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21/12/21
DS/MS*

TWELFTH PARLIAMENT-FIFTH SESSION

SELECT COMMITTEE ON IMPLEMENTATION

REPORT ON IMPLEMENTATION STATUS OF

1. THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED; AND
2. THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON ITS CONSIDERATION OF THE PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING THE INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

Directorate of Audit, Appropriations & Other Select Committees
Clerk's Chambers
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DECEMBER, 2021

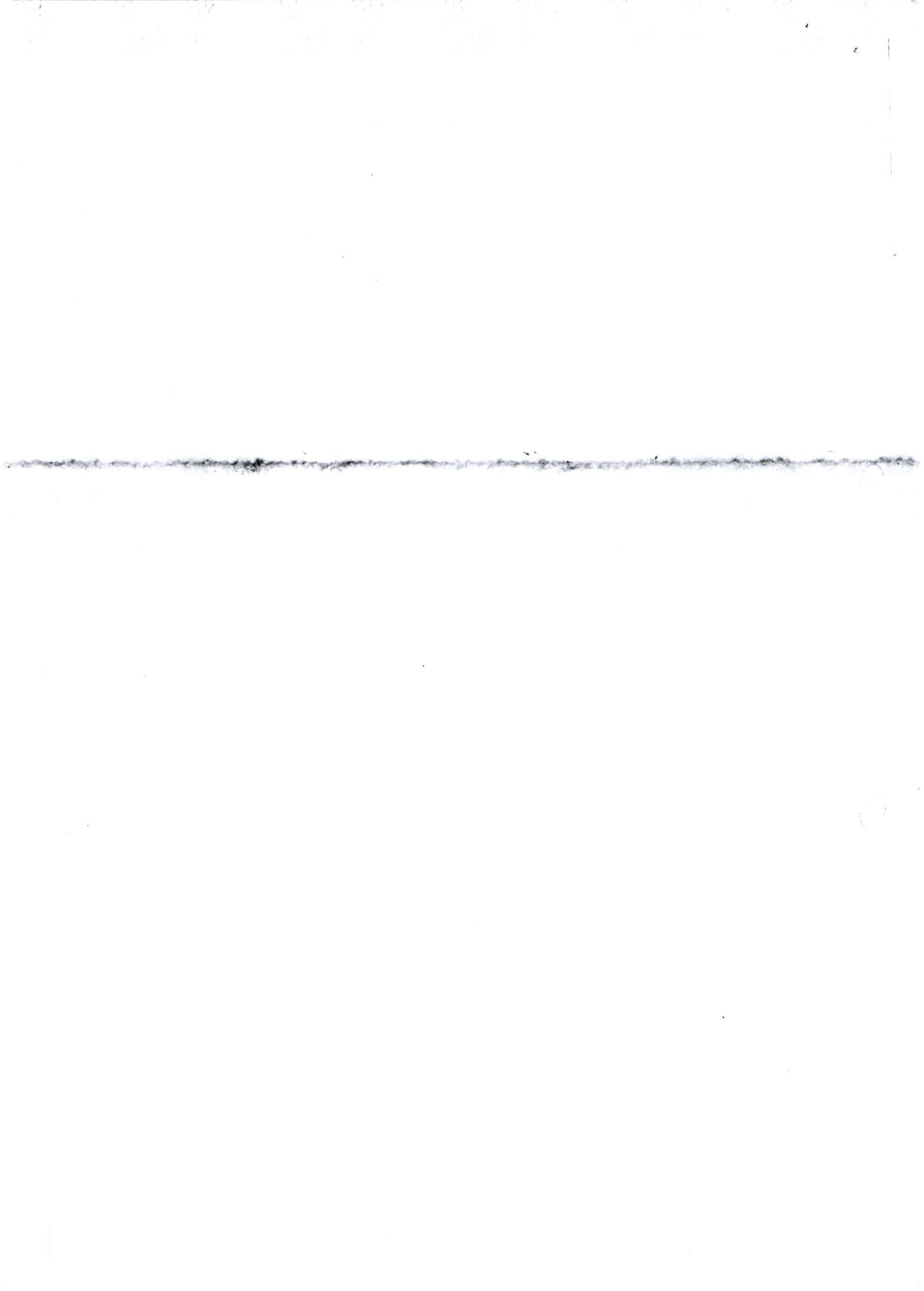
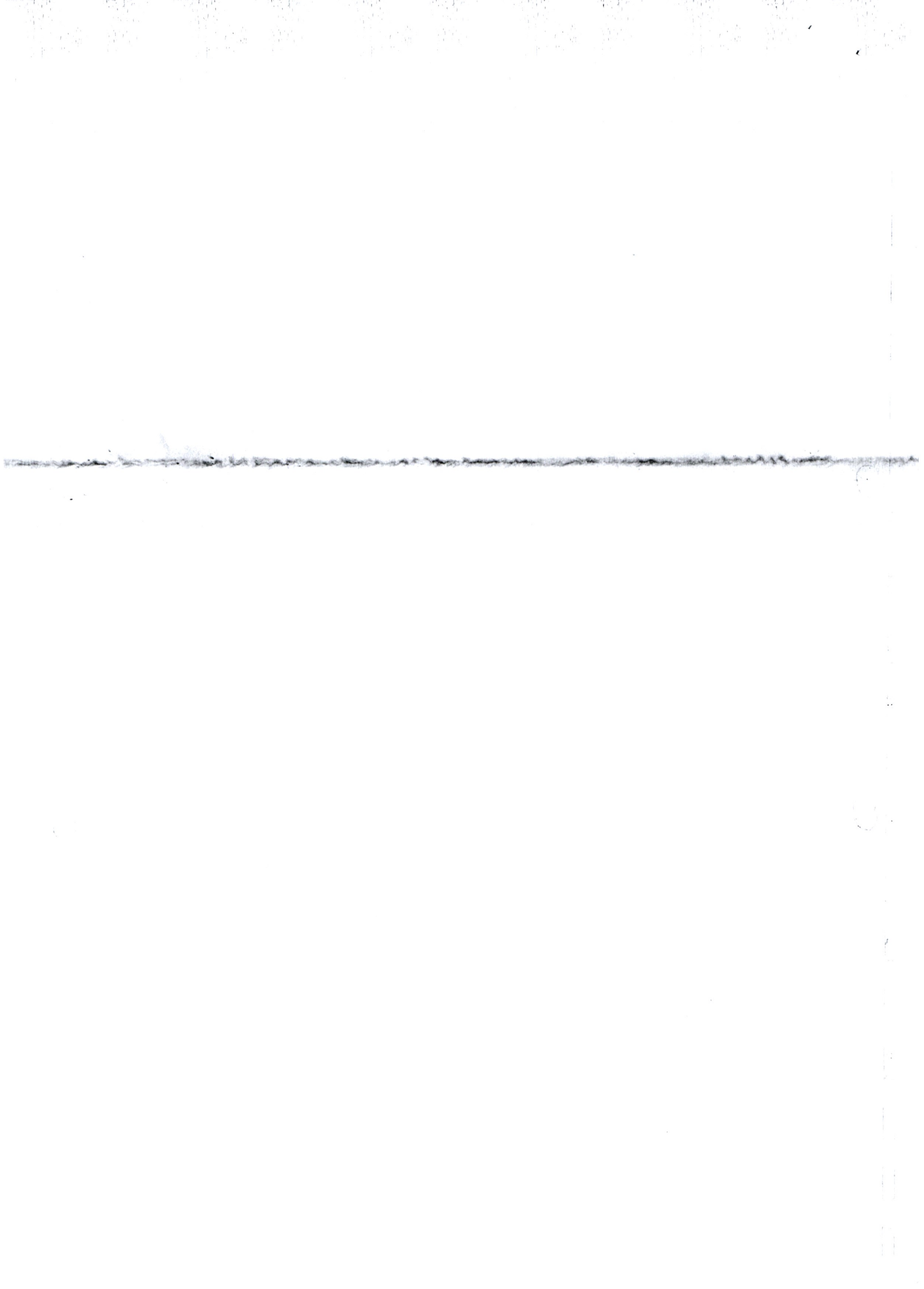


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ABBREVIATIONS

Ha	Hectare
L.R. No.	Land Reference Numbers
NLC	National Land Commission
KAEMA	Kenya Army Electrical and Mechanical Engineers

CHAIRPERSON'S FOREWORD

The Select Committee on Implementation scrutinizes resolutions of the House (*including adopted Committee Reports*), petitions and the undertakings given by the National Executive. It examines whether such decisions and undertakings have been implemented within sixty (60) days as provided for in the National Assembly Standing Orders and whether such implementation has taken place within the minimum time necessary.

The report of the Departmental Committee on Lands regarding the Petition on irregular renewal of leases of Land by Del Monte Kenya Limited was tabled before the House on 21st November, 2019; while the report of the Departmental Committee on Lands regarding the Petition by former workers of the Late Mayer Jacob Samuels on the invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces was tabled before the House on 5th December, 2019.

The Select Committee on Implementation sought to follow up on the implementation status of the aforementioned reports. Subsequently, it held meetings with the Ministry of Lands and Physical Planning officials, the National Land Commission, and the petitioners.

The Committee registers its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for facilitation and support in producing this report.

Pursuant to Standing Order 199(6), it is, therefore, my pleasant duty and privilege, on behalf of the Committee on Implementation, to lay this report on the Table of the House.

Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

The Select Committee on Implementation scrutinizes resolutions of the House (*including adopted Committee Reports*), Petitions and the undertakings given by the National Executive. It examines whether such decisions and undertakings have been implemented within sixty (60) days as provided for in the National Assembly Standing Orders and whether such implementation has taken place within the minimum time necessary.

The report of the Departmental Committee on Lands regarding irregular renewal of leases of Land by Del Monte Kenya Limited was tabled in the House on 21st November, 2019, while the report of the Departmental Committee on Lands regarding the Petition by Former Workers of the Late Mayer Jacob Samuels on the invasion and eviction of the workers from their Land in Roysambu Constituency by the Kenya Defence Forces was tabled before the House on 5th December, 2019.

The Select Committee on Implementation sought to follow up on the implementation status of the aforementioned reports. Subsequently, it held meetings with the Ministry of Lands and Physical Planning officials, the National Land Commission, and the petitioners.

As regards the report of the Departmental Committee on Lands regarding irregular renewal of leases of Land by Del Monte Kenya Limited, the Committee observed that the Ministry of Lands and Physical Planning surveyed the Land currently owned by Del Monte Kenya Limited both in Muranga and Kiambu counties as guided by subdivision scheme plans prepared by a registered physical planner practising as Real Plan Consultants Limited. The survey of all the parcels is complete and awaits approvals from both County Governments of Muranga and Kiambu.

The Committee noted that the recommendation that required survey of the Land owned by Del Monte Kenya Limited in Muranga and Kiambu counties was implemented, while the recommendation that instructed NLC to investigate how Del Monte Kenya Limited later acquired some parcels of Land that have been surrendered to the Government was not implemented. This has not been done due to lack of sufficient records on how the land transfer to Del Monte Kenya Limited was carried out in 1973, The National Land Commission submitted that it had not been able to unearth how the Company acquired the land.

Therefore, the Committee recommends that the lease for L.R No. 12158 be reverted to the Government and declared as public land. Further, The Ministry of Lands and Physical Planning in consultation with the National Land Commission, should allocate the land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively, as per the National Land Commission's Gazette Notice 1995 of 2019, within sixty (60) days of the adoption of the report, failure to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

As regards the report of the Departmental Committee on Lands regarding the Petition by Former Workers of the Late Mayer Jacob Samuels on the invasion and eviction of the workers from their Land in Roysambu Constituency by the Kenya Defence Forces, the Committee observed that the Ministry of Lands and Physical Planning is yet to complete the titling process for L.R. No. 5875/2 as directed by the House, the Ministry submitted that the land belonged to the Kenya Defence Forces.

The Committee recommends that the House approves that the Select Committee on Implementation initiates the process for removal of the Cabinet Secretary for the Ministry of Lands and Physical Planning from office, for failure to implement the House resolution *'that the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County does complete the titling process for L.R. No. 5875/2 within 180 days of tabling of the report'*. The Committee also recommends that the Inspector General of Police should ensure that the Directorate for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2 and submits a report to the National Assembly within sixty (60) days of the adoption of this report.

The Ministry of Lands and Physical Planning should issue titles to the former workers of the Late Mayer Jacob Samuels, within sixty (60) days of the adoption of the report failure to which, the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Implementation is established under Standing Order 209 of the National Assembly Standing Orders.
2. The Committee is charged with scrutinizing the resolutions of the House (*including adopted committee reports*), petitions and the undertakings given by the National Executive and examines whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalised and where operationalised, the extent to which such operationalisation has taken place within the minimum time necessary. The Committee may propose to the House sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.
3. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the appropriate Committee of the House.
4. The mandate of the Committee is further enhanced by the provisions of Article 153(4) (b) of the Constitution which requires Cabinet Secretaries to provide Parliament with full and regular reports concerning matters under their control.

1.2 Committee Membership

5. The Committee membership comprises -

Chairperson

Hon. Moitalel Ole Kenta, MP
Narok North Constituency

Orange Democratic Movement

Vice Chairperson

Hon. Godfrey Osotsi, MP
Nominated

Amani National Congress

Members

Hon. Joash Nyamache Nyamoko, MP

North Mugirang'o Constituency

Jubilee Party

Hon. Paul Simba Arati, MP

Dagoretti North Constituency

Orange Democratic Movement

Hon. Alois Lentoimaga, MP

Samburu North Constituency

Jubilee Party

Hon. Benjamin Tayari, MP

Kinango Constituency

Orange Democratic Movement

Hon. (Dr.) James Murgor, MP

Keiyo North Constituency

Jubilee Party

Hon. Johnson Many Naicca, MP

Mumias West Constituency

Orange Democratic Party

Hon. John Muchiri Nyagah, MP

Manyatta Constituency

Jubilee Party

Hon. Moses Kuria, M.P

Gatundu South Constituency

Jubilee Party

Hon. Feisal Abdalla, MP

Msambweni Constituency

Independent

Hon. Richard Onyonka, MP

Kitutu Chache South Constituency

Ford Kenya

Hon. Paul Odalo Abuor, MP
Rongo Constituency
Orange Democratic Movement

Hon. John Wanjiku, MP
Kiambaa Constituency
United Democratic Alliance

Hon. Hassan Oda Hulufu, MP
Isiolo North Constituency
Kenya Patriots Party

Hon. Michael Thoya Kingi, MP
Magarini Constituency
Orange Democratic Movement

Hon. Nelson Koech, MP
Belgut Constituency
Jubilee Party

Hon. Kihara Peter Kimari, MP
Mathioya Constituency
Jubilee Party

Hon. Joshua Mbithi Mwalyo, MP
Masinga Constituency
Wiper Democratic Movement-Kenya

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency
Wiper Democratic Movement

Hon. Mukuha Gabriel Kago, M.P
Githunguri Constituency
Jubilee Party

Hon. Jared Okello, MP
Nyando Constituency
Orange Democratic Movement

Hon. Silvanus Onyiego Osoro, MP
South Mugirang'o Constituency
Kenya National Congress

1.3 Committee Secretariat

6. The Secretariat facilitating the Committee in executing its mandate comprise of: –

Ms Tracy Chebet Koskei
Clerk Assistant I /Team Leader

Mr Abdirahman Hassan
Clerk Assistant II

Dr Donald Manyala
Research Officer II

Ms Mercy Wanyonyi
Legal Counsel

Ms Winnie Kizia
Media Relations Officer

2.0 THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON A PUBLIC PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED

2.1. Background

7. The Petition by Mr. Philip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases held by Del Monte Kenya Limited was presented to the House by the Honorable Speaker on 11th June, 2019.
8. The Petitioners claimed to be the original owners of the land presently occupied by Del Monte Kenya Limited but were illegally displaced and the land leased to the company. They were aggrieved that the County Government of Muranga had renewed the leases for the company without first involving the public as required by Section 13 of the Land Act, 2012. They also claimed that the County Government disregarded the determination of the National Land Commission rendered on February 7, 2019 in their historical injustice claim filed with the Commission.
9. In a Gazette Notice No. 1995 of 2019, the National Land Commission directed that the land held by Del Monte Kenya Limited should be resurveyed to establish if the company owned land that it is not registered to have. The surplus land, if any, should be surrendered to the Kandara Residents Association and the county government for a public purpose in the ratio of 70:30 respectively. Where no surplus land is found, the county government of Muranga should retain adequate land for the settlement of the claimants and for public purpose upon expiry of the leases. The Commission also directed that Del Monte Kenya Limited should surrender all public utilities within the land in question to the relevant national and county government agencies whether the leases have expired or not.

2.1 Recommendations by the Departmental Committee on Lands

10. In considering the Petition, the Departmental Committee on Lands observed that the submissions made by the Ministry of Lands and Physical Planning and Hon. Jude Njomo, Member of Parliament, Kiambu Constituency regarding registration of the lease held by the company in Muranga County registered as L.R No. 12158 (measuring approximately 2900 acres); and differed. While the Ministry submitted that the parcel of land arose out of the amalgamation of land parcels L.R Nos. 10862, 10741, 11312, 2953, 4873 and 11146, the Honourable Member of Parliament informed the Committee that the said parcels were surrendered to the Government by two companies, Sassa Coffee Rappit B Limited and were later irregularly acquired by Del Monte Company Limited.
11. In view of the above, the Committee in its report tabled on 21st November, 2019, recommended that the Director of Survey, Ministry of Lands & Physical Planning,

resurvey the land held by Del Monte Kenya Limited in Muranga and Kiambu Counties.

12. The Committee also recommended that the National Land Commission does investigate the circumstances under which L.R Nos. 10862, 10741, 11312, 2953, 4873 and 11146 that were said to have been surrendered to the Government by Sassa Coffee and Rappit B were irregularly acquired by Del Monte Kenya Limited.

2.2 Submissions on the implementation status

13. The Select Committee on Implementation commenced to apprise itself on the implementation status of the matter and invited the Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson, National Land Commission to a meeting on 27th October, 2020, 14th April, 2021 and 29th July, 2021.

14. The Committee also received written submission by the Cabinet Secretary for the Ministry of Lands and Physical Planning on 2nd August, 2021. Kandara Residents Association also made a written submission on 7th October, 2021.

2.3 Submission by the Ministry of Lands and Physical Planning

15. The Chief Administrative Secretary for the Ministry of Lands and Physical Planning appeared before the Committee on 27th October, 2020. During the meeting, the Committee was informed that a resurvey of the land legally held by Del Monte in Kiambu and Muranga Counties was done. However, the two counties have not approved the subdivisions and the extension/renewal of the leases.

16. The Ministry submitted that it had surveyed the following land currently owned by Del Monte Kenya Limited both in Muranga and Kiambu counties:

- i. L.R. No. 12157/ 1 (measuring 3860 Ha) in Muranga County (as per F/R 316/67)
- ii. L.R. No. 12157/3 (measuring 2.987 Ha) in Muranga County as per F/R16/67)
- iii. L.R. No. 12158 (measuring 2963.1 Hectares) traversing Muranga and Kiambu Counties (as per F/R 127/3
- iv. L.R. No. 12203/1 (measuring 2072 Hectares) in Kiambu County.

The Ministry informed the Committee that the survey was guided by subdivision scheme plans prepared by a registered physical planner practising as Real Plan Consultants.

17. In a meeting held on 29th July, 2021 and through a further written submission dated 2nd August 2021, the Cabinet Secretary outlined the proposed excisions for public

purpose/utility plots. The proposals are contained in five scheme plans referenced as follows:

- (i) RPC/1170 (F) –a proposed subdivision of L.R. No. 12157/1 located in Gatanga Sub-County, Murang'a County to excise all twelve (12) portions;
- (ii) RPC/1170 (c) /020/005 –proposed subdivision of L.R. No. 12157/3 located in Gatanga Sub-county, Muranga County in two (2) portions;
- (iii) RPC/1169/020/017- proposed subdivision of L.R. No. 12158 located in Gatanga Sub-county, Muranga County in three (3) portions;
- (iv) RPC/1169/019/025 – a proposed subdivision of L.R. No. 12158 located in Kiambu County into three portions and change of user of sub plot C from agricultural to educational (Ndula Primary and Secondary Schools);
- (v) RPC/1169/019/026 – proposed subdivision of L.R. No. 12203/1 located in Kiambu County into five (5) portions.

18. The outcome of the survey was as follows:

- (1) L.R. No. 12203/1 – measuring 2101 Hectares has a leasehold of 49 years with effect from 1st July, 1970. The lease expired on 1st July, 2019 and the application for renewal of the lease was submitted to the National Land Commission.

The Land is proposed to be subdivided into five portions as follows:

- (i) Portion 'A' measuring approximately 1792.54 Ha remains with Delmote Kenya Ltd;
- (ii) Portion 'B' measuring 55.32 Ha - surrender to the County Government of Kiambu;
- (iii) Portion 'C' measuring approximately 67.30 Ha - surrender to the County Government of Kiambu;
- (iv) Portion 'D' measuring approximately 131.50 Ha - surrender to County Government of Kiambu;
- (v) Portion 'E' measuring approximately 25.50 Ha - surrender to County Government of Kiambu.

- (2) L.R. No. 12203/2 measuring 56.57 Ha with a leasehold of 49 years with effect from 1st July, 1970. The lease expired on 1st July, 2019 and the application for renewal of the lease was submitted to the National Land Commission.

The Ministry submitted that the survey had established the boundary beacon were found to be intact. Del Monte Company Ltd was within its borders.

19. Resurvey of Land held by Del Monte Limited in Muranga County

- (1) L.R. No. 12157/1 measuring 3860 Ha, leasehold of 49 years with effect from 1st May, 1973. The lease will expire in 2022.

Application for extension of lease submitted to the National Land Commission and forwarded to the Ministry. Provisional approval is given by the Ministry and waiting for approval by the County Government of Murang'a.

The Land is proposed to be subdivided into twelve (12) portions;

- (i) The portion "A:" measuring approximately 8245.06 acres for agricultural purposes (to remain in the Company's name);
- (ii) Portion 'B' measuring approximately 5.02 acres for public purposes (Ngati Police Station and Chief's camp) – to be surrendered;
- (iii) Portion "C" measuring approximately 5.16 acres for educational purposes (Del Monte secondary school) to be surrendered;
- (iv) Portion 'D' measuring approximately 2.62 acres for educational purposes (Kinguru primary school – to be surrendered)
- (v) Portion 'E' measuring approximately 4.62 acres for recreational purposes (public playground) to be surrendered;
- (vi) Portion 'F' measuring 2.99 acres for public utility (Ithanga water supply intake) to be surrendered;
- (vii) Portion 'G' measuring 1187.17 acres for public land to be surrendered to the County of Muranga;
- (viii) Portion 'H' measuring approximately 192.83 acres for public land to be surrendered to the County Government of Murang'a;
- (ix) Portion 'J' measuring approximately 20 acres for public use (to be surrendered to the County Government of Murang'a);
- (x) Road widening area measuring approximately 14.78 acres for transport (Oloiptip Road, 40M to be surrendered);
- (xi) Road widening area measuring approximately 47.25 acres for transport (Kakuzi Road, 40 M to be surrendered);
- (xii) The proposed area for 12 Meter access roads measuring approximately 4.05 acres (Del Monte Mixed Secondary School, public playground and Ithanga Water Supply Intake) to be surrendered.

- (2) 12157/2 measuring 40.87 Ha with a leasehold of 49 years from 1st May, 1973. The lease will expire in 2022. The Ministry submitted that the survey had established that the boundary beacon was found to be intact. Del Monte Company Ltd was within its borders

The Ministry further submitted that the Company had applied for an extension of lease submitted to the National Land Commission and forwarded to the Ministry. Additionally, provisional approval had been given by the Ministry and was waiting for approval by the County Government of Murang'a.

- (3) 12157/3 measuring 2.987 Ha with a leasehold of 49 years from 1st May, 1973. The lease will expire in 2022. The boundary beacon was found to be intact. Del Monte Company Ltd was within its borders.

The land is to be sub-divided into two portions: -

- (i) Portion 'A' measuring approximately 1.88 Ha to remain agricultural land (in the company name);
- (ii) Portion 'B' measuring approximately 1.11 Ha to be used as a playground for Moi Primary School.

- (4) L.R. No. 12157/4 measuring 2.311 Ha with a leasehold of 49 years from 1st May, 1973. The lease will expire in 2022. The boundary beacon was found to be intact. Del Monte Company Ltd was within its borders.

Application for extension of lease submitted to the National Land Commission and forwarded to the Ministry. Provisional approval was given by the Ministry and is awaiting approval by the County Government of Murang'a.

- (5) L.R.12157/5 is measuring 5.677 Ha with a leasehold of 49 years from 1st May, 1973. The lease will expire in 2022. The boundary beacon was found to be intact. Del Monte Company Ltd was within its borders.

The Ministry informed the Committee that the Company had applied for an extension of lease submitted to the National Land Commission and forwarded to the Ministry. Further, provisional approval had been given by the Ministry and was waiting for approval from the County Government of Murang'a.

20. Resurvey of Land held by Del Monte Kenya Limited traversing Murang'a and Kiambu Counties

- (1) L.R. No. 12158, measuring 2972.8 Ha less road reserve of 9.7 Ha is an amalgamation of L.R No. 10741, L.R. 10862, L.R. No. 11146. LR No. 11312, LR No. 2953. The land has a leasehold of 49 years from 1st May, 1973. The lease will expire in 2022.

The survey also established that the boundary beacon was intact and that Del Monte Company Ltd was within its borders.

Further, the Ministry submitted that the Company had applied for an extension of lease and provisional approval given by the Ministry. The Company was awaiting approval by the County Governments of Murang'a and Kiambu.

The Ministry also submitted that the land is proposed to be subdivided into three portions and change of user of subplot C from agricultural to educational (Ndula Primary and Secondary Schools) as follows:

- (i) Portion 'A' measuring approximately 1938.12 Ha for agricultural purposes (situated in Murang'a County, to remain in the Company's name;

- (ii) Portion ‘B’ measuring approximately 1029.41 Ha for agricultural purposes (situated in Kiambu County, to remain in the Company’s name);
- (iii) Portion ‘C’ measuring approximately 4.97 Ha for public purposes (Ndula Primary and Secondary Schools situated in Kiambu County- to be surrendered;
- (iv) Portion ‘D’ measuring approximately 1.54 Ha for public purposes (Nginyi Primary School situated in Murang’a County- to be surrendered;
- (v) Approximately 17.90 Ha have been set aside for roads (to be surrendered).

21. In conclusion, the Cabinet Secretary submitted that the Ministry had established during the resurvey that Beacons for all the parcels were intact and that Del Monte was within its boundaries. She added that the Company does not hold excess land.

2.4 Submission by the Chairperson National Land Commission

22. The NLC Chairperson, Mr. Gershom Otachi, appearing before the Committee on 29th July, 2021 submitted that original parcels L.R. Nos. Chui Estates Limited owned 10862, 10741, 11312, 2953, 4873 and 11146 up to around 1973 when through a memorandum of registration of transfer of lands and at a consideration of Kshs. two million were transferred to the Government of Kenya. The transfer was executed on 1st May, 1973.

23. The Commission took note of passage in time and parties involved in the transaction (unidentified directors of Chui Estates Limited and one James Aloisius O’loughlif as Commissioner of Lands). It could not unearth further details that necessitated the transfer nor amalgamation of the said parcels of land.

2.5 Submission by Kandara Residents Association

Kandara Residents Association, represented by their lawyers; Mr. Duncan Okatch and Mr. Jackson Ikua, during a meeting held on 14th April, 2021; 29th July, 2021 and 30th September, 2021 submitted as follows:

24. From the resurvey of the land, it showed that 1,400 acres was set aside as public land, however they raised concern how much of the Land would go to the petitioners.

25. They also raised concern with the submission by the Chairperson NLC, regarding the parcels of land owned by Chui estates, that the Commission could not unearth details that necessitated transfer of the land to Del Monte. The petitioners noted that the land should have reverted back to the public and not Del Monte.

26. The Petitioners made the following prayers to the Committee: -

- i. In the report by the Cabinet Secretary for the Ministry of Lands and Physical Planning tabled before the Committee, there was an indication that there were plans by Del Monte Kenya Limited to excise land for public use prior to the renewal of leases and that the excised land will be surrendered to the County Governments of Kiambu and Muranga. The petitioners noted that that went against the directive of NLC, further the County Governments had not asked for land. The petitioners therefore prayed that any land to be allocated in settlement of the claims be surrendered to them directly and not County Governments.
- ii. Del Monte Kenya Limited is occupying public land that is L.R. 12158 which was amalgamated from L.R Nos. 10741, 10862, 11146, 11312 and 2953. The land should therefore be declared as public land and used for resettlement of the Petitioners.
- iii. That all property known as Sassa Coffee L.R. 9213/1 measuring 511 acres be declared public land as the same never belonged to Del Monte Kenya but existed as a separate entity. The land should then be used to resettle the Petitioners.
- iv. That no renewal of leases for Del Monte Kenya should take place until resettlement of the Petitioners is done.

The petitioners also raised the following issues pertaining the submission by the Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson National Lands Commission.

The Chairperson, NLC indicated that they could not find any records on amalgamation of L.R No. 10741, L.R. 10862, L.R. No. 11146. LR No. 11312, LR No. 2953, whose previous owners were legal entities that have since been wound up. Prior to the winding up their operations, they had surrendered the said properties to the Government of Kenya.

Available records at the Ministry of Land show the last entry and/or dealing with regards to the above parcels were the surrender to the Government of Kenya and to this end, these parcels constitute public land.

The Petitioners also submitted that records at the Directorate of Survey show that due process was not followed when the amalgamation of the aforementioned land parcels was done.

2.6 Implementation status of House Resolutions

The Departmental Committee on Land in its report tabled on 21st November, 2019, recommended that the Director of Survey, Ministry of Lands & Physical Planning does resurvey the Land held by Del Monte Kenya Limited in Muranga and Kiambu Counties

27. The Ministry of Lands and Physical Planning has surveyed the Land currently owned by Del Monte Kenya Limited both in Muranga and Kiambu counties; L.R

No. 12157/1 measuring 3860 Hectares in Muranga County, L.R No. 12157/3 measuring 2.987 Hectares in Muranga County, L.R No. 12158 measuring 2963.1 Hectares traversing Muranga & Kiambu Counties and L.R No. 12203/1 measuring 2072 Hectares in Kiambu County.

28. The survey was guided by subdivision scheme plans prepared by a registered physical planner practicing as Real Plan Consultants Limited. The survey of all the parcels is complete and awaits approvals from both county governments of Muranga and Kiambu.

Committee observation

29. This recommendation has been implemented. However, the Committee was not satisfied with the Ministry of Land and Physical Planning's submission that Del Monte Kenya Limited does not hold excess Land.

On the recommendation that the NLC investigates the circumstances under which L.R. Nos. 10862, 10741, 11312, 2953, 4873 and 11146 that were said to have been surrendered to the Government by two companies namely Sassa Coffee and Rappit B. Limited were later irregularly acquired by Del Monte Kenya Limited

Implementation status

30. This has not been done as the Ministry of Lands and NLC submitted that due to passage of time it had not been able to unearth how the Company acquired the land.

Committee observation

31. There were no sufficient records on how the transfer of the land to Del Monte Kenya Limited in 1973 was carried out. The Committee therefore notes that this land ought to be public land.

2.7 Committee Recommendations

32. The lease for L.R No. 12158, which resulted from the amalgamation of L.R No. 10741, L.R. 10862, L.R No. 11146. L.R No. 11312 and L.R No. 2953 should be reverted to the Government of Kenya and declared as public land. Further, the land should be allocated to Kandara Residents Association for their settlement; and
33. The Ministry of Lands and Physical Planning in consultation with the National Land Commission should allocate the land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively, as per the National Land Commission's Gazette Notice 1995 of 2019.

3.0 REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON ITS CONSIDERATION OF THE PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING THE INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

3.1 Background

34. The Petition by former workers of the Late Mayer Jacob Samuels regarding invasion and eviction from their land by the Kenya Defence Forces was presented to the House by the Hon. Speaker on 27th June, 2019.
35. The petitioners claimed that they were former workers of the late Mayer Jacob Samuels employed in his sisal processing farm and workshop industry on L.R. No. 5875/2 before he passed away in 1974. They claimed that the deceased's family allowed them to continue staying on the land after they could not pay their salaries.
36. The petitioners registered Roysa Community Development Society to safeguard the land from grabbers and later requested the Nairobi City County Government to allocate the land to them. The County Government of Nairobi and the National Land Commission approved the subdivision of the land and the Ministry of Lands and Physical Planning subsequently issued letters of allotment.
37. According to the Ministry of Defence, LR No. 5875/2, the land in dispute was compulsorily acquired by the Commissioner of Lands vide Gazette Notices Nos. 5151 and 5152 of 1985 pursuant to a request by the then Permanent Secretary in charge of the Department of Defence in the Office of the President.
38. The land was valued at Kshs. 3,530,500 by the Commissioner of Lands and the compensation award was duly paid by the Department of Defence to the Commissioner of Lands. The beneficial owner of the land, Mr. Meshunor Jacob Samuels was dissatisfied with the compensation award and commenced proceedings to challenge the valuation in the High Court under Land Acquisition Appeal No. 2 of 1986.
39. In accordance with section 13(2) of the Land Acquisition Act, the compensation award was deposited in the High Court by the Commissioner of Lands and a deposit receipt issued by the High Court Registrar and subsequently released to Mr. Jacobs on 3rd of October, 1987. This was confirmed by the Attorney General's letter and M/s Robson Harris & Co. Advocates confirming that the Kshs. 3,530,500 was received by them on behalf of their client, Mr. Jacobs.

40. The Commissioner of Lands issued a notice of taking possession in accordance with section 19(1) of the Land Acquisition Act on 25th June, 1986. The notice also required Mr. Jacobs to deliver the title documents to the Registrar of Titles for cancellation. In accordance with section 19(4) of the Land Acquisition Act, the title to the land vested in the Government absolutely, free from encumbrances for the unexpired term of 99 years from 1906 as at the 25th June, 1986.
41. The High Court enhanced the award to Kshs. 23,000,000. The decision was subsequently appealed by the Attorney General vide Nairobi Civil Appeal No.109 of 1987 which was later settled and the Government agreed to pay the enhanced award. The land in question was formally handed over to the Ministry of Defence on the 25th of June, 1986. The land was used as a training ground by the Kenya Army Electrical and Mechanical Engineers (KAEMA) and a temporary vehicle workshop by the Kenya Army. Following the establishment of a fully-fledged workshop at Kahawa Garrison, the temporary workshop was closed. The land was subsequently used as a temporary camp for military athletes owing to its close proximity to Kasarani Sports Complex.
42. The Ministry was in early 2019 requested to identify potential land for affordable housing programme. The Roysambu camp was identified as potential land for the construction of Senior Non-Commissioned Officers (NCO) housing under the affordable housing programme. Consequently, the Ministry elected to improve security at the camp by repairing the stone fence. The camp also houses a detachment from Kahawa Garrison.
43. Kasarani Mall Ltd which is a subsidiary of Uchumi Supermarkets Plc is the registered owner of LR. No. 5875/2 situated in the Kasarani area of Nairobi. Records held by Kasarani Mall Ltd indicate that the Commissioner of Lands on behalf of the President granted the land to Solio Construction Company Limited vide Grant of Lease No. I.R. 85371. The Grant was transferred to Kasarani Mall Ltd vide a transfer registered at the Lands registry on the 20th March, 2001 as L.R. No. 85371/2.
44. Uchumi claims that Kasarani Mall Ltd lawfully acquired a valid title from Solio Construction Company Limited through the said transfer. That after acquisition of the land, the title has been used by Uchumi Supermarkets Plc. to secure financing from KCB Bank Kenya Limited and Eastern and Southern Africa Trade and Development Bank on the 7th December, 2004. Each of these facilities was repaid and the respective charges registered therein discharged on the 28th June, 2011.
45. Uchumi Supermarkets Plc. further claims that the Directorate of Criminal Investigations, then known as Criminal Investigations Department (CID) investigated the validity of the transfer in 2008, following allegations that the transaction was fraudulent. The CID confirmed that the property was procedurally

allocated to Solio Construction Company Limited who acquired a valid title. There was no evidence of collusion or conspiracy between Solio Construction Company Limited and the Lands Registry during the allocation of the property. Solio Construction Company Limited transferred a valid title to Kasarani Mall's title in 2001 on 'willing buyer willing seller' and that the caveat on Kasarani Mall's title had no legal basis or justification and had unreasonably prevented the sale or development of the property.

46. In 2010, members of Roysambu Self Help Group (an unregistered society) invaded the property. In response, Kasarani Mall Ltd filed a case at the Environment and Land Court being Civil Case No. 495 of 2011. According to court records, the defendants therein similarly alleged that being former employees of Major Jacob Samuels, the previous owner and following his demise, they were given the land by individuals identified as Rapahel and Meshmor Samuel (allegedly Major Samuel's sons) to develop the same.
47. The court allowed Kasarani Mall Ltd's claim for vacant possession and a permanent injunction against the defendants and declared that Kasarani Mall Ltd is the absolute and indefeasible owner of the property in terms of section 26(1) of the Land Registration Act.
48. The National Land Commission's position is to the effect that the Department of Defence acquired Land which was on a 99-year lease in 1986 and that the lease was to expire in 2005. Solio Construction Company Limited which sold land Kasarani Mall Ltd was allocated L.R No. 5875/2 on the 1st of July, 1999 and the allocation was done when another lease was subsisting leading to double allocation.
49. The NLC recommended that Kasarani Mall Ltd should surrender their title back to the Government because it was irregularly issued, or in the alternative the Chief Land Registrar should place a Government Caveat on the said title. All letters of allotment issued irregularly on the irregular subdivision of LR No. 5875/2 by the Ministry of Lands and Physical Planning to be surrendered for cancellation because records from the Ministry of Lands show that the notice of taking possession was lodged and registered in the Government Lands Register of the 25th June 1986 committing the said land to the Department of Defence.
50. Further, during deliberation of the matter by the Departmental Committee on Lands, the Committee heard that investigations by the NLC showed that Solio Construction Company had two sets of titles for the same property. The first was registered on 18th May, 1992 with different L.R. numbers, while the second set of title was registered on 20th January, 2001.

51. Additionally, it also emerged that that the transfer form that was used to transfer parcel of land L.R. No. 5875/2 was fraudulent as the officer who was purported to have signed the document, appearing before the Departmental Committee on Lands, disowned the document and claimed that her signature was forged.
52. The Ministry of Lands and Physical Planning submitted that there is no evidence that the Ministry of Defence ever relinquished their interest on the land. Subsequently, all transactions undertaken by the Nairobi City County Government purporting to allocate and sub-divide the Land are un-procedural and misleading. The Ministry was never consulted to give the true position, nor approved the purported sub-division. The Ministry recommended that the subdivision scheme and the letter of subdivision issued to individuals be cancelled or withdrawn and the status quo as per their records be retained since the land remains the property of the Government, alienated to the military. Further that the Director of Surveys be informed to reinstate the parcel to its original number.
53. According to the Petition submitted to Parliament, the petitioners, who claim to be former workers in the estate of the late Mayor Jacob Samuels, allege that the Kenya Defence Forces invaded the property in Roysambu Constituency which was given to them by the estate of the deceased.
54. Subsequently, the Government filed a case at the Environment and Land Court in Nairobi Judicial Review Application No.008 of 2020, Republic Vs Director Land Administration Ministry of Lands and Physical Planning, Chief Land Registrar Ministry of Lands and Physical Planning, Attorney General and Roysambu Community Development Society. A Notice of Motion Application dated 21st May, 2021 was filed seeking that the court grants a Judicial Review Order of Mandamus directed at the Director Land Administration and the Chief Land Registrar to process and issue Certificate of Leases and Certificate of Titles to individual members as per the approved subdivision scheme relating to LR No. 5875/2 as approved by the National Land Commission; and to process and issue Certificate of Leases and Certificate of Titles for public utilities being Roysambu Technical Institute, Roysambu Bus and Market, Roysambu Recreation Centre, TITI and secondary school as per the approved subdivision scheme relating to LR No. 5875/2 as approved by the National Land Commission and as per the allotment letters issued by the Nairobi City County.

3.2 Recommendations by the Departmental Committee on Lands

55. The Departmental Committee on Lands tabled its report on 5th December, 2019 and made the following recommendations:
- (i) That the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the titling process for L.R. No. 5875/2 within 180 days of the tabling of the report;

- (ii) The Director for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2 and the Director of Public Prosecutions does prosecute any person found culpable within ninety (90) days of tabling of the report; and
- (iii) That the Ministry of Lands and Physical Planning does secure the title relating to L.R 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R. 5875/2.

3.3 Submissions by the Cabinet Secretary for the Ministry of Lands and Physical Planning

- 56. The Ministry submitted that the Government issued a notice of intention to acquire the Land for the Kenya Defence Forces vide Gazette Notices No. 5151 and 5152; and a Notice of taking possession 'by the Government absolutely' was lodged and registered in 25th June, 1986. This position was supported by the Ministry of Defence.
- 57. The Ministry of Defence stated that the Commissioner of Lands valued the land at Kshs. 3,530,500 which sum was duly paid by the Commissioner. The valuation was challenged in the High Court which enhanced the award to Kshs. 23,000,000. The decision was subsequently appealed by the Attorney General Vide Nairobi Civil Appeal No. 109 of 1987 which was later settled and the Government agreed to pay the enhanced Award.
- 58. The CS confirmed to the meeting that the Government had paid Kshs. 3, 530, 500 to the family of the late Mr. Samuels, through Middle East Bank. She added that there is documentation to confirm this.
- 59. Regarding who the owner of the land is, the Cabinet Secretary submitted that the land was allocated to Kasarani Mall limited.
- 60. Regarding allegations that the Department of Defence was a front to grab the land for individuals, the Cabinet Secretary submitted that this was untrue and she had herself engaged with the Department of Defence regarding the said land and the land indeed was to go to the Military.
- 61. The Honourable Member noted that during deliberations of the Departmental Committee on Lands the Director of Land Administration had submitted that the land belonged to the Kenya Defence Forces having compulsorily acquired the land in 1986. However, he reported that during the current on-going Court Case, the office of the Attorney General has submitted that the land belongs to Kasarani Mall Limited.

3.4 Implementation status

i. *The Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the titling process for L.R. No. 5875/2 within 180 days of tabling of the report;*

62. The Cabinet Secretary submitted that it had not implemented the House resolutions due to the advisory by the Hon. Attorney General vide letter Ref. AG/CIV/47/20 dated 11th August, 2020 to the National Assembly indicating that the land parcel L.R. No. 5872/2 belonged to the Kenya Defence Forces.

Committee Observation

63. The Committee noted that the National Land Commission and the County Government of Nairobi had played their roles as directed by the House. However, ~~the Ministry of Lands and Physical Planning has failed to implement the resolution.~~ At the time of tabling the report, it was eighteen (18) months past the timelines given by the Departmental Committee on Lands.

ii. *The Director for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2 and the Director of Public Prosecutions does prosecute any person found culpable within ninety (90) days of tabling of the report.*

Implementation status

64. The Committee is yet to receive a report from the Directorate of Criminal Investigations.

iii. *That the Ministry of Lands and Physical Planning does secure the title relating to L.R. 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R. 5875/2.*

Implementation status

65. L.R. No. 23393 is registered in favour of Kasarani Mall Limited. The parcel is adjacent to L.R. 5875/2 and is not in contention given that the application by Kasarani Mall Limited for amalgamation of the two properties was never finalized.

Committee Observation

66. Implementation has been done.

3.5 Committee Recommendations

67. The House should initiate the process for removal of the Cabinet Secretary for the Ministry of Lands and Physical Planning for failure to implement the House resolution 'that the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County does complete the titling process for L.R. No. 5875/2 within 180 days of tabling of the report'.

68. The Inspector General of Police should ensure that the Directorate for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2 and submits a report to the National Assembly within sixty (60) days of the adoption of this report.

4.0 COMMITTEE RECOMMENDATIONS

The Committee, having reviewed the implementation status of the two reports and considered the evidence received, finally recommends that: -

69. The lease for L.R No. 12158, which resulted from the amalgamation of L.R No. 10741, L.R. 10862, LR No. 11146. LR No. 11312 and LR No. 2953 should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.
70. In consultation with the National Land Commission, the Ministry of Lands and Physical Planning should allocate the Land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively as per the National Land Commission's Gazette Notice 1995 of 2019, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.
71. The House approves that the Select Committee on Implementation initiates the process for removal of the Cabinet Secretary for the Ministry of Lands Physical Planning from office for failure to implement the House resolution '*that the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County does complete the titling process for L.R. No. 5875/2 within 180 days of tabling of the report*', pursuant to Article 152 (6) of the Constitution of Kenya and Standing Order 66 of the National Assembly Standing Orders.
72. The Inspector General of Police should ensure that the Directorate of Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2, and submits a report to the National Assembly within sixty (60) days of the adoption of this report.

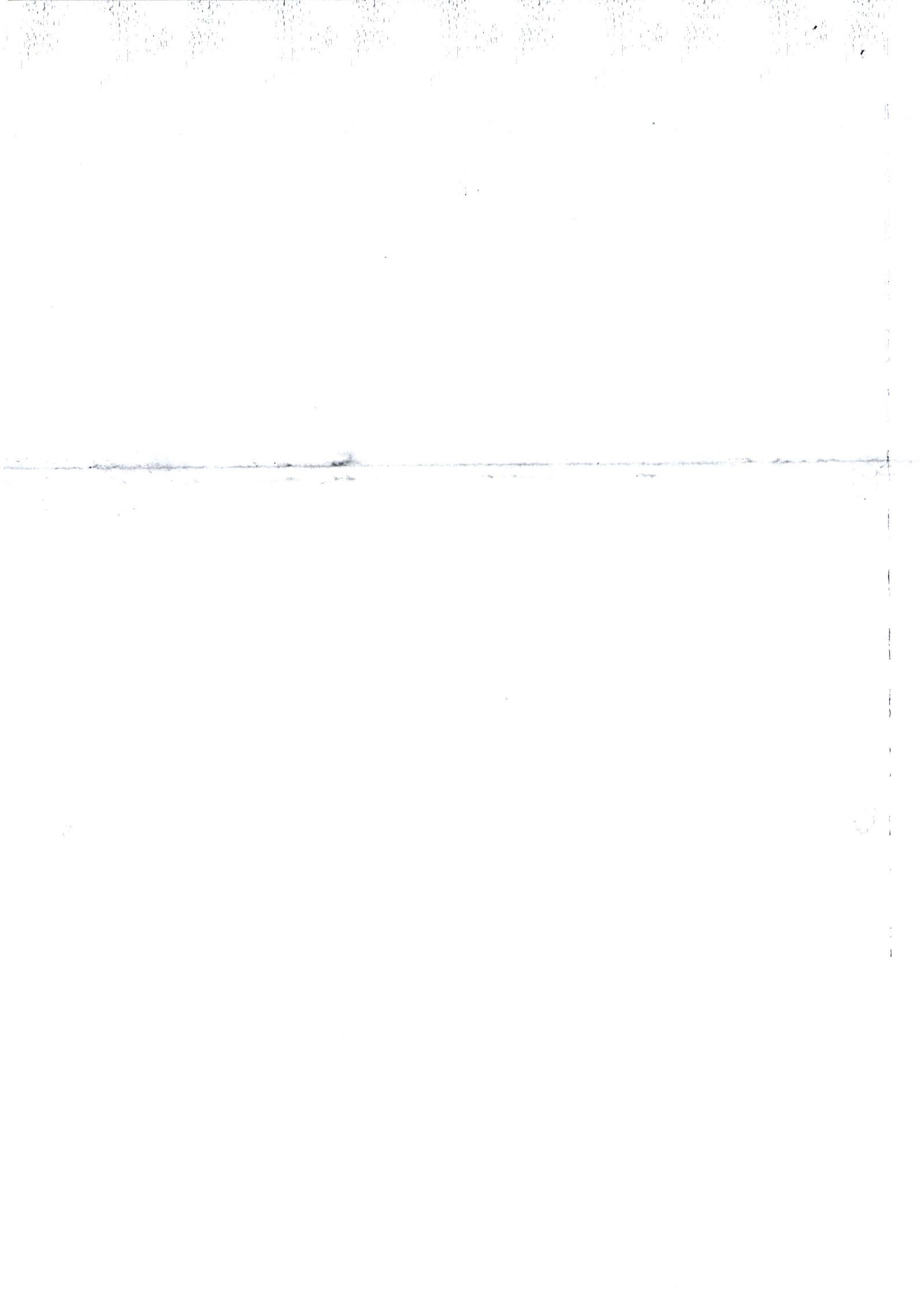
SIGNED.....


DATE

10/12/2021

HON. MOITALEL OLE KENTA, MP
CHAIRPERSON, COMMITTEE ON IMPLEMENTATION
THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 22 DEC 2021	DAY: <input checked="" type="checkbox"/> WEB
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THE NATIONAL ASSEMBLY
PAPERS LAID The National Assembly

DATE: 22 DEC 2021

DAY:
Wed

TABLED BY:	HON. MOITALEL OLE KENTA - CHAIR
CLERK-AT THE-TABLE:	F. MURIUKI

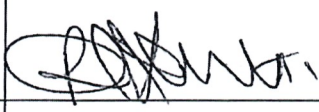
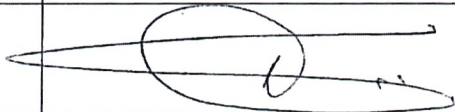
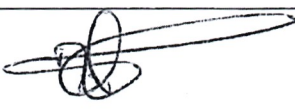



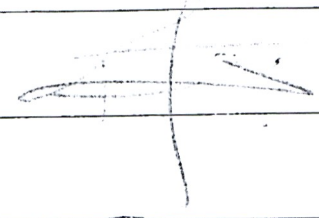
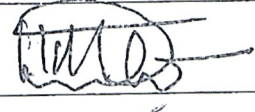

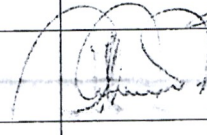
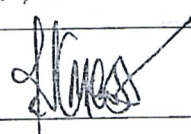
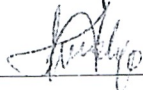
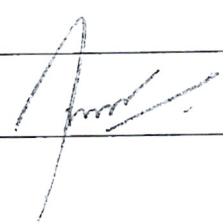
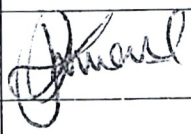
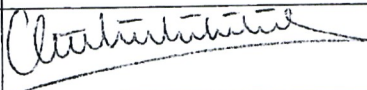
Committee on Implementation

Agenda: Adoption
Date: 2-12-2021
Start Time: 11:30 am

of the following reports:-
 1. Report on implementation status on the report on irregular removal of leases by Del Monte
 2. Report on implementation status on the report on invasion of lands from their land in Kisumu constituency

Venue: 2nd floor Committee Room, Continental House
End Time: 12:10 pm

S/NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP – Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Richard Onyonka, MP	
4.	The Hon. Alois Musa Lentoimaga, MP	
5.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
6.	The Hon. Johnson Many Naicca, MP	
7.	The Hon. Moses Kiarie Kuria, MP	
8.	The Hon. Paul Simba Arati, MP	
9.	The Hon. Charles Ngusya Nguna, MP	

10.	The Hon. Feisal Abdalla Bader, MP	
11.	The Hon. Gabriel Kago Mukuha, MP	
12.	The Hon. Hassan Oda Hulufu, MP	
13.	The Hon. Jared Okello, MP	
14.	The Hon. Joash Nyamache Nyamoko, MP	
15.	The Hon. John Muchiri Nyagah, MP	
16.	The Hon. Joshua Mwalyo Mbithi, MP	
17.	The Hon. Michael Thoya Kingi, MP	
18.	The Hon. Nelson Koech, MP	
19.	The Hon. Benjamin Dalu Tayari, MP	
20.	The Hon. Paul Abuor, MP	
21.	The Hon. Peter Kimari Kihara, MP	
22.	The Hon. Silvanus Osoro, MP	
23.	The Hon. John Njuguna Wanjiku, MP	

Committee Clerk


Name..... Abdulahman Gelo Hassan

..... [Signature]

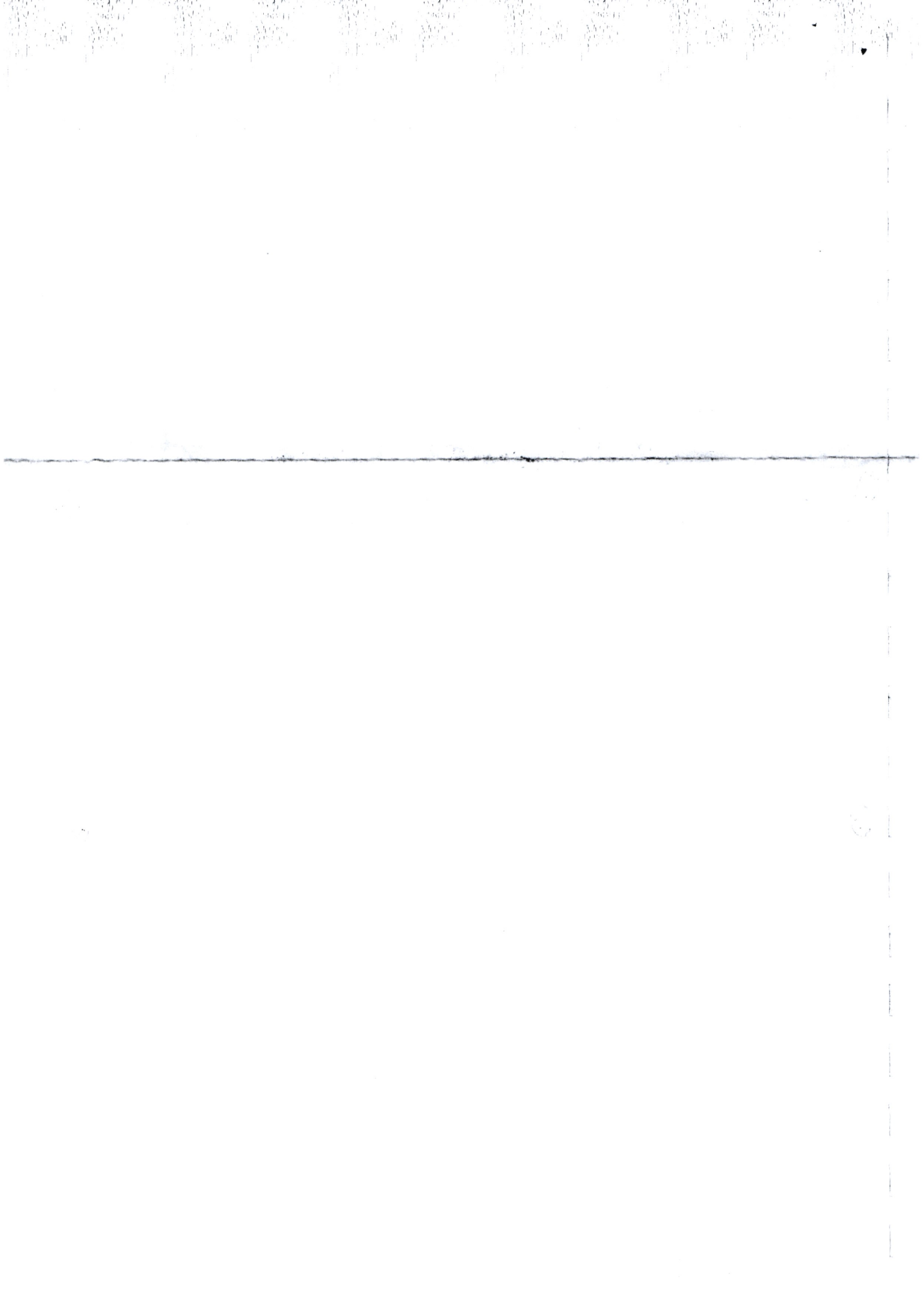
Date..... 02/12/2021

Director Audit, Appropriations & Other Select Committees.....

Date.....

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TABLED BY:	HON. MOITALEL OLE KENTA - CHAIR		
CLERK-AT THE-TABLE:	F. MURIUKI		

Appendix II
Minutes of the Select Committee on
Implementation



**MINUTES OF THE 52ND SITTING OF THE COMMITTEE OF IMPLEMENTATION
HELD ON THURSDAY, 2ND DECEMBER, 2021, IN COMMITTEE ROOM ON 2ND
FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 11.30 A.M.**

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. (Dr.) James Kipkosgei Murgor, MP
3. The Hon. Paul Simba Arati, MP
4. The Hon. Charles Ngusya Nguna, MP
5. The Hon. Feisal Bader, MP
6. The Hon. Hassan Hulufu, MP
7. The Hon. Jared Okello, MP
8. The Hon. Joash Nyamache Nyamoko, MP
9. The Hon. John Muchiri Nyagah, M.P
10. The Hon. John Njuguna Wanjiku, MP
11. The Hon. Joshua Mbithi Mwalyo, MP
12. The Hon. Nelson Koech, MP
13. The Hon. Peter Kihara, MP

ABSENT WITH APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Silvanus Osoro, MP
4. The Hon. Benjamin Dalu Tayari, MP
5. The Hon. Paul Odalo Abuor, MP
6. The Hon. Richard Onyonka, MP
7. The Hon. Johnson Many Naicca, MP
8. The Hon. Moses Kuria, MP
9. The Hon. Michael Kingi, MP
10. The Hon. Mukuha Gabriel Kago, MP

IN-ATTENDANCE

COMMITTEE SECRETARIAT

1. Ms. Tracy Chebet Koskei - First Clerk Assistant
2. Mr. Abdirahman Hassan - Second Clerk Assistant
3. Mr. Collins Mahamba - Audio Officer
4. Mr. Moses Kariuki - Serjeant-at-Arms

MIN.NO.NA/COI/2021/238: PRELIMINARIES

The Chairperson called the meeting to order at thirty five minutes past eleven o'clock (11.35 a.m.) and said a word of prayer. The agenda for the meeting was adopted, as proposed and seconded by the Hon. Peter Kihara, MP, and the Hon. Jared Okello, MP respectively.

MIN.NO.NA/COI/2021/239: CONFIRMATION OF PREVIOUS MINUTES

The Agenda item was deferred to the next sitting.

MIN.NO.NA/COI/2021/240: CONSIDERATION & ADOPTION OF THE REPORT ON IMPLEMENTATION STATUS OF THE REPORTS REGARDING THE INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES; AND THE PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTEKENYA LIMITED

The Committee considered the report on implementation status of the following reports: -

1. The Report of the Departmental Committee on Lands regarding a petition on irregular renewal of leases of land by Del Monte Kenya Limited; and
2. The Report of the Departmental Committee on Lands on its consideration of the petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of workers from their land in Roysambu Constituency by the Kenya Defence Forces.

The Committee having reviewed the implementation status of the two reports and considered the evidence received adopted the report after being proposed and seconded by the Hon. John Muchiri Nyagah, MP and the Hon. Joshua Mwalyo, MP, respectively, with the following recommendations:

1. The lease for L.R No. 12158, which resulted from the amalgamation of L.R. No. 10741, L.R. 10862, L.R No. 11146, L.R. No. 11312 and L.R. No. 2953 should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement, within sixty (60) days of the adoption of the report, failure to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.
2. In consultation with the National Land Commission, the Ministry of Lands and Physical Planning should allocate the land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively as per the National Land Commission's Gazette Notice 1995 of 2019, within sixty (60) days of the adoption of the report, failure to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

3. The House approves that the Select Committee on Implementation initiates the process for removal of the Cabinet Secretary for the Ministry of Lands and Physical Planning from office for failure to implement the House resolution *'that the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County does complete the titling process for L.R. No. 5875/2 within 180 days of tabling of the report'*, pursuant to Article 152 (6) of the Constitution of Kenya and Standing Order 66 of the National Assembly Standing Orders.
4. The Inspector General of Police should ensure that the Directorate of Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2, and submits a report to the National Assembly within sixty (60) days of the adoption of this report.

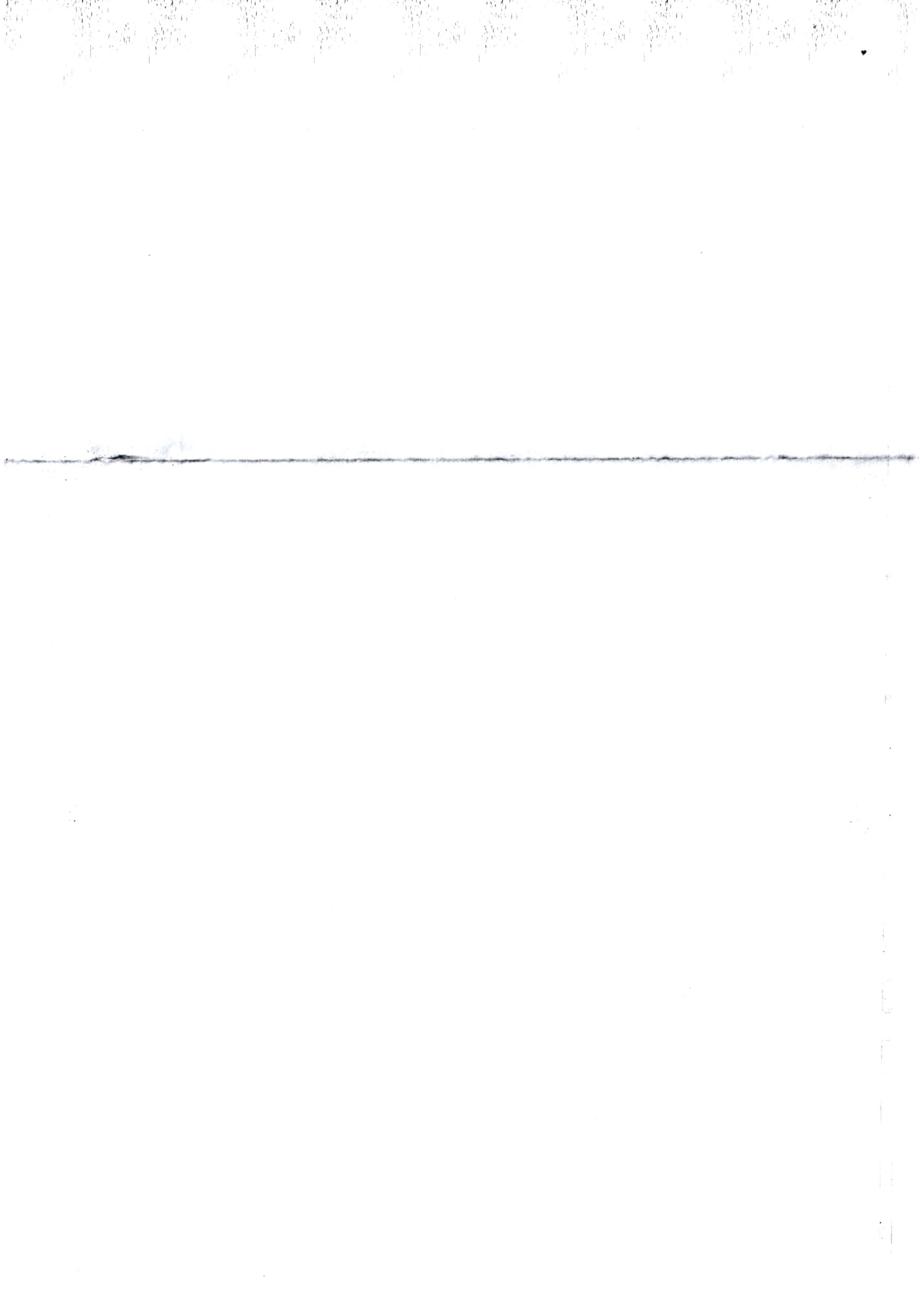
MIN.NO.NA/COI/2021/241: ADJOURNMENT

There being no other business, the meeting was adjourned at 12.10 p.m. The Next meeting was scheduled for Thursday, 9th December, 2021 at 10.00 a.m.

Sign.....

Date.....

(Chairperson)



MINUTES OF THE 41ST SITTING OF THE COMMITTEE OF IMPLEMENTATION HELD ON FRIDAY, 8TH OCTOBER, 2021, IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS, AT 10.00 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Charles Ngusya Nguna, MP
3. The Hon. Feisal Bader, MP
4. The Hon. Joash Nyamache Nyamoko, MP
5. The Hon. John Muchiri Nyagah, M.P
6. The Hon. Hassan Hulufo, MP
7. The Hon. Paul Odalo Abuor, MP
8. The Hon. John Njuguna Wanjiku, MP
9. The Hon. Michael Kingi, MP

ABSENT WITH APOLOGIES

1. The Hon. Godfrey Osotsi, MP - Vice Chairperson
2. The Hon. Richard Onyonka, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Peter Kihara, MP
5. The Hon. Paul Simba Arati, MP
6. The Hon. Alois Musa Lentoimaga, MP
7. The Hon. Johnson Many Naicca, MP
8. The Hon. Moses Kuria, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Benjamin Dalu Tayari, MP
11. The Hon. Joshua Mbithi Mwalyo, MP
12. The Hon. Jared Okello, MP
13. The Hon. Mukuha Gabriel Kago, MP
14. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

Hon. Isaac Waihenya, M.P - Petitioner

COMMITTEE SECRETARIAT

1. Ms. Tracy Chebet Koskei - First Clerk Assistant
2. Mr. Dennis Mawira - Audio Officer

MIN.NO.NA/COI/2021/193 PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten and said a word of prayer. The agenda for the meeting was adopted, as proposed and seconded by the Hon. Hassan Hulufo, MP, and the Hon. Paul Odalo Abuor, MP, respectively.

MIN.NO.NA/COI/2021/194 CONFIRMATION OF THE PREVIOUS MINUTES

Confirmation of Minutes of previous Sitting was deferred to the next Sitting.

**MIN.NO.NA/COI/2021/195 SUBMISSION BY HON. ISAAC WAIHENYA, M.P
REGARDING THE IMPLEMENTATION STATUS OF THE
REPORT OF THE DEPARTMENTAL COMMITTEE ON
LANDS ON ITS CONSIDERATION OF THE PETITION BY
FORMER WORKERS OF THE LATE MAYER JACOB
SAMUELS REGARDING INVASION AND EVICTION
FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY
THE KENYA DEFENCE FORCES**

Hon. Isaac Waihenya, M.P the Member for Roysambu submitted as follows:

That, in the meeting of 29th July, 2021 the Cabinet Secretary for the Ministry of Lands and Physical Planning acknowledged that the Ministry had received money from the Petitioners for processing of land titles. The Cabinet Secretary further submitted that the land belong to the Kenya Defence Forces.

Due to the delay in implementation of the report, the Petitioners and public utilities had gone to Court seeking that the Ministry of Lands implement the House resolutions that directed the Ministry of Lands and Physical Planning and the National Land Commission does complete the titling process for L.R No. 5875/2 within 180 days of tabling of that report.

The Honourable Member noted that during deliberations of the Departmental Committee on Lands the Director of Land Administration had submitted that the land belonged to the Kenya Defence Forces having compulsorily acquired the land in 1986. However, he reported that during the current on-going Court Case, the office of the Attorney General has submitted that the Land belongs to Kasarani Mall Limited.

The Member tabled a written submission by the Office of the Attorney General and their grounds of opposition on the aforementioned petition. The Member also undertook to submitted a copy of the transcribed proceedings of the Departmental Committee on Lands.

Following deliberation, the Committee resolved to finalize and table its report to the House informing the House that its resolutions had not been implemented.

MIN.NO.NA/COI/2021/196: ANY OTHER BUSINESS

1) Retreat/Inspection visit


The Committee was informed that the inspection visit at the Kenya Ports Authority regarding the implementation status of the **Report of the Departmental Committee on Finance and National Planning regarding optimization of Revenue in Grain Handling Services at the Port of Mombasa** scheduled for Friday, 15th October, 2021 had been rescheduled to Friday, 22nd October, 2021.

2) **Delegation from Ghana**

The Chairperson informed the meeting that the Committee would be hosting a visiting delegation from the Parliament of Ghana on Thursday, 14th October, 2021 at 11.30 am. The Chairperson urged the Members to attend the meeting.

MIN.NO.NA/COI/2021/197: **ADJOURNMENT**

The meeting was adjourned at 11.20 a.m. The Next meeting will be held on notice.

Sign.....

Date.....27/10/2021.

(Chairperson)



**MINUTES OF THE 40TH SITTING OF THE COMMITTEE OF IMPLEMENTATION
HELD ON THURSDAY, 30TH SEPTEMBER 2021, IN THE COMMITTEE ROOM ON
2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 A.M.**

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Richard Onyonka, MP
4. The Hon. (Dr.) James Kipkosgei Murgor, MP
5. The Hon. Peter Kihara, MP
6. The Hon. Charles Ngusya Nguna, MP
7. The Hon. Feisal Bader, MP
8. The Hon. Jared Okello, MP
9. The Hon. Joash Nyamache Nyamoko, MP
10. The Hon. John Muchiri Nyagah, M.P
11. The Hon. Joshua Mbithi Mwalyo, MP
12. The Hon. Silvanus Osoro, MP

ABSENT WITH APOLOGIES

1. The Hon. Paul Simba Arati, MP
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Johnson Many Naicca, MP
4. The Hon. Moses Kuria, MP
5. The Hon. Hassan Hulufu, MP
6. The Hon. Mukuha Gabriel Kago, MP
7. The Hon. Paul Odalo Abuor, MP
8. The Hon. John Njuguna Wanjiku, MP
9. The Hon. Michael Kingi, MP
10. The Hon. Nelson Koech, MP
11. The Hon. Benjamin Dalu Tayari, MP

IN-ATTENDANCE

KANDARA RESIDENTS ASSOCIATION (KRA)

1. Mr. Joseph Kibiru Njuguna - Patron KRA
2. Mr. Jackson IKua - Advocate
3. Mr. Duncan Okatch - Advocate
4. Mr. Geoffrey Kairu - KRA
5. Ms. Florence Njeri Mwaura -KRA
6. Mr. Karira Kimara - KRA
7. Mr. Victor Wambutoi - KRA

COMMITTEE SECRETARIAT

1. Ms. Tracy Chebet Koskei - First Clerk Assistant
2. Ms. Jane Serem - Audio Officer
3. Mr. Donald Manyala - Research Officer
4. Mr. Yeziel Jillo - Sergeant-at-Arms
5. Ms. Winnie Gatuiri - Intern

MIN.NO.NA/COI/2021/186 PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten and said a word of prayer. The agenda for the meeting was adopted, as proposed and seconded by the Hon. Godfrey Osotsi, MP, Vice Chairperson, and the Hon. (Dr.) James Murgor, MP, respectively.

The Chairperson thereafter informed the meeting of the mandate of the Committee as provided for in Standing Order 209 of the National Assembly Standing Orders, which was to follow up on the implementation of House resolutions and ensure that the House does not act in vain.

The Chairperson further informed the meeting that the meeting was a follow up to meeting held on 29th July, 2021 with the Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson, National Land Commission. During the meeting, the Cabinet Secretary undertook to submit a more comprehensive document following the resurvey exercise carried out by the Ministry on the land held by Del Monte Kenya Limited in Kiambu and Muranga Counties.

The document was submitted on 2nd August, 2021 and shared to the Kandara Residents Association. The meeting was therefore to accord them an opportunity to respond to the submission by the Ministry.

MIN.NO.NA/COI/2021/187 CONFIRMATION OF THE PREVIOUS MINUTES

Confirmation of Minutes of previous Sitting was deferred to the next Sitting.

MIN.NO.NA/COI/2021/189 SUBMISSION BY KANDARA RESIDENTS ASSOCIATION REGARDING THE IMPLEMENTATION STATUS OF THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON ITS CONSIDERATION OF THE PETITION ON IRREGULAR RENEWAL OF LAND LEASES TO DEL MONTE KENYA LIMITED

Mr. Duncan Okatch, the Advocate for the Kandara Residents Association submitted as follows:
That the report tabled by the Cabinet Secretary in is total non-compliance to the report of the Departmental Committee on Lands

The Advocate based their case on Section 13 of the Land Act, 2012 which gives the National Land Commission (NLC) the mandate to renew and extend leases. In that regard, the Committee heard that the NLC, in gazette Notice 1995 of March, 2019 directed that resurvey if the Delmonte Kenya Ltd be done by the Director of Survey in conjunction with the County Government of Kiambu and Muranga to establish if there is any variance between land leased and the land occupied by the Company. Any residue should be given or surrendered to the claimants for resettlement and the County Government for public purpose in the ration of 70:30 respectively.

Further, the NLC directed that if found there is no residue, then on expiry of the lease a suitable amount of land should be set aside and held in trust by the County Governments for resettlement and Public Utilities.

The Advocate decried the submission by the Cabinet Secretary that there was no surplus land from the resurvey. He further submitted that the land that had reverted back to the County Government of Kiambu has already been a subject of development plans without considering the claimants.

The KRA also faulted the Ministry of Lands alleging that they did not all parcels owned by Del monte during the resurvey. These are LR No.s 12157/2, 12157/6, 12157/7, 13169, 10735, 7232/2, 9213/1.

The Advocate also brought to the attention of the Committee of the land that had been owned by Sassa Coffee which was surrendered to the Government in 1973 but was reallocated to Del monte Kenya under unclear circumstances. The Committee acknowledged that it indeed during the meeting of 29th July, 2021 the Cabinet Secretary for the Ministry of Lands and the National Land Commission officials admitted that they could not trace documents pertaining to the renewal of the lease to the Company.

The Kandara Residents Association made the following prayers:

1. Since the Association are the petitioners at the National Land Commission, Parliament and in courts, they should be represented in the implementation of the NLC determination in process such as resurvey public participation as per the Constitution.
2. Since neither NLC nor the Ministry disputed the Association's claim that the land in LR No.s 10862, 1041,11146, 11312 and 2953 were surrendered to the Government of Kenya, the Association requested that they be declared excess/surplus land of which they are entitled to 70% according to NLC determination.

That all parties be granted an opportunity to simultaneously view and query the official cadaster's spatial extent of all the claims representing

- i. Various leases requiring renewal
- ii. Public land that was surrendered back to government
- iii. Actual utilized/ Unutilized land

The Committee raised concern over the statement by the Ministry of Lands that there was no surplus land and yet had gone ahead and allocated land to the County Governments of Kiambu and Muranga.

Following deliberations, the Committee directed that the Association provides a comprehensive report on the specific land they were laying claim on and also on the Association's claim that the Cabinet Secretary had usurped the power of the National Land Commission.

MIN.NO.NA/COI/2021/191: ANY OTHER BUSINESS

1) **Retreat/Inspection visit**

The Committee resolved to undertake a meeting with the Kenya Ports Authority regarding the implementation status of the **Report of the Departmental Committee on Finance and National Planning regarding optimization of Revenue in Grain Handling Services at the Port of Mombasa on Friday, 15th October, 2021.**

Additionally, the Committee resolved to have a meeting with the **Ahmed Noormohamed Issak Hardware** regarding the implementation status of the Special report by PIC on the regarding construction of Ronald Ngala Utalii College in Kilifi County, on Saturday, 16th October, 2021.

2) **Foreign Trips**

The Committee resolved to follow up on the proposed training of Members in Turkey and also engage other committees on scheduled conferences so as to include members of the committee. The Secretariat was asked to report on the matter in the next meeting.

MIN.NO.NA/COI/2021/192: ADJOURNMENT

The meeting was adjourned at 11.35 a.m. The Next meeting will be held on notice.

Sign 

Date 27/10/2021

(Chairperson)

MINUTES OF THE 28TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY, 29TH JULY 2021, IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS, AT 11.00 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. (Dr.) James Kipkosgei Murgor, MP
3. The Hon. Johnson Many Naicca, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. John Muchiri Nyagah, M.P
6. The Hon. Joshua Mbithi Mwalyo, MP
7. The Hon. Michael Kingi, MP
8. The Hon. Jared Okello, MP
9. The Hon. Hassan Oda Hulufu, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Richard Onyonka, MP
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. Joash Nyamache Nyamoko, MP
5. The Hon. Peter Kihara, MP
6. The Hon. Benjamin Dalu Tayari, MP
7. The Hon. Moses Kuria, MP
8. The Hon. Mukuha Gabriel Kago, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Paul Odalo Abuor, MP
11. The Hon. Feisal Bader, MP
12. The Hon. Silvanus Osoro, MP
13. The Hon. Charles Ngusya Nguna, MP

IN-ATTENDANCE

Hon. Waihenya Ndirangu, MP - Friend of the Committee

MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Ms. Farida Karoney, EGH - Cabinet Secretary
2. Hon. Alex Mhuri Muiro - Chief Administrative Secretary
3. Ms. Jacinta Mutua - Deputy Director, Valuation
4. Ms. Carolyn Menin - Legal Counsel
5. Mr. Hilton Kamau - Assistant Director, Land Administration
6. Mr. Geoffrey Kibowen - Assistant Director of Surveys

NATIONAL LANDS COMMISSION

1. Mr. Gershom Otachi Bw'Omanwa - Chairperson
2. Mr. Reginald Okumu - Commissioner
3. Mr. Daniel Kithuku - Deputy Director

KANDARA RESIDENTS ASSOCIATION

1. Mr. Joseph Kibiru Njuguna - Patron
2. Mr. Karira Kimara - Chairman
3. Mr. Geoffrey Kairu - Secretary General
4. Ms. Florence Mwaura - Organizing Secretary
5. Mr. Duncan Okatch - Advocate
6. Mr. Jackson Ikua - Advocate

COMMITTEE SECRETARIAT

1. Ms. Chebet Koskei - First Clerk Assistant
2. Mr. Abdirahman G. Hassan - Second Clerk Assistant
3. Ms. Jane Serem - Audio Officer I
4. Ms. Winnie Gatuiri - Intern

MIN. NO.NA/COI/2021/132:

PRELIMINARIES

The Chairperson called the meeting to order at eleven o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Hassan Oda Hulufu, MP and the Hon. John Muchiri Nyagah, M.P, respectively. This was followed by a round of introductions.

The Chairperson thereafter informed the meeting of the mandate of the Committee as provided for in Standing Order 209 of the National Assembly Standing Orders, which was to follow up on the implementation of House resolutions and ensure that the House does not act in vain.

MIN. NO.NA/COI/2021/133:

CONFIRMATION OF MINUTES

Confirmations of the Minutes of the previous sitting were deferred to the next sitting.

MIN. NO.NA/COI/2021/134:

MEETING WITH THE MINISTRY OF LAND AND PHYSICAL PLANNING

The Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson of the National Lands Commission and other government officials appeared before the Committee and submitted the following as status of implementation of various resolutions under their purview:

1. Report of the petition regarding delayed compensation of land owners for expansion of Sigalagala-Musoli-Bukura-Butere Road

Implementation Status

NLC gave an update of the matter that the Commission is finalizing on valuation with a view to issuing awards to the project affected persons. The Commission in liaison with KeRRA, the acquiring entity is addressing various matters that arose during enquiry to ensure that all project affected persons are compensated. The following targets have been set:

- (i) To facilitate compensation, KeRRA took inventory of all developments affected during road construction (prior to NLC inspection) and in consultation with relevant departments, mainly Agriculture and Forestry have valued them in readiness for compensation
- (ii) Subdivisions: the Authority has dispatched a team of surveyors to the ground to take stock and document changes occasioned by other subdivisions. The exercise is to be completed by Mid-August, 2021.
- (iii) The Commission to be furnished with a reviewed list of parcels to be considered for addendum, corrigendum and deletion by end of August.

Committee Resolution

The Committee directed that the Commission reports on the matter by first week of September, 2021.

2. The Report of the petition regarding the obstruction of the tarmacking of Konza-Katumani Road

The Committee during its sitting of Wednesday, 21st July, 2021 resolved to invite the Director General, Kenya Urban Roads Authority (KURA) and the Chairperson, National Lands Commission to brief the Committee on the implementation of the report.

The Managing Director for KURA, through a letter dated 28th July, 2021 requested for more time to conclude on the matter. He also submitted that the Authority, the Ministry of Lands and Physical Planning and NLC had agreed to implement the creation of right of way as recommended in the report.

Further, in the letter, the Authority also requested for a corrigendum on the Kenya Gazette Notice No. 6381 dated 25th June, 2021 to reflect the creation by NLC and not the Ministry of Transport and Public Works.

The Chairperson NLC confirmed that pending matters have been resolved and the Commission was currently processing request by KURA to amend the aforementioned Gazette Notice.

Committee Resolution

It was resolved that the Commission and KURA provides an update to the Committee on the implementation status within two (2) weeks.

3. Report on the Land issues in Taita Taveta

In its report dated 3rd March, 2021, the Ministry had submitted that the excision of Singila Majengo village, Mwandisha Primary School and the public utilities including the roads and the railway reserves was undertaken vide Survey Plan No. F/R 467/87. The County Government of Taita Taveta approved the application for subdivision and change of user vide a PPA 2 form dated 14th November, 2019. The Ministry had also submitted that it's waiting for surrender of the mother title to facilitate registration of the scheme and issuance of titles.

The Cabinet Secretary reported that the title has since been surrendered. There were charges registered against the title in favour of Standard Chartered Bank Limited which was discharged on 5th May, 2021, to facilitate registration of the subdivisions.

Committee Resolution

The Ministry to provide an update on the matter within two (2) weeks.

4. Report on petition by former workers of the late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces

Implementation status

The Cabinet Secretary submitted that the Ministry had not implemented the House resolutions due to an advisory by the Hon. Attorney General vide letter Ref. AG/CIV/47/20 dated 11th August, 2020 to the National Assembly. The House had recommended that the Ministry of Land and Physical Planning in consultation with the National Land Commission and the Nairobi County does complete the titling process for L.R. 5875/2 within 180 days of tabling the report.

The meeting however noted that the Honourable Speaker of the National Assembly ruled the advisory by the Attorney General inadmissible.

The CS confirmed to the meeting that the government had paid Kshs. 3,530,500 to the family of the Mr. Samuels, through Middle East Bank. She added that there is documentation to confirm this.

Regarding who the owner of the land is, the Cabinet Secretary submitted that the land was allocated to Kasarani Mall limited.

On whether the Ministry had received money from petitioners for processing of titles, the Cabinet Secretary acknowledged that the Ministry had received money from petitioners.

Regarding allegations that the Department of Defence was a front to grab the land for individuals, the Cabinet Secretary submitted that this was untrue and she had herself engaged with the Department of Defence regarding the said land and the land indeed was to go to the Military.

Committee Resolution

The Committee noted that the National Land Commission and the County Government of Nairobi had played their roles as directed by the House. However, the Ministry had failed to implement the resolution.

The Committee resolved to table a report to the House on the same for the House to guide on how to enforce implementation of its resolution.

5. Report of the Departmental Committee on Lands on its consideration of the Petition regarding irregular renewal of leases by Del monte Kenya Limited

Implementation status

The Cabinet Secretary submitted that a resurvey of the land legally held by Del monte in Kiambu and Muranga Counties was done. However, the two counties have not given their approvals to the subdivisions and the extension/renewal of the leases.

On the recommendation that the NLC investigates the circumstances under which L.R. Nos. 10862, 10741, 11312, 2953, 4873 and 11146 that were said to have been surrendered to the Government by two companies namely Sassa Coffee and Rappit B. Limited were later irregularly acquired by Del Monte Kenya Limited;

NLC Chairperson submitted that original parcels L.R. Nos. 10862, 10741, 11312, 2953, 4873 and 11146 were owned by Chui Estates Limited up to around 1973 when through a memorandum of registration of transfer of lands and at a consideration of Kshs. 2,000, 000 they were transferred to the Government of Kenya. The transfer was executed in 1973.

The Commission took note of passage in time and parties involved in the transaction (unidentified directors of Chui Estates Limited and one James Aloisius O'loughlif as Commissioner of Lands) could not unearth further details that necessitated the transfer nor amalgamation of the said parcels of land.

Submission by Kandara Residents Association

Kandara Residents Association, represented by their lawyer Mr. Dancun Okatch and Mr. Jackson Ikuu, submitted as follows:

From the resurvey of the land, it showed that 1,400 hectares was set aside as public land, however they raised concern how much of the land would go to the petitioners.

They also raised concern with the submission by the Chairperson NLC, regarding the parcels of land owned by Chui estates, that the Commission could not unearth details that

necessitated transfer of the land to Del Monte. The petitioners noted that the land should have reverted back to the public and not Del Monte.

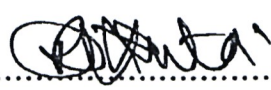
Committee Resolution

- (i) The Committee resolved that the Ministry submits a tabulated report on the reallocation of land following the resurvey for easier understanding of the submission.
- (ii) The Ministry to confirm on the surplus land following the resurvey.
- (iii) The Kandara Residents Association were asked to make a response to the Ministry's submission within three (3) days.

MIN. NO.NA/COI/2021/135:

ADJOURNMENT

There being no other business, the meeting was adjourned at half past one o'clock (1.30 pm).

Sign.......... Date.....05/08/2021.....
(Chairperson)

MINUTES OF THE 25TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON WEDNESDAY, 21ST JULY 2021, IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, AT 11.30 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Johnson Many Naicca, MP
5. The Hon. Paul Simba Arati, MP
6. The Hon. Joash Nyamache Nyamoko, MP
7. The Hon. Peter Kihara, MP
8. The Hon. Joshua Mbithi Mwalyo, MP
9. The Hon. Charles Ngusya Nguna, MP
10. The Hon. Hassan Oda Hulufu, MP
11. The Hon. Michael Kingi, MP
12. The Hon. Jared Okello, MP

APOLOGIES

1. The Hon. Richard Onyonka, MP
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Benjamin Dalu Tayari, MP
4. The Hon. Moses Kuria, MP
5. The Hon. John Muchiri Nyagah, M.P
6. The Hon. Mukuha Gabriel Kago, MP
7. The Hon. Nelson Koech, MP
8. The Hon. Paul Odalo Abuor, MP
9. The Hon. Feisal Bader, MP
10. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

Hon. Waihenya Ndirangu, MP - Friend of the Committee

NATIONAL LANDS COMMISSION

1. Mr. Gershom Otachi Bw'Omanwa – Chairperson
2. Mr. Reginald Okumu - Commissioner
3. Mr. Brian Ogot - Director
4. Ms. Nancy Nyamwea - Director Legal Affairs

KANDARA RESIDENTS ASSOCIATION

- | | | |
|------------------------------|---|----------------------|
| 1. Mr. Joseph Kibiru Njuguna | - | Patron |
| 2. Mr. Karira Kimara | - | Chairman |
| 3. Mr. Geoffry Kairu | - | Secretary General |
| 4. Ms. Florence Mwaura | - | Organizing Secretary |
| 5. Mr. Duncan Okatch | - | Advocate |
| 6. Mr. Jackson Ikua | - | Advocate |

COMMITTEE SECRETARIAT

- | | | |
|-----------------------------|---|------------------------|
| 1. Mr. Abdirahman G. Hassan | - | Second Clerk Assistant |
| 2. Ms. Jane Serem | - | Audio Officer |
| 3. Ms. Zeinab Wario | - | Serjeant-at-arms |

MIN. NO.NA/COI/2021/115: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past eleven o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Joash Nyamoko, MP, and the Hon. Charles Nguna, MP, respectively.

MIN. NO.NA/COI/2021/116: CONFIRMATION OF MINUTES

Confirmations of the Minutes of the previous sitting were deferred to the next sitting.

MIN. NO.NA/COI/2021/117: MEETING WITH THE MINISTRY OF LAND AND PHYSICAL PLANNING

The Committee was scheduled to meet the Cabinet Secretary for the Ministry of Lands and Physical Planning, to consider implementation status of various House resolutions on land matters. However, the Committee received correspondence from the Ministry requesting for reschedule of the meeting to a later date. In the letter, the Principal Secretary for Lands indicated that the meeting coincided with a presidential function that the Cabinet Secretary, the Chief Administrative Secretary and the Principal Secretary would be attending.

The Committee however noted with concern the failure by the Cabinet Secretary, Ministry of Land and Physical Planning, to attend its sittings and the inordinate delay in implementation of some House resolutions.

The Committee, following deliberations resolved to accord the Cabinet Secretary another opportunity to appear on Thursday, 29th July 2021, failure to which the Committee will issue summons as contemplated under Standing Order 191 of the National Assembly Standing Orders.

The Chairperson, National Lands Commission, Mr. Gershom Otachi and other officials of the Commission, appeared before the Committee to apprise it on implementation status of the following reports-

1. The Report of the Departmental Committee on Lands on its consideration of the petition regarding delayed compensation of land owners for expansion of Sigalagala-Musoli-Bukura-Butere Road;
2. The Report of the Departmental Committee on Lands on its consideration of the Petition by residents of Vota, Mua Ward in Machakos Town Constituency, regarding the obstruction of the tarmacking of Konza- Katumani Road;
3. The Report of the Departmental Committee on Lands on its consideration of the petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces;
4. The Report of the Departmental Committee on Lands on its consideration of the petition on irregular renewal of leases of land by Del Monte Kenya Limited; and
5. The Report on the petition regarding land issues in Taita Taveta County.

The Committee however deferred consideration of the reports regarding invasion and eviction of workers from their land in Roysambu Constituency, the petition on irregular renewal of leases of land by Del Monte Kenya Limited and the petition regarding land issues in Taita Taveta County, which required the presence of the Ministry of Lands.

The Chairman of the National Land Commission thus presented implementation status of the other two reports, as follows;

1. Report of the petition regarding delayed compensation of land owners for expansion of Sigalagala-Musoli-Bukura-Butere Road

Implementation Status

The Commission is finalizing on valuation with a view to issuing awards to the project affected persons. The Commission in liaison with Kenya Rural Roads Authority (KeRRA), the acquiring entity, is addressing various matters that arose during inquiry to ensure that all project affected persons are compensated. These issues include the following:

- i. Claims presented by projected affected persons during inquiry citing the destruction of crops, trees and buildings resulting from the road's construction. Details of what had been affected by the road were not available at the Commission since the road had already been constructed at the time of inspection.

The Commission requested KeRRA to confirm whether they had paid compensation for the improvements as in previous cases or if they have in their possession the inventory of the affected improvements.

- ii. Some parcels had been subdivided and this would necessitate publication of a notice of addendum to include the new parcels for compensation.
- iii. Ungazetted parcels affected which require inclusion for compensation.

The Commission in consultation with KeRRA is expediting completion of the valuation process and issue awards for all the affected parcels.

The Chairperson of the Commission reiterated that the project is dependent on KeRRA and requested for 14 days to liaise and get feedback from KeRRA.

2. The Report of the petition regarding the obstruction of the tarmacking of Konza-Katumani Road

The National Assembly Departmental Committee on Lands considered a petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza-Katumani road.

The petitioners sought to have the affected portion of land, L.R. No. 7374 (stretching approximately 400 meters) acquired by the National Land Commission to create a public right of way over the parcel.

Implementation Status

The National Land Commission proceeded to initiate the process of creating a public right of way on the identified land parcel L.R. No. 7374/3 registered in the name of Muambi Properties Limited where an area of 0.7972 Ha would be affected by the right of way.

The CS, Ministry of Land responded vide letter Ref. MOLPP/ADM/CSO/1/760 dated 29th April 2021. Subsequent discussions were held with representatives from the Ministry of Lands and Physical Planning who pointed out that NLC must initiate the process by publishing a gazette notice. The Ministry also wanted confirmation on who will pay compensation.

In order to fast track the process and taking into consideration the contractor was on site, the Commission prepared and had the notice of intention to create a public right of way published by the Government printer in gazette notice number 6381 dated 25th June 2021.

The Commission requested Kenya Urban Roads Authority (KURA) to settle the proforma invoice No.000271520-21 issued by the Government printer vide letter ref:

NLC/VAL.1555/16 dated 22nd June 2021. In their letter ref: KURA/URPD/SUR/3 (30) dated 2nd July 2021, KURA responded and requested for termination of the process citing the fact that the road had been re-aligned.

A subsequent letter dated 9th July 2021 from KURA affirmed its inability to execute the matter as envisioned by the Lands Committee.

The Commission is unable to process this matter further without assurance of availability of budgetary support to meet administrative costs as well as compensation, if any, for the land affected.

The Commission sought for guidance from the Committee on the overall way forward as well as clarity on Government Agency that is to be vested with the public right of way once created, taking into consideration that the identified agency will be responsible for the administrative costs as well as compensation, if any.

The Committee urged the Commission to provide its legal opinion on the matter and challenges faced in implementation of the resolution.

The Committee after deliberations resolved to invite the Director General, KURA and the Chairperson, National Lands Commission, for a joint meeting on Thursday 29th July 2021, to apprise the Committee on implementation status of the aforementioned report.

Conclusion


Regarding the report on the petition on irregular renewal of leases of land by Del Monte Kenya Limited, the lawyer representing Kandara Residents Association, Mr. Duncan Okatch asked the Committee to intervene as the Ministry was planning to proceed to renew the lease in favour of Del Monte Ltd.

The Committee cautioned the National Lands Commission against renewal of the lease of land in question until the matter is conclusively discussed and addressed between the Committee and the Ministry of Lands and Physical Planning.

MIN. NO.NA/COI/2021/119:

ADJOURNMENT

There being no other business, the meeting was adjourned at quarter past one o'clock (1.15 pm).

Sign.  Date. 28/07/2021
(Chairperson)



MINUTES OF THE 15TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON WEDNESDAY 14TH APRIL 2021, IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 11.00 AM

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Richard Onyonka, MP
4. The Hon. Alois Musa Lentoimaga, MP
5. The Hon. Joshua Mbithi Mwalyo, MP
6. The Hon. Owen Yaa Baya, MP
7. The Hon. Johnson Many Naicca, MP
8. The Hon. Paul Simba Arati, MP
9. The Hon. Mukuha Gabriel Kago, MP
10. The Hon. Peter Kihara, MP
11. The Hon. Feisal Bader, MP
12. The Hon. Jared Okello, MP
13. The Hon. Joash Nyamache Nyamoko, MP

APOLOGIES

1. The Hon. (Dr.) James Kipkosgei Murgor, MP
2. The Hon. Moses Kuria, MP
3. The Hon. Charles Ngusya Nguna, MP
4. The Hon. Hassan Oda Hulufu, MP
5. The Hon. John Muchiri Nyaga, M.P
6. The Hon. Michael Kingi, MP
7. The Hon. Nelson Koech, MP
8. The Hon. Silvanus Osoro, MP
9. The Hon. Paul Odalo Abuor, MP

IN-ATTENDANCE

Hon. Waihenya Ndirangu, MP – Friend of the Committee

National Land Commission

1. Mr. Gershom Otachi - Chairperson
2. Mr. Samuel Nthuni - Commissioner
3. Ms. Kabale Tache - Acting Chief Executive Officer (CEO)
4. Mr. Ken Alelo - Personal Assistant to the CEO

Committee Secretariat

1. Ms. Tracy Chebet Koskei - First Clerk Assistant
2. Mr. Abdirahman G. Hassan - Second Clerk Assistant

MIN. NO.NA/COI/2021/66:

PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past eleven o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Godfrey Osotsi, MP, Vice Chairperson and the Hon. Johnson Naicca, MP, respectively.

The witnesses were informed of the mandate of the committee, which was to follow up on implementation of resolutions, and adopted reports of the National Assembly in order to ensure that the House does not act in vain.

MIN. NO.NA/COI/2021/67:

CONFIRMATION OF MINUTES

Confirmations of the Minutes of the previous sitting were deferred to the next sitting.

MIN. NO.NA/COI/2021/68:

**CONSIDERATION
IMPLEMENTATION STATUS OF
VARIOUS HOUSE RESOLUTIONS**

The Chairperson of the National Land Commission Mr. Gershom Otachi, the acting CEO of the National Lands Commission Ms. Kabale Tache and other representatives of the Commission appeared before the Committee to appraise the committee on implementation status of the following reports: -

1. The report on consideration of a petition regarding irregular renewal of leases of land leased by Del Monte Kenya Limited;
2. The report on petition regarding the status of leased land meant for expansion of Moi International Airport;
3. The report on petition regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura-Butere road D260;
4. The report on petition by former workers of the late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces;
5. The report on petition by residents of Pongwe area, Lunga Lunga Constituency on the imminent eviction from L.R No. 1083, Shimoni in Kwale County;
6. The report on petition by residents of Vota, Mua ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuani road);
7. The report on petition by residents of Golini, Kwale County regarding regularization of allocation of land in the Golini settlement scheme; and
8. The report on petition regarding land issues in Taita Taveta County.

The report on consideration of a petition regarding irregular renewal of leases of land leased by Del Monte Kenya Limited

The Chairperson of the Commission submitted that the Commission had not prepared a written submission on the matter and requested to give an oral submission on the matter. The Committee however felt that this matter had taken too long and it would be better if the Commission gave a written submission against which they could be held accountable.

Following deliberation and with the concurrence of the petitioners, it was agreed that the Commission makes a written submission to the Committee within seven (7) days, the Committee would thereafter schedule another sitting to consider the matter.

The report on petition regarding the status of leased land meant for expansion of Moi International Airport

Implementation will be achieved through two land use plans prepared by the County Government of Mombasa i.e. the Mombasa Development Master Plan 2018 and the Mombasa Integrated Strategic Urban Development Plan, 2015-2035 that are meant to secure public utilities within the county including those in the Airport and Port Reitz wards. The Commission is in consultation with the County Government of Mombasa in that regard.

A preliminary site visit by the Commission did not conclusively determine the status of the land and the public access sections. The commission intends to conduct a verification visit together with the Ministry of Lands and County officials as soon as Covid-19 restrictions are lifted to be able to prepare a comprehensive report.

The Committee directed the Commission to provide a written response detailing implementation status of the report by 15th May 2021.

The report on petition regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura-Butere road D260

The Commission published in the Kenya Gazette a notice of deletion, addendum and inquiry No. 10918 of 22nd December 2020 upon receipt of the amended acquisition plan from KERRA. The Committee directed the Commission to provide the aforementioned gazette notice soonest possible.

The inquiry was held between 16th February 2021 and 25th February 2021 at Shivakala chief's office as per the notice of inquiry.

The Commission is finalizing on valuation with a view to issuing awards to the project affected persons.

The Commission stated that it was striving to complete the process of issuing awards and requesting for funds from Kenya Rural Roads Authority within sixty (60) days from the date of the meeting.

The committee acceded to a request by the Commission to issue evaluation and release of awards within sixty days.

The report on petition by former workers of the late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces

Issuance of letters of allotment and titles is a multi-stakeholder exercise involving cancellation of any current titles, resurvey and planning where County Government and National Government agencies and the National Land Commission are involved. Once there is clarity regarding cancellation of existing titles, resolution within National Government as to the claim by Department of Defence on the land and, thereafter submission of the letters of allotment for regularization, the Commission shall process the request appropriately.

NLC is aware of the claim by the State Department of Defence to the parcel and enquiry by the office of the Attorney General (who is handling the litigation on the land) into the matter. There is equally a multi sectoral ad-hoc committee established under the recommendation of the National Assembly's Departmental Committee on Defense & Foreign Relations and the Departmental Committee on Lands investigating land owned by the military in the country with a view of recommending necessary legal and policy interventions required to resolve these disputes.

The Commission requested for seven days to liaise with the County Government of Nairobi regarding issuance of titles and processing of allotment letters.

The report on petition by residents of Pongwe area, Lunga Lunga Constituency on the imminent eviction from L.R No. 1083, Shimoni in Kwale County

The Commission does not have and has not been able to such records that would enable it easily trace the heirs of Bhovanbhai Lalji Gadhi and Maganlal Chakubhai Pattani. Meanwhile the Commission is exploring options that exist within its mandate to ensure implementation of the resolutions.

The Committee instructed the Commission to liaise with the Ministry of Lands & Physical Planning and provide a status report by 15th May 2021.

The report on petition by residents of Vota, Mua ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuani road)

The Commission recommended the creation of public right of way by the Cabinet Secretary, Ministry of Lands & Physical Planning as provided for in Section 146 (1)(b) of the Land Act, 2012.

The Chairperson of the National Land Commission requested for thirty days to fast track the matter and report progress.

The Committee instructed the National Land Commission to provide the letter from the Commission to the Ministry of Lands and Physical Planning on the creation of public right of way.

MIN. NO.NA/COI/2021/69:

ADJOURNMENT

There being no other business, the meeting was adjourned at fifteen minutes to one o'clock (12.45 pm).

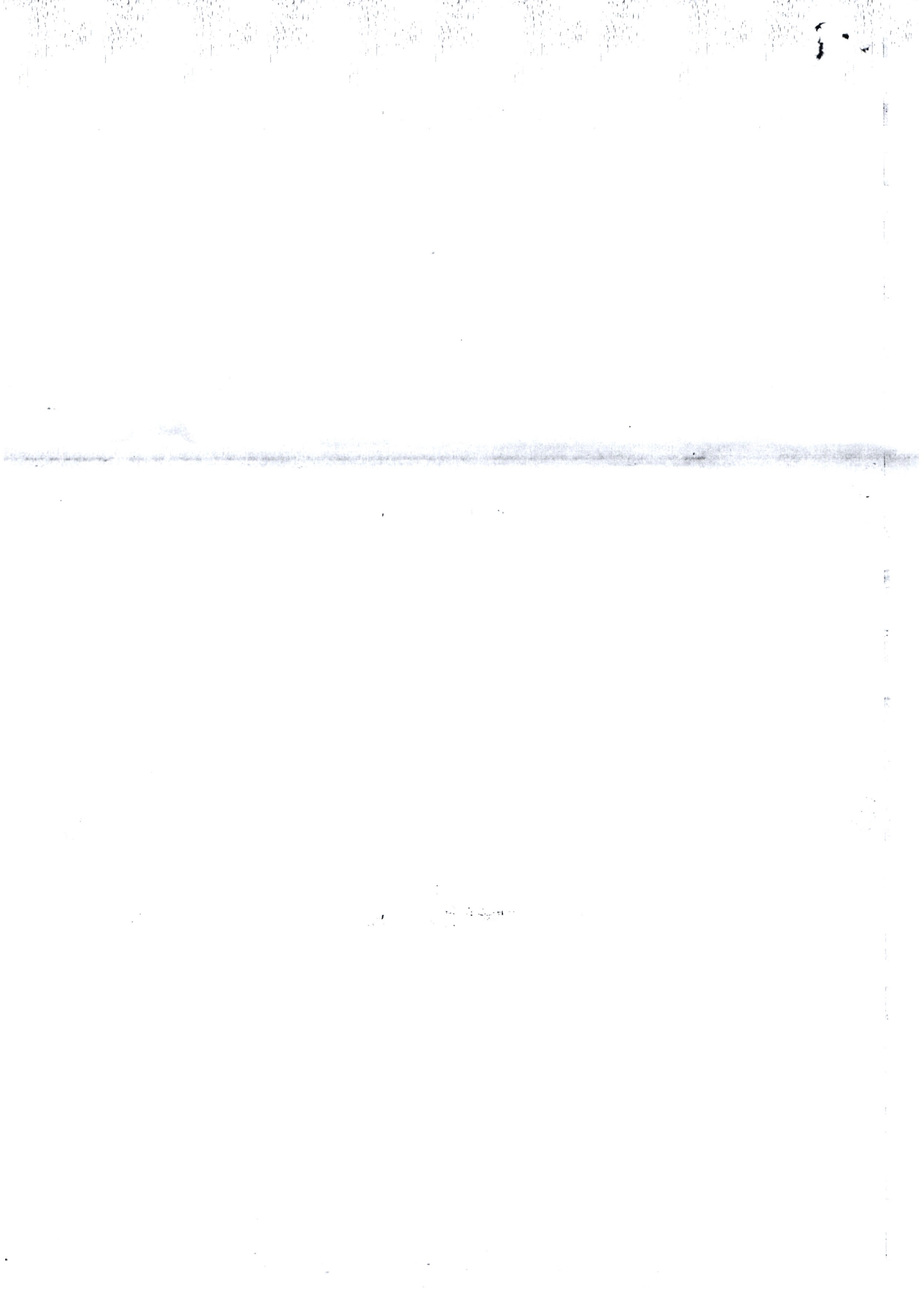
Sign.....



Date.....

21/04/2021

(Chairperson)



Appendix III

Report of the Departmental Committee on Lands
regarding the Petition on irregular renewal of leases
of Land by Del Monte Kenya Limited

