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5/6/17



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FIFTH SESSION

THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE PETITION BY THE HON. SABINA CHEGE ON BEHALF OF
THE SHAREHOLDERS OF NANGA KIHOTO (NAIVASHA) LIMITED ON
ATTEMPTED LAND TRANSFER AND FRAUDULENT FUNDS WITHDRAWAL
FROM COMPANIES ACCOUNT

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

MAY 2017

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ANNEXES

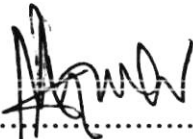
- A. Annex 1: Adoption Schedule
- B. Annex 2: Copy of the Petition
- C. Annex 3: Copies of Minutes – 49th of 19th May, 65th of 4th August, 2016, 2017, 11th of 27th February, 2017 & 10th of 23rd February, 2017
- D. Annex 4: Submission from the Ministry of Lands & Physical Planning
- E. Annex 5: Submission from Petitioners

CHAIRMAN'S FOREWORD

On Wednesday 24th August 2016 a Petition was tabled before the House pursuant to Article 119 (1) of the Constitution of Kenya (2010) and Standing Order 219 by the Hon. Sabina Chege, M.P. on behalf of the shareholders of Nanga Kihoto (Naivasha) Limited on attempted land transfer and fraudulent funds withdrawal from the companies account.

The House pursuant to Standing Order 227 referred the Petition to the Departmental Committee on Lands for investigations. The Committee concluded the investigations and is pleased to table the report on the prayers sought by the petitioners, which included an investigation of the entire land transaction at the office of the Commissioner of lands.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering the petition. On behalf of the Committee, and pursuant to Standing Order, 227 it is my duty to table on the Floor of the House the Report of the Committee on the petition.

SIGNED:  DATE: 19/05/2017

(HON. ALEX M. MWIRU, MP)
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON LANDS

EXECUTIVE SUMMARY

The Committee in responding to the prayers by the shareholders of Nanga Kihoto (Naivasha) Limited held meetings with various leaders, Government Officials, the Petitioners and other stakeholders who in their interaction with the Committee made written and oral submissions.

The Committee held a meeting with the Member for Muranga County, Hon. Sabina Chege, MP who further elaborated on the petition. In addition, Prof. Jacob Kaimenyi Cabinet Secretary Ministry of Lands and Physical Planning accompanied by his Principal Secretary Ms. Mariam El. Maawy, briefed the Committee. Further, the Committee undertook a fact finding tour of Nanga Kihoto land on Saturday 8th October, 2016 so as to assess the situation on the ground, collect views and receive representation from the residents.

The report is divided into four parts in which the first part covers the mandate of the Committee and introduces the Petition together with a summary of recommendations of the Committee. The second part of the report elaborates the submissions received by the Committee from the various stakeholders. The third and fourth part of the report is about the findings/observations and recommendations of the Committee respectively.

MANDATE OF THE COMMITTEE

The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference:

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned ministries and departments;
- b) Study the Programme and policy objectives of Ministries and Departments and effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House;
- f) Vet and report on all appointments where the Constitution or any Law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
- g) Make reports and recommendations to the House as often as possible, including recommendations on proposed legislation.

The Committee is mandated to Consider the following subjects:-

- a) Land Policy,
- b) Physical Planning,
- c) Land Transactions,
- d) Survey and Mapping,
- e) Land Adjudication,
- f) Settlement,
- g) Land registration,
- h) Land Valuation,
- i) Administration of Private, community and Public Land,
- j) Land Information and Management System.

Oversight

In executing its Mandate, The Committee oversees the following Government Departments, Namely:-

- a) The Ministry of Lands and Physical Planning.
- b) The National Lands Commission.

Members of the Committee

Chairperson	Hon. Alex Mwiru, M.P.
Vice Chairperson	Hon. Moses Ole Sakuda, M.P.
	Hon. Mutava Musyimi, M.P.
	Hon. John Kihagi, M.P.
	Hon. Francis W. Nderitu, M.P.
	Hon. Kipruto Moi, M.P.
	Hon. Hellen Chepkwony, M.P.
	Hon. Sarah Korere, M.P.
	Hon. Benson Mbai, M.P.
	Hon. Suleiman Dori, M.P.
	Hon. George Oner, M.P.
	Hon. Mathew L. Lempurkel, M.P.
	Hon. Shakila Abdallah, M.P.
	Hon. Dr. Paul Otuoma, M.P.
	Hon. Thomas Mwadeghu, M.P.
	Hon. Joseph Magwanga, M.P.
	Hon. Ali Shariff Athman, M.P.
	Hon. Francis Njenga, M.P.
	Hon. Hezron Awiti Bollo, M.P.
	Hon. Benard Bett, M.P.
	Hon. Esther Murugi, M.P.
	Hon. Onesmus Ngunjiri, M.P.
	Hon. Julius Ndegwa, M.P.
	Hon. Patrick Kingola, M.P.
	Hon. Kanini Kega, M.P.
	Hon. Eusilah Ngeny, M.P.
	Hon. Omar Mwinyi, M.P.
	Hon. Charles Nyamai, M.P.

Secretariat

First Clerk Assistant	-	Mr. James Ginono
Third Clerk Assistant:	-	Mr. Joshua Ondari
Third Clerk Assistant	-	Mr. Emmanuel Muyodi

List of Recommendations

Based on the Observations, Investigations, evidence adduced and submission made, the Committee makes the following recommendations.

1. THAT, The State Department in charge of Cooperatives and the Registrar of Companies compels the warring shareholders to conduct an Annual General Meeting preferably in Gatanga Sub-County in Muranga County since the Shareholders are peasants who are vulnerable to manipulations;
2. THAT, The Ministry of Lands and Physical Planning puts a caveat on the land and ensure a speedy subdivision of the land and issuance of title deeds to the shareholders.
3. THAT, The Ethics and Anti-Corruption Commission and the Inspector General of Police investigate the circumstances under which the company's funds were withdrawn from the bank and individual company's Directors be held personally liable;
4. THAT, the Caveat in the Land and the status quo is maintained and no sale of the land is effected until an Annual General Meeting is held where all shareholders agrees on the way forward;
5. THAT, The Kenya Revenue Authority, Ministry of Lands and Physical Planning, State Department in charge of Cooperatives and the Inspector General of Police ensure that all debts in the land are sorted/finalised before sub-division.

1.0 INTRODUCTION

1. The Petitioners wished to draw to the attention of the House on the following:
 - a) Nanga Kihoto (Naivasha) Limited is a land buying company with a membership of 1,768 members;
 - b) The original shareholders were mostly from Gatanga Sub-County and acquired shareholding through deductions from proceeds of coffee sold from their farms;
 - c) The company owns various parcels of land namely LR. No. 10423/2, LR. No. 17599/9 and LR No. 5658/11, LR. 18499/1 located in Naivasha constituency;
 - d) The last annual general meeting was held in 2012 and effort by the shareholders to hold another annual general meeting in the subsequent years to deliberate on various matters including subdivision of the parcels of land have been futile;
 - e) In December, 2013 a former Director Mr. Pharis Mburu Ngugi fraudulently and without authorization from other directors and shareholders withdrew a sum of Kshs. 495,000 from the company's bank account at the Cooperative bank in Thika branch;
 - f) Shareholder reported the matter at Thika police station but no action was taken;
 - g) The former director made an application of consent from Naivasha land control board without the knowledge and approval of the shareholders;
 - h) The shareholders reported the matter to Naivasha police station but the police failed to take action;
 - i) The alleged sale of the land has generated a lot of resentment among the shareholders which if not addressed may lead to fatal conflict;
 - j) Efforts to resolve this matter with the relevant authorities have been futile; and
 - k) The matter presented in this petition is not pending before any tribunal or Court of Law.

1.1 Petition Prayers

2. The petitioners pray that the National Assembly, through the Departmental Committee on Lands:
 - a) Ensures that the Ministry of Lands and Physical Planning puts a caveat on the said parcel of land until an annual general meeting is held to resolve any outstanding issues;
 - b) Causes the shareholders and the Ministry of Lands and Physical Planning to ensure speedy subdivision of the land and issuance of the title deed to the shareholders;
 - c) Cause investigation on the former directors of the said company and officers stationed at the Thika and Naivasha Police stations for fraudulent withdrawal of companies fund and failure to take necessary action respectively;
 - d) Ensure that the petitioners plight is addressed; and
 - e) Makes any other order or direction that it deems fit to address the prayers contained in

2.0 EVIDENCE PROVIDED

2.1 Evidence from the Muranga County Women Representative

The Hon. Sabina Chege, MP, appeared before the Departmental Committee and informed the Committee as follows:

3. The original shareholders of Nanga Kihoto (Naivasha) Limited were mostly from Gatanga Sub-County and acquired shareholding through deductions from proceeds of coffee sold from their farms;
4. The company owns two parcels of land namely LR. No. 10423/2, LR. No. 17599/9 and LR No. 5658/11, LR. 18499/1 located in Naivasha constituency;
5. The last annual general meeting was held in the year 2012 and effort by the shareholders to hold annual general meeting in the subsequent years to deliberate on various matters including subdivision of the parcels of land have been futile;
6. In December, 2013 a former director Mr. Pharis Mburu Ngugi fraudulently and without authorization from other directors and shareholders withdrew a sum of Kshs. 495,000 from the company's bank account at the Cooperative bank Thika branch;
7. The former director made an application of consent from Naivasha land control board without the knowledge and approval of the shareholders;
8. The shareholders reported the matter to Naivasha police station but the police failed to take action;
9. The alleged sale of the land has generated a lot of resentment among the shareholders which if not addressed may lead to fatal conflict;

2.2 Evidence from the Cabinet Secretary Ministry of Lands and Physical Planning

Prof. Jacob Kaimenyi, Cabinet Secretary for the Ministry of Lands and Physical Planning appeared before the Committee and informed it as follows: THAT

10. Nanga Kihoto Farmers Company was incorporated in 1984;
11. The Company bought two (2) parcels of Land LR 10423 & LR 5658/2 whose combined total acreage was 2,324 acres and the land is located in Naivasha;
12. The total number of the companies shareholders is 1,768 members
13. The Company has had leadership wrangles for a long time pitting two (2) groups;
14. One of the groups is led by Pharis Mburu who was elected Chairman in year 2008 - 2013.
15. In 2013 upon losing the elections, Mr. Mburu obtained a restraining order Vide JR 54 of 2013 on 9th December, 2013 to bar the new office bearers from taking over office;
16. There also exists a case between Monyo and others VS Livewire & Company Limited.
17. The second group is lead by one Mr. Monyo and others who are said to be the new office bearers that ousted Mr. Mburu and his group.
18. Livewire Company Limited is a Company said to have leased 400 acres of land of Naga Kihoto;

19. The Standard Chartered Bank placed a caveats on the parcels over unpaid loans; and
20. There exists a court order dated 11th October 2016 restraining any transaction pending the hearing of the case JR 54 of 2013.

2.3 Evidence from Naivasha Deputy County Commissioner

Mr. Masinde Naivasha Deputy County Commissioner appeared before the Committee and informed it as follows: THAT,

21. Nanga Kihoto Farmers Company limited was incorporated in 1984;
22. After the Incorporation the Company/group members bought two parcels of land LR. NO. 10423/2 and LR. NO. 5658/2 measuring 2,324 acres from Ndekan Enterprises limited, which had acquired the same from Nunjoro limited;
23. The Company was made up of 1,768 members who hail from Karati village in Karati Sub-location; popularly known as "Kwa Nanga";
24. At the beginning the Chairmen of boards of Nanga Kihoto Cooperative Society in Muranga led the Company. The Chairmen were Mr. Ndungu Kahoi (1987-1997) and Mr. Richard Kamau (1997 – 2003);
25. After the Naivasha group separated from the company in Muranga. The Naivasha group held elections on 22nd October, 2003 and Mr. Gabriele Kaburu was elected as Chairman and served up to 2008;
26. 2008 Mr. Pharis Mburu was elected as Chairman and served up-to 2013;
27. In 2013 the High Court sitting in Nakuru ordered the cancellation of the Annual General Meeting. However, the Naivasha group went ahead and elected Mr. Samwel Monyo Njoroge as the new Chairman; and
28. There was an ongoing Judicial Review Case No. 54 of 2013 that was filed by one Mr. Pharis Mburu Ngugi who was dissatisfied by Hon. Justice Havelok decision to order for an AGM to be held on 11th December 2013.

2.4 Evidence from the Shareholders of Nanga Kihoto (Naivasha) Limited

Mr. Issac Ndungu Kahoi, Former Chairman, Director, Mr. Kariuki Muheru Treasurer, Mr. Joseph Muturi, Shareholder, Mr. Joseph Karanja, Shareholder, Ms. Zipporah Mwangi, Shareholder, and Ms. Mary Mburu, Shareholder appeared before the committee and informed it as follows: THAT,

29. Nanga Kihoto Limited Company was incorporated in Kenya in 1994.
30. The Company has 1768 members from Gatanga Sub-County in Muranga County;
31. From the date of incorporation the company has been led and managed by four different boards of Directors under the Chairmanship of the following:-
 - a) 1985 – 1994 – Mr. Isaac Ndungu Kahoi;
 - b) 1994 – 2003- Mr. Richard Kamau Gathungu;
 - c) 2003-2007 –Mr. Gabriel Kabaru Kaguya;
 - d) 2008-2013- Mr. Pharis Mburu Ngugi;
 - e) 2013 – Mr. Samuel Monyo Njoroge.

~~32. The Company owns two pieces of land LR. NO. 10423/2 450 acres and LR. NO 5658/1 987 acres all situated in North East Naivasha Town;~~

33. Some portion of the lands they Company acquired has been leased to Live Wire Limited;

34. Although the share holders had entered into an agreement with Live Wire Limited the company will continue to pay rates per acre depending on the usage;
35. Live Wire Limited is in arrears of more than two and half years totaling to Ksh. 19, 682, 462 as indicated below:-
 - a) 2013 - 2014 – Kshs.3, 503, 310
 - b) 2014 - 2015 – Kshs.8, 089, 576
 - c) 2015-2016 - Kshs.8, 089, 576
36. Live Wire Limited through White Stone Properties Limited is planning to buy land parcel LR. NO. 10423/2;
37. It is alleged that Live Wire Limited signed sale agreement dated 12th October, 2012 with the former directors without the consent of the shareholders;
38. The application was lodged in Naivasha Land Control Board on 12th February 2015. However, it was differed due to lack of merit to sell community land without the consent of members;
39. There were allegations that a fresh sale agreement was being prepared since the earlier one had expired;
40. Live Wire Limited informed them that it would clear the arrears on condition that the shareholders honor the sale agreement;
41. The title deeds for the two parcels of land were being held by Standard Chartered Farm Management for no apparent reason since the intention to acquire a loan and charge the title deeds was rejected by them;
42. The current boards of directors have organized only two Extra Ordinary General Meetings which were held on 14th March and 10th July, 2014 while the Annual General Meeting that was to be held on May 7th , 2015 was stopped by Nakuru High Court and the meeting is still pending;
43. On 16/12/2013 the former directors fraudulently withdrew Ksh 500,000 from the companies Co-operative Bank, Thika Branch. The case was reported to Thika Police Station OB No. 39/13/11/2014. The attempted sale of the shareholders land without their consent was reported to Naivasha Police Station OB NO.21/18/2/2015;
44. Although the current directors obtained Court Orders and ruling to restrain the former directors from conducting any business on behalf of the company the formers directors are still carrying out company activities illegally.

2.5 Evidence from the Shareholders of Nanga Kihoto (Naivasha) Limited

Mr. Pharis Mburu an embattled and disputed Chairman of the Group appeared before the Committee and informed it as follows: that,

45. Nanga Kihoto (Naivasha) Limited was incorporated on 10th December, 1981 and took over the shares, lands and other assets of the company known as Ndekan Limited;
46. Ndekan Limited was a private company owned by two shareholders, namely Ignatius Iriga Nderi, the then Director of CID and one James Kamau Kanja;
47. Ndekan Limited owned two parcels of land at Naivasha, LR. No. 5658/1 measuring 332.5 hectares (821.6 acres) and LR. 10423/2 measuring 456 acres (less 16 acres road reserved);
48. The two parcel's of land were transferred to Nanga Kihoto (Naivasha) Limited in 1981 after the company was incorporated;

49. Nanga Kihoto (Naivasha) Limited caused a change of name from Ndekan Limited to Nanga Kihoto (Naivasha) Limited, to be registered by the Registrar of Companies on 10th December 1981 and remained a private company until it was converted to a public company on 5th March, 2015;
50. There was a legal anomaly whilst this company remained a private company for over 35 years. Under the Companies Act, Cap 486, the maximum number of shareholders in a private company is 50 members only. From its inception this company had and still has 1768;
51. The company had been lead by various Directors. In and around 1985 the then Board of Directors handed over the original title deeds of the two parcels of land at Naivasha to the then Farm Management Company known as Standard Chartered Estate Management Ltd (SCEM);
52. The directors borrowed Ksh. 54 million but could not register a charge against the titles as the Land Control Board refused to grant the consent;
53. In the absence of a charge the management registered caveats against the titles claiming charge interests. The caveat is registered as Entry No. 13 on title L.R No. 10423/2;
54. The Standard Chartered Estate Limited is claiming the sum of Ksh. 168 million from Nanga Kihoto (Naivasha) Limited;
55. Other debts notified to the company for payment were:
 - a) Muthoga Gaturu & Advocates – Ksh. 96 Million claimed as professional legal fees in arbitration case;
 - b) Kenya Revenue Authority – arrears of taxes Ksh 4 Million
 - c) County Government of Nakuru Arrears of rates Ksh. 1.5 Million
 - d) Survey fees for the sub-division of the land upto the issuance of titles to all 1768 shareholders – survey work on-going.
56. In 2007, he was elected as Chairman of the Board of Directors with others however the previous board led by one Mr. Gabriele Kaburu Kagunya refused to vacate office and handover company documents and records;
57. The board led by Himself (Mr. Pharis Mburu Ngugi) filed a case at Nakuru High Court No. 250 of 2007;
58. The Court recognized the board led by Mr. Pharis Mburu Ngugi as the genuine one and ordered the previous board to hand over the company documents but the board refused. The directors were committed to civil jail for three months;
59. The Court cancelled all previous documents and records and authorized Mr. Pharis Mburu Ngugi as the board to reconstruct all such documents and records including the member's registers;
60. In 2013 a few of the shareholders led by one Mr. Samuel Monyo Njoroge filed a suit in the High Court HCCC No. 49 of 2013 Nairobi seeking orders from the Court to convene an Annual General Meeting;
61. Hon. Justice Havelock ordered an AGM to be held on 11th December 2013. The board led by Mr. Pharis Mburu Ngugi was dissatisfied by the Order and filed for a Judicial Review Case no. 54 of 2013 Nakuru;
- ~~62. The AGM was held as scheduled, but the High Court in the Judicial Review case ordered the cancellation of the AGM; However, the new directors were elected at the cancelled AGM and the Registrar of Companies ignored the Court Orders and registered the said~~

- directors;
63. This created two parallel Boards of Directors, one led by Pharis Mburu Ngugi and the new one led by Samuel Monyo Njoroge;
 64. In 2014 the Board of Directors led by Samuel Monyo Njoroge filed a consent at Milimani Commercial and Admiralty Court in Nairobi against the Board of Directors under Pharis Mburu Ngugi; Civil Case No. 91 of 2014 praying for orders to restrain Pharis Mburu Ngugi group from holding themselves as directors of the company;
 65. Hon Lady Justice Kamau directed the parties to file consent; and thereafter the case would be mentioned for the purposes of the Court adopting the Consent;
 66. The Court declined to hear the parties any further until they reached a consent;
 67. In 2015, the High Court in the Judicial Review Case No. 54 of 2013 (Nakuru) ordered the two warring boards of directors to nominate four (4) directors from each group to constitute a new board of directors. The Samuel Monyo Njoroge completely refused to abide by the Court Order;
 68. When the boards of directors led by Gabriel Kaburu Kaguya took over the management of the company in 2003, it received from the out-going board the following moveable assets:
 - a) 400 dairy cows;
 - b) 200 beef cattle; and
 - c) Other farm and office assets as detailed in the inventory made and signed on 25th April 1995.
 69. When Pharis Mburu Ngugi took over the company in 2007, all the dairy and breed cattle had been sold and most of the items in the inventory were also missing. The Board of Directors led by Gabriel Kaburu Kaguya will have to account for all the misappropriated company assets;
 70. The two titles had been handed over to Standard Chartered Estate Management Limited in 1985. When Pharis Mburu Ngugi approached the bank for the original titles, he was informed that the company had a debt with the bank of approximately Ksh 168M and that they had to pay before the bank could release the titles.
 71. The bank later informed Pharis Mburu Ngugi that the titles were lost and could not be traced;
 72. Mr. Pharis Mburu Ngugi reported the loss to the police. The loss was later gazzetted by the Registrar of titles. Eventually provisional titles were issued vide Gazette Notice No. 11583, dated, 16th August, 2013;
 73. The bank then demanded an advocates professional undertaking to pay Ksh. 168M before the release of the Provisional Titles; M/s Coulson Harney Advocates of P.O Box 10643-00100 Nairobi gave the undertaking and the titles were released to them pending the payment. They are still holding the titles;
 74. The board of directors led by Pharis Mburu Ngugi commissioned the Survey company, Mssrs. Geoplan Kenya Limited to carry out the survey and subdivision of the land with a view to allocate individual title to all the 1768 shareholders.
 75. Surveyors led by Joseph Githii, Project Director and Julius Chege, Chief surveyor finalized the first stage of the preliminary planning.

2.6 Evidence from the Director of Live Wire Limited

Mr. Gordon Miller Director Live Wire Limited and Mr. Evans Monari, Advocate, appeared before the Committee and informed the Members as follows:-

76. In 1970 the Nanga Kihoto Ltd bought the said land from the European settlers;
77. The shareholders had farmed the land for over 20 years;
78. In 1996 shareholders Nanga Kihoto Ltd leased the land measuring approximately 1,200 acres to Live Wire Limited;
79. Currently Live Wire Limited is utilizing 850 acres i.e 250 for horticulture, 550 acres for agricultural and since the remaining 100 acres was unutilized it was reverted to the shareholders as per the agreement;
80. In 2011 Nanga Kihoto Ltd experienced financial challenges and therefore they requested Live Wire Limited to buy the 456 acres under horticulture at a price of 182 M;
81. However, they failed to close the deal due to the following encumbrances:
 - a. Substantial amount of loan with Standard Chartered Estate Management Limited;
 - b. Wayleave from the previous owners;
 - c. Kenya Revenue Authority –arrears of taxes; and
 - d. County Government of Nakuru Arrears of rates
82. The contract sale agreement between Nanga Kihoto Ltd and Live Wire Limited involved the buyer taking the said land settling the dues;
83. Live Wire Limited paid for the 10% deposit of 18M with a view of settling all encumbrances and also paying for the land except for the loan owned at Standard Chartered Estate Limited. However, due to rivalry between the two sets of Directors they were unable to conclude the matter;
84. Live Wire Limited and Nanga Kihoto Ltd. Shareholder had entered into an agreement that the company will pay rates per acre per annum depending on the usage as follows:-
 - a) Kshs 18,000 for land under horticulture;
 - b) Kshs 5,500 for land under agriculture; and
 - c) Kshs 4,000 for grass land.
85. Despite knowledge of the caveat on the land Live Wire Limited bought the land after entering into an agreement with Nanga Kihoto Ltd that they will settle all the company's debts except for the loan owned at Standard Chartered Estate Limited;

3.0 FINDINGS, OBSERVATIONS AND CONCLUSIONS

Based on the Observations, Investigations, evidence adduced and submission made, the Committee made the following recommendations Findings, Observations and Conclusions.


1. THAT, There exists leadership and management wrangles in the company;
2. THAT, The company has not held any Annual General Meeting since 2012;
3. THAT, Most of the shareholders are peasants who are vulnerable to manipulations;
4. THAT, There are brokers both in and outside the company who are keen in selling the land in its original form without taking into consideration the interest of the individual shareholders;
5. THAT, The Company is indebted with the Standard Chartered Estate Management Limited and Kenya Revenue Authority among others;
6. THAT, There has been an attempt to sale the land to Live Wire Limited which did not materialize;
7. THAT, The Company owns two parcels i.e. LR. No. 10423 and LR. 5638/2 with a combined acreage of 2324
8. THAT, Live Wire Limited signed sale agreement dated 12th October, 2012 with the former directors without the consent of the shareholders.

4.0 RECOMMENDATION

Based on the Observations, Investigations, evidence adduced and submission made, the Committee makes the following recommendations.

1. THAT, The State Department in charge of Cooperatives and the Registrar of companies compels the warring shareholders to conduct an Annual General Meeting preferably in Gatanga Sub-County in Muranga County since the Shareholders are peasants who are vulnerable to manipulations;
2. THAT, The Ministry of Lands and Physical Planning puts a caveat on the land and ensure speedy subdivision of the land and issuance of title deeds to the shareholders.
3. THAT, The Ethics and Ant-Corruption Commission and the Inspector General of Police investigate the circumstances under which the company's funds were withdrawn from the bank and individual company's Directors be held personally liable;
4. THAT, the Caveat in the Land and the status quo is maintained and no sale of the land is effected until an Annual General Meeting is held where all shareholders agrees on the way forward;
5. THAT, The Kenya Revenue Authority, Ministry of Lands and Physical Planning, State Department in charge of Cooperatives and the Inspector General of Police ensure that all debts in the land are sorted/finalized before sub-division.

SIGNED:



DATE:

19/05/2017

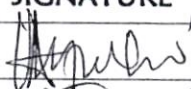
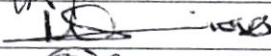
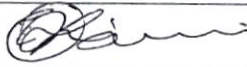


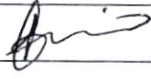

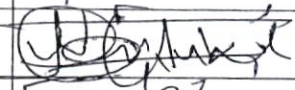

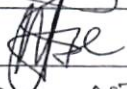





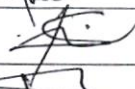


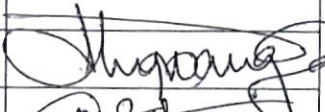


(HON. ALEX M. MWIRU, MP)
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON LANDS

Annex 1
DEPARTMENTAL COMMITTEE ON LANDS
ATTENDANCE LIST

Date: May 19th, 2017

Venue: The Pier, English Point Marina, Mombasa

Agenda: Adoption of the report on the Petition by Hon. Sabina Chege on attempted land transfer and fraudulent funds withdrawal from company's account

NO.	NAME	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)	
2.	The Hon. Moses Ole Sakuda, M.P (Vice-Chairperson)	
3.	The Hon. Onesmas Ngunjiri, M.P.	
4.	The Hon. Mutava Musyimi, M.P.	
5.	The Hon. John Kihagi, M.P.	
6.	The Hon. Francis W. Nderitu, M.P.	
7.	The Hon. Francis Njenga, M.P.	
8.	The Hon. Athman. Shariff, M.P.	
9.	The Hon. Eusilah Jepkosgei, M.P.	
10.	The Hon. Benard Bett, M.P.	
11.	The Hon. Kipruto Moi, M.P.	
12.	The Hon. Hellen Chepkwony, M.P.	
13.	The Hon. Sarah Korere, M.P.	
14.	The Hon. Julius Ndegwa, M.P.	
15.	The Hon. Benson Mbai, M.P.	
16.	The Hon. Kanini Kega, M.P.	
17.	The Hon. Esther Murugi Mathenge, M.P.	
18.	The Hon. Hezron Awiti Bollo, M.P.	
19.	The Hon. Suleiman Dori Ramadhani, M.P.	
20.	The Hon. George Oner Ogalo, M.P.	
21.	The Hon. Lekidime L. Mathew, M.P.	
22.	The Hon. Shakila Abdallah, M.P.	
23.	The Hon. Paul Otuoma, M.P.	
24.	The Hon. Thomas Mwadeghu, M.P.	
25.	The Hon. Patrick Makau, M.P.	
26.	The Hon. Magwanga Joseph Oyugi, M.P.	
27.	The Hon. Omar Mwinyi, M.P.	
28.	The Hon. Charles Mwangi, M.P.	

Approved
K. O. Ochieng
24/8/16

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT
(FOURTH SESSION)

PUBLIC PETITION

BY THE SHAREHOLDERS OF NANGA KIHOTO (NAIVASHA) LIMITED ON
ATTEMPTED LAND TRANSFER AND FRAUDULENT FUNDS WITHDRAWAL
FROM COMPANY'S ACCOUNT

I, the **UNDERSIGNED**, on behalf of shareholders of Nanga Kihoto (Naivasha) Limited,

DRAW the attention of the House on the following: -

- i) **THAT**, Nanga Kihoto (Naivasha) Limited is a land buying company with a membership of 1768 member;
- ii) **THAT**, the original shareholders were mostly from Gatanga Sub-county and acquired shareholding through deductions from proceeds of coffee sold from theirs.
- iii) **THAT**, the Company owns two parcels of land namely LR No.10423/2, LR No. 17599/9 and LR No. 5658/11, LR No.18499/1 located in Naivasha Constituency;
- iv) **THAT**, the last Annual General Meeting was held in the year 2012 and effort by the shareholders to hold Annual General Meetings in the subsequent years to deliberate on various matters including sub-division of the parcels of land have been futile;
- v) **THAT**, in December 2013, a former director a Mr. Pharis Mburu Ngugi fraudulently and without authorization from other directors and shareholders withdrew a sum of Ksh.495,000/= from the Company's bank account at the Co-operative Bank, Thika Branch;
- vi) **THAT**, shareholders reported the matter at the Thika Police Station but no action was taken;

PUBLIC PETITION
BY THE SHAREHOLDERS OF NANGA KIHOTO (NAIVASHA) LIMITED
ON ATTEMPTED LAND TRANSFER AND FRAUDULENT FUNDS
WITHDRAWAL FROM COMPANY'S ACCOUNT

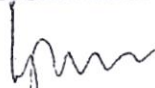
- vii) **FURTHER THAT**, the former director made an application of consent from the Naivasha Land Control Board without the knowledge and approval of the shareholders;
- viii) **THAT**, the shareholders reported the matter to Naivasha Police Station but the Police failed to take action;
- ix) **THAT**, the alleged sale of the land has generated a lot of resentment among the shareholders which if not addressed may lead to fatal conflict;
- x) **THAT**, efforts to resolve this matter with the relevant authorities have been futile; and
- xi) **THAT**, the matter presented in this petition is not pending before any tribunal or court of law.

THEREFORE your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands: -

- i. ensure that the Ministry of Lands puts a caveat on the said parcel of land until an Annual General Meeting is held to resolve any outstanding issues;
- ii. causes the shareholders and the Ministry of Lands to ensure speedy sub-division of the land and issuance of title deed to the shareholders;
- iii. cause investigation on the former directors of the said company and officers stationed at the Thika and Naivasha Police Stations for fraudulent withdrawal of company's funds and failure to take necessary action respectively;
- iv. ensures that the Petitioners' plight is addressed; and
- v. makes any other order or direction that it deems fit to address the prayers contained in this Petition.

And your **PETITIONERS** will ever pray.

PRESENTED BY:


HON. SABINA CHEGE, MP
MEMBER FOR MURANG'A COUNTY
DATE: 17/8/16

ANNEX 3

Copies of Committee on Lands Minutes



MINUTES OF THE 49TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON FRIDAY 19TH MAY, 2017, IN PIER CONFERENCE ROOM, AT ENGLISH POINT MARINA AT 10.00 AM

PRESENT:

- | | |
|---|-------------------------|
| 1. The Hon. Alex Mwiru, M.P. | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 3. The Hon. Omar Mwinyi, M.P. | |
| 4. The Hon. Kanini Kega, M.P. | |
| 5. The Hon. Dr. Paul Otuoma, M.P. | |
| 6. The Hon. Hellen Chepkwony, M.P. | |
| 7. The Hon. Joseph Oyugi Magwanga, M.P. | |
| 8. The Hon. Francis W. Nderitu, M.P. | |
| 9. The Hon. John Kihagi, M.P. | |
| 10. The Hon. Francis Njenga Kigo, M.P. | |
| 11. The Hon. George Oner, M.P. | |
| 12. The Hon. Eusilah Ngeny, M.P. | |
| 13. The Hon. Shakila Abdallah, M.P. | |
| 14. The Hon. Julius Ndegwa, M.P. | |
| 15. The Hon. Mathew L. Lempurkel, M.P. | |
| 16. The Hon. Esther Murugi, M.P. | |
| 17. The Hon. Benson Mbai, M.P. | |
| 18. The Hon. Suleiman Dori, M.P. | |
| 19. The Hon. Onesmus Ngunjiri, M.P. | |
| 20. The Hon. Hezron Awiti Bollo, M.P. | |
| 21. The Hon. Thomas Mwadeghu, M.P. | |
| 22. The Hon. Charles Nyamai, M.P. | |

ABSENT WITH APOLOGIES:

1. The Hon. Bernard Bett, M.P.
2. The Hon. Kipruto Moi, M.P.
3. The Hon. Athman Shariff, M.P.
4. The Hon. Patrick Makau, M.P.
5. The Hon. Sarah Korere, M.P.
6. The Hon. Mutava Musyimi, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

- | | |
|------------------------|---------------------|
| 1. Mr. James Ginono | Clerk Assistant I |
| 2. Mr. Joshua Ondari | Clerk Assistant III |
| 3. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 4. Ms. Mercy Wanyonyi | Legal Counsel II |
| 5. Ms. Rose Ometere | Audio Officer |
-

MINUTE NO. DCL/LN/2017/169

PRELIMINARIES

The chairman called the meeting to order at 10.00 am with a word of prayer.

MINUTE NO. DCL/LN/2017/170

ADOPTION OF THE REPORT ON THE
PETITION BY THE HON. SABINA CHEGE
ON BEHALF OF THE SHAREHOLDERS
OF NANGA KIHOTO (NAIVASHA)
LIMITED ON ATTEMPTED LAND
TRANSFER AND FRAUDULENT FUNDS
WITHDRAWAL FROM COMPANIES
ACCOUNT

The Committee considered the report and upon deliberations made the following observations:-

1. THAT, There exists leadership and management wrangles in the company;
2. THAT, The company has not held any Annual General Meeting since 2012;
3. THAT, Most of the shareholders are peasants who are vulnerable to manipulations;
4. THAT, There are brokers both in and outside the company who are keen in selling the land in its original form without taking into consideration the interest of the individual shareholders;
5. THAT, The Company is indebted with the Standard Chartered Estate Management Limited and Kenya Revenue Authority among others;
6. THAT, There has been an attempt to sale the land to Live Wire Limited which did not materialize;
7. THAT, The Company owns two parcels i.e. LR. No. 10423 and LR. 5638/2 with a combined acreage of 2324
8. THAT, Live Wire Limited signed sale agreement dated 12th October, 2012 with the former directors without the consent of the shareholders.

Upon making the above-mentioned observations the Committee resolved as hereunder:-

1. THAT, The State Department in charge of Cooperatives and the Registrar of Companies compels the warring shareholders to conduct an Annual General Meeting preferably in Gatanga Sub-County in Muranga County since the Shareholders are peasants who are vulnerable to manipulations;
2. THAT, The Ministry of Lands and Physical Planning puts a caveat on the land and ensure a speedy subdivision of the land and issuance of title deeds to the shareholders.

3. THAT, The Ethics and Anti-Corruption Commission and the Inspector General of Police investigate the circumstances under which the company's funds were withdrawn from the bank and individual company's Directors be held personally liable;
4. THAT, the Caveat in the Land and the status quo is maintained and no sale of the land is effected until an Annual General Meeting is held where all shareholders agrees on the way forward;
5. THAT, The Kenya Revenue Authority, Ministry of Lands and Physical Planning, State Department in charge of Cooperatives and the Inspector General of Police ensure that all debts in the land are sorted/finalised before sub-division.

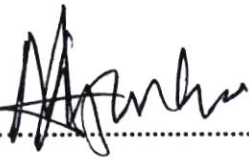
Consequently, the report was proposed and adopted unanimously by the Members present and signed by the Chair.

MINUTE NO. DCL/LN/2017/171

ADJOURNMENT

There being no any other business, and the time being 11:00 am the meeting was adjourned.

SIGNED.....



(CHAIRPERSON)

DATE.....

19/05/2017

MINUTES OF THE 11th SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON MONDAY 27th FEBRUARY 2017, IN AMANI MEETING ROOM AT BOMA HOTEL AT 9.00 AM

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
3. The Hon. Omar Mwinyi, M.P.
4. The Hon. Onesmus Ngunjiri, M.P.
5. The Hon. Benson Mbai, M.P.
6. The Hon. Mathew L. Lempurkel, M.P.
7. The Hon. A. Shariff, M.P.
8. The Hon. Charles Nyamai, M.P.
9. The Hon. Shakila Abdallah, M.P.
10. The Hon. Hellen Chepkwony, M.P.
11. The Hon. Sarah Korere, M.P.
12. The Hon. Francis Njenga Kigo, M.P.
13. The Hon. Patrick Makau, M.P.
14. The Hon. Francis W. Nderitu, M.P.
15. The Hon. Bernard Bett, M.P.
16. The Hon. John Kihagi, M.P.
17. The Hon. Dr. Paul Otuoma, M.P.
18. The Hon. George Oner, M.P.
19. The Hon. Julius Ndegwa, M.P.

ABSENT WITH APOLOGIES:

1. The Hon. Hezron Awiti Bollo, M.P.
2. The Hon. Kanini Kega, M.P.
3. The Hon. Esther Murugi, M.P.
4. The Hon. Thomas Mwadeghu, M.P.
5. The Hon. Mutava Musyimi, M.P.
6. The Hon. Eusilah Ngeny, M.P.
7. The Hon. Suleiman Dori, M.P.
8. The Hon. Joseph Oyugi Magwanga, M.P.
9. The Hon. Kipruto Moi, M.P.

IN ATTENDANCE:

-
- | | |
|------------------------|---------------------|
| 1. Mr. James Ginono | Clerk Assistant I |
| 2. Mr. Joshua Ondari | Clerk Assistant III |
| 3. Mr. Emmanuel Muyodi | Clerk Assistant III |

4. Mr. Simon Muinde Audio Officer

MINISTRY OF LANDS AND PHYSICAL PLANNING

- | | |
|-------------------------------|---------------------|
| 1. Prof. Jacob Kaimenyi | Cabinet Secretary |
| 2. Mrs. Mariam El Maaway | Principal Secretary |
| 3. Mr. Peter Kahuho | S.L. |
| 4. Mr. A.A Ombima | Ag. US |
| 5. Mr. Cesaria Mbaria | Director of Survey |
| 6. Mr. Johson Njuguna | P.A.C |
| 7. Mr. Owino Jacob Cattwright | S.L.R.O |
| 8. Mr. Eustace Kithumbo | PLASO |
| 9. Mr. Edward Kosgei | D.L.A |
| 10. Mr. Paul Ndungu | Ag. A.D |
| 11. Mr. Joseph K. Mwangi | Head/P.C.U |

MINUTE NO. DCL/LN/2017/48

PRELIMINARIES

The chairman called the meeting to order at 9.15 a.m. with a word of prayer from the Hon. Paul Otuoma, MP

MINUTE NO. DCL/LN/2017/49

MEETING WITH THE MINISTRY OF LANDS AND PHYSICAL PLANNING

Prof Jacob Kaimenyi and the Principal Secretary appeared before the Committee and informed the Committee as follows:-

Petition by the Hon. Sabina Chege, MP on behalf of residence shareholders of Nanga Kihoto/Naivasha Ltd regarding an attempted irregular transfer of land and fraudulently funds withdrawal from Company's account: -

1. Nanga Kihoto Farmers Company was incorporated in 1984;
2. The Company bought two (2) parcels of Land LR 10423 & LR 5658/2 whose combined total acreage was 2,324 acres and the land is located in Naivasha;
3. The total number of the companies shareholders is 1,768 members
4. The Company has had leadership wrangles for a long time pitting two (2) groups;
5. One of the groups is led by Pharis Mburu who was elected Chairman in year 2008 - 2013.
6. In 2013 upon losing the elections, Mr. Mburu obtained a restraining order Vide JR 54 of 2013 on 9th December, 2013 to bar the new office bearers from taking over office;

7. There also exists a case between Monyo and others VS Livewire & Company Limited.
8. The second group is lead by one Mr. Monyo and others who are said to be the new office bearers that ousted Mr. Mburu and his group.
9. Livewire Company Limited is a Company said to have leased 400 acres of land of Naga Kihoto;
10. The Standard Chartered Bank placed a caveats on the parcels over unpaid loans; and
11. There exists a court order dated 11th October 2016 restraining any transaction pending the hearing of the case JR 54 of 2013.

MINUTE NO. DCL/LN/2017/51

ADJOURNMENT

There being no any other business, and the time being 12:15 pm the Chairman adjourned the meeting.

SIGNED.....



(CHAIRPERSON)

DATE.....

19 / 05 / 20 17

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 23RD FEBRUARY 2017, AT THE SMALL DINING, MAIN PARLIAMENT BUILDING AT 11.00 AM

PRESENT:

- 1) The Hon. Alex Mwiru, M.P. - Chairperson
- 2) The Hon. Omar Mwinyi, M.P
- 3) The Hon. Esther Murugi, M.P
- 4) The Hon. Sarah Korere, M.P.
- 5) The Hon. Benson Mbai, M.P.
- 6) The Hon. Hellen Chepkwony, M.P.
- 7) The Hon. Francis Njenga Kigo, M.P.
- 8) The Hon. Joseph Oyugi Magwanga, M.P.
- 9) The Hon. Kipruto Moi, M.P.
- 10)The Hon. Onesmus Ngunjiri, M.P.
- 11)The Hon. Thomas Mwadeghu, M.P.
- 12)The Hon. Hezron Awiti Bollo, M.P.
- 13)The Hon. Kanini Kega, M.P.
- 14)The Hon. George Oner, M.P.

ABSENT WITH APOLOGIES:

- 1) The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
- 2) The Hon. Charles Nyamai, M.P
- 3) The Hon. Athman Shariff, M.P.
- 4) The Hon. Patrick Makau, M.P.
- 5) The Hon. Dr. Paul Otuoma, M.P.
- 6) The Hon. John Kihagi, M.P.
- 7) The Hon. Bernard Bett, M.P.
- 8) The Hon. Francis W. Nderitu, M.P
- 9) The Hon. Julius Ndegwa, M.P.
- 10)The Hon. Eusilah Ngeny, M.P.
- 11)The Hon. Mathew L. Lempurkel, M.P
- 12)The Hon. Shakila Abdallah, M.P.
- 13)The Hon. Mutava Musyimi, M.P.
- 14)The Hon. Suleiman Dori, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

-
- | | |
|----------------------|---------------------|
| 1. Mr. James Githo | Clerk Assistant I |
| 2. Mr. Joshua Ondari | Clerk Assistant III |
-

3. Mr. Emmanuel Muyodi Clerk Assistant III
4. Ms. Mercy Wanyonyi Legal Officer II

LIVE WIRE LIMITED

1. Mr. Gordon Miller Director Live Wire Limited
2. Mr. Evans Monari Advocate

NANGA KIHOTO (NAIVASHA) LTD

1. Mr. Robert Magana Director Nanga Kihoto LTD
2. Mr. Samwel Monyo Director Nanga Kihoto LTD
3. Mr. Francis Mweria Director Nanga Kihoto LTD

GUCOKANIRIRIA KIHATO TRADERS & FARMERS COMPANY LTD

1. Mr. John Nderu Shareholders
2. Mr. Hillary Kamau Kariuki Shareholders

MINUTE NO. DCL/LN/2017/41 PRELIMINARIES

The chairman called the meeting to order at 10.15 a.m. with a word of prayer from Hon. Joseph Oyugi Magwanga, MP

MINUTE NO. DCL/LN/2017/42 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as hereunder after being proposed by the Hon. Hellen Chepkwony, M.P. and Seconded by the Hon. Hon. Benson Mbai, M.P.

AGENDA

1. Prayers
2. Preliminaries/Introductions
3. Communication from the Chair
4. Matters Arising
5. Bills and Legislative Proposals
 - i. The Institution of Surveyors of Kenya Legislative proposal, 2016
 - ii. The Land Administration Legislative proposal, 2016
6. Petitions
 - i) *Petition by Residents of Pongwe Area in LungaLunga Constituency on Imminent Eviction from LR 1083 Shimoni Kwale;- The Committee is yet to meet with the Directors Kibigo Ltd;*

- ii) *Petition by the residents of Yala Swamp regarding the alleged displacement from their land;- **the Committee is yet to meet with the Director of Dominion Farm Ltd;***
 - iii) *Petition by the Hon. Kanini Kega, MP on behalf of the residents of Kieni Constituency regarding Solio Ranch dispute land;- **The Committee is yet to meet with the Director Solio Ranch;***
 - iv) *Petition by residents of Segera, Laikipia County on urgent resolution of abuse, torture August land conflict cases in Segera, Laikipia County; **The Committee is yet to schedule a joint sitting with DC on Administration and National Security;***
 - v) *Petition by the Hon. Lati Lelelit, MP on behalf of area residents of Murramur regarding Murramur land; **The Committee is yet to schedule a joint sitting with DC on Defence;***
 - vi) *Petition by the Hon. Cyprian Kubai Iringo on Behalf of the residents of Igembe Central Constituency regarding parcels of land allocated to the community; **The Committee is yet to receive evidence from the Ministry of Lands and National Land Commission;***
 - vii) *Petition by Hon. Sabina Chege, MP on behalf of the shareholders of Nanga Kihoto (Naivasha) Ltd regarding an attempted irregular transfer of land and fraudulently funds withdrawal from Company's accounts; **Report yet to meet with the Ministry of Lands and the owner of LiveWire Ltd;***
 - viii) *Petition by Hon. George Theuri, MP on behalf of residents of Mowlem Ward regarding alleged irregular allocation of land LR. No. 11379/3; **The Committee is yet to receive evidence from the Ministry of Lands and National Land Commission and thereafter conduct a field visit;***
 - ix) *Petition by the Hon. Dr. Humphrey Njuguna, MP on behalf of the shareholders of Twin Hill Ranching Company Ltd on LR. No. 3567 land dispute; **The Committee is yet to receive evidence from the Ministry of Lands and National Land Commission and thereafter conduct a field visit;***
 - x) *Petition by Hon. Aramat Lemanken, MP on behalf of the original Moi-Ndabi settlement Scheme allottees regarding grabbing of land at the Moi-Ndabi settlement Scheme; **The Committee is yet to receive evidence from the Ministry of Lands and National Land Commission;***
 - xi) *Petition by Hon. David Gikaria, MP on alleged revocation and cancellation of title for land parcel LR No. Nakuru Municipality Block 23/108; **The Committee is yet to receive evidence from the Ministry of Lands and National Land Commission;***
 - xii) *Petition by Hon. Francis Mwangangi, MP concerning irregular acquisition of land in Ndalani Ward Yatta Constituency; **The Committee is yet to receive evidence from the Ministry of Lands and National Land Commission and thereafter conduct a field visit;***
 - xiii) *Petition by Hon. Alfred Keter on renewal of land leases in Nandi County; **The Committee is yet to receive evidence from the Ministry of Lands and***
-

- xiv) *The Hon. Omar Mwinyi, MP on behalf of the residents of Changamwe Constituency on land issues in Changamwe Constituency; **The Committee has scheduled a field visit;***
- xv) *The Hon. Shakila Abdalla, MP on behalf of the residents of Lamu County regarding illegal allocation of land in Lamu County. Paper **The Committee has scheduled a field visit;***

7. Statements

Substantive Agenda

- i. Meeting with the Director of Live Wire Limited on a Petition by Hon. Sabina Chege, MP on behalf of the shareholders of Nanga Kihoto (Naivasha) Ltd regarding an attempted irregular transfer of land and fraudulently funds withdrawal from Company's accounts.

8. Any other business

9. Date for the Next Sitting

MINUTE NO. DCL/LN/2017/45

MEETING WITH THE DIRECTOR OF LIVE WIRE LIMITED

Mr. Gordon Miller Director Live Wire Limited and Mr. Evans Monari Advocate appeared before the Committee and informed the Members as follows:-

- i) In 1970 the Nanga Kihoto Ltd bought the said land from the European settlers;
- ii) The shareholders farmed the land for over 20 years;
- iii) In 1996 shareholders Nanga Kihoto Ltd leased the land measuring approximately 1,200 acres to Live Wire Limited;
- iv) Currently Live Wire Limited is utilizing 850 acres i.e 250 for horticulture, 550 acres for agricultural and since the remaining 100 acres was unutilized it was reverted to the shareholders as per the agreement;
- v) In 2011 Nanga Kihoto Ltd experienced financial challenges and therefore they requested Live Wire Limited to buy the 456 acres under horticulture at a price of 182 M;
- vi) However, they failed to close the deal due to the following encumbrances:
 - i. Substantial amount of loan with Standard Chartered Estate Management Limited;
 - ii. Wayleave from the previous owners;
 - iii. Kenya Revenue Authority - arrears of taxes; and
 - iv. County Government of Nakuru Arrears of rates

- vii) The contract sale agreement between Nanga Kihoto Ltd and Live Wire Limited involved the buyer taking the said land settling the dues;
- viii) Live Wire Limited paid for the 10% deposit of 18M with a view of settling all encumbrances and also paying for the land except for the loan owned at Standard Chartered Estate Limited. However, due to rivalry between the two sets of Directors they were unable to conclude the matter;
- ix) Live Wire Limited and Nanga Kihoto Ltd. Shareholder had entered into an agreement that the company will pay rates per acre per annum depending on the usage as follows:-
 - a) Kshs 18,000 for land under horticulture;
 - b) Kshs 5,500 for land under agriculture; and
 - c) Kshs 4,000 for grass land.
- x) Despite knowledge of the caveat on the land Live Wire Limited bought the land after entering into an agreement with Nanga Kihoto Ltd that they will settle all the company's debts except for the loan owned at Standard Chartered Estate Limited;

MINUTE NO. DCL/LN/2017/46

ADJOURNMENT

There being no any other business, and the time being 12:30 pm the Chairman adjourned the meeting.

SIGNED.....



(CHAIRPERSON)

DATE.....

19 / 05 / 2017

MINUTES OF THE 65TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 4TH AUGUST, 2016, IN THE BOARDROOM OF FOURTH FLOOR PROTECTION HOUSE PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT:

- | | |
|--|-----------------|
| 1. The Hon. John Kihagi, M.P. | Chairing |
| 2. The Hon. Francis W. Nderitu, M.P. | |
| 3. The Hon. Bernard Bett, M.P. | |
| 4. The Hon. Hellen Chepkwony, M.P. | |
| 5. The Hon. Kipruto Moi, M.P. | |
| 6. The Hon. Benson Mbai, M.P. | |
| 7. The Hon. Julius Ndegwa, M.P. | |
| 8. The Hon. Sarah Korere, M.P. | |
| 9. The Hon. Esther Murugi, M.P. | |
| 10. The Hon. Omar Mwinyi, M.P. | |
| 11. The Hon. Patrick Makau, M.P. | |
| 12. The Hon. Suleiman Dori, M.P. | |
| 13. The Hon. Mathew L. Lempurkel, M.P. | |
| 14. The Hon. Dr. Paul Otuoma, M.P. | |
| 15. The Hon. George Oner, M.P. | |
| 16. The Hon. Shakila Abdallah, M.P. | |
| 17. The Hon. Onesmus Ngunjiri, M.P. | |
| 18. The Hon. Thomas Mwadeghu, M.P. | |

ABSENT WITH APOLOGIES:

- | | |
|--|-------------------------|
| 1. The Hon. Alex Mwiru, M.P. | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | Vice Chairperson |
| 3. The Hon. Mutava Musyimi, M.P. | |
| 4. The Hon. Mpuru Aburi, M.P. | |
| 5. The Hon. Hezron Awiti Bollo, M.P. | |
| 6. The Hon. Eusilah Ngeny, M.P. | |
| 7. The Hon. Athman Shariff, M.P. | |
| 8. The Hon. Kanini Kega, M.P. | |
| 9. The Hon. Francis Njenga Kigo, M.P. | |
| 10. The Hon. Joseph Oyugi Magwanga, M.P. | |

Hon. Sabina Chege – Women Representative for Muranga County

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

- | | |
|------------------------|---------------------|
| 2. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 3. Mr. Yakub Ahmed | Media Officer |

4. Ms. Winnie Atieno

Audio Officer

MINUTE NO. DCL/LN/2016/262

PRELIMINARIES

The chairman called the meeting to order at 10.20 a.m. with a word of prayer from the Hon. Julius Ndegwa, MP.

MINUTE NO. DCL/LN/2016/263

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as hereunder after being proposed by the Hon. Suleiman Dori, MP and Seconded by the Hon. Francis Nderitu, M.P.

AGENDA

1. Prayers
2. Preliminaries/introduction
3. Communication from the Chair
4. **Confirmation of Minutes**
Minutes of the 64th Sitting held on Thursday 28th July, 2016
5. Matters Arising
6. Bills
7. Petition
8. Papers
9. Statements:-
10. Substantive Agenda:-
 - a) **Meeting with the Hon. Sabina Chege, MP on the petition on behalf of the shareholders of Nanga Kihoto (Naivasha) limited on attempted land transfer and fraudulent funds withdrawal from companies account**
11. Any Other Business
12. Date of the Next Sitting

MINUTE NO. DCL/LN/2016/264

PETITIONS

The Hon. Sabina Chege, MP tabled a Petition the petition on behalf of the shareholders of Nanga Kihoto (Naivasha) limited on attempted land transfer and fraudulent funds withdrawal from companies account:-

She informed the Committee as follows;

1. The original shareholders of Nanga Kihoto (Naivasha) Limited were mostly from Gatanga Sub-County and acquired shareholding through deductions from proceeds of coffee sold from their farms;
2. The company owns two parcels of land namely LR. No. 10423/2, LR. No. 17599/9 and LR No. 5658/11, LR. 18499/1 located in Naivasha constituency;

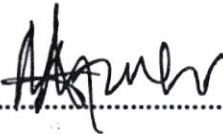
3. The last annual general meeting was held in the year 2012 and effort by the shareholders to hold annual general meeting in the subsequent years to deliberate on various matters including subdivision of the parcels of land have been futile;
4. In December, 2013 a former director Mr. Pharis Mburu Ngugi fraudulently and without authorization from other directors and shareholders withdrew a sum of Kshs. 495,000 from the company's bank account at the Cooperative bank Thika branch;
5. The former director made an application of consent from Naivasha land control board without the knowledge and approval of the shareholders;
6. The shareholders reported the matter to Naivasha police station but the police failed to take action;
7. The alleged sale of the land has generated a lot of resentment among the shareholders which if not addressed may lead to fatal conflict;

MINUTE NO. DCL/LN/2016/265

ADJOURNMENT & DATE OF THE NEXT
SITTING

There being no any other business, and the time being 1:05 pm the meeting was adjourned.

SIGNED.....



(CHAIRPERSON)

DATE.....

19 | 05 | 2017



MINISTRY OF LANDS AND PHYSICAL PLANNING

DEPARTMENTAL COMMITTEE ON LANDS

PETITION

Petition by Hon. Sabina Chege , MP on behalf of shareholders of Nanga Kihoto (Naivasha) Ltd regarding an attempted irregular transfer of land and fraudulently funds withdrawal from Company's account;

- a) History and ownership and current status of the said land
- b) Provide copies of the original title deeds
- c) If the Ministry is aware of the dispute in the said land; and
- d) What is the Ministry doing to resolve the dispute.
- e) Any other information relevant to solving the petition.

Response

Honarouble Chair, I wish to respond as follows:-

We have not answered this question comprehensively as we always do. This is due to the fact that this dispute is overview more of leadership wrangle between the two groups of office bearers within Nanga Kihoto Farmers Company Limited. However, we have endeavoured to find out the following;

Nanga Kihoto Farmers Company was started in 1984. They bought two (2) parcels of Land **LR 10423 & LR 5658/2**. The total acreage 2324 are located in Naivasha.

The total membership of the Company is 1768 members. The Farmers Company has had leadership wrangles two (2) groups

- i) One of the groups is lead by Pharis Mburu who was elected Chairman in the year 2008-2013. In 2013 upon loosing the elections, Mr. Mburu obtained a restraining order Vide JR 54 of 2013 on 9th December, 2013 to bar the new office bearers from taking over office.
- ii) Another case is between Monyo and others VS Livewire & Company Limited. Note Monyo and others are said to be the new office bearers that ousted Mr. Mburu and his group put of office. Livewire Company Limited is a Company said to have leased 400acres of land of Naga Kihoto.
- iii) On the same, Standard Chartered Bank is said to have place caveats on the parcels over unpaid loans.
- iv) There is a court order dated 11th October 2016 restraining no transaction pending the hearing of the case JR 54 of 2013.

In conclusion Hon. Chair, even from the attached order and the parties that be, it is clear that this is more of a company matter and its management of its assets than a land matter. We believe these Directors should be summoned inorder to shed more light on this petition.

ANNEX 5

Submission from Petitioners

NANGA KIHOTO (NAIVASHA) LIMITED.

P.O.BOX 203-01013

GATURA.

Date 15th /9/2016

REF NKN L 15/11.

Executive Summary

The above mentioned limited liability Company was incorporated in Kenya in 1994. The Company has 1768 Members many of them from Gatanga Sub-County Muranga County. From the date of incorporation the Company has been led and managed by four different boards of Directors as follows:-

1985-1994 (9 years) by a board led by Mr. Isaac Ndungu Kahoi as a Co-operative Society entity with six (6) other Directors.

1994-2003 (9 years) by a board led by Chairman Mr. Richard Kamau Gathungu with six (6) other Directors and adopted Memorandum and Article of Association of a Private Company Ndekani Enterprises which had provided for four directors and not more than fifty (50) shareholders, The Company has now changed from Private Company to a Public Company. (A copy of registrar's letter attached).

2003-2007 (4 years) by a Board led by Chairman Mr. Gabriel Kaburu Kagunya and six (6) other Directors.

2008-2013 (5years) by a board led by Chairman Mr. Pharis Mburu Ngugi this took office without election.(See letter attached).

2013- Eleventh December to date by a board led by Mr. Samuel Monyo Njoroge which was elected through a Court Order issued on 17th September 2013 and a ruling issued on 10/12/2013(copies attached). In spite of election ordered by the Court and a letter from Registrar of Company asking the previous board to hand over the Company documents they have declined. (Copy attached).

The Company owns two pieces of land situated in North East of Naivasha Town as follows:-

- (i) L.R.NO. 10423/2 measuring 456 acres
- (II) L. R. NO. 5658/1 measuring 987 acres

A portion of these lands has been leased and still is to a Company known as Live Wire Ltd with different rates per acre depending on the usage. The rent is payable between September and November of every Year in advance.

Live Wire Ltd is in arrears of more than two and half years.

(I) 2013-2014- 3,503,310

(ii) 2014-2015- 8,089,576

(iii) 2015-2016- 8,089,576

NB: Year 2016-2017 not accounted.

TOTAL= 19,682,462

Live Wire Ltd through a Company called White stone Properties Ltd wants to buy L. R. NO. 10423/2 purporting to have signed sales agreement dated 12th October 2012 with former directors six of them without consents of the Shareholders. Live wire Ltd has stated Cleary that arrears will be paid on condition we honor sale agreement. The application was lodged to land control board of Naivasha on 12th February 2015 which was differed for lack of merit to sell the public land without members consent. (Copy attached)

Land titles deeds

Title deeds for the two parcels were being held by Standard Chartered Farm Management for no apparent reason because the intention to acquire a loan and charge the title deeds was rejected by then. Nakuru Land Control Board (several copies in this regard attached) provisional title deeds have been issued to the former directors and are still holding them.

Other Concerns.

1. Mr. Benson Mugo Mukunya who was a Company Secretary joined Mr. Pharis Mburu group, latter the current board of directors dismissed him for his secretarial services. (Copy attached).
2. Mr. Munene Chege an Advocate from Nakuru purported that was given mandate by Nanga Kihoto Naivasha Ltd board of directors to reconcile both Samuel Monyo Njoroge board & Pharis Mburu Ngugi group .These are allegations.
3. Through the effort of advocate Joseph Karanja Mbugua, Benson Mugo Mukunya and Pharis Mburu Ngugi group adapted two directors from current board led by Samuel Monyo Njoroge and they were registered in the Office of Registrar (Cr. 12 attached.) The two directors namely Gabriel Kaburu Kagunya and Harun Kahinga Gakere have sworn the affidavits to disown the newly constituted board of directors because they were registered without their knowledge. (Copy attached). The newly constituted board of directors was registered on 21st June 2016 but the court order was issued on 7th September 2016 by Hon Justice Maureen Odero which is impossible. (copies in this regards attached)
4. In spite of Court Order issued on 17th September 2013 and a Court ruling issued on 10/12/2013 by Hon justice Havelock; they went to Nakuru high Court and were issued with an order by Hon Justice H.A Omondi on 11th December 2013 of similar jurisdiction instead of going to the Court of appeal. (Copies attached).

Share Holders Grievances

The current board of directors since elected has held two Extra Ordinary General Meetings on 14TH March 2014 and 10th July 2014 but an A.G.M scheduled for May 7th 2015 for the year 2014 was stopped by Nakuru High Court and the case is still pending.

1. The Company would require to be assisted to enable it to hold an A.G.M for the year 2014 and 2015.
2. The Company would like to be assisted to enable it to subdivide the land and wound up the Company.
3. The Company would like the intervention of the Govement to stop Live wire Ltd through proxy of Whitestone Properties Ltd from forcing the Company to sell public land
4. The Company would like the Govement to assist it to receive the rent in arrears from Livewire Ltd.
5. The former directors withdrew Company monies Ksh 500,000 from the account at Co-operative Bank Thika branch on 16/12/2013 while they were already voted out; this withdrawal was fraudulent and was reported to Thika Police Station OB No. 39/13/11/2014.

6. The attempted fraudulent sale was reported to Naivasha Police Station OB NO.21/18/2/2015.

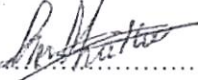
7. Both cases have taken too long to complete the investigation and prosecute the culprit. We need to be assisted so that the justice can be seen to be done.

8. It should be noted that the patience of Shareholders in running out and they are likely to force themselves to occupy their land

9. Since the former directors have not ceased to carry out the Company activities e.g. transfers of shares and increasment. The current directors have obtained Orders and Ruling to restrain them from purporting to be directors without any success to implement the orders (copy attached).

Since the earlier agreement has expired, we have the information that a fresh sales agreement is being prepared because the one dated 12/10/12 has legally elapsed. We do not know what methods will be used to complete the agreement being prepared but we suspect something fishy may happen.

Signed by:-

1. Samuel Monyo Njoroge- Chairman.....
2. Gabriel Kaburu Kagunya Vice- Chairman.....
3. Robert Magana Muiruri - Board Secretary.....
4. Francis Kariuki Muheria- Hon- Treasurer.....
5. Kahinga Gakere- Director.....
6. Samuel Thuku Mwaganu- Director.....
7. Amos Ngugi Njoroge- Director.....

NANGA KIHOTO (NAIVASHA) LIMITED
P.O BOX 203-01013
GATURA

13.04.2016

The Principal Secretary
Ministry of Interior and Co-ordination
of National Government
Harambee House
P.o Box 350100-0100
NAIROBI

Sir,

RE: NANGA KIHOTO (NAIVASHA) LIMITED

The abovementioned company is a land-buying Public Limited Liability Company with 1768 member. The company owns two parcels of land at Naivasha, Nakuru County.

The current Board of Directors, of which I am the chairman, was elected on, 11th December 2013, and registered by the Registrar of Companies on the same day.

On, 16th December 2013, the former Directors, led by one PHARIS MBURU NGUGI, of Gatang'ara Sub-county, Murang'a County, fraudulently and without any claim of right, and knowing fully that they were no longer directors of the company, withdrew the sum of Kenya Shillings 495,000.00 from the company's bank account at the Co-operative Bank of Kenya, Thika Branch. This was theft of the company's money.

The theft was reported to the Thika Police Station under O.B No. 39/13/11/2014.

In spite of our many visits to Thika Police Station, no action has been taken to charge the former directors with the theft of the company's money.

In February 2015, the same former directors purported to sell a portion of the company's land at Naivasha, measuring 456 acres. They sought to sell this land for Kenya Shillings 182,400,000.00. The former directors proceeded to apply to the Naivasha Lands Control Board for the Board's consent to sell the land.

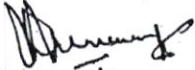
The purported sale of the land was stopped by the current Board of Directors who also reported the matter to the Criminal Investigation Department, Naivasha Police Station, under O.B No. 21/18/2/1015.

Again, despite our many visits to Naivasha Police Station, no action has been taken against the said former directors.

The purported sale of the company's land had not been approved by the shareholders of the company. The purported sale of the land has generated a lot of bitterness among the shareholders, and we fear that it may lead to bloodshed.

We now write to appeal to you to intervene in the two complaints, that is the theft of the company money and the attempted fraudulently sale of the land, and have immediate action taken.

Yours faithfully,



Chairman

Nanga Kihoto (Naivasha) Limited

0711 986 656

7 / 14

**RE: NAIVASHA CID INQUIRY FILE NO.9 OF 2005
ATTEMPT TO SELL LAND LR NO.10423/3 BELONGING TO NANGA
KIHOTO NAIVASHA**

The above matter refers.

The brief facts

Nanga Kihoto Naivasha Limited, herein referred to as "the Company", was founded by coffee farmers from Gatanga area with the sole objective of buying land to develop as well as buying houses for rent, among others. This company has members totaling to about 1768.

According to Samuel Monyo Njoroge herein referred to as D1, in the year 2007, a committee under the leadership of Pharis Mburu Ngugi, herein referred to as E1 took over the leadership of the company (there are no minutes of the meeting included in the file, that installed them as such). This is confirmed vide a letter dated the 15th May, 2013 from the State Law Office confirming that E1 was one of the directors of the company.

It is noted that during the leadership of E1 there had been neither annual general meetings nor elections held in the company for almost 7 years. This was in contravention of Act 22 of the Company's Articles of Association. In this regard thereof a group led by D1 went to court vide Misc Case No.9 of 2013 seeking orders to direct the company to hold an Annual General meeting. Their prayers were granted; vide an order issued on the 17th September 2013, to the effect that the Registrar of Companies was directed by the court to call for and conduct the Company's Annual General meeting.

Subsequently E1 rushed to court vide Misc. Application No.49 of 2013 under certificate of urgency, to set aside the orders made on 17th September, 2013 calling upon the Registrar of Companies to call for and conduct the company's Annual General meeting.

The court, vide an order dated 10th December, 2013 overruled E1's application and directed that the meeting proceeds on 11th December, 2013 as planned. A notice calling for the annual general meeting was subsequently published in the Daily Nation newspaper dated 12th November, 2013.

The Annual General meeting was subsequently held and new directors elected under the leadership of D1 minutes marked as well as a letters from the State law office confirmed this fact. The turn of events then set the ball rolling for numerous Applications to be filed by E1 and his group of directors. To the effect, on the same day the annual general meeting was being held, there was an Application vide Judicial Review No.54 of 2013 filed in court by E-1 and team, which application was premised on stopping the annual general meeting from taking place. An order dated 11th December 2013 was subsequently issued granting the party led by E1 leave to commence Judicial Review proceedings for an order of certiorari to bring to court for purpose of being quashed the Respondent's (team led by D1) notice on the Daily Nation newspaper dated 12th November, 2013 calling for the annual general meeting. This order was also to operate a stay of the said annual general meeting (the meeting had already taken place).

Pending the said application, the directors of the Company, led by E1, quickly entered into an agreement with Whitestone properties Limited on behalf of the Company, to sell off 456 acres of land to them for Ksh182,000,000/= . According to Gordon Millar D5, the Director of Whitestone Properties Limited, his company paid a deposit of Ksh.18,000,000/= and signed an application for consent sometime in 2013. This consent for some reason was placed before the Secretary of the land board on 8th December, 2014. Following this development, D1 and his group placed a caution on the said land at the Naivasha Registry.

According to D5, the sale has not gone through to date due to wrangles between the two Directors of the Company. As it is, the (D5) does not even know who amongst the two groups, are the genuine directors of the Company are.

On 20th March, 2014 CD1's group went to court again vide Civil Case no.91 of 2014 seeking orders to restrain E1's group from holding themselves as Directors of the Company or even dealing, interfering and/ or otherwise transacting any business of the Company. They also sought to have E1's group release to them property,

documents instruments of the Company. In the application, D1 gave a history of the Company's wangles over leadership to the effect that the Company had been compelled to hold its annual general meeting by the court which it did and new Board of Directors had been elected. He complained that despite these developments, the previous Directors, led by E-1, had declined to hand over the instrumentalities of the Company to enable the new board discharge its duties. He further complained that this group continued to operate the company's accounts without authority or color of right. D1 sought orders to restrain E1's group from such actions.

Following this application the court held that:-

- 1) The annual general meeting was held pursuant to court orders under the superintendence of the Registrar of Companies.
- 2) A resolution was made that the previous directors hand over assets and instruments of the company to the new directors.
- 3) Courts was satisfied that not only did the previous directors defy the shareholders and the Registrar of Companies, but proceeded to withdraw funds from the company's accounts without the requisite authority.
- 4) The court found that in the present instance, a mandatory injunction would suffice and went on to allow prayers sought by the new directors in paragraph 3,4, and 5 of the application to wit;

Para 3 – restraint to the previous directors from representing themselves as directors of the company, dealings, interfering and or otherwise transacting business of the company and in particular operating its bank account or dealing with properties pending determination of the suit.

Para 4 – mandatory injunction to compel the previous directors (E1) to forthwith release and handover the company's property, documents, instruments and items listed in paragraph 4 of the notice of motion.

Para 5 – that the previous directors (defendants) pay the cost of the application.

The ruling was dated 13th November, 2014.

Looking at the statement recorded by E1, the same is to the effect that the Directors (previous) of the Company, who were registered by The State Law Office, vide a letter dated 15th May 2013 had made a resolution (there are however no minutes of the meeting annexed) to call out of the Company's bank account...

Standard Bank of Kenya and that is why they, as Directors, had decided to sell the piece of land to Whitestone Properties Limited.

Having had analyzed the statements recorded in the police file, the questions that come to mind herein are as follows;

1. Who are the bona fide board of directors to the company?
2. Is there any criminal element under the Penal Code in what transpired when the directors led by E1 tried to dispose off part of the Company's land?

It is evident from the statements that there are wrangles between two parties over directorship of Nanga Kihoto Naivasha Limited. The court gave orders to the effect that the Company holds an annual meeting to select new Directors which was done and which was contested. The matter is still pending for final determination in the civil court. To this effect the first question has been answered. In the meantime there is a caution on the land which is still intact; we find no criminal element disclosed when the directors led by E1 attempted to dispose off part of the Company's land because the issue of Directorship has not yet been solved.

All said and done, we reiterated our earlier decision in our letter dated the 29th September 2015 Ref No. NKU/ADV/5/VOL II/(194 that there is no criminal aspect disclosed in this matter and that parties should resolve their disputes in the Civil court and directed that this file be closed.

Thank you





GEOPLAN (K) LTD

Table by physics mbw

Registered Land & Engineering Surveyors, Planning & Land Consultants
Emko Plaza Thika 2nd Floor, wing B no. 205 Tel. 0721256135
geoplankenya1@gmail.com

Our Ref: **GPK07/10/16**

Date 07-10-2016

NANGA KIHOTO NAIVASHA LTD

REF: PROPOSED SUB-DIVISION OF LR NO.5658/1 AND LR NO.10423/2 NAKURU COUNTY.

The above job is still ongoing at planning stage. We picked all the existing features. Currently the planning is underway being undertaken by our company in consultation with PEMAN CONSULTANTS (registered physical planners)

The master plan will be ready in two weeks and once approved by client, it will be submitted to the County Government for approval. Will keep the management updated as we progress with the task.

Thank you in advance.

Yours Faithfully,

Julius Chege

(For Geoplan Kenya Ltd)



NEW BOARD OF DIRECTORS

A new board of directors after the two warring board of directors, one led by SAMUEL MONYO NJOROGE and the other by PHARIS MBURU NGUGI held a joint meeting with respective advocates

MR. HIRAM KAGO, advocate represented the SAMUEL MONYO NJOROGE while MR. KARANJA MBUGUA, represented the PHARIS MBURU NGUGI group MR. JAME NDUNA, represented the registrar of companies.

The parties agreed that each group nominate three of the directors. The SAMUEL MONYO NJOROGE nominated

- | | | |
|---------------------------|---|---------------|
| 1. SAMUEL MONYO NJOROGE | - | CHAIRMAN |
| 2. GABRIEL KABURU KAGUNYA | - | VICE CHAIRMAN |
| 3. KAHINGA GAKERE | - | DIRECTOR |

The PHARIS MBURU NGUGI nominated

- | | | |
|-----------------------|---|----------|
| 1. PHARIS MBURU NGUGI | - | CHAIRMAN |
| 2. KAMAU KARIUKI | - | DIRECTOR |
| 3. NDUNGU GITHIGA | - | DIRECTOR |

Both groups agreed to nominate BENSON MUGO MUKUNYA as a neutral SEVENTH member.

The seven members had to elect a common chairman MR. SAMUEL MONYO NJOROGE and PHARIS MBURU NGUGI contested the chairmanship. MR. PHARIS MBURU NGUGI won with four votes which SAMUEL MONYO NJOROGE got three votes.

When SAMUEL MONYO NJOROGE lost he protested and resigned from the proposal new board.

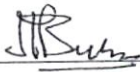
The registrar of companies proceeded to register the six remaining members as the NEW DIRECTORS. This was with the approval of the advocated representing the two groups.

When the NEW BOARD took office, it demanded that both GABRIEL KABURU KAGUNYA and KAHINGA GAKERE who were former directors account for the 400 dairy cows, 200 beef cattle, which were sold during their time as directors, and also to account for other company assets which were disposal off during their tenure. The two could not account and offered to resign.

The remaining directors on the new board are not FOUR (4) namely:-

- | | | |
|------------------------|---|-------------------|
| 1. PHARIS MBURU NGUGI | - | CHAIRMAN |
| 2. BENSON MUGO MUKUNYA | - | COMPANY SECRETARY |
| 3. KAMAU KARIUKI | - | DIRECTOR |
| 4. NDUNGU GITHIGA | - | DIRECTORS |

Signed



PHARIS MBURU NGUGI
CHAIRMAN
NANGA KIHOTO (NAIVASHA) LTD

John W. G.
phys. mlam

NANGA KIHOTO (NAIVASHA) LIMITED
P.O BOX 6622-01000,
THIKA

THE CHAIRMAN,
DEPARTMENTAL COMMITTEE ON LANDS,
NATIONAL ASSEMBLY,
PARLIAMENT BUILDING,
P.O BOX 41842-00100,
NAIROBI.

PRESENTATION BY BOARD OF DIRECTORS OF NANGA KIHOTO (NAIVASHA)
LIMITED

COMPANY HISTORY

NANGA KIHOTO (NAIVASHA) LIMITED was incorporated on 10th December 1981. It then took over the shares, lands and other assets of the company known as **NDEKAN LIMITED** (see attached copy of Certificate marked "A")

NDEKAN LIMITED was a **PRIVATE COMPANY** owned by two shareholders, namely **Ignatius Iriga Nderi**, then the Director of CID and one **James Kamau Kanja**.

NDEKAN LIMITED owned two parcels of land at Naivasha being Title L.r No. 5658/1 measuring 332.5 hectares (821.6 acres). And L.r 10423/2 measuring 456 acres (less 16 acres road reserved -). These two parcels of land were transferred to **NANGA KIHOTO (NAIVASHA) LIMITED** in 1981 after the company was incorporated (see attached copies of Searches marked " B and C")

NANGA KIHOTO (NAIVASHA) LIMITED caused a change of name from **NDEKAN LTD** to **NANGA KIHOTO (NAIVASHA) LTD**, be registered by the **Registrar of Companies** on the aforesaid date, 10th December 1981 and remained a Private company until it was converted to **PUBLIC COMPANY** on, 5th March 2015 (see attached letter marked "D")

There was a legal anomaly whilst this company remained a **private company** for over 35 years. Under the **Companies Act, Cap 486**, the maximum number of shareholders in a **private company** is **FIFTY (50)** members only. From its inception this company had and still has **1768**.

There have been various Boards of Directors. In or around 1985 the then Board of Directors handed over the **Original Title Deeds** to the two parcels of land at Naivasha to the then **Farm Management Company** known as **Standard Chartered Estate Management Ltd (SCEM)**. The

Land Control Board refused to grant the consent. In the absence of a **Charge** the management registered **CAVEATS** against the Titles claiming **Charges interest**. The Caveat is registered as **Entry No. 13** on title **L.R No. 10423/2** attached.

The **Standard Chartered Estate Ltd** is claiming the sum of **Shs 168 million** from this company.

Other debts notified to the company for payment are as follows;-

- i) **Muthoga Gaturu & co Advocates** – **Shs 96 million** claimed as professional legal fees in Arbitration case.
- ii) **Kenya Revenue Authority** – arrears of taxes **Shs 4 million**.
- iii) **County Government of Nakuru** – arrears of Rates **Shs 1.5 million**.
- iv) **Survey Fees** for the Sub-division of the land upto the issuance of Titles to all 1768 shareholders – survey work on-going.

COURT CASES

- i) In the year **2007** an Annual General Meeting elected a fresh Board of Directors led by the Chairman **Pharis Mburu Ngugi**. The previous board then led by one **Gabriel Kaburu Kagunya** refused to vacate office or to handover the company documents and record. The **Pharis Mburu Ngugi** board filed a case being **High Court No. 250 of 2007 (Nakuru)**. The Court recognized the **Pharis Mburu Ngugi**, Board as the genuine Board and ordered the previous board to hand over the company documents and records. The previous Board refused. The directors were committed to **civil Jail for three (3) months**. The Court also cancelled **ALL previous documents and records** and authorized the **Pharis Mburu Ngugi** board to reconstruct all such documents and records, including the Register of Members.
- ii) In **2013** some shareholders led by one, **Samuel Monyo Njoroge** filed a suit in the High Court, being, **HCCC No. 49 of 2013 (Nairobi)** seeking orders from the Court to convene an **Annual General Meeting**. **Hon. Justice Havelock** ordered an **AGM** to be held on **11th December 2013**. The **Pharis Mburu Ngugi** Board dissatisfied with the Order, filed **Judicial Review Case no. 54 of 2013 (Nakuru)**. The **AGM** was held as scheduled, on, **11th December 2013**, but on the same date, the **High Court** in the **Judicial Review case** ordered the cancellation of the **AGM**. The Orders for the cancellation of the **AGM**. New directors were purportedly elected at the cancelled **AGM** and the **Registrar of Companies** decided to ignore the Order that had cancelled the **AGM** and registered the directors elected at the **AGM**.

This created two parallel Boards of Directors, one led by **Pharis Mburu Ngugi** and the New one elected at the cancelled **AGM** led by one **Samuel Monyo Njoroge**.

iii) In 2014 the **Samuel Monyo Njoroge** Board of Directors filed a suit at Milimani Commercial & Admiralty Court in Nairobi against the **Pharis Mburu Ngugi** Board, being **Civil Case No. 91 of 2014** praying for orders to restrain the **Pharis Mburu Ngugi** group from holding themselves as directors of this company. The case came up before Hon **Lady Justice Kamau**, when she directed the parties to file **CONSENT**, thereafter the case would be mentioned for the purposes of the Court adopting the Consent. The Court declined to bear the parties any further until they reached a consent.

iv) In 2015, the High Court in the **Judicial Review Case No. 54 of 2013 (Nakuru)** ordered both the two warring board of directors to nominate four (4) directors from each group to constitute a new board of directors. The **Samuel Monyo Njoroge** completely refused to abide with the Court Order.

v) When the board of directors led by **Gabriel Kaburu Kagunya** took over the management of this company in the year 2003, it received from the out-going board the following moveable assets.

a. 400 dairy cows

b. 200 beef cattle

c. Other farm and office assets as detailed in the Inventory made and signed on, **25th April 1995**.

When the **Pharis Mburu Ngugi** took over the company in 2007, all the dairy and beef cattle had been sold. Most of the items in the Inventory were also missing. The directors in the board of Directors led by **Gabriel Kaburu Kagunya** will have to account for all the misappropriated company assets.

LAND TITLES

As stated earlier, the two titles had been handed over to **Standard Chartered Estate Management Ltd** in or around 1985. When **Pharis Mburu Ngugi** approached the bank for the original titles, the bank first informed him that it was demanding **Shs 168 million** before it could release the titles. Later the bank informed him that the titles were lost and could not be traced.

Pharis Mburu Ngugi had to report the loss to the Police and obtain the Policed Abstract. The loss was later gazetted by the Registrar of Titles. Eventually **Provisional Titles** were issued vide **Gazette Notice No. 11583**, dated, **16th August 2013**.

The bank then demanded an advocates **Professional Undertaking** to pay the **Shs 168 Million** before the release of the **Provisional Titles**. **M/s Coulson Harney Advocates** of P.O Box 10643-00100 Nairobi gave the Undertaking and the Titles were released to them pending the payment. They are still holding the titles.

SURVEY AND SUB-DIVISION OF LANDS

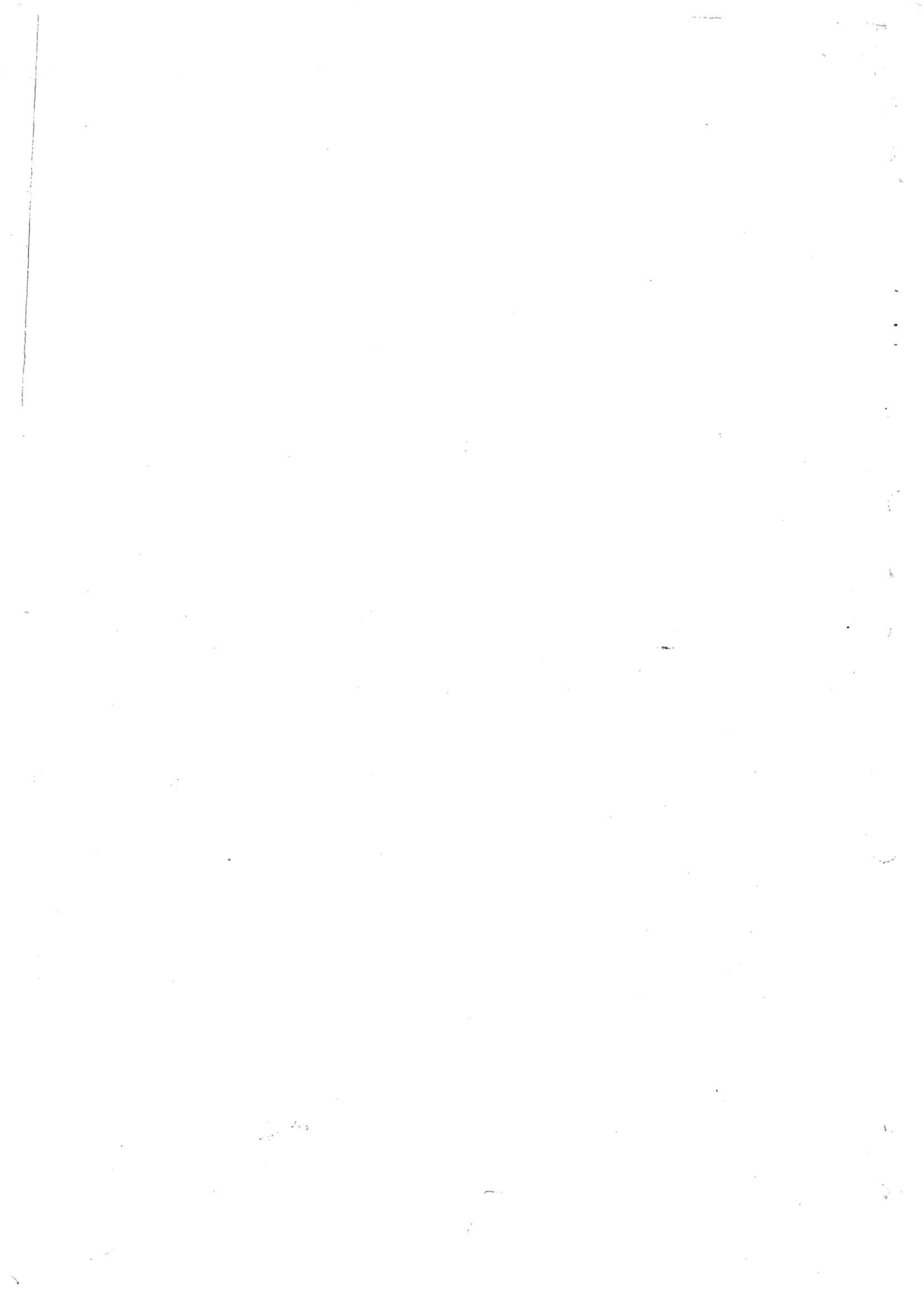
The **Pharis Mburu Ngugi** board of directors has commissioned the Surveyors company, **GEOPLAN KENYA LIMITED** to carry out the survey works and subdivision of the lands to allocate individual Title to all the 1768 shareholders. The Surveyors have already started the works and have finalized the first stage of the preliminary planning.

The Surveyors are led by **Joseph Githii** as the Project Director and **Julius Chege**, the Chief Surveyor.



PHARIS MBURU NGUGI

CHAIRMAN



REPUBLIC OF KENYA

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When replying please quote
NA/DLP/PP/2017(30)



National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

6th June 2017

Hon. Sabina Chege, MP
Member for Muranga County
Parliament Building
NAIROBI

Dear

**RE: PETITION ON ALLEGED ATTEMPTED IRREGULAR TRANSFER OF LAND
PARCEL BELONGING TO NANGA KIHOTO (NAIVASHA) LIMITED**

The above-mentioned subject matter refers.

Pursuant to Standing Order No. 227 (3), this is to inform you that the National Assembly noted the Report of the Departmental Committee on Lands on your Petition regarding alleged attempted irregular transfer of land parcel belonging to Nanga Kihoto (Naivasha) Limited.

The recommendations by the Committee are summarized hereunder:-

- (i) that State Department in charge of Cooperatives and the Registrar of Companies compels the warring shareholders to conduct an Annual General Meeting;
- (ii) that the Ministry of Lands and Physical Planning puts a caveat on the land and ensures speedy subdivision of the land and issuance of title deeds to the shareholders;
- (iii) that the Ethic and Anti-Corruption Commission and Inspector General of Police immediately institutes investigations into the circumstances under which company's funds were withdrawn from the bank and individual company's directors be held personally liable;
- (iv) that the Caveat on the land and the status quo is maintained and no sale of land is effected until an Annual General Meeting is held where all shareholders agree on the way forward;
- (v) that the Kenya Revenue Authority, Ministry of Land and Physical Planning, State Department in Charge of Cooperatives and the Inspector of Police ensures that all debts are paid before sub-division.

Attached herewith please find a copy of the said report for your information.

Yours faithfully,

JAMES N. MWANGI, EBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

✓ **Dr. Joseph Kinyua, EGH**
Chief of Staff and Head of Public Service
State House
NAIROBI



Prof. Jacob Kaimenyi, PhD, FICD, EGH
The Cabinet Secretary
Ministry of Lands, Housing and Urban Development
Ardhi House
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Mr. Adan Abdulla Mohamed, EGH
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Mr. Joseph Kipchirchir Boinnet, M.G.H., nsc (AU).
Inspector General of Police
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Mr. Halakhe D. Waqo
Chief Executive Officer
Ethic and Anti-Corruption Commission
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Hon. Rosalinda Soipan, MP
Chairperson
Committee on Implementation
Parliament Building
NAIROBI

Encl.

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