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THE REPORT OF THE SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

ON

PETITION CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND
EMBU/MUNICIPALITY/ 375 (LEASEHOLD) BY THE CHILD WELFARE
SOCIETY OF KENYA

PAPERS LAID	
DATE	9/6/2022
TABLED BY	Sen. Poghosyan
COMMITTEE	Land, Environment & Natural Resources
CLERK AT THE TABLE	A. Macharia

Rt. Hon. Speaker
You may approve for
tabling.
09/06/22

Approved
9/6/2022

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List of Abbreviations/ Synonyms

CS	- Cabinet Secretary
EACC	- Ethics and Anti-Corruption Commission
MOLPP	- Ministry of Land & Physical Planning
NLC	- National Land Commission
CWSK	- Child Welfare Society of Kenya

PREFACE

Mr. Speaker sir,

The Standing Committee on Land, Environment and Natural Resources is established pursuant to standing order 218(3) of the Standing Orders of the Senate. As set out in the Second Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises of the following Members.

1. Sen. Paul Mwangi Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Gideon Moi, CBS, MP
5. Sen. Njeru Ndwiga, EGH, MP
6. Sen. (Dr.) Lelegwe Ltumbesi, MP
7. Sen. Issa Juma Boy, MP
8. Sen. (Arch.) Sylvia Kasanga, MP
9. Sen. Johnes Mwaruma, MP

Chairperson

Vice-Chairperson

At the sitting of the Senate held on 17th November, 2021, Sen. Njeru Ndwiga, EGH, MP, reported to the Senate that a Petition has been submitted through the Clerk, concerning the illegal alienation of parcel of land Embu/Municipality/ 375 (leasehold) by the Child Welfare Society of Kenya

Pursuant to standing order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) the Petition to Parliament (Procedure) Act and standing order 232 of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner within

the prescribed period.

To enable a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

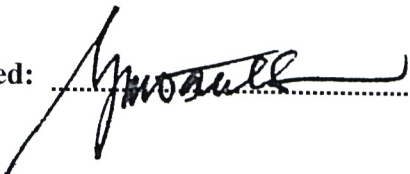
The Committee proceeded to invite the Cabinet Secretary, Ministry of Lands and Physical Planning, the Chairperson, National Land Commission and the Chief Executive Officer, Child Welfare Society of Kenya to address respective issues raised on the Petition.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee further extends its appreciation to the Petitioners; representatives of the Diocese of Embu, Trustees of the Catholic church, the Community Managers of the St. Angela Embu Children's home and residents of the Embu County; Ms. Farida Karoney, EGH, Cabinet Secretary, Ministry of Lands and Physical Planning, Mr. Gershom Otachi, Chairperson, National Land Commission, Ms. Irene Mureithi, Chief Executive officer, child Welfare Society of Kenya and the other stakeholders for their submissions and contributions to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present this Report of the Standing Committee on Land, Environment and Natural Resources on the Petition concerning the alleged illegal alienation of Parcel of Land Embu/Municipality/375 (Leasehold) by Child Welfare Society of Kenya.

Signed:  Date: 19/05/2022

SEN. MWANGI PAUL GITHIOMI, M.P.
CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

CHAPTER I

INTRODUCTION

1. At the sitting of the Senate held on 17th November, 2021, Sen. Njeru Ndwiga, EGH, MP, reported to the Senate that a Petition has been submitted through the Clerk, concerning the illegal alienation of parcel of land Embu/Municipality/ 375 (leasehold) by the Child Welfare Society of Kenya

Underlying Constitutional and Statutory Provisions

2. **Article 1(1) and (2)** of the constitution of Kenya, reposes all sovereign Power in the People of Kenya, exercised solely in accordance with the Constitution
3. **Article 1(3) (a) and 1(4)** of the Constitution of Kenya delegates sovereign power of the constitution to inter alia parliament and the legislative assemblies of the county governments and that the sovereign power of the people is exercised at the national and county level.
4. **Article 37** of the Constitution provides that every person has a right to present petitions to public authorities
5. **Article 43** of the Constitution provides for economic and social rights whereby under Article 1(f) every person has a right to education.
6. **Article 53** of the Constitution provides for the rights of children, wherein every child has a right to free and basic compulsory education and under Article 53(2), a child's best interests are of paramount importance in every matter concerning the child.
7. **Article 60(1)(b)** of the provides that land in Kenya shall be held, used and managed in a manner that is unequitable, efficient, productive and sustainable and according to the principle of security of land rights.

8. Under **Article 60(4)** of the Constitution, public land shall not be disposed on or otherwise used except in terms of an act of parliament specifying the nature and terms of that disposal or use.
9. Under **Article 62(1) (c)** of the Constitution, land transferred to the state by way of sale, reversion or surrender is public land.
10. Under **Article 62(2)** of the Constitution, public land shall vest and be held by the county government in trust for the people resident in the county and shall be administered by the National Land Commission.
11. Under **Article 67(2)** of the Constitution, the National Land Commission is mandated to manage public land on behalf of the national and county governments.
12. Under **Article 94(2)** of the Constitution, Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.
13. Under **Article 96(1)** the senate is mandated to represents the counties, and to protect the interests of the counties and their governments.
14. **Article 119** of the constitution provided that any person has a right to petition parliament to consider any matter within its authority.
15. Section 12 of the Land Act, 2012 provides for the procedure for allocation of Public Land.

The complaint

16. This complaint before the Senate concerns the illegal alienation of parcel of land Embu/Municipality/ 375 (leasehold) by the Child Welfare Society Of Kenya

Background Facts of the Complaint

17. The Diocese of Embu Trustees is currently the owner of the piece of land EMBU/ MUNICIPALITY/ 375. They hold a lease dated the 13 day of July 2012, as evidence of ownership. The lease is for 99 years from 13.7.2012.
18. THAT the diocese of Embu Trustees, has been running a Children's home on the said plot under the name, St. Angela Embu Children's home, from the year 1960 to date. The Children's home has always been under the custody, occupation and management of the Diocese of Embu, from the pre-independence days, at independence, and post-independence.
19. When the Diocese applied for a lease of the land where the home now stands, the lease was gladly given by the Government on the 13.7.2012 for 99 years.
20. That to the dismay of the diocese, individuals calling themselves the Child Welfare Society of Kenya laid claim to the home by force but this was resisted and repelled. There was court intervention, and the invaders were pushed out and law and order restored.
21. The Child Welfare Society of Kenya has never run the home even for one day since its inception to date.
22. That again to the dismay of the Diocese, its attention was drawn to two items appearing in the Kenya Gazette, one dated the 22nd January 2016 and the other dated the 17th July 2017.
23. In the Gazette of 22nd January 2016, item number 17, the title EMBU/ MUNICIPALITY/ 375 belonging to the Catholic Diocese of Embu was revoked, apparently by the National Land Commission of Kenya at the instance of the Child Welfare Society of Kenya.

24. In the Gazette of 17th July 2017, item No. 30, title Embu/ Municipality/ 375 “the Chief Land Registrar Was directed to revoke title held by Catholic Diocese of Embu”. The property is vested in the “Child Welfare Society of Kenya”. The notice was given by the National Land Commission of Kenya.
25. The Child Welfare Society of Kenya, buoyed by the two publications again attempted to force their way into the home, but this was repulsed by the Diocese.
26. The current position is that the Diocese is the legitimate and the legal owner of plot No. EMBU/ MUNICIPALITY/ 375. They are in possession of the home; they run the home; and have the unexpired lease.
27. The Diocese is concerned that their lease to EMBU/MUNICIPALITY/ 375 was declared cancelled by the Land Commission of Kenya at the instance of the Child Welfare Society of Kenya, the hopeful beneficiaries of the alienation.
28. The purported act of the alienation continues to threaten the Petitioners since the Land Commission has already reassured the Child Welfare Society that it has revoked the title; and recommended a new lease be issued to them.
29. The matter has been in court severally but never finally resolved. It is the Child Welfare Society of Kenya that triggers these court interventions by surprise forced attempts at occupation, alienation and eviction.
30. The petitioners have made efforts to have the matter addressed by the relevant bodies, all of which have not been fruitful.
31. Currently there is no dispute pending in court of law, constitutional or any other legal body.

The Petitioners prayed that:

- a) **THAT**, the Senate investigate this matter and;
 - a. Initiate a process to ascertain if the true owners of the parcel of land EMBU/ MUNICIPALITY/ 375 are Diocese of Embu Trustees.
 - b. Recommend for the cancellation or otherwise set aside the contents of the two Gazette notices, specifically Gazette Notice No. 6 of 22nd January 2021; and Gazette Notice No. 97 of 17 July 2017.
 - c. Recommend for the prohibition of the Child Welfare Society of Kenya from further making claims, interfering with harassing or otherwise making attempts at entry into the Petitioner's Children's home.
 - d. The relevant Committee makes a visit to the It. Angela Embu Children's home to see how the home is run and the developments made over the years by the Petitioners.
 - e. Recommend that a plot be allocated to the Child Welfare Society of Kenya for the purpose of building their own home away from that of the Petitioners in view of the many homeless children in Embu County.
 - f. Any other recommendation that the senate may deem necessary on this matter.

32. Pursuant to standing order 232(1) of the Senate Standing Orders, the Petition was committed to the Land, Environment and Natural Resources Committee.

LEGAL BASIS FOR PETITIONS

33. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.
34. Article 37 of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that “*every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.*”
35. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House.* In this regard, standing order 232 of the Senate Standing Orders provides as follows-
- 232. Committal of Petitions*
1. *Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.*
 2. *Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.*
36. Standing order 233 requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

CONSIDERATION OF THE PETITION

Approach taken by the Committee

37. In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petition. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition.
38. In this regard the Committee received the Petition from the Petitioner through the House and further met with the Petitioners on several occasions as it met with stakeholders.
39. Thereafter the Committee invited the Cabinet Secretary, Ministry of Lands and Physical Planning, Cabinet Secretary, Ministry of Environment and Forestry, the Chairperson of the National Land Commission and the Chief Executive Officer of Child Welfare Society of Kenya who virtually appeared before the Committee.
40. The Committee then conducted a site visit to the Embu Children's Home, Embu County on 28th February, 2022. Thereafter the Committee made a resolution to meet physically one last time to iron out ant pending matters with the Stakeholders.
41. The Committee then met on Thursday, 12th May, 2022 at the Senate Chamber, Main Parliament Buildings for a physical meeting with both the Petitioners and the Child Welfare Society of Kenya to receive final submissions on the matter.

A. Petitioners Submissions

41. Vide a letter REF: SEN/DCS/LENR/2/2021/(78) dated 28th November, 2021, the Committee invited the Petitioners to virtually appear before the Committee on Thursday, 2nd December, 2021 who thereafter appeared and defended their Petition.

B. Responses by the Chief Executive Officer, Child Welfare Society of Kenya.

42. Vide a letter REF: SEN/DCS/LENR/2/2021/(81) dated 3rd December, 2021, the Committee invited the Chief Executive Officer, Child Welfare Society of Kenya to virtually appear before the Committee on Thursday, 2nd December, 2021 who thereafter appeared and submitted as follows;
43. The child welfare society of kenya (CWSK) is a trust which is a body corporate. It is mandated for the care, protection, welfare and control of children. It is the National Welfare Society for Kenya, the National Emergency Response and Rescue Organization for children and the national adoption society. The agency was established and gazette in 1955 as an approved society under gazette notice 1768 of 27/12/1955, an exempt society under gazette 1536 of 04/ 11/1955, the certificate of exemption No. 455 and the adoption society of kenya, gazette notice 1356 of 28/04/1969. It is an exempt society with permanent trustees of public nature. CWSK is governed by an irrevocable trust deed of 1955 with membership across the country.
44. The land was given to CWSK in 1959 to help alleviate child protection challenges which were affecting Embu provincial hospitals then. Soon after, CWSK started building baby centers and staff houses. By then, CWSK was the only agency working on the care, control and welfare of children. In 1964, CWSK held a harambee and invited the prime minister who sent 200 pounds for this support (please see the attached letter). In 1966, CWSK was allocated the land as per attached documents- a lease of 33 years. Later the lease was extended from 33 years to 99 years. CWSK paid all the necessary payments to the land commissioner between 1989 to 2000 and a lease was issued.
45. The dispute between child welfare society of Kenya and the diocese of Embu has been adjudicated upon and determined by the national land commission and the high court of Kenya.
46. The said determination and judgement are attached herewith. This include, various other

administrative processes which all have concluded that the land belongs to CWSK and the latter were engaged in serious fraud.

We hereby attach the respondents list of documents;

1. A copy of the letter of allotment of land to CWSK dated 16th june 1966
2. CWSK lease of the yaer 2000
3. Notice of appeal by the petitioner dated 10th dec. 2019
4. High court judgement in embu environmental and land court petition no. 1 of 2018 (diocese of embu registered trustees versus the national land commission)
5. Court of appeal, nyeri civil application no:15 of 2020 (CWSK registered trustees versus diocese of embu registered truststess and others)
6. Replying affidavit by Irene Mureithi CEO (CWSK) Filed on 29th oct.2018 in environment and land court, petition no:1 of 2018
7. National land commission determination over LR no: embu/municipality/375 dated 5th October 2015; a letter dated, 14th may 2013
8. A letter by national land commission on erroneous issuance of title dated 14th may 2013
9. Gazette notice dated 22nd jan.2016 and 17th july,2017
10. Determination by DPP dated 21st august 2014
11. CWSK board chairman letter dated 17th October, 2012
12. Determination of director of criminal investigation (letter dated 17th oct, 2012, 23rd oct.2012, 27th aug.2014
13. A letter from the principal secretary at the state department for social protection on securing of land belonging to child welfare society of kenya dated 14th December 2017
14. Two bundles of relevant document

C. Responses by the National Land Commission

47. Vide a letter REF: SEN/DCS/LENR/2/2021/(81) dated 3rd December, 2021, the Committee invited the Chairperson, National Land Commission to virtually appear before the Committee on Thursday, 2nd December, 2021 who thereafter appeared and submitted as follows;
48. From the records in possession of the Commission, the Chairperson outlined the following summary of facts:
- a) A Certificate of Lease was issued to Child Welfare Society of Kenya on 1/7/1966 for 99 years measuring 1.471HA.
 - b) Official search carried on 4th January 2022 showed that the parcel was allocate to Child Welfare Society of Kenya for a period of 99 years from 1966.
 - c) Embu Diocese and CWSK through a mutual consent were running the institution from 1984 to 2009. In 2009 the Diocese requested to run and manage the institution on their own. This led to the Diocese applying for an amendment of the lease from CWSK to Embu Diocese.
 - d) A Certificate of Lease was issued to Diocese of Embu Trustees on 12/7/2012.
 - e) The process of amending the lease was opened to fraud investigation and it was deemed to have been fraudulently amended since the signatories to the consent for change were not authorized by CWSK.
 - f) Through NLC Review of Grants and Dispositions the Lease to the Diocese of Embu was revoked and cancelled as per Gazette Notices **Vol. CXVIII – No. 6 of 22nd January, 2016** and **Vol. CXIX – No. 97 of 17th July, 2017**.
 - g) NLC was exercising its mandate under S. 14 of the National Land Commission

Act.

- h) The certificate of Lease issued to Diocese of Embu Trustees on 12/7/2012 was cancelled as per the Gazette Notices.
- i) The Embu Diocese went to court to challenge the decision of NLC.
- j) The court upheld the decision of the Commission to cancel the lease title issued to Embu Diocese Trustees.
- k) The Commission further stated that it was not aware of any subsequent Court orders on Appeal or other court processes.
- l) The Chairperson NLC concluded by proposing that alternative land could be procured and set aside for one of the parties to run a children's home to ensure that the welfare of the children is safeguarded.

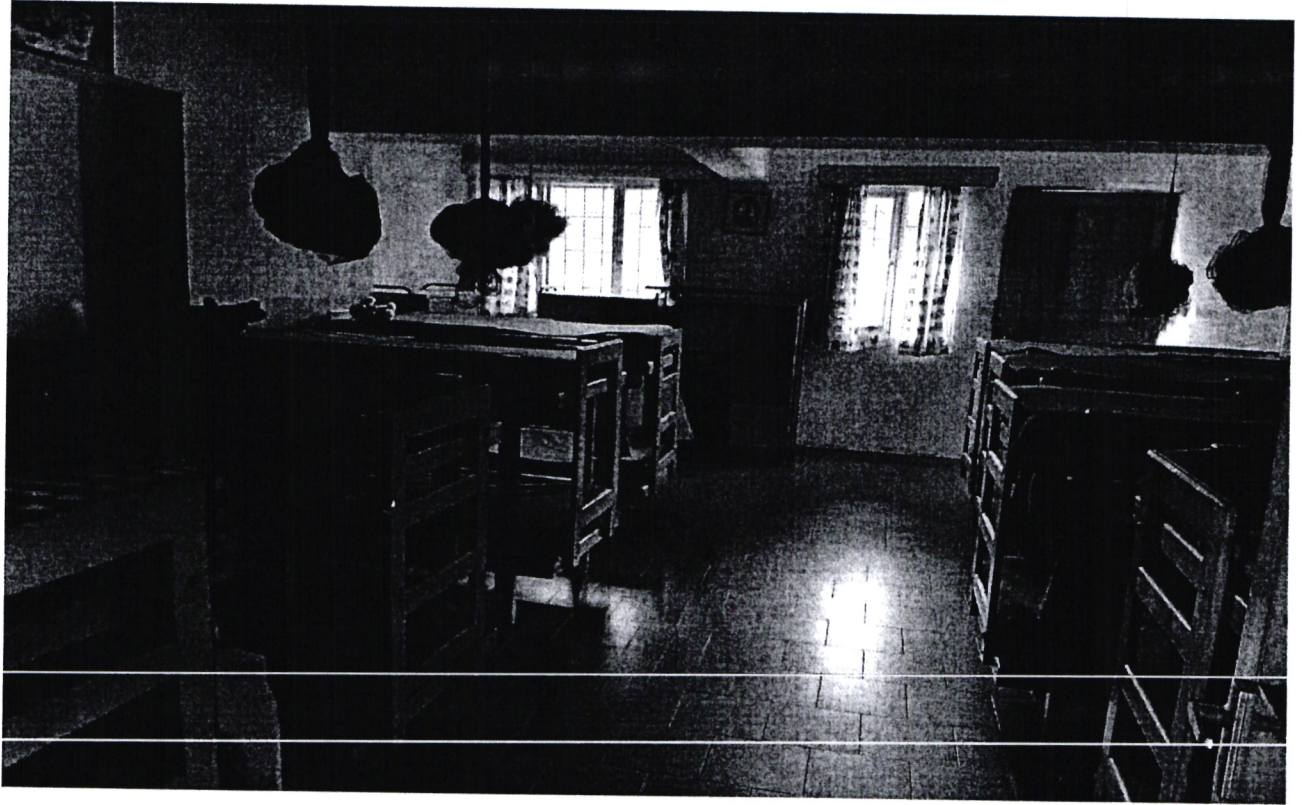
D. Site Visit to the contested area of Embu Children's Home at the Diocese of Embu in Embu County.

- 49. At a sitting held on 9th February, 2022, the Committee considered the Petition and resolved to conduct a site visit to Embu on 28th February, 2022. The key stakeholders invited to accompany the Committee during the visit included; the Cabinet Secretary Ministry of Lands and Physical Planning, the Chairperson National Land Commission, the Chief Executive Officer, Child Welfare Society of Kenya, the County Commissioner Embu County among others.
- 50. The Committee began its visit by paying a courtesy call to the County Commissioners Office, where a short briefing session was held. During the session, the County Commissioner welcomed the Committee to Embu and informed the members that he was seized of the matters pertaining to the petition and that his office was willing to assist in issues within its mandate.

51. The Committee then proceeded to Embu Children's Home at the Diocese of Embu for a meeting with the stakeholders as well as to verify the matters contained in the petition and those expressed in submissions during the numerous virtual meetings held. During the meeting, the Committee noted that it was necessary to schedule a final stakeholder meeting to allow for further deliberation and the way forward and resolved to have it done in Nairobi.
52. The Committee concluded the visit by touring the facility accompanied by the stakeholders and the respondent of the petition, the Child Welfare Society of Kenya. It was noted that the facility was under the management of the Dioceses. It was observed that children of different ages were hosted at the facility and their needs were catered for by the Diocese. The Committee also observed that the disputed land was about 1.471 HA.







(Attached above are photos taken during a tour of the facilities at the children's home, Embu County on 28th February, 2022 .)

CHAPTER 5

COMMITTEE OBSERVATIONS

In accordance with the Prayers of the Petitioner the Committee observes as follows:

The Committee noted that the dispute was on land claimed by two well established organizations, the Catholic Church – Diocese of Embu and the National Government through the Child Welfare Society of Kenya.

The parties are in dispute over land which is currently utilized for the care of children who have no one else to take care of them. Both parties claim the land to continue taking care of the children.

The Committee noted that Catholic Church, through its Diocese of Embu has been taking care of the children for about sixty years. Indeed, during the visit conducted on the premises by the Committee, the Committee noted that the church was taking very good care of the children. The Committee compared the conditions of the facility with those of other children care facilities run by, among others, the Child Welfare Society of Kenya.

The Committee also notes that the Church indicated that it had been given the land to take care of the children and had developed it. The Child Welfare Society of Kenya vehemently denied this stating that it did not give the Church the property and that it was the one that developed it. The Committee however noted during the visit that it was clear that the church was the one that had developed the property. This development had been done through donations by the Catholic faithful in the Diocese and other local and international donors.

The Committee determined the matter to ensure that the welfare of the children is protected. Whoever owned the land, if the children would not be well taken care of then the Committee noted that it would have failed these young Kenyans.

The Committee noted that the children were very well taken care of by the church when they visited the facility. Indeed, there was no complaint by the Child Welfare Society of Kenya or any other person of mistreatment of the children or any other bad conduct by the Church in running the facility.

The Committee also appreciated proposals by the National Land Commission that alternative land be identified and set aside for the Child Welfare Society of Kenya to

carry out its activities in Embu County and let the Church continue taking care of the children in the subject property as they have been doing.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders recommends as follows-

The Embu County Government, the Ministry of Lands and Physical Planning and the National Land Commission identifies and procures alternative and appropriate land for the Child Welfare Society of Kenya to use for its activities in Embu County.

Upon the identification and procurement of alternative land as stated above, the Ministry of Lands and Physical Planning registers the subject land in the name of the Catholic Church -- Diocese of Embu specifically to continue running the children's home as it has for the last sixty years.

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

MINUTES OF THE 71ST SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 18TH NOVEMBER, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Philip Mpaayei, MP
2. Sen. Mwaruma Johnes, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP
4. Sen. (Dr.) Lelegwe Ltumbesi, MP
5. Sen. George Khaniri, MGH, MP
6. Sen. Boy Issa Juma, MP

PRESENT

- Vice Chairperson
- Member (Ag. Chairperson)
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, MP
 2. Sen. Gideon Moi, CBS, MP
 3. Sen. Arch. Sylvia Kasanga, MP
- Chairperson
 - Member
 - Member

IN ATTENDANCE

A. PETITIONERS

1. Mr. John Lekushula
- Representative, Petitioners

B. NATIONAL LAND COMMISSION (NLC)

1. Mr. Gershom Otachi
 2. Samuel Nthuni
- Chairperson
 - Secretariat

C. SECRETARIAT

1. Ms. Clare Kidombo
 2. Mr. Victor Bett
 3. Mr. Mitchell Otoro
 4. Mr. Erick Njogu
 5. Mr. James Kimiti
- Research Officer
 - Clerk Assistant
 - Legal Counsel
 - Clerk Assistant
 - Hansard Officer

MINUTE SEN/SCLNR/395/2021: PRELIMINARIES

The meeting was called to order at 11.29 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNR/ 396/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. George Khaniri, MGH, MP and seconded by Sen. (Dr.) Lelegwe Ltumbesi, MP as follows

1. Preliminaries
 - *Prayer;*
 - *Introductions*
2. Adoption of the agenda;
3. **Petition regarding historical injustices against Samburu Community living in Kirimun area of Laikipia North in Laikipia County;**
 - **Submissions from Chairperson, National Land Commission.**
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLENR/ 397 /2021: PETITION REGARDING HISTORICAL INJUSTICES AGAINST SAMBURU COMMUNITY LIVING IN KIRIMUN AREA OF LAIKIPIA NORTH IN LAIKIPIA COUNTY

Submission from Chairperson, National Land Commission

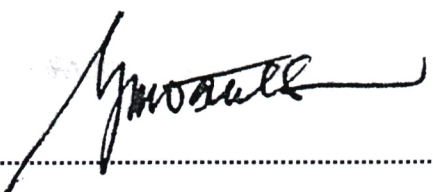
- As the Chairperson, National Land Commission took the Committee through his submissions, members noted that they were directly drawn from responses to a similar petition submitted to the Departmental Committee on Lands in the National Assembly and thus did not address the issues raised in the petition tabled in the Senate.
- The Chairperson, National Land Commission tendered his apology to the Committee and informed the meeting that the submission was erroneously made. He further sought the Committee for more time to put together a relevant response to the questions as framed in the petition and present it to the Committee at a later meeting, a request the Committee acceded to.

MINUTE SEN/SCLENR/ 398 /2021: ANY OTHER BUSINESS

- The Committee noted that it was necessary to get the input from the Ministry of Tourism and Wildlife on the matter of establishment of Kirimun Game Reserve in Laikipia County and **resolved request for information and a status update on the same.**
- The meeting was informed by the Secretariat of a petition that was tabled in the Senate regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (LEASEHOLD) by Child Welfare Society of Kenya in Embu County.

MINUTE SEN/SCLENR/ 399 /2021: DATE OF NEXT MEETING

The meeting was adjourned at 11.45 am and the next meeting was to be held on Tuesday, 30th November, 2021 at 11:00 am.

Signed:  Date: 18/2/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 72ND SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, 30TH NOVEMBER, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP

PRESENT

- **Chairperson**
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. Gideon Moi, CBS, MP
3. Sen. Arch. Sylvia Kasanga, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. George Khaniri, MGH, MP
6. Sen. Boy Issa Juma, MP

- **Vice Chairperson**
- Member
- Member
- Member
- Member
- Member

IN ATTENDANCE

A. PETITIONERS

1. Mr. John Lekushula
- Representative, Petitioners

B. SECRETARIAT

1. Ms. Veronicah Kibati
 2. Ms. Clare Kidombo
 3. Mr. Victor Bett
 4. Mr. Moses Kinyanchui
 5. Mr. Erick Njogu
 6. Ms. Florence Waweru
 7. Mr. James Kimiti
- Principal Clerk Assistant
 - Research Officer
 - Clerk Assistant
 - Legal Counsel
 - Clerk Assistant
 - Clerk Assistant
 - Hansard Officer

MINUTE SEN/SCLNR/400/2021: PRELIMINARIES

The meeting was called to order at 11.16 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNR/ 401/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. (Dr.) Lelegwe Ltumbesi, MP as follows

1. Preliminaries
 - Prayer;

- *Introductions*
- 2. Adoption of the agenda;
- 3. **Petition regarding historical injustices against Samburu Community living in Kirimun area of Laikipia North in Laikipia County;**
- **Submissions from Chairperson, National Land Commission.**
- 4. Any other Business;
- 5. Date of the next meeting;
- 6. Adjournment.

MINUTE SEN/SCLENR/ 402 /2021: PETITION REGARDING HISTORICAL INJUSTICES AGAINST SAMBURU COMMUNITY LIVING IN KIRIMUN AREA OF LAIKIPIA NORTH IN LAIKIPIA COUNTY

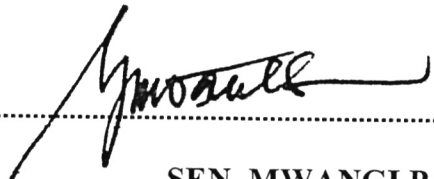
- The Committee was informed of apologies from the Chairperson, National Land Commission that he was engaged in statutory inquiries in Lamu County for the ongoing LAPSET Corridor project vide letter Ref: NLC/1/7/13 dated 29th November, 2021.
- For the petition to progress, the Committee noted that the presence of the Chairperson, National Land Commission was essential and therefore **resolved to re-invite him to a meeting of the Committee on Tuesday 7th December 2021 to respond to the issues raised in the Petition.**

MINUTE SEN/SCLENR/ 403 /2021: ANY OTHER BUSINESS

- The Senator Embu County sought to know if the Chairperson, National Land Commission would be present in the Committee meeting with petitioners on the Diones of Embu Trustees Petition and was informed by the Secretariat that the said meeting would only involve the petitioners, and that he would be present on Wednesday 1st December 2021 when the Committee will be considering matters Kimondi and Chetambe (Webuye) Hill forests.
- The Secretariat was thus tasked to ensure that the Chairperson, National Land Commission is left behind after the meeting to discuss matters on Kirimun residents' petition.
- The Senator Samburu County sought to know the effect the Special Sitzings of the Senate slated for 1st and 2nd December, 2021 would have on the business of the Committee and was informed by the Secretariat that written permission from the Speaker was required in accordance with Standing Orders 200 (2).
- The Secretariat was thus tasked to ensure that the written permission from the Speaker was obtained to allow the Committee to proceed smoothly with its urgent business.

MINUTE SEN/SCLENR/ 404 /2021: DATE OF NEXT MEETING

The meeting was adjourned at 11.40 am and the next meeting was to be held on Wednesday, 1st November, 2021 at 11:00 am.

Signed:  Date: 18/2/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 75TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 2ND DECEMBER, 2021 VIA ZOOM ONLINE PLATFORM AT 12.00 PM.

MEMBERS

1. Sen. Philip Mpaayei, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. Mwaruma Johnes, MP
4. Sen. George Khaniri, MGH, MP
5. Sen. Boy Issa Juma, MP
6. Sen. (Dr.) Lelegwe Ltumbesi, MP

PRESENT

- Vice Chairperson
- Member
- Member
- Member
- Member
- Member

IN ATTENDANCE

1. Sen. Johnson Sakaja, MP
- Senator, Nairobi City County

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, MP
 2. Sen. Gideon Moi, CBS, MP
 3. Sen. Arch. Sylvia Kasanga, MP
- Chairperson
 - Member
 - Member

IN ATTENDANCE

A. PETITIONERS – DIOCESE OF EMBU TRUSTEES

1. Bishop Paul Kariuki Njiru
 2. Sr. Alice Wambui
 3. Fr. Michael Ileri
 4. Ms. Fatuma Wanjiku
 5. Mr. Morris Njagi
 6. Fr. Eliud Wanyoike
- Lead Petitioner
 - Petitioner
 - Bishop Secretary
 - Advocate
 - Advocate
 - Petitioner

B. SECRETARIAT

1. Ms. Clare Kidombo
 2. Mr. Victor Bett
 3. Mr. Mitchell Otoro
 4. Mr. Erick Njogu
 5. Mr. James Kimiti
 6. Shem Ayuka
- Research Officer
 - Clerk Assistant
 - Legal Counsel
 - Clerk Assistant
 - Hansard Officer
 - Attachee

MINUTE SEN/SCLENR/416/2021: PRELIMINARIES

The meeting was called to order at 12.12 pm by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 417/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. (Dr.) Lelegwe Ltumbesi, MP as follows

1. Preliminaries
 - *Prayer;*
 - *Introductions*
2. Adoption of the agenda;
3. **Petition regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Association of Kenya in Embu County**
 - **Submissions from Petitioners;**
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLENR/ 418 /2021: PETITION REGARDING THE ALLEGED ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY CHILD WELFARE ASSOCIATION OF KENYA IN EMBU COUNTY

The petitioners presented their case and made their submissions as follows;

Submissions from Petitioners

1. That the Diocese of Embu Trustees, is currently the owner of the piece of land EMBU/MUNICIPALITY//375. They hold a lease dated the 13th day of July 2012, as evidence of ownership. The lease is for 99 years from 13.7.2012.
2. That the Diocese of Embu Trustees, has been running a Children's home on the said plot under the name, St. Angela Embu Children's home, from the year 1960 to date.
3. The Children's home has always been under the custody, occupation and management of the Diocese of Embu, from pre-independence days, at independence, and post-independence.
4. When the Diocese applied for a lease of the land where the home now stands, the lease was gladly given by the Government on the 13.7.2012 for 99 years
5. That to the dismay of the Diocese, individuals calling themselves the Child Welfare Society of Kenya laid claim to the home by force, but this was resisted and repelled. There was court intervention, and the invaders were pushed out and law and order restored.
6. The Child Welfare of Kenya has never run the home even for one day since its inception to date.

7. That again to the dismay of the Diocese, its attention was drawn to two items appearing in the Kenya Gazette, one date the 22nd January 2016 and the other dated the 17th July 2017.
8. That in the Gazette of 22nd January 2016, item number 17, the title EMBU/MUNICIPALITY/375 belonging to the Catholic Diocese of Embu was revoked, apparently by the National Land Commission of Kenya at the instance of the Child Welfare Society of Kenya.
9. That in the Gazette of 17th July 2017, item No. 30, title Embu/Municipality/375 “the Chief Land Registrar was directed to revoke title held by Catholic Diocese of Embu”. The property is vested in the “Child Welfare Society of Kenya”. The notice was given by the National Land Commission of Kenya.
10. That the Child Welfare Society of Kenya, beyond by the two publications again attempted to force their way into the home, but this was repulsed by the Diocese.
11. That the current position is that the Diocese is the legitimate and the legal owner of plot No. EMBU/MUNICIPALITY/375. They are in possession of the home; they run the home; and have the unexpired lease.
12. The Diocese is concerned that their lease to EMBU/MUNICIPALITY/375 was declared cancelled by the Land Commission of Kenya at the instance of the Child Welfare Society of Kenya, the hopeful beneficiaries of the alienation.
13. That the purported act of the alienation continues to threaten the Petitioners since the Land Commission has already reassured the Child Welfare Society that it has revoked the title; and recommended a new lease be issued to them.
14. That the matter has been in court severally but never finally resolved. It is the Child Welfare Society of Kenya that triggers these court interventions by surprise forced attempts at occupation, alienation and eviction.
15. That the petitioners have made efforts to have the matter addressed by the relevant bodied, all of which have not been fruitful.
16. That currently there is no dispute pending in court of law, constitutional or any other legal body.

In their prayer, the petitioners sought the Committee through the Senate to investigate the matter and: -

1. Initiate a process to ascertain if the true owners of the parcel of land EMBU/MUNICIPALITY/375 are Diocese of Embu Trustees.
2. Recommend for the cancellation or otherwise set aside the contents of the two Gazette notices, specifically Gazette notice No. 6 of 22nd January, 2016; and Gazette notice No. 97 of 17th July, 2017.
3. Recommend for the prohibition of the Child Welfare Society of Kenya from further making claims, interfering with harassing or otherwise making attempts at entry into the Petitioner’s Children’s home.

4. The relevant Committee makes a visit to the St. Angela Embu Children's home to see how the home is run and the developments made over the years by the Petitioners.
5. Recommend that a plot be allocated to the Child Welfare Society of Kenya for the purpose of building their own home away from that of the Petitioners in view of the many homeless children in Embu County.

Observations and Interventions

- Members thanked the petitioners for presenting their case to the Senate and informed the petitioners that through the Committee the matter would be resolved.
- The Committee observed that the land in dispute had been held by the Diocese for many years.
- The Committee noted the Petitioners' invitation for a site visit to enable it gather the facts necessary for the conclusion of the matter.

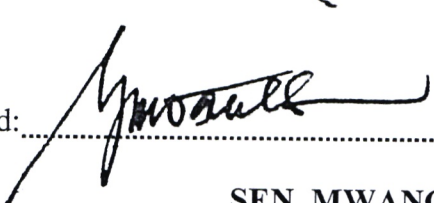
The Committee observed that it would be important to bring onboard other stakeholders over the matter and **resolved to invite the National Land Commission and the Child Welfare Society of Kenya to a meeting of the Committee to be held on Thursday 9th December 2021 to respond to the issues raised in the petition.**

MINUTE SEN/SCLENR/ 419 /2021: ANY OTHER BUSINESS

There was no other business

MINUTE SEN/SCLENR/ 420 /2021: DATE OF NEXT MEETING

The meeting was adjourned at 12:42 pm and the next meeting was to be held on Wednesday, 8th December, 2021 at 11:00 am.

Signed:  Date: 18/2/2021

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

MINUTES OF THE 79TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 9TH DECEMBER, 2021 VIA ZOOM ONLINE PLATFORM AT 9.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. Mwaruma Johnes, MP
4. Sen. George Khaniri, MGH, MP
5. Sen. Arch. Sylvia Kasanga, MP

PRESENT

- Chairperson
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. Gideon Moi, CBS, MP
3. Sen. Boy Issa Juma, MP
4. Sen. (Dr.) Lelegwe Ltumbesi, MP

- Vice Chairperson
- Member
- Member
- Member

IN ATTENDANCE

A. PETITIONERS – DIOCESE OF EMBU TRUSTEES

1. Bishop Paul Kariuki Njiru - Lead Petitioner
2. Sr. Alice Wambui - Petitioner
3. Fr. Michael Ileri - Bishop Secretary
4. Ms. Fatuma Wanjiku - Advocate
5. Mr. Morris Njagi - Advocate
6. Fr. Eliud Wanyoike - Petitioner

B. CHILD WELFARE SOCIETY OF KENYA

1. Ms. Irene Mureithi - Chief Executive Officer
2. Mr. Lawrence Mbabu - Advocate
3. Mr. Ramadhan Abubakar - Advocate
4. Ms. Margaret Njoroge - Advocate
5. Ms. Peninnah Wairima - Child Protection Officer

C. NATIONAL LAND COMMISSION

1. Mr. Gershom Otachi - Chairperson

D. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Mr. Mitchell Otoro - Legal Counsel
3. Ms. Lucianne Limo - Media Relations

- | | |
|---------------------|-------------------|
| 4. Mr. Erick Njogu | - Clerk Assistant |
| 5. Mr. James Kimiti | - Hansard Officer |
| 6. Shem Ayuka | - Attachee |

MINUTE SEN/SCLNR/438/2021: PRELIMINARIES

The meeting was called to order at 9.30 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNR/ 439/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded Sen. George Khaniri, MGH, MP by as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*
2. Adoption of the agenda;
3. **Petition regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Society of Kenya in Embu County;**
 - **Submissions from;**
 - **Chairperson, National Land Commission and**
 - **Chief Executive Officer, Child Welfare Society of Kenya.**
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNR/440/2021: PETITION REGARDING THE ALLEGED ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY CHILD WELFARE SOCIETY OF KENYA IN EMBU COUNTY

Chairperson, National Land Commission sought for more time to put together his submission and the Committee acceded.

Child Welfare Society of Kenya proceeded with their as follows (*see attached...*).

The Chief Executive Officer (CEO), Child Welfare Society of Kenya (CWSK) highlighted the following key areas;

- Gave a brief introduction of her organization by informing the meeting that it was a government agency started in 1955 to take care and protect the welfare of children and that it was the National Adoption Agency.

- That it had its operations in 43 counties and that the remaining counties were covered by their neighbors with branches.
- That the alleged disputed land in Embu County was given to CWSK 1959 and has since owned to date.
- That the matter before the Committee had been investigated, heard and concluded by different institutions including the Directorate of Criminal Investigations, the Directorate of Public Prosecution, the National Land Commission and the courts.
- That the matter under consideration was active in the Court of Appeal after it was allegedly filed by the petitioners on 10th December 2019 following a judgement delivered by the High Court in Embu in favor of CWSK and on that reason they felt the matter was sub judice.

The petitioners informed the Committee that they had withdrawn the alleged appeal and at that point deliberations ensued and the Committee Observed as follows.

Observations

- i. The petitioners and CWSK had sets of documents that were not present before the Committee.
- ii. Members observed parties needed to submit the documents for verification to determine if the matter under consideration was sub judice as alleged by CWSK.
- iii. The matter may only be concluded upon presentation and verification of all documentations from both parties.
- iv. That a notice of eviction had been issued by CWSK to the petitioners to vacate the disputed property and that the petitioners had requested the Committee to issues a stay order until the matter is concluded.

The Committee resolved to have both parties submit their documents presented before it for verification and determination of the sub judice subject.

Further, the Committee urged both parties to exchange documents in their possession ahead of their next appearance before the it to facilitate smooth deliberations.

The meeting resolved to fastrack the matter upon resumption of Committee sittings early February 2022.

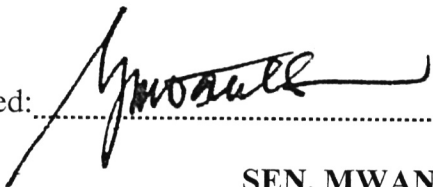
MINUTE SEN/SCLENR/441/2021: ANY OTHER BUSINESS

There was no other business.

MINUTE SEN/SCLENR/442/2021: DATE OF NEXT MEETING

The meeting was adjourned at 10:55 am and the next meeting was to be held on Thursday, 9th December, 2021 at 11:00 am.

Signed: _____



Date: _____

18/2/2022

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 1ST SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 9TH FEBRUARY, 2022 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Mwaruma Johnes, MP

PRESENT

- **Chairperson**
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Boy Issa Juma, MP
5. Sen. Arch. Sylvia Kasanga, MP

- **Vice Chairperson**
- Member
- Member
- Member
- Member

IN ATTENDANCE

SECRETARIAT

- | | |
|-----------------------|--------------------|
| 1. Mr. Victor Bett | - Clerk Assistant |
| 2. Ms. Clare Kidombo | - Research Officer |
| 3. Mr. Mitchell Otoro | - Legal Counsel |
| 4. Mr. Erick Njogu | - Clerk Assistant |
| 5. Mr. John Pere | - Serjeant-at-Arms |

MINUTE SEN/SCLENR/001/2022: PRELIMINARIES

The meeting was called to order at 11.19 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 002/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*
2. Adoption of the agenda;
3. Confirmation of Minutes;

4. Consideration of Pending Business; Petitions, Statements, County Visits and Inquiries;

5. Any other Business;

6. Date of the next meeting;

7. Adjournment.

MINUTE SEN/SCLNR/003/2022: CONFIRMATION OF MINUTES;

- The meeting was informed of a set of 20 minutes of the Committee that were yet to be confirmed.
- It was suggested that the minutes be confirmed during the proposed work planning retreat and members acceded.

MINUTE SEN/SCLNR/004/2022: CONSIDERATION OF PENDING BUSINESS; PETITIONS, STATEMENTS, COUNTY VISITS AND INQUIRIES

The meeting was taken through the pending business as follows;

PENDING MEETINGS

<u>DATE</u>	<u>TIME</u>	<u>AGENDA</u>	<u>INVITED STAKEHOLDERS</u>		<u>REMARKS</u>
WEDNESDAY , 9TH FEBRUARY, 2022	11.00 AM	Housekeeping	In-house	Join Zoom Meeting https://us02web.zoom.us/j/85484426824?pwd=SWpmNkJTYUZXXK3hSbDZmSy9zcG1HQT09 Meeting ID: 854 8442 6824 Passcode: 655907	
WEDNESDAY , 16TH FEBRUARY, 2022	11.00 AM	Petition to the senate on the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta county	• Cabinet Secretary Ministry of Interior and Coordination of National Government • Directorate of Criminal Investigation	Letters Sent. Join Zoom Meeting https://us02web.zoom.us/j/88511893600?pwd=WU5oT01kNnRnaG1XckdXa09JL280QT09 Meeting ID: 885 1189 3600 Passcode: 901595.	• Members were informed that the decision to invite the Cabinet Secretary and the Directorate of Criminal Investigation (DCI) was arrived at during the previous meeting of the Committee following failure by DCI to present an investigative report despite numerous requests by the Committee hence delaying conclusion of the matter.
	12.00 NOON	Summons to Cabinet Secretary Ministry of Lands and Physical Planning and Cabinet Secretary Ministry of Education over statements	• Cabinet Secretary Ministry of Lands and Physical Planning. • Cabinet Secretary Ministry of Education.	Summon still being processed. Join Zoom Meeting https://us02web.zoom.us/j/81054549017?pwd=R0lrdFZZK3pISFN6RTRrYm9zY1BuZz09 Meeting ID: 810 5454 9017 Passcode: 559676	• The Meeting was informed that the two Cabinet Secretaries were summoned by the committee following failure to honour the Committee's invitations to respond to issues within the mandates of their respective ministries. • Members noted that the summons were to be dispatched over the day.

THURSDAY, 17TH FEBRUARY, 2022	11.00 AM	Petition on historical injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County	- Cabinet Secretary Ministry of Lands and Physical Planning - Chairperson, National Land Commission	(Letters Sent) Join Zoom Meeting https://us02web.zoom.us/j/84486000530?pwd=bkJWV0s3c0cwQ1ZCNklnaGY3aHp4QT09 Meeting ID: 844 8600 0530 Passcode: 999416	Members were informed that the Cabinet Secretaries were invited to give concrete responses following substandard during a previous meeting over the matter.
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PENDING COUNTY VISITS

AGENDA	PROPOSED DATES	REMARKS
Retreat Work planning (Mombasa/Naiivasha)		- The secretariat requested the Committee to propose the dates for the activities. - The secretariat was tasked to formulate the proposed dates and present them before the Committee during the next meeting for ratification.
Visit to Bungoma County and Nandi County – Chetambe Hill Forest Petition and Kimondi Forest Petition		
Visit to Embu County and Nyandarua County – Embu Diocese Petition and Kwa Muhu Statement		
Report Writing Retreat (Mombasa/Naiivasha)		

PENDING PETITIONS

The meeting was informed that there were seven (7) pending petitions before the Committee which included;

PETITIONERS	PETITION	REMARKS
Residents of Kericho and Bomet Counties	The status of land owned by multinationals in Kericho and Bomet Counties	- The meeting was informed that the petition was joint between Land, Environment and Natural Resources, and Justice, Legal Affairs and Human Rights Committees. - The meeting was also informed that the Committee resolved to leave the matter Justice and Legal Affairs Committee to conclude it after

		which there will be a joint sitting to adopt the report.
Residents of Mkamenyi Village in Voi sub-county of Taita Taveta County	The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County.	The meeting was informed that invitations were sent to Cabinet Secretary Ministry of Interior and Coordination of National Government and the Directorate of Criminal Investigation for a meeting with the Committee next week to facilitate conclusion of the matter.
Residents of Webuye East, Bungoma County	The gazettement of Chetambe (Webuye) Hill Forest, vide Legal Notice No. 106, dated 25th June 2021	The Committee was informed that the matter awaited a county visit for it to be concluded.
Former Kimondi Forest evictees	Resettlement status of former Kimondi Forest evictees	The Committee was informed that the matter awaited a county visit for it to be concluded.
Ms. Linda Munyao and other members of the Environment Institute of Kenya (EIK)	Introduction to the Senate of the proposed Environment Institute of Kenya Bill.	The meeting was informed that the petition was concluded and only awaited written responses from the Ministry of Environment and Forestry.
Kenya Water and Sanitation Civil Society Network	To expunge offending provisions in the Water Services Regulations, 2021 and the Water Resources Regulations, 2021.	The meeting was informed that the matter was concluded and that a draft report was ready and awaited consideration by the Committee.
Kirimun residents	Historical injustices against the Samburu community living in Kirimun area of Laikipia North in Laikipia County.	The Committee was informed that a meeting with the Ministry of Lands and physical Planning and the National Land Commission was scheduled for 17th February

		2022, after which a county visit would be conducted to conclude the matter.
Bishop Paul Kariuki Njiru and Sister Alice Wambui	• Illegal alienation of parcel of land Embu/Municipality/375 (leashold) by the Child Welfare Society of Kenya.	• The Committee was informed that the petitioners and stakeholders had been invited and that it awaited a county visit and analysis of all submissions before a final meeting.

PENDING STATEMENTS

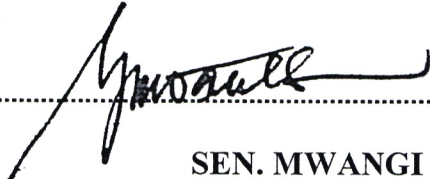
The meeting was informed that 12 statements were pending before the Committee awaiting responses from the relevant Ministries and Agencies.

MINUTE SEN/SCLNR/005/2022: ANY OTHER BUSINESS

- Senator for Taita Taveta County sought to know the implementation status of the report of the Committee on the Petition on the alleged impending evictions of Msambweni residents by a private company.
- The secretariat informed him that a follow up on the same would be done with the relevant ministry to ascertain the status of implementation of the report and revert with a response in the following week

MINUTE SEN/SCLNR/006/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11:00 am and the next meeting was to be the next meeting was to be held on Wednesday, 16th February, 2022 at 11:00 am.

Signed:  Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 2ND SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 16TH FEBRUARY, 2022 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP
6. Sen. Arch. Sylvia Kasanga, MP

PRESENT

- Chairperson
- Member
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. Gideon Moi, CBS, MP

- Vice Chairperson
- Member
- Member

IN ATTENDANCE

A. VOI POINT LIMITED

1. Mr. Mbugua Anthony
2. Geoffrey Muchoki

- Legal Counsel
- Legal Counsel

B. SECRETARIAT

1. Mr. Victor Bett
2. Ms. Clare Kidombo
3. Mr. Mitchell Otoro
4. Mr. Erick Njogu
5. Mr. James Kimiti

- Clerk Assistant
- Research Officer
- Legal Counsel
- Clerk Assistant
- Hansard Officer

MINUTE SEN/SCLNR/007/2022: PRELIMINARIES

The meeting was called to order at 11.16 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNR/ 008/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Boy Issa Juma, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries

- *Prayer*
- *Introductions*
- 2. Adoption of the agenda;
- 3. **Petition submitted by Residents of Mkamenyi Village in Voi Sub-County of Taita Taveta County, the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;**
 - Submissions by Ministry of Interior and Coordination of National Government and the Directorate of Criminal Investigations
- 4. Any other Business;
- 5. Date of the next meeting;
- 6. Adjournment.

MINUTE SEN/SCLNR/009/2022: PETITION SUBMITTED BY RESIDENTS OF MKAMENYI VILLAGE IN VOI SUB-COUNTY OF TAITA TAVETA COUNTY, THE ALLEGED ENCROACHMENT OF LAND BELONGING TO MKAMENYI RESIDENTS BY VOI POINT LIMITED IN TAITA TAVETA COUNTY;

- The meeting was informed of an apology from the Cabinet Secretary Ministry of Interior and Coordination of National Government.
- The Committee noted the absence of representatives from the Directorate of Criminal Investigations (DCI) but was informed of technical challenges were experiencing while trying to log into the meeting.
- The meeting resolved to proceed after it was noted that the DCI had submitted written responses on matter.
- The meeting was taken through the submissions, and it was observed that they had inadequately addressed the issues raised by the Committee on the following three accounts;
 - i. Investigation of the circumstances that led to the renewal of the lease that is, establish if the processes were procedural and examine the renewal documentations such as the minutes of the defunct Voi Municipal Council to ascertain issues such as public participation.
 - ii. Verifying if the approval for subdivision into 52 blocks was authentic following fraud allegations by the county government in the subdivision plans.
 - iii. Investigation into why upon expiry of the lease, the alleged squatters were not settled as that would have been the opportune time to do so.
- Consequently, **the Committee resolved to reinvite both the Cabinet Secretary Ministry of Interior and Coordination of National Government and the DCI to another meeting of the Committee to address the issues raised as the matter under consideration could not be fully processed in their absence.** The secretariat was tasked to ensure the invitations are sent out.

- It was also noted that members of the Mkamenyi Village were allegedly being denied access to their homes by Voi Point Limited, a matter the Committee observed that it was in contempt of its previous ruling.
- The Committee deliberated on the matter and **resolved to discuss it further in the presence of the Cabinet Secretary and the DCI**. The Senator for Taita Taveta County further informed the meeting that he would visit the disputed area and revert to the Committee with the actual happenings.

MINUTE SEN/SCLNR/010/2022: ANY OTHER BUSINESS

- The Secretariat informed members that the proposed work planning retreat was on schedule as it only awaited approval from the Clerk of the Senate.
- Members were also reminded of the next day's scheduled meeting with the Cabinet Secretary Ministry of Lands and Physical Planning and the Chairperson National Land Commission.
- The Secretariat informed the meeting that there was a proposal from the Senator for Embu County to merge the Nyandarua and Embu County visits and have them done on 28th February 2022 instead of the earlier proposed dates. The Secretariat was tasked to consult the member and consolidate the dates and report back to the Committee.

MINUTE SEN/SCLNR/011/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11:45 am and the next meeting was to be held on Thursday, 17th February, 2022 at 11:00 am.

Signed: _____

Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 4TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY, 18TH FEBRUARY, 2022 AT ENGLISH POINT MARINA, MOMBASA COUNTY AT 9.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Ndwiga Peter Njeru, EGH, MP
 2. Sen. (Dr.) Lelegwe Ltumbesi, MP
 3. Sen. Arch. Sylvia Kasanga, MP
 4. Sen. Gideon Moi, CBS, MP
- Member
 - Member
 - Member
 - Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett
 2. Ms. Clare Kidombo
 3. Mr. Mitchell Otoro
 4. Mr. Erick Njogu
 5. Ms. Alice Namaya
 6. Mr. James Kimiti
- Clerk Assistant
 - Research Officer
 - Legal Counsel
 - Clerk Assistant
 - Secretary
 - Hansard Officer

MINUTE SEN/SCLENR/017/2022: PRELIMINARIES

The meeting was called to order at 9.00 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 018/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. Boy Issa Juma, MP as follows

1. Preliminaries
 - Prayer
 - Introductions

2. Adoption of the agenda;
3. Pending Legislative Business;
4. Confirmation of Pending Minutes;
5. Matters Arising;
6. Adoption of the following Petition Report
 - Draft Report of the Committee on the Petition to expunge the alleged the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021
7. Any other Business;
8. Date of the next meeting;
9. Adjournment.

MINUTE SEN/SCLENR/019/2022: PENDING LEGISLATIVE BUSINESS;

- The Secretariat briefed the meeting on the pending legislative business as captured in the Statements and Petitions Trackers.
- Members was informed of other items that would be considered during the retreat including confirmation of pending minutes and adoption of three petition reports.
- The Committee was taken through pending legislative business as follows;

1. PETITIONS

The pending Petitions included;

NO	PETITIONER	SUBJECT	REPORTED/ PRESENTED BY:	DATE OF REPORTING / PRESENTATION	STANDING COMMITTEE OF COMMITTAL	REMARKS
1.	Residents of Webuye East, Bungoma County	The gazettement of Chetambe (Webuye) Hill Forest, vide Legal Notice No. 106, dated 25th June 2021	Sen. Moses Wetang'ula, EGH, MP	04/08/2021	Land, Environment and Natural Resources	County Visit scheduled 10 th – 13 th March, 2022 Report Writing
2.	Former Kimondi Forest evictees	Resettlement status of former Kimondi Forest evictees	Sen. George Khaniri, MP	07/09/2021	Land, Environment and Natural Resources	County Visit scheduled 10 th – 13 th March, 2022 Report Writing
3.	Ms. Linda Munyao and other members of the Environment Institute of Kenya (EIK)	Introduction to the Senate of the proposed Environment Institute of Kenya Bill.	The Speaker	08/09/2021	Land, Environment and Natural Resources	Report Writing

4.	Kenya Water and Sanitation Civil Society Network	To expunge offending provisions in the Water Services Regulations, 2021 and the Water Resources Regulations, 2021.	The Speaker	16/9/2021	Land, Environment and Natural Resources	Report Writing
5.	Kirimum residents	Historical injustices against the Samburu community living in Kirimun area of Laikipia North in Laikipia County.	Sen. (Dr.) Lelegwe Ltumbesi, MP	14/10/2021	Land, Environment and Natural Resources	Report Writing
6.	Bishop Paul Kariuki Njiru and Sister Alice Wambui	Illegal alienation of parcel of land Embu/Municipality/375 (leasehold) by the Child Welfare Society of Kenya.	Sen. Ndwiga Peter Njeru, EGH, MP	17/11/2021	Land, Environment and Natural Resources	County Visit scheduled 28 th February, 2022

- On the issue Mkamenyi Petition, the meeting was also informed that the Committee had resolved to reinvoke the Cabinet Secretary, Ministry of interior and Coordination of National Government and the Directorate of Criminal Investigations (DCI) over the matter to address the issues raised by the Committee.
- The meeting was also informed that a request had been sent to DCI asking them to do a formal response on the Mkamenyi matter as the one they had sent initially appeared to be an internal document since it lacked the Cabinet Secretary's letter head.
- On the issue of the joint petition regarding the Multinationals in Kericho County, the meeting was informed that the report was ready for consideration. The Committee resolved to engage Senate Committee on Justice and Legal Affairs and schedule a meeting to conclude the matter.

Observations and Interventions

- The meeting observed that recommendations issued in the Committee report on Msambweni issue needed further resolutions such have the matter considered by the Settlement Fund Board of Trustees (SFT Board). Deliberations on the matter ensued and the **Committee resolved to conduct a follow up with the implementing agencies on the matter by inviting them to a meeting of the Committee where it can pronounce itself further by issuing resolutions such as having the matter handled by SFT Board for quicker turnaround times.**
- The Secretariat was tasked to have the invitations done.

2. STATEMENTS

The pending statements included;

NO	STATEMENT BY	SUBJECT	DATE OF REQUEST/ISSUE	STATUS
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Sen. Moses Otieno Kajwang', MP	Dredging and sand harvesting activities around Takawiri Island in Lake Victoria	02.03.2021	Awaiting Response from Ministry of Environment
Sen. Mercy Chebeni, MP on behalf of Sen. Abshiro Halake, MP	Status of <i>Kwa Muhu</i> Internally Displaced Persons (IDPs) resettlement farm in Kanjuiri, Olkalou in Nyandarua County	05.08.2021	The Committee has received written responses from the PS Ministry of Lands and Physical Planning and awaits response from the National Land Commission Scheduled a County Visit on Monday 28 th February, 2022
Sen. Johnson Sakaja, MP	Demolition of Martin Luther Primary School in Makadara Constituency, Nairobi City County	13.10.2021	The Committee has requested for written responses from the Ministry of Education and the Ministry of Lands and Physical Planning. Summons sent to the Cabinet Secretaries to appear before the Committee on Tuesday 22 nd February, 2022
Sen. Aaron Cheruiyot, MP	Status of titling of Government Learning Institutions	10.11.2021	The Committee has scheduled a meeting with the Ministry of Lands and Physical Planning and the Ministry of Education to issue their responses. Summons sent to the Cabinet Secretaries to appear before the Committee on Tuesday 22 nd February, 2022
Sen. Aaron Cheruiyot, MP	Land transactions by Multinationals without the involvement of the National or County Governments	11.11.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
Sen. Millicent Omanga, MP	Alleged irregular ownership and use of land No. LR 336/64, originally land No. LR 336/12 in Babadogo, Nairobi City County	11.11.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
Sen. Cherarkey Samson, MP	Land leases in Nandi County	01.12.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
Sen. Paul Githiomi, MP	Rampant destruction of food crops by elephants in Kiriita Ward, Ndaragwa Constituency, Nyandarua County	02.12.2021	The Committee has requested for written responses from the Ministry of Tourism and Wildlife
Sen. Paul Githiomi, MP	Delay in issuance of title deeds to the members of <i>Gwa Kung'u</i> Self-help Group in Ndaragwa Constituency, Nyandarua County	02.12.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.

10.	Sen. John Kinyua, MP (Sto 47(3))	Insecurity in Laikipia County and the need to clear land around the Laikipia Nature Conservancy to aid visibility and enhance security operations in the County	02.12.2021	The Committee has requested for written responses from the Ministry of Environment and Forestry and the Ministry of Tourism and Wildlife
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Observations and Interventions

- The Committee observed that the issue on Takwiri Island was yet to be concluded despite numerous requests for responses from the Ministry of Environment. **The Committee resolved to have a reminder sent to Ministry and tasked the secretariat on the same.**
- On the issue of Demolition of Martin Luther Primary School, the meeting was informed of an apology from the Cabinet Secretary Ministry of Lands and Physical Planning being she was not able to honour the summon issued by the Committee as she was out of the Country. **The Committee resolved to consider the matter on Tuesday 22nd February, 2022 and thereafter make a determination.**

MINUTE SEN/SCLNR/019/2022: CONFIRMATION OF PENDING MINUTES:

- The Minutes of the 58th sitting held on 20th August, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 60th sitting held on 16th September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 61st sitting held on 22nd September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 62nd sitting held on 23rd September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 63rd sitting held on 29th September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 64th sitting held on 30th September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 65th sitting held on 6th October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by and Sen. Philip Mpaayei, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 66th sitting held on 14th October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwangi Paul Githiomi, MP respectively.

- The Minutes of the 67th sitting held on 21st October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP, and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 69th sitting held on 28th October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 70th sitting held on 17th November, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 71st sitting held on 18th November, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 73rd sitting held on 1st December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 75th sitting held on 2nd December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 76th sitting held on 7th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 77th sitting held on 8th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 78th sitting held on 8th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 79th sitting held on 9th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 80th sitting held on 9th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- **Confirmation of the Minutes of the 59th, 72nd and 74th meetings was deferred to a later date.**

MINUTE SEN/SCLNR/020/2022: MATTERS ARISING

There were no matters arising.

MINUTE SEN/SCLENR/021/2022: ADOPTION OF THE FOLLOWING PETITION REPORT

- **Draft Report of the Committee on the Petition to expunge the alleged the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021**

The Committee considered the draft report and **resolved to defer its adoption to allow for further deliberations on the matter with Ministry of Water and Sanitation. The Secretariat was tasked to invite the Cabinet Secretary Ministry of Water and Sanitation to a meeting of the Committee on the Same.**

MINUTE SEN/SCLENR/022/2022: ANY OTHER BUSINESS

- The Committee noted that not all title deeds for the Colonial Village in Nyandarua County had been issued and **resolved to conduct a follow up on the same.** The Secretariat was tasked to ensure that the implementing agencies are invited to the meeting of the Committee for an update.

MINUTE SEN/SCLENR/023/2021: DATE OF NEXT MEETING

The meeting was adjourned at 1:00 pm and the next meeting was to be held on Friday, 18th February, 2022 at 2:00 pm.

Signed: _____

Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

**MINUTES OF THE 8TH SITTING OF THE SENATE STANDING COMMITTEE
ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON
THURSDAY, 28TH FEBRUARY, 2022 AT THE DIOCESE OF EMBU, EMBU
COUNTY AT 02.00 PM.**

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member

ABSENT WITH APOLOGY

1. Sen. George Khaniri, MGH, MP
2. Sen. (Dr.) Lelegwe Ltumbesi, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP
6. Sen. Arch. Sylvia Kasanga, MP

- Member
- Member
- Member
- Member
- Member
- Member

IN ATTENDANCE

A. DIOCESE OF EMBU TRUSTEES

1. Bishop Paul Kariuki Njiru

- Lead Petitioner

B. CHILD WELFARE SOCIETY OF KENYA

1. Ms. Irene Mureithi
2. Mr. Lawrence Mbabu

- Chief Executive Officer
- Advocate

C. NATIONAL LAND COMMISSION

1. Ms. Getrude Nduku Nguku

- Vice Chairperson

D. NATIONAL GOVERNMENT ADMINISTRATION OFFICERS

1. Dr. Eddyson H. Nyale, OGW

- County Commissioner

E. SECRETARIAT

1. Mr. Victor Bett
2. Mr. Mitchell Otoro
3. Mr. Erick Njogu
4. Mr. James Kimiti

- Clerk Assistant
- Legal Counsel
- Clerk Assistant
- Hansard Officer

MINUTE SEN/SCLENR/039/2022: PRELIMINARIES

The meeting was called to order at 02.00 pm by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 040/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Philip Mpaayei, MP and seconded by Sen. Ndwiga Peter Njeru, EGH, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*
2. Adoption of the agenda;
3. **Courtesy Call to the County Commissioner**
4. **Site Visit to Embu Children's Home**
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/041/2022: COURTESY CALL TO THE COUNTY COMMISSIONER;

- The Committee paid the County Commissioners a courtesy call where a brief session was held.
- During the session the Committee informed the County Commissioner the purpose of the visit and briefed him on the progress made so far.
- He briefed the Committee on the findings his office had established over the matter upon examination of documents pertaining to the matter.
- He urged the Committee to expedite the matter and ensure that a lasting solution is achieved.

MINUTE SEN/SCLENR/042/2022: SITE VISIT TO EMBU CHILDREN'S HOME;

- The Committee proceeded to the children's home and was taken around different facilities by the petitioners in the presence of Child Welfare Society of Kenya.
- The Diocese of Embu informed the Committee that the facility was established in 1960 and that they had operated it since then to date.
- The Diocese also informed the meeting that they were granted a 99 years lease by the government in 2012 and that the lease was still in force to date.
- The Diocese alleged that built and operated all the facilities in the children's home.
- The Child Welfare Society of Kenya (CWSK) on its part alleged it was given the land in 1959 and was later granted a 33 – year lease of the land in 1966 which was later extended to 99 years in 2000.

- CWSK also alleged that upon receipt of the land they began building the baby centers and staff houses.

Observations and Interventions

- At the time of the visit, it was observed that the children's home was managed and operated by Diocese of Embu.
- It was observed that the matter had taken long to resolve despite the numerous court interventions.
- The Committee noted the land under dispute was approximately 1.471 hectares.
- The Committee **resolved to hold a final stakeholders meeting to chart the way forward with respect to resolving the dispute.**

MINUTE SEN/SCLENR/043/2022: ANY OTHER BUSINESS

- The Committee was informed of an apology form the Ministry of Environment and Forestry for the Committee meeting scheduled for Wednesday 2nd March, 2022 and acceded to it. **It was resolved that the meeting be rescheduled to Wednesday 9th March, 2022.**
- The meeting was informed of the scheduled site visit to Bungoma and Nandi Counties on Petitions on 16th March, 2022 and 17th March, 2022 **and resolved to invite the relevant stakeholders for the same. The secretariat was tasked to ensure the invites were sent.**

MINUTE SEN/SCLENR/044/2021: DATE OF NEXT MEETING

The meeting was adjourned at 04:00 pm and the next meeting was to be held on Wednesday, 9th March, 2022 at 11:00 am.

Signed: _____

Date: **20/5/2022**

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

**MINUTES OF THE 12TH SITTING OF THE SENATE STANDING COMMITTEE
ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON
WEDNESDAY, 11TH MAY, 2022 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.**

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- **Chairperson**
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. (Dr.) Lelegwe Ltumbesi, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Arch. Sylvia Kasanga, MP

- **Vice Chairperson**
- Member
- Member
- Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett
2. Ms. Clare Kidombo
3. Mr. Mitchell Otoro
4. Mr. Erick Njogu
5. Ms. Florence Waweru

- Clerk Assistant
- Research Officer
- Legal Counsel
- Clerk Assistant
- Clerk Assistant

MINUTE SEN/SCLENR/061/2022: PRELIMINARIES

The meeting was called to order at 11.19 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 062/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*
2. Adoption of the agenda;
3. **Consideration of Pending Business; Bills, Petitions, Statements, County Visits and Inquiries;**
4. Any other Business;

WEDNESDAY, 11TH MAY, 2022	11.00 AM	Housekeeping	In-house	
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5. Date of the next meeting;
6. Adjournment.

**MINUTE SEN/SCLENR/063/2022: CONSIDERATION OF PENDING BUSINESS;
BILLS, PETITIONS.**

The meeting was taken through the pending business as follows;

PENDING MEETINGS

THURSDAY, 12TH MAY, 2022	11.00 AM (Physical)	Petition on illegal alienation of parcel of land Embu/ Municipality/375 (leasehold) by the Child Welfare Society of Kenya.	• Cabinet Secretary Ministry of Lands and Physical Planning • Chairperson National Land Commission • Child Welfare Society of Kenya • Diocese of Embu Trustees	
Thurs. 11/5/22 – Sat. 14/5/22		Proposed Retreat in Mombasa County with the Ministry of Environment on the Water Towers Bill, 2022		<i>(Members kindly confirm for logistical purposes)</i>
WEDNESDAY, 18TH MAY, 2022	11.00 AM	Petition on resettlement status of former Kimondi Forest evictees.	• Cabinet Secretary Ministry of Lands and Physical Planning • National Land Commission • Kimondi Forest Evictees	
THURSDAY, 19TH MAY, 2022	11.00 AM	Meeting on the Petition to expunge alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021.	• Cabinet Secretary Ministry of Water, Sanitation and Irrigation	
(Proposed Date)	Time	The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County.	• Cabinet Secretary Ministry of Interior and Coordination of National Government • Directorate of Criminal Investigations – DCI	Committee guidance on way forward after receiving Written Responses.
Mon. 23/5/22 – Frid. 27/5/22 (During Recess)		Proposed Report Writing Retreat on Petitions in Mombasa County		<i>(Members kindly confirm for logistical purposes)</i>

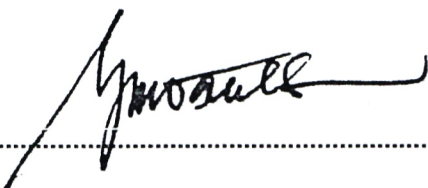
- It was noted that there was a budgetary constraint for the Proposed Retreat in Mombasa County with the Ministry of Environment on the Water Towers Bill, 2022, and the Chairperson was requested to engage the Clerk of the Senate on the same and advise on the way forward.
- The Committee was informed that the decision to hold a meeting on the Petition to Expunge the alleged Offending Provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021, was arrived at during the Work Planning Retreat in Mombasa between 17th and 20th March, 2022.
- On the matter regarding the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County, the meeting was informed that both the Directorate of Criminal Investigations – DCI and the Ministry of Interior had submitted written response to the Committee and that the matter required a resolution of the Committee on whether to schedule the meeting.
- The Senator Taita Taveta indicated that the matter needed to be concluded as it was long overdue, noting that the responses received from the Ministry of Interior and Coordination of National Government and the DCI were inadequate as they had not fully addressed the issues raised.
- Deliberations on the matter ensued and the **Committee resolved to conclude the report with the information available.**
- The meeting was informed that upon completion of all the scheduled meetings, the Committee would be ready to write all its reports and conclude all its pending business.
- On statements before the Committee, the meeting was informed that all correspondences had been sent out to the relevant agencies and the matters awaited written responses.
- The meeting was informed that the Bill on Sustainable Waste Management was before the Committee and that its consideration would be done in Mombasa County during the scheduled retreat. The Committee noted that an advertisement to Request for Submission of Memoranda from the Public had been published and that any submissions made would be considered during the retreat.
- The Committee noted that there was a funding issue with the proposed retreat to Mombasa and was informed that the Chairperson was in consultation with the office of the Clerk on the way forward.

MINUTE SEN/SCLNR/064/2022: ANY OTHER BUSINESS

- The Senator for Taita Taveta County sought the Committee to follow up on the issue of compensation of families affected by the construction of Ikanga Airstrip following recommendations by the Committee, noting that the compensation was yet to be effected. He further added that residents of Bura area in Taita Taveta who were affected by the construction of the Voi – Taveta – Holili road were also yet to be compensated.
- The Committee deliberated on the issues and **resolved to invite the National Land Commission (NLC) and Kenya Airports Authority (KAA) to a meeting of the Committee in the one and a half weeks to update the Committee on the same.**

MINUTE SEN/SCLNR/065/2022: DATE OF THE NEXT MEETING

The meeting was adjourned at 11:35 am and the next meeting was to be held on Thursday, 12th May, 2022 at 9:30 am.

Signed:  Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

**MINUTES OF THE 13TH SITTING OF THE SENATE STANDING COMMITTEE
ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON
THURSDAY, 12TH MAY, 2022 IN THE SENATE CHAMBER AT 9.30 AM.**

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- Chairperson
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. (Dr.) Lelegwe Ltumbesi, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Arch. Sylvia Kasanga, MP

- Vice Chairperson
- Member
- Member
- Member

IN ATTENDANCE

A. PETITIONERS

1. Rt. Rev. Paul Kariuki Njiru
2. Fr. Eliud T. Wanyoike
3. Fr. Michael Philip Ireri
4. Mr. Morris Njage
5. Dr. Wilson Ngigi
6. Sr. Silvia Pocidori
7. Sr. Alice Wambui

- Lead Petitioner
- Vicar General
- Legal Counsel
- Advocate
- Advocate
- Petitioner
- Petitioner

B. NATIONAL LAND COMMISSION

1. Mr. Gershom Otachi

- Chairperson

C. CHILD WELFARE SOCIETY OF KENYA

1. Ms. Irene Mureithi
2. Mr. Charles Maina
3. Dr. Felistus Mwikali
4. Ms. Peninnah Wawira
5. Mr. Lawrence Mbabu
6. Mr. Stephen Ochieng
7. Mr. Fredrick Ochieng

- C.E.O.
- Finance Officer
- G.M. CWSK Services
- Branch Admin, Embu
- Lawyer
- Lawyer
- Lawyer

D. NATIONAL GOVERNMENT ADMINISTRATION OFFICERS

1. Dr. Eddyson H. Nyale

- County Commissioner

2. Ms. Margaret Njoroge

- CSC, OAG

E. SECRETARIAT

6. Mr. Victor Bett

- Clerk Assistant

7. Mr. Mitchell Otoro

- Legal Counsel

8. Mr. Erick Njogu

- Clerk Assistant

9. Mr. Abdallah Apolo

- Sargent-At-Arms

10. Mr. James Kimiti

- Hansard Officer

MINUTE SEN/SCLENR/066/2022: PRELIMINARIES

The meeting was called to order at 9.45 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 067/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries

- *Prayer*
- *Introductions*

2. Adoption of the agenda;

3. **Petition regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Association of Kenya in Embu County;**

4. Any other Business;

5. Date of the next meeting;

6. Adjournment.

MINUTE SEN/SCLENR/068/2022: PETITION REGARDING THE ALLEGED ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY CHILD WELFARE ASSOCIATION OF KENYA IN EMBU COUNTY

- The chairperson welcomed all to the meeting. He further stated that the meeting would be the final engagement over the petition to pave way for the Committee to write a report over the same.
- The parties present were allowed to make their submissions and they went as follows;

1. Submissions by the Diocese of Embu

- The Petitioners stated that they had filed before the Committee, all the necessary documents needed for the case and that they had responded orally to all queries raised during the different engagements over the matter they have had with the Committee.
- The Petitioners nonetheless reiterated that they had managed to serve the Committee with all the necessary evidence and documentation that was proof to their ownership of the disputed land.
- In their submission, they alleged that the ownership documents in the hands of Child Welfare Society of Kenya were questionable where for instance they claimed that a certificate of lease was not backed by an actual lease document.
- They further alleged that cancellation of the ownership documents they had following a recommendation by the National Land Commission was questionable as the Diocese was not heard in the proceedings. They also added that the entity mentioned in the proceedings was Catholic Diocese of Embu which is not the same as the Diocese of Embu Trustees.
- The Petitioners maintained that they had worked on the institution since 1960's where they developed all the infrastructure through fundraisers and donations. They also added that they had taken good care of the children as expected by the Children Department.

2. Submissions by the Child Welfare Society Kenya

- The Child Welfare Society of Kenya (CWSK) asserted that the matters contained in the petition were determined by the court and that they were still in court.
- They informed the meeting that their title deed was issued following recommendations by the National Land Commission which made further recommendations revoking the title held by the Catholic Diocese of Embu Trustees Registered.
- CWSK noted that the decision was challenged in Environment and Land Court in Embu through Petition No. 1 of 2018 which was dismissed.
- They further added that the Diocese appealed the determination, an appeal CWSK alleged that was still in court.
- CWSK informed the meeting that there was another court case pending in court that is, Embu Environment Case No. 10 of 2022 on the same matters contained in the petition and thus the petition was sub judice.
- CWSK alleged that their ownership of the land dates back to 1966 when they were first issued with certificate lease by the Embu Municipal Council and subsequently with a title deed in the year 2000. They further indicated that they had all the necessary ownership documents of the contested land.
- CWSK also notified the meeting that back in 1960's, only Child Welfare Society of Kenya was legally mandated to deal with children matters and thus the Diocese could not have been issued with land lease rights to operate a children's facility.

- CWSK cited allegations of fraud with respect to the petitioners, referring to findings of different government agencies.

3. Submissions by National Land Commission

The Commission noted the following from the records in its possession:

- m) A Certificate of Lease was issued to Child Welfare Society of Kenya on 1/7/1966 for 99 years measuring 1.471HA.
- n) Official search carried on 4th January 2022 showed that the parcel was allocate to Child Welfare Society of Kenya for a period of 99 years from 1966.
- o) Embu Diocese and CWSK through a mutual consent were running the institution from 1984 to 2009. In 2009 the Diocese requested to run and manage the institution on their own. This led to the Diocese applying for an amendment of the lease from CWSK to Embu Diocese.
- p) A Certificate of Lease was issued to Diocese of Embu Trustees on 12/7/2012.
- q) The process of amending the lease was opened to fraud investigation and it was deemed to have been fraudulently amended since the signatories to the consent for change were not authorized by CWSK.
- r) Through NLC Review of Grants and Dispositions the Lease to the Diocese of Embu was revoked and cancelled as per Gazette Notices **Vol. CXVIII – No. 6 of 22nd January, 2016** and **Vol. CXIX – No. 97 of 17th July, 2017**.
- s) NLC was exercising its mandate under S. 14 of the National Land Commission Act.
- t) The certificate of Lease issued to Diocese of Embu Trustees on 12/7/2012 was cancelled as per the Gazette Notices.
- u) The Embu Diocese went to court to challenge the decision of NLC.
- v) The court upheld the decision of the Commission to cancel the lease title issued to Embu Diocese Trustees.
- w) The Commission concluded by stating that it was not aware of any subsequent Court orders on Appeal or other court processes or request to review or repeal any of its determination.

4. Submission by the County Commissioner

- The County Commissioner submitted as follows;
- In 1956 the parcel of land 1.471 Ha was given to the Child Welfare Society of Kenya by the then Embu County Council and a few structures were put up by the Society.
- This allocation of the land was because the Embu General Hospital had issues of accommodating children from the community who needed assistance. In this regard, in 1966 the Child Welfare Society of Kenya was given an official allotment that is valid for 99 years.
- Since then, the Society managed the welfare of the children but later it faced financial challenges and Dioceses of Meru then agreed to assist through engaging voluntary sisters and an agreement was entered into in 1984.
- From 1984 up to 2009 the Society was run by both the Child Welfare and the sisters of Meru Dioceses.

- In 2009 the Child Welfare negotiated to run the facility but the sisters felt that they needed some time to delink.
- In 2011 the Dioceses requested to change the name of the title of the parcel of the land. However, the registrar refused and guided that the office of Deputy County Commissioner gives consent or minutes of such discussion. There was misrepresentation of officials of the Welfare and finally in 2012 the title was changed and Dioceses initiated the process of evicting the Welfare Society of Kenya.
- The National Land Commission (NLC) was tasked to review on the matter and decision of the NLC to revert the title to the Welfare Society was gazetted in 2019.
- The Dioceses appealed against the decision of the NLC but court upheld the NLC decision and issuance of the title was done.
- The Dioceses lodged a case to the Senate Standing Committee on Land, Environment and Natural Resources which visited the facility on 28th February 2022 and planned for another physical meeting today the 12th of May, 2022.

5. Remarks by the representative of the Office of the Attorney General

- The representative noted that the disputed land belonged to the government since the existing court rulings and the recommendations of the National Land Commission had not been annulled.

6. Observations and Interventions

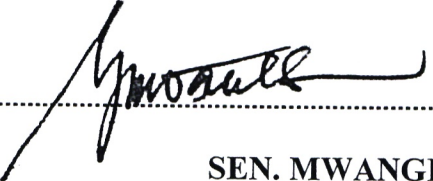
- Following an analysis of the submissions made by all parties the observed that the Diocese had been running and managing the Children's home and that it had put up the infrastructure, including the recently built perimeter wall.
- The Committee observed that the welfare of all employees working in the facility was taken care of by the Diocese of Embu.
- The Committee also observed that the Embu Environment Case No. 10 of 2022 was filed while the Committee was actively considering the petition thus matters sub judice did not arise.
- In an effort to resolve the dispute, the Committee appreciated a suggestion by NLC that alternative land could be sought within Embu County where either party could set up their operations. Consequently, the committee felt that such land could be availed to Child Welfare to set up their Children's home.
- The Committee noted that sufficient evidence had been supplied to enable determination to be made and thereafter **resolved to write its report and finalize the petition.**

MINUTE SEN/SCLENR/069/2022: ANY OTHER BUSINESS

There was no other business

MINUTE SEN/SCLENR/070/2022: DATE OF THE NEXT MEETING

The meeting was adjourned at 11:35 am and the next meeting was to be held on Friday, 13th May, 2022 at 9:00 am.

Signed: 

Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 17TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON SATURDAY, 14TH MAY, 2022 AT ENGLISH POINT MARINA, MOMABASA COUNTY AT 2.00 PM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP
4. Sen. Mwaruma Johnes, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. George Khaniri, MGH, MP
2. Sen. (Dr.) Lelegwe Ltumbesi, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Boy Issa Juma, MP
5. Sen. Arch. Sylvia Kasanga, MP

- Member
- Member
- Member
- Member
- Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett
2. Mr. Mitchell Otoro
3. Mr. Abdallah Mbore

- Clerk Assistant
- Legal Counsel
- Serjeant-At-Arms

MINUTE SEN/SCLNR/086/2022: PRELIMINARIES

The meeting was called to order at 2.00 pm by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNR/087/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Philip Mpaayei, EGH, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries
 - Prayer
 - Introductions
2. Adoption of the agenda;
3. Consideration of the Petition concerning the alleged Illegal Alienation of Parcel of Land Embu/Municipality/375 (Leasehold) by Child Welfare Society of Kenya

4. Date of the next meeting;

5. Adjournment.

MINUTE SEN/SCLNR/088/2022: CONSIDERATION OF THE PETITION CONCERNING THE ALLEGED ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY CHILD WELFARE SOCIETY OF KENYA

The Committee observed as follows in reference to the Petition;

In accordance with the Prayers of the Petitioner the Committee observes as follows:

The Committee noted that the dispute was on land claimed by two well established organizations, the Catholic Church – Diocese of Embu and the National Government through the Child Welfare Society of Kenya.

The parties are in dispute over land which is currently utilized for the care of children who have no one else to take care of them. Both parties claim the land to continue taking care of the children.

The Committee noted that Catholic Church, through its Diocese of Embu has been taking care of the children for about sixty years. Indeed, during the visit conducted on the premises by the Committee, the Committee noted that the church was taking very good care of the children. The Committee compared the conditions of the facility with those of other children care facilities run by, among others, the Child Welfare Society of Kenya.

The Committee also notes that the Church indicated that it had been given the land to take care of the children and had developed it. The Child Welfare Society of Kenya vehemently denied this stating that it did not give the Church the property and that it was the one that developed it. The Committee however noted during the visit that it was clear that the church was the one that had developed the property. This development had been done through donations by the Catholic faithful in the Diocese and other local and international donors.

The Committee determined the matter to ensure that the welfare of the children is protected. Whoever owned the land, if the children would not be well taken care of then the Committee noted that it would have failed these young Kenyans.

The Committee noted that the children were very well taken care of by the church when they visited the facility. Indeed, there was no complaint by the Child Welfare Society of Kenya or any other person of mistreatment of the children or any other bad conduct by the Church in running the facility.

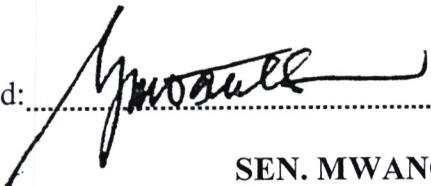
The Committee also appreciated proposals by the National Land Commission that alternative land be identified and set aside for the Child Welfare Society of Kenya to carry out its activities in Embu County and let the Church continue taking care of the children in the subject property as they have been doing.

MINUTE SEN/SCLENR/089/2022: ANY OTHER BUSINESS

There was no other business

MINUTE SEN/SCLENR/090/2022: DATE OF THE NEXT MEETING

The meeting was adjourned at 3.45 pm and the next meeting was to be called on notice.

Signed:  Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

MINUTES OF THE 20TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 19TH MAY, 2022 VIA ZOOM ONLINE PLATFORM AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. George Khaniri, MGH, MP
 2. Sen. (Dr.) Lelegwe Ltumbesi, MP
 3. Sen. Gideon Moi, CBS, MP
 4. Sen. Arch. Sylvia Kasanga, MP
- Member
 - Member
 - Member
 - Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett
 2. Ms. Clare Kidombo
 3. Mr. Mitchell Otoro
 4. Mr. Erick Njogu
 5. Ms. Florence Waweru
 6. Mr. James Kimiti
- Clerk Assistant
 - Research Officer
 - Legal Counsel
 - Clerk Assistant
 - Clerk Assistant
 - Hansard Officer

MINUTE SEN/SCLENR/096/2022: PRELIMINARIES

The meeting was called to order at 12.20 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/ 097/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Boy Issa Juma, MP and seconded by Sen. Ndwiga Peter Njeru, EGH, MP as follows

1. Preliminaries
 - Prayer
 - Introductions
2. Adoption of the agenda;
3. Confirmation of Minutes;

4. Matters Arising;

5. Adoption of Petition Reports

- **Report on the Petition Regarding historical injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County;**
- **Report on the Petition Regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Society of Kenya in Embu County;**
- **Report on the Petition to Approve the Proposed Environment Institute of Kenya (EIK) Bill; and**
- **Report on Petition to expunge the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021**

6. Any other Business;

7. Date of the next meeting;

8. Adjournment.

MINUTE SEN/SCLNR/098/2022: CONFIRMATION OF MINUTES

- The Minutes of the 72nd sitting held on 30th November, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 74th sitting held on 2nd Devcember, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 1st sitting held on 9th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 2nd sitting held on 16th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 3rd sitting held on 17th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 4th sitting held on 18th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 5th sitting held on 18th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.

- The Minutes of the 6th sitting held on 22nd February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 7th sitting held on 28th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 8th sitting held on 28th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.
- The Minutes of the 9th sitting held on 9th March, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 10th sitting held on 16th March, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 11th sitting held on 17th March, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 12th sitting held on 11th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 13th sitting held on 12th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 14th sitting held on 13th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively .
- The Minutes of the 15th sitting held on 13th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.
- The Minutes of the 16th sitting held on 14th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.
- The Minutes of the 17th sitting held on 14th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 19th sitting held on 19th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Boy Issa Juma, MP respectively.

MINUTE SEN/SCLNR/099/2022: MATTERS ARISING

There were no matters arising.

MINUTE SEN/SCLNR/100/2022: ADOPTION OF PETITION REPORTS

- **Report on the Petition Regarding historical injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County;**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

The National Land Commission, which is investigating the historical land injustices raised in the Petition in accordance with its mandate under Article 67(2)(e) of the Constitution, promptly investigates the same and makes its recommendations within 3 months of the tabling of this report.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Johnes Mwaruma, MP and Sen. Boy Issa Juma, MP respectively.

- **Report on the Petition Regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Society of Kenya in Embu County;**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

The Embu County Government, the Ministry of Lands and Physical Planning and the National Land Commission identifies and procures alternative and appropriate land for the Child Welfare Society of Kenya to use for its activities in Embu County.

Upon the identification and procurement of alternative land as stated above, the Ministry of Lands and Physical Planning registers the subject land in the name of the Catholic Church – Diocese of Embu specifically to continue running the children's home as it has for the last sixty years.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Johnes Mwaruma, MP respectively.

- **Report on the Petition to Approve the Proposed Environment Institute of Kenya (EIK) Bill;**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

The Senate, in due course, favorably considers and approves the Bill the Committee shall propose to address the regulation of environment professionals.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.

- **Report on Petition to expunge the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

noting that the Regulations have ceased to have effect and are now void pursuant to section 11(4) of the Statutory Instruments Act, the Committee recommends that the Cabinet Secretary, Ministry of Water, Sanitation and Irrigation conducts a fresh and effective public participation on draft regulations and thereafter publishes them and transmits them to both Houses of Parliament in accordance with section 11(1) of the Statutory Instruments Act.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.

MINUTE SEN/SCLNR/101/2022: ANY OTHER BUSINESS

The meeting was informed that the following draft reports would be ready for consideration by the Committee during the next meeting;

- Report on a Petition has been submitted through the Clerk, concerning The alleged gazettment of Chetambe (Webuye) Hill Forest, vide legal Notice No. 106: Proposed Declaration of Public Forest Chetambe (Webuye) Hill Forest Dated 25th June 2021;

- Report on a Petition has been submitted through the Clerk, concerning the resettlement status of the former Kimondi forest evictees;
- Report on a Petition regarding the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;
- Report on a Petition regarding the status of land owned by multinationals in Kericho and Bomet Counties; and
- Report on the Sustainable Waste Management Bill, 2021 (National Assembly Bill No. 22 of 2021).

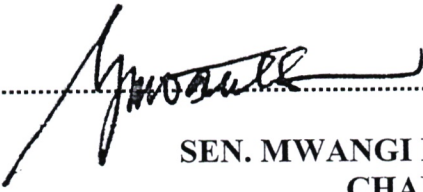
The Committee was informed that the National Assembly had rejected the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020). Consequently, a ten-member mediation Committee had been constituted with membership from both houses of Parliament and they included;

1. Sen. Mwangi Paul Githiomi, MP;
2. Sen. Ndwiga Peter Njeru, EGH, MP;
3. Sen. Johnes Mwauma, MP;
4. Sen. (CPA) Farhiya Haji, MP;
5. Sen (Arch). Sylvia Kasanga, MP;
6. Hon. Eng. Paul Nzengu, MP;
7. Hon. Chachu Ganya. MP;
8. Hon. Rozah Akinyi Buyu, MP;
9. Hon. Shinali Benard Masaka, MP;
10. Hon. Ali Amin Deddy, MP;

The Secretariat requested to have the first meeting of the Mediation Committee on Tuesday, 24th May, 2022 and the Committee acceded to the request.

MINUTE SEN/SCLENR/102/2022: DATE OF THE NEXT MEETING

The meeting was adjourned at 11:54 am and the next meeting was to be held on Wednesday, 25th May, 2022 at 11:00 am.

Signed:  Date: 20/05/2022

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

(Attached separately)



The Ministry of Labour and
Social Protection

CHILD WELFARE SOCIETY OF KENYA

Child Welfare Building, Langata Road,
P. O. Box 43982 – 00100 Nairobi
Tel: 6003301 / 6006391 Fax: 6005854
Mobile: 0726 298 921
E-mail: cwsktoto@childwelfaremail.co.ke
childwelfaresocietyofkenya@gmail.com
info@cwsk.go.ke



Our Ref:.....CWSK/ADMIN/2021/299

8th December, 2021
Date:

Your Ref:.....

The Senate

Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya

Dear Sir,

PETITION REGARDING THE ALLEGED ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY CHILD WELFARE SOCIETY OF KENYA

The Child Welfare Society of Kenya (CWSK) is a Trust, which is a body corporate. It is mandated for the care, protection, welfare and control of children. It is the National Welfare Society for Kenya, the National Emergency Response and Rescue Organization for children and the National Adoption Society. The agency was established and gazetted in 1955 as an approved society under gazette notice 1768 of 27/12/1955, an exempt society under gazette 1536 of 04/11/1955, the Certificate of Exemption no 455 and the Adoption Society of Kenya, gazette notice 1356 of 28/04/1969. It is an exempt society with permanent trustees of public nature. CWSK is governed by an irrevocable Trust Deed of 1955 with membership across the country.

The land was given to CWSK in 1959, to help alleviate child protection challenges which were affecting Embu provincial hospitals then. Soon after, CWSK started building baby centers and staff houses. By then, CWSK was the only agency working on the care, control and welfare of children. In 1964, CWSK had a Harambee and invited the Prime minister, who sent 200 pounds for this support. (Please see the attached letter). In 1966, CWSK was allocated the land as per attached document-a lease of 33 years). Later, the lease was extended from 33 years to 99 years. CWSK paid all the necessary payments to the land commissioner between 1989 to 2000 and a lease was issued.

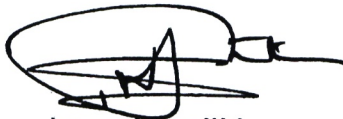
②

The dispute between Child Welfare Society of Kenya and the Diocese of Embu has been adjudicated upon and determined by the National Land Commission and the High Court of Kenya. The said determination and judgment are attached herewith. This includes various other administrative processes which all have concluded that the land belongs to CWSK and the latter were engaged in serious fraud.

We hereby attach the respondents list of documents.

1. A copy of the letter of allotment of land to Child Welfare Society of Kenya, dated 16th June 1966.
2. CWSK lease of the year 2000.
3. Notice of Appeal by the Petitioner dated 10th December 2019.
4. High Court Judgement in Embu Environmental and land Court Petition No 1 of 2018 (Diocese of Embu Registered Trustees Vs the National Land Commission.
5. Court of Appeal Nyeri Civil Application No.15 of 2020 (Child Welfare Society of Kenya Registered Trustees Vs Diocese of Embu Registered Trustees & Others).
6. Replying Affidavit by Irene Mureithi C E O (Child Welfare Society of Kenya filed on 29th October 2018 in Environment and Land Court Petition no. 1 of 2018.
7. National Land Commission determination over LR NO Embu/Municipality/375 dated 5th October 2015, a letter dated 14th May 2013.
8. A letter by National Land Commission on erroneous issuance of title dated, 14th May 2013.
9. Gazette Notice dated 22nd January 2016 and 17th July 2017.
10. Determination by DPP dated 21st August 2014.
11. CWSK board Chairman letter dated 17th October 2012.
12. Determination of Director of Criminal Investigation (Letter dated 17th October 2012, 23rd October 2012, 27th August 2014.
13. A letter from the Principal Secretary of the State Department for Social Protection on securing of land belonging to Child Welfare Society of Kenya dated 14th December 2017.
14. Two bundles of relevant documents.

Dated at Nairobi the day of December, 2021.



Irene Mureithi
CEO/MANAGING TRUSTEE

EMBU COUNTY COUNCIL OFFICES,
P.O. BOX 140,
EMBU

3

REFERENCE NO. 373/6.....

Date: 20th Jan, 1964

To: THE CHILD WELFARE SOCIETY ... NAIROBI - EMBU BRANCH,
P.O. Box 33,
EMBU

Sir(s)/Madam,

LETTER OF ALLOTMENT

Plot No. 373..... SectionTownship/Trading Centre.

I hereby offer you a Lease of the above mentioned plot on the following terms and conditions, viz:-

Term 33 Years

Stand Premium: Shs. ... 511.

Annual Rent: Shs. ... 72.00

General: This Letter of Allotment is subject to, and the Lease will be made under the Provisions of the Registered Land Act 1963.

Special Conditions: See attached

If you accept this offer please let me have your acceptance in writing together with remittance for the following sums, viz:-

Stand Premium	Shs. ... 511.
Rent: from 1-7-1964 to 31-12-1966	" ... 34.00.
Conveyancing fees:	" ... 25.00.
Registration fees:	" ... 10.00.
Stamp Duty:	" ... 13.00.
Survey fees:	" ... 11.00.
Total:	Shs. 84.00

If payment of the aforesaid fees is not made within fourteen days from the date hereof the offer herein contained will be considered to have lapsed.

Your full name(s) in BLOCK LETTERS should be supplied for the purpose of preparing the lease.

I am, Sir(s)/Madam,
Your obedient servant,

JAMES P. NYAGAH
CLERK,
EMBU COUNTY COUNCIL.

Copy to:- The Commissioner of Lands, P.O. Box 30089, NAIROBI. c.c. The Director of Survey, P.O. Box 30046, NAIROBI.

The Health Inspector,
P.O. Box 33,
EMBU.

I Certify that this is the correct original copy
for

Form 12 (RLA—County Council (General))

Date Received for registration 1905 Presentation Book

Registration Fees: Sh.

paid. Receipt No.

REPUBLIC OF KENYA

THE REGISTERED LAND ACT

(Cap 300)

LEASE

REGISTRATION DISTRICT

EMBU

THE COUNTY COUNCIL OF EMBU

TITLE No. EMBU MUNICIPALITY/
PARCEL NO. 375

HEREBY LEASES to CHILD WELFARE SOCIETY OF KENYA REGISTERED TRUSTEES,
a body corporate duly established under the Trustees (Perpetual
Succession) Act (Chapter 286) of the Laws of Kenya of EMBU (Post Office
Box Number 221)
ALL THAT piece of land comprised in the above-mentioned title containing by measurement
one decimal four seven one (1.471) a
measurement hectares or thereabouts for the term of ninety nine (99) years
from First day of July 1966 at the annual
rent of shillings seventy two (Kshs. 72/-) (Revisable) w.c.f. 1.7.1966
payable in advance on the first day of January in each year and the following conditions:

SPECIAL CONDITIONS

No buildings shall be erected on the land nor shall additions or external alterations be made to
buildings otherwise than in conformity with plans and specifications previously approved in
writing by the Local Authority. The Local Authority shall not give approval unless satisfied that the
proposals are such as to develop the land adequately and satisfactorily.

14A 5 33

2. The Lessee shall within 6 calendar months of the actual registration of the lease submit in triplicate to the Local Authority plans (including block plans showing the positions of the buildings and system of drainage for the disposal of sewage, surface and sullage water) drawings, elevations and specifications of the buildings the Lessee proposes to erect on the land and shall within 24 months of the actual registration of the lease complete the erection of such buildings and the construction of the drainage in conformity with such plans, drawings, elevations and specifications as amended (if such be the case) by the Local Authority: PROVIDED that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the County Council or any person authorized by the County Council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the County Council in respect of any antecedent breach of any condition herein contained.

The Lessee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.

Should the Lessee give notice in writing to the County Council that it is unable to complete the buildings within the period aforesaid the County Council shall (at the Lessee's expense) accept a surrender of the land comprised herein: PROVIDED FURTHER that if such notice as aforesaid shall be given within twelve months of the registration of the lease the County Council shall refund to the Lessee fifty per centum of the stand premium paid in respect of the land (2) at any subsequent time prior to the expiration of the said building period the County Council shall refund to the Lessee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.

The land and the buildings shall only be used for children Hostels, Educational and a residence for caretaker.

The building shall not cover more a greater area of the land than that prescribed by the Local Authority in its by-laws.

The land shall not be used for the purpose of any trade or business which the Local Authority considers to be dangerous or offensive.

The Lessee shall not subdivide the land without prior consent in writing of the County Council or the Commissioner of Lands.

The Lessee shall not sell, transfer, sublet, charge or part with the possession of the land or any thereof or any buildings thereon except with the prior consent in writing of the County Council. Application for such consent (except in respect of a loan required for building purposes) will be deferred until Special Condition No. 2 has been performed.

The Lessee shall pay to the Local Authority on demand such sums as the Local Authority estimate to be the proportionate cost of constructing all roads and drains and sewers serving or improving the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within seven days of demand) or be refunded the amount by which the proportionate cost exceeds or falls short of the amount paid as aforesaid. If the land or any part thereof should cease to be used for

reverted to the County Council without the necessity of any formal surrender thereof and the term hereby created shall ipso facto determine in respect of the land or part as the case may be.

12x The Lessee shall from time to time pay to the Local Authority on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Local Authority may assess.

13 12x Should the Local Authority at any time require the said roads to be constructed to a higher standard the Lessee shall pay to the Local Authority on demand such proportion of the cost of such construction as the Local Authority may assess.

14x The Lessee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever description as may be imposed, charged or assessed by any Government or Local Authority upon the land or the buildings erected thereon including any contribution or other sum paid by the Local Authority or the County Council in lieu thereof.

15 12x The County Council or such person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and have access to water mains, service pipes and drains, telephone or telegraph wires and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any building in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.

16 12x The County Council reserves the right to revise the annual ground rental payable hereunder after the expiration of the thirty-third and sixty-sixth year of the term hereby granted. Such rental will be at rate of 4 per centum of the unimproved freehold value of the land as assessed by the County Council.

Notwithstanding anything to the contrary contained herein or implied by said Lands Act (Chapter 288) the Lessee shall on receipt of six months notice in writing in that behalf surrender all or any part of the land used for public purposes without any payment or any compensation save in respect of such approved buildings as may have to be evacuated or demolished. Compensation shall be payable in respect of severance of the land by reason of such surrender.

SIGNED BY SAMMY SILAS KOMEN MWAITA the
Commissioner of lands thereto lawfully authorized
half of EMBU
this 11th day of Dec
Two thousand in the presence of:
J. K. WAINU
LAND REGISTRAR

[Signature]

COMMON SEAL of the Lessee was affixed hereto in the presence of:

.....Trustee
.....Trustee
.....Trustee

CHILD WELFARE SOCIETY
OF KENYA (HQ)
P. O. Box 43982-00100
NAIROBI

15A

7

35

I CERTIFY that the above named

appeared before me on the day of
and being known to me/being identified by

20

acknowledged the above signatures or marks to be his (theirs) and that he (they) had freely and voluntarily executed this instrument and understood its contents.

Signature and Designation of person
certifying

I REGISTERED this

day of

2000

LAND REGISTRAR
DISTRICT

Drawn By:
Jackson K. Wanjau
Senior Land Registrar
P.O. Box 30089
NAIROBI

delete whichever is not applicable.

K (L)



8

OFFICE OF THE CHAIRMAN

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: **NLC/GEN. ADM. /VOL. I**

Date: 21st October, 2015

The Chief Land Registrar
Ministry of Land, Housing & Urban Development
Ardhi House
NAIROBI

The Governor
EMBU COUNTY

Catholic Diocese of Embu
EMBU

Children Welfare Society
EMBU

Dear Sirs

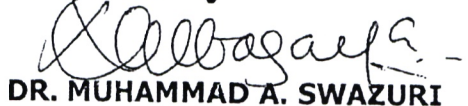
**RE: DETERMINATION FOR REVIEW OF GRANTS AND DISPOSITION ON
L.R. NO. EMBU/MUNICIPALITY/375**

I refer to the above subject matter.

The Commission received a complaint in respect of the above stated property. The Commission exercised its mandate under Section 14 of the National Land Commission Act.

The Commission has concluded the process. Kindly find enclosed the determination of the Commission for your further action.

Yours faithfully


**DR. MUHAMMAD A. SWAZURI
CHAIRMAN
NATIONAL LAND COMMISSION**

c. c. The Secretary CLMB, EMBU

9

REPUBLIC OF KENYA



THE NATIONAL LAND COMMISSION

**REPORT ON THE REVIEW OF GRANTS AND DISPOSITIONS OF
PUBLIC LAND EMBU/MUNICIPALITY PARCEL/375**

(10)

**A. REVIEW AND DETERMINATIONS BY THE COMMISSION ON
PROPRIETY OR LEGALITY OF THE GRANTS AND DISPOSITIONS**

1. EMBU/MUNICIPALITY PARCEL/375

The complainant in this matter is the Child Welfare Society of Kenya. The complainant alleges that it was allocated the property vide a letter of allotment dated 28th June 1966. Following the allocation, the complainant made the requisite payments demanded of in the allotment and complied with the conditions therein. That on or about 14th January 2010, the Catholic Diocese of Embu misrepresented itself to the Commissioner of lands and had title in favour of the parcel registered in its name on 12th July 2012.

In light of the allegations, the Commission was requested to carry out review of the legality of the above grant on grounds that it was acquired in an unlawful manner.

Upon receipt of the complaint, the Commission conducted its own preliminary investigations to ascertain the veracity of the claims, before it could invoke its inherent jurisdiction under section 14 of the National Land Commission Act. Section 14(1) of the Act mandates the Commission to review all grants and dispositions of public land either on its own motion or upon a complaint in order to establish its propriety or legality. The Commission has in the past interpreted grants or dispositions of public land under this section as to include any conveyance, agreement for sale, lease or license, made by and on behalf of the Government, and includes a certificate of title issued by the Land Registration Court, and a certificate of lease or title issued pursuant to the provisions of any Act of Parliament

Documents held in the commission's records indicate that the parcels are as a result of alienation and allocation of government land by the Commissioner of Lands. The parcels are therefore grants of public land, which fall under the description of "grant" as indicated above. Satisfied that

(11)

the suit properties are grants, the Commission invoked its jurisdiction under the said section 14(1).

1.1. DESCRIPTION OF PROPERTY UNDER REVIEW

PARCEL REFERENCE	EMBU/MUNICIPALITY/375
Ownership:	County Government of Embu (successor in title to Embu County Council) Catholic Diocese of Embu- Lessee
Date of incorporation:	Not Available
Term of Grant:	Lease 99 years from 1st July 1966
Area allocated:	1.471ha
RIM No.:	Block 3
Locality:	Embu Town
Annual Rent:	Kshs. 72/-
Stand Premium:	
Category:	Former trust land

1.2. REVIEW PROCESS

Notice of publication

In line with the provisions of section 14(3) of the Act, the Commission gave notice of its intention to review the above grant through a public notice published in the various dailies appearing on 13th August 2014. The notices requested all persons having interests in the said parcels to appear before the Commission on 5th August 2014 at the Kenyatta International Conference Centre, Tsavo Hall, from 10.00am and make their presentations. All interested persons were also requested to present their written submissions to the Commission.

The complainant was represented by Learned Counsel Mr. Anthony Otiende assisted by Lawrence Mbabu, while the Diocese of Embu was represented by Learned Counsel Ms. Fatuma Wanjiku.

There have been two hearings in respect of this matter one held on 29th August 2014 and the other on 28th November 2014 at the ACK Garden House Annex.

Documents adduced

Of relevance, the complainant presented the following documents in support of the review application.

1. Copy of a letter dated 3rd May 1966 written by the District Commissioner Embu to the Embu Town Planning Adviser requesting reservation of plot 375 for purpose a children welfare home.
2. Copy of a letter dated 25th May 1966 from the Commissioner of Lands to the District Commissioner Embu regarding Plot no. 375.
3. Copy of a letter dated 9th June 1966 from the District Commissioner Embu to the Commissioner of Lands giving details of plot no. 375 Embu.
4. Copy of a letter dated 22nd June 1966 from the Commissioner of Lands to the DC Embu regarding allocation of plot no. 375 to Trustees of the Child Welfare Society of Kenya.
5. Copy of letter of allotment dated 28th June 1966 reference no. E/T.375/6 issued to the Child Welfare Society of Kenya- Embu Branch.
6. Copy of a letter dated 1st February 1980 by the Embu Town Clerk to the Commissioner of Lands requesting the position of Plot 1112/375.
7. Copy of a letter dated 7th March 1980 from the Commissioner of Lands to the Embu Town clerk confirming Embu/Municipality/375 being in the name of the Child Welfare Society of Kenya- Embu Branch.
8. Copy of a letter dated 17th January 1989 by the Child Welfare Society of Kenya- Embu Branch requesting extension of lease of Plot no. E/T.375 to a term of 99 years.
9. Copy of a letter dated 5th February 1988 written by the Commissioner of Lands to the Child Welfare Society of Kenya requesting payment of the allocation fees and names of the registered trustees of Child Welfare Society of Kenya.
10. Copy of a letter dated 29th August 1988 written by the Child Welfare Society of Kenya- Embu Branch to the Commissioner of Lands forwarding a list of its registered trustees and a money order of Kshs. 385 for payments of allocation.
11. A copy of a letter dated 14th January 2010 written by the Diocese of Embu to the Commissioner of Lands requesting him to amend the name for lease of Land Parcel 112/375 from Child Welfare Society of Kenya- Embu Branch to Diocese of Embu Trustees Registered.
12. Certified copy of the green card for Embu/Township/375 in the name of Embu County Council.
13. Copy of Official Search dated 29th March 2011 showing Embu/township/375 is registered under Embu County Council in absolute.
14. Copy of lease for Embu/Municipality/Parcel/375 in the name of Diocese of Embu Trustees registered.
15. Certificate of Lease for Embu/Municipality/375 issued on 12th July 2012 in the name of Diocese of Embu Trustees registered.

The Complainants' case

The complainant in this matter is the Child Welfare Society of Kenya, a state agency conferred with the statutory responsibility to provide care, protection, welfare and adoption of children and all young persons across all sectors especially the marginalised and vulnerable children including orphans, young women and separated minors vide Legal Notice No. 58 of 23/05/2014.

It is the National Adoption Society for Kenya and the National Emergency Response, Welfare and Rescue Organization for children. Prior to the complainant becoming a government agency, it had initially been established and gazetted in 1955 as an approved society vide gazette notice 1768 of 27/12/1955. That in order to execute its mandate, it holds properties in various parts of the Country some of which it acquired while it still operated as an approved society.

The Complainant contends that it was allocated the suit parcel vide a letter of allotment dated 28th June 1966 to hold for a term of 33 years. The letter of allotment was issued in the name of the "Child Welfare Society of Kenya-Embu Branch" following various consultations involving the Embu District Commissioner, Town Clerk as well as the Commissioner of Lands. The term of the lease was however extended to a period of 99 years.

It was submitted, that prior to the issuance of the letter of allotment, that it had been in actual occupation of the parcel and had even erected three permanent buildings thereon in 1963. This assertion was evidenced by the letter of the Embu District Commissioner dated 9th June 1966. The complainant further tendered a copy of a letter dated 4th December 1964 written by the then Prime Minister sending his contribution towards setting up of the home.

That upon payment of all requisite fees and compliance with the terms of the allotment, the title to the suit property was issued in the name of the Catholic Diocese of Embu Trustees Registered on 12th July 2012.

The complainant submitted copies of letters written by Diocese of Embu to the Commissioner of Lands requesting him to amend the name on the lease from the name of the complainant to the name of the Diocese.

The complainant submitted that after the Diocese was issued with the title to the suit parcel, it proceeded to evict the complainants and its officials from the premises and has since then proceeded to run the home.

(14)

the Catholic Diocese, District Commissioner and the Child Welfare Society agreed to have the property registered in the name of the Catholic Diocese of Embu. Any resultant title issued is therefore null and void *ab initio* as the Commissioner of Lands had no legal authority to execute a lease that involved a stranger to the contract.

Our decision is supported by the decision of the court in the case of Philma Farm Produce and Supplies ~V~ A.G, where the learned Justice David Majanja, when confronted with almost similar facts, had this to say;

...I hold that the offer, as contained in the allocation letters, could not be revived ten years later by making the payment. Furthermore, the petitioner could not substitute the offeree in the allocation letter with a limited liability company, Philma Farm Produce Suppliers Limited, incorporated after the allocation letter had lapsed. There were no allocation letters issued to the company and therefore any payment by the company was purely gratuitous. It could not create a legal obligation on the part of the Commissioner of Lands to process titles in the petitioners' favour in accordance with the offer nor confer a proprietary interest in the suit properties...(emphasis ours)

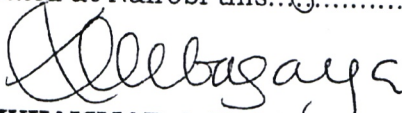
DETERMINATION:

1. That the lease in favour of the Catholic Diocese of Embu Trustees Registered was acquired in an unlawful manner.

ORDERS OF THE COMMISSION

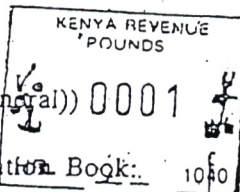
1. Titles in favour Catholic Diocese of Embu Trustees Registered be and hereby revoked for being unlawful.
2. A certificate of lease/title as the case maybe be issued to Child Weldare Society, the complainant herein.
3. The Registrar of Titles be served with the orders of the Commission for execution.

Dated at Nairobi this 8th day of October 2015

for 
MUHAMMAD A. SWAZURI, PHD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

(15)

FORM 12 (RLA—COUNTY COUNCIL (General))



Date Received for registration Presentation Book: 10/40

Registration Fees: Sh.

20

No.

20

paid. Receipt No.

REPUBLIC OF KENYA

THE REGISTERED LAND ACT

(Cap 300)

LEASE

REGISTRATION DISTRICT: EMBU

TITLE No. EMBU MUNICIPALITY/
PARCEL NO. 375

THE COUNTY COUNCIL OF EMBU

~~in consideration of the sum of shillings~~

HEREBY LEASES to CHILD WELFARE SOCIETY OF KENYA REGISTERED TRUSTEES,
a body corporate duly established under the Trustees (Perpetual
Succession) Act (Chapter 286) of the Laws of Kenya of EMBU (Post Office
Box Number 221)

ALL THAT piece of land comprised in the above-mentioned title containing by measurement
one decimal four seven one (1.471) α
measurement hectares or thereabouts for the term of ninety nine (.99) years

from First day of July 20 1966 at the annual

rent of shillings seventy two (Kshs. 72/-) (Revisable) w.e.f. 1.7.1966

payable in advance on the first day of January in each year and the following conditions:

SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the Local Authority. The Local Authority shall not give approval unless satisfied that the proposals are such as to develop the land adequately and satisfactorily.

2. The Lessee shall within 6 calendar months of the actual registration of the lease submit in triplicate to the Local Authority plans (including block plans showing the positions of the buildings and system of drainage for the disposal of sewage, surface and sullage water) drawings, elevations and specifications of the buildings the Lessee proposes to erect on the land and shall within 24 months of the actual registration of the lease complete the erection of such buildings and the construction of the drainage in conformity with such plans, drawings, elevations and specifications as amended (if such be the case) by the Local Authority: PROVIDED that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the County Council or any person authorized by the County Council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the County Council in respect of any antecedent breach of any condition herein contained.
3. The Lessee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.
4. Should the Lessee give notice in writing to the County Council that it is unable to complete the buildings within the period aforesaid the County Council shall (at the Lessee's expense) accept a surrender of the land comprised herein: PROVIDED FURTHER that if such notice as aforesaid shall be given within twelve months of the registration of the lease the County Council shall refund to the Lessee fifty per centum of the stand premium paid in respect of the land or (2) at any subsequent time prior to the expiration of the said building period the County Council shall refund to the Lessee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.
5. The land and the buildings shall only be used for children Hostels, Educational and a residence for caretaker.
6. The building shall not cover ~~more~~ a greater area of the land than that prescribed by the Local Authority in its by-laws.
7. The land shall not be used for the purpose of any trade or business which the Local Authority considers to be dangerous or offensive.
8. The Lessee shall not subdivide the land without prior consent in writing of the County Council and the Commissioner of Lands.
9. The Lessee shall not sell, transfer, sublet, charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the County Council. No application for such consent (except in respect of a loan required for building purposes) will be considered until Special Condition No. 2 has been performed.
10. The Lessee shall pay to the Local Authority on demand such sums as the Local Authority may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within seven days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.
11. If the land or any part thereof should cease to be used for children hostel, Educational and a residence for caretaker purposes any part thereof shall be deemed to have automatically

(18)

I CERTIFY that the above named

appeared before me on the day of
and being known to me/being identified by*

acknowledged the above signatures or marks to be his (theirs) and that he (they) had freely and
voluntarily executed this instrument and understood its contents.

Signature and Designation of person
certifying

REGISTERED this day of 2000

LAND REGISTRAR
DISTRICT

Drawn By:
Jackson K. Wanjau
Senior Land Registrar
P.O. Box 30089
NAIROBI

* Delete whichever is not applicable.



THE NATIONAL LAND COMMISSION

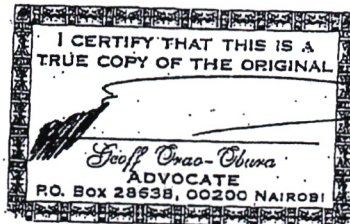
Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

Ardhi house
Ngong road
P.O. Box 41777
NAIROBI

Ref : 75947

Paul Kariuki Njiru
The Bishop
Diocese of Embu
P. O. Box 1499-60100
EMBU



Date : 14TH May, 2013

RE : ERRONEOUS ISSUANCE OF TITLE FOR PARCEL 375, (L. R. NO. 1112/375 – EMBU)

The above matter refers.

As you may be aware, a title for the above plot under the name Diocese of **Embu Trustees Registered**, was issued to you in July, 2012. The title was issued to you under the assumption that the original allottees, the Registered Trustees of **Child Welfare Society of Kenya**, had consented to the change of ownership and management of this property. Various Minutes from the District Commissioner's office were also forwarded to this office in support of the change of ownership, implying the Trustees of Child Welfare Society of Kenya consented.

We have however, been notified by the Trustees of **Child Welfare Society** (A Government Institution under the office of the President) that they were not involved in the transfer of their property and as such the change of ownership that took place was erroneous and illegal. The plot had been allocated to them vide allotment letter **Ref. E/T/375/6 of 26th June, 1966** and a lease/Title was in the process of being Registered while the latter title was issued to you.

The purpose of this letter therefore, is to request that you surrender the title issued to you for this plot as the **Child Welfare Society**, have denied knowledge of the transfer. Please surrender the Title to this office within 14 days from the date of this letter to facilitate reissuance of the same to the **Child Welfare Society of Kenya** in order to rectify this anomaly.


KARJUKI J. K.
FOR: CHAIRMAN, NATIONAL LAND COMMISSION

c.c. - Child Welfare Society of Kenya
P O Box 43982-00100
NAIROBI

Town Clerk
Embu Municipal Council
P O Box 36
EMBU

District Land Registrar
EMBU

District Land Officer
EMBU



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

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Vol. CXVIII—No. 6

NAIROBI, 22nd January, 2016

Price Sh. 60

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S/No.	Property Description	Location	Interested Parties	Determination and Vesting	Vesting Order
4.	Block 5/565	Kisumu Municipality	Kisumu County Government MOLHUD David Ogoti Ongaora	Title revoked	Title vested in the PS Treasury for Housing Directorate
5.	Block 5/566	Kisumu Municipality	Kisumu County Government MOLHUD David Ogoti Ongaora	Title revoked	Title vested in the PS Treasury for Housing Directorate
6.	Block 5/546	Kisumu Municipality	Kisumu County Government MOLHUD David Ogoti Ongaora	Title revoked	Title vested in the PS Treasury for Housing Directorate
7.	Block 5/547	Kisumu Municipality	Kisumu County Government MOLHUD Mary Florence Maleche	Title revoked	Title vested in the PS Treasury for Housing Directorate
8.	Block 5/548	Kisumu Municipality	Kisumu County Government MOLHUD Nancy Wawira Gathenge	Title revoked	Title vested in the PS Treasury for Housing Directorate
9.	Block 5/549	Kisumu Municipality	Kisumu County Government MOLHUD Patrick Opiyo Adero	Title revoked	Title vested in the PS Treasury for Housing Directorate
10.	Block 5/577	Kisumu Municipality	Kisumu County Government MOLHUD Arthur O. Owino/ Joyce A. Yimbo	Title revoked	Title vested in the PS Treasury for Housing Directorate
11.	Block 5/588	Kisumu Municipality	Kisumu County Government MOLHUD Damaris Aieno Ochieng	Title revoked	Title vested in the PS Treasury for Housing Directorate
12.	Block 5/555	Kisumu Municipality	Kisumu County Government MOLHUD Evangelist Christ Church	Title revoked	Title vested in the PS Treasury for Housing Directorate
13.	Block 5/492	Kisumu Municipality	Kisumu County Government MOLHUD Lukas A.O. Nyandoro Ochieng	Title revoked	Title vested in the PS Treasury for Housing Directorate
14.	Block 5/558	Kisumu Municipality	Kisumu County Government MOLHUD Christopher Masai Machio	Title revoked	Title vested in the PS Treasury for Housing Directorate
15.	Block 5/489	Kisumu Municipality	Kisumu County Government MOLHUD Lukas A.O. Nyandoro Ochieng	Title revoked	Title vested in the PS Treasury for Housing Directorate
16.	Block 5/567	Kisumu Municipality	Kisumu County Government MOLHUD	Title revoked	Title vested in the PS Treasury for Housing Directorate
EMBU					
17.	Embu Municipality /375	Embu Municipality	County Government of Embu (successor in title to Embu County Council) Catholic Diocese of Embu- Lessee Child Welfare Society	Title revoked	
UASIN GISHU					
18.	Block 10/8	Eldoret Municipality	PCEA John Keen Kiplagat Songok David Serem	Title revoked	Title vested in County Government of Uasin Gishu for public utility.
19.	Block 10/901	Eldoret Municipality	County Government of Uasin Gishu Name of Owner (missing)	Title revoked	Title vested in County Government of Uasin Gishu for public utility
20.	Block 10/1253	Eldoret Municipality	County Government of Uasin Gishu Dobson Onwong'a	Title revoked	Title vested in County Government of Uasin Gishu for public utility
21.	Block 10/1256	Eldoret Municipality	County Government of Uasin Gishu	Title revoked	Title vested in County Government of Uasin Gishu for public utility
22.	Block 10/1257	Eldoret Municipality	County Government of Uasin Gishu	Title revoked	Title vested in County Government of Uasin Gishu for public utility
23.	Block 10/1259	Eldoret Municipality	County Government of Uasin Gishu William Kigen	Title revoked	Title vested in County Government of Uasin Gishu for public utility
24.	Block 10/1263	Eldoret Municipality	County Government of Uasin Gishu	Title revoked	Title vested in County Government of Uasin Gishu for public utility
25.	Block 10/1265	Eldoret Municipality	County Government of Uasin Gishu	Title revoked	Title vested in County Government of Uasin Gishu for public utility
26.	Block 10/1266	Eldoret Municipality	County Government of Uasin Gishu Abraham Kipkemei	Title revoked	Title vested in County Government of Uasin Gishu for public utility
27.	Block 10/1267	Eldoret Municipality	County Government of Uasin Gishu	Title revoked	Title vested in County Government of Uasin Gishu for public utility
28.	Block 10/1269	Eldoret Municipality	County Government of Uasin Gishu Bartono Bartocho	Title revoked	Title vested in County Government of Uasin Gishu for public utility

CHILD WELFARE SOCIETY OF KENYA
REGISTERED ADOPTION SOCIETY



Headquarters
Child Welfare Building
Harambee Road
P.O. Box 41982, 00100
Nairobi
Tel: 6003301 6006391
Office Cell: 0726 298921
Fax: 6005854
E-mail: cwskinfo@childwelfaremail.co.ke
Date: 17/10/2012

CWSK/ADM/2012/486

Our Ref:.....

Your Ref:.....

The Director
Criminal Investigation Department
P O Box 30036
NAIROBI



Dear Sir,

RE: FRAUD OF CHILD WELFARE SOCIETY OF KENYA PLOT NO. 375 - EMBU MUNICIPALITY

We, the Trustees of Child Welfare Society of Kenya would like to report a fraud of our plot - Parcel No. 375 - Embu Municipality as mandated by the CWSK Trustee Deed.

Child Welfare society of Kenya is a registered society by government since 1955 to provide services for destitute and orphaned children. It is funded by government for its major functions which includes running temporary institutional care for destitute and orphaned children in Kenya. So far, the society has nine children homes ie Mama Ngina in Nairobi, Mji wa Salama in Mombasa, Arap Moi Children's home in Nakuru, Kisii Children's home, Kanduyi Children's home in Bungoma, Isiolo Children's home, Nanyuki Children's home, Muranga Rescue Centre, Karen Foster Care, Meru Rescue Centre and Embu Children's home. In addition Child Welfare Society of Kenya is working in all counties in the Republic where officers of the society provide field services for children who are destitute, orphaned or abandoned.

Child Welfare Society of Kenya was allocated a plot parcel No. 375 within Embu Municipality in 1966 for purposes of helping destitute and orphaned children. The Lease was issued with the Title No. 375 measuring 1.471 hectares for the terms of 99 years from 1st July, 1966. Child Welfare Society of Kenya paid for land registration fee together with all the necessary fees vide copy of Department of land receipt No. E. 350529 (enclosed).

A search at the District Land Registrar in Embu Municipality on 26th September, 2012 revealed that the parcel No. 375 measuring 1.471 hectares with a lease of 99 years from 1st July, 1966 is now claimed to be owned by

The Key Objective of Child Welfare Society of Kenya is to seek and protect children in difficult circumstances, to solicit the support of donors and sponsors and to manage the resources in the promotion of the right and dignity of the child.

HELP A NEEDY CHILD

Diocese of Embu Trustees. This is a FRAUD. Our investigations have revealed that the fraudsters who form the managing committees of the said Diocese of Embu Trustees are as follows:

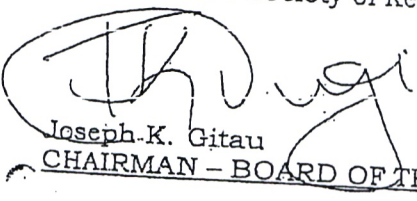
Mr. Njoka	-	Businessman
Mr. Patrick Mutua	-	Retired Teacher
Mr. Githinji	-	Secondary School Teacher
Mr. Njeru	-	Teacher
Mrs. Kiiru	-	Teacher/Business lady
Sr. Mary Kinyua	-	Religious Administrator
Sr. Magdalene Njoka	-	Religious Assistant Administrator

We are very saddened by this fraud as it is obvious that they have forged our Lease and substituted it with their names from Child Welfare Society of Kenya to Diocese of Embu Trustees. We now kindly request your office to take up a swift necessary action for us to reclaim our land.

We enclose herewith copies of the necessary documents for your perusal.

We thank you in advance and hope you will assist the Society accordingly.

Yours faithfully,
Child Welfare Society of Kenya


Joseph K. Gitau
CHAIRMAN - BOARD OF TRUSTEES

Tel: 0722 - 75 8772

1397 (25)

OFFICE OF THE PRESIDENT

Telegrams: "CRIMINAL". Nairobi
Telephone: Nairobi



LAND FRAUD INVESTIGATION UNIT,
P.O. Box 30036
NAIROBI

CID/IB/LFIU/SEC/4/4/1/VOL.VII/43

23TH October., 2012

DIRECTORATE OF CRIMINAL INVESTIGATION

The Provincial CID Officer
Eastern Province
P.O.Box
EMBU

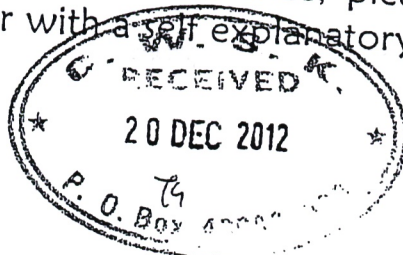
RE: PLOT No. 375 EMBU MUNICIPALITY
COMPLAINANT: CHILD WELFARE SOCIETY OF KENYA

The above matter refers for which the Chairman, Board of Trustees has written a letter to the Director of Criminal Investigations that, a parcel of land referred to as plot parcel No. 375 measuring 1.471 hectares within Embu Municipality was allocated to the organization for the purposes of helping destitute and orphaned children. Child Welfare Society were granted a term of 99 years with effect from 1st July but the same has been fraudulently transferred to the Diocese of Embu Trustees in unclear circumstances thus warranting an inquiry.

The D.C.I has directed that you cause investigations into this matter to its logical conclusion.

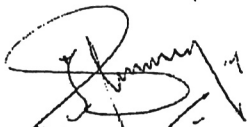
You will apprise the D.C.I on the progress and outcome of your investigations.

Attached for your ease of reference, please find copies of the documents, together with a self explanatory letter of complaint.



CRIMINAL INVESTIGATION
DEPARTMENT
DATE 27/8/2014
EMBU

26



(N.W. ETTYANG)

FOR: DIRECTOR OF CRIMINAL INVESTIGATION

C.C.

The Child Welfare Society of Kenya- Please report to the P.C.I.O Eastern at your earliest convenient time during working hours for his necessary action.
Child Welfare Building
Langata Road
P.O.Box 43982-00100
NAIROBI



**MINISTRY OF EAST AFRICAN COMMUNITY, LABOUR & SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION
OFFICE OF THE PRINCIPAL SECRETARY**

Tel: +254 (0) 2729800/2727980-4
Fax: +254 (0) 2726222/2734417
Email: pssocialsecurity@labour.go.ke
When replying, please quote

Social Security House, Bishops Road
P.O. Box 40326/16936 - 00100
Nairobi KENYA

Ref. No: MEACL&SP/9/29 VOL.I/(15)

Date: 14th December, 2017

Dr. Eng. Karanja Kibicho, CBS
Principal Secretary
State Department for Interior
Ministry of Interior and Coordination of National Government
NAIROBI

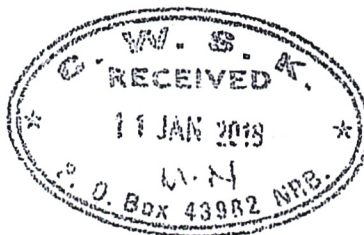
Dear

**RE: SECURING OF LAND BELONGING TO CHILD WELFARE
SOCIETY OF KENYA CHILDREN'S HOMES AND SCHOOLS**

Reference is made to letter No. CWSK/PS/MEACLSP/2017/19 of 13th December, 2017 addressed to me by the Chief Executive Officer, Child Welfare Society of Kenya (CWSK) on the above subject.

Considering the narrative and enclosed documents in respect of the concerned parcels, it is clear that the Society is the legal owner.

In light of this as well as the Presidential Directive to Public Institutions to secure the Registration of their parcels of land, I hereby request you to assist the Society through the respective County Commissioners in order to have those who have encroached vacate the parcels.



By copy of this letter, the Chief Executive Officer, Child Welfare Society of Kenya is asked to follow up the matter.

Yours

Susan Mochache, CBS
PRINCIPAL SECRETARY

Encls:

Copy to: Chief Executive Officer
Child Welfare Society of Kenya
NAIROBI

The County Commissioner
Nairobi County
NAIROBI

The County Commissioner
Kisii County
KISII

The County Commissioner
Embu County
EMBU

The County Commissioner
Laikipia County
NYAHURURU



SPECIAL ISSUE**THE KENYA GAZETTE**

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Vol. CXIX—No. 97

NAIROBI, 17th July, 2017

Price Sh. 60

GAZETTE NOTICE NO. 6862

THE CONSTITUTION OF KENYA

NATIONAL LAND COMMISSION

DETERMINATION OF REVIEW OF GRANTS AND DISPOSITIONS OF PUBLIC LAND IN RESPECT OF THE FOLLOWING GRANTS AND ORDERS

IN EXERCISE of the powers conferred by Article 68 (c) (v) of the Constitution of Kenya and section 14 of the National Land Commission Act, 2012, the Chairman of the National Land Commission informs the general public that the National Land Commission upon receipt of complaints from the National Government, County Governments and members of the public, undertook review of grants and dispositions (titles) of public land to establish their legality or otherwise. The Commission via public notices in the national dailies invited all interested parties to appear before it to inspect documents and make written and oral representations and submissions. Consequently, the Commission has made determinations in respect of the following grants/Titles and orders for revocation, regularization, upholding of the titles where applicable as indicated or give further orders. Where the order calls for revocation, the Chief Land Registrar is thereby directed to revoke as per Section 14(5) of the National Land Commission Act and attendant laws.

TABLE 1—KILIFI COUNTY, MOMBASA AND KWALE COUNTIES

S/No.	Property Description	Location	Interested Parties	Determination/Chief Land Registrar Directed to:
	LR. NO. MN/111/5333 also known as C.R 14272	Kilifi County	Joseph Malindi Lenguris Monika Herta Elfriede Behran Caroline Mwelu Mwandiku	Chief Land Registrar directed to revoke Title for Caroline Mwelu Mwandiku The title to vest in Monika Herta Elfriede Behman.
1.	LR 4752/2 – or MURUMA FARM MN/111/5333 or C.R 14272	Kilifi County	County Government of Kwale Maruma Farm (Mbela Farm)	Chief Land Registrar directed to uphold Title for Maruma Firm Upheld
2.	LR MN/1/6552	Kilifi County	Edwin Ndanyi Francis Mugo Njeru Peter Masha Kalama	Chief Land Registrar directed to revoke Title to Francis. Title to Hezron Ndanyi Lidede upheld
3.	LR MN/III/3081 LR MN/III/1923 LR MN/III/3076 LR MN/III/3080 LR MN/III/1922	Kilifi County	Sahajanad Special Primary School Sahajanad Secondary School Sharif Mudar Hussein Twahir Zacharia Abdulsattar Haji	Chief Land Registrar directed to revoke Titles to the aforesaid properties. Title to vest in the PS Treasury to hold in trust for Sahajanad School
4.	M.N/111/432 - 435	Kilifi County	-Hon Justice Charles P. Chemutut -Albert Tsuma Tonya -Mbaru Lewa Mbaru -Matubatu Investment Limited -Jacquiline Josephine Wanjiru	-Chief Land Registrar directed to revoke Grant Numbers; CR. 55799, CR. 55798, CR. 55781, CR. 55782. -A certificate of lease to be issued to Hon. Justice Charles P. Chemutut.
5.	-KAWALA 'A' KADZONDZO/399 -KAWALA 'A' KADZONDZO/405	Kilifi County	-Mr. Karsan Ramji & Sons -Mrs. Sarah Joseph Thoya -Mrs. Victoria Mishsi Maraga	Karsan Ramji & Sons Limited as absolute proprietor
6.	LR 1705/233 AND 1705/50	Kilifi County	-Nayeni Mibuyuni Squatters Group -The Stubbs & Slater Family	Title/Grant in favour of The Stubbs & Slater Family Estate Upheld.
7.	LR 11492/466, LR. 27249, LR 16142.	Kilifi County	-Eng. Jonathan Mwango -Humphrey Kombe & Family -Timothy Kilonzo	Title/Grant in favour of the following upheld; 1126 - Jonathan Mwango 1125 - Jonathan Mwango

S/No	Property Description	Reserved User	Parties Involved	Decision of the Commission	Reasons
			Megaways Ltd.		
20.	Nyeri Municipality Block 1/915 & Block 1/916 Block 1/917 Block 1/918	Public hospital and other public users	Robert Wambugu Hellen K Kariuki Peter Kihara Mathanjuki Hellen W Ngeru & others	Revoke title and allocate land to Sikh Temple, Nyeri	Land was reserved and planned for Sikh Temple, Nyeri for public hospital and other public users
21.	Thika Municipality Block 8/184	Residential/ Commercial	Chania Travellers Ltd., Peter Mwangi Gacheru	Revoke title held by Chania Travellers Ltd. uphold and give allottee to Peter Mwangi Gacheru	Title was acquired through fraud and Peter Mwangi Gacheru was the legal allottee
22.	LR 209 /14844	Public Servants Housing scheme	Ministry of Transport, Infrastructure and Housing & M. M. Shambi	Revoke title held by M. M. Shambi for LR 209 /14844 and land allocated to Cabinet Secretary – Treasury for civil Servants Housing scheme	Land was reserved for Public Servants Housing and was vested in Directorate of Housing. It was not available for allocation to third parties
23.	LR No. 13608	Residential	Ministry of Interior and Coordination of National Government and Boniface Orangi Gisebe	Re-survey and to reduce from 0.2747 ha to 0.20 ha to accord to the letter of Allocation of 13/9/85 and remove public Facilities. Title to be amended to reflect correct size	Land was wrongly surveyed to include public facilities and access of the public offices in Kasarani Sub-County
24.	LR Nos. 209/13245 and 209/13246 City Park	Public Park and Recreational area	Nairobi County Government Jamnadas Kalidas Gohil Trust and Friends of City Park	Revoke title for LR No. 209/13245 and revert land to Nairobi County Government, County Government to regularize sublease for LR 209/13246 for a public crematorium for persons of all faiths	Public Crematorium is public user. Jamnadas Kalidas Gohil Trust to have members from the County Government of Nairobi and other stakeholders as trustees.
25.	LR 1870/IX/54 or 209/12132 Westlands	Open space	Satya investments Ltd Estate of J. K. Mbugua Nairobi County Government, Westlands Self Help Group	Revoke title and allocate land to Nairobi County Government for an open space and public toilet to hold in trust for Westlands Residents	Land reserved and planned for an open space
26.	Nairobi/Block/97/1736	Open space/Recreation area	Fedha Estate Residents Association and Tassia Coffee Estate Ltd.	Revoke title and allocate land to Nairobi County Government for an open space and recreation area	Land was reserved and planned as an open space and recreation area
27.	LR No. 36/VII/436	Residential/ Commercial	Peter Chania Magere (administrator of Estate of Mwathi Kitheka) Mohammed Kasim Mohammed & Duran Hussein Madobe	Revoke title to Mohammed Kasim Mohammed & Duran Hussein Madobe and revert to the estate of Mwathi Kitheka to be held by the administrator, Peter Chania Magere	Land was illegally acquired by Mohammed Kasim Mohamed & Duran Hussein Madobe
28.	LR Nos. 11969/ 211 11969/ 213, 11969 /214 and 11969 /215	Christian cemetery	Marsabit Pastors Fellowship Cillabaji, Hussein Tari, Adan Jillo Huq, Peter Lettero and Dadacha oba Tullus	Revoke titles to LR Nos. 11969 /211 11969/ 213, 11969/ 214 and 11969/ 215 Allocate the land to Marsabit County Government for a Christian cemetery	Land was reserved and planned for a Christian cemetery and was not available for allocation to private developers.
29.	KARATINA/BLOCK 1/639	Nyeri County	- Wilson Ngatia Karungaru (The personal administrator of the estate of Geoffrey Karungaru Kabua), - Geoffrey Karungaru Kabua	- Title/Grants held by Geoffrey Karungaru Kabua Upheld.	
30.	EMBU/MUNICIPALITY PARCEL/375	Embu	- Child Welfare Society of Kenya - Catholic Diocese of Embu - County Government of Embu (successor in title to Embu County Council)	-Chief Land Registrar directed to revoke Title/Grant held by Catholic Diocese of Embu -The property is vested in the Child Welfare Society of Kenya.	Land Was initially allocated to Child Welfare Society of Kenya and therefore not available for allocation to another individual.
31.	THIKA MUNICIPALITY BLOCK 9/302	Kiambu	- Teleposta Pension Scheme Trustees - Vicky Kidaka Liyai	-The Chief Land Registrar directed to Revoke the Title/Grant held by Vicky K. Liyai. -Reinstate the property to Teleposta Staff Pension Scheme.	Land was initially allocated to Teleposta Staff Pension Scheme and therefore could not be available for allocation to another individual.
32.	Ruiru Kiu Block 2/4889,4890,4891,4892	Kiambu	Kiambu County Government and all the	Chief land Registrar directed to revoke all titles and revert the	Land was reserved for Educational use.

Telegrams "POLICE".....
Telephone..... When
replying please quote
Ref.No..... and date

OFFICE OF THE PRESIDENT

31

DIVISIONAL C.I.D. HEADQUARTERS
P. O. BOX 28
EMBU



27th August, 2014

DIRECTORATE OF CRIMINAL INVESTIGATIONS

CID/COM/1/6/A/VOL. III/ (177)

The Chairman,
Board of Trustees,
Child Welfare Society of Kenya,
P.O Box 108,
EMBU

RE: CID EMBU INQUIRY NO. 2/2013
ALLEGED FRAUD ON PROPERTY L.R. EMBU MUNICIPALITY/1112/375

Your letter CWSK/CONF/LAND/2014/327 of 26th August, 2014 on the above quoted matter refers.

The relevant officials who handled the matter for Catholic Diocese of Embu failed/declined to appear in our office to give their side of the story.

We then decided to forward the inquiry file to the Director of Public Prosecutions Embu for perusal and directions. The Director of Public Prosecutions upon perusing the file concurred that there is sufficient evidence to convict the Very Rev. Fr. Patrick Kariuki, Bishop Paul Kariuki, Sister Mary and Very Rev. Fr. Patrick Njiru for the requisite offences of fraud.

The D.P.P., further directed a thorough investigations be carried out with the aim of prosecuting and convicting the four mentioned suspects and their accomplices.

(DANIEL KIROREI)
FOR: DIVISIONAL CRIMINAL INVESTIGATION OFFICER
EMBU

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Telephone: 31227 Embu
When replying please quote

Ref. EBU/ADV/7/(72)



FAITH HOUSE 2nd FLOOR
P.O. BOX 2855
EMBU

DATE: 21st August 2014

THE DIVISIONAL CRIMINAL INVESTIGATING OFFICER
EMBU DIVISIONAL HEADQUARTERS
P. O. BOX 28-60100
EMBU

RE: CID EMBU INQUIRY NO. 2/2013
OBTAINING REGISTRATION BY FALSE PRETENCE

The above refers.

We acknowledge receipt of yours Ref. No. CID/COM/1/6/A/VOL.III/(176) dated 8th August 2014 and wish to reply as hereunder.

There is sufficient evidence to sustain a conviction against the Very Rev. Fr. Patrick Kariuki, Bishop Paul Kariuki, Sister Mary and the Very Rev. Fr. Patrick Njiru.

In addition, I advise that further and thorough investigations be carried out with the aim of prosecuting and convicting the four above mentioned suspects and their accomplices.

Find enclosed your Polic File for your further action.

TIMOTHY KIBUIKA MIIRI
PROSECUTION COUNSEL
FOR DIRECTOR OF PUBLIC PROSECUTIONS
EMBU



NATIONAL LAND COMMISSION

**RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE SENATE
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

**REPORT
BY:**

GERSHOM OTACHI BW'OMANWA

CHAIRMAN

12th May, 2022

**RESPONSES TO THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT
AND NATURAL RESOURCES ON A PETITION ON ALLEGED ILLEGAL
ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY
CHILD WELFARE SOCIETY OF KENYA**

Hon Chair, the Commission noted the following from the petition;

- i. That in the Gazette of 22nd January 2016, item number 17, the title EMBU/MUNICIPALITY/375 belonging to the Catholic Diocese of Embu was revoked, apparently by the NLC at the instance of the Child Welfare Society of Kenya.
- ii. That in the Gazette of 17th July 2017, item No 30 title EMBU/MUNICIPALITY/375 'the Chief Land Registrar was directed to revoke title held by Catholic Diocese of Embu'. The property is vested in the 'Child Welfare Society of Kenya'. The notice was given by the NLC.
- iii. The Diocese is concerned that their lease to EMBU/MUNICIPALITY/375 was declared cancelled by the NLC at the instance of the Child Welfare Society of Kenya, the hopeful beneficiaries of the alienation.

RESPONSE

The National Land Commission responds as follows for the subject land EMBU/MUNICIPALITY/375 ;

From the records in possession of the Commission, the following is a summary of the facts:

1. A Certificate of Lease issued to Child Welfare Society of Kenya in 1/7/1966 for 99 years measuring 1.471HA.
2. Official search carried out on 4th January 2022 shows that the parcel is allocated to Child Welfare Society of Kenya for a period of 99 years from 1966.
3. Embu Diocese and CWSK through a mutual consent were running the institution from 1984 to 2009. In 2009 the Diocese requested to run and manage the institution on their own. This led to the diocese applying for an amendment of the lease from CWSK to Embu Diocese.
4. A Certificate of Lease was issued to Diocese of Embu Trustees on 12/7/2012.
5. The process of amending the lease was opened to fraud investigation and it was deemed to have been fraudulently amended since the signatories to the consent for change were not authorized by CWSK.
6. Through the NLC Review of Grants and Depositions the Lease to Diocese of Embu was revoked and cancelled as per Gazette Notices **Vol. CXVIII—No. 6 of 22nd January, 2016** and **Vol. CXIX—No. 97 of 17th July, 2017**.
7. NLC was exercising its mandate under S. 14 of the National land Commission Act.
8. The certificate of lease issued to Diocese of Embu Trustees on 12/7/2012 is cancelled as per the Gazette Notices.

9. The Embu Diocese went to court to challenge the decision of NLC.
10. The court upheld the decision of the Commission to cancel the lease title issued to Embu Diocese Trustees.
11. The Commission is not aware of any subsequent Court orders on Appeal or other court Process.

Honourable Chair, I submit;



GERSHOM OTACHI BW'OMANWA
CHAIRMAN

Dated 12th May, 2022

ANNEX III: SUBMISSIONS BY THE PETITIONER

(Attached separately)

**PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND
EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF
KENYA**

8. That in the Gazette of 22nd January 2016, item number 17, the title EMBU/MUNICIPALITY/375 belonging to the Catholic Diocese of Embu was revoked, apparently by the National Land Commission of Kenya at the instance of the Child Welfare Society of Kenya.
9. That in the Gazette of 17th July 2017, item No. 30, title Embu/Municipality/375 "the Chief Land Registrar was directed to revoke title held by Catholic Diocese of Embu". The property is vested in the "Child Welfare Society of Kenya". Again, the notice is given by the National Land Commission of Kenya.
10. That the Child Welfare Society of Kenya, buoyed by the two publications again attempted to force their way into the home, but again this was repulsed by the Diocese.
11. That the current position is that the Diocese, is the legitimate and the legal owner of plot No. EMBU/MUNICIPALITY/375. They are in possession of the home; they run the home; and have the unexpired lease.
12. The Diocese is concerned that their lease to EMBU/MUNICIPALITY/375 was declared cancelled by the Land Commission of Kenya at the instance of the Child Welfare Society of Kenya, the hopeful beneficiaries of the alienation.
13. That the act of the alienation continues to threaten the Petitioners since the Land Commission has already reassured the Child Welfare Society that it has already revoked the title; and recommended a new lease be issued to them.
14. That the matter has been in court severally but never finally resolved. It is the Child Welfare Society of Kenya that triggers these court interventions by surprise forced attempts at occupation, alienation and eviction.
15. That we have made efforts to have this matter addressed by the relevant bodies, all of which have not been fruitful.
16. That currently there is no dispute pending in court of law, constitutional or any other legal body.

WHEREFORE your humble Petitioners pray that the SENATE do investigate this matter and: -

1. Initiate a process to ascertain if the true owners of the parcel of land EMBU/MUNICIPALITY/375 are Diocese of Embu Trustees Registered.
2. recommend for the cancellation or otherwise set aside the contents of the two Gazette notices, specifically Gazette notice No. 6 of 22nd January 2016; and Gazette notice No. 97 of 17 July 2017.

**PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND
EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF
KENYA**

To:
The Clerk of the Senate
Parliament Building
P.O Box 41842 – 00100
NAIROBI

RE: **PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF
LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE
SOCIETY OF KENYA**

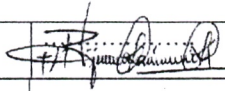
We the undersigned citizens of Kenya AND IN PARTICULAR representatives of the Diocese of Embu, Trustees of the Catholic church and the Community Managers of the St. Angela Embu Children's home and residents of the Embu County, DRAW THE ATTENTION of the SENATE to the following: -

1. THAT the Diocese of Embu Trustees Registered, is currently the owner of the piece of land EMBU/MUNICIPALITY/375.
They hold a lease dated the 13th day of July 2012, as evidence of ownership.
The lease is for 99 years from 13.7.2012.
2. THAT the diocese of Embu Trustees Registered, has been running a Children's home on the said plot under the name, St. Angela Embu Children's home, from the year 1960 to date.
3. The Children's home has a long history from 1960 to date. But it has always been under the custody, occupation and management of the Diocese of Embu, from the pre-independence days, at independence, and post-independence.
4. When the Diocese applied for a lease of the land where the home now stands, the lease was gladly given by the Government on the 13.7.2012 for 99 years.
5. That however and to the wonder and dismay of the diocese, individuals calling themselves the Child Welfare Society of Kenya laid claim to the home by force but this was resisted and repelled. There was court intervention and the invaders were pushed out and law and order restored.
6. The Child Welfare Society of Kenya has never run the home even for one day, since its inception to date.
7. That again to the wonder and dismay of the Diocese, its attention was drawn to two items appearing in the Kenya Gazette. One dated the 22nd January 2016 and the other dated the 17th July 2017.

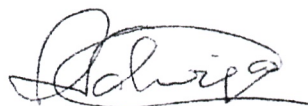
**PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND
EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF
KENYA**

3. recommend for the Prohibition of the Child Welfare Society of Kenya from further making claims, interfering with, or harassing or otherwise making attempts at entry into the Petitioner's Children's home.
4. The Senate relevant Committee makes a visit to the St. Angela Embu Children's home to see how home is run and the developments made over the years by the Petitioners.
5. recommend that a plot be allocated to the Child Welfare Society of Kenya for the purpose of building their own home away from that of the Petitioners in view of the many homeless children in Embu County.

DATED at Embu this day of 2021

1	Bishop Paul Kariuki Njiru	P.O Box 1499 Embu	ID/3736445	
2.	Sister Alice Wambui Change	P.O Box 1499 Embu	ID/11380582	

Counter signed by Sen. Njeru Ndwiga, MP, Senator for Embu County.



Sen. Njeru Ndwiga, MP
Senator for Embu County

REPUBLIC OF KENYA

**PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF
LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE
SOCIETY OF KENYA**

PETITIONER'S WRITTEN RESPONSES

INTRODUCTION

A] By their Petition dated the 29th October 2021, the Petitioners prayed to Senate for 5 prayers,
To: -

- i) Initiate a process to ascertain if the true owners of the parcel of land EMBU/MUNICIPALITY/375 are Diocese of Embu Trustees Registered.
- ii) Order the cancellation or otherwise set aside the contents of the two Kenya Gazette Notices, specifically Gazette Notice No. 6 of 22nd January 2016 and Gazette Notice No. 97 of 17.7.2017
- iii) Prohibit the Child Welfare Society of Kenya from further making claims, interfering with or harassing or otherwise making attempts at entry into the Petitioner's home.
- iv) The Senate Committee makes a visit to the St. Angela's Embu Children's home and see for itself how the home runs and the developments made over the years by the Petitioners.
- v) There are very many homeless children in the county of Embu, in view of this, the Senate do recommend that a plot be allocated to the Child Welfare Society of Kenya for the purpose of building their own home, away from that of the Petitioner.

B] **THE CONTENTS OF THE PETITION**

The Petition contains documents bound in 3 bundles as follows: -

- a) Bundle dated he 29.11.2021 is in two parts; is numbered and paginated.

PART 1. Runs from page 1 – 2 and contains documents 1 – 30. All 14 documents are photographs depicting the contents, structures and life at the Petitioner's Children's home.

This is the Petitioner's photographic evidence. The petitioner invited the Committee to visit the home and this the Senate Committee obliged on 28.2.2022.

The Committee visited on the 28th February 2022 and must have verified for itself the perimeter walled St. Angela's home. The school, the classrooms, the dormitories, the playgrounds, toilets, washrooms, bathrooms, dining rooms, water storage tank, multi-purpose halls, pre primary class rooms, PP 1 and PP 2, Technical school for older children – addressing dress making, knotting, computer and saloon, social study hall, garage and firewood store.

There was also an administrative block, car park area and a wide all steel gate.

The pictures also represent the housing of the catholic nuns who run the home.

The committee was also shown a pharmacy facility, the home nurse and the well-manicured and cemented pathways to the various locations within the home.

PART 2. of the bundle dated the 29.11.2021 contains the documentary evidence. There are 27 documents numbered 1 – 12 from page 31 to page 84.

The analysis is as follows: -

- i) Page 31 – 33 Contains the actual Petition.
- ii) Pages 34 – 36. Contains a copy of the certificate of Incorporation of the Diocese of Embu Trustees Registered, the proprietor and owner of the St. Angela's Children's home on their property EMBU/MUNICIPALITY/375.
- iii) Page 37 – 38 A copy of the certificate of lease dated the 13th July 2012 for EMBU/MUNICIPALITY/375 for 99 years to Diocese of Embu, Trustees Registered of P.O Box 1499 Embu.
- iv) Page 39 – 41 A copy of the lease itself dated the 27th June 2012 by the County Council of Embu in respect of property EMBU/MUNICIPALITY/375 to The Diocese of Embu Trustees Registered for 99 years which was certified by the Land Registrar Embu a true copy of the Original on 31.1.2018.
- v) Page 42 A copy of the green card opened on 13.7.2012 for EMBU/MUNICIPALITY/375. It verifies all the particulars contained in (iii) and (iv) above.

vi) Page 43 – 44

Is a copy of the Kenya Gazette dated 22.1.2016; supplement No. 97 dated 17.7.2017. *EMBU/MUNICIPALITY/375. County Government of Embu (Successor in title to Embu County Council) Catholic Diocese of Embu lessee; Child Welfare Society; Title revoked.*

Unlike the other properties on this page, no vesting order was made on the index, the changes or interjections were made by the National Land Commission.

vii) Page 45

The Kenya Gazette Special issue No. 7 of 17.07.2017 National Land Commission (*Determination of Review of grants and dispositions of Public land in respect of the following grants and orders:*

At page 46 No. 30 is property EMBU/MUNICIPALITY/375 at Embu reserved user not stated; parties involved are stated as: -

- *Child Welfare Society of Kenya*
- *Catholic Diocese of Embu*
- *County Government of Embu (successor in title to Embu County Council)*

Decision of the Commission Chief land Registrar directed to revoke title/grant held by Catholic Diocese of Embu. The property is vested in the Child Welfare Society of Kenya.

Reasons Given

"Land was initially allocated to Child Welfare Society of Kenya and therefore not available for allocation to another individual."

From page 47 to page 79, there is filed an affidavit by the Rt. Rev. Fr. Eliud Thuku Wanyoike, the vicar General in response to some issues raised in erstwhile litigation between the parties.

Fr. Wanyoike has gone through the history of intolerance when some forces were bent on divesting the Diocese of Embu Trustees Registered of its rightful property EMBU/MUNICIPALITY/375.

The issue was resolved by the Provincial Administration and the Embu County Council and a lease issued to the Diocese of Embu Trustees Registered.

See pages 56, 57, 58, 59 60,61, 62,63, 64, 65, 66, 67, 68, 69, 70, 71 and 72. A lease was issued as evidence as at page 73 – 76 which was dated 27.6.2012 and signed by the Commissioner of Lands and registered by the land Registrar on 12.7.2012.

Before issuance of the lease to the Diocese of Embu Trustees Registered, two precautions which are worth of note were taken.

- a) A certificate of search was made on 29th March 2011. A copy of that certificate is filed at page 64. It showed at the time that as at 29.3.2011, parcel of land EMBU/MUNICIPALITY/375 was registered under the name of EMBU COUNTY COUNCIL. Implication being that it was public land and was available for allotment as at that date.
- b) After allotment and registration of Diocese of Embu Registered Trustees, a copy of the register was opened. A copy of the register is filed at page 42 of the bundle. It shows very significantly that the register for parcel of land EMBU/MUNICIPALITY/375 was opened on 12.7.2012 as a first registration with the 1st entry on 12.7.2012. The Diocese of Embu Trustees Registered being the first registered owner as lessee for 99 years. There is no other registered owner.

At the first hearing of this Petition, on 9th day of December 2021, two issues were raised by the respondent The Child Welfare Society of Kenya: -

- i) Whether the Petition is sub-judice.
- ii) Whether the respondent won the case in Embu ELC Pet. No. 1 of 2018.

The Hon. Senate Committee asked the Petitioners to respond. The response was the filing a further list of documents and a further trial bundle dated the 18.01.2022. The petitioners have addressed the issues as follows: -

- i) Whether the Petition is sub-judice

This was raised by the Child Welfare Society by a verbal allegation that there was a pending Civil Appeal No. 154 of 2020, Diocese of Embu Trustees Registered versus the National Land Commission and others. The appeal was withdrawn under Rule 68 (8) of the Court of Appeal Rules. A copy of the Notice of withdrawal is filed as document No. 4 in the Petitioner's further list of documents dated 18.1.2022. It is at page 13. It was filed on 17.11.2021. There is no appeal pending. Matter is not sub-judice.

- ii) On whether the Child Welfare won the Embu ELC Pet No. 1 of 2018

This is a blatant lie.

The truth is stated in the decree of the Embu ELC Court in that Petition, document No. 3 on the bundle at page 20 – 23. It was ordered as follows: -

- a) That the Petition dated 16th March 2018 is hereby dismissed.
- b) The Cross-Petition dated 20.5.2019 is hereby dismissed.
- c) Each party to bear its own costs.

The matter is therefore properly and regularly before this Honourable Committee of the Senate.

ISSUES FOR DETERMINATION

The Petitioners propose the following issues for determination by this Honourable Committee.

1. Who is the legal registered owner of parcel of land EMBU/MUNICIPALITY/375.
2. Who is in possession of the property EMBU/MUNICIPALITY/375.
3. Did the National Land Commission as such have jurisdiction to: -
 - a) Recall the certificate of lease issued to the petitioners.
 - b) Cancel or revoke the registration of the Petitioners as the registered owners of parcel of land EMBU/MUNICIPALITY/375.
 - c) Redistribute, re-allocate or order the transfer of parcel of land EMBU/MUNICIPALITY/375 from the Petitioners to the respondent.
4. Is the Land Registrar allowed to register and maintain two parallel certificates of lease in respect of one property namely EMBU/MUNICIPALITY/375.
5. Whether it is not better, more equitable and for every one's good to prevail upon the County Government of Embu to consider allocating an appropriate parcel of land to the respondent for the purposes of running a Children's home.

ON ISSUE 1.

- i) The evidence adduced by the petitioners overwhelmingly prove that they are the registered proprietors as lessees for a period of 99 years of all that parcel EMBU/MUNICIPALITY/375.
- ii) The lease was given by way of allotment on 27/6/2012. The lease certificate was signed by the land Registrar on 13/7/2012.
- iii) Before the allotment, the property was public land and was registered in the name of the Embu County Council.
- iv) The Embu County Council was the manager of the public land and the legitimate authority to make the allotment.
- v) Subsequently the petitioners became the first registered proprietors of the property EMBU/MUNICIPALITY/375.
- vi) Registration cannot be cancelled or revoked or rectified except as provided for under Section 79 and 80 of the Land Registration Act No. 3 of 2012. Section 79 provides for rectification by the Land Registrar, and Section 80 rectification by order of court, which in this case means: -

"The Environment and Land Court established under the Environment and Land court Act. No. 19 of 2011"

- vii) In the instant Petition, the registration of the respondents as proprietors of the property EMBU/MUNICIPALITY/375 was not done under either section 79 or 80 of the Land Registration Act.
- viii) The Petitioners are and remain the legitimate registered owners of parcel EMBU/MUNICIPALITY/375.

ON ISSUE 2.

- i) Again, the evidence adduced by the Petitioners as to possession of the property overwhelmingly establishes that they are exclusively in possession. We rely on the uncontested photographic evidence produced in the petitioner's trial bundle dated the 29th November 2021.
- ii) On the 28th February 2022 the Senate Committee visited the Children's Home at the invitation of the petitioners. The respondents were also represented at the site visiting. The petitioners represented by the Rt. Rev. Bishop Paul Kariuki; and the Rev. Sister Alice Wambui took the Committee to and around all the structures and the features of the home. The schools were in session and the Committee saw for itself the life at the Children's home.
- iii) The best way to prove possession is by physical citing.
Dealing with this issue, the court of appeal Held

"Adverse possession is a fact to be observed upon the land, it is not to be seen in the title even under Cap 300. A man who buys land without knowing who is in occupation of it risks his title just as he does if he fails to inspect his land after he had acquired it.

See Mweu versus Kiu Ranching & Farming Co-operative Society Limited. [1985] KLR 430.

ON ISSUE 3.

Whether the National Land Commission had jurisdiction of its own motion to recall the certificate of lease already in possession of the Petitioners in respect of EMBU/MUNICIPALITY/375, purport to cancel or revoke the certificate and re allocate the same to the Child Welfare Society of Kenya.

- i) The National Land Commission is a creature of Article 67 of the Constitution and the National Land Commission Act. No. 5 of 2012. As such its jurisdiction is severely limited.
- ii) The powers of the National Land Commission are generally donated by Section 6 of the National Land Commission Act. We submit that those general powers do not allow the National Land Commission of its own volition to transgress on the powers and privileges of a registered proprietor donated by sections 24, 25, 26 and the protection provided to a proprietor under sections 79 and 80 of the Land Registration Act. No. 3 of 2012.

- iii) The National Land Commission therefore exceeded its powers when it issued the Kenya Gazette No. 6 of 22nd January 2016 and the Kenya Gazette Supplement No. 97 of 17th July 2017.
In as far as the two notices were meant to revoke title/grant held by Catholic Diocese of Embu and vest it on "Child Welfare Society of Kenya" they are null and void as *ultra vires*.
- iv) Above all the two gazette supplements did not specifically address the proprietor of the lease, in this case "DIOCESE OF EMBU TRUSTEES REGISTERED."
- v) We pray the Committee to order the lease and certificate of lease issued to the DIOCESE OF EMBU, TRUSTEES REGISTERED to remain undisturbed.

ON ISSUE 4.

Whether the Land Registrar Embu is in order to register another lease and issue a certificate of EMBU/MUNICIPALITY/375 while there is in place another registered lease and another issued certificate of lease.

- 1) In their bundle A the Child Welfare Society of Kenya has filed document ix, and x. These are 2 green cards.
The green card x has the following entries: -
 - a) The register was opened on 12.7.2012.
 - b) It is for EMBU/MUNICIPALITY/375 measuring 1.471 Ha.
 - c) Entry 1 on the proprietorship section shows on 12.7.2012 Diocese of Embu, Registered trustees became the proprietor.
 - d) Entry 2 shows a certificate of lease was issued on 13.7.2012.
 - e) The green card is crossed with an endorsement
"Certificate of lease cancelled as per Gazette notice AD 01 OX IX - 00097 6862 dated 7th July 2017.
- 2. Another green card was opened for the same parcel of land on 7.2.2019 with an entry 1 showing that the Child Welfare Society of Kenya Registered Trustees as proprietors.
 - a) A certificate of lease issued on the same day.
 - b) There are several anomalies.
- 3. i) The first anomaly is that the so-called letter of allotment cited by the respondents as document No. XII has no legible addressee. It appears to have a date of 28th June 1966.
- iii) The document has many conditions
 - The letter is subject to a lease to be made under the provisions of the Registered Land Act. 1963.
 - The rent of Kshs. 84. 00 had to be made within 14 days from the date of the letter otherwise the offer would lapse.

- The full name in "BLOCK LETTERS" should be supplied for the purposes of preparing the lease.

SUBMISSIONS

- i) The letter document XII was not issued to the Child Welfare Society of Kenya.
- ii) The respondents have not shown whether the conditions of that letter which is now 56 years old were complied with.
- iii) More importantly no evidence is laid before this Honourable Committee of any issuance of a lease document between the County Council of Embu and the Addressee of the letter document XII
- iv) The certificate of lease document (ii) is a forgery. It tells a lie about itself. The document violates the provisions of sections 30 and 31 of the Land Registration Act No. 1 of 2012. The violations are as follows: -
 - a) A certificate of lease must contain all the information contained in the lease document.
 - b) There was a lease already registered and a certificate of lease on 12.7.2012 when the Land Registrar registered another one on 7.2.2019; 7 years later.
 - c) In issuing the certificate of lease dated the 7.2.2019, the Land Registrar violated Section 31(2). He should have demanded the petitioner's lease and certificate of lease for cancellation before another could be issued.
 - d) The Land Registrar's powers to rectify the register, can only be exercised by him in strict compliance with section 79 of the Land Registration Act. He is not subordinate to the National Land Commission, but can follow guidelines provided by it. He is not directed on what to do with the advice when he gets it.
 - e) It has been submitted elsewhere that the notice by the National Land Commission on which the Registrar claims to have acted does not affect the registration of the Petitioners. It has also been demonstrated that it is ultra vires the powers of the National Land Commission.
 - f) Consequently, we now have a situation where one parcel of land EMBU/MUNICIPALITY/375 has two certificates of lease issued by the same office. We submit the situation is contrary to public policy and should be rectified. The only genuine lease certificate is the one issued to the Petitioners because it is backed by the issuance of a lease agreement.
 - g) The certificate of lease held by the respondents is not backed by a lease agreement. It is a fake. It should be cancelled.

ON ISSUE 5.

We submit in all the circumstances of this Petition that it is more equitable and for every one's good, for this Honourable Committee to prevail upon all the parties concerned to consider allocating an appropriate parcel of land to the Child Welfare Society of Kenya in any corner of the Embu County for the purpose of running their own Children's home.

IT is so submitted.

DATED at Embu this

11^K day of May

2022

Morris Njage & Company
Advocates for the Petitioners

Drawn by: -

M/S Morris Njage & Co.,
Advocate

Waumini Plaza
1st Floor, Room No.2
Kubu Kubu Road
P.O. Box 94-60100

EMBU.

Tel. 0722301862

Email: mgnjage@hotmail.com

To be served upon: -

Magee Wa Magee & Co.,
Advocates
P.O Box 1213
KERUGOYA

