Kshs.11.244 Million paid by NSSF. Thereafter, the consultant submitted to the Fund a revised cost estimate of the project of Kshs.5.053 Billion. (**Annex 17**).

#### 4. TENDER PROCESS

- (i) Open tenders were advertised in the Standard newspaper on 16<sup>th</sup> October, 2013 and the Daily Nation on 21<sup>st</sup> October, 2013 (**Annex18**) inviting interested contractors who are qualified and registered with National Construction Authority to submit their bids on or before 19<sup>th</sup> November, 2013. On 19<sup>th</sup> November 2013, the tenders were opened in the presence of bidders who responded to the tender and the results of the tender were as follows:-

- |    |                                                               |
|----|---------------------------------------------------------------|
| 1. | China Jiangxi International (K) Ltd-<br>Kshs.4,644,897,307.00 |
| 2. | China Railway No.5 Eng. Group -<br>Kshs.4,771,325,667.00      |
| 3. | Slok Construction Ltd -<br>Kshs.4,834,764,612.00              |
| 4. | China Wu Yi Company Ltd -<br>Kshs.5,565,300,419.00            |
| 5. | Nanchang Foreign Eng. Co. (K) Ltd-                            |

	Kshs.5,604,011,528.13
6.	ParbhatSiyani Co. Ltd - Kshs.6,032,577,494.00
7.	H Young & Company EA Ltd - Kshs.6,998,724,985.00
8.	Magic General Contractors Ltd - Kshs.7,256,670,278.00
9.	N.K. Brothers Ltd - Kshs.7,379,909,101.00
10.	Njuca Consolidated Company Ltd- Kshs.8, 151,444,489.00

(ii) The bids were then subjected to evaluation according to Evaluation Criteria set out in the Tender Requirement and seven (7) of the bids did not meet the tender requirement and dropped out either at preliminary stage or mandatory stage. The three bidders who met both technical and financial requirements were;-

1. China Jiangxi International (K) Ltd
2. China Railway No. Eng. Group
3. China Wu Yi Co. Ltd

(iii) As per tender requirement, the lowest evaluated bidder was to be awarded the tender and the Technical Evaluation Committee therefore recommended award of the tender to China Jiangxi International (K) Ltd at their corrected tender sum of Kshs, 4,629,168,275,70and contract period of two year.(Annex 19).The Fund Tender Committee subsequently met on 19<sup>th</sup> December, 2013 and approved award of the tender to China Jiangxi International (K) Ltd as per the recommendation of the Technical Evaluation Committee.

## 5. FINANCIAL STATUS

The Committee was informed that as at 31<sup>st</sup> December 2013, the total expected sale proceeds from the Scheme was Kshs.2.5 billion of which Kshs.1.8 billion had been received and that NSSF was aggressively pursuing recovery of the

outstanding balance of Kshs.0.7 billion which was expected to be realized by July 2014. Any unpaid for plots by that date would be repossessed and sold to other willing buyers at market price.

## 6. BOARD APPROVAL

The Committee was informed that between June 2005 and December 2013, the NSSF Board of Trustees made the following approvals with regard to Tassia II:-

- (i) During a Special Meeting of the Board of Trustees held on 28<sup>th</sup> June, 2005 the Board approved:-
  - (a) Sale of plots size 33ft x 66ft at a price of Kshs.315, 000.00 per plot.
  - (b) The plots to be sold on cash basis and within a maximum contractual period of six (6) months. **(Annex 10 )**
- (ii) During the 28<sup>th</sup> Meeting of the Finance, Investment and Tender Oversight Committee of the Board of Trustees held on 4<sup>th</sup> May, 2007, the Board approved the sale of Tassia II and its plots through the Tenant Purchase Scheme. **(Annex 20)**
- (iii) At the 2<sup>nd</sup> Audit and Risk Committee Meeting of the NSSF Board of Trustees held on 7<sup>th</sup> December, 2009, it was agreed that the Tenant Purchase Agreements be reviewed and payments for properties be made in full. **(Annex 11)**
- (iv) In June 2011, the Management submitted to the Board of Trustees a Board Paper indicating the initial project preliminary cost estimate of Kshs.4.5billion but with a recommendation that access to individual plots be omitted to bring down the estimated project cost to Kshs.3.3 Billion.**(Annex 21)**
- (v) At the 154<sup>th</sup> Meeting of the Board of Trustees held on 5<sup>th</sup> August, 2011, the Board approved the Management's recommended project cost of Kshs.3.3 Billion as preliminary cost estimates of infrastructure

development. The approval excluded Kshs.1.2 billion (Annex 22) meant for Civil Works to individual plots.

- (vi) Arising from the advice by M/s Multiscope Consulting Engineers Ltd and the letter from the City Council dated 3<sup>rd</sup> October 2012 Annex15(i) advising that development proposals arising from Tassia Estate could not be approved until conditions appended to the approved subdivision of May 2008 are fully met, the Consultant submitted comprehensive design works to the City Council which were approved by the Nairobi City County Government in July 2013, after which, the Consultant submitted to the Fund a revised cost estimate of Kshs.5.053 Billion.
- (vii) There was need for the Board of Trustees to grant approval for the revised total project cost estimate of Kshs.5.053 billion of which Kshs.3.3 billion had already been approved in August 2011.

The breakdown of the Kshs.5.053 billion is as follows:-

Item	Kshs.
Construction cost as per award	4.629 Billion
Other related costs	0,424 Billion
Total	5.053 Billion

The Board of Trustees approval was sought through closed email circulation (Annex23) by the Ag Managing Trustee and that all the current six (6) Board of Trustees received the email, out of which five (5) members of the Board approved the revised cost estimate of Kshs. 5,053 billion inclusive of consultants cost and other related statutory payments. The approvals received were from the following:-

Mr. Adan Daud Mohamed

Mr. Ali Noor Ismail

Mr. Mutua Kilaka

Ms. Jackline Mugo

Mr. Richard K. Langat (Ag. Managing Trustee

The sixth Board Member, Mr. Francis Atwoli, Secretary General (COTU) did neither approve nor object and according to the Chair and NSSF for that matter, the sum total of five out of six Trustees approved with no objection and therefore, constituted a valid Board of Trustees approval as per the Kenya Communications Act 2009 Section 83(g) on electronic records.

#### 7. CLARIFICATIONS ON ISSUES RAISED

The Chairperson made further clarifications on the issues raised that:-

- (i) Development of infrastructure in the Tassia Settlement Scheme was a conditional requirement by the City Council of Nairobi upon which the Physical Development Plan (sub-division) was granted in May 2008.
- (ii) The tender process and outcome was open, transparent and above board. The tender documents are available for scrutiny by any interested party and NSSF to-date is not aware of any objection, petition or otherwise against award of the tender to the lowest evaluated bidder
- (iii) The infrastructure development cost to be entirely recovered from the 5,500 plot owners through individual contributions of Kshs.920,000/=per plot. (iv) The project was awarded to M/s China Jiangxi International (K) Ltd at Kshs.4,629,168,275.70 and not Kshs.5.053 billion. The difference between the Board of Trustees approved cost estimate of Kshs.5.053 billion and the tender award sum of Kshs.4.629 billion was to cater for Consultants fees as per Contract i.e. M/s Survey plans Ltd, M/s Njuguna & Associates and Multiscope Civil Engineers Ltd and statutory payments for approvals from Nairobi City County, Director of Survey, National Land Commission, and National Environment Management Authority.
- (vi) Five (5) out of the six (6) current Board Members approved the revised cost through email circulation.

#### 3.4.2 NSSF MANAGEMENT

Led by the Acting Management Trustee Mr, Richard Langat, the NSSF management appeared before the Committee on 13<sup>th</sup> March 2014 and made the following submission. That;

1. They had brought documents to the Committee that were requested for and had not been submitted in an earlier meeting held on 22<sup>nd</sup> January, 2014. The documents presented were;
  - i. A letter from the Nairobi County Governor addressed to the Cabinet Secretary for Labour, Social Security and Service on regularization,
  - ii. Names of group leaders and estimated amounts collected by them,
  - iii. A letter of confirmation of payment of land rates from the county secretary to the MT NSSF,
  - iv. Letters confirming surrender of public utility plots to the then police commissioner Mr Mathew Iteere and to the Internal Security,
  - v. Contract agreement signed between China Jiangx International Kenya Ltd and NSSF,
  - vi. Letters from the Cabinet Secretary for Labour Suspending and lifting the suspension on Tassia ii Project Development,
  - vii. A list of NSSF employees owning land in Tassia, The 2005 Minutes approving the sale of Tassia,
  - viii. Minutes on approval of regularization of Tassia, Board Paper on Regularization,
  - ix. Minutes of the 154<sup>th</sup> meeting held on August 2011,
  - x. Agreement for (Purchase of Tassia Land) sale of certain Plots at Nairobi-Outering Road between Tassia coffee estate Ltd with NSSF,
  - xi. Land transfer letter,
  - xii. Addendum to NSSF tender on proposed civil engineering works,
  - xiii. Revised Evaluation on Civil Engineering works, Tender of the civil works at NSSF Tassia, Evaluation Report on the Tender,
  - xiv. NSSF Board Manual,
  - xv. Payments made to Geoinfo Survey,
  - xvi. Public Utility plots,



- xvii. NSSF letters to a chief and the Officer Commanding Police Division in Embakasi on encroachment,
  - xviii. Letter from the DC Embakasi accepting the offer of land and
  - xix. NSSF notices to buyers and occupants of Tassia.
2. From the records it emerged that, the City Council of Nairobi owes NSSF money that is being offset through land rates payment.
  3. At the 154<sup>th</sup> meeting of the board of trustees of NSSF held on 5<sup>th</sup> August 2011, the Board approved the Management's recommendation of 3.3 billion as the preliminary cost estimate of the infrastructure development. The cost was to be met by the land owners and not from the Fund members.
  4. Upon approval, the NSSF did not inform the plot owners on the same since it was a preliminary estimate an actual figure was to be determined before informing the members on the same. After tendering, the actual cost was established to be Ksh 920,000 and was to be advised to the plot owners.
  5. Subsequently the contract agreement with China Jiangx on the infrastructure development provides that no payment will be made to the contractor until June 2014, a period within which the Fund would have collected the money toward the project.
  6. Collection of the aforesaid money towards the infrastructure had been stopped by a court injunction filed by one of the Trustees but was lifted by the Court.
  7. In the year 2012, the Fund had lost control on public utility plots as even those that were supposed to be of help to the fund turned to be grabbers citing a plot that was given to the commissioner of police but was subdivided and sold.
  8. Mr Mtemi Nzatu told the committee that there was no law that provided that the plots be surrendered for free and that the plots needed to be sold to save the Funds money. He persistently insisted that plots for churches cannot be surrendered for free upon denying that they are not public utilities.
  9. The MT Mr Richard Langat took responsibility of going to ensure that Five utility plots that the Fund had sold are regularized by refunding to the owners the payments they had made.
  10. The other public utility plots had been grabbed.

3.5 HON. KAZUNGU KAMBI, EGH, MP - CABINET SECRETARY, MINISTRY OF  
LABOUR, SOCIAL SECURITY AND SERVICES

Hon. Kazungu Kambi, EGH, MP, Cabinet Secretary for Labour, Social Security appeared before the Committee on 29<sup>th</sup> January, 2014 and informed the Committee that:-

- (i) The NSSF bought 1,760 acres of land in Tassia for Sh2.2 billion between 1994 and 1995 from the Tassia Coffee Estate limited and the Nokin Investment Limited with a view of developing the area into a residential place but by the year 2001, the land had been encroached forcing the Fund to move to Court to have the invaders evicted. The Court gave the Fund an order to evict them but the Board of Trustees at the time chose not to do so because of the numerous sub- divisions that had been done and political interventions.
- (ii) A plan was then devised to have the squatters buy the land from NSSF but unfortunately the City Council of Nairobi ordered the NSSF to service the plot as one condition of regularizing the plots e.g. link the settlement to all the existing neighborhoods in the area, develop a transport corridor, develop access roads and drainage systems and other items.
- (iii) The NSSF was then forced to get bidders who would carry out the works with the required technology hence had to advertise the tender. Ten bidders responded and among them was Njuca Consolidated Company Ltd. which had the highest quotation of Kshs8.151 billion while China Jiangxi Ltd had the lowest quotation of Kshs4.6 billion. Consequently, China Jiangxi Ltd. was awarded the tender after technical evaluation thus the tender was signed, sealed and delivered.
- (iv) He called for a probe on the NSSF Procurement Department team following claims by Mr. Francis Atwoli, Secretary General of COTU that the NSSF would lose billions of shillings through a shoddy procurement process for the development works at Tassia II Settlement Scheme on

grounds that he does not tolerate corruption. The probe would look into all the suspected scams that might have hit the Fund including those in past regimes.

- (v) He refuted Mr. Atwoli's claims and challenged him to come out clean and declare his interests in the matter and further stated that Five (5) of the NSSF Board of Trustees approved the infrastructure development works through email circulation, which Atwoli was aware of, but he chose to remain silent on the matter and yet he had the opportunity to say that the project should not go on. Among those who approved were:- Finance Secretary, Mr. Mutua Kilaka; Mr. Ali Noor Ismail, Principal Secretary, Ministry of Labour, Social Security & Services; Mr. Richard Langat, Ag. Managing Trustee ;Mr Adan Daud, NSSF Trustee Chairman and Ms Jacqueline Mugo, Executive Director, Federation of Kenya Employers. The sixth Board member, Mr. Francis Atwoli, did neither approve nor object.
- (vii) As at December 31, 2013 the total expected sale proceeds from the Settlement Scheme was Kshs2.5 billion and so far Kshs1.8 billion had been received while the outstanding amount of Kshs0.7 billion was expected to be realized by June 2014. However, It was difficult for the NSSF to quantify how much it would get once all the squatters pay their dues because the survey works on the parcel had not been conducted.
- (vii) The NSSF will have no option but to pay the money to Jiangxi International Company which won the tender, for breach of contract if the contract is cancelled. He suspended the project to give the Board time to regularize the issues raised by the whistle blower before the work would resume and to give him time to address concerns raised by the public.
- (viii) He was kept in the dark by the Board on the pending Tassia Project when he took over the Ministry of Labour, Social Security & Services and only

learnt of the matter from the media. When he assumed office he was also pre-occupied with the teachers strike that he had no time to concentrate on other matters. Upon asking for a brief, he was furnished with the details by the former Ag. Trustee, Ms Hope Mwashumbe.

### **3.6 MRS LILIAN NDEGWA- NAIROBI COUNTY SECRETARY**

Mrs Lilian Ndegwa, Nairobi County Secretary appeared before the Committee on 12<sup>th</sup> February, 2014 and informed the Committee that:-

1. The defunct City Council of Nairobi received an application for the subdivision of Land Ref. No. 21190 & 21189 on 9<sup>th</sup> February, 2007 from M/s SNjuguna & Associates, a registered Planner on behalf of NSSF. The land measuring approximately 204 hectares (493.68 Acres) was to be subdivided into 5000 subplots and on evaluation by the Technical Committee; it was approved under item No. 33 of the meeting held in September, 2008 subject to the following 18 conditions.
  - i. Surrender of 30m road reserve linking the subdivision scheme and Donholm, Embakasi Village and Nyayo Estate.
  - ii. To provide one way traffic flow system through road network across the scheme.
  - iii. Development of 3 No. Bus Terminal located on three different sites across the scheme and other two at the extreme ends of the scheme.
  - iv. The proposed cul-de-sac/ward serving the development to be constructed to adoptive standards including surface water drainage and street lightings. Plans and specifications were to be submitted for approval by the City Engineer.
  - v. Provision of 6m wide drainage way leave discharging the whole scheme to the river.

- vi. All developments encroaching on road reserves, drainage way leaves and sewer way-leave dissenting whole scheme to the river.
  - vii. Type plans to be submitted for approval by the Council
  - viii. All existing unauthorized developments on the sub-plots to be submitted for regularization.
  - ix. Developments outside planning policy framework and not regular sable, lease terms to be limited to the 1<sup>st</sup> one term of the lease period.
  - x. Public utility plots be marked conventionally and surrendered to the Council free of cost. Further, church sub-plots 2872 to accommodate another public user in addition to the church (e.g. nursery school).
  - xi. Application for water supply to each sub-plot to be made to the General Manager (Water & Sewerage Department) and condition for such supply to be met.
  - xii. A comprehensive water reticulation to be provided and Plans and specifications to be approved by City Council.
  - xiii. Vehicular plot entrance to 30m, 18m roads will not be permitted.
  - xiv. A comprehensive surface water drainage scheme to be submitted and implemented to the specification of the City Engineer.
  - xv. A 3m drainage way-leave to be provided as shown on the deposited plan to be surrendered to Government free of cost.
  - xvi. Area of land coloured blue on the deposited plan to be surrendered to the Government free of cost.
  - xvii. 10m riparian way-leave to be provided along Ngong River
  - xvii. Sizes for public purposes plots to be indicated.
2. Prior to approval, the County had been engaging the developer through their agents M/S S.N. Njuguna on various issues relating to the proposed development. Further communication on the sub-division

followed in November 2007 during a meeting between the Managing Trustee and the City Planning Department. The Developer through their agents M/s Multiscope Consulting Engineers Ltd. Civil Engineering drawings for civil works and the drawings were approved by the County Engineer and the latest communication on the subject was vide the City County Governor letter dated 5<sup>th</sup>February, 2014.(Annex 24).

### **3.7 FORMER MANAGING TRUSTEES OF NSSF**

#### **3.7.1 MS. HOPE MWASHUMBE- FORMER AG. MANAGING TRUSTEE**

Ms. Hope Mwashumbe, appeared before the Committee on 30<sup>th</sup> January, 2014 and informed the Committee that:-

- (i) NSSF purchased various residential and Commercial plots in NAIROBI Block 97, 21189 and 21190 (serviced and un-serviced) between 1992 and 1995 in various sizes at a total cost of Kshs.2.2billion from Tassia Coffee Estate and Nokin Investments Limited commonly known as Tassia I, Tassia II and Tassia III.In September 2001, illegal squatters invaded and sub-divided Blocks 97 -Tassia II, 21189 and 21190 (Tassia III) into 5500 plots claiming they had been sold to them by self- appointed land buying companies/groups.
- (ii) In 2004, NSSF filed a case in Court against the squatters and the Court issued a ruling in favour of the Fund to evict the squatters and demolish the structures built on the land. Tassia I plots were sold separately to various purchasers who were not squatters. Due to logistical and security challenges arising from the unplanned sub-division and encroachment, the Board in 2005 agreed to sell the plots to the squatters after consultations with the Government and the local political leadership.
- (iii) The plots were initially sold on cash basis but the Board later reviewed the terms and agreed to change to Tenant Purchase Scheme. The Fund liaised

with the self-appointed groups to identify the squatters as allocated on the ground but this was stopped after the identification exercise was complete.

- (iv) Ms Geoinfo Surveys Ltd (incorporating S. Njuguna & Associates- Physical Planner) was appointed to re-survey and re-plan the sub-divided plots. Unfortunately, the Land Surveyor passed away before completing the exercise. The physical Planner however, had submitted Physical Development Plans to the City Council of Nairobi who issued conditional approval that required among others, provision of infrastructure development before final approval of the sub-division would be given.
- (v) In order to complete the re-survey and re-planning exercise, the NSSF appointed another Land Surveyor, M/S Survplans and a Civil Engineer and M/S Multiscope Consulting Engineers to complete the re-survey and the design of the infrastructure engineering works in September 2010. The Board subsequently approved the regularization of the estate in October 2010.
- (vi) In 2011, the Board further approved cost estimates of Kshs.3.304billion for the infrastructure development and payment of Kshs.650,000/= by plot owners as their contribution towards the development as well as professional services and payment of professional fees to the civil Engineers was also approved. At a subsequent Board meeting, the Board was informed that the purchasers had been informed of the Board decision with a view to implementing the same. In the meantime, the Surveyors, Planners and Engineers were working on their respective aspects of the project.
- (vii) The sale and regularization of the estate falls under Investments Division which comprises Property Development, Property Management & Capital and Money Markets Departments. Mr. Tom Odongo, General Manager (Investments), was the Head of the Division prior to becoming the



Managing Trustee in February 2012. He left NSSF in July 2013 and she was appointed the Ag Managing Trustee in his place on 23<sup>rd</sup> July, 2013.

- (ix) In September 2013, Dr. Evas Kidero, Nairobi Governor telephoned her inquiring why the Fund had not taken any steps to commence the infrastructure works as agreed at a meeting he held with Mr. Tom Odongo in July 2013. He indicated that he was having problems with the residents due to lack of physical infrastructure and scheduled a meeting for the following week to discuss the matter, which did not take place because of the Westgate Terrorist attack.
- (x) On 11<sup>th</sup> October 2013, a memo was raised by the Manager, Property Development, Mr. Mutemi Nzatu, for approval of a draft tender notice for the works. The memo was brought to her office by the Manager, Capital & Money Markets under whom the sales and budget for the project falls. She enquired from the Manager who assured her that there was a budget for the project and therefore approved the advertisement as is the standard procedure in the Fund for advertisements to be approved by the Managing Trustee before placement in the media. The Manager processed the advertisement with the Procurement and Public Relations Department and the advertisement first appeared in the media on 16<sup>th</sup> October 2013 and she left the Fund on 31 October 2013.
- (xi) The project was approved by the Board of Trustees way back in 2010 after the conditional approval by the then City Council of Nairobi and the estimates of Kshs.3.304billion was subsequently approved by the Board of Trustees in 2011. She approved the advertisement since the Board had approved the project and estimates as well as assurance on availability of budget by an experienced Head of Department and professional accountant who knew whether there was budget or not. As the Managing Trustee, she had no reason to doubt the Accountant and Procurement

Departments. Further, between October 2013 and the end of the Tender validity period in December 2013, there was sufficient time to inform the Board on progress made on the project.

- (xii) Two Board meetings had previously aborted because as at September 2013, only seven (7) out of Nine (9) Board members were available as one had been removed by the appointing authority while one was facing criminal charges and their replacement had not been done. Of the six members required to attain quorum, one representative from FKE and one from COTU had to be present otherwise the meeting would abort. As at 31<sup>st</sup> October 2013 only six (6) Board members were available meaning all six must participate for the Board to make a decision or resolution on any matter.
- (xiii) It was mandatory for a meeting to be held in November in line with the legal requirement that no more than four (4) months 'shall' elapse before a board meeting is held otherwise the Board would stand dissolved. It was at these meetings that she would have informed the Board about progress on the project but unfortunately she left the Fund before the meeting(s) took place. Since then, she learnt that three Board meetings were indeed held between November and December 2013 when the evaluation and award of tender took place and Management had the opportunity to stop it before the award was given.
- (xiv) She made further clarifications on the issues raised that:-
  - (a) It has since emerged that there was no line budge yet as at the time of her departure, she was not aware of any issue regarding the advertisement and her attention was not drawn to any anomalies with the tendering process, otherwise she would have cancelled the advertisement in line with the law that permits a procuring entity to terminate the tendering process at any time before the award. It is a

- standard practice in the Fund for the Tender Committee not to award a tender unless there is sufficient budget confirmed by the user department.
- (b) There was sufficient time for the Board to re-allocate the budget or the award put on hold until such a time that the Board makes provision. In any event, such tender is awarded only when re-allocation of the budget is provided within the tender validity period otherwise it is allowed to lapse for re-advertisement or action taken as per Board direction.
- (c) At the time the tender was advertised, approved estimates for the project was Kshs.3.304 billion and the actual costs for the project could only have been determined after the evaluation process as the bidders may submit a tender sum that is above or below the Fund estimates. Where the tender sum is above the Fund estimates additional funds must be sought from the Board.
- (d) To illustrate the above, tenders for development of Milimani Flats Nairobi were advertised in June/July 2013, based on Board approved budget of Kshs.1.5billion. After evaluation, it emerged that the bidder to be recommended had returned a bid sum of Kshs.1.7billion which was above the approved budget. When this was brought to her attention, she instructed the Manager, Procurement to advise the Tender Committee accordingly. The tender was allowed to lapse as there was no possibility of the Board meeting and re-allocating additional funds before the expiry of the validity period. The tender was later re-advertised and awarded at a sum below the Fund estimates thus saving more than kshs200million. Other tenders that were put on hold due to insufficient funds, including refurbishment of Social Security House

Block B. It would not have been the first time that a tender process was stopped by the Fund as it was apparent that there was no budget for the project.

### **3.7.2 MR TOM ODONGO – FORMER MANAGING TRUSTEE**

Mr. Tom Odongo, immediate former Managing Trustee, appeared before the Committee on 11<sup>th</sup> February, 2014 and informed the Committee that:-

- (i) He joined NSSF on 1<sup>st</sup> November, 2010 as the General Manager Investment when NSSF restructuring exercise was on-going and acted as the Managing Trustee from 18<sup>th</sup> February, 2012 until August 2012 when he was appointed upon undergoing an interview as a substantive Managing Trustee, a position he held until he learnt of his dismissal through the media on 21<sup>st</sup> July, 2013.
- (ii) Tassia II was one of the wrong decisions made in NSSF that he inherited as land was bought and a section of it was invaded by “squatters” who subdivided the land and after the irregular sub-division of plots, everybody started developments.
- (iii) On site visit with Mr. Philip Kisia, the then Town Clerk, it was realized that some people had encroached on road reserves while some overlapped other people’s plots hence NSSF went to Court and an order was issued that the squatters be evicted. This created pressure within the NSSF Board to regularize the plots.
- (iv) Following consultations with the Government and local leaders, the NSSF Board agreed to sell the plots to the squatters. However, the plots were undeveloped and the Land Rate paid was for un-serviced plots. In selling the land, each buyer needed to have access to the plot and surveying of the land become necessary hence the surveyor was advised to work out the right size of land for each buyer.

- (v) The Nairobi City Council imposed a condition for tarmacking of the roads by NSSF and as result he held several meetings with the Town Clerk on the same but was sacked when he was about to complete negotiations on the same. The squatters formed various groups through which communication would be made and they would also be reached through meetings held and letters to individuals. The Tenant Purchase Department was responsible for communication and the names of the groups and their officials are with the Department.
- (viii) The Board meeting held in the year 2011 resolved that those purchasing through Tenant Purchase Scheme were to pay additional amount compared to those paying cash. The figures arrived at in 2012 were Kshs 3.3 billion and plot owners were to take responsibility for the development. When he issued a notice of repossession for the unpaid plots, the plot owners went on rampage and called for intervention of leaders. The Hon Charity Ngilu, Cabinet Secretary, Ministry of Lands &Urban Development advised plot owners to cooperate with the NSSF and came up with a mode of payment.
- (ix) There are different sizes of plots in Tassia II that were being sold at different prices. Prices changed from the initial Kshs 300,000/= to Kshs 650,000/= to Kshs 900,000/=. When Mr. Alex Kazongo was the Ag. Managing Trustee, Kshs 650,000/= was to be paid by the time of communication. NSSF was to pay rates for developed plots while plot owners were to pay rates for undeveloped plots.
- (x) At the 154<sup>th</sup>Board meeting held in 2011,estimates were tabled and the Board approved Kshs3.3billion to be divided among the plot owners and each individual was to pay Kshs 650,000/=. The payment was supposed to be made within a year and when the period elapsed, the plot owners being led by their County Senator, Hon. Mike Mbuvi Sonko,MP and Woman

Representative, Hon. Rachel Shebesh, MP held three meetings at Hon. Charity Ngilu Charity office appealing for an extension of the paying period and agreed of the deadline of December 2012.

- (xi) He stated that the contractor can sue NSSF if the tender is cancelled and suggested that the contractor should not move to site since no money is available. Alternatively, NSSF should cancel the tender and regularize it and pay damages. The people on ground may also not allow the contractor to go to site thus out of court negotiations could be a solution and NSSF to bear the cost.
- (xii) He made the following further clarifications on the issues raised that:-
  - (a) The Chairman of the Board of Trustees has no Executive Powers and the Trustees should have raised the issues at the point of advertisement.
  - (b) In the old NSSF Act, the quorum for any decision was six members which included representatives of FKE and COTU. An acting Managing Trustee was also a Board Trustee as per the said Act. Some of the Board members term had expired by the time decisions were being made and the appointing authority was misusing the authority thereby affecting the operations of NSSF in terms of quorum. Circulation by emails is only used when a matter has been taken to the Board.
  - (c) NSSF bought properties in 1990 at exaggerated prices and previous decisions were not prudent. The Ministry of Labour and Treasury should be involved/sanction when the Fund is purchasing land. The repossession of plots for these who have cleared their contractual sum agreement will result to court cases.

- (d) NSSF should not be a parastatal as money is for workers and employers and Trustees who are appointed are only answerable to the appointing authority. There is need to address the governance system of NSSF as there is high turnover of Managing Trustees that is attributed to interference from the Executive i.e. seven (7) Chief Executives within six years.

### 3.7.3 MR. NAFATALI MOGERE – FORMER MANAGING TRUSTEE

Mr. Nafatali Mogere appeared before the Committee on 13<sup>th</sup> March, 2014 and informed the Committee that:-

- (i) He joined NSSF as Managing Trustee in August 2002 and left in December 2005 when the process was being implemented. The land in question was bought by NSSF between 1992 and 1995 at a total cost of Ksh.2.2 billion. In September, 2001 illegal squatters and land grabbers invaded the plots claiming they had been sold the same by various land buying companies. NSSF went to Court and a ruling was made in favour of NSSF in October, 2004 to evict the grabbers.
- (ii) The NSSF Board of Trustees however realized that given the level of unplanned sub-division and encroachment on the land, effecting the Court Order on eviction and demolition would present a great logistical and security challenge.
- (iii) Following comprehensive consultations between NSSF and the government and the local leaders, the Board meeting held on 28<sup>th</sup> June, 2005, resolved to sell the plots measuring 33x66Ft at Ksh.315,000/= and 100x50 Ft at Ksh.800,000/= as un-serviced plots. This was duly communicated to the various groups and local leaders vide a letter dated 26<sup>th</sup> July, 2005.
- (iv) In order to regularize Tassia II and III, a meeting was held between the Group leaders (Kwa Ndege Self Group, Fedha Self Group, Tassia Resettlement Scheme, Jorsim Group) and it was agreed that the purchaser's

would pay Ksh.12,000/= for planning survey work and issuance of individual titles. This was also duly communicated to the groups on 14<sup>th</sup> October, 2005.

- (v) He confirmed that the letters presented to him by the Committee dated 26<sup>th</sup> July, 2005 and 14<sup>th</sup> October, 2005 on the subject of the sale of land and payment for surveying were authentic and originated from the Fund, having signed them while in office. The said letters were earlier purported as forgery by the Hon. Kambi Kazungu, Cabinet Secretary, Ministry of Labour, Social Security and Services.

#### **3.7.4MR. ALEX KAZONGO - FORMER MANAGING TRUSTEE**

Mr. Alex Kazongo appeared before the committee on 6<sup>th</sup> March, 2014 and informed the Committee that:-

- (i) As part of its property portfolio development, NSSF bought Tassia land between 1992 and 1995 at a total cost of Kshs 2.2 billion. Constrained by cash flow, NSSF could not immediately develop the plots and the property was invaded by squatters in 2001. Following consultations between NSSF, Government and local politicians, a decision was reached in 2005 to sell the plots to the invaders as un-serviced plots in cash or under Tenant Purchase Scheme.
- (ii) The Board, from time to time, was kept abreast of the status of Tassia project through matters arising in the Board Agenda. While reviewing the progress towards recovering the money invested in Tassia, Board of Trustees decided to rationalize the investment in 2009 so as to increase the overall project return by facilitating the development of infrastructure subject to approval by County Council of Nairobi.
- (iii) In order to progress rationalization, he presented Board Paper BSISC/160/2011 to Finance and Operations Committee which after deliberations resolved to recommend the same to 154<sup>th</sup> Board Meeting held on 5 August,2011 for approval/ratification. In the Board Paper, he was seeking approval to engage and allow the contracted engineer, MS Multiscope Consulting Ltd. to proceed to



detailed design stage and for Management to engage, mobilize and advise the plot owners to start raising the money. The civil engineer had returned their initial cost estimate at Kshs 4.5 billion but he recommended that it be reduced to 3.3 billion taking cognizance of the potential difficulty of raising the monies from tenants/owners.

- (iv) He envisaged that further cost reduction and savings were likely at the detailed design level, considering the low rate of return on the investment. The initial cash outlay on the project was Kshs2.2 billion in 1992/95. Almost 20 years later in 2011, the Fund was still struggling to recoup its initial cash outlay while an average investment in land in Nairobi would possibly return tenfold after 20 years. As consultations between various parties progressed, he had the opportunity to channel NSSF investment funds to projects with higher rates of return including Treasury Bonds and Bills, Nyayo Embakasi, Parking Silo and others as recommended by Asset Managers under Board guidance.
- (v) Against the foregoing background, he recommended to the Board to approve preliminary cost estimate of Kshs 3.3 billion to enable him engage the engineer and surveyor to proceed, and also to mobilize and advise the owners to raise Kshs 650,000/= per owner to cover the infrastructural development. He recommended approval for payment of Kshs 21,153,898 being the engineers' professional fee on the project. His Board Paper envisaged that once the final report from the engineers and consultations with tenants were finalized, the Board would be updated and request to formally approve the final cost estimate. At that time, the Board would have an opportunity to evaluate the viability of the infrastructural development in order to approve, or reject the proposed development. If approved, the project would be duly coded for implementation provided funds are made available from land owners. That is when the procurement process could commence.
- (vi) The primary objective of the Board paper was to seek approval for Kshs 3.3 billion being the total preliminary cost estimate and Kshs650,000 being the

contribution from individual landowners to be communicated to the landowners to start raising the money. The secondary objective was to seek approval for payment of Kshs 22.2 million being engineer's professional fees to let him proceed to technical design stage where he envisaged cost reduction and savings. The engineer would also be required to consult with City Council of Nairobi to obtain their approval.

(vii) His Paper was not seeking approval for budgetary allocation as this was a self-financing project. This aspect may be confirmed from the fact that no provision for this particular item was posted in all subsequent budgets. At the time of leaving NSSF on 17<sup>th</sup> February, 2012, none of the prerequisites granted under Board approval of 5<sup>th</sup> August, 2011 had been finalized. The main pending issues were the following:-

- Engineering design by Muitscope Consulting Ltd. was still work in progress
- Land survey by Survplans Ltd. was still work in progress
- Consultations with land owners was still on-going
- Approval from City Hall had not been received
- Final Board approval (or rejection) was still awaiting the outstanding items above items.

(viii) He noted from NSSF File made available to him before appearing before the Committee that NSSF later received a revised cost estimate of Kshs 5.053 billion from the Consulting Engineers Company vide their letter of 4<sup>th</sup> February 2013, and City Council approval on 18<sup>th</sup> August, 2013. He further noted that the Board of Trustees, at its Meeting held on 18<sup>th</sup> December, 2013 through e-mail circulation, granted fresh approval for the whole amount of ksh 5.053 billion to enable Management to implement the development subject to availability of funds from land owners.

(ix) He also noted from the File that NSSF tendered for the project in the print media on 21<sup>st</sup> October, 2013. He was made to understand through the media and the Committee's invitation letter dated 21<sup>st</sup> February, 2014 that the latest Board

approval and subsequent award of tender to develop Tassia II infrastructure informed the investigation.

- (x) The procedures for implementing the project was that the Board would have been updated and requested to approve the final cost estimate that would be advised to land owners to start raising the money and thereafter, for the Management to proceed with the procurement process.

### 3.8 MANAGING DIRECTOR, MULTISCOPE CONSULTING ENGINEERS

Mr. S. N. Maugo, Managing Director, Multiscope Consulting Engineers Ltd appeared before the Committee on 6<sup>th</sup> March, 2014 and informed the Committee that:-

- (i) Multiscope Consulting Engineers Ltd participated upon invitation for Expression of Interest (Eoi) advertised by NSSF in August 2010, to offer Civil Engineering Services for NSSF plots at Tassia, off Outering Road, Nairobi, Tender No. 02/2010-2011. The Company compiled documents and submitted them to the Fund on 19<sup>th</sup> August 2010. Among competing firms were the following:-
- M/s Otieno Odongo and Partners
  - M/s Ochieng Abuodha and Associates
  - M/s Gath Consulting Engineers Ltd
- (ii) Following a successful bidding process for consultancy services, M/S MultiScope Consulting Engineers Ltd was awarded the tender to undertake civil engineering consultancy services through the Fund's letter and accepted the offer. On 23<sup>rd</sup> December, 2010, the Company signed a Consultancy Agreement with the Fund, under the Ministry of Works "Conditions of Engagement & Scales of Fees for Professional Services for Building and Civil Engineering Works.
- (iii) In line with the terms of reference stipulated in the Consultancy Agreement, the Company embarked on the design works and submitted

to the Fund documents, drawings and reports as per the detailed scope of works set out in the terms of reference which included the following:-

- Preliminary Design Report.
- Draft Final Design Report
- Draft Tender Document
- Final Bid Document
- Engineer's Cost Estimate
- Environment Impact Assessment by NEMA

(iv) Further technical presentations on the project were conducted during meetings and discussions with the Client and in February 2011, the company submitted their preliminary Engineer's Cost Estimate amounting to Ksh. 4.5 billion which the Fund requested the Company to revise by excluding the following items:-

1. Access roads to the various plots
2. Access culverts to the plots.

(v) The Company advised their Client that the above listed items were a pre-condition for approval by the then City Council of Nairobi, without which the designs would not be approved. However, the Company proceeded and submitted on 1<sup>st</sup> March 2011, a revised cost estimate of KSh.3,304,780,557.00 excluding the provision of access culverts and access roads to each plot and the following approvals obtained were:- Water and sewerage, Roads and storm water drainage, Street lighting and NEMA.

(vi) On 26<sup>th</sup> August, 2013, the Company submitted a Draft Tender Document to NSSF and the Final Bid Document on 4<sup>th</sup> October 2013 upon which a Final Cost Estimate of Kshs5,053,520,321.00 was submitted in November 2013. The Company later submitted more copies of Tender documents for issuing to tender bidders and conducted site visit by prospective

contractors. The whole process of tendering, evaluation and award of tender was solely carried out by NSSF.

- (vii) In response to the justification for the tender sum of KSh. 4,629,198,275.70, he stated that Tassia project was a live and congested site with most of it already built, implying that there was need for the contractor to relocate services, provide diversion of traffic hence delivery of materials and carting away of excavated materials would be slow. The site is also overlain by deep black cotton soil and fairly level posing challenges to drainage. The unit prices for these operations would therefore be expected to be high compared to open sites with easy access. He further informed the Committee that M/S Multiscope Consulting Engineers Ltd. was awarded the tender for provision of Civil Engineering services through a competitive bidding process, conducted its services professionally, sought all approvals required by the concerned agencies and complied with the Terms Of Reference of the Consultancy Agreement.

#### 4.0 CHAPTER THREE

##### **2.0 COMMITTEES OBSERVATIONS**

The committee made the following observations;

1. The purchase of land; Nairobi block 97, and LR no. 21189 and LR no.21190 by NSSF in the expansive Tassia estate along Outer – ring Road Embakasi region measuring 350 acres between 1992 and 1995 at Kshs.2.2 billion. The cost was manifestly exaggerated at that time.
2. The land was left undeveloped and unprotected. Seven years later, it was invaded by people who had formed themselves into five groups, Fedha Self help group, Tassia Resettlement Scheme, Kassim Self Help Group, Tassia East Self Help Group and Kwandege Self Help Group with alleged approval from the then Provincial Administration.

3. The invaders irregularly and illegally subdivided the land and sold some plots to unsuspecting Kenyans/buyers.
4. In a court case No.529 of 2002, filed by Ms.Racheal Njoki Wainaina against NSSF, on 26<sup>th</sup> October 2004, a ruling (Annex 9) seeking to stop the eviction was made in favor of the NSSF fund that the land belonged to NSSF and orders were issued to evict invaders and demolish structures that had been erected thereon.
5. When the NSSF went to enforce the eviction order, they found that there was massive illegal development in the land and met stiff political resistance that posed a security challenge.
6. The invaders, Provincial Administration and local political leaders approached NSSF with a view of reaching a compromise, an engagement that resulted in an agreement with NSSF to sell the plots to the occupants.
7. During a special meeting of the Board of Trustees of NSSF held on 28<sup>th</sup> June 2005, the Board approved the sale of plots measuring 33 by 66 ft at a price of Kshs.315,000 per plot which was to be paid within a maximum contractual period of six months with an expectation of raising Kshs.2.5 billion.(Annex 10)
8. The committee noted from submission of Acting NSSF Managing Trustee Naftali Mogere and the group leader of Tassia "plot owners" supported by available documents indicated there were indeed two types of plots i.e. 33ft by 66 ft and 50ft by 100 ft that were to be sold at Kshs 315,000, and Kshs. 800,000 respectively, contrary to submission by Board of Management that there was only one category of plots i.e. 33ft by 66ft.
9. By the time of this investigation, NSSF indicated that they had collected Kshs.1.8 billion out of the expected Kshs. 2.5 billion from the plot buyers.
10. Those buyers with completed payments for the approved purchase price have not been issued with titles to date.
11. For NSSF to issue titles, they have to comply with the subdivision condition issued by City Council of Nairobi under the Physical Planning Act(Annex 12). Among them is provision of infrastructure by NSSF which gave rise to the current Tassia II infrastructure development project.
12. NSSF had however, sold the plots as un-serviced and they therefore had to revisit the terms of the sale of plots to factor in the cost of infrastructure in terms of a clause in the sale agreement with plot buyers, which provided for such review.
13. NSSF engaged Multiscope Consulting Engineers Ltd on 1<sup>st</sup> March, 2011 to advise on the cost of infrastructure who came up with a comprehensive preliminary design report and a comprehensive cost estimate of Kshs.4.5 billion.(Annex 14(I))

14. The board in its 154<sup>th</sup> sitting held on 5<sup>th</sup> August, 2011 accepted the advice of the consultant but adjusted the figure to Kshs.3.3 billion by reducing Kshs.1.2 billion which was meant to be the cost of access of roads to individual plots and further gave approval to the Management to communicate to the plot owners a further sum of Kshs. 650,000 to be paid by individual plot owners for provision of the infrastructure.(Annex 22)
15. The then Nairobi City Council declined to approve plans which exclude civil works to individual plots through a letter dated 3<sup>rd</sup> October, 2012.(Annex 15)
16. This prompted the NSSF to engage Multiscope Consulting Engineers Ltd who proceeded and finalized a comprehensive project design and a revised cost estimate of Ksh 5.053 Billion on 4 February, 2013.
17. On 18<sup>th</sup> July, 2013 Nairobi City County issued a letter giving provisional approval of civil work in Tassia II on the basis of the new report(Annex15(II)).NSSF proceeded to advertise and tender the project on 30<sup>th</sup> Oct 2013.
18. The tender was advertised (Annex 18) despite there being no budget for the same as required by law. The then AG Managing Trustee Ms. Hope Mwashumbe claimed to have been misadvised by the property investment manager Mr. Mtemi Nzatu that the budget was in place.
19. For purpose of approval of enhancement of the project cost from Kshs.3.3 billion to Kshs.5.053 billion, the Ag Managing Trustee Mr.Richard Langat circulated an email (Annex 2) to the Board of trustees on 18<sup>th</sup> December 2013 seeking approval and five out of the six trustees approved the same vide email (Annex 23).However Mrs Jackline Mugo the Executive Director FKE was conditional and Mr Francis Atwoli did not receive the email and did not approve hence the whistleblowing.
- 20.A visit by the committee to the site established various sizes of plots and the most visible were 50 by 100ft, 33ft by 66ft and others. There are no proper roads, sewer lines, most of road reserves have been blocked and the scheme is characterized by unplanned and disorganized development (Annex 25).
21. Plots reserved for public utilities such as schools, churches, roads, security posts, and former Provincial Administration are said to have been sold by NSSF, grabbers and senior civil servants.
- 22.NSSF is accused of repossessing plots from defaulters without giving sufficient notice to the buyers.
- 23.The NSSF admitted to selling some of the plots to some of its staff members though they were not part of the occupants.

24. The Cabinet Secretary for Labour, Social Security and Services Hon Kazungu Kambi, the chairman of the NSSF Board Mr Adan Mohamed, AG Managing Trustee Mr. Richard Langat, former Managing Trustees Mr. Alex Kazongo, Mr. Naftali Mogere and Mr. Tom Odongo asserted that the project was self financing and that the entire cost would be met by the plot buyers, hence no intention to use members contribution to the fund however the Committee's investigation established that workers money was meant to be used in the development of the project.
25. The former AG Managing Trustee Ms. Hope Mwashumbe submitted that Board approval by email circulation was a common practice subject to ratification in subsequent board meetings.
26. Under the first schedule of the then NSSF Act section seven, for any board meeting to have quorum it was mandatory for at least one representative of employers and workers to be present. However, the chairman NSSF board asserted that the approval of five out six trustees constituted a valid board of trustees' approval prompting award of the tender.
27. The tender was awarded on 20<sup>th</sup> December, 2013 to China Jiangxi and a contract signed on 28<sup>th</sup> January, 2014.
28. The cost of infrastructure of Ksh 920,000 plot buyer which is a shared cost of the Ksh 5.053 approved by the board vide email circulation was not communicated to the buyers, and by the time of the tender no funds had been collected from the plot buyers.
29. The Committee observed that there has been high turnover of Managing Trustees in NSSF.

## 5.0 COMMITTEES RECOMMENDATIONS

Upon deliberations, Members made the following recommendations;

1. NSSF should ensure that due diligence is carried out when purchasing properties and those involved in illegal transactions must be prosecuted.
2. The group leaders who claimed to be owners of Tassia to be investigated for grabbing, illegal occupation and sale of land.
3. An independent audit should be carried out on the sale and proceeds of Tassia II plots particularly in respect to plots sold at Kshs.800, 000 and those reserved for public utilities.



4. NSSF should not sell plots or other assets to its employees without following due competitive process to avoid conflict of interest.
5. NSSF should reposes all plots reserved for public utility and surrender them to the relevant authorities free of cost.
6. NSSF should give notice, and reposes land that has not been fully paid for.
7. Ratification of the project approval by the Board must be sought and member's contribution to the fund should not be used.
8. The NSSF should suspend the Tassia II project until money is collected from the plot buyers after which the project to proceed.
9. There should be no executive interference with the NSSF Management thus the Cabinet Secretary should only deal with NSSF as per <sup>his mandate in</sup> ~~the requirement~~ of the Law`.
10. The NSSF Board should ensure that all ~~managerial~~ decisions that are made at management level are within the Law and incase of any irregularity, it should act on time.
11. The officers responsible for advertising the tenders without a budget should take responsibility for violation of Law.

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# ANNEX A- MINUTES

**MINUTES OF 78<sup>th</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM 9 ON 16<sup>TH</sup> OCTOBER, 2014 AT 10.00A.M.**

**PRESENT**

1. Hon. David Were, MP - **Chairperson**
2. Hon. Tiyah Galgalo, MP - **Vice Chairperson**
3. Hon. Janet Teyiaa, MP
4. Hon. Peris Tobiko, MP
5. Hon. John Ndirangu Kariuki, MP
6. Hon. John Serut, MP
7. Hon. Samuel Gichigi, M.P.
8. Hon. Abdi Noor Ali, MP
9. Hon. James Onyango K'Oyoo, MP
10. Hon. Omondi John Ogutu, MP
11. Hon. Patrick Wangamati, MP
12. Hon. Silvance Onyango Osele, M.P.
13. Hon. John Owuor Onyango Kobado, MP
14. Hon. Mwanyoha Hassan Mohammed, M.P.
15. Hon. Elijah Mosomi Moindi, Mp
16. Hon Dan Wanyama, Mp
17. Hon. Cornelly Serem, Mp

**ABSENT**

1. Hon. George Muchai, MP
2. Hon. Winnie Karimi Njuguna, MP
3. Hon. Janet Nangabo, MP
4. Hon. Elijah Lagat, MP.
5. Hon Regina Nyeris, MP
6. Hon. Wesley Korir, MP
7. Hon. Kinoti Gatobu, MP
8. Hon. Aisha Jumwa Karisa, MP
9. Hon Rose Museo Mumo, MP.
10. Hon. Mustafa Idd, M.P.
11. Hon. Nyasuna Gladys Wanga, MP
12. Hon. Mlolwa Jones Mwagogo, M.P.

## NATIONAL ASSEMBLY SECRETARIAT.

1. Erick Nyambati Third Clerk Assistant
2. Abdirahman Gele Hassan Third Clerk Assistant
3. Ella Kendi Mwenda Third clerk Assistant

## MINUTE NO.206/2014 PRELIMINARIES.

The meeting was called to order at 10.30 a.m followed by a word of prayer from the Chairperson. The Chair informed the members that the letters for trips to Philippines, Switzerland, Germany, Belgium and China were declined on the grounds that the aforementioned Countries had been visited by other Committees of the National Assembly or Senate. The Chair was tasked by the Committee Members to engage the Clerk on the same.

## MINUTE NO.207/2014 CONFIRMATION OF THE PREVIOUS MINUTES

Confirmations of the minutes of the 70<sup>th</sup> to 77th sittings were deferred to the next sitting.

## MINUTE NO.208/2014 CHILDREN AMENDMENT BILL, 2014

The Committee observed that despite having equal parental responsibility, custody of a kid of a tender age remains with the mother unless in exceptional circumstances where the court decides otherwise. The Committee adopted the report.

## MINUTE.NO 209/2014 PERSONS WITH DISABILITIES AMENDMENT BILL, 2013

The Committee adopted the report on Persons with Disabilities.

## MINUTE NO.210/2014 TASSIA REPORT

The Committee members adopted the Tassia report with the following amendments:

1. The NSSF Board should ensure that all managerial decision that are made at management level are within the law and incase of any regularity, it should act on time.
2. The officers responsible for advertising the tender without a budget should take responsibility for violation of law.
3. There should be no executive interference with the NSSF Management thus the Cabinet Secretary should only deal with NSSF as per the Requirement of the law.

**MINUTE NO.211/2014 PREPUBLICATION SCRUTINY OF NATIONAL YOUTH EMPLOYMENT AUTHORITY BILL, 2014**

The Committee adopted the report with the amendments on the Memorandum of objects and reason by substituting “Youth Employment” with “National Employment”.

**MINUTE NO.212/2014 ANY OTHER BUSINESS.**

The members resolved to invite the Principal Secretary State Department of Planning and the Director of National Youth Service to apprise members on the restructuring programmes going on at National Youth Service aimed at social transformation of the youths on Thursday 23<sup>rd</sup> Oct 2014. The Committee further resolved to invite the CEOs of the National Council for Persons with Disabilities and National Gender and Equality Commission in due course.

**MINUTE NO 213/2014 ADJOURNMENT**

The meeting was adjourned at 12.30 p.m.

Signed.....

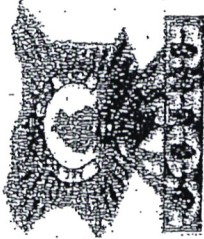
Chairperson

Hon. David Were, MP

Date.....

# ANNEX 1





COTU/CONF/SG/VOL. VII/23

9th January, 2014

## PRESS RELEASE

### RE: COTU (K) REPLY TO THE NSSF ACTING MANAGING TRUSTEES BLATANT LIES ON TASSIA II SETTLEMENT SCHEME INFRASTRUCTURE DEVELOPMENT

The Central Organisation of Trade Unions, COTU (K) as the umbrella workers' body in the country representing over 1.5 Million Members that equally pay a monthly contribution to the National Social Security Fund (NSSF), has read with utmost bemusement a paid-up advertisement appearing in the local dailies by the National Social Security Fund Ag. Managing Trustee Mr. Richard Langat detailing generalities, explanations and 'clarifications' on the status of the Tassia II Settlement Scheme Infrastructure Development hitherto with omissions that may constitute a breach of the National Social Security Fund Act, NSSF Chapter 258 of the Revised Edition 1989 (1978).

Whereas, the Central Organisation of Trade Unions, COTU (K) holds no objection to the Scheme's background information, including the processes involved in land surveying and approvals, from the Nairobi City County Government, we are hesitant and not ready to be duped in the explanation of the Tender process and Board approvals as the law is clear, any Board approvals are by RESOLUTION where members take a vote not by CIRCULATION. At our last board meeting of 9th December, 2013, the Ag. Managing Trustee never indicated that he intended to call another meeting on 16th December, 2013 or do so by way of circulation as he wants the public to believe.

Further, he has gone ahead to state that I was aware of the amount involved and I declined when I am on record for having

Indeed it makes no economic sense to keep on reviewing the figures upwards in total disregard of the economic plight of these squatters and consistently expose the Fund to a likelihood of further losses because if the squatters are unable to pay for the plots based on the initial amount, how will they now pay-back to the Fund to refund a whopping KShs 5.053 billion to the NSSF?

In fact this informs the decision by the previous Managing Trustees who deliberately skipped pressurizing the Board of Trustees to grant approval for the development of the said infrastructure despite insistence from the then City Council of Nairobi because somebody had to take responsibility.

The Trustees that the Ag. Managing Trustee alleges to have approved the KShs. 5.053 billion, they were approving on the basis of what? Were there any documents attached detailing how the Fund will be able to fully recover this colossal amount of money from the tenants bearing in mind that NSSF no longer now owns these plots? Where are the Minutes through which the Fund will defend the decision when called upon to justify? These are questions that the workers whom I represent on the Board will have to seek from me together with the Fund management and it will be absurd for me to rally behind a process that is clear in my mind is fraudulent and so casual yet involving billions of workers money.

was convened on the same to seek approval the amount involved in the whole process. It remains fraudulent irrespective of whether one or two trustees approved on-mail circulation or not. As a Board, we have held Board retreats where we have deliberated on various issues but without a substantive Board Meeting convened in accordance with the Act, such views have remained not implementable and should be viewed as so and this calls upon the government and its investigative agencies to prove who is right in this whole saga of blatant theft in the glaring open eyes of the Cabinet Secretary in charge of Labour Social Security and Services together with those involved.

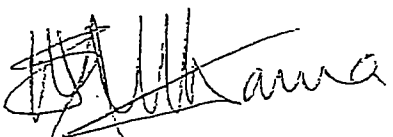
COTU (K) has, and remains opposed to such fraudulent processes that clearly flouts the laid down procedures including ignoring the law as well as pushing for such personal interests in a project where plots were sold as "Unserviced Plots", according to the agreements with tenants in our possession. Indeed a plot sold in this respect does not require any service from the seller and that is why we are humbly appealing to His Excellency the President of the Republic of Kenya H.E. Uhuru Kenyatta who in no uncertain terms promised Kenyans that whatever his government does will remain above board to proceed and cancel these fraudulent deal.

# ANNEX 2



- (k) Proof of payment of KShs. 11million being submission fees and inspection fees for the above works.

The work should be carried out as per these approved/stamped drawings. A copy of these drawings will be available for your collection and should be kept at the construction site for ease of reference during inspection.

  
Eng. S. K. Mburu

For: INTERIM COUNTY SECRETARY

Copy to: ~~Managing~~ Trustee;  
National Social Security Fund,  
P.O. Box 30599-00100  
NAIROBI

Maureen Jura

---

From: Jacqueline Mugo  
Sent: Wednesday, January 15, 2014 1:14 PM  
To: Maureen Jura  
Subject: FW: BOT-257-2013: REGULARIZATION OF TASSIA II SCHEME  
INFRASTRUCTURE DEVELOPMENT

-----Original Message-----

From: Jacqueline Mugo  
Sent: Wednesday, January 01, 2014 6:47 PM  
To: Richard Langat; [adandaud@yahoo.com](mailto:adandaud@yahoo.com)  
Cc: [info@cotu-kenya.org](mailto:info@cotu-kenya.org); [pslabour@labour.go.ke](mailto:pslabour@labour.go.ke); [fs@treasury.go.ke](mailto:fs@treasury.go.ke)  
Subject: Re: BOT-257-2013: REGULARIZATION OF TASSIA II SCHEME INFRASTRUCTURE DEVELOPMENT

Dear Richard/ Chairman,

My efforts to reach both the Chairman and the Acting Managing Trustee have been unsuccessful.

The major issues arising from the proposed "Regularisation of Tassia II Scheme" need to be urgently addressed and resolved before further damage is done to the image of the FUND and that of the Trustees. The impression created that the board has approved the plunder of NSSF funds should be urgently clarified and FULL DISCLOSURE publicly made on the status of expenditure on this project and other big projects.

The email circulated by the AG. Managing Trustee on 18th December 2013 cannot constitute Board approval of expenditure of NSSF funds as the Managing Trustee said the project would be self financing and he wanted to go ahead to send out communication to the tenants to pay the required kshs 920,000 towards the project. Surely, the idea must be first sold to the tenants and money collected from them to finance the infrastructure work!

Further, a comprehensive presentation on the TASSIA II project should be made to the board of Trustees to consider and determine the project viability given the colossal amount of money involved.

As far as I am aware, no board resolution has been made to form the basis of the award of a contract on this project. There should be no award of a contract UNTIL and UNLESS a formal meeting of the board is held to discuss and ascertain that the project will be done on a self financing basis and a formal approval is given.

This matter requires urgent attention.

Regards,

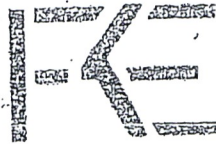
Jacqueline Mugo

Sent from my iPad

On 18 Dec 2013, at 10:55, "Richard Langat" <[langat.r@nssfkenya.co.ke](mailto:langat.r@nssfkenya.co.ke)> wrote:

> REGULARIZATION OF TASSIA II SCHEME INFRASTRUCTURE DEVELOPMENT

>

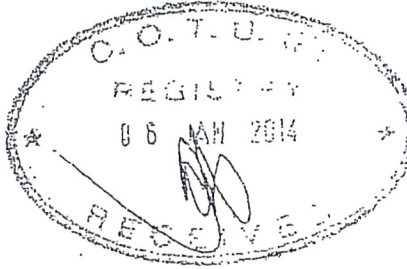


FEDERATION OF  
KENYA EMPLOYERS

*The Voice of Employers*

6<sup>th</sup> January 2014

Mr. Richard Langat,  
Ag. Managing Trustee,  
National Social Security Fund,  
P.O. Box 30599-00100,  
NAIROBI.



Dear Richard,

RE: BOT-257-2013: REGULARIZATION OF TASSIA II SCHEME  
INFRASTRUCTURE DEVELOPMENT

Please refer to my previous email sent to you and the Chairman on 1<sup>st</sup> January 2014. Given that I have not received any response to my e-mail, I now write to you formally on the above subject.

The NSSF board seems divided on this issue and has not had opportunity to discuss this matter in a formal meeting. It is for this reason that a section of the Board should not decide to push ahead with the project heedless of the objections raised. It is time that we as Trustees learnt to resolve issues of the FUND within the board taking the best interests of the Fund into account, hence my earlier appeal to you and the chair to clear the air publicly on this matter which has so far been ignored.

The email circulated by the Ag. Managing Trustee on 18<sup>th</sup> December 2013 cannot constitute Board approval of expenditure of Kshs. 5 billion of NSSF funds as the Managing Trustee said the project would be self financing and he wanted the go ahead to send out communication to the tenants to pay the required Kshs. 920,000 towards the project. My position is that the idea must first be sold to the tenants and money collected from them to finance the infrastructure development before any work starts. The idea of spending a colossal sum of kshs 5 billion on a project based on a purported email approval is indeed ill-advised.

Further, a comprehensive presentation on the rationale, justification and viability of the TASSIA II project should be made to the board of Trustees for consideration and determination including the reports on feasibility studies done. Indeed if it is true that the plots were sold as unserviced plots then why would NSSF get involved in infrastructure development at this point and expose itself to a loss of Kshs. 5 billion of contributors money?

# ANNEX 6

# ANNEX 7

39. Agnes Munini	-	Chairlady Maili Saba	Njiru
40. Martha Munini	-	Ser Maendeleo	Airport Ward
41. Benson Mbole	-	Undugu Society of Kenya	Dandora
42. Joseph Kagai	-	Chairman D.P	Embakasi
43. Nyaga Kibira	-	Secretary D.P	
44. Elizabeth Mwangi	-	Women Co-ordinator	Kariobangi South
45. Samuel Njeru	-	V.C D.P	Embakasi
46. Elizabeth Mwikali	-	Kwa Rueben	Mukuru
47. John Mwaura	-	Mutarakwa	
48. John Kinundu	-	Jua Kali	
49. Patric Mwangi	-	Ruai	
50. Lucy Muthoni	-	Ruai	
51. Rev. Joseph Namiti	-	Kenya Children Fund Trust	
52. E. Evans Omondi	-	Poverty Eradication	Mukuru
53. Francis Sewala	-	Kayole	
54. Gabby obbeka	-	Director-Saidia children centre	
55. Racheal Kudera	-	Mudavadi Jua Kali	
56. James Simpson Saka	-	S.D.P Chairman	Embakasi
57. Tom M. Kinara	-	Livestock Dev. Officer	"
58. Eng. Stanly W. Njoroge	-	Chairman Umoja II resident	Welfare Ass.
59. Fatuma Ibrahim	-	Chairlady	Mukuru centre
60. Khadija Ali	-	Treasurer	
61. Beth Musembi	-	Maendeleo-Embakasi Reuben	Mukuru
62. Scolastica Mwangeli	-	Vice-Chairlady	
63. Dishon M Mathenge	-	Mihango	Embakasi
64. Mary Akwany	-	Umoja II	
65. P.S Mburu Kinyanjui	-	Umoja II	
66. Isaac Gitau Njonjo	-	K.C.C Village	Kariobangi South
67. Jmaes Njoroge Gitau	-	"	
68. Waweru Kiratu	-	Chairman Mairi Saba	Njiru
69. Chege Macheru	-	Dondora	
70. M/s Irene W. Katua	-	Sec. KANU Mihango Ward	
71. Casta K. Nguru	-	Ruai Ward	
72. Wairegi	-	Chairman	Ruai
73. Zainabu Mohamed	-	P.T.A Thalendi of Embassy	
74. Rose Kula	-	Chairlady Bidii Women G	Airport Ward
75. Rev. David G. Mwangi	-	Chairman I.C.D.P	Mukuru
76. Joseph Muthuri	-	Chairman Reuben	Mukuru
77. Jeremiah Gitau	-	Chairman Reuben	
78. David Otieno Okello	-	KANU Dev.	Embakasi
79. Mutinda Mueni	-	Vijana Dandora Location	
80. Paul Wambua Musinga	-	Chairman Catholic Ruai Parish	
81. Peter Ngugi Mutua	-	Muthengia Soweto Kayole	
82. J.K Kimani	-	Sec.Soweto Plot Owners Ass.	Kayole
83. Jane Nyokabi	-	V.C Wamumu	Kayole
84. David Kariuki	-	V.C	Ruai D.P

138.	Winnie Njambi	-	Wamumu children's home
139.	Ann Nduku	-	"
140.	Ruth W. Kamande	-	Songa Mbele
141.	Esther Mwikali	-	Maendeleo Chairlady Mukuru
142.	Samuel Atoyo	-	Chairman
143.	Agnes W. Gitau	-	K/South
144.	John M Musau	-	"
145.	Pastor John kioko	-	Mukuru location
146.	Evans K Njoroge	-	H.B.T.I.J
147.	Julias Ngara	-	Youth Coordinator Dandora
148.	David K Wanyoike	-	"
149.	Wilfred M. Kimaru	-	Kayole
150.	Abongo Nyaga	-	D.R.A.
151.	Chalres Muraya	-	Kayole
152.	Mauled A Boile	-	Komarock
153.	Magdarene Wangui	-	Kayole
154.	James Maina	-	"
155.	Moses Wachira	-	Ruai Loc
156.	Oloo O J Gatoto	-	Gatoto sch Embakasi
157.	Thiong'o kagicha	-	Komalock
158.	Clement M. Tantafanta	-	Ruai Ward
159.	Samuel Mungai	-	Kayole location
160.	Benson Mutua	-	"
161.	Catherine Kioko	-	Social Worker
162.	Harrison G O njiwe	-	KANU Sec. Komarock Ward
163.	Joseph Nthenge	-	Chairman Soweto
164.	David Mwaura	-	V/Kayole Spring Valley
165.	Mary W Wangu	-	Chairlady Muungano -Kayole

#### ABSENT WITH APOLOGIES

1. Blasyo Nabulete - Chairman KANU Kayole
2. Joseph Otwero -Ruai location
3. Josephat Indesia -Dandora location
4. Mwangi Kariuki -
5. John Njaria -



## RUAI LOCATION

Allocation of land: - the owners of plot should be given title deeds

Public utility: - the 100 acres plot which have been left for the people of the area should not be taken by anybody but should be for the future development of the ruai people

Security: - the area is in need of the police post to be elevated to police station. There is only one police post and chiefs camp which are not enough to serve all the citizens in this area

Squatters: - the squatters should be added more land for increasing e.g. the kamunyinge seasons

There is a need of bridge in the area for its area impossible to pass some of the area during rainy seasons.

Education: - there is only one secondary school and two primary school which needs to be developed and added more to cater for the Ruai people.

Electricity: - Electricity is needed for the rural development.

Health: - a problem of garbage should be solved for its health hazard to the people of the area. A health center is needed to help the people.

Roads: - the main road should be repaired and completed.

Water: - there has been a big problem in the supply of water in this area. The chairman agreed with the DDC that the contractor of the work should be stopped and given to somebody else to do the job quicker. The councilor revealed that already the contractor has been stopped and the plans area going onto make work continues.

Rehabilitation centre: - DDC to stimulate water provision and support have been made to this rehabilitation centre not to fall.

Plots: - for grave yard a land should be set for graves

## KAYOLE LOCATION

1. Quarries: - the quarries should be removed from this area and be located somewhere else. The quarries owners had been given up to 31<sup>st</sup> December, 2000 as their deadline the government has been the matter and they will vacate immediately.

2. Allocation of plots: - The DDC to assist the chief's office and Mwangaza Primary School to remain in their present land. Youth should be provided with a piece of land to provide recreation purpose. The church to be removed from the river area and given somewhere else. The Ngurue village Dwellers should be moved from their present area to another place. The thirteen



Roads: - DDC to assist in repairing a bridge between Soweto and Embakasi. There is need of bumps near the Unity Primary School. The roads in the area should be up graded.

Health care Environment:- there a sewage problem in this area and we ask the DDC to help in conjunction with the city council to put new underground pipes and repairing the blocked ones.

Education:- DDC to assist in restoring the grabbed land of Umoja secondary school. This secondary school should be building and developed for there is no other secondary school in this location.

Jua kali:- there is a clinic built by the non-governmental organization but should get should get blessed of the DDC for them to be mandated in their operations

The chairman of the DDC gave the direction for the proposal to be implemented which are to the LDC'S ability and promised to take a step on the ones which need his authorized forward to the right authority which need higher authority and to the right department.

#### A.O.B

Employment:- the member of parliament asked the employment officer to check the unemployment problem in Embakasi Division and takes the right step the M.P promised to support the employment officer where necessary

Health:- the aid programme should be taken seriously:- the location development committee should be organized and mandated. the DDC should support the LDC, and have the divisional committee which is headed by the district officer

Bursary:- in this division there are lot of children who cannot afford to go to a secondary schools. There should be a harambee for a bursary for education the needy children. the M.P. has already planned for a harambee for their bursary to help the needy pupils and students.

Open air market :-there should be an open air market in Embakasi division which will be of the whole Nairobi but will be controlled by traders from Embakasi.

Allocation of lands:- the Gitari Marigu residence have been given the plots they own only the title deeds which are remainig. There e was 530 squatters in kariobangi south and they were provided with land but not yet settled. the DDC was requested to assist in settling them.

Adult education /village polytechnic schools:- there are qualified teachers in Embakasi Division but there are problems of classes. The DDC with the adult education officers to assist in providing the classes to adult education. LDC level and also committee in divisional level which is supported by the DDC and headed by the district officer.

Public utility: - there should be a committee in location level as well as the divisional level to stop the grabbing of land in Embakasi division. the closed road in Tena Estate should be opened

47

# ANNEX 8

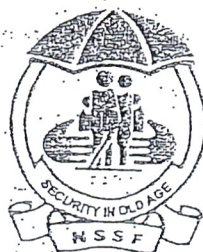
otherwise in any way or manner interfering with the Defendant's ownership and Title in the properties known as Nairobi/block 97/482, Nairobi/Block 97/811, Nairobi/Block 97/1063, 1066, 1072, 1097 to 1102, 1961 to 1995, 2149 to 2199, 2218 to 2281, 2287 to 2292, 1000 to 1062, 1900 to 1959, 1200 to 1299, 1885 to 1899, 1103, 1182 to 1199, 1300 to 1347, 900 to 999, 814 to 899, 1064, 1065, 1068, 1069, 1073 to 1096, 1349 to 1388, 1104 to 11811, 1390 to 1478, 1544 to 1555, 1996 to 2147, 2200 to 2217, 2284 to 2286, 993 and LR No. 21189 and 21190, situated along Outering Road in Nairobi.

5. THAT the Plaintiff do pay to the Defendant the costs of this suit and the Counterclaim to be taxed and certified by the Taxing officer of this Court.

GIVEN under my hand and the Seal of this Court this 26<sup>th</sup> day of October, 2004

ISSUED this 26<sup>th</sup> day of October 2004

  
DEPUTY REGISTRAR  
HIGH COURT OF KENYA AT NAIROBI



# NATIONAL SOCIAL SECURITY FUND

BOARD OF TRUSTEES

SF/ADM/1/19 VOL.II


## INVESTMENTS MANAGER

### RE: BOARD DECISION

During a Special Meeting of the Board of Trustees, National Social Security Fund held on 28<sup>th</sup> June, 2005 the following decision was made for implementation.

### SALE OF TASSIA II & II PLOTS

The Board approved sale of plot size 33 X 66 ft at a reserved price of Kshs.345,000 per plot. The plots to be sold on cash basis, and within a maximum contractual period of six (6) months.

  
NAFTALI G. MGERERE  
MANAGING TRUSTEE

c.c. Deputy Managing Trustee  
(Finance & Investment)

30<sup>th</sup> June, 2005



# NATIONAL SOCIAL SECURITY FUND

BOARD OF TRUSTEES

SF/ADM/4/9 VOL.VII

General Manager

Estates Manager

✓ Ag. Investments Manager

Ag. Finance Manager

## BOARD DECISIONS

At the 2<sup>nd</sup> **Audit and Risk Committee** Meeting of the Board of Trustees held on 7 December, 2009 the following decisions were made for implementation.

### Insurance Matters

Prepare a detailed report on the advantages and disadvantages of dealing direct with the Insurance underwriters and not the brokers for presentation to the Operations and Investments Committee at the meeting to be held on 26 January, 2009. 2010

### Debt Monitoring

All TPS accounts be activated and proper demand notices be sent failure to which the properties be re-possessed.

### Marketing and Sale of Fund Properties

- (i) The Legal Department be involved at the onset of the sale transactions through to finalization. All letters of offer be issued by the Department.

# ANNEX 12

# **ANNEX 13**



Appendix 7

BOARD OF TRUSTEES

Telegrams: "AKIBA", Nairobi  
Telephone: Nairobi 2729911/2729977/2710552  
Fax: 2710957  
E-mail: mt@nssfkenya.co.ke  
info@nssfkenya.co.ke  
When replying please quote



NATIONAL SOCIAL SECURITY FUND  
SOCIAL SECURITY HOUSE  
P. O. BOX 30599  
NAIROBI, KENYA

TPS/T/21190/00/048

28<sup>th</sup> December, 2012

TO WHOM IT MAY CONCERN

Dear Sir/Madam,

RE: SALE OF LR. NO. NBI/BLK.TASSIA-II-21190/00/048

The above matter refers.

This is to confirm that the Board of Trustees, National Social Security Fund has sold the above referenced property to JOSEPH HAMISI JUMA of National Identification No.22243679 of P.O. Box 57-01015, ITHANGA- THIKA. He has fully paid the purchase price.

However the Fund may at a future date require the purchaser to pay additional money to cater for other costs including but not limited to: development of infrastructure, survey fees etc.

Yours faithfully,

AGGREY O. NYANDONG  
FOR: MANAGING TRUSTEE



MCE/112/NSSFT/snm/4

1<sup>st</sup> March 2011
 The Managing Trustee,  
 National Social Security Fund,  
 P.O. Box 30599 - 00100,  
 NAIROBI.

Attn: Mr. Nzatu

Dear Sir,

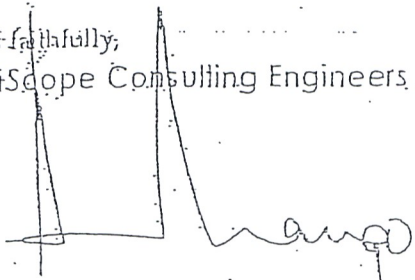
 RE: CIVIL ENGINEERING SERVICES FOR PLOTS 21190 & 21189 IN TASSIA,  
 EMBAKASI

Our preliminary cost estimate is as attached KES. 4,553,073,473.40 (Kenya Shillings Four Billion, Five Hundred and Fifty Three Million, Seventy Three Thousand, Four Hundred and Seventy Three and Forty Cents only). This cost estimate includes access roads and pipe culvert crossings to all plots and headwalls which are a precondition for approval by Nairobi City Council. Excluding these items as per your request results in a preliminary cost of KES. 3,304,780,557.00 (Kenya Shillings Three Billion, Three Hundred and Four Million, Seven Hundred and Eighty Thousand, Five Hundred and Fifty Seven and Fifty One Cents Only).

But please note that Nairobi City Council will not approve the design without provision of the accesses to each plot, pipe culvert crossings and headwalls.

We hope you will find this in order.

 Yours faithfully,  
 MultiScope Consulting Engineers Ltd.


 Eng. S.N. Maugo  
 Managing Director

## BILL OF QUANTITIES SUMMARY

BILL PART	DESCRIPTION	AMOUNT (Ksh.)
1	General Items	301,318,231.88
4	Site Clearance	38,208,000.00
5	Earthworks	457,147,500.00
7	Excavation for Structures	13,492,750.00
8	Culverts and Drainage	478,807,756.00
12	Natural Material Sub Base and Base	61,325,000.00
13	Graded Crushed Stone Base	58,500,000.00
16	Bituminous Mix Bases, Binder Courses and Wearing Courses	376,664,000.00
17	Concrete Works	41,896,400.00
20	Road Furniture	96,386,505.00
22	Dayworks	15,644,772.50
23	Street Lighting	200,000,000.00
25	Sewerage	676,437,960.00
26	Water Supply	188,517,086.00
	SUB TOTAL (1)	3,004,345,961.38
	Add 10% of (1) for Contingencies to be Expended in part or deleted entirely by the Engineer in accordance with sub-clause 52(4) and Clause 58 of the Conditions of Contract (2)	300,434,596.14
	TOTAL (3)	3,304,780,557.51
	Bid Price (3)	3,304,780,557.51
	Grand Total Carried Forward to Form of Bid	3,304,780,557.51

CITY COUNCIL OF NAIROBI



CITY HALL  
P. O. BOX 30075  
NAIROBI

TELEPHONE 2224281

Tel: 2034707

CE/3881/SMM/jr/20189 & 20190

3<sup>rd</sup> October, 2012



The Managing Director,  
National Housing Security Fund,  
P.O. Box 30599  
NAIROBI.

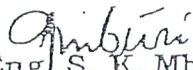
**RE: APPROVED SUBDIVISION OF LR 20189 & 20190, TASSIA ESTATE**

We acknowledge receipt of your letter to the Director of City Planning dated 17<sup>th</sup> July, 2012 and ref TPS/T/97/0778/008 on Tassia Estate.

We would like to remind your office that development proposals arising from Tassia Estate cannot be approved until conditions appended to the approved sub-division for the Tassia Estate Plot LR No. 20189 are fully met.

Your consultant, M/s Multiscope Consulting Engineers, wrote to the City Council for consultations on the submission of civil engineering drawings for the infrastructure works and has never followed up the matter since.

This is to request your office to liaise with the consultant so as to finalize the design for infrastructure and submit them for approval. Further let us know your programme of the designs and implementation of the design as we continue to get requests to approve development proposals on this scheme.

  
Eng S. K. Mburu  
FOR TOWN CLERK



APPENDIX 10

1511

NAIROBI CITY COUNTY



Telephone: +254 20 2224281  
web: www.nairobi.go.ke

City Hall,  
P. O. Box 30075-00100,  
Nairobi,  
KENYA.

CE/3916/SMM/rmm/LR 21190

18<sup>th</sup> July, 2013.

Multiscope Consulting Engineers Ltd.,  
P.O. Box 12012-00100  
NAIROBI

RE: CIVIL ENGINEERING REGULARISATION SERVICES OF  
SUBDIVISION, FOR NATIONAL SOCIAL SECURITY FUND,  
NAIROBI- PLOT LR 21190 & 21189, TASSIA 11 AND 111,  
EMBAKASI.

Your letter dated 28<sup>th</sup> November, 2012 under  
reference MCE/112/NSSFT/Smm/16 and the submitted drawings refers.

The civil engineering drawings for the road works and surface water  
drainage in regard to meeting sub-division conditions for plot Lr. 21190 and  
21189 are approved as long as you comply with the following conditions  
before commencement of the works:-

- (a) Submission of drawings for street lighting, road marking and traffic signs for our approval.
- (b) The works to be carried out under supervision and to Nairobi City County adoptive standards.
- (c) Submission of standard details for all road cross-sections to adoptive (premix) standards.
- (d) Submission of road layout drawings at a scale that can be legible, preferably at the scale 1:1000.
- (e) Submission of road layout drawings providing the one-way system on all 9m and 12m wide roads and a public transport route along the 15m wide road with appropriate bus lay bys.

# ANNEX 16



MULTISCOPE  
Consulting Engineers

Silverpool Office Suites, 3<sup>rd</sup> Floor, Suite 830,  
Jobavu Lane, Off Argwings Kodhek Road, Hurlingham  
P.O. Box 12012 - 00100, Nairobi, Kenya. Tel: 20 2734744, 20 8022473.  
Fax: 2717736, Mobile: 0721 357435, E-mail: [info@multiscope.co.ke](mailto:info@multiscope.co.ke)

MCE/112/NSSFT/snm/20

4<sup>th</sup> February 2013

The Managing Trustee  
National Social Security Fund  
P.O. Box 30599 - 00100  
NAIROBI

Att: Mr. M. Nzatu

Dear Sir

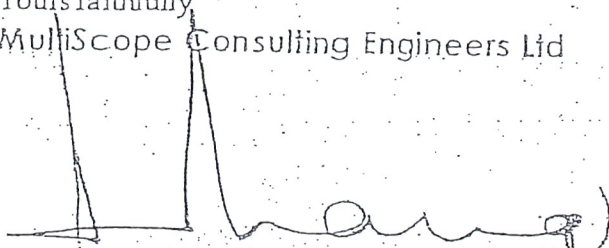
① MND  
② PDD(R)  
Pse discuss  
13/2/13

RE: CIVIL ENGINEERING REGULARIZATION SERVICES OF PLOTS AT  
TASSIA, EMBAKASI FOR NATIONAL SOCIAL SECURITY FUND,  
NAIROBI.

Approval Fee for Civil Engineering Drawings

Following our submission of Civil Engineering Drawings for the above project to the City Engineer for approval (MCE/112/NSSFT/snm/18), we have received an invoice for Kshs. 11,244,000.00 as approval fee. Please make arrangements to pay the approval fee as per attached invoice.

Yours faithfully,  
MultiScope Consulting Engineers Ltd

  
Eng. S.N. Maugo  
Managing Director





CT/608

CITY COUNCIL OF NAIROBI

BEING PAYMENT FOR CIVIL

CITY HALL,  
NAIROBI

ENGINEERING DRAWINGS AND

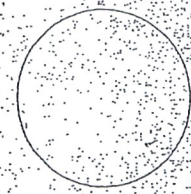
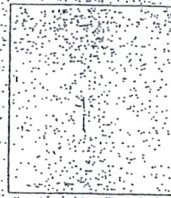
SOLID WASTE DRAINAGE TASSIA

DATE 1<sup>ST</sup> FEB 2013

ESTATE ROADS EMBAKASI

AMOUNT		Name <u>MULTISCOPE CONSULTING ENGINEERS</u>
Shs.	Cts.	
<u>11,244,000</u>	<u>00</u>	Address <u>P.O. BOX 12012-00100</u>
CODE		<u>NAIROBI</u>
<u>1-9137</u>		

ONLY THE COUNCIL PRINTED RECEIPT BELOW WILL BE RECOGNISED  
RECEIVED the sum here stated in printed figures



## BILL OF QUANTITIES SUMMARY

BILL PART	DESCRIPTION	AMOUNT (Ksh.)
1	General Items	427,881,230.00
4	Site Clearance	38,477,880.00
5	Earthworks	618,204,000.00
7	Excavation for Structures	12,272,000.00
8	Culverts and Drainage	560,584,300.00
9	Passage of Traffic	8,022,500.00
12	Natural Material Sub Base and Base	61,000,000.00
13	Graded Crushed Stone Base	107,160,000.00
15	Bituminous Surface Treatments and Surface Dressings	67,980,000.00
16	Bituminous Mix Bases, Binder Courses and Wearing Courses	328,540,000.00
17	Concrete Works	36,040,760.00
20	Road Furniture	132,064,290.00
22	Dayworks	15,644,772.50
23	Street Lighting	200,000,000.00
24	HIV & AIDS Awareness and Education	6,800,000.00
25	Sewerage	667,560,740.00
26	Water Supply	342,170,057.00
1	SUB TOTAL (1)	3,630,402,529.50
	Add 10% of Sub-total (1) for Contingencies to be expended in whole or in part or deleted entirely by the Engineer in accordance with sub-clause 52(4) and Clause 58 of the Conditions of Contract (2)	363,040,252.95
	Add 10% of Sub-total (1) as Provisional Sums for Variation of Prices in accordance with Clause 70 of the Conditions of Contract	363,040,252.95
2	SUB TOTAL (2)	4,356,483,035.40
3	Add 16% of Sub total (2) for V.A.T (3)	697,037,285.66
	GRAND TOTAL CARRIED FORWARD TO FORM OF BID (SUB-TOTAL 2+3)	5,053,520,321.06



# CIC relaxes stand on counties Bill

Constitution rollout body agrees with senators to have contested clause in Bill changed

BY MOSES NJAGIH

The Commission on the Implementation of the Constitution (CIC) has struck deal with the Senate over a contentious Bill seeking to create a county development forum chaired by senators.

The Senate Committee on Legal Affairs and Human Rights and CIC agreed to water down some powers given to the County Development Boards.

The current Bill proposes to create the boards to bring together elected leaders in counties to draw up development plans for the devolved units.

CIC chairman Charles Nyachae had opposed the County Government (Amendment) Bill, arguing that the bill proposes to create would strip the constitutional powers granted to other county organs.

During the meeting with the committee chaired by Busia Senator Amos Wako, the senators agreed to address the constitutional issues raised by the commission. The Vice-Chairman, Nandi Senator Stephen Sang has also thrown his weight behind the proposed law.

Among the agreements reached is to remove a clause that gives the powerful County Development Boards room to first adopt county annual budgets before the same are tabled in the County Assemblies.

CIC had opposed the clause which also appeared to set senators and governors on a collision course.

"Our reservations related to some functions that the Bill sought to give to the boards, but our fears have now been addressed. As long as these boards do not usurp the powers of county assemblies and other organs, we feel the law is within the principle of consultations enshrined in the law," said Nyachae.

### ADVISORY POWERS

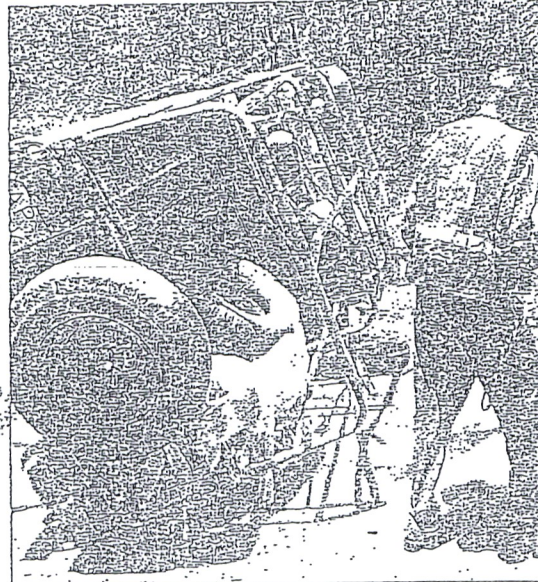
The CIC chairman said they had agreed that the boards would only have advisory powers, where members make recommendations, have no authority on implementation and adoption.

"Having arrived at a consensus, we now only need to make amendments to take into account what we have agreed on. These boards should have an advisory mandate where they only make recommendations," said Wako.

Last week, senators and governors hammered out an agreement on the Bill after the senators agreed to drop their demands to chair the boards.

The senators also agreed to make amendments to address fears raised that the forum would chip the executive powers of governors.

## Ill-fated journey



A Red Cross official at the scene where this vehicle travelling to Maralal from Barsaloi overturned. A police reservist was killed and six other passengers seriously injured during the incident. (PHOTO: MICHAEL SAITO/STANDARD)

## Tender process locks out women, Government told

BY ABIGAEEL SUM

Maendeleo ya Wanawake has appealed to the Government to simplify procurement procedures to allow more women to apply for Government tenders.


The body's National Vice-chair Rahab Muiu said the current documents are complex and lock out women at the grassroots level who cannot understand them.

"The procurement document has about 41 pages which should be reduced and simplified to maybe two or three pages so that those at the local level can access and understand its content," said Muiu.

She said there is need for county governments to engage with women at the grassroots so that they can access the document and apply for tenders.

"It is time for us women to seize the opportunity to venture into big business. The government spends over sh400 billion annually on public procurement and only a few women take part in this lucrative business of government tenders," said Muiu, who added that no single woman was among those awarded Government tenders last year.

She lauded the Government's directive to have 30 per cent of all Government tenders reserved for women, youth and people with disabilities.



**UNIVERSITY OF NAIROBI**  
Tender Notice  
<http://procurement.uonbi.ac.ke>

The University of Nairobi invites interested and qualified bidders for the following tenders:

Tender Number	Tender Name	Tender Fee	Bid Bond	Closing Date
UON/T/16/2013-2014	Proposed Construction of Boundary wall at the University of Nairobi	1000.00	10,000.00	Wednesday 30th October 2013, at 10.00 am
UON/T/17/2013-2014	Supply of Graduation Attire for College of Humanities and Social Sciences	1000.00	10,000.00	Thursday 31st October 2013, at 10.00 am
UON/T/18/2013-2014	Supply, installation and Commissioning of LAN Switches for ICT	1000.00	10,000.00	Thursday 31st October 2013, at 02.30 pm
UON/T/19/2013-2014	Re-advertisement Supply installation, testing and Commissioning of 4 No Adolite Connect Server and External Back up for the UNITO Fellowship Program University of Nairobi	1000.00	10,000.00	Friday 1st November 2013, at 10.00 am

The tender documents with further detailed information may be obtained from The Procurement Manager University of Nairobi, Main Campus, Administration Block 1st Floor Room 2104 during normal working hours from Monday to Friday between 8:00am and 5:00pm, upon payment of a non-refundable cash fee deposit of Kshs 1,000.00 (Kenya Shillings one thousand only) at Barclays Bank A/c. No. 094-624553 Queensway House Branch and thereafter obtaining an official receipt from Gandhi Wing Room 66.


Prices quoted must be net, inclusive of all taxes and remain valid for 120 days from the closing date of the tender.

Tenders should be accompanied by bid bonds as stated above in the form of bank guarantee, insurance Company guarantee approved by the Public Procurement Oversight Authority, a letter of credit or guarantee by a deposit taking Microfinance institution, SACCO Society, the Youth Enterprise development fund or women enterprise fund which must be attached to the tender document.

Completed tender documents must be submitted in plain sealed envelope marked with tender Number and description to Procurement Manager/Secretary, University of Nairobi Tender Committee, P.O. Box 30197-00100, Nairobi. The envelopes should be placed inside the Tender Box at the reception area, Administration Block, Main Campus on the day of the closing. Opening will be done on the same day thereafter at the Council Committee Room in the presence of representatives who choose to attend.

Completed tenders will be returned unopened.

The University of Nairobi reserves the right to accept or reject a tender in whole or in part. Convoysing will not be entertained.



**NATIONAL SOCIAL SECURITY FUND**

**NSSF TENDER NO. 07/2013-2014**  
**PROPOSED CIVIL ENGINEERING CONSTRUCTION WORKS AT NSSF TASSIA PLOTS, NAIROBI**

The National Social Security Fund invites sealed Tenders from eligible and competent Contractors for Proposed Civil Engineering Construction Works At NSSF Tassia Plots, Nairobi.

Interested Contractors who must be qualified and registered with The National Construction Authority (NCA) for the following works: Civil Engineering works, Roads, Electrical Installations, Sewerage and Plumbing works should obtain the Tender documents from the Procurement Office, 9th floor upon payment of Kshs. 1,000.00 non-refundable fee either in cash or bankers cheque payable to National Social Security Fund at cash office Podium Floor, NSSF Building, Block A, Western Wing, Dishops Road Nairobi.

Tenderers may also view and download the relevant tender document from the NSSF website <http://www.nssf.or.ke/tenders> provided that they ensure their names are entered in the register at the procurement office before the closing/opening date.

Completed Tender documents shall be submitted in accordance with the instructions therein and addressed to:-

The Managing Trustee  
National Social Security Fund  
P.O. Box 30599 - 00100  
NAIROBI

The documents should be deposited in the Tender Box on 2nd Floor Block 'A', Western Wing, Social Security House Nairobi on or before 11.00 a.m. local time on 19th November, 2013.

Bids will be opened immediately thereafter in the Seminar Room on 4th floor, Social Security House, Block 'A', Western Wing, Nairobi in the presence of Tenderers representatives who choose to attend.

A pre-tender meeting for interested tenderers is scheduled to be held at 10.00am on 29th October, 2013 in the Seminar Room on 4th floor, Social Security House, Block 'A', Western Wing, Nairobi followed by a guided visit to the site.

The NSSF reserves the right to accept or reject any tender either in whole or in part without giving reasons for either rejection or acceptance.

# ANNEX 19

Stage I: PRELIMINARY EVALUATION

The Evaluation Committee conducted a preliminary evaluation to determine whether the bidders fully complied with the stated requirements as illustrated in the attached Appendix 1...

Bidder No. 7 *China Railway No.5 Engineering Group* had its name indicated on the outer envelope. According to clause 20.3 of the tender document, the disclosure of the bidder's identity on the outer envelope will not guarantee the anonymity of the bid submission, but this shall not constitute grounds for rejection of the bid.

It was noted that the tender document did not contain the form for Surety Undertaking even though the bidders were required to complete the same. The evaluation committee decided to exclude this requirement from the mandatory requirements during the preliminary evaluation. *Not in water contract*

The committee in consultation with the Procurement unit decided to evaluate the expiry date for the bid bonds using the originally advertised closing date of 19th November 2013 as the start date considering that some of the bidders had already procured bid bonds before the date was extended.

The format of the NCA certificates varied from bidder to bidder with some having more details than others. The committee, through the user unit consulted the National Construction Authority for clarification and established that the certificate for Water Works will suffice for Sewerage while that for Mechanical Installations would suffice for plumbing works: (See Appendix XI)

Three bidders fully complied and therefore met the preliminary and mandatory requirements. (See Appendix I) and qualified to proceed to stage II (Technical Evaluation).

Bid No. Bidder Name

Bid No.	Bidder Name	Comments
4	China Jiangxi International (K) Limited	<ul style="list-style-type: none"><li>• Joint Venture with China Jiangxi Corporation for International Economic &amp; Technical Cooperation</li><li>• Sub-contracted Reliable Electrical Engineers (M) Ltd for Electrical Works</li></ul>
7	China Railway No.5 Engineering Group	<ul style="list-style-type: none"><li>• Chinese registered company</li><li>• No subcontractors</li></ul>
8	China Wu Yi Co. Ltd	<ul style="list-style-type: none"><li>• Chinese registered company with a fully owned Kenyan branch</li><li>• Bid submitted by the Chinese company</li><li>• No subcontractors</li></ul>



## FINANCIAL EVALUATION

Three firms M/s. China Jiangxi International (K) Limited, M/s China Railway No.5 Engineering Co. Ltd, and M/s China Wu Yi Co. Ltd were subjected to financial evaluation.

Bidder No	Tenderer	Tendered amount	Contract Period (Months)
4	China Jiangxi International (K) Ltd	4,644,897,307.77	22.4
7	China Railway No.5 Engineering Co. Ltd	4,771,325,667.54	18
8	China Wu Yi Co. Ltd	5,565,300,419.00	24

Subsequent to the arithmetic checking, the errors detected led to the adjustments of the quoted tender sum as given in the table below;

Bidder No.	Tenderer	Tendered Sum (Kshs)	Error (Kshs)	Adjusted Tender Sum (Kshs)
4	China Jiangxi International (K) Ltd	4,644,897,307.77	15,729,032.07	4,629,168,275.70
7	China Railway No.5 Engineering Co. Ltd	4,771,325,667.54	135,977,464.32	4,635,348,203.22
8	China Wu Yi Co. Ltd	5,565,300,419.00	37,352,261.00	5,527,948,158.00

### Observation on arithmetic errors

#### China Jiangxi International (K) Ltd

The bidder submitted a tender sum of Kshs. 4,644,897,307.77 (Four billion, Six hundred and Forty Four million, Eight Hundred and Ninety Seven thousand, Three Hundred and Seven shillings and Seventy Seven cents only).

However, on checking their submission, the committee observed that the bidder made an arithmetic error of Kshs.15, 729,032.07 (Fifteen Million, Seven hundred and

# ANNEX 20

# ANNEX 21

### 3.0 STATUS

Status of the regularization exercise is as follows:-

#### 3.1 LAND SURVEYING

The Land Surveying exercise for the estimated 5,500 plots commenced in January 2011 and is progressing well albeit slowly. As at 20 June 2011, 2,700 plots had been surveyed out of which 1,400 plots had survey beacons erected on them and survey reports submitted to the Fund. The Land Surveyor, M/s Survpilans Ltd projects that the remaining 2,800 plots shall have been surveyed by 31 August 2011.

Management has issued demand letters for full payment to plot owners whose plots have been surveyed and have outstanding balances. The response has been noted to be fairly good.

#### 3.2 CIVIL ENGINEERING WORKS

The Civil Engineer, M/s Multiscope Consulting Engineers submitted to the Fund preliminary design report and initial cost estimates of Kshs.4.5 billion in March 2011. The Engineers were, however, advised by Management to omit civil works within individual plots which reduced the cost estimates to Kshs.3.304 Billion (Copy attached) to cover construction of roads, sewer, water reticulation, street lighting and storm water drainage.

Further cost reductions and savings are expected to be realized at the detailed technical design stage. Approval is therefore sought for the preliminary cost estimate of infrastructure works of Kshs.3.304 billion to allow the Engineer to proceed to detailed design stage and for Management to advise the plot owners to start raising the money. Each 5,500 plot owners in Tassia will have to raise Kshs.650,000.00 to cater for infrastructure facilities and consultancy services.

The Civil Engineer has also submitted their Professional Fee Note of Kshs.21,153,898.00 as per the contract agreement.

### 4.0 FINANCING

The project is expected to be self financing through sharing of project costs by plot beneficiaries on a prorata basis to the size of the plot held. The Fund will collect and process payments to project consultants and contractors in accordance with the laid down financial policy and procedures.

# ANNEX 22



# ANNEX 23

Zimbra

ATTENDANCE  
2/11  
fs@treasury.go.ke

Re: BOT-257-2013: REGULARIZATION OF TASSIA II SCHEME INFRASTRUCTURE DEVELOPMENT

From : fs <fs@treasury.go.ke>

Wed, 18 Dec, 2013 15:46

Subject : Re: BOT-257-2013: REGULARIZATION OF TASSIA II SCHEME INFRASTRUCTURE DEVELOPMENT

To : langat2001@gmail.com

Cc : soi.j <soi.j@nssfkenya.co.ke>

MT,

This is to confirm that I am in agreement with the proposal on the above subject matter.

Thank you..

Mutua Kilaka

----- Original Message -----

From: "Richard Langat" <langat.r@nssfkenya.co.ke>

To: info@cotu-kenya.org, jmugo@fke-kenya.org, pslabour@labour.go.ke, fs@treasury.go.ke, adandaud@yahoo.com

Sent: Wednesday, 18 December, 2013 10:41:19 AM

Subject: BOT-257-2013: REGULARIZATION OF TASSIA II SCHEME

INFRASTRUCTURE DEVELOPMENT

REGULARIZATION OF TASSIA II SCHEME INFRASTRUCTURE DEVELOPMENT

At the 154th Meeting of the Board of Trustees of National Social Security Fund held on 5th August 2011 the Board approved Kshs.3.304 Billion being the total preliminary cost estimates of infrastructure and payment of Kshs.650,000.00 by plot owners as their contribution towards the cost of infrastructure and related professional services.

#### CURRENT STATUS

The Comprehensive Project Designs were finally approved by the Nairobi County Government in July, 2013 after which the Consultant submitted to the Fund a revised cost estimate of the project of Kshs.5.053 Billion.

#### FINANCING

RICHARD K. LANGAT  
AG. CEO/MANAGING TRUSTEE

December, 2013

# ANNEX 24

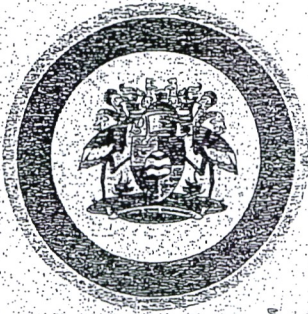


Appendix 1 (c)

# NAIROBI CITY COUNTY

34

Telephone: +254 20 2221349  
web: www.nairobi.go.ke



City Hall,  
P.O.Box 30075 - 00100,  
Nairobi,  
KENYA.

① Ag Gm FI

② Brindile  
9.6/2

CECM/LHUP/PTO/00139/2014

5<sup>th</sup> February, 2014

**Kazungu Kambi**  
Cabinet Secretary  
Ministry of Labour, Social Security & Services  
P. O. Box 40326 - 00100

**NAIROBI**

③ MFB  
Pse Lalle  
mte



Dear

**RE: REGULARIZATION OF AMALGAMATIONS AND SUBDIVISION OF PLOTS Nos. BLK.97, LR Nos. 21189 & 21189 & 21190 – TASSIA II AND III SCHEMES**

The above subject matter refers.

The matter of Tassia II and III in regard to NSSF proposed infrastructure development has attracted a lot of attention that require clarification.

The County Government as the planning authority in charge, has the responsibility to set the record straight concerning the proposed infrastructure development. Please take note that Tassia II and III prior to NSSF successful reclamation of its ownership underwent illegal invasion and development. The said land is expansive – 204 hectares of land, a fact that made policing development without the collaboration and co-operation of the legitimate owner untenable. As a result of the haphazard development, the settlement conditions deteriorated in terms of environmental health, security and habitability compliance. Infrastructure and services development that should have been integral part of the settlement development were never provided.

From legal stand point, it is the NSSF as the legitimate owner of the land who has development rights upon the land and responsibility to obtain prerequisite statutory approvals prior to any development on the land. In its bid to legitimize occupation of those who had settled on the land and their development activities, NSSF had to seek regularization of the settlement through the defunct City Council of Nairobi's development approval process in compliance with the



# **ANNEX 25**











