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13/10/2020



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 13 OCT 2020

DAY

TABLED
BY:
CLERK-AT
THE TABLE:

*Chair, Lands
Hon. ~~Ngũgĩ~~
R.K. ~~Cronje~~*



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

FOURTH SESSION - 2020

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY RESIDENTS OF GOLINI,
KWALE COUNTY REGARDING REGULARIZATION OF ALLOCATION OF LAND
IN GOLINI SETTLEMENT SCHEME

DIRECTORATE OF COMMITTEE SERVICES
CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER, 2020

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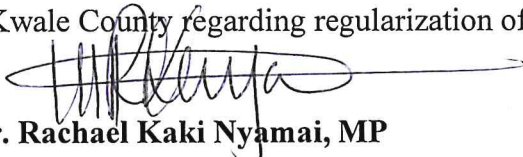
CHAIRPERSON'S FOREWORD

The Petition by residents of Golini in Kwale County regarding regularization of the allocation of land in Golini Settlement Scheme was conveyed to the National Assembly by the Hon. Tandaza Kassim Sawa MP on behalf of Petitioners on 3rd March 2020.

In considering the Petition, the committee held meetings with the Hon Tandaza Kassim Sawa MP and representatives of the Petitioners on 24th June 2020, the Chairperson, National Land Commission on 15th September 2020. The Committee also received written submissions from the Secretary Ministry of Lands and Physical Planning dated 24th June 2020.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioners, the Hon Tandaza Kassim Sawa MP, the Chairperson, National Land Commission, the Cabinet Secretary Ministry of Lands and Physical Planning for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by residents of Golini, Kwale County regarding regularization of allocation of land in Golini Settlement Scheme



Hon. Dr. Rachael Kaki Nyamai, MP
Chairperson, Departmental Committee on Lands

EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in a Petition by residents of Golini in Kwale County regarding regularization of the allocation of land in Golini Settlement Scheme. The Petitioners prayed that the National Assembly through the Departmental Committee on Lands compels the concerned department to consider issuing the petitioners with allotment letters in respect of the resurvey map of the year 2007 and restrain the beneficiaries of the allotment in the first survey from selling their respective plots before full issuance of allotment letters as per the re – survey of the year 2007 is concluded.

The Committee considered submissions by the Petitioners, the Ministry of Lands & Physical Planning, and the National Land Commission. The Committee made the following observations:

- i) The Golini settlement scheme L.R 5003 covering an area of 377.02 Ha. was established in 1994. The scheme was subsequently registered, and 152 titles deeds were issued;
- ii) Thereafter complains from locals alleging marginalization during plot allocation necessitated formation of a Task force in 2003 which produced the Golini Task Force Report;
- iii) The scheme was subsequently abolished through a ministerial a directive issued on 2nd March 2007;
- iv) Consequently, a re-survey of the scheme was undertaken as per ground occupancy, which realizing 268 plots as was recommended by the task force;
- v) The Committee noted with concern that the first survey and allocation were not nullified after the second re- survey and the latter had already been registered;
- vi) In January 2017, the National Land Commission (NLC) considered the matter and delivered its findings under Article 67(2) (e) on historical land injustices and recommended, that:
 - The first survey map used to allocate the land be abolished because it led to erroneous allocation.
 - The letters of offer that followed were hence null and void.
 - The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land.
 - Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
 - A proper PDP be prepared to reflect the existing land use and public utilities.

4.0 OBSERVATIONS

The Committee made the following observations:

- a. The Golini settlement scheme L.R 5003 covering an area of 377.02 Ha. was established in 1994. The scheme was subsequently registered, and 152 titles deeds were issued.
- b. Thereafter complains from locals alleging marginalization during plot allocation necessitated the formation of a Task force in 2003 which produced the Golini Task Force Report.
- c. The scheme was subsequently abolished through a ministerial a directive issued on 2nd March 2007.
- d. Consequently, the scheme was resurveyed as per ground occupancy, realizing 268 plots as was recommended by the task force.
- e. The Committee noted with concern that the first survey and allocation were not nullified after the second re- survey and the latter had already been registered.
- f. In January 2017, the National Land Commission (NLC) considered the matter and delivered its findings under Article 67(2)(e) on historical land injustices and recommended, that:
 - The first survey map used to allocate the land be abolished because it led to erroneous allocation.
 - The letters of offer that followed were hence null and void.
 - The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land.
 - Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
 - A proper PDP be prepared to reflect the existing land use and public utilities.
 - New titles reflecting the actual scenario on the ground be issued and registered thereafter.
- g. Despite the NLC having communicated its decision to the Cabinet Secretary, Ministry of Lands and Physical planning and the Governor Kwale County for implementation on 25th January, 2017, the Ministry has to date failed to ensure that the initial allocation of land in the scheme is legally cancelled to pave way for the settlement of genuine beneficiaries.
- h. Although the residents of Golini were issued with fresh allotment letters following the re- survey of the land in Golini Settlement Scheme, in 2007, the 152 title deeds that had been issued in the initial allocation were not cancelled and this has

facilitated the continued transfer of the land to third parties.

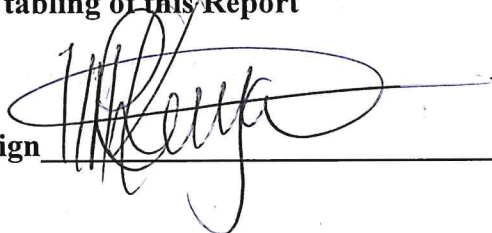
- i. The Petitioners' were unable to raise the necessary fees to facilitate the lodging of a case in court seeking the revocation of the said title deeds due to the huge cost involved, including serving the 152 allottees.
- j. The Committee also took cognizant of the fact that the power of the National Land Commission to revoke the grant of review all grants or dispositions of public land to establish their propriety or legality had since expired under the National Land Commission Act.
- k. There is need for the Ministry to forthwith implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of beneficiaries as per the second re-survey.

5.0 RECOMMENDATIONS

In response to the Petitioners' prayers, the Committee recommends that-

1. Pursuant to section 76 of the Lands Registration Act, 2012, the Registrar of Lands does immediately place restrictions on Golini Settlement Scheme, L.R No. 5003 to guard against further sub-division and continued transfer of the land to third parties upon tabling of this Report.
2. The Cabinet Secretary in the Ministry of Lands and Physical Planning does implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of the beneficiaries as per the second re- survey within six months of tabling of this Report

Sign



Date

13/10/2020

Hon. Dr. Rachael Kaki Nyamai, CBS MP
Chairperson, Departmental Committee on Lands

**MINUTES OF THE 38TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON TUESDAY 6TH OCTOBER, 2020 IN THE COMMITTEE ROOM 5TH
FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.**

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Joshua Kutuny, MP
3. Hon. Mishi Mboko, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Ahmed Kolosh, MP
6. Hon. Babu Owino, MP
7. Hon. George Aladwa, M.P
8. Hon. John Muchiri Nyaga, MP
9. Hon. Josphat Gichunge Kabeabea, M.P
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
2. Hon. Benjamin Washiali, CBS, MP
3. Hon. Ali Mbogo, M.P
4. Hon. Caleb Kositany, M.P
5. Hon. George Risa Sunkuyia, M.P
6. Hon. Owen Yaa Baya, M.P
7. Hon. Patrick Munene Ntwiga, MP
8. Hon. Samuel Kinuthia Gachobe, M.P
9. Hon. Lilian Tomitom, MP

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Third Clerk Assistant
3. Ms. Peris Kaburi - Serjeant-At-Arms
4. Mr. Dennis Mawira - Audio Recording Officer

MIN. NO. NA/DCS/LANDS/2020/147: PRELIMINARIES

The meeting was called to order at twenty-seven minutes past ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2020/148: CONFIRMATION OF MINUTES

This agenda item was differed to the next sitting.

MIN. NO. NA/DCS/LANDS/2020/149: ADOPTION OF REPORTS ON PETITIONS

I. Petition by residents of Karare Ward regarding compulsory acquisition of land in Marsabit County by the Kenya Defence Forces

The Committee adopted the report on the Petition by residents of Karare Ward regarding compulsory acquisition of land in Marsabit County by the Kenya Defence Forces with the following observations and recommendations after it was proposed and seconded by Hon. Mishi Mboko. M.P and Hon. Teddy Mwambire, M.P respectively.

Observations

- a. The submissions made to the Committee by both the Cabinet Secretary, Ministry of Defence and the Chairperson National Land Commission indicated that the matters raised in the Petition were pending before the Environment and Land Court in Meru in Constitutional Petition No. 4 of 2020.
- b. Mr. Stephen Lesoroh Gambare. and the Rendile Professional Association are indicated as Petitioners in the Petition before the Committee and as plaintiffs in Petition No, 4 of 2020 pending at the Environment and Land Court in Meru.
- c. Standing Order 89 provides that no Member shall refer to any particular matter which is *sub judice* and a matter is considered to be *sub judice* when it refers to active civil proceedings and the discussion of such matter is likely to prejudice its fair determination.
- d. The matters raised in the Petition fall under the *sub judice rule* in accordance to Standing Order 89 as they refer to active civil proceedings and the consideration of the Petition is likely to prejudice the fair determination of the case.

Recommendation

In response to the prayers by the Petitioners, the Committee recommended that since the matters raised in the Petition were pending before the Environment and Land Court in Meru in Constitutional Petition No. 4 of 2020 and were therefore *sub judice*, the Petitioners do exhaust the judicial process in addressing the prayers.

II. Petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani road

The Committee adopted the report on the Petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani road with the following observations and recommendations after it was proposed and seconded by Hon. Muchiri Nyagah, M.P and Hon. Ahmed Kolosh, M.P.

Observations

- a. Although the Petitioners indicated in the Petition that the contested 400 meters portion of the Konza – Katumani Road traversed on land LR, No. 355/2, the Director General, Kenya Urban Roads Authority and the Chairperson National Land Commission clarified that the said portion was on land parcel LR No. 7374/3 owned by Muambi Proprieties Limited.
- b. The land parcel LR No. 7374/3 owned by Muambi Proprieties Limited and for purposes of Article 40 of the Constitution an acquisition of any interest in the land would require prompt payment in full of just compensation to the lawful owner.
- c. The land in question LR. No. 7374/3 owned by Muambi properties had not been subdivided and consequently no portion had been surrendered by the owner for public utility.
- d. Although the 400 meters road passing through the ranch LR. No. 7374/3 and joining Mombasa Road at Konza is not a public road, it has been in continuous use for over fifty (50) years by residents and other persons crossing from Mombasa Road to Machakos Town through Katumani.
- e. The members of the public use the said 400 meters road, which is a shorter and convenient route to access Mombasa Road.
- f. A compulsory land acquisition process had been initiated by the Kenya Urban Roads Authority to acquire the affected 0.7972Ha from LR. No. 7374/2 measuring approximately 880 acres located off Mombasa road.
- g. The notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17th May, 2018 were issued accordingly.
- h. The submissions made to the Committee by the Director General, Kenya Urban Roads Authority indicated that the compulsory acquisition award of Ksh. 52, 632, 588, made by the National Land Commission in respect to subject piece of land measuring approximately 0.7972 Ha, owned by Muambi Properties Ltd, to facilitate the tarmacking of the Konza /Kutumani Road appeared to be expensive and exaggerated in comparison to the prevailing market price for comparable land in the

area.

- i. KURA did not pay the said award and decided to identify an alternative alignment, measuring approximately 1.55km. The National Land Commission was notified of the decision and requested to cancel the acquisition process and issue a degazettement notice thereof.
- j. Sections 143(1), 145, and 146 of the Land Act, 2012 allows the National Land Commission to facilitate the creation of a communal right of way which shall be known as a public right of way.
- k. There exists a basis for the National Land Commission to create a public right of way over the 400 meters portion of the Konza – Katumani Road traversing on private land LR No. 7374/3, considering-
 - i) the said road has been used by the residents of Vota and other members of the public for more than fifty (50) years; and maintained by the government; and
 - i) The 400 meters road is the shortest and most convenient route joining the Mombasa road for use by the residents of Vota and other members of the public.
- l. The NLC did aver that it would upon request initiate the said creation of a public right of way of the 400 meters portion of land affected by the Konza – Katumani Road in accordance with the Lands Act, 2012.
- m. In view of the foregoing, the National Land Commission may consider creating a public right of way pursuant to section 143 of the Land Act, 2012 to facilitate the convenient passage of the residents of Vota through the 400 meters private road which they have been using for over fifty years.

Recommendations

1. The National Land Commission does consider facilitating the creation of a public right of way pursuant to section 143 of the Land Act, 2012 to ensure the convenient passage of the residents of Vota through the 400 meters road which they have been using for over fifty years within six months of the tabling of this Report.
2. The Cabinet Secretary Ministry of Lands and Physical Planning does fast track the development of the land Value Index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for the development of public projects within three months of the tabling of this Report.

III. Petition by residents of Golini, Kwale County regarding regularization of allocation of land in Golini settlement scheme

- IV. The Committee adopted the report on the Petition by residents of Golini, Kwale County regarding regularization of allocation of land in Golini settlement scheme with the

following observations and recommendations after it was proposed and seconded by Hon. Teddy Mwambire, MP and Hon. Mishi Mboko, MP respectively.

Observations

- a. The Golini settlement scheme L.R 5003 covering an area of 377.02 Ha. was established in 1994. The scheme was subsequently registered, and 152 titles deeds were issued.
- b. Thereafter complains from locals alleging marginalization during plot allocation necessitated the formation of a Task force in 2003 which produced the Golini Task Force Report.
- c. The scheme was subsequently abolished through a ministerial a directive issued on 2nd March 2007.
- d. Consequently, the scheme was resurveyed as per ground occupancy, realizing 268 plots as was recommended by the task force.
- e. The Committee noted with concern that the first survey and allocation were not nullified after the second re- survey and the latter had already been registered.
- f. In January 2017, the National Land Commission (NLC) considered the matter and delivered its findings under Article 67(2)(e) on historical land injustices and recommended, that:
 - The first survey map used to allocate the land be abolished because it led to erroneous allocation.
 - The letters of offer that followed were hence null and void.
 - The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land.
 - Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
 - A proper PDP be prepared to reflect the existing land use and public utilities.
 - New titles reflecting the actual scenario on the ground be issued and registered thereafter.
- g. Despite the NLC having communicated its decision to the Cabinet Secretary, Ministry of Lands and Physical planning and the Governor Kwale County for implementation on 25th January, 2017, the Ministry has to date failed to ensure that the initial allocation of land in the scheme is legally cancelled to pave way for the settlement of genuine beneficiaries.
- h. Although the residents of Golini were issued with fresh allotment letters following the re- survey of the land in Golini Settlement Scheme, in 2007, the 152 title deeds that had been issued in the initial allocation were not cancelled and this has facilitated the continued transfer of the land to third parties.

- i. The Petitioners' were unable to raise the necessary fees to facilitate the lodging of a case in court seeking the revocation of the said title deeds due to the huge cost involved, including serving the 152 allottees.
- j. The Committee also took cognizant of the fact that the power of the National Land Commission to revoke the grant of review all grants or dispositions of public land to establish their propriety or legality had since expired under the National Land Commission Act.
- k. There is need for the Ministry to forthwith implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of beneficiaries as per the second re- survey.

Recommendations

1. Pursuant to section 76 of the Lands Registration Act, 2012, the Registrar of Lands does immediately place restrictions on Golini Settlement Scheme, L.R No. 5003 to guard against further sub-division and continued transfer of the land to third parties upon tabling of this Report.
2. The Cabinet Secretary, Ministry of Lands and Physical Planning does implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of the beneficiaries as per the second re- survey within six months of tabling of this Report.

MIN. NO. NA/DCS/LANDS/2020/150: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at five minutes to twelve o'clock. The next meeting would be held on notice.

Signature

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

13/10/2020

**MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON TUESDAY 22ND SEPTEMBER, 2020 IN THE COMMITTEE ROOM
5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.**

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Benjamin Washiali, CBS, MP
4. Hon. Mishi Mboko, M.P
5. Hon. Omar Mwinyi Shimbwa, MF
6. Hon. Ahmed Kolosh, MP
7. Hon. Ali Mbogo, M.P
8. Hon. Babu Owino, MP
9. Hon. Josphat Gichunge Kabeabea, M.P
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Joshua Kutuny, MP
2. Hon. Caleb Kositany, M.P
3. Hon. George Risa Sunkuyia, M.P
4. Hon. George Aladwa, M.P
5. Hon. John Muchiri Nyaga, MP
6. Hon. Owen Yaa Baya, M.P
7. Hon. Patrick Munene Ntwiga, MP
8. Hon. Samuel Kinuthia Gachobe, M.P
9. Hon. Lilian Tomitom, MP

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Third Clerk Assistant
3. Ms. Peris Kaburi - Serjeant-At-Arms
4. Mr. Dennis Mawira - Audio Recording Officer

MIN. NO. NA/DCS/LANDS/2020/133: PRELIMINARIES

The meeting was called to order at twenty-eight minutes past ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2020/134: CONFIRMATION OF MINUTES

- i. The minutes of the 33rd sitting held on Tuesday, 8th September 2020 were confirmed as true record of the Committee's deliberations after it was proposed and seconded by Hon. Mishi Mboko, MP and Hon. Teddy Mwambire, MP respectively; and
- ii. The minutes of the 34th sitting held on Tuesday, 15th September 2020 were confirmed as true record of the Committee's deliberations after it was proposed and seconded by Hon. Teddy Mwambire, MP and Hon. Mishi Mboko, MP respectively.

MIN. NO. NA/DCS/LANDS/2020/135: CONSIDERATION OF DRAFT REPORTS ON PETITIONS

a) Report on the consideration of a petition by residents of Golini, Kwale County regarding regularization of allocation of land in the Golini Settlement Scheme

The Committee considered the draft report on the petition by residents of Golini, Kwale County regarding regularization of allocation of land in the Golini Settlement Scheme and made the following observations and recommendations:

Observations

- i. The Golini settlement scheme L.R 5003 covering an area of 377.02 ha. was established in 1994 and it realized 395 plots. The scheme was subsequently registered and titles deeds issued.
- ii. Thereafter complains from locals alleging marginalization during plot allocation necessitated formation of a Task force committee by the District Plot Allocation Committee in 2003, which produced the Golini Task Force Report.
- iii. The scheme was subsequently abolished through a ministerial a directive issued on 2nd March 2007.
- iv. Consequently, a re-survey of the Scheme was undertaken as per ground occupancy, realizing 268 plots as was recommended by the task force.
- v. The Committee noted with concern that the first survey and allocation were not nullified after the second re- survey and the latter had already been registered.
- vi. In January 2017, the National Land Commission considered the matter and delivered its findings under Article 67(2)(e) on historical land injustices and recommended, that:
 - The first survey map used to allocate the land be abolished because it led to erroneous allocation.

- The letters of offer that followed were hence null and void.
 - The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land.
 - Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
 - A proper PDP be prepared to reflect the existing land use and public utilities.
 - New titles reflecting the actual scenario on the ground be issued and registered thereafter.
- vii. Despite the NLC having communicated its decision to the Cabinet Secretary, Ministry of Lands and Physical planning and the Governor Kwale County for implementation on 25th January, 2017, the Ministry has to date failed to ensure that the initial allocation of land in the scheme is legally cancelled to pave way for the settlement of genuine beneficiaries.
- viii. Although the residents of Golini were issued with fresh allotment letters following the re- survey of the land in Golini Settlement Scheme, in 2007, the 152 title deeds that had been issued in the initial allocation were not cancelled and this has facilitated the continued transfer of the land to third parties.
- ix. The Petitioners' were unable to raise the necessary fees to facilitate the lodging of a case in court seeking the revocation of the said title deeds due to the huge cost involved, including serving the 152 allottees.
- x. The Committee also took cognizant of the fact that the power of the National Land Commission to revoke the grant of review all grants or dispositions of public land to establish their propriety or legality had since expired under the National Land Commission Act.
- xi. There was need for the Ministry to forthwith implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of genuine beneficiaries.

Recommendations

The Committee made the following recommendations;

1. Pursuant to section 76 of the Lands Registration Act, 2012, the Registrar of Lands does immediately place restrictions on Golini Settlement Scheme, L.R No. 5003 to guard against the continued transfer of the land to third parties upon tabling of this Report.
2. The Cabinet Secretary in the Ministry of Lands and Physical Planning does implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of second list of beneficiaries within sixty (60) of tabling of this Report.

b) Report on the consideration of a petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani Road

The Committee considered the draft report on the petition by the residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani road and recommendations recommended that the National Land Commission initiates the process of creating a public right over the 400 meters portion of the Konza – Katumani Road traversing on private land LR No. 7374/ tasked the secretariat to amend the observations to correspond to the recommendation

MIN. NO. NA/DCS/LANDS/2020/136: ANY OTHER BUSINESS (AOB)

The Committee was informed that three new petitions have been referred to the Committee and the Land Registration (Amendment) Bill, 2019 has been withdrawn by the Leader of the Majority Party.

MIN. NO. NA/DCS/LANDS/2020/137: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at fifteen minutes past twelve o'clock. The next meeting would be held on Wednesday, 23rd September 2020 at 10.00 a.m.

Signature

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date..... 06/10/2020

**MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD VIRTUALLY ON TUESDAY 15TH SEPTEMBER, 2020 AT 10:00 A.M**

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - Chairperson
2. Hon. Khatib Mwashetani, M. P - Vice Chairperson
3. Hon. Joshua Kutuny, MP
4. Hon. Mishi Mboko, M.P
5. Hon. Omar Mwinyi Shimbwa, MP
6. Hon. Ahmed Kolosh, MP
7. Hon. Ali Mbogo, M.P
8. Hon. Babu Owino, MP
9. Hon. Caleb Kositany, M.P
10. Hon. George Risa Sunkuyia, M.P
11. Hon. Josphat Gichunge Kabeabea, M.P
12. Hon. Owen Yaa Baya, M.P
13. Hon. Patrick Munene Ntwiga, MP
14. Hon. Samuel Kinuthia Gachobe, M.P
15. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Benjamin Washiali, CBS, MP
2. Hon. George Aladwa, M.P
3. Hon. John Muchiri Nyaga, MP
4. Hon. Lilian Tomitom, MP

IN ATTENDANCE

THE NATIONAL ASSEMBLY

1. Hon. Anthony Tom Oluoch, MP
2. Hon. Tandaza Kassim Sawa, MP
3. Hon. Richard Kiti Chonga, MP

NATIONAL LAND COMMISSION

1. Mr. Gershom Otachi Bw'Omanwa - Chairperson
2. Ms. Gertrude Nguku - Vice Chairperson
3. Ms. Mercy Njamweya - Director, Land Administration

4. Francis Bor

– Ag. Chief Executive Officer

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|----------------------------|
| 1. Mr. Leonard Machira | - | Senior Clerk Assistant |
| 2. Mr. Ahmad Guliye | - | Third Clerk Assistant |
| 3. Dr. Kefa Omoti | - | Principal Research Officer |
| 4. Ms. Jemimah Waigwa | - | Ag. Senior Legal Counsel |
| 5. Ms. Peris Kaburi | - | Serjeant-At-Arms |
| 6. Mr. Dennis Mawira | - | Audio Recording Officer |

MIN. NO. NA/DCS/LANDS/2020/128: PRELIMINARIES

The meeting was called to order at twenty-one minutes past ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2020/129: CONFIRMATION OF MINUTES

This item was deferred to the next sitting

MIN. NO. NA/DCS/LANDS/2020/130: MEETING WITH THE CHAIRPERSON NATIONAL LAND COMMISSION ON VARIOUS PETITIONS REFERRED TO THE COMMITTEE

The Chairperson, National Land Commission informed the Committee as follows regarding the petitions:

- a) **Petition by Hon. Anthony Oluoch, MP on behalf of residents of Hospital Ward in Mathare Constituency regarding imminent evictions of the residents by the Kenya Police Service**
- i. The parcel of land in question LR No. 209/8600, measuring 32.65 Ha, was allotted to the Kenya Police Service under reference no. 36040/165 in November, 2010. The Kenya Police accepted the offer on 19th February, 2016 vide receipt no. 4350218;
 - ii. The Kenya Police Service accepted the offer and deed plans 271348 to 271484 for LR Nos. 209/16806-42 were issued;
 - iii. The Commission could not establish the current status of the land since the Commission officials couldn't access the file which is in the custody of the Ministry of Lands and Physical Planning in time before the meeting;
 - iv. However, the Commission had through a site visit and digital aerial study that:

- a) Informal settlements occupy 15.77 Ha of the land in question, the Police Service have occupied about 12.90 Ha, while an area of approximately 2.2 Ha is an open space under cultivation.
- b) The informal settlements contain semi-permanent structures made of iron sheets and mud covering about 90% and very few permanent houses covering about 10% of the area occupied.
- c) The area occupied by the Police has permanent buildings which include a police line and a newly constructed sub-county office.

The Chairperson concluded that the National Police Service has ownership documents for the land that they occupy in Mathare Constituency vide letter of allotment Ref: 36040/165 issued on 4th November 2010 for land reference number 209/8600 measuring 32.65 ha.

He also stated that the Commission was also not aware if the Police Service had issued any eviction notice to the persons squatting on the land in question or prevented the youth and children from accessing and using the only available playground.

Finally, the Chairperson stated that the Commission is not in a position to adjudicate and issue titles for the land in question as the same has been allocated and hence not available.

Committee Observations

The Committee observed the following;

- i. The land in question measuring 32.65 Ha that had been allocated to the National Police Service comprises the entire Hospital Ward in Mathare North Constituency;
- ii. Various government development projects have been undertaken on the same land for the benefit of the community: The said projects include; schools, dispensaries, churches and currently the Nairobi Metropolitan Service was developing a level three hospital on the land; and
- iii. The Independent, Electoral and Boundaries Commission had also built a sub-county office and created an electoral unit (ward) on the same land

The Committee resolved to consider undertaking a field visit to Hospital Ward in Mathare Constituency to consider facts obtaining on the ground with a view of addressing the prayers of the petitioners.

b) Petition by Hon. Tandaza Kasim Sawa, MP on behalf of the residents of Golini Settlement Scheme on regularization of allocation of land in Golini Settlement Scheme

1. Golini settlement scheme L.R 5003 covering an area of 377.02 ha. was established in 1994 and it realized 395 plots. The scheme was registered and titles deeds issued.
2. However, complains from locals alleging marginalization during plot allocation necessitated formation of a Task force committee by the District Plot Allocation Committee in 2003, which produced the Golini Task Force Report.
3. The scheme was abolished through a ministerial a directive issued on 2nd March 2007. Consequently, a re- survey was undertaken as per ground occupancy, realizing 268 plots as was recommended by the task force.
4. However, the first survey and allocation were not nullified after the second re- survey and the latter had already been registered.
5. In January 2017, the National Land Commission delivered its findings under Article 67(2)(e) on historical land injustices and recommended, that:
 - The first survey map used to allocate the land be abolished because it led to erroneous allocation
 - The letters of offer that followed were hence null and void
 - The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land
 - Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
 - A proper PDP be prepared to reflect the existing land use and public utilities
 - New titles reflecting the actual scenario on the ground be issued and registered thereafter.
6. The commission communicated the decision e to the Cabinet Secretary, Ministry of Lands and Physical planning and the Governor Kwale County for implementation on 25th January, 2017. It is therefore the responsibility of the Ministry of Lands and Physical Planning to implement the report on the ground.

Committee Observation

The Committee observed that titles deeds were erroneously issued in the first allocation of land in the scheme and could only be revoked through a judicial process, Consequently the government

through the Ministry of Lands and Physical Planning bore the responsibility of effecting the revocation and not members of the community.

c) Petition by Hon. Ken Kiti Chonga, MP on behalf of the indigenous people of Vipingo regarding land injustices committed against the Community

- i. Land in Vipingo Sisal Farm located along the 10-mile coastal strip was allocated under the Land Titles Ordinance in 1913 under a 999 years leasehold;
- ii. The following firms had applied for development applications over the years resulting to sub-divisions and conversion to a 99 - year leasehold;
 - a. Vipingo Development Limited
 - b. Vipingo Energy Limited
 - c. Vipingo Golf & Club House
 - d. Vipingo Ridge Limited
 - e. Mombasa Cement
 - f. Sunsale Trading Limited
 - g. Rea Vipingo Plantation
 - h. Centum Investment Co Ltd
 - i. Rea Trading Limited
- iii. Residents of Vipingo had filed case in Court regarding the land in question and had recently lost a case ELC No. 343 of 2016.
- iv. The community filed a Historical Land Injustice claim no. NLC/HLI/495/2018 against Vipingo Sisal Estate Limited.
- v. Both parties were invited to attend an HLI proceedings sitting at Kilifi on 30th August, 2018. The Community attended but the Vipingo Sisal Estate Limited did not attend.
- vi. The term of the inaugural Commission came to an end before the Historical Injustice Case was determined.
- vii. The matter was among 43 other claims the current Commission has made arrangements to finalize once the COVID 19 protocols by the Ministry of Health is lifted. However, the Chairperson promised to fast track the consideration of the said HLI within ninety days.

Committee resolution

The Committee requested the Chairperson National Land Commission to submit to the Committee within 14 days, the status of the leases of the firms in Vipingo, indicating whether the said leases had been converted to a 99 – year lease or not and the timelines left of the leases of each firm/farm in Vipingo.

d) Petition by residents of Keiyo North Constituency regarding compulsory acquisition of land and compensation of the residents by the government

- i. The acquisition was undertaken simultaneously with that for Kaptarakwa Rural Health Centre and are both in the land acquisition file No. 834.
- ii. The acquisition was done through Gazette Notice Nos. 4260 & 4261 being intention to acquire land and notice of inquiry respectively.
- iii. A total of 58 project affected persons (PAPs) were identified after a successful process of inspection, awarding and requisition of compensation funds.
- iv. There appeared to have been a delay in the release of funds initially assessed with back and forth correspondences on the same the defunct Commissioner of Lands and the Ministry of Education.
- v. The affected persons were to be allocated alternative land at Sergoit grounds after the Head of State pronouncement of land for land compensation with anticipation that each would get about 5 acres.
- vi. The alternative land was surveyed and sub-divided into about 160 parcels of various sizes for allocation.
- vii. The PAPs were allocated alternative land as evidenced by a sample of letter of allotment by the DC's Office for Mr. Francis Cheplaiti of ID No. 0243711/63.
- viii. The PAPs were not satisfied with "free land" being allocated to strangers.
- ix. The Commission sought from the County Commissioner a list of persons allocated land at SERGOIT grounds and their respective acreages through a letter dated 20th October, 2019
- x. The said report was submitted to the Commission on 4th December, 2019 and it entailed the following;
 - a. Land owners were compensated with alternative land at Sergoit holding grounds.
 - b. The available land was used to compensate other land owners whose land was acquired for other projects.
 - c. The total acreage was 300 acres against a presidential pronouncement of 600 acres.
- xi. On the above basis, the Commission confirmed that land owners/petitioners were compensated with alternative land.

Committee resolution

The Committee noted the submissions by the Chairperson National Land Commission and requested that the ground report from the County Commissioner Keiyo County be availed to the Committee for consideration.

MIN. NO. NA/DCS/LANDS/2020/131: ANY OTHER BUSINESS (AOB)

The Committee was informed that a new legislative proposal – The Institution of Surveyors of Kenya Bill, 2020 - was referred to the Committee for consideration.

MIN. NO. NA/DCS/LANDS/2020/132: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at one-minute past one o'clock. The next meeting would be held on Tuesday, 22nd September 2020.

Signature.....



HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

22-09-2020

Approved.
B. S. N. A.
3/3/2020

REPUBLIC OF KENYA



TWELFTH PARLIAMENT- (FOURTH SESSION)

THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No. 003 of 2020)

REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT SCHEME ALLOTMENTS

I, the **undersigned**, on behalf of residents of Golini, Kwale County;

DRAW the attention of the House to the following: -

1. **THAT**, residents of the then Golini Location in present day Matuga Constituency have been living on their land for many years and utilizing it to sustain their economic needs;
2. **THAT**, between 1969 and 1971, land in the said Location was adjudicated for purposes of registration, except parcel with LR. No. 5003 which was registered as community land and occupied by residents as a community;
3. **THAT**, in 1994, Golini Settlement Scheme was established on LR. No. 5003 with the intention to benefit the local community that owned the land under communal land tenure system;
4. **THAT**, following complaints raised by locals regarding the process, the District Plot Allocation Committee formed a taskforce in 2003 to look into the matter and recommend appropriate remedies;
5. **THAT**, a Ministerial Directive made on 2nd March 2007 directed re-survey of the land in question, which process resulted in sub-division of two hundred and sixty-eight (268) plots based on the recommendations of the Golini Settlement Scheme Taskforce Report;

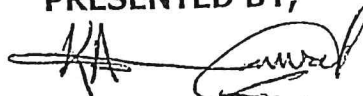
PUBLIC PETITION
REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT SCHEME
ALLOTMENTS

6. **THAT**, after the re-survey, Kwale County Lands Board and the National Land Commission sanctioned verification of the process with a view to hear and sort out any unresolved issues and recommend how to amend and/or operationalize the Taskforce Report;
7. **THAT**, since the 2007 re-survey, residents of Golini have never been issued with fresh allotment letters yet the initial map has not yet been abolished, leading to erroneous allocation of the land;
8. **THAT**, in 2017, the National Land Commission delivered its findings and recommendations at a public *baraza* in the presence of affected beneficiaries, noting that the said land was ancestral as evidenced by homesteads, graveyards and mature trees;
9. **THAT**, residents have sought assistance from all relevant state institutions but no satisfactory response has been given;
10. **THAT**, the matters raised in this Petition are not pending before any court of law, constitutional or legal body;

THEREFORE, your humble Petitioners pray for the intervention of this House through the Departmental Committee on Lands, to compel the concerned department to consider issuing them allotment letters in respect of the re-survey map of the year 2007 and restrain the beneficiaries of the allotment in the first survey from selling their respective plots before full issuance of allotment letters as per the re-survey of the year 2007 is concluded.

And your **PETITIONERS** will ever pray.

PRESENTED BY,



HON. TANDAZA KASSIM SAWA, MP
MEMBER FOR MATUNGA CONSTITUENCY

DATE: 28.2.2020

PUBLIC PETITION

REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT
SCHEME ALLOTMENTS

S/No.	NAME	ID NUMBER	ADDRESS OR TELEPHONE NO.	SIGNATURE OR THUMP IMPRESSION
1.	Ali A. Gassano	5457715	Mds. 0721588423	M. S. N. K.
2.	Fatuma M. Mwashedai	0765716	0727316909	F. M. W.
3.	Rashid Mwangasare Gassano	0467482	—	R. M. G.
4.	Kwenzi Rashid Mwangasare	0467056	—	K. W. M. Z. I.
5.	Swaleh Mwangasare	37696426	0793663167	S. W.
6.	MWAGASAMBI G. S. MBI	11138277	0712142730	M. W. G. S. M.
7.	Mejuma Thomas Mwakanda	0504379	—	M. J. M. T.
8.	Ramadhan Kulola	29464607	0741127797	R. K.
9.	Swalehe Hamisi	28510701	0717075884	S. W.
10.	ATIHUMAR ALI GASARE	29699118	0707352717	A. T.
11.	Mwanyaga Ali	33609129	0792494431	M. W. A.
12.	MWAYOGISTE ALI	28240804	0732527080	M. W. A.
13.	SUB. R. MWAGASARE	13281694	0715291912	S. R. M.
14.	FATUMA S. NJAMA	24306444	0719730182	F. S. N.
15.	JUMA RASHID MWAGASARE	26289566	0718961855	J. R. M.
16.	HAMISI OMARI MBONGI	0466029	0716659974	H. O. M.
17.	Said H. Madzambo	26322539	0720853974	S. H. M.
18.	OMARI K. MBONGI	21862366	0758610881	O. K. M.

PUBLIC PETITION

REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT
SCHEME ALLOTMENTS

S/No.	NAME	ID NUMBER	ADDRESS OR TELEPHONE NO.	SIGNATURE OR THUMP IMPRESSION
1.	Musa Mohammed Madindima	0464778	0700776984	
2.	Hamisi Rashid Kusema	0468866	0728511684	
3.	Juma Saidi Madindima	0686098	0734 916627	
4.	Saidi Omar Majani	8462179	0702 159436	
5.	Zenah Kayeke Opati	20064312	0726438565	
6.	Malandi Mwakuchengwa	6733719	0720291512	
7.	Hamisi Saidi Madindima	0464829	0714054339	
8.	Fatuma Said Mwakuchengwa	0466347	0704431159	
9.	Mwanaisa S. Mwakuchengwa	0468822	0714880304	
10.	RIZIKA S MWDMASI	10506972	0727026072	
11.	MESUMDA KASSIM	26191016	0704945394	
12.	MWANDAISHA R. MWAKUMANTA	2215208	0792929043	
13.	NESELEMIANI RASHID MWAKUMANTA	0468972	0705066530	
14.	SWALEHE K. BEZENZA	0468843	0728765972	
15.	SALIMU M MADINDIMA	0464100	0715094882	
16.	KASSIM S. MADINDIMA	0465615		
17.	MHAMMED S. CHIBANDE	6732454	0721744412	
18.	MAYIDHICA SAID NDASO	20101973	0704957665	

PUBLIC PETITION

REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT
SCHEME ALLOTMENTS

S/No.	NAME	ID NUMBER	ADDRESS OR TELEPHONE NO.	SIGNATURE OR THUMP IMPRESSION
1.	SALIM S. MWAZIWA	0467354	0702386756	
2.	MWANAIDI O. Mchombo	31508370	0701497295	m.o
3.	SALIM M. CHOUNGA	29111398	0725453091	
4.	SULEIMAN SALIM CHOUNGA	34268990	0799545527	
5.	MWANAURO SULEIMAN GUNDU	5412962	0703215842	M.S
6.	MANGALEM-NGALA	NA 24006098	0799757311	
7.	MWAKA JUMA MWADAMA	16000788		
8.	MWANAIKI BUPASHI MWABUPASHI	27503005	0729836484	
9.			0795175802	
10.	MOMO MWALIMU MWAKOJI	0769162	0713682558	M.M
	Fredrick Ngandi RUPALO	22425554	0704928258	Fred
	Masaya Peter Kithaka	24803409	0713494065	Masaya
11.	MUHAMMAD SAID MWANASTRE	29036253	0757703759 0706016143	
12.	CHIREMA JABE MWASASI	2244335	0722461593	
13.	ASHA RASHIDI MWIKAZIWE	23856074	0713868693	
14.	SULEIMAN HAMAD TAMBA	28404330	0797935007	
15.	ZILAFI ALI MUKOZI	32784058	0743464614	
16.	HASSAN ALI BOYA	13417719	0715573600	
17.	ANNAH SIMBA	27974026	0718928100	ANNAH
18.	BETI MWANDAU NIULE	1125423	0714510981	

PUBLIC PETITION
REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT
SCHEME ALLOTMENTS

S/No.	NAME	ID NUMBER	ADDRESS OR TELEPHONE NO.	SIGNATURE OR THUMP IMPRESSION
1.	DZINE LEWA	1124302	0719551141	DZINE
2.	BAKARI MHAMMED	28976282	0799545734	BAKARI
3.	CHIDISSA S. MWAZINA	0469661	0710496473	Chidissa
4.	BINTU HAMIS HAMU	12901219	0719544946	Bintu Hamis
5.	MWANAISHA BUWA	33368520	079638123	Mwanaisha
6.	HAMISA S. MWAZINA	11601963	0704209284	Hamisa
7.	KASSIM C. SULEMAN	23831503	0713444164	Kassim
8.	RASHID MWANGEMA SULEMAN	35928081	0793829912	Rashid
9.	BAPO CHIDISSA MWAZINA	28683600 0704757113	0704757113	Mwazina
10.	ALI MEIKIZI CHIDISSA	24783550	0726130843	Meikizi
11.	AMINA S. MWAZINA	11366469	0705145012	Amina
12.	AJALI KASSIMU MWAZINA	6733729	070270146	Ajali
13.	MWANGUMA BEMBUCHE KUYU	11367161	0799545705	Mwanguma
14.	HAMISI KASSIMU MWAZINA	10954515	0785504819	Hamisi
15.	RASHID KASSIMU MWAZINA	10954816	0726219339	Rashid
16.	Athumani Suleiman Mwaazina	9881367	0713202614	Athumani
17.	MUNGA NDUNG MUTA	11494391	0702041385	Munga
18.	Rehema Nyaru Shamba	33111416	0754261955	Rehema

PUBLIC PETITION

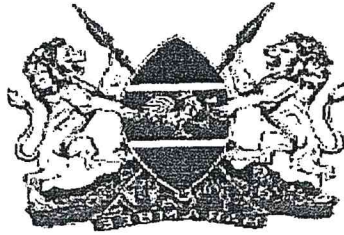
**REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT
SCHEME ALLOTMENTS**

S/No.	NAME	ID NUMBER	ADDRESS OR TELEPHONE NO.	SIGNATURE OR THUMP IMPRESSION
1.	MWANAUBA SULEMANI NROBO	2188272	0798013300	M.S
2.	HAMISI MWASHANE MWAKUZWA	20202359		H.M
3.	HAMISI SWALEH HUNDA	13630177	0794210251	H. Munda
4.	JUMA SAIBI MWAKAZI	23396850	0723740290	J.M
5.	WAKAFI BAKARI KALOLWA	23321119	0713610601 0713610601	W.K
6.	MWANA JUMA D. Mubong	0504390	0794551136	XXXX
7.	SAIDI K. MWAKOLOLA	3960422	0724297266	SAIDI
8.	MARIAM K. MWAKUTALA	23965180	0707895382	MAS
9.	MWAKINYEZI SAIAI	21862880	0708408385	MAS
10.	JANGAA NYONDO JANGAA	27380366	0700242507	J.N.T.
11.	MESAMI MACHIZI KIREMA	8426966	0701647847	M.M.K
12.	ZAWAN WALID	38589121	0707923556	Z.W
13.	ILMARRIE H. MWAITANIRAD	21834800	0713042585	M.M.H
14.	MWANANHAMISI ALI GAVHEU	0465889	0758293660	GA
15.	ISUMA CHOGAMWENDAR	2209202	074496462	I.C.M
16.	MWANARUSIM GARASHI	12488308	0728778405	M.M.C.
17.	BIDALA HAMAD MWASIPHO	22603752	0720707233	BIDALA
18.	MATHIAS M. ISIMBA	20247790	072322259	MAS

PUBLIC PETITION

**REGARDING REGULARIZATION OF THE GOLINI SETTLEMENT
SCHEME ALLOTMENTS**

S/No.	NAME	ID NUMBER	ADDRESS OR TELEPHONE NO.	SIGNATURE OR THUMP IMPRESSION
1.	SALIM MUMINYIHUJI MAJI	23342991	0722506210	
2.	KASHANGA M. KUVYADA	38418918	0795567764	
3.	Hidaya Masuri	37000954	0708455299	
4.	Leli Ngao Leli	24516799	0721908893	
5.	Mgha: msagha mkilo	5474709	0759990655	
6.	OMARI JUMA ZAWI	8396880	0716779153	
7.	Hassan mwatela	28208233	0740513509	
8.	ROSE NZANGI		0729870260	
9.	Anna zungu Mwaisegha	27109700	0720980116	
10.	MBAJI KWALE MENDO	30937029	0748301494	
11.	SULEIMAN KIMKUNG	22893240	0720830061	
12.	LEAH NYAMULA NYARO	26948913	0717024533	
13.	MASUDI S. TUMRO	8390872	05712942528	
14.	MOHAMEDI MIBONCU	24057640	045863036	
15.	CLAYNS MBOZFE MUMBE	23686092	0720360233	
16.	BENN KINYUNDO MWINAMSHA	21528197	0720229908	
17.	LILIAN CHIZI MTUNGA	23757118	0716153576	
18.	HAKIM MWIMIM SULEIMAN	22160851	0727821918	



MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO PETITIONS FROM THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Pursuant to a letter Ref. NA/DC/LANDS/2020/ (025) dated May 18, 2020, the Committee invited the Cabinet Secretary, Ministry of Lands and Physical Planning to submit written responses on the issues raised in the following petitions;

1. Petition by Hon. Tandaza Kasim Sawa, MP on behalf of beneficiaries of Golini Settlement Scheme on regularization of allocation of land in the Golini Settlement Scheme.
2. Petition by Hon. Anthony Tom Oluoch, MP on behalf of residents of Hospital Ward in Mathare Constituency regarding imminent eviction of residents by the Kenya Police Service.

Honourable Chair, I wish to respond as follows;

1. **Petition by Hon. Tandaza Kasim Sawa, MP on behalf of beneficiaries of Golini Settlement Scheme on regularization of allocation of land in the Golini Settlement Scheme**

Honourable Chair,

Background

Golini Settlement Scheme was declared in 1994 on L.R 5003 with an area of approximately 377.02 Ha. It was registered in October 1999 after completion of planning, squatter verification and survey. The scheme realized 395 plots which were registered and title deeds issued.

Complaints from locals alleging marginalization during plot allocation necessitated formation of a committee by the District Plot Allocation Committee in 2003. The scheme

was then abolished vide a ministerial directive of March 2, 2007 and a re-survey done as per ground occupancy. 268 parcels were realized in the re-survey.

The petitioners have requested issuance of letters of allotment in respect of the re-survey map of the year 2007 and restrain the beneficiaries of the allotment in the first survey from selling their respective plots before full issuance of allotment letters as per the resurvey of the year 2007 is concluded.

A legal conflict arose as there were 152 titled parcels from the initial allocation. The re-survey could only be registered upon the nullification of the first allocation.

In 2017, the National Land Commission in its recommendation stated that the scheme was improperly demarcated and registered. The Commission directed that the re-survey should be upheld and new titles reflecting the ground position be issued. However, it did not recommend the nullification of the already existing titles thereby creating a legal hurdle in the implementation of the taskforce report.

However, since the mandate of the National Land Commission to review grants and dispositions under section 14 of National Land Commission Act, 2012 has expired we advise that the aggrieved parties can initiate judicial proceedings to facilitate cancellation of existing titles.

2. Petition by Hon. Anthony Tom Oluoch, MP on behalf of residents of Hospital Ward in Mathare Constituency regarding imminent eviction of residents by the Kenya Police Service

The Petitioners aver that they have lived on the land in question for over twenty years and have developed temporary and permanent residences and several public utilities on the land. They also claim to be living in fear of imminent eviction, particularly in Kosovo and Mathare B areas after the Kenya Police Service alleged to have been issued with a title deed to the land and have petitioned the Committee to;

- i) Inquire into the matters raised in the petition relating to the alleged ownership of land in Hospital Ward in Mathare Constituency with a view to ensuring that rights of residents to land are not subverted by the Kenya Police;
- ii) Intervene through the relevant Government Ministries to halt any potential eviction of residents of Hospital Ward from their land by the Kenya Police until the dispute is investigated by the relevant authorities and resolved;
- iii) Intervene through the Ministry of Lands and the National Land Commission to ensure that land in Hospital Ward in Mathare Constituency is adjudicated and verified residents issued with title deeds and appropriate sections of the land designated for public amenities safeguarded.

Honourable Chair,

Records held in the Ministry reveal that the land in question occupies two parcels namely L.R. NO. 209/6513 measuring approximately 2.47 acres, and L.R. NO. 209/8600 measuring approximately 80.7 acres.

The title for L.R. NO. 209/6513 was registered on March 18, 1965 in favour of the Permanent Secretary to the Treasury on a 99-year lease with effect from January 1, 1961. The land was to be used for police staff housing. A copy of the title is attached as **Annexure 1**.

In 1967, an additional 74 acres was reserved for Mathari Police Depot Rifle Range by the then Commissioner of Lands vide a letter Ref. No. 36040/130 dated April 29, 1967. A copy of the letter is attached as **Annexure 2**.

Upon survey, the portion was issued an L.R. NO. 209/8600. It measures approximately 32.65 Ha (80.7 acres) as delineated in survey map no. F/R 134/199 dated 1976. **Annexure 3A** is a copy of the map and **Annexure 3B** is a satellite overlay of the area.

An allotment letter for L.R. NO. 209/8600 Ref. No. 36040/165 in favour of the Principal Secretary to the Treasury as trustee for Mathari Police Post was issued by the Ministry of Lands on November 4, 2010.

The allotment letter Ref. No. 36040/ 293 was then re-issued by the National Land Commission on July 18, 2019 in favour of the Cabinet Secretary to the National Treasury as trustee for Mathari Police Depot. Copies of both letters of allotment are attached as **Annexures 4&5** respectively. The Ministry is in the process of preparing title documents in respect of these allotment letters.

Honourable Chair, from the foregoing, the land in question is the property of the Kenya Police Service.

Honourable Chair, I submit.


Farida Karoney, EGH
CABINET SECRETARY

June 9, 2020

ANNEXURE 4

New File

3604
2



GL/10/1486

REPUBLIC OF KENYA

Telegrams: "Lands", Nairobi
Telephone: Nairobi 718050/9

REGISTERED

DEPARTMENT OF LANDS
P.O. Box 30089
NAIROBI

Permanent Secretary to the Treasury
(Ministry of Provincial Administration &
Internal Security)
P.O. Box 30007
Nairobi

Ref. No...36040/165
SIR(s) MADAM,

DATE: 4th November 2010

RE: LR NO. 209/8600 – MATHARI POLICE POST

LETTER OF ALLOTMENT

I have the honor to inform you that the Government, on behalf of
County Council hereby offers you a grant of the above plot shown edged red on the attached Plan
No..... subject to your formal written acceptance of the following conditions and to the
payment of the charges as prescribed hereunder:

AREA: ...32.65.....Ha (approximately).
TERM:99..... years from the1/9/1998.....
STAND PREMIUM: Ksh..... Nil..... Subject to adjustment on survey, but
ANNUAL RENT:... Ksh72/= } there is no claim for reduction in area on Survey.

GENERAL: This Letter of Allotment is subject to, and the grant will be made under
the provisions of, the Government Lands Act (Cap. 280 of the Revised
Edition the Laws of Kenya) and title will be issued under the Registration
of Titles Act (Cap. 281) or the Registered Land Act (Cap. 300)
SPECIAL CONDITIONS: See attached.

2. I should be glad to receive your acceptance of the attached conditions together with
banker's cheque for the amount as set out below within thirty (30) days of the postmark:

Stand Premium.....	Sh.
Rent from1/10/2010.....to.....31/12/2010.....	..Nil.....
Conveyancing Fees 20.00.....
Registration Fees 1,250.00.....
Rates On demand 500.00.....
Stamp Duty 50.00.....
Survey Fees On demand
Road and Road Drains On demand
Others Approval fees	5,000.00

Receipt No. Less Deposit
Total Ksh.

6,820/=

*Delete as appropriate

[P.T.O,

36040

If acceptance and payment respectively are not received within the said thirty (30) days from the date hereof the offer herein contained will be considered to have lapsed.

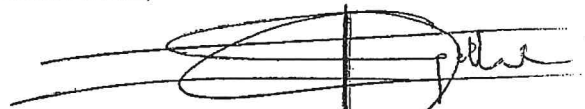
If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

The issue of the Government grant or lease will be undertaken as soon as circumstances permit.

Your full name (s) in BLOCK LETTERS should be given for the purpose of the grant which will be submitted later to you. The attached special conditions form part of the offer which should be accepted in writing. **The Government shall not accept any liability whatsoever in the event of prior commitment or otherwise.**

I have the honour to be,
Sir(s) Madam,
Your obedient servant,

Authority: Govt. F 36040



.....P.K. KAHUHO.....
For Commissioner of Lands

- TO: P/S Ministry of Lands and Settlement, Nairobi
- The Director of Surveys, Nairobi.
- The Town Clerk **Nairobi**
- The Clerk to the Council, County Council of
- The District Commissioner **Nairobi**
- The Director of Physical Planning, Nairobi
- District Land Officer **Nairobi**
- Rates Assistant.)
- The Accountant.)
- O/C Records.) All to note.
- Senior Plan Records Officer.)
- Plot File.)

GPK (L)

30/04/70

147

19th April.

125

The Administrative Secretary,
Police Headquarters,
P.O. Box 30051,
NAIROBI.

NAIROBI - NAIROBI POLICE DEPOT.

Please refer to your letter reference DC/2/1/2/313 dated 17th January, 1967, and subsequent correspondence in the above connection.

2. I now enclose a plan numbered L.D. 36044/150A showing, edged in pink, an area of approximately 74 acres which is hereby reserved to the Kenya Police for the purposes of the Nairobi Depot.



(G. J. YOUNG)
COMMISSIONER OF LANDS.

OK/NSM.

Copy to:-

The Town Planning Advisor,
NAIROBI.

The City Engineer,
P.O. Box 30075,
NAIROBI.

The Permanent For Works,
Buildings Branch,
P.O. Box 30060,
NAIROBI.

The Chief Police Officer,
Nairobi Area Headquarters,
P.O. Box 30051,
NAIROBI.

36044/150A

S.P.R.O. }
@/C Records }

To note.



NATIONAL LAND COMMISSION

**RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE
DEPARTMENTAL COMMITTEE ON LANDS OF THE NATIONAL ASSEMBLY**

REPORT BY:

**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**

15TH SEPTEMBER, 2020

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- i. Petition by Hon. Anthony Tom Oluoch, MP on behalf of residents of Hospital Ward in Mathare Constituency regarding imminent evictions of the residents by the National Police Service
- ii. Petition by Hon. Tandaza Kassim Sawa MP on behalf of residents of Golini Settlement Scheme on regularization of allocation on land in Golini settlement scheme
- iii. Petition by Hon. Richard Ken Kiti Chonga MP. On behalf of Indigenous People of Vipingo.
- iv. Petition by Residents of Keiyo North Nonstituency on Compulsory Acquisition of Land and Compensation for the Construction of Tambach Teachers Training College

HON CHAIR,

We are in receipt of an invitation dated 29th June, 2020, to provide responses to petitions referred to the Departmental Committee on Lands. The responses are as contained in the report hereunder:

(i) PETITION BY HON. ANTHONY TOM OLUOCH, MP ON BEHALF OF RESIDENTS OF HOSPITAL WARD IN MATHARE CONSTITUENCY REGARDING IMMINENT EVICTIONS OF THE RESIDENTS BY THE KENYA POLICE SERVICE

The Petitioners pray that the National Assembly through the Departmental Committee on Lands:

1. Makes inquiries into the matters raised in this Petition relating to alleged ownership of the land in Hospital Ward in Mathare Constituency with a view to ensuring that the rights to land of residents are not subverted.
2. Intervenes through the relevant government ministries to halt any potential eviction from their land by the Kenya Police until the dispute is investigated by the relevant authorities and resolved.
3. Intervenes through the Ministry of Lands and Physical Planning and the National Land Commission to ensure that Mathare Constituency is

adjudicated and verified, residents issued with title deeds and appropriate sections of the land designated for public amenities safeguarded.

RESPONSE

HON CHAIR

The parcel of land which is subject to this petition is known as land reference No. 209/8600. It is situated in Mathare Constituency and measures 32.65 ha. The reference for this land is file No. 36040 which is in the Ministry of Lands and Physical Planning. We did not access it. From the information that the Commission got from the Kenya Police, there is an allocation to Kenya Police who were issued an allotment letter Ref: 36040/165 in November 2010. The Kenya police accepted the offer as indicated by receipt No. 4350218 of 19th February 2016.

The acceptance of the offer was followed by subsequent correspondence between the Land Secretary Ministry of Lands and the Director of Surveys that culminated on forwarding of Deed Plan Number 398470 for Land Reference No. 209/8600. There was also indication that there were earlier commitments which gave rise to Deed Plans 271348 to 271484 for LR Nos. 209/16806-42 (about 36 subplots).

We were not able to establish the current status on registration or documentation progress on LR 209/8600 since the time the Deed Plans were received from the Director of Surveys since the correspondence files were not available. The Ministry of Lands to provide the current status.

From the Google maps and site inspection, we established the following:

1. People living in the informal settlements have encroached and occupied 15.77 ha of the Police land (LR 209/8600).
2. National police Service have occupied about 12.90 ha
3. A portion measuring approximately 2.2 ha is open space and under cultivation.

4. The informal settlement is developed with semi-permanent structures mainly of iron sheets and mud covering about 90% and very few permanent houses covering about 10% of the area occupied.
5. The area occupied by the Police has permanent buildings which include police line and newly constructed sub-county office.

ANSWER TO THE QUESTIONS

1. The National Police Service has ownership documents for the land that they occupy in Mathare Constituency vide letter of allotment Ref: 36040/165 issued on 4th November 2010 for land reference number 209/8600 measuring 32.65 ha.
2. The Commission is not aware if the Police have issued eviction notice to the persons squatting on their land at Mathare.
3. The Commission is not aware if the Police have prevented the youth and children from accessing and using the only available playground.
4. The Commission is not in a position to adjudicate and issue titles for any land in Hospital Ward in Mathare Constituency as the same has been allocated and hence not available.

(ii).PETITION BY HON TANDA ZA KASSIM SAWA, MP ON BEHALF OF RESIDENTS OF GOLINI SETTLEMENT SCHEME ON REGULARIZATION OF ALLOCATION ON LAND IN GOLINI SETTLEMENT SCHEME

The Petitioners pray for intervention of the House through the Departmental Committee on Lands, to compel the concerned department to consider issuing them allotment letters in respect of the re-survey map of the year 2007 and restrain the beneficiaries of the allotment in the first survey from selling their respective plots before full issuance of allotment letters as per the re-survey of the year 2017 is concluded.

RESPONSE

HON.CHAIR,

Golini settlement scheme was established in 1994 on L.R 5003 as settlement scheme NO.469 with an area of 377.02 ha. 395 plots were realized, the scheme was registered and titles deeds issued.

Complains from locals alleging marginalization during plot allocation necessitated formation of a Task force committee by the District Plot Allocation Committee in 2003, which produced the Golini Task Force Report.

The scheme was abolished through a ministerial I directive on 2nd March 2007, and a re- survey done as per ground occupancy, realizing 268 plots as was recommended by the task force.

Conflicting legal status arose after the second re- survey as the first survey and allocation was not nullified and the same had already been registered.

It is on the strength of this resurvey that the Kwale County Land Management Board sought to hear any unresolved/pertinent issues and give recommendations on how to amend and or operationalize the task force proposals with a view of resolving the dispute in the second survey and make recommendations that were to resolve the Golini impasse.

In January 2017, the National Land Commission made recommendations under Article 67(2)(e) on historical land injustices as follows:

- The first survey map used to allocate the land be abolished because it led to erroneous allocation
- The letters of offer that followed were hence null and void
- The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land
- Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
- A proper PDP be prepared to reflect the existing land use and public utilities
- New titles reflecting the actual scenario on the ground be issued and registered thereafter.

This decision was communicated to the Cabinet Secretary, Ministry of Lands and Physical planning and the Governor Kwale County for implementation in a letter reference NO.NLC/CHAIRMAN/VOL.XIX/49 of 25th January, 2017as per the attached report).

(iii).PETITION BY HON.RICHARD KEN KITI CHONGA MP. ON BEHALF OF INDIGENOUS PEOPLE OF VIPINGO

(a)The Petitioner prays that the national Assembly inquiries into the circumstances that led to irregular dispossession of Vipingo Community land from its indigenous owners by private entities, with a view to reverting ownership of the said land to the indigenous people of Vipingo in Kilifi County.

(b) Makes any other recommendations it deems appropriate in the circumstances of the petition.

RESPONSE

HON CHAIR,

(a)Vipingo Sisal Farm is along the 10 mile coastal strip. It was allocated under the Land Titles Ordinance in 1913 with 999 years leasehold and is owned by people who are citizens of Kenya. It was allocated specifically for sisal farming.

However over the years we have had several development applications affecting the farm that has led to several sub divisions some of which have converted to 99 years leases and transferred to several farms such as;

- Vipingo Development Limited
- Vipingo Energy Limited
- Vipingo Golf and Club House
- Vipingo Ridge Limited
- Mombasa Cement
- Sunsale Trading Limited

It is also noted that ownership has been changing hands to other companies which are incorporated with stakes such as REA Vipingo Plantation Incorporated in 1995 for sisal farming with shares floated in Nairobi Stock Exchange in 1996, Centum Investment Company acquired large acreage of the same land as well as REA Trading Limited. This makes it difficult to track down the real ownership of the land

Residents have for years been going to court against the sisal plantation owners .However they lost in case ELC. No.343 of 2016.

The Community filed a historical Land Injustice claim no.NLC/HLI/495/2018 against Vipingo Sisal Estate Limited. Both parties were notified to attend the Historical Land Injustices proceedings sitting at Kilifi on 30th.August 2018.The Community attended the hearing sitting and were represented by Mr. James Kalenga Mganga, but Vipingo Sisal Limited did not attend .The community was allowed to state their claim which they said they wanted restitution and compensation for loss of their land which they claimed was taken away from them by colonial masters with a promise of resettlement and compensation. However Vipingo Sisal Estate had embarked on selling the same to other parties and therefore it was seen wise that the land should revert to the original owners which are the community.

However, the Commission did not conclude the hearing concerning this particular claim because the respondent who is Vipingo Sisal Estate did not appear for the proceedings. The Historical Land Injustices committee of the commission promised to schedule another sitting at a later date .Unfortunately their term came to an end. This matter is among the 43 claims that were not concluded and the current commission has made arrangements to finalize them after the current protocols by the Ministry of Health on Covid-19 have been relaxed to allow for public gathering.. It is also important to note that the ELC Case no.343 of 2016 could have an impact on the outcome of this claim.

(iv)PETITION BY RESIDENTS OF KEIYO NORTH CONSTITUENCY ON COMPULSORY ACQUISITION OF LAND AND COMPENSATION FOR THE CONSTRUCTION OF TAMBACH TEACHERS TRAINING COLLEGE.

The Petitioners claim that their land was acquired by Government in 1985 for construction of a teacher training college in Keiyo after which they duly vacated the parcels to allow for the construction of Tambach Teachers College and awaited compensation by means of allocation of alternative land. The aforementioned compensation was afforded to other persons who were not original land owners and the legitimate beneficiaries have not received any form of compensation to date

The petitioners pray that the National Assembly through the Departmental Committee on Lands investigates the matters raised in this petition with a view to ensuring that their property rights are upheld by being paid, fair and timely compensation for their land.

RESPONSE**HON CHAIR,**

The acquisition was undertaken simultaneously with that for Kaptarakwa Rural health centre and are both in the land acquisition file No. 834

Acquisition of land for the subject project was done through gazette notice number 4260 and 4261 being notices of intention to acquire land and inquiry respectively both dated October 1985.

It is evident from the file that the process was undertaken by the office of the Commissioner of Lands (CoL) (now defunct).

The processes of inspection, awarding and requisition of compensation funds were successfully undertaken.

A total of 58 Project affected Persons (PAPs) had been identified.

There seems to have been a delay in release of funds initially assessed with back and forth correspondences on the same between the CoL and the Ministry of Education.

A head of state pronouncement seems to have directed a land for land compensation other than cash compensation.

The affected were to be allocated alternative land at Sergoit grounds, an arrangement that they seem to have been agreeable to in anticipation that each would get about 5 acres.

The alternative land was surveyed and subdivided into about 160 parcels of various sizes for allocation.

The PAPs were allocated alternative land as evidenced by a sample of the letter of allotment by the District Commissioners office for Mr. Francis Cheplait of id no. 0243711/63

The PAPs were not satisfied with the various lands allocated to them and they complained of strangers being allocated "free land". The Commission wrote to the office of County Commissioner – Elgeyo Marakwet vide letter ref.

VAL.834/53 dated 20th October 2019 to furnish the Commission with the full list of persons allocated land at SERGOIT grounds and the respective acreage.

A response from the County Commissioner was received vide letter ref. CON.LND.CC.16/3/1/VOL.1/61 dated 4th December 2019. Attached is a report by a working group chaired by the assistant County Commissioner.

MAIN FINDINGS:

Land owners were compensated with alternative land at Sergoit holding grounds.

The land available at Sergoit grounds was made available to compensate other land owners whose land was acquired for other projects.

The total acreage was 300 acres against a presidential pronouncement that it was 600 Acres.

The land was enough for everyone.

It is therefore the Commission's confirmation that the land owners were compensated with alternative land.

Thank you Hon. Chair


GERSHOM OTACHI BW'OMANWA
CHAIRMAN

