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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

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

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 05 DEC 2019	DAY: THURSDAY
TABLED BY: Hon. R. Nyamari	Chairperson
CLERK-AT-THE-TABLE:	
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DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

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CHAIRPERSON'S FOREWORD

The Petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces was conveyed to the House by the Honourable Speaker on behalf of petitioners on 27th June 2019.

In considering the petition, the committee held meetings with the petitioners on Tuesday, 6th August 2019, the Ag. Chief Executive Officer, National Land Commission, on 8th August 2019 the Chief Administrative Secretary Ministry of Lands and Physical Planning on 15th October, 2019, 26th and 28th November, 2019, the Principal Secretary, Ministry of Defence on 5th November 2019, the Chief Executive Officer Uchumi Supermarket Ltd on 21st and 26th November, 2019, the Director Legal Services, Kenya Commercial Bank and the Director, Jewel Complex Ltd on 21st November 2019

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioner, the Ag. Chief Executive Officer, National Land Commission, the Chief Administrative Secretary Ministry of Lands and Physical Planning, the Principal Secretary, Ministry of Defence, the Chief Executive Officer Uchumi Supermarket Ltd, the Director Legal Service, Kenya Commercial Bank and the Director Jewel Complex Ltd for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces

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

EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in a Petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces. The Petitioners prayers are that the National Assembly through the Departmental Committee on Lands does;

- i. Ensures the upholding of the petitioners' right to occupy, reside and do business and own LR. No. 5875/2
- ii. Expedites the issuance of subtitles/leases for the approved letters of allotment issued to the members of Roysa Community Development Society;
- iii. Preserve the title deeds and issues for public purposes whose allotments are held by the society;
- iv. Investigates the eviction and invasion by the Kenya Defence Forces from LR. No. 5875/2 and any claim of ownership by the same or any other interested party; and
- v. Order compensation for the demolition of the petitioners 'premises and any other relief that may be available

The Committee observed that the owner of the land in question LR. No. 5875/2 located in Roysambu, measuring 17.16 acres under a lease of 99-years which commenced from 1st November 1904 and expired on 1st November, 2003 is Mr. M. J Samuels.

The Committee noted that whereas there exists evidence that the government intended to acquire LR. No. 5875/2 belonging to Mr. M. J Samuels as evidenced by gazette notices No. 51515 and 51552 of 1985, the acquisition process was not completed as the out of court negotiations between the government and Mr. Meshumor Jacob Samuel on amount of compensation to be made were never concluded. (Annex 1).

There was contradictory information in the Ministry of Defence concerning the intended acquisition of L. R No. 5875/2. Indeed, in a letter dated 26th January 1987, the Permanent Secretary, Department of Defence informed the Commissioner of Lands that the military had carried out an inspection of the land and found it unsuitable for the intended purpose unless four additional parcels of land surrounding the plot was acquired to enhance security as the plot was located in a residential area. However, on 10th April 1987 Major General Munyao wrote to the Commissioner of Lands vide a letter Ref. DOD/CGS/49/LND asking the Commissioner to disregard the content of the letter by the Permanent Secretary until the military made further contact on the issue. Based on the submissions of the National Land Commission, the military did not make the said contact to date.

Although, the Ministry of Defence submitted that the land was valued at Kshs. 3,530,500 and the sum was duly paid by the Ministry to the Commissioner of Lands, the Committee noted that the High Court under Land Acquisition Appeal No. 2 of 1986 had enhanced the award to Kshs. 23,000,000 and the same has not been paid to date to Mr. Meshumor Jacob Samuel. The Committee noted that the provisions of section 8 of the Land Acquisition Act Cap. 295 (now repealed), required that where land is compulsorily acquired, full

compensation was to be paid promptly. This was never done. (Annex 2)

Additionally, despite, the fact that the Ministry of Defence submitted a receipt showing that Kshs. 3,530,500 was paid to the Commissioner of Lands, there was no evidence submitted to indicate that the money was deposited to Middle East Bank and released to Mr. Jacobs.

Further, while the Ministry of Defence submitted that the land in question was formally handed over to the Ministry on 25th June, 1986, the Committee noted with concern that the Kenya Defence Forces only occupied the said land thirty-three years later, this being in 2019 and the land remains undeveloped to date. This was further confirmed by a letter dated 14th June, 2004 by the then Permanent Secretary, Ministry of Lands and Settlement to Mr. John Githongo the then Permanent Secretary in the office of the President indicating that the Kenya Defence Forces had already taken possession of the property and moved in but had thought the cost was too much and consequently moved out of the property.

Based on the submissions of the Nairobi County Government, the squatters living on the parcel of land in question were about 400 to 500 persons, there was an informal primary school and nurse school for the squatters' children, the land was occupied by 43 rows each with 10 permanent and semi-permanent houses, there were few commercial buildings, garages and workshops, there were two structures used as churches and there were numerous kiosks and churches. This was corroborated by the minutes of 25th June, 1986 submitted by the Ministry of Defence which indicated that there were two hundred and fifteen persons living there, there were forty-three blocks still existing and two jua kali garages.

The Committee also observed that there were three files that had been opened in respect of LR No. 5875/ 2 these being-

- (1) The original file regarding the land in question No. 21946/2, LR. No. 5875 with an acreage of 17 acres indicating that the land belonged to Mr. Mayer Jacob Samuels.
- (2) A second file with file no. 202033 & LR No. 5875/2 with an acreage of 6.864 Ha. which contained an allotment letter that was issued on 26th June, 1999 to Solio Constructions Limited and contained other documents.
- (3) A third file no. 215826, LR No. 23393 for land owned by Grace Independent Baptist Mission Trustees, a file which was used by officials in the Ministry to register an amalgamation with land parcel No. 5875/2.

The Ministry of Lands and Physical Planning submitted and confirmed that the second file and third file had been opened fraudulently as evidenced by-

- (1) The purported transfer of lease to Solio Construction Limited was done when there was already a subsisting lease of 99 years which was to expire in 2003 and the transfer was effected in 2001, two years before the expiry of the lease.
- (2) The Chief Land Registrar, Ms. Sarah Mwenda denied signing the transfer form transferring the parcel of land LR. 5875/2 from Solio Construction

Company Ltd to Kasarani Mall Ltd in 2001, although a stamp bearing her unique number (14) was used in the said form.

- (3) The third file no. 215826, LR No. 23393 allegedly seeking to amalgamate land parcel No. 5875/2 with LR. No. 23393 was being done yet the lease for LR. No. 23393 had also expired.
- (4) The certificate of Incorporation of Solio Construction Company was dated 18th August 1999 while the letter of allotment was issued on 26th June, 1999 revealing that the allotment was done two months before the Company was incorporated.
- (5) A letter dated 14th June, 2004 by the then Permanent Secretary, Ministry of Lands and Settlement to Mr. John Githongo the then Permanent Secretary in the office of the President instructing the Anti-Corruption Commission to investigate and take action against the fraudulent allocation of L.R No. 5875/2 to Solio Construction Company; and
- (6) The subsequent attempt to amalgamate the two pieces of land was being done albeit the existence of a caveat on the land dating back to 2004.

However, the parcel of land L.R No. 23393 was not the subject matter of the Petition and was only relevant to the extent that the third file was opened for purposes of fraudulently amalgamating L.R No. 5875/2 with L.R No. 23393.

There was no evidence submitted to the Committee to indicate that the Kenya Defence Forces having allegedly acquired the land in 1986, gazetted L.R No. 5875/2 as a protected area.

Based on the submissions of the National Land Commission, a current search at the Land Registry indicated that no record on the land was available save for that the last registered owner of L. R No. 5875/2 was Mr. M.J. Samuels.

There was no surrender or cancellation of the original certificate of lease held by Mr. Mayer Jacob Samuels on L.R No. 5875/2.

In accordance with the property rates payment request submitted by the Nairobi County Government, the property rates were still due to be paid by Mr. M. J. Samuels signifying that the records of the county still identify Mr. M. J. Samuels as the owner of the land.

The National Land Commission confirmed that the lease for LR. No. 5875/2 expired on 1st November, 2003 and reverted back to the Nairobi County Government by virtue of Article 62 of the Constitution.

The Nairobi County Government in its submissions confirmed that survey of LR. No. 5875/2 had been undertaken and completed and a subdivision scheme approved identifying each sub-plot including plots designated for public utilities.

The Nairobi County Government had already issued allotment letters to the Members of Roysa Community Development Society regularizing individual ownership upon payment of Kshs. 69, 500 of which some of the members had already paid.

There was collusion between officials of the Ministry of Lands and Physical Planning as evidenced by the second and third files in order to effect fraudulent transactions on L. R No. 5875/2 leading to loss of public funds.

Although, the Ministry of Lands and Physical Planning submitted that it was aware that the titles for L. R No. 5875/2 and L.R 23393 had been presented to it for amalgamation, the Ministry did not submit the two titles to the Committee.

The Committee noted with concern that although the Ministry of Lands and Physical Planning submitted that the second and third file were fraudulent, it was still receiving transactions payments from members of Roysa Community Development Society for titling of L.R 5875/2 to individual members.

The Ministry of Lands and Physical Planning never informed the Committee that it was aware there was any sub-division scheme that was ongoing, yet the documents submitted to the Committee indicate that the Ministry was involved in the sub-division process.

In response to the Petitioners' prayers and based on the observations, the Committee recommends that the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the titling process for L. R No. 5875/2 within 180 days of tabling of this Report.

The Committee also recommends that the Director for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L. R No. 5875/2 and the Director of Public Prosecutions does prosecute any person found culpable within 90 days of tabling of this Report.

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

1.0 PREFACE

1.1 Mandate of the Committee

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

- (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- (v) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister.
- (vi) study and review all legislation referred to it.

1.2 Committee subjects

3. The Committee is mandated to consider the following subjects:

- a) Lands
- b) Settlement

1.3 Oversight

4. The Committee oversees the Ministry of Lands and Physical Planning; and the National Land Commission.

1.4 Committee Membership

5. The Committee membership comprises: -

Hon. Dr. Rachael Nyamai, MP – **Chairperson**

MP for Kitui South Constituency

Jubilee Party

Hon. Khatib Mwashetani, MP – **V/Chairperson**

MP for Lunga Lunga Constituency

Jubilee Party

Hon. Jayne Wanjiru Kihara, MP

Member for Naivasha
Constituency

Jubilee Party

Hon Joshua Kutuny Serem, MP

Member for Cherangany
Constituency

Jubilee Party

Hon. Kimani Ngunjiri, MP

Member for Bahati Constituency

Jubilee Party

Hon. Mishi Mboko, MP

Member for Likoni Constituency

**Orange Democratic Movement
(ODM)**

Hon. Omar Mwinyi, MP

Member for Changamwe
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Ali Mbogo, MP

Member for Kisauni
Constituency

**Wiper Democratic Movement
(WDM)**

Hon. Babu Owino, MP

Member for Embakasi East
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Caleb Kipkemei Kositany,
MP

Member for Soy Constituency

Jubilee Party

Hon. Catherine Waruguru, MP

Woman Member for Laikipia
County

Jubilee Party

Hon George Aladwa, MP

Member for Makadara
Constituency

**Orange Democratic Movement
(ODM)**

Hon George Risa Sunkuyia, MP

Member for Kajiado West
Constituency

Jubilee Party

Hon. Jane Wanjuki Njiru, MP

Woman Member for Embu
County

Jubilee Party

Hon. Josphat Gichunge
Kabeabea, MP

Member for Tigania East
Constituency

Party of National Unity (PNU)

Hon. Owen Yaa Baya, MP

Member for Kilifi North
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Samuel Kinuthia Gachobe,
MP

Member for Subukia
Constituency

Jubilee Party

Hon. Simon Nganga Kingara,
MP

Member for Ruiru Constituency

Jubilee Party

Hon. Teddy Mwambire, MP

Member for Ganze Constituency

**Orange Democratic Movement
(ODM)**

1.5 Committee Secretariat

6. The Committee secretariat comprises: -

Lead Clerk
Mr. Leonard Machira
Clerk Assistant I

Mr. Ahmad Guliye
Clerk Assistant III

Mr. Adan Abdi
Fiscal Analyst III

Mr. Joseph Tiyan
Researcher III

Ms. Winnie Kizia
Media Relations Officer III

Ms. Peris Kaburi
Serjeant-At-Arms

Mr. Nimrod Ochieng
Audio Officer

Ms. Jemimah Waigwa
Legal Counsel

2.0 INTRODUCTION

7. The Petition by the former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces was conveyed to the House by the Honourable Speaker on behalf of petitioners on 27th June 2019.
8. The Petitioners wished to draw the attention of the House to the following, that:
 - i. They are former workers of the late Mayer Jacob Samuels who were employed in various cadres in his sisal processing farm and workshop industry on L.R. No. 8575/2, before he passed away in 1974. They lived on the premises since then;
 - ii. The deceased 's sons revived the business later and the petitioners continued working for them. The employers defaulted on paying salaries and instead requested the employees to continue living on the land when they were abroad;
 - iii. The petitioners registered Roysa Community Development Society to safeguard the land from grabbers;
 - iv. They used the society to request the Nairobi City County Government to allocate the land to them.
 - v. A subdivision scheme was approved by the County Government of Nairobi and the National Land Commission and the petitioners were issued with letters of allotment;
 - vi. A platoon of the Kenya Defence Forces (KDF) evicted them from the land and demolished their homes, business premise and old structures in April 2019 on grounds that the land belonged to KDF. They have since been blocked from accessing the premises and
 - vii. The is no matter pending in court on relation to the petition.
9. Therefore, the petitioners pray that the National Assembly through the Departmental Committee on Lands;
 - i. Ensures the upholding of the petitioners' right to occupy, reside and do business and own LR. No. 5875/2
 - ii. Expedites the issuance of subtitles/leases for the approved letters of allotment issued to the members of Roysa Community Development Society;
 - iii. Preserve the title deeds and issues for public purposes whose allotments are held by the society
 - iv. Investigates the eviction and invasion by the Kenya Defence Forces from LR. No. 5875/2 and any claim of ownership by the same or any other interested party; and

- v. Order compensation for the demolition of the petitioners 'premises and any other relief that may be available

3.0 SUBMISSIONS

3.1 Submissions by the petitioners

10. The Committee held a meeting with the petitioners on Tuesday, 6th August 2019. During the meeting the petitioners informed the Committee as follows:
11. The petitioners stated that they used to work for the late Mayer Jacob Samuels, who owned the land in question land in Roysambu constituency. He left the country and passed on in 1974.
12. Thereafter the late Mayer Jacob Samuels' two sons came to manage the land and operate the business. They alleged that the brothers were deported from the country after they declined an offer on the compulsory acquisition of the land made by the Kenya Defence Forces (KDF). The owners had made an offer of Ksh. 26 million for the land, while the military offered Ksh 3 million.
13. The petitioners also stated that although the KDF intended to acquire the said land, senior military officers advised that the land was not suitable for use by the military as it was located in the middle of a densely settled area and it would require the acquisition of adjacent land to create enough land to secure a military facility.
14. There was also no evidence to indicate that the military paid any compensation to the owner.
15. In 2003 the government declined to renew the lease for the land and the two sons had also left the country leaving the workers with no income. The workers then decided to start businesses in the area that included a garage and parking yard for lorries in order to make ends meet.
16. In 2004 a group of invaders attempted to enter the land and erect old containers on it. However, the invaders were repulsed. Following the attempted grabbing of the land the petitioners were advised to register a company and use it to acquire the land.
17. On 6th May 2004 the petitioners registered a company known as Roysa Community Development Society; registration No. No. 446760 and used it to request the County Government of Nairobi to allocate them the land.
18. On 17th February 2015 the County Government of Nairobi wrote to the National Land Commission indicating that the County Government had allocated the land to the

society. The Commission in a rejoinder dated 10th March 2016 informed the County Government of Nairobi that since the lease to the land had expired and was not renewed, the land had reverted to the County Government and therefore it was in order for the County Government to allocate it to Roysa Community Development Society. The petitioners tabled the said correspondence to the Committee.

19. The petitioners accepted the offer and paid the required fees for the issuance allotment letters through their trustees. They also paid the required fees to amend the index map and for valuation of the parcel of land to facilitate subdivision and issues of a certificate of subdivision.
20. However, in April 2019 a group of people in military uniform and in green lorries invaded the land and displaced the petitioners. The invaders also erected six tents on the land.

3.2 Submissions by the Ag. Chief Executive Officer, National Land Commission

21. The Committee held a meeting with the Ag. Chief Executive Officer, National Land Commission on 8th August 2019. During the meeting the Ag. Chief Executive Officer informed the Committee that apart from the petitioners, the Kenya Defence Forces and Uchumi Supermarket Ltd also claimed to own the land that is the subject of the petition. She also stated that the County Government of Nairobi in conjunction with the National Land Commission had also issued letters of allotment to the petitioners.
22. Mr. Antipas Nyanjwa Deputy Director Investigations, National Land Commission informed the Committee that he was tasked by the Commission to investigate the matter and submitted a report that established the following:
23. **Chronology of land parcel LR No. 5875/2:** Lt. Col James Hays Sadler who was the Commissioner for East Africa Protectorate leased LR. No. 1012 comprising 4443 acres in 1904 to Henry Herbert Tarlton for a period on 99 years. The lease then subdivided the land into five plots each comprising 200 acres in 1920 and the said plots were further subdivided into 20-acre plots in 1927. LR 5875/2 comprising 17.16 acres was one of the plots created out of the further subdivision.
24. The plot was transferred to Mr. H.V. Briscoe on 19th February 1930, who transferred it to Mrs. K. M Forbes on 19th February 1930. Mrs. K. M Forbes also transferred it to Mr. F.K. Kelly on 1st MARCH, 1940, who transferred the plot to E.A. Residential Estate Limited. In 1964 a Mr. Smith was appointed as a liquidator of the company by the Kenya Government, but the company transferred the plot to Mr. Bau Salou Dean, Mr. Bau Saoul Dean also transferred it to Mr. Mayer Jacob Samuels, who died in 1974 but remained the registered owner ofc the land.

25. In 1976 a Mr. Rapahel Jacob Samuel a brother to the deceased owner and Mr. Meshumor Jacob Samuels the deceased's half-brother applied to the High Court in Nairobi for grant of letters of administration under Probate and Administration No. 103 of 1976.

In a letter to the Commissioner of Lands, dated 31st January 1986, Robson, Harris & Company Advocates, claimed that Mr. Meshumor Jacob Samuels obtained an order vesting the land in him as the sole registered owner.

26. **Purported acquisition of LR. 5875/2 by the Kenyan Military in 1985:** The Government through Gazette Notice No. 5151 dated 22nd November 1985 published an intention to compulsorily acquire the land to set up a Kenya Army School. But Mr. Meshumor Jacob Samuel through his advocate protested and an inquiry was held on the 5th and 18th of February 1986. During the inquiry Mr. Meshumor Jacob Samuel made an offer of Ksh. 25 million for the land while the government valued it at Ksh. 3,535,000, which Mr. Meshumor Jacob Samuel rejected and went to court.

27. The court ruled that the government acquires the land at a fee of Ksh. 23 million. The government appealed but in 1997 the court stood over the case generally to allow for both parties to reach an out of court settlement, but no agreement was reached to date.

28. In a letter Ref. DOD/698/2/Wks dated 26th January 1987 the Permanent Secretary, Department of Defence informed the Commissioner of Lands that the military had carried out an inspection of the land and found it unsuitable for the intended purpose unless four additional parcels of land surrounding the plot was acquired to enhance security as the plot was located in a residential area.

29. On 10th April 1987 Major General Muniyao wrote to the Commissioner of Lands vide a letter Ref. DOD/CGS/49/LND asking the Commissioner to disregard the content of the letter by the Permanent Secretary until the military made further contact on the issue.

30. However, the military did not make the said contact to date. The Ministry of Defence also indicated it could not pay the Ksh. 3,530,500 as per the government valuation of the land due to financial constraints. Therefore, there is no evidence that the government made any payment towards the compulsory acquisition of the land.

31. **Current status of the land:** The Committee was informed that a current search at the Land Registry indicated that no record on the land were available, However the investigation officers extracted the above-mentioned information from the valuation

file. A search at the County government of NAIROBI indicated that the land was last registered to Mr. M.J. Samuels.

32. On 4th November 1985 Mr. M J. Samuel, through Tysons Habenga Limited, requested for an extension of the lease for the land in question in a letter Ref. BOR/VAL/mm explaining the land had only eighteen years left on the 99 years lease. However, the Commissioner of Lands refused to extend the lease. Technically the land then reverted to the government and by extension to the County Government of Nairobi as provided for the Constitution.
33. **Other Claimants:** The Committee was informed that other parties had made several attempts to acquire the land fraudulently. The said parties include Solio Construction Limited that claimed to have been allocated the land by the government. However, the investigations by the commission revealed that the said grant was fraudulent as the company had two sets of title for the same property. the first was registered on 18th May 1992 with two different IR numbers, raising doubt on the authenticity of the title. The title was also charged to Barclays Bank of Kenya on 26th October 1993 even before the title was registered and stamp duty paid.
34. The second set of title held by Soli Constructions company Limited was registered on 24th January 2001 when the same title was already charged to Barclays Bank of Kenya.
35. There was no surrender of the original certificate of lease and the claim that this was a new grant of 99 years effective 1st July 2019 but this cannot be so because the old lease held Mr. Mayer Jacob Samuels was still valid and was to expire 2003. Further the Solio Construction Limited title was registered on 18th May 1992 before the lease commenced on 1st July 1999.
36. Solio Construction Limited then purported to have sold the land to Kasarani Mall Limited who transferred it to Uchumi Supermarkets. 9998 shares of Kasarani Mall are held by Uchumi Supermarket according to records obtained from the Registrar of Companies.
37. **Conclusion:** In a letter Ref. 21046/II/50 addressed to Robson Harris & Company Advocates dated 13th March 1986 the Commissioner of Lands declined to renew the lease held by Mr. Mayer Jacob Samuels. This meant that the land reverted to the government and by extension of the new Constitution to the County Government of Nairobi. The County Government of Nairobi vide a letter Ref. No. LS/007/001754/sgm/MK dated 9th 2018 requested the Permanent Secretary Ministry of Lands to

include Roysa Community Development Society in the titling of the land LR.5875/2.

3.3 Submissions by the Chief Administrative Secretary, Ministry of Lands and Physical Planning

38. The Committee held a meeting with the Chief Administrative Secretary Ministry of Lands and Physical Planning on 15th October, 2019. The Chief Administrative Secretary informed the Committee that;
39. **Background;** L.R No. 5875/2 measuring 17.16 acres arose from a subdivision of L.R. No. 1012 which measured approximately 4,443 acres. In 1964, it was transferred to Mayer Jacob Samuels from Bau Salau under a 99-year lease with effect from 1st November 1904. The lease expired on 1st November, 2003.
40. **Notice of intention to acquire the land:** The Commissioner of Lands received a request for the reservation and eventual acquisition from the Department of Defence vide a letter dated 8th August 1985. Subsequently the Government published a notice of intention to acquire the land vide Kenya Gazette Notice No. 5151 and 5152 of 22nd November 1985.
41. The notice reflected the size of the land as being 16,16 acres but this was corrected vide a corrigenda in the Kenya Gazette on March 14th, 1986 to read 17,16 acres.
42. A 'Notice of Taking Possession' by the government absolutely was lodged and registered in volume N. 10, Folio 494/30 File 6943 on June 25, 1986.
43. **Request for extension of lease:** The Chief Administrative Secretary submitted a copy of a letter Tysons Habenga Limited on behalf of Mr. M/J. Samuel dated 4th November 1985 seeking an extension of the lease of the land LR. No. 5875/2. The said letter indicated that the term of the lease was 99 year effective from 1st November 1904. The lease expired on 1st November 2003
44. On 1st December 1995 a request for allocation of the same land from Prilscot Company Limited was communicated but was declined as the land had prior commitments and was not available for allocation.
45. The Chief administrative Secretary informed the Committee that the National Land Commission and the County Government of Nairobi made an irregular attempt to

allocate the same land to Roysa Development Society. He stated that LR No. 5875/2 was compulsorily acquired by the Government and reserved for KDF and hence is not within the purview of the County Government or the National Land Commission. Therefore, it was not available for allocation or subdivision.

46. The Committee held a follow up meeting with the Chief Administrative Secretary, Ministry of Lands & Physical Planning, who was accompanied by Mr. Edward Kosgei, Director, Land Administration, on Tuesday, 26th November, 2019.
47. During the meeting the Chief Administrative Secretary retaliated that the land in question initially belonged to one Mr. Mayer Jacob Samuels with 99-years lease that expired in 2003.
48. The Chief Administrative Secretary emphasized that the Government acquired the said parcel of land in 1985 for military use, however the acquisition was not completed as the owner went to court challenging the value of the land.
49. The court enhanced the amount payable to the owner in lieu of the land to 23 million. The government appealed the ruling to allow for an out of court settlement. The Department of Defence took possession of the land on 25th June, 1986 after depositing Ksh 3 million in court.
50. In 2001, officials in the Ministry fraudulently opened a new file for the land in question and allocated the same to Solio Construction Company Limited through an allotment letter as a fresh allocation. The land was transferred to Kasarani Mall, a subsidiary of Uchumi Supermarkets Plc on 20th March, 2001 as LR No. 85371/2.
51. In 2018, the said officials in the Ministry sought to amalgamate the parcel of land LR No. 5875/2 with another parcel LR. No. 23393 registered in the name of Kasarani Mall using the latter file.
52. The amalgamation deed plan and the new lease had been prepared however, the new lease could not be registered as the titles were charged by banks.
53. Mr. Edward Kosgei, Director, Land Administration stated that the Ministry officers implicated in the fraudulent transactions on the second file were;
 - a. Mr. S.K W. Wangilla,(deceased) - who opened the fraudulent file
 - b. Ms. Sarah Mwenda – who signed the transfer between Solio Construction Company and Kasarani Mall in 2001
 - c. Mr. Fedson Orare – who signed the amalgamation registration form regarding parcel of land LR No. 5875/2 with another parcel LR. No. 23393

- d. Mr. Gordon Ochieng - who endorsed the amalgamation registration form regarding parcel of land LR No. 5875/2 with another parcel LR. No. 23393
 - e. An unidentified officer from the Survey of Kenya.
54. The Committee held a third meeting with the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 28th November 2019. The Chief Administrative Secretary was accompanied by Ms. Sarah Mwenda, the Chief Land Registrar, and Mr. Fedson Orare, a Senior Land Registrar. They informed the Committee that;
55. The original file regarding the land in question No. 21946/2, LR. No. 5875 with an acreage of 17 acres indicated that the land belonged to Mr. Mayer Jacob Samuels. It contained a legal notice for compulsory acquisition by the Kenya Defence Forces.
56. They stated that the title deed for LR. No. 5875/2 was in a deed file stored in the Land Registry.
57. A second file with file no. 202033 & LR No. 5875/2, with an acreage of 6.864 Ha was fraudulently opened by Mr. S.K W. Wangilla, an officer in the Ministry, who is deceased. It contained an allotment letter that was issued on 26th June, 1999 to Solio Constructions Limited, which was signed by the deceased officer. The said file also contained the following documents:
- a) An acceptance of offer letter dated 22nd January, 2001 and a cheque of 3,306,800 for the allotment letter and a receipt from the Ministry of the same amount dated, 23rd January 2001.
 - b) A certificate of incorporation dated 18th August 1999 and letter of allotment was issued on 26th June, 1999.
 - c) An indent from the Survey of Kenya dated 19th October, 2000 for the Deed Plan. .
 - d) A letter from the then Permanent Secretary for Lands – Eng. E. K Mwongera - dated 22nd July 2004 highlighting the fraudulent transactions on the land.
 - e) A letter dated 26th July 2004 by Ms. J.M Okungu, the then Commissioner of Lands confirming to the Permanent Secretary that the land was acquired for Military use and a compensation of 3,530, 500 was to be paid to the owner by the Department of Defence.
 - f) A letter dated 28th November 2005 by Uchumi Supermarkets Plc to the Commissioner of Lands making reference to a meeting and indicating that the company was aware that the land had been acquired by the government for military use and making reference of a land tribunal that would be formed determine the matter.

58. Ms. Sarah Mwenda denied signing the transfer form, which transferred the parcel of land LR. 5875/2 from Solio Construction Company Ltd to Kasarani Mall Ltd in 2001, although a stamp bearing her unique number (14) was used in the said form.
59. The officials also stated that a third file No. 215826, LR No. 23393 for land owned by Grace Independent Baptist Mission Trustees, was used by officials in the Ministry to register an amalgamation with land parcel No. 5875/2. Upon perusal of the third file the Committee noted that the lease for LR. No. 23393 had also expired.
60. Mr. Fedson Orare acknowledged that he signed a surrender of titles for LR.NO. 5875/2 and LR No. 23393 together with a new lease which were booked at the Ministry on 7th February 2019 by Kasarani Mall Company Ltd. He informed the Committee that one Mr. Ochieng prepared the documents and that he signed the amalgamation form based on the information provided by the said Mr. Ochieng.
61. Mr. Orare also claimed that the file containing the said amalgamation form did not contain a caveat, when he acted on it.
62. However, he stated that the said amalgamation was not completed, and the surrendered documents were in the custody of the chief Land Registrar. He added that the same were secured at the Land Registry at the Ministry of Lands and Physical Planning.

3.4 Submissions by the Cabinet Secretary Ministry of Defence

63. The Committee held a meeting with the Principal Secretary, Ministry of Defence on Tuesday, 5th November 2019. During the meeting the Principal Secretary informed the Committee that;
64. The Ministry of Defence lawfully owns the parcel of land that is the subject of the petition and the same was lawfully occupied by the Kenya Defence Forces.
65. The land in question LR. No. 5875/2 was compulsorily acquired by the Ministry of Defence through the Commissioner of Lands vide Gazette Notices No. 5151 and 5152 of 1985.
66. The land was valued at Kshs. 3,530,500 by the Commissioner of Lands which sum was duly paid by the Ministry to the Commissioner of Lands.
67. Mr. Samuels had commenced proceedings to challenge the government valuation of the land in the High Court under Land Acquisition Appeal No. 2 of 1986. In

accordance with section 13(2) of the Land Acquisition Act, the compensation money was deposited in the High Court by the Commissioner of Lands and a deposit receipt issued by the High Court Registrar. The money was subsequently deposited to Middle East Bank and released to Mr. Jacobs on 3rd October, 1987. This was confirmed by the Attorney-General in a letter dated 23rd April, 1997 and M/S Robson Harris and Company Advocates confirming that Kshs. 3,530,500 was received by them on behalf of their client. In accordance with section 19(1) of the Land Acquisition Act, the Commissioner of Lands issued a notice of taking possession on 25th June 1986. The notice also required Mr. Jacobs to deliver the title document to the Registrar of Titles for cancellation. The title for the land vests in Government free from encumbrance in accordance with section 19(4) of the Land Acquisition Act.

68. The High Court enhanced the award to Kshs 23,000,000 and the same was subsequently appealed by the Attorney-General vide Civil Appeal No. 109 of 1987. The Appeal was however stood over generally by consent of the Parties to enable them to pursue an out of court settlement. Owing to the fact that the family of Mr. Jacobs relocated from Kenya to Israel, the out of court negotiations were not concluded.
69. The land was used as a temporary camp for military athletes due to its proximity to Kasarani sports complex. In early 2019, the same land was identified as a potential land for construction of Senior Non-Commissioned Officers housing under the affordable housing program.
70. The Ministry was not aware of any other party claiming the land and no persons were evicted or property destroyed when the Ministry improved the security of camp through the deployment of officers who erected tents on the land in question as no persons were residing in the camp as claimed by the petitioners.
71. The Nairobi City Council lacked the capacity to allocate the land as it did not own the same land and the Ministry of Defence did not consent to the purported subdivision and allocation of the Land in question to the petitioners by the County Government and the National Land Commission.

3.5 Submissions by the County Secretary Nairobi City County Government

72. The Committee received written submissions from the Mr. Leboo Ole Moritant, the County Secretary, Nairobi City County dated 7th November 2019. He stated that:

73. According to the County Government records the owner of the land in question LR. No. 5875/2 located in Roysambu is Mr. M. J Samuels.
74. Roysa Community Development Society in a letter dated 6th May 2004, in which the society indicated that its membership comprised former workers of the owner of the parcel of land and that they had lived on the land since the early 1970s, requested the County Government of Nairobi to allocate them the land..
75. The County Government carried out due diligence on the application by the society and established, among other things, that:
- i. The squatters living on the parcel of land in question were about 400 to 500 persons.;
 - ii. There was an informal primary school and nurse school for the squatters' children;
 - iii. The land was occupied by 43 rows each with 10 permanent and semi-permanent houses;
 - iv. There were few commercial buildings, garages and workshops;
 - v. There were two structures used as churches; and
 - vi. There were numerous kiosks and churches.
76. On 17th February 2015 the County Government of Nairobi wrote to the National Land Commission indicating that the County Government had no objection in the allocation of the land in question to Roysa Community Development Society. The Commission in rejoinder dated 10th March 2016 informed the County Government of Nairobi that since the lease to the land had expired in 2003 and was not renewed the land had reverted to the county government and it was for the County Government to allocate it to Roysa Community Development Society.
77. The County Government then proceeded to allocate the parcel of land to the petitioners as per the Nairobi County Regularization Act of 2015, which gave the County Government the authority to settle people who occupied county or government land. There was also no court order preventing the allocation of the said land.
78. The petitioners accepted the offer and paid for the issuance an allotment letter through their trustees and they also paid the required fee to amend the index map and for valuation of the parcel of land to facilitate subdivision and issues of a certificate of subdivision and lease.
79. The County Government also carried out a survey of the land and the Director of Survey approved the said survey on 1st November 2017.and also produced an area list for each sub plot. The same was forwarded to the Land Registrar to facilitate the issuance of titles to the squatters on 19th December 2017.

80. The Ministry of Lands and Physical Planning started the processing of titles by issuing letters to individual members of Roysa Community Development Society. However, the process of titling was not completed for unknown reasons

3.6 Submissions by the Chief Executive Officer, Uchumi Supermarket Ltd

81. The Committee held a meeting with Mr. Mohamed Mohamed the Chief Executive Officer Uchumi Supermarket Ltd on Thursday 21st November, 2019 and a subsequent meeting on Tuesday, 26th November, 2019. During the meetings the Chief Executive Officer informed the Committee that:
82. Uchumi Supermarkets Plc lawfully acquired the land in question land, LR.No.5875/2 through its subsidiary Kasarani Mall Ltd from Solio Construction Company Ltd in 2001 and paid Ksh. 85, 000, 000 to Solio Construction Company.
83. According to the records held by Kasarani Mall Ltd a lease granting the piece of land to Solio Construction Company Limited was issued vide Grant of Lease No. I.R 85371 on 1st July 1999.
84. The transfer of the parcel of land from Solio Construction Company Ltd to Kasarani Mall Ltd was registered at the Lands Titles Registry and was signed by the Commissioner of Lands, Mr. Sammy Silas Komen Mwaita on behalf of the President and witnessed by the Registrar of Titles, Ms. Sarah Mwenda.
85. The Uchumi Supermarkets Plc then used title deed for the land to secure financing from Kenya Commercial Bank (KCB) and Southern African Trade and Development Bank on 7th December 2004. The facilities were paid and discharged on 28th June 2011.
86. The Uchumi Supermarkets Plc had also entered into agreement to sell the land to Jewel Complex Limited through financing by the bank. The buyer sought to buy the said parcel of land as amalgamated with LR. No 23393 also owned by Kasarani Mall.
87. Consequently, the company through its advocates requested KCB to release the two titles to facilitate change of user and amalgamation. The surrender of titles and the new lease were booked at the Ministry of Lands as evidenced by the booking form dated 7th February 2019 issued to the company.

88. The transfer of the land was a subject of investigations by the Directorate of Criminal following allegations of fraud and a caveat by the government that had been placed on the title. The Chief Executive Officer further stated that the DCI had found that the property was procedurally transferred to Uchumi Supermarkets Plc and that there was no evidence of conspiracy between Solio Construction, Uchumi Supermarkets Plc and the Land Registry during the allocation of the property. He also stated that the investigation found the caveat on the title held by Kasarani Mall Ltd had no legal basis.
89. The office of the Attorney General had also investigated the allegations of fraud relating to the land and found that the Solio Construction Company had transferred a valid title to Kasarani Mall.
90. Kasarani Mall had also filed a case in court Civil Case No. 495 of 2011 and obtained a permanent injunction against Roysambu Community Self Help Group who invaded the land and made similar claims to those contained in the petition. Therefore, the question of ownership of the property had been heard and determined in favour of Kasarani Mall by the Environment and Land Court.
91. The County Government of Nairobi demanded and accepted payments of land rates by Kasarani Mall as evidenced by payment receipts issued to the company by the County Government although, the County Government had not updated its records and still indicated the owner of the land as being Mr. M. J. Samuels.
92. Similarly, the Commissioner of Lands and its successor, the National Land Commission had continued to demand payment of annual land rent from Kasarani Mall.
93. The County Government of Nairobi and the National Land Commission have never sought to revoke the grant of title held by Kasarani Mall or claimed a reversion of the title to the Government.
94. The Petitioners have not produced documents to prove that they were indeed employees of the late Mayer Jacob Samuels and their National Identification Numbers reveal that they were minors at the time they claim to have been employees and some could not have been born at the time.
95. The petitioners had also not been in occupation of the land or erected structure on the property as claimed in the petition. Kasarani Mall took possession of the land in

2001. The company hired security guards to secure the land until the said guards were evicted by the Kenya Defence Forces.

96. The Chief Executive officer acknowledged that the company had a dispute regarding the land in question with the Kenya Defence Forces and the same was being address through negotiations led by the Head of Public Service

3.7 Submissions by the Company Secretary Kenya Commercial Bank

97. The Committee held a meeting with the Director Legal Service, Kenya Commercial Bank on 21st November 2019. During the meeting the Director Informed the Committee that:

98. The Bank had entered into a sale agreement with Kasarani Mall Ltd for the sale of the land in question LR.NO. 5975/2 to a client financed by the bank. The said parcel of land was used as a security for the transaction

99. The bank was not in possession of the original title deed for LR. No. 5875/2 as Kasarani Mall Ltd through Hamilton, Harrison& Mathew Advocates had requested the bank to release the documents to facilitate the amalgamation of land parcels No. LR No.5875/2 with LR.NO 23393 both owned by Kasarani Mall.

100. The bank accepted the request and released the two titles to the law firm.

101. The amalgamation of the two parcels has not been completed awaiting the issuance of a certificate of title upon the lifting of a caveat placed by one of the creditors of Uchumi Supermarkets Ltd. However, the two title deeds were surrendered to the Land Registry at the Ministry of Lands and Physical Planning as evidenced by a booking form issued to Kasarani Mall.

3.8 Submissions by Jewel Complex Limited

102. The Committee held a meeting with the Director, Jewel Complex Limited on 21st November 2019. He informed the Committee that:

103. The company was an interested party in the matter as it was in the process of purchasing the land in question LR NO.5875/2 and LR NO 23393 from Kasarani Mall on condition that the two parcels were amalgamated.

104. Jewel Complex Limited established contacts with Uchumi Supermarkets Limited through the Chief Executive officer Mr. Mohamed A. Mohamed and through its lawyers Messrs. Muchoki Kangata Njenga & Company Advocates.
105. He also stated that Jewel Complex Limited had paid a deposit of Ksh 330, 000,00 by way of Real Time Gross Settlement to the vendor's advocate client account held by Harrison Hamilton and Mathew Advocates at KCB to facilitate the purchase of LR. No. 5875/2.
106. The company had also acquired a loan from Equity Bank to facilitate the purchase of part of L.R 23393
107. He stated that the petition was submitted to the National Assembly in bad faith since the petitioners were named as the 4th defendants in Nairobi ELC No. 495 of 2011 in which they lost the case and no appeal was lodged in court against the decision of the court. In the said suit, the petitioners referred themselves as Roysa Community Self Help Group while in the petition they stated that they were Roysa Development Society. Therefore, the petition was an attempt to overturn a decision of the High Court.
108. Jewel Complex Ltd had committed a substantial amount of money by way of a deposit and entered into an agreement with the Kenya Commercial Bank that shall substantially affect it in the event of adverse findings by the Committee.

4.0 OBSERVATIONS

The Committee made the following observations:

1. The owner of the land in question LR. No. 5875/2 located in Roysambu, measuring 17.16 acres under a lease of 99-years which commenced from 1st November 1904 and expired on 1st November, 2003 is Mr. M. J Samuels.
2. Whereas there exists evidence that the government intended to acquire LR. No. 5875/2 belonging to Mr. M. J Samuels as evidenced by gazette notices No. 51515 and 51552 of 1985, the acquisition process was not completed as the out of court negotiations between the government and Mr. Meshumor Jacob Samuel on amount of compensation to be made were never concluded. (Annex 1).
3. There was contradictory information in the Ministry of Defence concerning the intended acquisition of L. R No. 5875/2. Indeed, in a letter dated 26th January 1987, the Permanent Secretary, Department of Defence informed the Commissioner of Lands that the military had carried out an inspection of the land and found it unsuitable for the intended purpose unless four additional parcels of land surrounding the plot was acquired to enhance security as the plot was located in a residential area. However, on 10th April 1987 Major General Munyao wrote to the Commissioner of Lands vide a letter Ref. DOD/CGS/49/LND asking the Commissioner to disregard the content of the letter by the Permanent Secretary until the military made further contact on the issue. Based on the submissions of the National Land Commission, the military did not make the said contact to date.
4. Although, the Ministry of Defence submitted that the land was valued at Kshs. 3,530,500 and the sum was duly paid by the Ministry to the Commissioner of Lands, the Committee noted that the High Court under Land Acquisition Appeal No. 2 of 1986 had enhanced the award to Kshs. 23,000,000 and the same has not been paid to date to Mr. Meshumor Jacob Samuel. The Committee noted that the provisions of section 8 of the Land Acquisition Act Cap. 295 (now repealed), required that where land is compulsorily acquired, full compensation was to be paid promptly. This was never done. (Annex 2)
5. Additionally, despite, the fact that the Ministry of Defence submitted a receipt showing that Kshs. 3,530,500 was paid to the Commissioner of Lands, there was no evidence submitted to indicate that the money was deposited to Middle East Bank and released to Mr. Jacobs.
6. Further, while the Ministry of Defence submitted that the land in question was formally

handed over to the Ministry on 25th June, 1986, the Committee noted with concern that the Kenya Defence Forces only occupied the said land thirty-three years later, this being in 2019 and the land remains undeveloped to date. This was further confirmed by a letter dated 14th June, 2004 by the then Permanent Secretary, Ministry of Lands and Settlement to Mr. John Githongo the then Permanent Secretary in the office of the President indicating that the Kenya Defence Forces had already taken possession of the property and moved in but had thought the cost was too much and consequently moved out of the property.

7. Based on the submissions of the Nairobi County Government, the squatters living on the parcel of land in question were about 400 to 500 persons, there was an informal primary school and nurse school for the squatters' children, the land was occupied by 43 rows each with 10 permanent and semi-permanent houses, there were few commercial buildings, garages and workshops, there were two structures used as churches and there were numerous kiosks and churches. This was corroborated by the minutes of 25th June, 1986 submitted by the Ministry of Defence which indicated that there were two hundred and fifteen persons living there, there were forty-three blocks still existing and two jua kali garages.
8. There were three files that had been opened in respect of LR No. 5875/ 2 these being-
 - i. The original file regarding the land in question No. 21946/2, LR. No. 5875 with an acreage of 17 acres indicating that the land belonged to Mr. Mayer Jacob Samuels.
 - ii. A second file with file no. 202033 & LR No. 5875/2 with an acreage of 6.864 Ha. which contained an allotment letter that was issued on 26th June, 1999 to Solio Constructions Limited and contained other documents.
 - iii. A third file no. 215826, LR No. 23393 for land owned by Grace Independent Baptist Mission Trustees, a file which was used by officials in the Ministry to register an amalgamation with land parcel No. 5875/2.
9. The Ministry of Lands and Physical Planning submitted and confirmed that the second file and third file had been opened fraudulently as evidenced by-
 - i. The purported transfer of lease to Solio Construction Limited was done when there was already a subsisting lease of 99 years which was to expire in 2003 and the transfer was effected in 2001, two years before the expiry of the lease.
 - ii. The Chief Land Registrar, Ms. Sarah Mwenda denied signing the transfer form transferring the parcel of land LR. 5875/2 from Solio Construction Company Ltd to Kasarani Mall Ltd in 2001, although a stamp bearing her unique number (14) was used in the said form.
 - iii. The third file no. 215826, LR No. 23393 allegedly seeking to amalgamate land parcel No. 5875/2 with LR. No. 23393 was being done yet the lease for LR. No. 23393 had also expired.

- iv. The certificate of Incorporation of Solio Construction Company was dated 18th August 1999 while the letter of allotment was issued on 26th June, 1999 revealing that the allotment was done two months before the Company was incorporated.
 - v. A letter dated 14th June, 2004 by the then Permanent Secretary, Ministry of Lands and Settlement to Mr. John Githongo the then Permanent Secretary in the office of the President instructing the Anti-Corruption Commission to investigate and take action against the fraudulent allocation of L.R No. 5875/2 to Solio Construction Company; and
 - vi. The subsequent attempt to amalgamate the two pieces of land was being done albeit the existence of a caveat on the land dating back to 2004.
10. However, the parcel of land L.R No. 23393 was not the subject matter of the Petition and was only relevant to the extent that the third file was opened for purposes of fraudulently amalgamating L.R No. 5875/2 with L.R No. 23393.
 11. There was no evidence submitted to the Committee to indicate that the Kenya Defence Forces having allegedly acquired the land in 1986, gazetted L.R No. 5875/2 as a protected area.
 12. Based on the submissions of the National Land Commission, a current search at the Land Registry indicated that no record on the land was available save for that the last registered owner of L. R No. 5875/2 was Mr. M.J. Samuels.
 13. There was no surrender or cancellation of the original certificate of lease held by Mr. Mayer Jacob Samuels on L.R No. 5875/2.
 14. In accordance with the property rates payment request submitted by the Nairobi County Government, the property rates were still due to be paid by Mr. M. J. Samuels signifying that the records of the county still identify Mr. M. J. Samuels as the owner of the land.
 15. The National Land Commission confirmed that the lease for LR. No. 5875/2 expired on 1st November, 2003 and reverted back to the Nairobi County Government by virtue of Article 62 of the Constitution.
 16. The Nairobi County Government in its submissions confirmed that survey of LR. No. 5875/2 had been undertaken and completed and a subdivision scheme approved identifying each sub-plot including plots designated for public utilities.
 17. The Nairobi County Government had already issued allotment letters to the Members of Roysa Community Development Society regularizing individual ownership upon

payment of Kshs. 69, 500 of which some of the members had already paid.

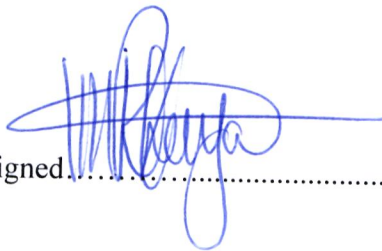
18. There was collusion between officials of the Ministry of Lands and Physical Planning as evidenced by the second and third files in order to effect fraudulent transactions on L. R No. 5875/2 leading to loss of public funds.
19. Although, the Ministry of Lands and Physical Planning submitted that it was aware that the titles for L. R No. 5875/2 and L.R 23393 had been presented to it for amalgamation, the Ministry did not submit the two titles to the Committee.
20. The Committee noted with concern that although the Ministry of Lands and Physical Planning submitted that the second and third file were fraudulent, it was still receiving transactions payments from members of Roysa Community Development Society for titling of L.R 5875/2 to individual members.
21. The Ministry of Lands and Physical Planning never informed the Committee that it was aware there was any sub-division scheme that was ongoing, yet the documents submitted to the Committee indicate that the Ministry was involved in the sub-division process.

5.0 COMMITTEE RECOMMENDATIONS

In response to the Petitioners' prayers and based on the observations, the Committee recommends that-

1. The Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the titling process for L. R No. 5875/2 within 180 days of tabling of this Report.
2. The Director for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L. R No. 5875/2 and the Director of Public Prosecutions does prosecute any person found culpable within 90 days of tabling of this Report.
3. The Ministry of Lands and Physical Planning does secure the title relating to L.R 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R 5875/2.

Signed



Date

5/12/2019

2019

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



NATIONAL ASSEMBLY

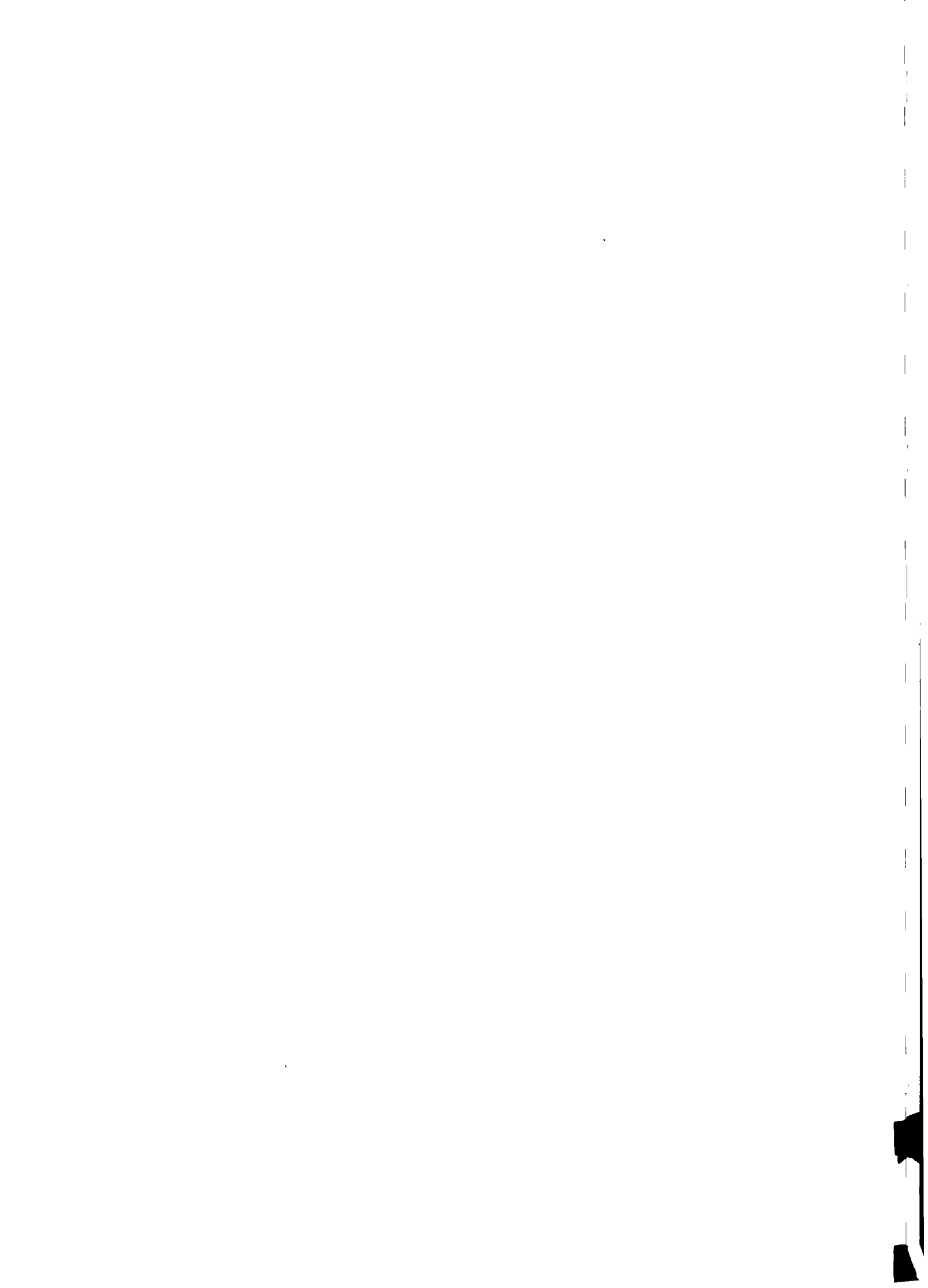
CLERK'S CHAMBERS

DEPARTMENTAL COMMITTEE ON LANDS

MEMBERS ADOPTION LIST

Consideration of the Report on the Petition by former workers of the Late Major Jacob Samuels regarding invasion and eviction of the workers from their land in Poyam constituency by K.D.F.

NO	NAME	SIGNATURE
1.	Hon. Dr. Rachael Nyamai, MP - Chairperson	
2.	Hon. Khatib Mwashetani, MP - Vice Chairperson	
3.	Hon. Jayne Wanjiru Kihara, MP	
4.	Hon. Joshua Kutuny Serem, MP	
5.	Hon. Kimani Ngunjiri, MP	
6.	Hon. Mishi Mboko, MP	
7.	Hon. Omar Mwinyi Shimbwa, MP	
8.	Hon. Ali Mbogo, MP	
9.	Hon. Babu Owino, MP	
10.	Hon. Caleb Kipkemei Kositany, MP	
11.	Hon. Catherine Waruguru, MP	
12.	Hon. George Aladwa, MP	
13.	Hon. George Risa Sunkuyia, MP	
14.	Hon. Jane Wanjuki Njiru, MP	
15.	Hon. Josphat Gichunge Kabeabea, MP	
16.	Hon. Owen Yaa Baya, MP	
17.	Hon. Samuel Kinuthia Gachobe, MP	
18.	Hon. Simon Nganga Kingara, MP	
19.	Hon. Teddy Mwambire, MP	



IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 5. Mr. Douglas Katho | - | Clerk Assistant II |
| 6. Ms. Jemimah Waigwa | - | Legal Counsel |
| 7. Mr. Joseph Tiya | - | Research Officer |
| 8. Mr. Nimrod Ochieng | - | Audio Recording Officer |
| 9. Ms. Peris Kaburi | - | Serjeant At Arms |

MIN. NO. NA/DCS/LANDS/2019/374: PRELIMINARIES

The meeting was called to order at thirteen minutes to Ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2019/375: ADOPTION OF THE DRAFT REPORT ON THE PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROUSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

The Committee unanimously adopted the draft report on the petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu constituency by the Kenya Defence Forces and made the following recommendations in response to the Petitioners' prayers-

- 1. The Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the titling process for L. R No. 5875/2 within 180 days of tabling of this Report.**
- 2. The Director for Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L. R No. 5875/2 and the Director of Public Prosecutions does prosecute any person found culpable within 90 days of tabling of this Report.**
- 3. The Ministry of Lands and Physical Planning does secure the title relating to L.R 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R 5875/2.**

MIN. NO. NA/DCS/LANDS/2019/376: ADJOURNMENT

The meeting was adjourned at fifteen minutes to Two o'clock.

Signature

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

(Chairperson)

Date..... 5/12/2019

**MINUTES OF THE 95TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS
HELD ON WEDNESDAY 4TH DECEMBER, 2019 IN THE COMMITTEE ROOM ON 5TH
FLOOR, CONTINENTAL HOUSE AT 11.00AM**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, MP - **Vice Chairperson**
3. Hon. Mishi Mboko, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Babu Owino, M.P
6. Hon. Owen Baya, M.P
7. Hon. Simon Nganga Kingara, M.P
8. Hon. Teddy Mwambire, M.P
9. Hon. Jayne Kihara, M.P
10. Hon. Joshua Kutuny, M.P
11. Hon. Kimani Ngunjiri, M.P
12. Hon. Caleb Kositany, M.P
13. Hon. Catherine Waruguru, M.P
14. Hon. George Aladwa, M.P
15. Hon. Jane Wanjuki Njiru, M.P
16. Hon. Samuel Kinuthia Gachobe, M.P
17. Hon. George Risa Sunkuyia, M.P

APOLOGIES

1. Hon. Omar Mwinyi Shimbwa, M.P
2. Hon. Josphat Gichunge Kabeabea, M.P

IN ATTENDANCE

THE MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Gedion M. Mungaro - Chief Administrative Secretary
2. Mr. Benson K. Mbiti
3. Mr. Paul Ndungu'
4. Mr. Paul Mwangi

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Douglas Katho - Clerk Assistant II
2. Ms. Jemimah Waigwa - Legal Counsel
3. Mr. Joseph Tiya - Research Officer
4. Mr. Nimrod Ochieng - Audio Recording Officer
5. Ms. Peris Kaburi - Serjeant At Arms

MINUTES OF THE 94TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY 3RD DECEMBER, 2019 IN THE COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE AT 9.30AM

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, MP - **Vice Chairperson**
3. Hon. Mishi Mboko, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Babu Owino, M.P
6. Hon. Owen Baya, M.P
7. Hon. Simon Nganga Kingara, M.P
8. Hon. Teddy Mwambire, M.P
9. Hon. Jayne Kihara, M.P
10. Hon. Joshua Kutuny, M.P
11. Hon. Kimani Ngunjiri, M.P
12. Hon. Caleb Kositany, M.P
13. Hon. Catherine Waruguru, M.P
14. Hon. George Aladwa, M.P
15. Hon. Jane Wanjuki Njiru, M.P
16. Hon. Josphat Gichunge Kabeabea, M.P
17. Hon. Samuel Kinuthia Gachobe, M.P
18. Hon. George Risa Sunkuyia, M.P

APOLOGIES

1. Hon. Omar Mwinyi Shimbwa, M.P

IN ATTENDANCE

THE MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Gedion M. Mungaro - Chief Administrative Secretary
2. Mr. Benson K. Mbiti
3. Mr. Paul Ndungu'
4. Mr. Paul Mwangi

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Douglas Katho - Clerk Assistant II
2. Ms. Jemimah Waigwa - Legal Counsel
3. Mr. Joseph Tiya - Research Officer
4. Mr. Nimrod Ochieng - Audio Recording Officer
5. Ms. Peris Kaburi - Serjeant At Arms

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 5. Mr. Douglas Katho | - | Clerk Assistant II |
| 6. Ms. Jemimah Waigwa | - | Legal Counsel |
| 7. Mr. Joseph Tiya | - | Research Officer |
| 8. Mr. Nimrod Ochieng | - | Audio Recording Officer |
| 9. Ms. Peris Kaburi | - | Serjeant At Arms |

MIN. NO. NA/DCS/LANDS/2019/370: PRELIMINARIES

The meeting was called to order at thirteen minutes to Ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2019/371: MEETING WITH THE CABINET SECRETARY FOR LANDS AND PHYSICAL PLANNING REGARDING QUESTIONS BEFORE THE COMMITTEE

The Cabinet Secretary for Lands and Physical Planning was represented by the Chief Administrative Secretary to respond to the Questions that were raised by the following Members of the National Assembly-

1. Hon. Elijah Memusi, MP regarding the Compensation of persons affected by the ongoing construction of the Isinya – Namanga Transmission Line in Kajiado County.
2. Hon. Jeremiah Lomurukai, MP regarding the demarcation, surveying and subdividing of land in Turkana County for settlement.
3. Hon. Isaac Waihenya, MP regarding the actual acreage of the parcel of land allocated to Muthaiga Primary School in Roysambu and also the status of ownership of land ref. 71/7 which was originally set aside by Kamuthi farmers Cooperative Society Limited in Roysambu Constituency.
4. Hon. Ruweida Obo, MP regarding the report on the subdivision exercise and Survey of Lamu East Constituency in Lamu County as well as the number of plots arrived after the exercise.

During the Meeting the Committee was informed by the Ministry of Lands and Physical Planning that that the questions by Hon. Elijah Memusi, MP was best placed to be responded to by the National Land Commission whereas the response to the Questions by the Hon. Isaac Waihenya, MP was not ready and that the Ministry needed more time to prepare the response.

- i. The Ministry therefore responded to the Question by Hon. Captain Ruweida Obo as follows-
- ii. That Vumbe Scheme is located in Lamu East Mainland, Lamu County. The area is characterized by agricultural farms claimed by residents of Faza Sub-County.

- iii. The Scheme was initiated by the County Government of Lamu in 2016 as regularization of an existing settlement. It covers over 8,800 acres and over 1,050 plots are expected to be realized.
- iv. The County government contracted a private survey for, Geoflex services, to survey the scheme. The survey and verification exercise is on-going.
- v. There are numerous ownership disputes which are yet to be resolved and plots yet to be surveyed.
- vi. No records on Vumbe scheme have been forwarded to the Ministry of Lands and Physical Planning offices by County Government of Lamu so far.
- vii. The Ministry will send a technical team to Vumbe scheme to establish the status of the land and in consultation with the County government. Come up with a way forward.

The committee observed that the response given by the Ministry was inadequate and the Member of the National Assembly who had asked the question was not satisfied with the response. Therefore the Committee tasked the CAS to provide a more exhaustive response on the question by Thursday 5th December in the afternoon.

The Committee further recommended that the Ministry of Lands and Physical Planning holds a consultative meeting with the County government of Lamu together with the Members of parliament from Lamu on a day to be agreed to evaluate the progress.

**MIN. NO. NA/DCS/LANDS/2019/372: CONSIDERATION OF THE DRAFT REPORT
ON THE PETITION BY FORMER WORKERS
OF THE LATE MAYER JACOB SAMUELS
REGARDING INVASION AND EVICTION OF
THE WORKERS FROM THEIR LAND IN
ROUSAMBU CONSTITUENCY BY THE
KENYA DEFENCE FORCES**

The Committee considered the draft report on the petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers from their land in Roysambu constituency by the Kenya Defence Forces and observed that-

- i. The owner of the land in question LR. No. 5875/2 located in Roysambu, measuring 17.16 acres under a lease of 99-years which commenced from 1st November 1904 and expired on 1st November, 2003 is Mr. M. J Samuels.
- ii. Whereas there exists evidence that the government intended to acquire LR. No. 5875/2 belonging to Mr. M. J Samuels as evidenced by gazette notices No. 51515 and 51552 of 1985, the acquisition process was not completed as the out of court negotiations between the government and Mr. Meshumor Jacob Samuel on amount of compensation to be made were never concluded. (Annex 1).
- iii. There was contradictory information in the Ministry of Defence concerning the intended acquisition of L. R No. 5875/2. Indeed, in a letter dated 26th January 1987, the Permanent Secretary, Department of Defence informed the Commissioner of Lands that the military had carried out an inspection of the land and found it unsuitable for the

- intended purpose unless four additional parcels of land surrounding the plot was acquired to enhance security as the plot was located in a residential area. However, on 10th April 1987 Major General Munyao wrote to the Commissioner of Lands vide a letter Ref. DOD/CGS/49/LND asking the Commissioner to disregard the content of the letter by the Permanent Secretary until the military made further contact on the issue. Based on the submissions of the National Land Commission, the military did not make the said contact to date.
- iv. Although, the Ministry of Defence submitted that the land was valued at Kshs. 3,530,500 and the sum was duly paid by the Ministry to the Commissioner of Lands, the Committee noted that the High Court under Land Acquisition Appeal No. 2 of 1986 had enhanced the award to Kshs. 23,000,000 and the same has not been paid to date to Mr. Meshumor Jacob Samuel. The Committee noted that the provisions of section 8 of the Land Acquisition Act Cap. 295 (now repealed), required that where land is compulsorily acquired, full compensation was to be paid promptly. This was never done. (Annex 2)
- v. Additionally, despite, the fact that the Ministry of Defence submitted a receipt showing that Kshs. 3,530,500 was paid to the Commissioner of Lands, there was no other evidence submitted to indicate that the money was deposited to Middle East Bank and released to Mr. Jacobs and it did not also submit any evidence to show that M/S Robson Harris and Company Advocates confirmed having received Kshs. 3,530,500 on behalf of their client.
- vi. Further, while the Ministry of Defence submitted that the land in question was formally handed over to the Ministry on 25th June, 1986, the Committee noted with concern that the Kenya Defence Forces only occupied the said land thirty-three years later, this being in 2019 and the land remains undeveloped to date. This was further confirmed by a letter dated 14th June, 2004 by the then Permanent Secretary, Ministry of Lands and Settlement to Mr. John Githongo the then Permanent Secretary in the office of the President indicating that the Kenya Defence Forces had already taken possession of the property and moved in but had thought the cost was too much and consequently moved out of the property.
- vii. Based on the submissions of the Nairobi County Government, the squatters living on the parcel of land in question were about 400 to 500 persons, there was an informal primary school and nurse school for the squatters' children, the land was occupied by 43 rows each with 10 permanent and semi-permanent houses, there were few commercial buildings, garages and workshops, there were two structures used as churches and there were numerous kiosks and churches. This was corroborated by the minutes of 25th June, 1986 submitted by the Ministry of Defence which indicated that there were two hundred and fifteen persons living there, there were forty-three blocks still existing and two jua kali garages.
- viii. There were three files that had been opened in respect of LR No. 5875/ 2 these being-
- (1) The original file regarding the land in question No. 21946/2, LR. No. 5875 with an acreage of 17 acres indicating that the land belonged to Mr. Mayer Jacob Samuels.
 - (2) A second file with file no. 202033 & LR No. 5875/2 with an acreage of 6.864 Ha. which contained an allotment letter that was issued on 26th June, 1999 to Solio Constructions Limited and contained other documents.

- (3) A third file no. 215826, LR No. 23393 for land owned by Grace Independent Baptist Mission Trustees, a file which was used by officials in the Ministry to register an amalgamation with land parcel No. 5875/2.
- ix. The Ministry of Lands and Physical Planning submitted and confirmed that the second file and third file had been opened fraudulently as evidenced by-
- (1) The purported transfer of lease to Solio Construction Limited was done when there was already a subsisting lease of 99 years which was to expire in 2003 and the transfer was effected in 2001, two years before the expiry of the lease.
 - (2) The Chief Land Registrar, Ms. Sarah Mwenda denied signing the transfer form transferring the parcel of land LR. 5875/2 from Solio Construction Company Ltd to Kasarani Mall Ltd in 2001, although a stamp bearing her unique number (14) was used in the said form.
 - (3) The third file no. 215826, LR No. 23393 allegedly seeking to amalgamate land parcel No. 5875/2 with LR. No. 23393 was being done yet the lease for LR. No. 23393 had also expired.
 - (4) The certificate of Incorporation of Solio Construction Company was dated 18th August 1999 while the letter of allotment was issued on 26th June, 1999 revealing that the allotment was done two months before the Company was incorporated.
 - (5) A letter dated 14th June, 2004 by the then Permanent Secretary, Ministry of Lands and Settlement to Mr. John Githongo the then Permanent Secretary in the office of the President instructing the Anti-Corruption Commission to investigate and take action against the fraudulent allocation of L.R No. 5875/2 to Solio Construction Company; and
 - (6) The subsequent attempt to amalgamate the two pieces of land was being done albeit the existence of a caveat on the land dating back to 2004.
- x. However, the parcel of land L.R No. 23393 was not the subject matter of the Petition and was only relevant to the extent that the third file was opened for purposes of fraudulently amalgamating L.R No. 5875/2 with L.R No. 23393.
- xi. There was no evidence submitted to the Committee to indicate that the Kenya Defence Forces having allegedly acquired the land in 1986, gazetted L.R No. 5875/2 as a protected area.
- xii. Based on the submissions of the National Land Commission, a current search at the Land Registry indicated that no record on the land was available save for that the last registered owner of L. R No. 5875/2 was Mr. M.J. Samuels.
- xiii. There was no surrender or cancellation of the original certificate of lease held by Mr. Mayer Jacob Samuels on L.R No. 5875/2.
- xiv. In accordance with the property rates payment request submitted by the Nairobi County Government, the property rates were still due to be paid by Mr. M. J. Samuels signifying that the records of the county still identify Mr. M. J. Samuels as the owner of the land.
- xv. The National Land Commission confirmed that the lease for LR. No. 5875/2 expired on 1st November, 2003 and reverted back to the Nairobi County Government by virtue of Article 62 of the Constitution.

- xvi. The Nairobi County Government in its submissions confirmed that survey of LR. No. 5875/2 had been undertaken and completed and a subdivision scheme approved identifying each sub-plot including plots designated for public utilities.
- xvii. The Nairobi County Government had already issued allotment letters to the Members of Roysa Community Development Society regularizing individual ownership upon payment of Kshs. 69, 500 of which some of the members had already paid.
- xviii. There was collusion between officials of the Ministry of Lands and Physical Planning as evidenced by the second and third files in order to effect fraudulent transactions on L. R No. 5875/2 leading loss of public funds.
- xix. Although, the Ministry of Lands and National Planning submitted that it was aware that the titles for L. R No. 5875/2 and L.R 23393 had been presented to it for amalgamation, the Ministry did not submit the two titles to the Committee.
- xx. The Committee noted with concern that although the Ministry of Lands and Physical Planning submitted that the second and third file were fraudulent, it was still receiving transactions payments from members of Roysa Community Development Society for titling of L.R 5875/2 to individual members.
- xxi. The Ministry of Lands and Physical Planning never informed the Committee that it was aware there was any sub-division scheme that was ongoing, yet the documents submitted to the Committee indicate that the Ministry was involved in the sub-division process.

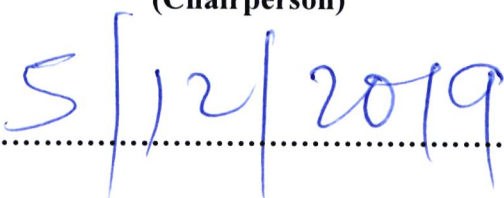
MIN. NO. NA/DCS/LANDS/2019/373: ADJOURNMENT

The meeting was adjourned at fifteen minutes to Two o'clock.

Signature 

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

(Chairperson)

Date..... 

**MINUTES OF THE 91ST SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON THURSDAY, 28TH NOVEMBER, 2019 IN THE BOARDROOM, 8TH
FLOOR, UKULIMA SACCO HOUSE, PARLIAMENT BUILDINGS AT 11.30 A.M**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Mishi Mboko, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Caleb Kositany, M.P
6. Hon. George Risa Sunkuyia, M.P
7. Hon. Jane Wanjuki Njiru, M.P
8. Hon. Owen Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Simon Nganga Kingara, M.P

APOLOGIES

1. Hon. Jayne Kihara, M.P
2. Hon. Joshua Kutuny, M.P
3. Hon. Kimani Ngunjiri, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Babu Owino, M.P
6. Hon. Catherine Waruguru, M.P
7. Hon. George Aladwa, M.P
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Teddy Mwambire, M.P

IN ATTENDANCE

MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Gideon Mungaro, - Chief Administrative Secretary
2. Ms. Sarah Mwenda - Chief Land Registrar
3. Mr. Fedson Orare - Senior Land Registrar

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel

- 4. Mr. Nimrod Ochieng - Audio Recording Officer
- 5. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DCS/LANDS/2019/358: PRELIMINARIES

The meeting was called to order at eighteen minutes to twelve o'clock, prayers said and thereafter introductions were made. The meeting was informed that Mr. Gordon Ochieng who was supposed to appear before the Committee was attending a court in Eldoret.

MIN. NO. NA/DCS/LANDS/2019/359: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. George Sunkuyia, M.P and Hon. Caleb Kositany, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/360: SUBMISSIONS BY THE MINISTRY OF LANDS & PHYSICAL PLANNING ON THE PETITION BY FORMER WORKS OF THE LATE MAYER JACOB SAMUELS ON INVASION AND EVICTION FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

1. the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 28th November 2019 who was accompanied by Ms. Sarah Mwenda, Chief Land Registrar, and Mr. Fedson Orare, a Senior Land Registrar. They informed the Committee that;
2. The original file regarding the land in question No. 21946/2, LR. No. 5875 with an acreage of 17 acres indicated that the land belonged to Mr. Mayer Jacob Samuels. It contained a legal notice for compulsory acquisition of the said land by the Kenya Defence Forces.
3. They stated that the title deed for LR. No. 5875/2 was in a Deed file stored in the Land Registry.
4. A second file with file no. 202033 & LR No. 5875/2 with an acreage of 6.864 Ha was fraudulently opened by Mr. S.K W. Wangilla, an officer in the Ministry, who is deceased. It contained an allotment letter that was issued on 26th June, 1999 to Solio Constructions Limited, which was signed by the deceased officer. The said file also contained the following document:

- a) An acceptance of offer letter dated 22nd January, 2001 and a cheque of 3,306,800 for the allotment letter and a receipt from the Ministry on the same amount dated, 23rd Jan 2001.
 - b) A certificate of Incorporation dated 18th August 1999 while the letter of allotment was issued on 26th June, 1999.
 - c) An indent from the Survey of Kenya dated 19th October, 2000 for the Deed Plan. Thereafter a title was executed and issued.
 - d) A letter from the then PS for Lands – Eng. E. K Mwongera - dated 22nd July 2004 highlighting the fraudulent transactions on the land.
 - e) A letter dated 26th July 2004 by Ms. J.M Okungu, the then Commissioner of Lands confirming to the PS Lands that the land was acquired for Military use and a compensation of 3,0530 was to be paid to the owner by the Department of Defence.
 - f) A letter dated 28th November 2005 by Uchumi Supermarkets Plc to the Commissioner of Lands making a reference to a meeting and indicating that the company was aware that the land had been acquired by the government for Military use and making a reference of a land tribunal that would be formed determine the matter.
5. Ms. Sarah Mwenda denied signing the transfer form transferring the parcel of land LR. 5875/2 from Solio Construction Company Ltd to Kasarani Mall Ltd in 2001, although a stamp bearing her unique number (14) was used in the said form.
 6. The officials also stated that third file no. 215826, LR No. 23393 for land owned by Grace Independent Baptist Mission Trustees, file was used by officials in the ministry to register an amalgamation with land parcel No. 5875/2. Upon perusal of the third file the Committee noted that the lease for LR. No. 23303 had also expired.
 7. Mr. Fedson Orare acknowledged that he signed a surrender of titles for LR.NO. 5875/2 and LR No. 23393 together with a new lease which were booked at the Ministry on 7th February 2019 by Kasarani Mall company Ltd. He informed the Committee one Mr. Ochieng prepared the documents and that he signed the amalgamation form based on the information provided by said Mr. Ochieng.
 8. Mr. Orare also claimed that the file containing the said amalgamation form did not contain a caveat when he acted on it.
 9. However, he stated that the said amalgamation was not completed, and the surrendered documents were in the custody of the chief Land Registrar. He added that the same were secured at the Registry.

10. The two officials stated that the role of the Registrar of Titles was limited to confirming that the document were legally in order and it was the role of the Director Land Administration to confirm the facts regarding amalgamation of the two parcels of land

The Members proposed that the Committee holds another meeting with all the officials in the Ministry of Lands and Physical Planning who were adversely mentioned in the matters

MIN. NO. NA/DCS/LANDS/2019/361: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twenty – one minutes past one o'clock.

Signature 

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

(Chairperson)

Date..... 

MINUTES OF THE 90TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY, 26TH NOVEMBER, 2019 IN THE BOARDROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.30 A.M

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Mishi Mboko, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Babu Owino, M.P
6. Hon. Caleb Kositany, M.P
7. Hon. Catherine Waruguru, M.P
8. Hon. George Risa Sunkuyia, M.P
9. Hon. Josphat Gichunge Kabeabea, M.P
10. Hon. Owen Baya, M.P
11. Hon. Simon Nganga Kingara, M.P
12. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Jayne Kihara, M.P
2. Hon. Joshua Kutuny, M.P
3. Hon. Kimani Ngunjiri, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. George Aladwa, M.P
6. Hon. Jane Wanjuki Njiru, M.P
7. Hon. Samuel Kinuthia Gachobe, M.P

IN ATTENDANCE

MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Gideon Mungaro, - Chief Administrative Secretary
2. Mr. Edward Kosgei - Director, Land Administration
3. Mr. Kamau J.h.M - Directorate of Planning

UCHUMI SUPERMARKETS PLC

1. Mr. Mohamed Mohamed - Chief Executive Officer
2. Ms. Judith Matata - Legal Manager
3. Mr. John Wambugu - Legal Counsel

4. Ms. Sophie Kinoti - Communications Department

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel
4. Mr. Joseph Tiyan - Research Officer
5. Mr. Nimrod Ochieng - Audio Recording Officer
6. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DCS/LANDS/2019/353: PRELIMINARIES

The meeting was called to order at ten o'clock, prayers said and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2019/354: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. Owen Baya, M.P and Hon. George Sunkuyia, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/355: CONSIDERATION OF A PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS ON INVASION AND EVICTION FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

a) Submissions by the Ministry of Lands & Physical Planning

The Chief Administrative Secretary, Ministry of Lands & Physical Planning who was accompanied by Mr. Edward Kosgei, Director, Land Administration, retaliated that the land in question initially belonged to one Mr. Mayer Jacob Samuels with a lease that was a 99-year lease that expired in 2003

The Chief Administrative Secretary also emphasized that the Government acquired the said parcel of land in 1985 for military use, however the acquisition was not completed as the owner went to court challenging the value of the land.

The Court enhanced the amount payable to the owner in lieu of the land to 23 million. The government appealed the ruling to allow for an out of court settlement. The Department of Defence took possession of the land on 25th June, 1986 after depositing Ksh 3 million in court.

In 2001 officials in the Ministry fraudulently opened a new file for the land in question and allocated the same to Solio Construction Company Limited through an allotment letter as a fresh allocation. The land was transferred to Kasarani Mall, a subsidiary of Uchumi Supermarkets Plc on 20th March, 2001 as LR No. 85371/2.

In 2018, the said officials in the Ministry sought to amalgamate the parcel of land LR No. 5875/2 with another parcel LR. No. 23393 registered in the name of Kasarani Mall using the latter file.

The amalgamation deed plan and the lease had been prepared for the amalgamation however, the new lease could not be registered as the titles were charged by banks.

Mr. Mr. Edward Kosgei, Director the Land Administration stated that the Ministry officers implicated in the fraudulent transactions on the second file were;

- a. Mr. S.K W. Wangilla,(deceased) - who opened the fraudulent file
- b. Ms. Sarah Mwenda – who signed the transfer between Solio Construction Company and Kasarani Mall in 2001
- c. Mr. Fredson Orare – who signed the amalgamation registration form regarding parcel of land LR No. 5875/2 with another parcel LR. No. 23393
- d. Mr. Gordon Ochieng - who endorsed the amalgamation registration form regarding parcel of land LR No. 5875/2 with another parcel LR. No. 23393
- e. An unidentified officer from the Survey of Kenya.

Committee resolutions

The Committee resolved to hold a meeting with the officers who were implicated in the fraudulent transactions on the second file on Thursday, 28th November, 2019. The officers were;

- a. Ms. Sarah Mwenda
 - b. Mr. Fredson Orare
 - c. Mr. Gordon Ochieng
 - d. Unidentified officer from the Survey of Kenya
2. The Chief Administrative Secretary was asked to present a written submission on the day's presentation.

MIN. NO. NA/DCS/LANDS/2019/356: SUBMISSIONS BY THE CHIEF EXECUTIVE OFFICER, UCHUMI SUPERMARKETS PLC

Following a meeting that was held on Thursday 21st November, 2019 with the management of Uchumi Supermarkets PLC, in which the management of Uchumi Supermarkets Plc was asked to present the following ;

- a. A lease granting the piece of land to Solio Construction Company Limited.
- b. A transfer registered at the Lands Titles Registry transferring the piece of land from Solio Construction Company Limited to Kasarani Mall Limited.
- c. Correspondences between the Directorate of Criminal Investigations, office of the Attorney General, and the Ministry of Lands and Physical Planning confirming the Executive's recognition of Kasarani Mall's titles as valid.
- d. CR 12 for Solio Construction Company Ltd.
- e. Demand notes from Nairobi City County and payment receipts of land rates.

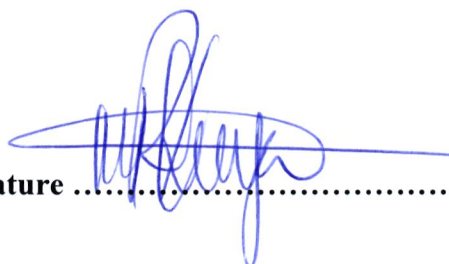
The Chief Executive Uchumi Supermarkets PLC stated that Kasarani Mall Limited the absolute and indefeasible owner of the property in question arising from the documents they tabled. He also stated that

- i. Uchumi Supermarkets Plc lawfully acquired the land in question land, LR.No.5875/2 through its subsidiary Kasarani Mall Ltd from Solio Construction Company Ltd in 2001 and paid Ksh. 85, 000, 000 to Solio Construction Company;
- ii. The transfer of the parcel of land from Solio Construction Company Ltd to Kasarani Mall Ltd was registered at the Lands Titles Registry and was signed by the Commissioner of Lands, Mr. Sammy Silas Komen Mwaita on behalf of the President and witnessed by the Registrar of Titles, Ms. Sarah Mwenda;
- iii. The Uchumi Supermarkets Plc then used title deed for the land to secure financing from Kenya Commercial Bank (KCB) and Southern African Trade and Development Bank on 7th December 2004. The facilities were paid and discharged on 28th June 2011;
- iv. The Uchumi Supermarkets Plc had also entered into agreement to sell the land to Jewel Complex Limited through financing by the bank. The buyer sought to buy the said parcel of land as amalgamated with LR. No 23393 also owned by Kasarani Mall;
- v. Consequently, the company through its advocates requested KCB to release the two titles to facilitate change of user and amalgamation. The surrender of titles and the new lease were booked at the Ministry of Lands as evidenced by the booking form dated 7th February 2019 issued to the company;

- vi. The office of the Attorney General had also investigated the allegations of fraud relating to the land and found that the Solio Construction Company had transferred a valid title to Kasarani Mall;
- vii. Kasarani Mall had also filed a case in court Civil Case No. 495 of 2011 and obtained a permanent injunction against Roysambu Community Self Help Group who invaded the land and made similar claims to those contained in the petition. Therefore, the question of ownership of the property had been heard and determined in favour of Kasarani Mall by the Environment and Land Court;
- viii. The County Government of Nairobi demanded and accepted payments of land rates by Kasarani Mall as evidenced by payment receipts issued to the company by the County Government. Although the County Government had not updated its records and still indicated the owner of the land as being Mr. M. J. Samuels;
- ix. The Petitioners have not produced documents to prove that they were indeed employees of the late Mayer Jacob Samuels and their National Identification Numbers reveal that they were minors at the time they claim to have been employees and some could not have been born at the time;
- x. The petitioners had also not been in occupation of the land or erected structure on the property as claimed in the petition. Kasarani Mall took vacate possession of the land in 2001. The company hired security guards to secure the land until the said guards were evicted by the Kenya Defence Forces; and
- xi. The Chief Executive officer acknowledged that the company had a dispute regarding the land in question with the Kenya Defence Force and the same was being address through negotiations led by the Head of Public Service

MIN. NO. NA/DCS/LANDS/2019/357: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twenty – two minutes past one o'clock.

Signature


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

(Chairperson)

Date.....

5/12/2019

**MINUTES OF THE 89TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON THURSDAY, 21ST NOVEMBER, 2019 IN THE COMMITTEE ROOM
2ND FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.30 A.M**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Kimani Ngunjiri, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Omar Mwinyi Shimbwa, M.P
6. Hon. Joshua Kutuny, M.P
7. Hon. Jayne Kihara, M.P
8. Hon. Ali Mbogo, M.P
9. Hon. Caleb Kositany, M.P
10. Hon. George Risa Sunkuyia, M.P
11. Hon. Jane Wanjuki Njiru, M.P
12. Hon. Owen Baya, M.P
13. Hon. Josphat Gichunge Kabeabea, M.P
14. Hon. Teddy Mwambire, M.P
15. Hon. Samuel Kinuthia Gachobe, M.P
16. Hon. Simon Nganga Kingara, M.P

APOLOGIES

1. Hon. Babu Owino, M.P
2. Hon. Catherine Waruguru, M.P
3. Hon. George Aladwa, M.P

IN ATTENDANCE

UCHUMI SUPERMARKETS LTD

1. Mr. Mohamed Mohamed - Chief Executive Officer
2. Ms. Judith Matata - Legal Manager
3. Mr. John Wambugu - Legal Counsel
4. Ms. Sophie Kinoti - Communications Department

KENYA COMMERCIAL BANK

1. Ms. Bonnie Okumu – Director Legal Services & Company Secretary
2. Mr. Peter Kathanga – Director, Corporate Banking
3. Ms. Mutindi Muema – Corporate Communications Team
4. Ms. Norah Mutuku – Partner, Iseme, Kamau & Maema Advocates

JEWEL COMPLEX LIMITED

1. Mr. Boniface Maina – Director, Jewel Complex
2. Mr. Raphael Mwiti – Director, Jewel Complex
3. Mr. Cecil Miller – Advocate
4. Mr. Moses Muchoki - Advocate

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Leonard Machira | - | Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant III |
| 3. Ms. Jemimah Waigwa | - | Legal Counsel |
| 4. Mr. Nimrod Ochieng | - | Audio Recording Officer |
| 5. Ms. Peris Kaburi | - | Serjeant At Arms |

MIN. NO. NA/DCS/LANDS/2019/358: PRELIMINARIES

The meeting was called to order at eighteen minutes to nine o' clock, prayers said and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2019/350: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. George Sunkuyia, M.P and Hon. Caleb Kositany, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/351: CONSIDERATION OF A PETITION BY FORMER WORKS OF THE LATE MAYER JACOB SAMUELS ON INVASION AND EVICTION FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

a) Submissions by the Chief Executive Officer, Uchumi Supermarket Ltd

The Committee noted that the written submissions presented by Chief Executive Officer, Uchumi Supermarket Ltd were not signed and did not have any company logo. The same were therefore not admissible. Consequently, the Committee resolved that the applicant appear before the Committee on Tuesday 26th November with admissible written submissions and the following documents:

The Committee directed Uchumi Supermarket to avail the following documents in the subsequent meeting:

- i. CR12 for Solio Construction Company Ltd;
- ii. The sale agreement between Uchumi and Solio Construction Company for the purchase of LR 5875/2;
- iii. All original documents pertaining to the land in question;
- iv. Land rates Clearance Certificate for LR 5875/2;
- v. Evidence indicating that the lease for LR 5875/2 expired in 2000.

b) Submissions by the Company Secretary Kenya Commercial Bank

The Director Legal Service, Kenya Commercial Bank informed the Committee that the Bank had entered into a sale agreement with Kasarani Mall Ltd for the sale of the land in question LR.NO. 5975/2 to a client financed by the bank. The said parcel of land was used as a security for the transaction.

- b) The bank was not in possession of the original title deed for LR. No. 5875/2 as Kasarani Mall Ltd through Hamilton, Harrison & Mathew Advocates had requested the bank to release the documents to facilitate the amalgamation of land parcels No LR No.5875/2 with LR.NO 23393 both owned by Kasarani Mall.
- c) The bank accepted the request and released the two titles to the law firm.

- d) The amalgamation of the two parcels has not been completed awaiting the issuance of a certificate of title upon the lifting of a caveat placed by one of the creditors of Uchumi Supermarkets Ltd. However, the two title deeds were surrendered to the Land Registry at the Ministry of Lands and Physical Planning as evidenced by a booking form issued to Kasarani Mall.

The Committee requested the Director to avail the following documents by noon the following day:

- i. Copy of title deed that the bank released to Hamilton, Harrison & Mathew Advocates;
- ii. Search from the Land Registry of the parcel of land in question to that due diligence was undertaken before charging the titles
- iii. Communication confirming the amalgamation of the two pieces;
- iv. Copies of the valuation reports of the two properties;
- v. CR12 of Soli Construction Company, Uchumi Supermarket and Kasarani Mall.
- vi. Evidence of the money received by the bank from Hamilton Harrison and Mathew Advocates.

c) Submissions by Jewel Complex Limited

The Director, Jewel Complex Limited informed the Committee that the company was an interest party in the matter as it was in the process of purchasing the land in question LR NO.5875/2 and LR NO 233393 from Kasarani Mall on condition that the two parcels were amalgamated.

Jewel Complex Limited established contacts with Uchumi Supermarkets Limited through the Chief Executive officer Mr. Mohamed A. Mohamed through its lawyers Messrs. Muchoki Kangata Njenga & Company Advocates.

He also stated that Jewel Complex Limited had paid a deposit of Ksh 330, 000,00 by way of Real Time Gross Settlement to the vendor's advocate client account held by Harrison Hamilton and

Mathew Advocates at KCB to facilitate the purchase of LR. No. 5875/2. The company had also acquired a loan from Equity Bank to facilitate the purchase of part of LR 233393

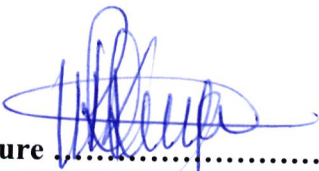
He also stated that the petition was submitted to the National Assembly in bad faith since the petitioners were named as the 4th defendants in Nairobi ELC No. 495 of 2011 in which they lost the case and no appeal was lodged in court against the decision of the court. In the said suit the petitioners referred themselves as Roysa Community Self Help Group while in the petition they stated that were Roysa Development Society. Therefore, the petition was an attempt to overturn a decision of the High Court.

Jewel Complex Ltd had committed a substantial amount of money by way of a deposit and entered into an agreement with the Kenya Commercial Bank that shall substantially affect it in the event of adverse findings by the Committee

LANDS/2019/352:

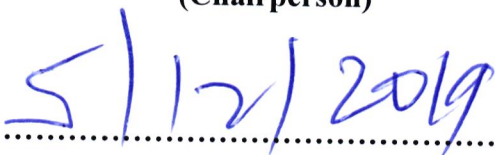
ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twenty – one minutes past one o'clock.

Signature 

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

(Chairperson)

Date..... 

**MINUTES OF THE 55TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON TUESDAY, 6TH AUGUST 2019 IN THE BOARDROOM, 2ND FLOOR,
PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 11.30 A.M**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Babu Owino, M.P
6. Hon. Catherine Waruguru, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Owen Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Simon Nganga Kingara, M.P
11. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Kimani Ngunjiri, M.P
2. Hon. Omar Mwinyi Shimbwa, M.P
3. Hon. Joshua Kutuny, M.P
4. Hon. George Aladwa, M.P
5. Hon. Jane Wanjuki Njiru, M.P
6. Hon. Ali Mbogo, M.P
7. Caleb Kipkemei Kositany
8. Hon. Josphat Gichunge Kabeabea, M.P

IN ATTENDANCE

KANDARA RESIDENTS ASSOCIATION

1. Mr. David Kimani Wathugi
2. Mr. John K. Mahuti
3. Mr. Nganga Njoroge
4. Ms. Phyllis Nyamweru
5. Ms. Mary Wanjiru
6. Mr. Daniel Machenge
7. Mr. Titus Itongu
8. Mr. Geoffrey Kairo
9. Mr. Philip Warutu

10. Karira Kimara

11. Duncan Okatch – Advocate

12. Jackson Ikua – Advocate

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Sydney Lugaga - Legal Counsel II
3. Mr. Joseph Tiyan - Research Officer III
4. Mr. Nimrod Ochieng - Audio Recording Officer
5. Ms. Peris Kaburi - Serjeant – At - Arms

MIN. NO. NA/DCS/LANDS/2019/- 227: PRELIMINARIES

The meeting was called to order at fifteen minutes to noon. Prayers were said and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2019/-228: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. George Risa Sunkuyia, M.P and Hon. Simon Kingara, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/-229: CONFIRMATION OF PREVIOUS MEETING

Consideration of the item was deferred to the next sitting.

MIN. NO. NA/DCS/LANDS/2019/-230: MEETING WITH PETITIONERS IN A PETITION BY MR. PHILIP NJUGUNA ON BEHALF OF KANDARA RESIDENTS ASSOCIATION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DELMONTE KENYA LIMITED

The petitioners informed the Committee that;

- i. Del Monte Kenya Limited was fully owned by foreign nations as evidenced in the list of its directors, which did not include a single Kenyan. Therefore, the petitioners argued that the company did not enjoy preemptive right of extension of the lease for land currently held by the company and that the company should surrender 50% of the land in question before the lease would be renewed;
- ii. The County government of Muranga had usurped the powers to renew the lease held by Del Monte Kenya Limited when the said powers were held by the National Land Commission contrary to section 13 of the National land Commission Act 2012. However, the petitioners were not able to table evidence to indicate that indeed Muranga County Government had renewed the said leases. They clarified that both the County Governments of Muranga and Kiambu had submitted no objection reports to the National Land Commission and had not actually renewed the leases. Therefore, the

- petitioners were contesting the no objection reports submitted by the two Counties regarding the said renewal of leases for land held by Del Monte Kenya Limited;
- iii. Public participation was mandatory in the renewal of the lease and that Kandara Residents Association through the instructions of the National land Commission had undertaken extensive public participation on the matter and had held meeting across Muranga county and received views from approximately 4500 person on the said renewal of lease for land held by Del Monte Kenya Limited. A report on the exercise was tabled and approved by the Muranga County assembly;
 - iv. Kandara Residents Association had also lodged a Historical Injustice claim with the National Land Commission alleging injustices committed by Del Monte Kenya Limited together with the colonial solders and the Agro French, who planted sisal in the area and the Kenya Cannners. The Committee was further informed that the commission had recommended that the land held by Del Monte Kenya Limited be resurveyed to establish if the company was in possession of land that it did not own. It was also recommended that any surplus land should be surrendered to the Association and the County government of Muranga for public purpose in the ratio of 70:30. The company was also required to surrender all public utilities within the land to the relevant National and County Government Agencies whether the leases had expired or not

The Committee noted that the petition limited its focus to renewal of lease for land owned by Del Monte by Muranga County. It therefore meant that the petition did not include land in Kiambu County. It was further noted that the role of the County government was limited to making recommendations on the renewal of the leases and could not undertake the actual renewal as this was the mandate of the National land Commission.

MIN. NO. NA/DCS/LANDS/2019/- 231 MEETING WITH THE PETITIONERS ON A PETITION BY OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS REGARDING INVASION AND EVICTION OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

The petitioners informed the Committee as follows:

- a) The petitioners are former workers of the late Mayor Jacob Samuels who owned land in question land in Roysambu constituency. The owner was deported from the county after he declined an offer to compulsory acquire the land made by the Kenya Defence Forces. After the landowner left the county his two sons came to manage the land and operate the business. The owner had made an offer of Ksh. 26 million for the land while the department offered Ksh 3 million. They added that although the KDF intended to acquire the said land ,senior military officers advise that land was not suitable for use by the military as it was located in the middle of a densely settled area and it would require the force to acquire adjacent land to create enough land to secure a military facility. There was also no evidence to indicate that the military paid any compensation to the owner.

- b) In 2003 the government declined to renew the lease for the land and the two sons also left the county leaving the workers with no income. The workers then decided to start business that included a garage and parking of lorries in order to make ends meet.
- c) In 2004 a group of invaders attempted to enter the land and erect old containers on it. However, the invaders were repulsed. Following the attempted grabbing of the land the petitioner were advised to register a company and use it to acquire the land
- d) On 6th May 2004 the petitioners registered a company known as Roysa Community Development Society No. 446760 and used it to request the County Government of Nairobi to allocate them the land.
- e) On 17th February 2014 the County Government of Nairobi the land to Roysa Community Development Society and the Chief Land Officer wrote to the National Land Commission indicating that the County Government had allocate the land to the society. The commission rejoinder dated 10th MARCH 2014 informed the County Government of Nairobi that since the lease to the land had expired and was not renewed, the land had reverted to the county government and therefore it was in order for the county government to allocate it to Roysa Community Development Society. The petitioners tabled the said correspondence to the committee.
- f) The petitioners accepted the offer and paid for the issuance an allotment letter through their trustees and they also paid the required fee to amend the index map and for valuation of the parcel of land to facilitate subdivision and issues of a certificate of subdivision and lease.

However on 2019 a group of people in green lorries invaded the land and displaced the petitioners. The invaded also erected six tens on

MIN. NO. NA/DCS/LANDS/2019/- 232: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at forty minutes past one o'clock. The next meeting will be held on Thursday, 8th August 2019 at 9:30 am.

Signature

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

(Chairperson)

Date.....

15/10/2019

MINUTES OF THE 61ST SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY, 10TH SEPTEMBER 2019 IN THE BOARDROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11.30 A.M

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Babu Owino, M.P
6. Hon. Catherine Waruguru, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Owen Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Simon Nganga Kingara, M.P
11. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Kimani Ngunjiri, M.P
2. Hon. Omar Mwinyi Shimbwa, M.P
3. Hon. Joshua Kutuny, M.P
4. Hon. George Aladwa, M.P
5. Hon. Jane Wanjuki Njiru, M.P
6. Hon. Ali Mbogo, M.P
7. Caleb Kipkemei Kositany
8. Hon. Josphat Gichunge Kabeabea, M.P

IN ATTENDANCE

NATIONAL LAND COMMISSION

1. Kabale Tache - Ag. Chief Executive
2. Mr. Francis Bor - Ag. Deputy Commission Secretary
3. Ms. Edith Olando - Deputy Director, Land Administration
4. Mr. Antipas Nyanjwa - Deputy Director Investigations
5. Muthomi J. Ngaruthi - PLAO
6. Mr. Wilson Kimiti - PLAO
7. Mr. Edward Bosire - County coordinator Mombasa

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Mr. Joseph Tiyan - Research Officer III
3. Mr. Nimrod Ochieng - Audio Recording Officer
4. Ms. Peris Kaburi - Serjeant – At - Arms

MIN. NO. NA/DCS/LANDS/2019/- 175: PRELIMINARIES

The meeting was called to order at sixteen minutes to noon. Prayers were said and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2019/-176: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. George Risa Sunkuyia, M.P and Hon. Simon Kingara, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/-177: CONFIRMATION OF PREVIOUS MEETING

Consideration of the item was deferred to the next sitting.

MIN. NO. NA/DCS/LANDS/2019/-178: MEETING WITH THE AG. CHIEF EXECUTIVE OFFICER NATIONAL LAND COMMISSISON ON PETITION PENDING BEFORE THE COMMITTEE

a) Petition by Taita Tavetaa Teachers Investment Company on illegal occupation of land owned by the company

The Ag. Chief Executive Officer informed the Committee that;

- i. Taita Tavetaa Teachers Investment Company is the registered owner of the following parcels of land in Junda creek with Kisauni Constituency in Mombasa County, which the subject of the petition that were bought in the 1980s:

S/NO	LR NO.	ACRES
1	MN/II/56	4..93
2	MN/II/57	12.02
3	MN/II/293	10.0
4	MN/II/765	10.0

5	MN/II/766	3.10
6	MN/II/771	47.62
7	MN/II/767	3.10
	Total Acreage	90.77

The company also entered into a sale agreement with the registered owner regarding land parcel No. LR MN/II/222 bringing the total acreage owned by the company to 112.77 acres.

- ii. The company claimed that the land was purchased with the aim of subdividing and distributing it to the shareholders. However, the project stalled in 1988 when the then Taita Taveta KNUT Executive Secretary, the late Adiel M. Kachili was elected to Parliament and handed over the company to a new Executive Secretary who did not convene a single meeting leading to the intended subdivision of the land to stall.;
- iii. The company was revived in 2008 and the members realized that the land in question was fully occupied by squatters. The board of directors therefore resolved to sell the land to recover the members contributions. However, the company was not able to remove the squatters from the land;
- iv. The squatters lodged a case in court seeking to prevent their removal the from the land. the property was a subject of a suit for 11 year from 2003 to 2014. The court ruled in favour of the company and the squatters were ordered to vacate the land;
- v. The squatters then sought the intervention of the commission in a bid to avoid eviction. The commission reached out to both parties and advised them to embrace Alternative Dispute Resolution in order to reach an amicable solution. The commission also advised the two parties to value the land and to table offers for purchase and sale;
- vi. The squatters tabled a valuation of 2.5 million per an acre and the company presented a valuation of 10 million per acre. The parties would not reach a mutual value and it was then agreed that the government should value the land to give a compromise value to pave way for further negotiation;
- vii. The commission also suggested that the county government of Mombasa buy the land to settle the squatters at fee based on the Waitiki model. The Chief Officer , Lands, Planning and Housing, Mombasa County vide a letter Ref. LPH/LND/1-1 dated 22nd Mach 2016 addressed to the County Secretary confirmed that the department held a meeting with the squatters who expressed willingness to be settled on the land and to be allowed to pay for the land through installments;

- viii. The National Government Valuer undertook a valuation of the land and issued a fee of Ksh. 875,000 to the county government of Mombasa. The amount was required to facilitate release of the valuation report. The county government requested for a waiver, but the ministry declined to grant the request;

The Ag. Chief Executive Officer stated that the commission recommended that:

- i. The County Government of Mombasa should hasten the payment of the valuation fee to the Ministry of Lands and Physical Planning in order for the report to be issued;
- ii. Mediation be done between the squatters and the company to facilitate a mutual selling price for the land; and
- iii. Taita Taveta Teachers Investment Company should be adequately compensated for the land. The company should also surrender the titles of the land to the government once it is compensated to pave way for allocation of the said land to the squatters.

b) Petition by Ms Juliet Nyaguthii on public access and use of public utility plots in Nakuru West Ward

The Ag. Chief Executive Officer informed the Committee that:

- i. The parcels of land relating to the petition originated from a subdivision and change of user of LR. 11264 measuring 219 acres owned by Nagara Estates Limited a subsidiary of Nakuru Industries Limited. The subdivision scheme was approved by the Commissioner of Lands vide approval granted as 19068/11/33 dated 1st February 1983. How the said file could not be traced by the commission.
- ii. The status of the plots was as follows:

- **LR 12570/183 (1.466 Ha):** The plot is reserved as a market, but the subdivision indicates that it was proposed to be a nursery school. The plot was not developed but was under substance cultivation. Records held by the Ministry of Lands and Physical Planning indicate that the plot was regranted to M/S Nakuru Industries Ltd of Box 22 Nakuru vide letter of allotment Ref. 19068/VI/27 dated 19th March 1997 for 999 years at annual rent of Kshs. 6,5000 for residential use.

A proposal for subdivision of the said plot into 21 portions measuring 0.046 Ha each and a letter of consent from the land control Board was received by the Commissioner of Lands. How this was not permissible as the said land was not freehold nor was it for agricultural use. A letter Ref. 190772/21 dated 1st February 2018 purporting to have granted provisional approval for the subdivision did not originate from the commission and was a forgery, therefore the intended subdivision of the plot did not materialize. The Commission recommended that the plot should be surrendered to the public.

- **LR 12570/184 (3.906 Ha):** A site visit by officials on the commission indicated that there was a dilapidated water tank and no other development on

the plot. Records held by the Ministry of Lands and Physical Planning indicate that the plot was regranted to M/S Nakuru Industries Ltd of Box 22 Nakuru vide letter of allotment Ref 19068/VI/26 dated 19th March 1997 for 999 years at annual rent of 15,500. According to the proposed subdivision the plot was proposed for an open space with existing water tanks.

- **LR 12570/185 (1.073 Ha):** According to the area residents the plot was reserved for a market and should be surrendered to the plot. The subdivision scheme plan indicate that the plot was earmarked for an open space. A site visit by officials on the commission indicated that the plot was not developed and was used as a volleyball playing ground.

However, the commission was not able to access the records of the plot at the Land office for further scrutiny as the records were reportedly missing.

- **LR 12570/186 (1.073 Ha):** A site visit by officials on the commission indicated that the plot was not developed, and the area residents want it availed to them for religious purposes. Records held by the Ministry of Lands and Physical Planning indicate that the plot was regranted to M/S Nakuru Industries Ltd of Box 22 Nakuru vide letter of allotment Ref 19068/VI/24 dated 19th March 1997 for 999 years at annual rent of Ksh. 5000.
- **LR 12570/187 (4.903 Ha):** A site visit by officials on the commission indicated that the plot had an existing primary school, Hyrax Hill Primary School, run by the Ministry of Education. According to a direct of Nakuru Industries the company developed the school and handed it over to the then Municipal Council of Nakuru to manage it as public school. Records held by the Ministry of Lands and Physical Planning indicate that the plot was regranted to M/S Nakuru Industries Ltd of Box 22 Nakuru vide letter of allotment Ref 19068/VI/28 dated 19th March 1997 for 999 years at annual rent of Ksh. 20,000.
- **LR 12570/188 (1.498 Ha):** The plot is owned by Mr. Raju Shah and is not developed. It is reserved for a petrol service station.
- **LR 12570/189 (1.637 Ha):** A site visit by officials on the commission indicated that the plot was not developed and was under subsistence cultivation. Records held by the Ministry of Lands and Physical Planning indicate that the plot was regranted to M/S Nakuru Industries Ltd of Box 22 Nakuru vide letter of allotment Ref 19068/VI/29 dated 19th March 1997 for 999 years at annual rent of Ksh. 7,300. According to the proposed subdivision the plot was proposed for an open space with existing water tanks.

The Ag. Chief Executive Officer stated that the Commission noted that

- i. LR. Nos. 12570/183, 184,185and 189 comprising 8.082 Ha. were converted from public to residential use;
- ii. LR 12570/188 (1.498 Ha is used as a petrol service station and hence not under a public purpose
- iii. Negotiations between the government, through the Commissioner of Lands, Nakuru Municipal Council and the developer, Nakuru Industries reached the following agreements, that
 - Nakuru Industries Limited donated LR. No. 21975 adjacent to Nagaria Estate, measuring 13.77 Ha to the National Museum of Kenya for museum purpose free.
 - Nakuru Industries Ltd to build and equip Hyrax Hill Primary School on LR.N. 12570/187 and hand it over the management of the school to the Municipal Council of Nakuru.
 - Nakuru Industries Ltd to build a Diagnostic Centre for the poor on parcel LR. No. 12570/157 and provide treatment at no cost to the government.
 - Nakuru Industries Ltd to vacate LR. Nos. 12570/131- 142 and covert the amalgamated parcel LR. No 12570/194 on F/R241/11 into a nursery and primary school with ancillary facilities including a sports ground, auditorium and swimming pool. This is where Shah Lalji Nagpar Academy stands.
 - In exchange the government transferred and changed the use of the subject parcels to residential use by Nakuru Industries Ltd.

The commission concluded that the public realized 10.608 Ha from the conversions and donations, besides the developer being required to build schools, a Diagnostic Centre and social facilities on the land.

c) Petition by the former workers of the Late Mayor Jacob Samuels regarding invasion and eviction from their land in Roysambu Constituency by the Kenya Defence Forces

The Ag. Chief Executive Officer informed the Committee that that apart from the Petitioners, the Kenya Defence Forces, Uchumi Supermarket laid a claim to the land that is a subject of the petition. She however acknowledged that both the Ministry of lands and the County Government of Nairobi issued letters of offer to the petitioners.

The Mr. Antipas Nyanjwa Deputy Director Investigations, National Land Commission informed the Committee that he was tasked by the commission to investigate the matter and submitted a report that established the following:

- i. **Chronology of land parcel LR No. 5875/2:** Lt. Col James Hays Sadler who was the Commissioner for East Africa Protectorate leased LR. No. 1012 comprising 4443 acres in 1904 to Henry Herbert Tarlton for a period on 99 years. The lease then subdivided the land in 1920 into five plots each comprising 200 acres and the said plots were

further subdivided into 20-acre plots in 1927. LR 5875/2 comprising 17.16 acres was one of the plots created out of the further subdivision.

The plot was transferred to Mr. H.V. Briscoe on 19th February 1930, who transferred it to Mrs. K. M Forbes on 19th February 1930. Mrs. K. M Forbes also transferred it to Mr. F.K. Kelly on 1st MARCH ,1940, who transferred the plot to E.A. Residential Estate Limited. In 1964 a Mr. Smith was appointed a liquidator of the company by the Kenya Government, but the company transferred the plot to Mr. Bau Salou Dean, Mr. Bau Saoul Dean also transferred it to Mr. Mayer Jacob Samuels, who died in 1974 but remained the registered owner of the land.

In 1976 a Mr. Rapahel Jacob Samuel a brother to the deceased owner and Mr. Meshumor Jacob Samuels the deceased's half brother applied to the High Court in Nairobi for grant of letters of administration under Probate and Administration CAUSE No. 103 of 1976.

In a letter to the Commissioner of Lands dated 31st January 1986, Robson, Harris & Company Advocates claimed that Mr. Meshumor Jacob Samuels obtained an order vesting the land in him as the sole registered owner;

- ii. **Purported acquisition of LR. 5875/2 by the Kenyan Military in 1985:** The government through Gazette Notice No. 5151 dated 22nd November 1985 published an intention to compulsorily acquire the land to set up a Kenya Army School. But Mr. Meshumor Jacob Samuel through his advocate protested and an inquiry was held on the 5th and 18th of February 1986 During the inquiry Mr. Meshumor Jacob Samuel made an offer of 25 million for the land while the government valued it at Ksh. 3,535,000 which Mr. Meshumor Jacob Samuel rejected and went to court. The court ruled that the government acquires the land at a fee of Ksh. 23 million. The government appealed but on 27th 1997 the court stood over the case generally to allow for both parties to reach an out of court settlement, but no agreement was reached to date.

In a letter Ref. DOD/698/2/Wks dated 26th January 1987 the Permanent Secretary, Department of Defence informed the Commissioner of Lands that the military had carried out an inspection of the land and found it unsuitable for the intended purpose unless four additional parcels of land surrounding the plot was acquired to enhance security as the plot was located in a residential area.

On 10th April 1987 Major General Munyao wrote to the Commissioner of Lands vide a letter Ref. DOD/CGS/49/LND asking the commissioner to disregard the content of the letter by the Permanent Secretary until the military made further contact on the issue. However, the military did not make the said contact to date. The Ministry of Defence also indicated it could not pay the Ksh. 3,530,500 as per the government

valuation of the land due to financial constraints. Therefore, there is no evidence that the government made any payment towards the compulsory acquisition of the land.

- iii. **Current status of the land:** The Committee was informed that a current search at the Land Registry indicated that no record on the land were available, However the investigation officers extracted the above-mentioned information from the valuation file. A search at the County government of NAIROBI indicated that the land was last registered to Mr. M.J. Samuels.

On 4th November 1985 Mr. M J. Samuel, through Tysons Habenga Limited, requested for an extension of the lease for the land in question in a letter Ref. BOR/VAL/mm explaining the land had only eighteen year left on the 99 years lease. However, the Commissioner of Lands refused to extend the lease. Technically the land then reverted to the government and by extension to the County Government of Nairobi as provided for the Constitution.

- iv. **Other Claimants:** The Committee was informed that other parties had made several attempts to acquire the land fraudulently. The said parties include Solio Construction Limited that claimed to have been allocated the land by the government. However, the investigations by the commission revealed that the said grant was fraudulent as the company had two sets of title for the same property. the first was registered on 18th May 1992 with two different IR numbers, raising doubt on the authenticity of the title. The title was also charged to Barclays Bank of Kenya on 26th October 1993 even before the title was registered and stamp duty paid.

The second set of title held by Soli Constructions company Limited was registered on 24th January 2001 when the same title was already charged to Barclays Bank of Kenya.

There was no surrender of the original certificate of lease and the claim that this was a new grant of 99 years effective 1st July 2019 but this cannot be so because the old lease held My Mayer Jacob Samuels was still valid and was to expire 2003. Further the Solio Construction Limited title was registered on 18th My 1992 before the lease commenced on 1st July 1999.

Solio Construction Limited then purported to have sold the land to Kasarani Mall Limited who transferred it to Uchumi Supermarkets. 9998 shares of Kasarani Mall are held by Uchumi Supermarket according to records obtained from the Registrar of Companies.

- v. **Conclusion:** In a letter Ref. 21046/II/50 addressed to Robson Harris & Company Advocates dated 13th March 1986 the Commissioner of Lands declined to renew the lease held by Mr. Mayer Jacob Samuels. This meant that the land reverted to the government and by extension ofc the new Constitution to the County Government of Nairobi. The County Government of Nairobi vide a letter Ref. No. LS/007/001754/sgm/MK dated 9th 2018 requested the Permanent Secretary Ministry of Lands to Include Roysa Community Development Society in the titling of the land LR.5875/2

MIN. NO. NA/DCS/LANDS/2019/- 181: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at seven minutes past one o'clock. The next meeting will be held on Thursday, 12th September 2019 at 9:30 am .

Signature


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

Date.....
15/10/2019
(Chairperson)



**MINUTES OF THE 55TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON TUESDAY, 6TH AUGUST 2019 IN THE BOARDROOM, 2ND FLOOR,
PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 11.30 A.M**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Babu Owino, M.P
6. Hon. Catherine Waruguru, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Owen Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Simon Nganga Kingara, M.P
11. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Kimani Ngunjiri, M.P
2. Hon. Omar Mwinyi Shimbwa, M.P
3. Hon. Joshua Kutuny, M.P
4. Hon. George Aladwa, M.P
5. Hon. Jane Wanjuki Njiru, M.P
6. Hon. Ali Mbogo, M.P
7. Caleb Kipkemei Kositany
8. Hon. Josphat Gichunge Kabeabea, M.P

IN ATTENDANCE

KANDARA RESIDENTS ASSOCIATION

1. Mr. David Kimani Wathugi
2. Mr. John K. Mahuti
3. Mr. Nganga Njoroge
4. Ms. Phyllis Nyamweru
5. Ms. Mary Wanjiru
6. Mr. Daniel Machenge
7. Mr. Titus Itongu
8. Mr. Geoffrey Kairo
9. Mr. Philip Warutu

10. Karira Kimara

11. Duncan Okatch – Advocate

12. Jackson Ikua – Advocate

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Sydney Lugaga - Legal Counsel II
3. Mr. Joseph Tiyan - Research Officer III
4. Mr. Nimrod Ochieng - Audio Recording Officer
5. Ms. Peris Kaburi - Serjeant – At - Arms

MIN. NO. NA/DCS/LANDS/2019/- 227: PRELIMINARIES

The meeting was called to order at fifteen minutes to noon. Prayers were said and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2019/-228: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. George Risa Sunkuyia, M.P and Hon. Simon Kingara, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/-229: CONFIRMATION OF PREVIOUS MEETING

Consideration of the item was deferred to the next sitting.

MIN. NO. NA/DCS/LANDS/2019/-230: MEETING WITH PETITIONERS IN A PETITION BY MR. PHILIP NJUGUNA ON BEHALF OF KANDARA RESIDENTS ASSOCIATION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DELMONTE KENYA LIMITED

The petitioners informed the Committee that;

- i. Del Monte Kenya Limited was fully owned by foreign nations as evidenced in the list of its directors, which did not include a single Kenyan. Therefore, the petitioners argued that the company did not enjoy preemptive right of extension of the lease for land currently held by the company and that the company should surrender 50% of the land in question before the lease would be renewed;
- ii. The County government of Muranga had usurped the powers to renew the lease held by Del Monte Kenya Limited when the said powers were held by the National Land Commission contrary to section 13 of the National land Commission Act 2012. However, the petitioners were not able to table evidence to indicate that indeed Muranga County Government had renewed the said leases. They clarified that both the County Governments of Muranga and Kiambu had submitted no objection reports to the National Land Commission and had not actually renewed the leases. Therefore, the

- petitioners were contesting the no objection reports submitted by the two Counties regarding the said renewal of leases for land held by Del Monte Kenya Limited;
- iii. Public participation was mandatory in the renewal of the lease and that Kandara Residents Association through the instructions of the National land Commission had undertaken extensive public participation on the matter and had held meeting across Muranga county and received views from approximately 4500 person on the said renewal of lease for land held by Del Monte Kenya Limited. A report on the exercise was tabled and approved by the Muranga County assembly;
 - iv. Kandara Residents Association had also lodged a Historical Injustice claim with the National Land Commission alleging injustices committed by Del Monte Kenya Limited together with the colonial solders and the Agro French, who planted sisal in the area and the Kenya Cannners. The Committee was further informed that the commission had recommended that the land held by Del Monte Kenya Limited be resurveyed to establish if the company was in possession of land that it did not own. It was also recommended that any surplus land should be surrendered to the Association and the County government of Muranga for public purpose in the ratio of 70:30. The company was also required to surrender all public utilities within the land to the relevant National and County Government Agencies whether the leases had expired or not

The Committee noted that the petition limited its focus to renewal of lease for land owned by Del Monte by Muranga County. It therefore meant that the petition did not include land in Kiambu County. It was further noted that the role of the County government was limited to making recommendations on the renewal of the leases and could not undertake the actual renewal as this was the mandate of the National land Commission.

MIN. NO. NA/DCS/LANDS/2019/- 231 MEETING WITH THE PETITIONERS ON A PETITION BY OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS REGARDING INVASION AND EVICTION OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

The petitioners informed the Committee as follows:

- a) The petitioners are former workers of the late Mayor Jacob Samuels who owned land in question land in Roysambu constituency. The owner was deported from the county after he declined an offer to compulsory acquire the land made by the Kenya Defence Forces. After the landowner left the county his two sons came to manage the land and operate the business. The owner had made an offer of Ksh. 26 million for the land while the department offered Ksh 3 million. They added that although the KDF intended to acquire the said land ,senior military officers advise that land was not suitable for use by the military as it was located in the middle of a densely settled area and it would require the force to acquire adjacent land to create enough land to secure a military facility. There was also no evidence to indicate that the military paid any compensation to the owner.

- b) In 2003 the government declined to renew the lease for the land and the two sons also left the county leaving the workers with no income. The workers then decided to start business that included a garage and parking of lorries in order to make ends meet.
- c) In 2004 a group of invaders attempted to enter the land and erect old containers on it. However, the invaders were repulsed. Following the attempted grabbing of the land the petitioner were advised to register a company and use it to acquire the land
- d) On 6th May 2004 the petitioners registered a company known as Roysa Community Development Society No. 446760 and used it to request the County Government of Nairobi to allocate them the land.
- e) On 17th February 2014 the County Government of Nairobi the land to Roysa Community Development Society and the Chief Land Officer wrote to the National Land Commission indicating that the County Government had allocate the land to the society. The commission rejoinder dated 10th MARCH 2014 informed the County Government of Nairobi that since the lease to the land had expired and was not renewed, the land had reverted to the county government and therefore it was in order for the county government to allocate it to Roysa Community Development Society. The petitioners tabled the said correspondence to the committee.
- f) The petitioners accepted the offer and paid for the issuance an allotment letter through their trustees and they also paid the required fee to amend the index map and for valuation of the parcel of land to facilitate subdivision and issues of a certificate of subdivision and lease.

However on 2019 a group of people in green lorries invaded the land and displaced the petitioners. The invaded also erected six tens on

MIN. NO. NA/DCS/LANDS/2019/- 232: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at forty minutes past one o'clock. The next meeting will be held on Thursday, 8th August 2019 at 9:30 am.

Signature

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

(Chairperson)

Date.....

15/10/2019



Ministry of Lands and Settlement

OFFICE OF THE PERMANENT SECRETARY

CONFIDENTIAL

Telegrams: MINILANDS, Nairobi
Telephone: Nairobi 718050
When in replying quote

Ardhi House
Ngong Road
P. O. Box 30450
NAIROBI

Ref. No.

CON/LS/A/15/28 Vol.III/(56)

and date

14th June04
20

Mr. John Githongo,
Permanent Secretary,
Governance and Ethics,
Office of the President,
NAIROBI.

for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Dear John,

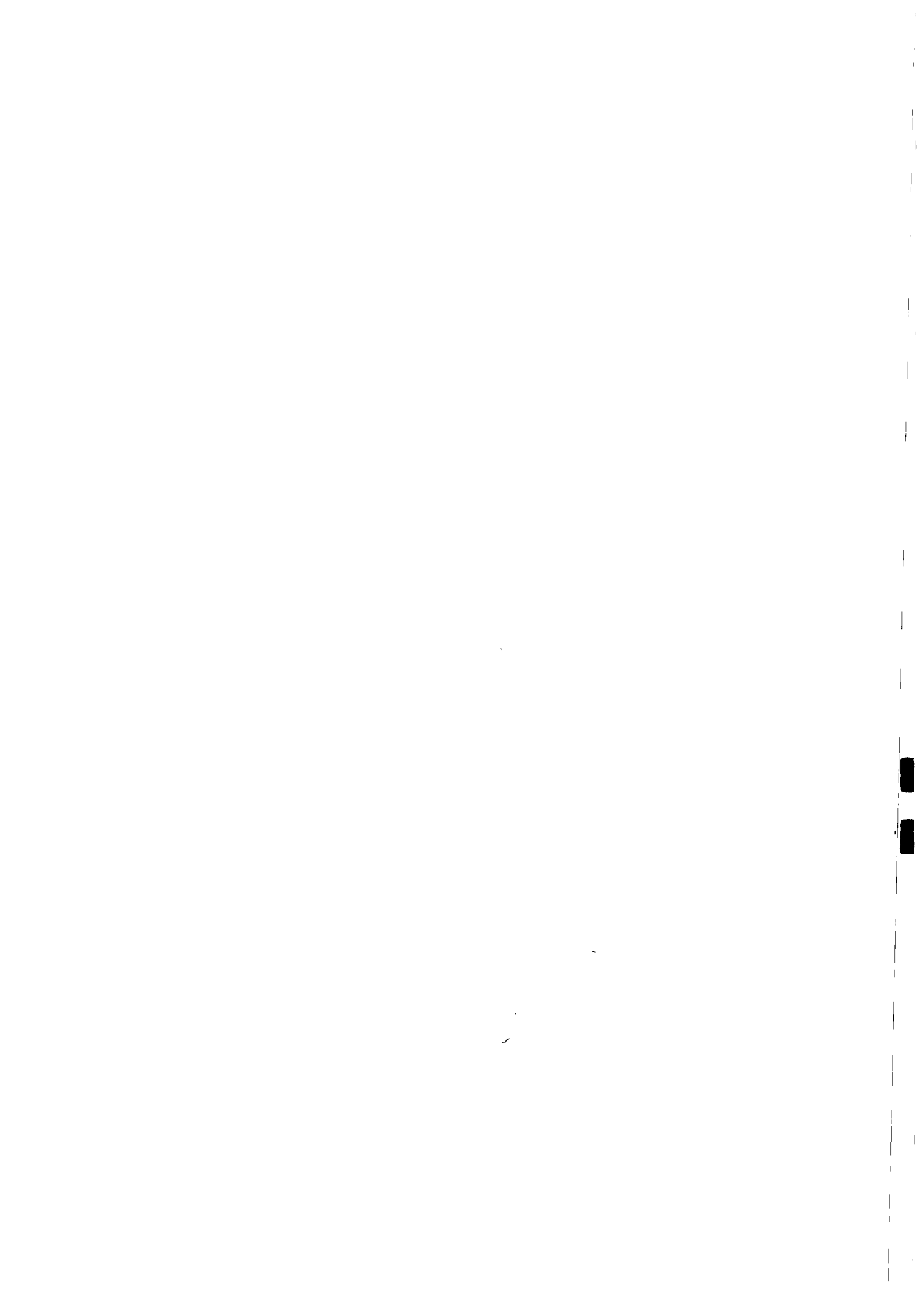
**FRAUDULENT ALLOCATION OF LAND ACQUIRED FOR
MILITARY USE – L.R. 5875/2**

The above land was originally owned by an Israeli national by the name Meshumor Jacob Samuel. In 1985 it was acquired by the Government compulsorily under the Land Acquisition Act, Cap.295 for use by the Department of Defence. The Government paid KShs.3,530,000/= for the land which measures 6.864 hectares (17 acres).

Mr. Meshumor Jacob Samuel disputed the award as being too little and appealed in Court against the award. The Court entered judgment for a sum of KShs.20,000,000/= plus 15% of that value. The total figure came to KShs.23,000,000/=. The Department of Defence, who had already taken possession of the property and moved in thought the cost was too much and consequently moved out of the property.

The Government never paid Mr. Samuel the compensation and even the original award of Kshs.3,070,000/= is still with the Court. There is a case in Court (*Civil Appeal No.100 of 1987*) for damages and the amount Mr. Samuel is claiming which includes interest is in the excess of KShs.60 million.

CONFIDENTIAL



Sometimes in October 2000, the former Commissioner of Lands, Mr. Sammy Mwaita allocated the land to a company by the name Solio Construction Limited and the Stand Premium and other charges totaling KShs.2,826,402/= was paid on 23rd January, 2001. In order to circumvent the Government embargo on land allocations, the Letter of Allotment was backdated to 26th June 1999. This was clearly a forgery.

After payment of the Stand Premium and related charges on 23rd January 2001, a Grant was registered in favour of Solio Construction Limited the following day, that is, on 24th January 2001.

On 19th March, Solio Construction Limited applied for consent to transfer the land. The consent was granted on payment of a fee of KShs.1,700,000/=. The land was then transferred to Kasarani Mall Limited on 20th March, 2001 at a consideration of KShs.85,000,000/=.

According to the Certificate of Incorporation, Solio Construction Limited was incorporated on 18th August 1999. The Letter of Allotment shows that the company was allocated the land on 26th June 1999. This implies the company was allocated the land approximately two months (54 days) before it was even incorporated. In law, you cannot vest property on non-existent entity.

The application for consent is handwritten on a plain piece of paper and not signed. It is therefore not possible to know who made the application. Even before consent was granted, the company had already drawn the cheque in favour of the Commissioner of Lands.

I have reliably learnt that the person behind Solio Construction Limited is a Mr. Joshua Kulei. He was working closely with the former Commissioner of Lands Mr. Sammy Mwaita.

As I have already pointed out, the Government has never fully paid for the land and is now faced with damages in excess of KShs.200,000,000/= and yet the land has been grabbed.

I regard this as a case of corruption involving directors of Solio Construction Limited and Mr. Sammy Mwaita. The officer who also signed the Letter of Allotment, one Mr. S.K.W. Wangila abused his office by backdating the Letter with a view to circumvent Government policy.

The purpose of this letter, therefore, is to request you to instruct the Kenya Anti-Corruption Commission to investigate and take action against those who were involved in this fraudulent allocation of land belonging to the Department of Defence.



CONFIDENTIAL

(50)

Copies of the following documents are attached for your ease of reference:

- ✓ Letter of Allotment dated 26th June 1999
- ✓ Payment Receipt No.E.700707 issued on 23rd January 2001
- ✓ Certificate of Incorporation No.C86743 of Solio Construction Limited
- ✓ Application for consent dated 19th March 2001
- ✓ Payment Receipt No.E769624 issued on 20th March 201
- ✓ Transfer registered as I.R.85371/1 dated 20th March 2001

Yours

*Sincerely**Kiriinya*

Kiriinya Mukiira, HSC
PERMANENT SECRETARY

for **COMMISSIONER OF LANDS**
P.O. Box 80089, NAIROBI

c.c. **Hon. Kiraitu Murungi, M.P.,**
Minister for Justice and Constitutional Affairs,
Sheria House,
NAIROBI.

CONFIDENTIAL

202033-49

(49) (31)

TO: PERMANENT SECRETARY

FROM: COMMISSIONER OF LANDS

DATE: 4TH MAY, 2004

**of COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI**

REF: 202033/31

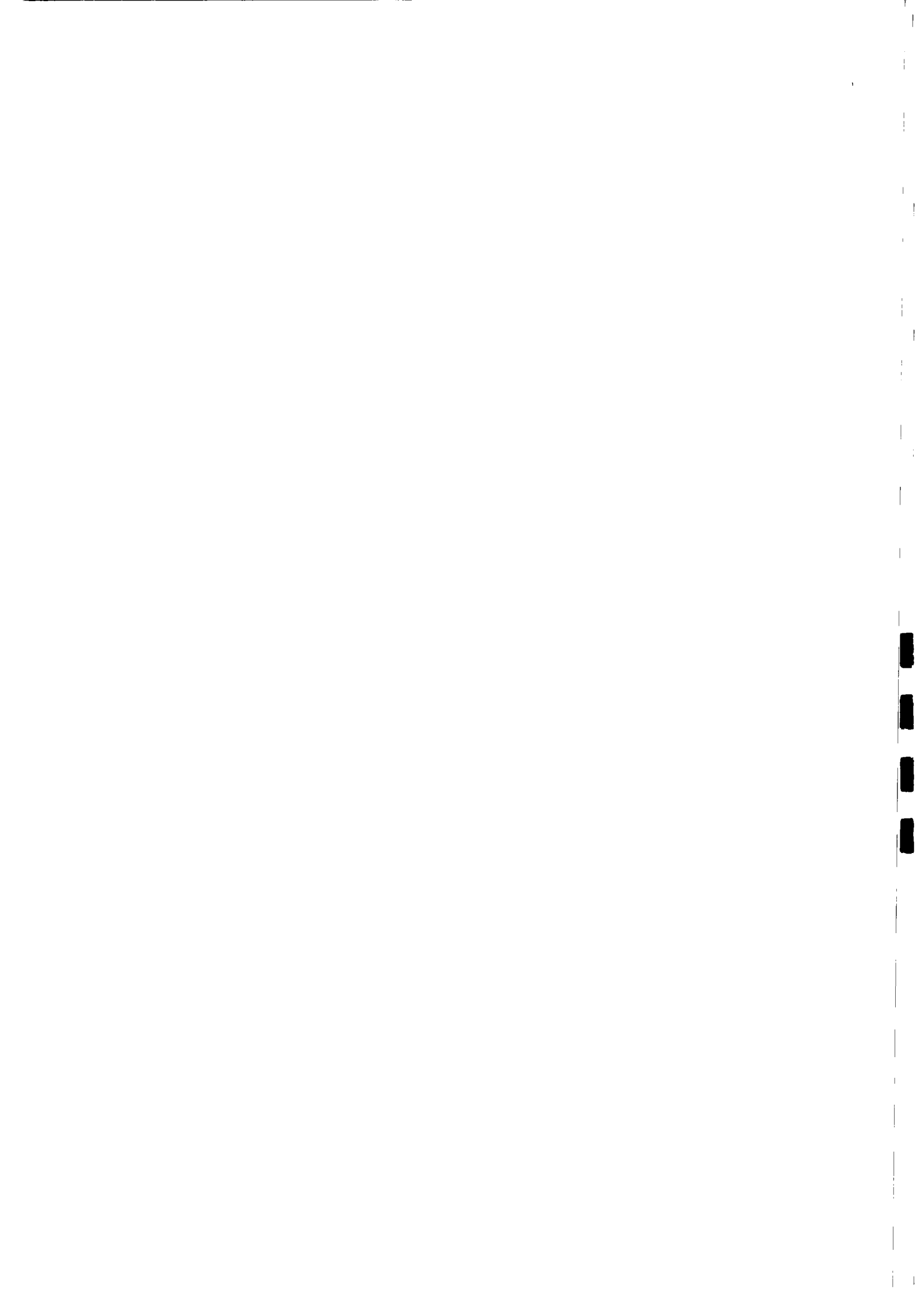
A BRIEF – L.R. 5875/2 – MESHUMOR JACOB SAMUEL

The land was originally owned by Meshum^{or} Jacob Samuel. In 1985 the Government acquired it for use by the Department of defence. The Government paid the land owner shs.3,530,000 as compensation. However Mr. Meshumor Jacob Samuel appealed against the Award because in his opinion, the amount was too little.

He therefore appealed against the award. The Court of Appeal entered judgement for the sum of Shs.20,000,000 plus 15% of that value. The Total figure came to shs.23,000,000/- which the Department of Defence thought was too much, they therefore moved out of the land.

On 26th June 1999, this land was allocated to Solio Construction Limited. They paid for it on 23rd January, 2001 and on 24th January, 2001 the land was registered in their favour vide Grant No. I.R. 85371/1.

On 19th March 2001, Solio Construction Limited applied for consent to transfer which was granted on payment of consent fee of Shs.1,700,000. The land was then transferred to Kasarani Mall Limited on 20th March, 2001 at a consideration of Shs.85,000,000/-.



The land is still vested in the said Kasarani Mall Limited and as at today, it has no encumbrance on the title.

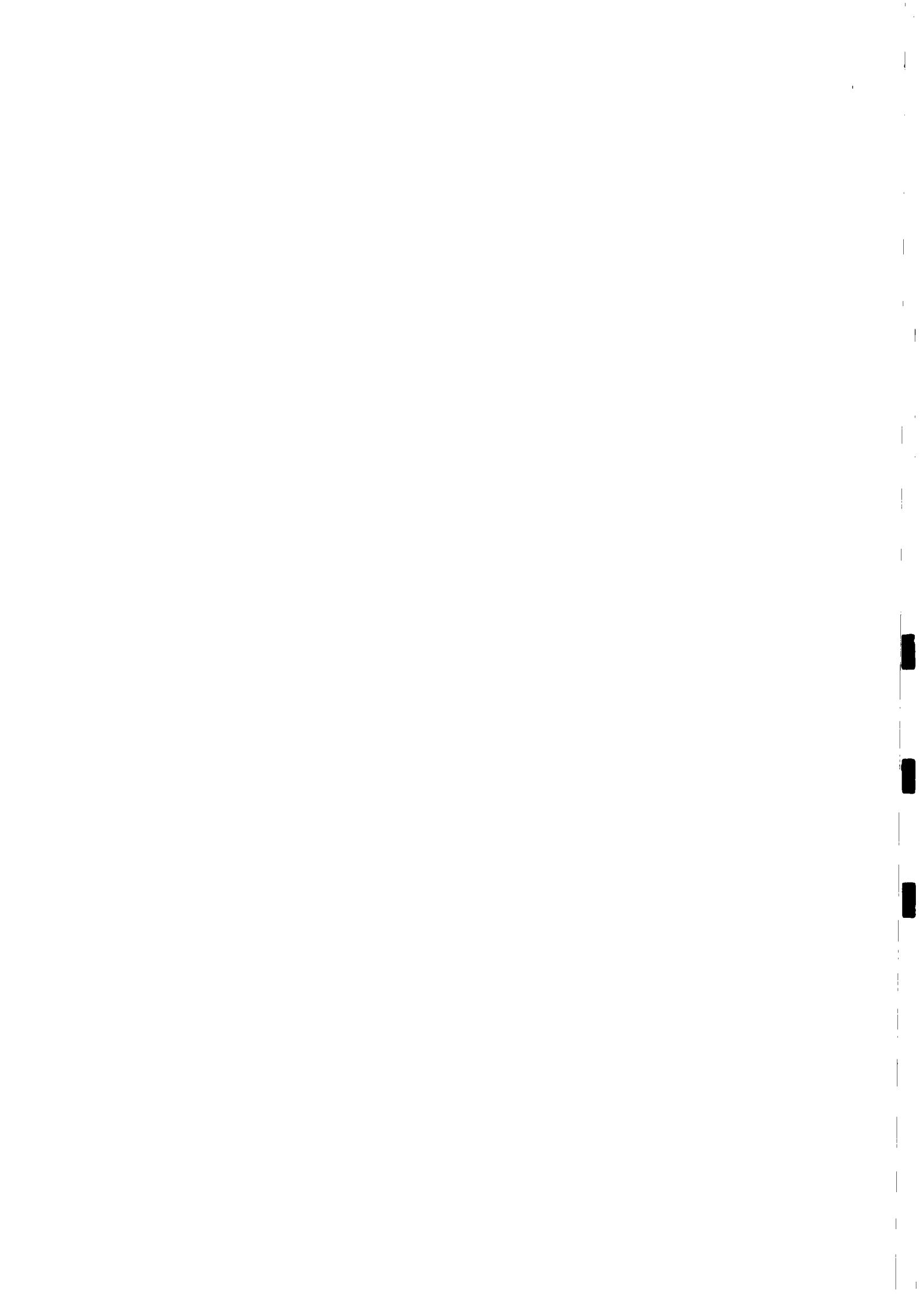
Enclosed herewith is

- (i) A copy of the letter of allotment
- (ii) A copy of payment receipt No. E 700707 issued on 23.1.2001
- (iii) A copy of the Certificate of Incorporation of Solio Construction Limited
No. C 86743
- (iv) Copy of application for consent
- (v) Copy of receipt No. E 769624 issued on 20th March, 2001.
- (vi) A copy of the Transfer registered as I.R. 85371/1

J. M. OKUNGU (MRS.)

COMMISSIONER OF LANDS

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI



202583-212

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70009/V/210

15th July, 20003

The Permanent Secretary,
Ministry of Lands and Settlement,
NAIROBI.

COMMISSIONER OF LANDS
P.O. Box 30000, NAIROBI

**RE: CIVIL APPEAL NO. 109 OF 1987
THE COMMISSIONER OF LANDS
VS.
MESHUMOR JACOB SAMUEL**

The above case involves the issue of compensation payable to Meshumor Jacob Samuel after the compulsory acquisition of his land – L.R. No. 5875/2 near Roysambu.

I understand the treasury has allocated some funds for settlement of pending bills. I would suggest we settle even half the amount out of the said funds to avoid orders out of the contempt proceedings being taken against the Ministry. The Attorney General is waiting for further instruction on the matter.

I trust you will find the proposal acceptable.

J. M. OKUNGU

J. M. OKUNGU (MRS.)
COMMISSIONER OF LANDS



202033 - 46

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202033/28

28th April, 2003

The Permanent Secretary,
Ministry of Lands and Settlement,
NAIROBI.

TO COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

RE: COMPULSORY ACQUISITION L.R. NO. 5875/2
MESHUMOR JACOB SAMUEL
Vs.
THE COMMISSIONER OF LANDS

Further to my letter of even reference to you dated 24th March, 2003, I have found evidence from my records that this matter had been referred to the Treasury by your predecessor vide a copy of the letter attached herewith.

I wonder whether there has been any response from the Treasury as the matter appears urgent and the decree holder feels frustrated by us.

Also enclosed herewith is additional information (from the office of the Attorney General) which you might find useful.


J. M. OKUNGU (MRS.)
COMMISSIONER OF LANDS

70009/IV

24th March, 2003

The Permanent Secretary,
Ministry of Lands Settlement,
NAIROBI.

**RE: COMPULSORY ACQUISITION - L.R. 5875/2
MESHUMOR JACOB SAMUEL
VS.
THE COMMISSIONER OF LANDS**

**for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI**

I wish to bring to your attention the particulars of the above case whose settlement has been pending for a long time. The fact of the matter is as follows:

1. On 22nd November, 1985 the Government issued a Notice of Intention to acquire the above mentioned parcel of land situate in Roysambu Estate somewhere along the Main Nairobi – Thika Highway. The Land measures 17.16 acres and was acquired for use by the Department of Defence. The Defence took possession of the land, but after some time they move out claiming that they did not need the land.
2. The Value of the land and improvements thereon was determined by the Chief Valuer as Shs.3,070,000/- and the same was awarded to Meshumor Jacob Samuel, the land owner. Mr. Samuel was not happy with the amount awarded, so he filed a case in Court contesting the said amount. The Court heard the Case and awarded Mr. Samuel Shs.20,000,000 plus the statutory 15% of that value – the total award therefore came to Shs.23,000,000. This award was made on 3rd day of June 1987. Since he had been paid shs.3,070,000 earlier this sum was to be deducted from the new award. The additional amount was never paid. As at today, Mr. Samuel is demanding Shs.52,000,000/-. Because of the frustrations of non-payment Mr. Samuel went back to Court to seek judgement against the Government. Judgement was by consent that the whole amount outstanding would be paid within 60 days with effect from 25th day of October 2002, but this could not be paid because no budgetary provision had been made for it.

(44)

3. Unfortunately, the Government parted with possession of the land by allocating it to a third party. The said allottee then sold the land and it is therefore not available to be returned to Mr. Samuel.

This is one of the cases which might soon embarrass the Ministry. I suggest you take it up with the Treasury as a pending bill to be sorted out as soon as possible. Mr. Samuel has already threatened to sue for an order of Mandamus if he is not paid still.

I enclose herewith copies of the court judgment on the matter.

J. M. OKUNGU (MRS.)
COMMISSIONER OF LANDS

of **COMMISSIONER OF LANDS**
P.O. Box 30089, NAIROBI



202033-43

43

MINISTRY OF LANDS AND SETTLEMENT

Telegrams "MINILANDS", Nairobi
Telephone: Nairobi 718050
When replying please quote

ARDHI HOUSE
1ST NGONG AVENUE
OFF NGONG ROAD
P.O. BOX 30450
NAIROBI

Ref. No. **M.L.S./ 29/002/8 VOL.IV(77)**

and date

November 12, 2002

Mr. Samuel K. Bundotich,
Financial Secretary,
Ministry of Finance and Planning,
Treasury Building,
NAIROBI.

109 COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Dear *Samuel,*

CIVIL APPEAL NO.109 OF 1987
THE COMMISSIONER OF LANDS VERSUS
MESHUMOR JACOB SAMUEL

The above appeal case has been pending since October 1987.

The suit arose from a land acquisition process of LR. No.5875/2 measuring approximately 17.16 acres situated at Roysambu along Thika road.

The Notices of intention to acquire and inquiry were published on November 11, 1985 vide Gazette Notice No.5151 and 5152. The inquiry was held on 5th and 18th February, 1986 and the registered proprietor made an oral claim of Kshs.25,000,000/=. He was, however, awarded Kshs.3,530,000/= which he appealed against under land acquisition Case No.2 of 1986.

The appeal was heard by the High Court which awarded Kshs.23,000,000/=. The respondent also filed a cross appeal for the enhancement of Kshs.23,000,000/= to Kshs.46,000,000/=.

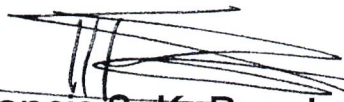
However, on 27th February, 1997, the Court of Appeal stood over the matter to allow the parties to settle the matter out of Court, which however, to date has not been finalized. The Attorney General's letter ref.No.AG/M.L.S./94/87 of 24th April, 1997 (*marked 1*) is instructive.

The matter came up for hearing on 24th September, 2002 and we have affirmed Government position to proceed with the settlement of the award as agreed.

I am, therefore, forwarding a letter ref. AG/M.L.S./94/87 dated 5th November, 2002 (*marked 2*) from the Attorney General together with certificate of order against the Government indicating the amount (i.e. Kshs.52,034,150.40) for payment and settlement.

The Attorney General has advised that this be settled before the end of November 2002 as the outstanding amount attracts an interest of half a million monthly.

Yours *Sincerely,*


Francis S. K. Bayah, EBS,
PERMANENT SECRETARY

COMMISSIONER OF LAND
P.O. Box 30119, NAIROBI

Encl.

Archer Wilcock & Kairu

Advocates, Notaries Public & Commissioners for Oaths

40

Partners:

P. J. Ransley
P. Kimani Kairu
Z. Janmohamed

Associates:

Mrs. M. Thande
W. K. Gachanja
Ms. J. N. M. Ngethe
J. R. Ndururi

Marakwet House
Elgeyo Marakwet Road
Off Argwings Kodhek Road
Kilimani, Nairobi

P.O. Box 10201-00400
Nairobi, Kenya

Telephones: 254-2-567647,
5709347,
577693
Fax: 254-2-567664
E-mail: arewil@wananchi.com

Our Ref: S/599/4-B(1)/ZMJ

Your Ref:

AG.MLS/94/87 Date 29th October, 2002

V. Onyango
Deputy Chief Litigation Counsel
Attorney General's Chambers,
P.O. Box 40112,
NAIROBI.

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Dear Valeria,

**RE: CIVIL APPEAL NO. 109 OF 1987
THE COMMISSIONER OF LANDS VS.
MESHUMOR JACOB SAMUEL**

Further to our consent recorded in court on the 25th October, 2002, I enclose herewith a statement of account of the sums due as at 30th November, 2002. Please let me have your confirmation of the same and do let me know when I would receive the same.

Yours sincerely,

Jachi

Z. JANMOHAMED (MS)

Awm

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

202033-21
27

VAL 847 (41)

Telegrams: "SHERIA", Nairobi
Telephone: Nairobi 227461
When replying please quote



ATTORNEY-GENERAL'S CHAMBERS
P.O. Box 40112
NAIROBI, KENYA

Ref. No.
and date
AG/MLS/94/87

..... 20.....

5th November, 2002

BY COMMISSIONER OF LANDS
"URGENT BY HAND"

Commissioner of Lands
Ministry of Lands & Settlement
Lands Department
NAIROBI

MR GICHENE
TMA
SK
13/11/02

ATTN: MR. Z. A. MABEA

RE: CIVIL APPEAL NO. 109 OF 1987
THE COMMISSIONER OF LANDS
- VERSUS -
MESHUMOR JACOB SAMUEL

Your letter No. 202033/26 dated 1st November, 2002 refers.

I have now received a copy of the Certificate of Order against the Government indicating the amount now due for payment.

You will notice that the interest rate is 6% which is lower than the Court rate due to the fact that special interest rate attach to the compensation in land acquisition.

The calculation is based on payment being effected by end of November, 2002.

Please ensure that arrangement for payment is made promptly otherwise more interest will accrue until full payment.

(V. ONYANGO)
Deputy Chief Litigation Counsel
FOR ATTORNEY GENERAL

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Encl.

262033
 39
 COMMISSIONER OF LANDS
 P.O. Box 30089, NAIROBI
 REPUBLIC OF KENYA
 IN THE HIGH COURT OF KENYA AT NAIROBI

HIGH COURT OF KENYA
 PROBATE DIVORCE
 11 DEC 1989
 CIVIL APPEALS
 APPELLANT
 NAIROBI

LAND ACQUISITION APPEAL NO. 2 OF 1986

MESHUMAR JACOB SAMUEL
 v e r s u s
THE COMMISSIONER OF LANDS RESPONDENT

CERTIFICATE OF ORDER AGAINST THE GOVERNMENT

BY A DECREE of this court dated the 3rd day of June, 1987 IT WAS ORDERED

THAT the Respondent in this suit do pay the Appellant the sum of K. Shs. 23,000,000/= inclusive of costs and interest to the date of judgment together with interest at the rate of 6% per annum on K. Shs. 23,000,000 from the 25th day of February, 1986 to the 16th day of May, 1986. In addition interest at the rate of 6% per annum on K. Shs. 19,771,965/= being the balance of the award from the 17th May, 1986 until payment in full.

I HEREBY CERTIFY that the amount payable to the Appellant by the Respondent in pursuance of the said Decree is K.Shs.24,395,579/= as set out below together with further interest at the rate of 6% per annum from the 1st day of December, 1989 until payment in full.

ISSUED on this 13th day of December, 1989.

COMMISSIONER OF LANDS
 P.O. Box 30089, NAIROBI
 DEPUTY REGISTRAR
 HIGH COURT OF KENYA, NAIROBI

PARTICULARS

Decretal amount.....	Shs. 23,000,000.00
Interest @ 6% per annum from 25.2.86 to 16.5.86.....	Shs. 302,465.00
Further interest on balance of Award @ 6% per annum on K.Shs. 19,771,965/= from 17.5.86 to 30.11.89.....	Shs. 4,202,651.00
	Shs. 27,505,116.00
Less paid (Original Award).....	Shs. 3,530,500.00
	Shs. 23,974,616.00
Taxed Bill of Costs.....	Shs. 366,130.00
Interest @ 6% per annum from 3.6.87 to 30.11.89.....	Shs. 54,833.00
	Shs. 24,395,579.00

I CERTIFY THIS IS TRUE COPY
 OF THE ORIGINAL
 Date 13th December 1989

CERTIFICATE OF ORDER AGAINST THE GOVERNMENT

COMMISSIONER OF LANDS

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

3-6-1987	Decretal amount	- Kshs. 23,000,000-00
25-6-1986	To 16-5-1986 Interest @ 6%	- " 302,465-00
	Further interest on balance as of Award @ 6% per annum or Kshs. 19,771,765=00 from 17-5-86 TO 30-11-89	" <u>4,202,651-00</u> 27,505,116-00
	Less paid (Original Award)	" <u>3,530,500-00</u>
	Taxed Bill of costs	" 23,974,616-00 366,130-00
	Interest @ 6% per annum from 3-6-87 - 30-11-89	" <u>54,833-00</u> 24,395,579-00
01-12-89	To 30-11-90 interest @6% per annum	" <u>1,463,734-70</u> 25,859,313-70
01-12-90	To 30-11-91 interest @ 6% per annum	" <u>1,551,558-80</u> 27,410,872-50
01-12-91	To 30-11-92 interest @ 6% per annum	" <u>1,644,652-30</u> 29,055,524-80
01-12-93	To 30-11-93 interest @ 6% per annum	<u>1,743,331-40</u> 30,798,856-70
01-12-93	To 30-11-94 interest @ 6% per annum	<u>1,847,931-30</u> 32,646,787-50
01-12-94	To 30-11-95 interest @ 6% per annum	<u>1,958,807-20</u> 34,605,592-70
01-12-95	To 30-11-96 interest @ 6% per annum	<u>2,076,335-50</u>
	Carried forward	36,681,928-20

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

CONFIDENTIAL

202033-53

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MINISTRY OF LANDS AND HOUSING
Office of the Permanent Secretary

INTERNAL MEMO

TO: COL

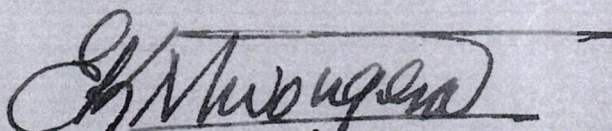
DATE: 22nd July, 2004 Ref. CON/LS/A/15/28 vol.III/(58)

SUBJECT

FRAUDULENT ALLOCATION OF LAND,
LR 5875/2, ACQUIRED FOR MILITARY USE

The contents of this office letter Ref. CON/LS/A/15/28 vol.III/56 dated 14th June, 2004 (copy attached) addressed to Permanent Secretary, Governance and Ethics, are well documented and self explanatory. We should all therefore, cooperate and give investigators full support to complete their investigations expeditiously and bring the culprits to book.

The issue of the client paying the determined acquisition fee to the original owner is however silent. I would, therefore like you to confirm the status of the matter urgently with recommendations as appropriate.


Eng. E. K. Mwonjera, *EBS, OGW*,
PERMANENT SECRETARY

for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

CONFIDENTIAL

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CL

LAND ACQUISITION APPEAL NO. 2 OF 1986

MESHUMOR JACOB SAMUEL VS. THE COMMISSIONER OF LANDS

*Reference is made to your verbal instructions.

- (1) In 1985 the Department of Defence instructed the Commissioner of Lands to acquire L.R. No. 5875/2 situated in Roysambu, Nairobi for the establishment of a Kenya Army School.
 - (2) The land measuring approximately 17.16 acres was registered in the name of Mayer Jacob Samuel - Deceased.
 - (3) Mr. Meshumor Jacob Samuel a brother of the deceased inherited the land through a court action.
 - (4) The Minister for Lands and Housing directed the Commissioner of Lands to acquire the land compulsorily vide letter No. MLS.20/003 Vol.11/71 dated October 22, 1985.
 - (5) The Notices of intension to acquire and Inquiry were published on November 11, 1985 vide Gazette Notice No. 5151 and 5152.
 - (6) The Inquiry was held on February 5 and 18, 1986 and Meshumor Jacob Samuel gave an oral claim of KShs. 25,000,000/=
 - (7) We took possession of the land on June 25, 1986 and the Department of Defence moved in.
 - (8) Mr. Meshumor Jacob Samuel appealed against our Award of KShs. 3,530,000/= and the High Court listed it as "The Land Acquisition Appeal No. 2 of 1986."
- In view of this Appeal the Award (KShs. 3,530,000/=) was deposited in the High Court as required by the Law.
- (9) Later Mr. Samuel applied to the High Court for the Award to be deposited in the Middle East Bank where it could earn a higher interest as opposed to the Court's 6% then. The application was allowed and the High Court Registrar deposited the money in the said Bank.
 - (10) The Appeal was heard by Justice Frank Shields a former Chief State Counsel in the Attorney-General's Chambers.

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

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- (11) The appellants had four figures during the Appeal Proceedings:-
- (a) KShs. 16,087,427/= - Private Valuation.
 - (b) KShs. 19,681,250/= - Private Valuation.
 - (c) KShs. 25,000,000/= - Oral Claim.
 - (d) KShs. 18,000,000/= - An alleged offer to purchase the property.
- (12) The Judge came up with a figure of KShs. 23,000,000/=
- The relevant authorities were informed of the Judgement.
- (13) The Attorney-General was instructed immediately to plead with the Court of Appeal for a review of the Judgement.
- (14) On 27th February, 1997 the Court of Appeal stood over the hearing of the appeal following request by the parties to settle the matter out of Court.
- (15) To date the settlement has not been concluded.

I enclose some copies of correspondence on the subject matter to up-date you on the case.



J. K. MWINZI,
CHIEF VALUER

11/1/2001.

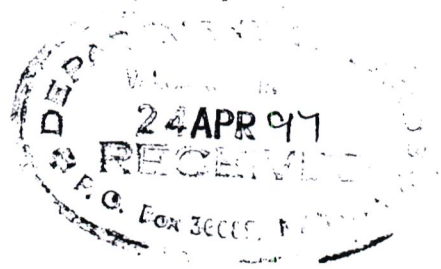
COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

202033-91 (91)

Telephone: Nairobi 227461
When replying please quote
Ref. No. AG/MLS/94/87
and date



P.O. BOX 40112, NAIROBI
KENYA



24th April, 1997

Commissioner of Lands,
Department of Lands,
Ministry of Lands & Settlement,
P.O. Box 30450,
NAIROBI.

(Att. Mr. J.B.K. Mwaniki)

Permanent Secretary,
Office of the President,
Department of Defence,
Ulinzi House,
P.O. Box 40668,
NAIROBI.

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

(Att. Lt. Col. J.Q. Mbewa)

RE: COMPULSORY ACQUISITION OF L.R. NO. 5875/2 ROYSAMBU - NAIROBI

COURT OF APPEAL CIVIL APPEAL NO. 109 OF 1987
COMMISSIONER OF LANDS - VERSUS - MESHUMOR JACOB SAMUEL

You are both familiar with this matter which has been pending for a long time. You are also aware that there have been attempts through diplomatic channels to have the matter settled out of Court once and for all.

This option of negotiations would prove to be the best way out of things since it is also a fact that our appeal has a weak point in the record which may render it incompetent. This is because the original record of appeal filed way back in 1987 did not include a certified copy of the Order appealed from. The said order was later filed in the supplementary Record of Appeal. The present law requires that this certified copy be in the Original Record in accordance with the Court of Appeal Rules failure to do so normally result in the Appeal being struck out.

The legal history of the case is that after the Commissioner of Lands awarded compensation of KShs. 3.5 million to Mr. Samuel he appealed to the High Court where the award was enhanced to KShs. 23 million.

The Attorney General with concurrence of both your Departments appealed against the High Court award of KShs. 23 million. That Appeal was challenged on the ground that there is no right of Appeal against a High Court decision in a land acquisition matter which relates to Section 75 of the Constitution. The application to strike out our notice of Appeal was dismissed by the Court of Appeal which held that the right of appeal exists in such matters.

11/4/97

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The other application to have a supplementary record filed to include the omitted vital document has never been disposed of due to the fact that since 1990 the Court of Appeal Rules had been amended to shut out such omissions and render them fatal to the appeal. The hearing of the matters in the Appeal have been postponed several times mainly at the instigation of the claimant Mr. Samuel. The reasons for postponements varied from ill-health on the part of Mr. Samuel to attempts to settle through diplomatic channels.

Proceedings in the High Court indicate that the award of KShs. 23,000,000/- had no basis at all and the Judge's decision was arbitrary. It defied the value of the recent sales in the neighbourhood, the then existing unexpired lease of only 18 years and user of the suit premises as residential-cum-hotel with very poor conditions of the buildings thereon.

Experts valuations were KShs. 3,530,500/- (Government) vs. 16,087,428/- to KShs. 19,682,250/- (Mr. Samuel's).

The record also shows that the Award of KShs. 3,530,000/- was released to Mr. Samuel on 3rd February, 1987 through a court order.

Due to the fact that the Appeal may in fact be struck out on a technicality and the lapse of time since the matter went to Court, the Hon. the Attorney General has directed me to advise you that settlement should be explored. This would also be in line with the Government's desire to resolve the issue through diplomatic intervention.

When the matter come up in Court on 27th February, 1997 the matter was stood over till the end of this month to allow the parties conclude a settlement.

This letter is to up-date you on this case and to invite your response to the issues raised.

A copy of the Court of Appeal Order made on 27th February, 1997 is enclosed.

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

V. Onyango

V. Onyango
Deputy Chief Litigation Counsel
For: Attorney General

Encls.



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IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: GICHERU, AKIWUMI & PALL, JJ.A.)

CIVIL APPEAL NO. 109 OF 1987

BETWEEN

THE COMMISSIONER OF LANDS APPELLANT

AND

MESHUMOR JACOB SAMWEL RESPONDENT

(Appeal from a Judgment of the High Court of Kenya at Nairobi
(Justice Shields) dated 3rd June, 1987

in

H.C.L.A. A. NO. 2 OF 1986)

ORDER OF THE COURT

As the parties to this appeal have indicated that they are at an advanced stage in their negotiations with a view to reaching a settlement and that given another two months from today's date they will be able to come to this Court to record a settlement, we in the circumstances stand over the hearing of this appeal to a date in April, 1997 which shall lie taken by the parties at the Registry. We made no order as to costs of today's adjournment.

Dated and delivered at Nairobi this 27th day of February, 1997.

J.E. GICHERU

.....
JUDGE OF APPEAL

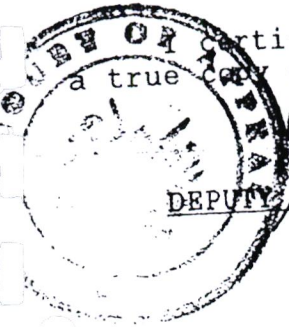
A.M. AKIWUMI

.....
JUDGE OF APPEAL

for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

G.S. PALL

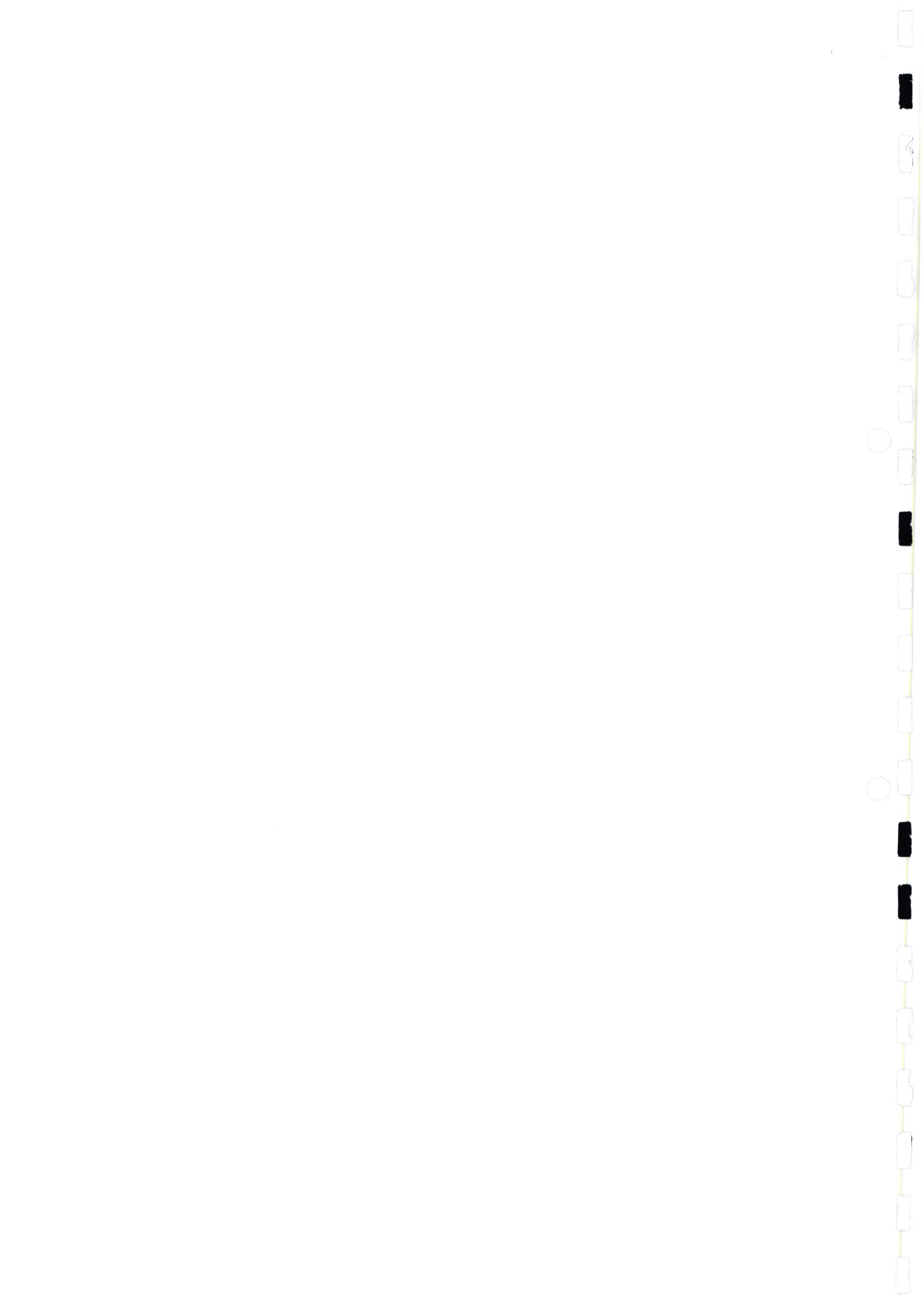
.....
JUDGE OF APPEAL



[Handwritten signature]

I certify that this is
a true copy of the original.

DEPUTY REGISTRAR



IN THE HIGH COURT OF KENYA AT NAIROBI
LAND ACQUISITION APPEAL NO. 2 OF 1986

MESHUMOR JACOB SAMUEL.....APPELLANT

- v e r s u s -

THE COMMISSIONER OF LANDS.....RESPONDENT

ORDER

This Appeal coming for hearing on 12th, 13th, 14th, 18th, and 19th of May 1987 and for judgement on 3rd June 1987 before the Honourable Mr. Justice J.F. Shields in the presence of Counsel for the Appellant and Counsel for Respondent IT IS ORDERED :-

1. THAT the Respondent do pay to the Appellant MESHUMOR JACOB SAMUEL the sum awarded including 15% statutory disturbance compensation of KShs.23,000,000/- less paid in Court on 16-05-86 KShs.3,530,500/- with interest of 6% per annum to be calculated on the balance of KShs.19,469,500/- from the date of taking possession that is 25th June, 1986 until date of payment in full.
2. THAT the Respondent do pay the Appellant's costs including costs for 2 Counsel to be taxed and certified by the Taxing Officer of this Honourable Court together with interest at 6% p.a. from date of Judgement until payment in full.

GIVEN under my hand and the Seal of this Court at Nairobi this 3rd day of June 1987.

ISSUED this 13th day of November 1987.

For COMMISSIONER OF LANDS
D.O. For REGS. NAIROBI

J. Shields

SENIOR DEPUTY REGISTRAR
HIGH COURT OF KENYA, NAIROBI

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J. Shields

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REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

LAND ACQ. NO. 2 OF 1986

COMMISSIONER OF LANDS
P.O. Box 30069, NAIROBI

MESHUMOR JACOB SAMJEL APPLICANT

versus

THE COMMISSIONER OF LANDS RESPONDENT

JUDGEMENT

This is an appeal from an award made by the Commissioner of Lands for the compulsory acquisition of L.R. 5875/2 commonly known as Roysambu Estate comprising 17.16 acres approximately and situated on the main Nairobi - Thika Highway opposite the Kenya National Sports complex. It was held for a term of 99 years from the 1.11.1904, thus leaving a term of approximately 17 - 18 years to run. A Notice of Intention to acquire the lands was published in the Gazette on the 22nd November, 1985 (Gazette Notice 5157 and Corrigindon 5152). Having held the inquiry directed to be held under the Land Acquisition Act, Mr. Mwaniki for the Commissioner of Lands issued his award. He determined the area of the land to be 17.16 acres, that compensation was payable to the Appellant and that the value of the land/improvements to be Shs 3,070,000/= and he awarded the sum of Shs 3,530,500/= to the Appellant.

Criticism were directed at Mr Mwaniki's conduct of the inquiry. Much of the criticism was ill-conceived and showed a lack of appreciation of the purpose of such an inquiry, but from the evidence about the inquiry it became clear that the Appellant had made an oral claim for 25 million shillings which in itself is sufficient for the Appellant to avoid section 5(2) of the Schedule to the Act.

The Appellant has now appealed to the High Court under Section 29 1(b) of the Land Acquisition Act and I must accordingly determine what the Market Value of this land is according to the principles to be derived from schedule to the Land Acquisition Act which for the purposes of this case I take to be equivalent to the "full compensation" referred to in Section 75(1)(c) of the Constitution.

There is an enormous gulf between the price claimed by the Appellant and the price awarded by the Commissioner of Lands. The expert witnesses called by both sides appeared to me to be professionally honest and I am satisfied that none of the expert witnesses were making a case rather than giving me their opinions as they saw the question. The enormous gulf to which I have referred is as a result of a difference of views between this 2 ^{payments} _{parties} as to what is the Market Value of a piece of land.

M I have been with the parties to Roysambu Estate, and seen the lands and the buildings. I have been furnished with photographs of the premises and have heard almost ad nauseam about the ruinous conditions of the buildings. All this has had given me the impression of an estate wasted by neglect or protracted legal proceedings of the Jarradyce vs Jarradyce variety where the status quo was being maintained so that a Statutory Right of Appeal would not be rendered nugatory. It was like the Big House at Inver when decaying under the Siezerenty of the last degenerate member of a profligate family of Anglo Irish Gentry. If the Commissioner could have satisfied the State's obligation under the constitution to compensate the dispossessed owner by paying the value of the property acquired in its then condition (and I think this was the way Mr. Mwaniki approached this task) then the Commissioner's Award would more than adequately have compensated the owner of this Chekovian Menage.

(85)

The true principles however are, in my view is to be found in a passage in Mr Justice Trainer's Judgment in Land Acquisition Appeals No. 4 & 5 of 1983, which I shall refer to as the Kortibos & Sekondi appeals. The passage is on p.22 and is as follows:-

"In the case of Fraser and Others vs. The City of Praserville, (1971) A.C. 187 Lord Buckmaster, at 194, having referred to in re Lucas and Chesterfield Gas and Water Board (1909) 1 K.B. 16, Cedars Rapids Manufacturing and Power Co. vs Lacoste, (194) A.C. 569 and Sidney vs. North Eastern Railway Co., (1914) 3 K.B. 629 (Cases referred to in the 4th Edition of Compulsory Acquisition of Land by Aggarawala quoted by Mr Hewett.) had this to say:

"The Principles of those cases are carefully and correctly considered in the judgments the subject of this appeal, and the subject of them is this: that the value to be ascertained is the value to the seller of the property in its actual condition at the time of expropriation with all its existing advantages and with all its possibilities....." and with that I respectfully agree.

The value there referred to is a realistic value calculated by a hard headed businessman who is willing to sell, and who has assessed the value without sentiment or wishful thinking. That assessment must also take into consideration what a willing purchaser would pay. Potential earnings must play a part in his calculations; it was for them that the land was developed.

It is too well known to warrant citing authorities that a factor to be taken into consideration in valuing undeveloped land is its potential value if it were developed by, many, buildings houses on it.

There are a number of considerations stated in the quoted passage which have been disregarded by the Commissioner of Lands.

1. Lord Buckmasters statement (c) that market value is the value of the property in its actual condition at the time of expropriation with all its existing advantages and with all its possibilities. I underline all its possibilities.
2. That the value is "a realistic value calculated by a hard headed businessman who is willing to sell and who has assessed the value without sentiment or wishfull thinking."
3. That assessment must also take into consideration what a willing purchaser would pay.

To deal with the first consideration, Roysambu is not situated in an almost abandoned part of the West of Ireland as it is in the remote fastness of Imperial Russia inhabited only by degenerate aristocrats who have lost hope, it is within 13 kilometres of the centre of the growing city (perhaps one should say the exploding city) of Nairobi. It is on zone 14 which inspite of what Mr Mwaniki may say is a zone into which the city is spreading. Residential Estates are proliferating all around the Estate, the Vast National Sports complex is just across the road and prestigious developments such as ICIPE are mushroom all around. Granted the lease has only 18 years to run and its user is limited, but Kenya is a development concious country and its government has shown no reluctance to cut bureaucratic red tape and bury chauvonistic convictions if a desirable development is presented to it for approval which development would further the financial well being of the country and his inhabitants. One of the possibilities of the estate run down is though it is that it could easily be a substantial developers dream.

202033-84 (84)

Secondly what is the realistic value calculated by the hard headed business man who has assessed the value without sentiment or wishful thinking? I think the Appellant is one who has so assessed the value of the property and that he has so assessed it with the assistance of competent and forward looking experts such as James Githaiga Thiribwa and G. M. Gitonga Aritha. I may here say that I am impressed by these two witnesses. They are forward looking, intelligent and knowledgeable in their discipline. Both their careers are similar in broad outline and in consequence one values this evidence as they are the type of experts a developer would turn to for advice on the feasibility and costs of developing an Estate such as Roysambu. The value put on the lands by the Appellant is substantially in accord with his exper's views.

Likewise the potential purchaser offer is in much the same region as is the views of the experts on the estates potential value. The offer of 18 million shillings is accepted as a genuine offer and as it is not out of the estimation of the two experts witnesses whose evidence I have already commended it cannot be described as unrealistic.

Before I conclude I should notice some evidence given by Mr. Rogyabi for the Respondent. In reply to a question from the Court he said that a developer would normally pay about 20% of the money to be invested to purchase the land he proposed to develop.

The market price of the land accordingly being the amount a hard headed businessman would sell it for and a hard headed developer would pay for it, it appears to me that I must value the property somewhere between the unaccepted offer of 18 million and the asking price of Kshs. 25 million.

Bearing everything said or argued, I determine the market value of Roysambu Estate to be 20 million shillings and adding the statutory 15% I accordingly award a sum of 23 million shillings. The appellant is entitled to his costs.

Delivered at Nairobi this.....3.....day of...Jan.....1987.

J. F. Shields
J. F. SHIELDS
JUDGE

For COMMISSIONER OF LAND
P.O. Box 30089, NAIROBI

202033 - 83
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STANDARD

22714 Nairobi, Thursday, June 4, 1987. CITY EDITION Price 3/00

PHOTOCOPIER PROBLEMS?
CONTACT THE SERVICE SPECIALISTS:
THE COPIER MAINTENANCE CO.
TEL: 667866

Kenya-Uganda talks due today

By Sammy Masara
KENYAN and Ugandan government officials will this morning hold talks aimed at improving the strained relations between the two countries.

The talks are scheduled to start at 10 a.m. in Harambee House, Nairobi.

The Kenyan team will be led by a Minister of State in the Office of the President, Mr Justice ole Tipa, who is also in charge of internal security. The team comprises Cabinet Ministers and senior Government officials.

The Ugandan delegation to the talks is headed by Mr Balaki K. Kirya, Minister of State in the President's Office.

Others are Dr Kiiza Besigye, Minister of State for Internal Affairs, and Mr James Kaboza, Secretary to the Treasury, Mr Jiu Mwezi and John Kazora of the President's office; Mr Charles Karumogi, the general manager of Uganda Railways Corporation, and Mr James Tibekyiga, the Commissioner of External Trade in the Ministry of Industry and Commerce.

Security and transport problems are expected to be top of the agenda in today's talks.

The Ugandan delegation arrived at the Jomo Kenyatta International Airport yesterday morning aboard a Kenya Airways aircraft.

The team was met on arrival by an Assistant Minister for Foreign Affairs, Mr Ochoia Mak'Anyengo, the Ugandan High Commissioner to Kenya, Mr Charles Katungi, and other senior Kenya Government officials.

Relations between Uganda and Kenya have deteriorated in the



The late S.M. Otieno

Cost of SM clinic goes up

By Amos Onyatta
A PROPOSED health clinic in honour of the late S.M. Otieno to be built at his ancestral home in Nyalungga will cost Shs 3 million.

When the plan to put up the clinic was first announced by the Umira Keger clan in a Press statement on May 19, the clinic was estimated to cost Shs 0.5 million.

But yesterday, Mr Joash Ochieng Ougo, Mr Otieno's brother, said at Nyalungga that the earlier estimate was found to be too low after talks with an experienced architect.

He said a board of trustees

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MUNICIPAL COUNCILLORS VOWED TO KILL MAYOR, COURT TOLD

Machakos municipal councillors declared publicly after the 1983 general elections that they would have a former Mayor killed, the High Court was told yesterday.

By Boniface Kaona

Two councillors, Paul Mbole and Bernard Katiku, allegedly told a large gathering at a victory celebration party attended by the MP for Iveti South, Mr Amos Kikuyu, that after the defeat of the former Mayor, Mr Peter Ndunda, the next move would be to eliminate him together with his eldest son, Peter Muiwa Ndunda.

The head of the Criminal Investigations Department in Machakos, Chief Inspector Kagwora, told the court that the allegation was contained in a statement he recorded from one of 14 persons, Daniel Mutisya.

The trial judge, Mr Justice Dugdale, had ruled in favour of the prosecution as the statement was admissible as evidence.

The court followed the five-day trial without a jury to determine the admissibility of the statement.

On July 9, 1986, in the presence of the court at Machakos, Chief Inspector Kagwora, after the trial started, challenged the statement, arguing that he was not allowed to sign and thumbprint if he had been beaten up

and a gun held close to his ear. Muasya further claimed that he had refused to sign or thumbprint the statement but police officers had threatened to shoot him.

A defence lawyer, Mr Harry Mulwa, who together with Mr H. P. Makhecha, is representing nine of the 14 accused persons, objected to the statement on grounds that his client was not informed by his interrogators that he was signing and thumbprinting a death inquiry statement which would be produced in court during the trial.

After hearing legal arguments from both the defence and prosecution lawyers, Mr Justice Dugdale ruled that he had considered the evidence given in court by Muasya and had come to the conclusion that his evidence was contradictory and unreliable.

Mr Justice Dugdale said he was of the opinion that Muasya gave a voluntary statement to him and that it was a statement without the alleged threats of beatings.

Mbole, Katiku, a former nominated councillor, Sammy

Muia Manyunza and 11 others are charged that on the night of June 20, 1986 at Kasings village in Machakos District, they jointly murdered the son of the former mayor.

They are represented by Mr Makhecha assisted by Mr Mulwa, Mr Owino Ger and Mr A. R. Kapila, who is assisted by Ishan Kapila.

The prosecution, which is alleging that the murder of the ex-mayor's son was of a political nature, is being conducted by a Senior State Counsel, Mr Nicholas Harwood.

Muasya said in his confession to the police that he came to know the two councillors and a former nominated councillor during the 1983 parliamentary and civic election campaign after he was introduced to them by Joel Wambua Mulwa alias Zambia.

He said that after the two councillors had been elected having beaten Mr Ndunda's group, Mulwa, who was the chief campaigner for the two, told him that the councillors had organised a victory party at Mbole's hotel.

He said that two weeks after the elections he, Mbole, Katiku, Manyunza, Mr Kikuyu most of the accused persons and other guests met at Mbole's victory party.

Mr Kikuyu declined to

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Govt to pay land owner Shs 23m

Kinara Waweru
THE HIGH Court has ordered that the owner of a 17.16-acre farm, owned by the Government at Ntambu on the Nairobi Thika road, should be paid Shs 23 million compensation.

The Commissioner of Lands had earlier offered Mr Meshmor Jacob Samuel Shs 10 as the value of the land including improvements on it, but he refused to be money saying it was "far below market value".

He then lodged an appeal before Mr Justice Frank Shields claiming the market value of the land should be Shs 25 million, which he ought to have been paid as compensation.

Ruling that the market value of the land was Shs 23 million the court said it was situated 13 kilometres from the city centre and that it was a zone into which the city was spreading.

"Residential estates are proliferating around the place the vast National Sports Complex is just across the road and prestigious developments such as ICPE are mushrooming all round", the court said.

It was also found that the appellant had assessed the value with the assistance of expert valuers who gave evidence before the court. They included Mr James Githaiga Thiribwa and Mr G. M. Gitonga.

"I was impressed by these two witnesses. They are forward-looking, intelligent and knowledgeable in their discipline. Both their careers are similar in broad outline and consequence. One values their evidence as they are the type of experts a developer would turn to for advice.

The appellant was represented by Mr J. A. Coudrey. Miss Gichangi, a state counsel, appeared for the state.



BUILT IN KENYA

Available as a 9-seater tourist bus, 15-seater commuter or a spacious delivery van with either petrol or diesel engines. The Toyota Hiace.

Trust in TOYOTA KENYA

COMMISSIONER OF LANDS P.O. Box 30089, NAIROBI

402033-82

82

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
LAND ACQUISITION APPEAL NO. 2 OF 1986

MESHUMAR JACOB SAMUEL APPELLANT
v e r s u s
THE COMMISSIONER OF LANDS RESPONDENT

CERTIFICATE OF ORDER AGAINST THE GOVERNMENT

BY A DECREE of this court dated the 3rd day of June, 1987 IT WAS ORDERED

THAT the Respondent in this suit do pay the Appellant the sum of K. Shs. 23,000,000/= inclusive of costs and interest to the date of judgment together with interest at the rate of 6% per annum on K. Shs. 23,000,000 from the 25th day of February, 1986 to the 16th day of May, 1986. In addition interest at the rate of 6% per annum on K. Shs. 19,771,965/= being the balance of the award from the 17th May, 1986 until payment in full.

I HEREBY CERTIFY that the amount payable to the Appellant by the Respondent in pursuance of the said Decree is K.Shs.24,395,579/= as set out below together with further interest at the rate of 6% per annum from the 1st day of December, 1989 until payment in full.

ISSUED on this _____ day of _____ 1989.

of **COMMISSIONER OF LANDS**
P.O. Box 30089, NAIROBI

DEPUTY REGISTRAR
HIGH COURT OF KENYA, NAIROBI

PARTICULARS

Decretal amount.....	Shs. 23,000,000.00
Interest @ 6% per annum from 25.2.86 to 16.5.86.....	Shs. 302,465.00
Further interest on balance of Award @ 6% per annum on K.Shs. 19,771,965/= from 17.5.86 to 30.11.89.....	Shs. 4,202,651.00

	Shs. 27,505,116.00
Less paid (Original Award).....	Shs. 3,530,500.00

	Shs. 23,974,616.00
Taxed Bill of Costs.....	Shs. 366,130.00
Interest @ 6% per annum from 3.6.87 to 30.11.89.....	Shs. 54,833.00

	Shs. 24,395,579.00

202033-81
81

CERTIFICATE OF ORDER AGAINST THE GOVERNMENT

3-6-1987	Decretal amount	- Kshs. 23,000,000.00
25-6-1986	To 16-5-1986 Interest @ 6% Further interest on balance as of Award @ 6% per annum or Kshs. 19,771,765=00 from 17-5-86 TO 30-11-89	- " 302,465.00 " <u>4,202,651-00</u> 27,505,116-00
	Less paid (Original Award)	" <u>3,530,500-00</u>
	Taxed Bill of costs	" 23,974,616-00 " 366,130-00
	Interest @ 6% per annum from 3-6-87 - 30-11-89	" <u>54,833-00</u> 24,395,579-00
01-12-89	To 30-11-90 interest @6% per annum	" <u>1,463,734-70</u> 25,859,313-70
01-12-90	To 30-11-91 interest @ 6% per annum	" <u>1,551,558-80</u> 27,410,872-50
01-12-91	To 30-11-92 interest @ 6% per annum	" <u>1,644,652-30</u> 29,055,524-80
01-12-91	To 30-11-93 interest @ 6% per annum	<u>1,743,331-40</u> 30,798,856-20
01-12-93	To 30-11-94 interest @ 6% per annum	<u>1,847,931-30</u> 32,646,787-50
01-12-94	To 30-11-95 interest @ 6% per annum	<u>1,958,807-20</u> 34,605,594-70
01-12-95	To 30-11-96 interest @ 6% per annum Carried forward	<u>2,076,335-68</u> 36,681,930-38

for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

80

202033-80

	Brought Forward	36,681,930-38
01-12-96	To 30-11-97 interest @ 6% per annum	<u>2,200,915-82</u>
		38,882,846-20
01-12-97	To 30-11-98 interest @ 6% per annum	<u>2,332,970-77</u>
		41,215,816-97
01-12-98	To 30-11-99 interest @ 6% per annum	<u>2,472,949-01</u>
		43,688,765-98
01-12-99	To 30-11-2000 interest @ 6% per annum	<u>2,621,325-95</u>
		46,310,091-93
10-12-2000	To 30-11-2001 interest @ 6% per annum	<u>2,778,605-51</u>
		49,088,697-44
01-12-2001	To 30-11-2002 interest @ 6% per annum	<u>2,945,321.84</u>
	To 31-12-2002 " " 6%	<u>52,034,019-28</u>
		51,174,178-74
	To 31-1-2003 " " 6%	<u>52,302,861.72</u>
		270,231-65
	To 28-2-2003 6%	<u>52,573,093.37</u>
		245,341-32
		9-33,435-97
		<u>52,818,634.69</u>

Further interest
to continue @ 6%
until payment
in full.

COMMISSIONER OF LANDS
P.O. Box 30009, NAIROBI

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202033-79

WALKER KONTOS

ADVOCATES · NOTARIES PUBLIC · COMMISSIONERS FOR OATHS

www.walkerkontos.com

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(+254 20) 2718429

Mobiles:
0720 679913
0734 454981

Telegrams:
HAKIKA

DZ No. 40

Alexandra Kontos
Michael S. Kontos
Peter M. Mwangi
Collins Namachanja
Allen W. Gichuhi
Deepen N. Shah

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Our Ref: K53/44/Vol.II/AK

Your Ref:

5th December, 2005

The Commissioner of Lands,
Department of Lands,
Ardhi House,
NAIROBI.

Attention: Mrs. J.M. Okungu

Dear Madam,

Re: L.R. No. 5875/2 – Nairobi – I.R. No. 85371
I.N.O. Kasarani Mall Limited
A/c. Uchumi Supermarkets Limited

Noted
[Signature]
7/12/05

We refer to your letter of 2nd December 2005, contents of which have been noted and which has been forwarded to our client, Kenya Commercial Bank Limited.

For purposes of record, we would like to point out that our repeated attempts to search the Deed File relating to the above property were unsuccessful as on every single occasion we were informed that the File "is missing". May I humbly suggest that, if there are other properties with problems similar to the above, the relevant Deed Files should be available for searches by parties concerned?

Yours faithfully,
WALKER KONTOS

Alexandra Kontos
ALEXANDRA KONTOS
akontos@walkerkontos.com

c.c. Kenya Commercial Bank Limited,
Head Office,
Kencom House,
Moi Avenue,
NAIROBI.

Attention: Mr. John Kamiri

202033-78

78

39

202033/38

2nd December, 2005

Walker Kontos,
Advocates,
P.O. BOX 60680-00200
NAIROBI

**RE: L.R. NO. 5875/2- NAIROBI – I.R. 85371
INO KASARANI MALL LIMITED
A/C UCHUMI SUPERMARKETS LIMITED**

**of COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI**

Thank you for your letter Ref. K 53/44/Vol.II/AK dated 27th October, 2005.

The Government acquired this land from Mr. Meyer Jacob Samuel in 1986 and up to now the issues regarding this acquisition have never been sorted out, and Mr. Meshumor Jacob Samuel who is the beneficiary of the estate of Mr. Samuel has never been paid the amount awarded by the High Court in respect of the acquisition.

The land was later, in 1999 irregularly alienated to Solio Construction Limited and then sold to your client thereafter. The Government considers the said alienation and sale to have been an irregular transaction and the proposed Charge is not acceptable.

A Registrar's Caveat was entered on the title on 17th June, 2004 to protect the interest of the Government and the same has not been withdrawn. Your client should have done a search on this title before accepting it as a Security. Be forewarned therefore that this is one of the properties the Government is set to reclaim back.

J. M. OKUNGU (MRS.)
COMMISSIONER OF LANDS



77
2020 33-77

SUPERMARKETS LIMITED

Head Office, Yarrow Road, off Nanyuki Road (Industrial Area)
P.O. Box 73167-00200, NAIROBI - KENYA
Tel: 550200/650707. Fax: 550221/554768
E Mial: enquiry@uchumi.com

30

Our Ref: CS/THIKA ROAD
Your Ref: TBA

28th November, 2005

Commissioner of Lands
Ministry of Lands and Housing
Ardhi House, 4th Floor,
P.O. Box 30089-00100
NAIROBI.

of COMMISSIONER OF LAND
P.O. Box 30089, NAIROBI

Attn: Mrs. J.M. Okungu

Dear Madam,

RE: LAND REFERENCE NUMBER 5875/2, THIKA ROAD

Thank you for taking the time to see us at short notice on Thursday, 24th November, 2005.

At the meeting we discussed the issues relating to the plot under reference. It was noted that Uchumi, through its subsidiary, Kasarani Mall Ltd, purchased the said plot from Solio Construction Company Ltd for a sum of Kshs 85 million. The Transfer was registered on 20th March, 2001.

As part of its recovery strategy, Uchumi resolved to sell the property to unlock cash required for its business. It was intended that the property would be sold to a developer who could put up a shopping mall in which Uchumi would be the anchor tenant. However, in the process of obtaining the necessary clearances from the lands office it was discovered that there was a problem with the plot, which problem was the subject of our meeting.

You told us that the Government had compulsorily acquired the land from one Mr. Samuels sometime in 1986 and that the land was to be used for military purposes. You added that Mr. Samuels has sued the Government for compensation and that the case is yet to be resolved. In the meantime, the land was allocated to Solio Construction Company Ltd, who then sold it to Uchumi.

You informed us that the allocation to Solio Construction Company Ltd was irregular and that the import of the irregular allocation is that Uchumi's title to the plot is defective. This of course comes as a shock to us in view of the fact that Uchumi spent a large sum of money to purchase the plot with no notice of this

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202033-76

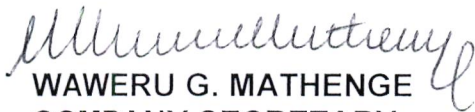
defect in the title of the Vendor. To lose the property now would deal a heavy blow to the company.

As things stand currently, the Government has registered a caveat against the title forbidding any dealings in the land. Therefore Uchumi can neither sell nor develop the property.

However, we understand that there will be a land tribunal formed to deal with the problem of irregular allocations and that we shall be able to present our case before the tribunal in due course. In the meantime, we would kindly request that the status quo on the title be maintained. You kindly agreed to keep us informed of any developments or changes in the Government position on the plot which might lead to either the revocation or the affirmation of Uchumi's title to the plot.

Yours faithfully,

UCHUMI SUPERMARKETS LIMITED


WAWERU G. MATHENGE
COMPANY SECRETARY

COMMISSIONER OF LAND
P.O. Box 30089, NAIROBI

Cc Dr. Eddah W. Gachukia
John Masterten-Smith
Richard Henry

75 202033-75 37

WALKER KONTOS

ADVOCATES · NOTARIES PUBLIC · COMMISSIONERS FOR OATHS

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DZ No. 40

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Michael S. Kontos
Peter M. Mwangi
Collins Namachanja
Allen W. Gichuhi
Deepen N. Shah
Rina R. Thakar

COMMISSIONER OF LANDS
P.O. Box 30069, NAIROBI


Our Ref: K53/44/Vol.II/AK

Your Ref:

URGENT

27th October, 2005

The Commissioner of Lands,
Department of Lands,
Ardhi House,
NAIROBI.

d/w. 
11/11/05

Dear Sirs,

Re: L.R. No. 5875/2 – Nairobi – I.R. No. 85371
I.N.O. Kasarani Mall Limited
A/c. Uchumi Supermarkets Limited

We act for Kenya Commercial Bank Limited. We wish to bring to your attention that, on instructions from our clients, we had submitted a Charge over L.R. Nos. 23393 and 5872/2 together with the relevant documents for registration on 6th December 2004 under Day Book Numbers 367 and 368 as per photocopy of the relevant Application Form for Registration.

Although the Charge over L.R. No.23393 was duly registered, we were informed at the time that the Charge over L.R. No. 5875/2 could not be registered as the relevant Deed File was missing. We now understand that the Deed File pertaining to this property is in your possession and, in order to enable us to re-submit our Charge for registration, we would kindly request you to release the said file to the Registrar of Titles to enable him to register the document.

Your co-operation in this matter will be appreciated.

Yours faithfully,
WALKER KONTOS



PP/ ALEXANDRA KONTOS
akontos@walkerkontos.com

02033-74

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The Commissioner of Lands

- 2 -

27.10.2005

c.c. Kenya Commercial Bank Limited,
Head Office,
Kencom House,
Moi Avenue,
NAIROBI.

Attention: Mr. John Kamiri

of COMMISSIONER OF LANDS
P.O. Box 30009, NAIROBI

ENCLOSURE

202033-73

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DATED 23RD NOVEMBER 2004

KASARANI MALL LIMITED

- to -

KENYA COMMERCIAL BANK LIMITED

CHARGE

of COMMISSIONER OF LAND
P.O. Box 30089, NAIROBI

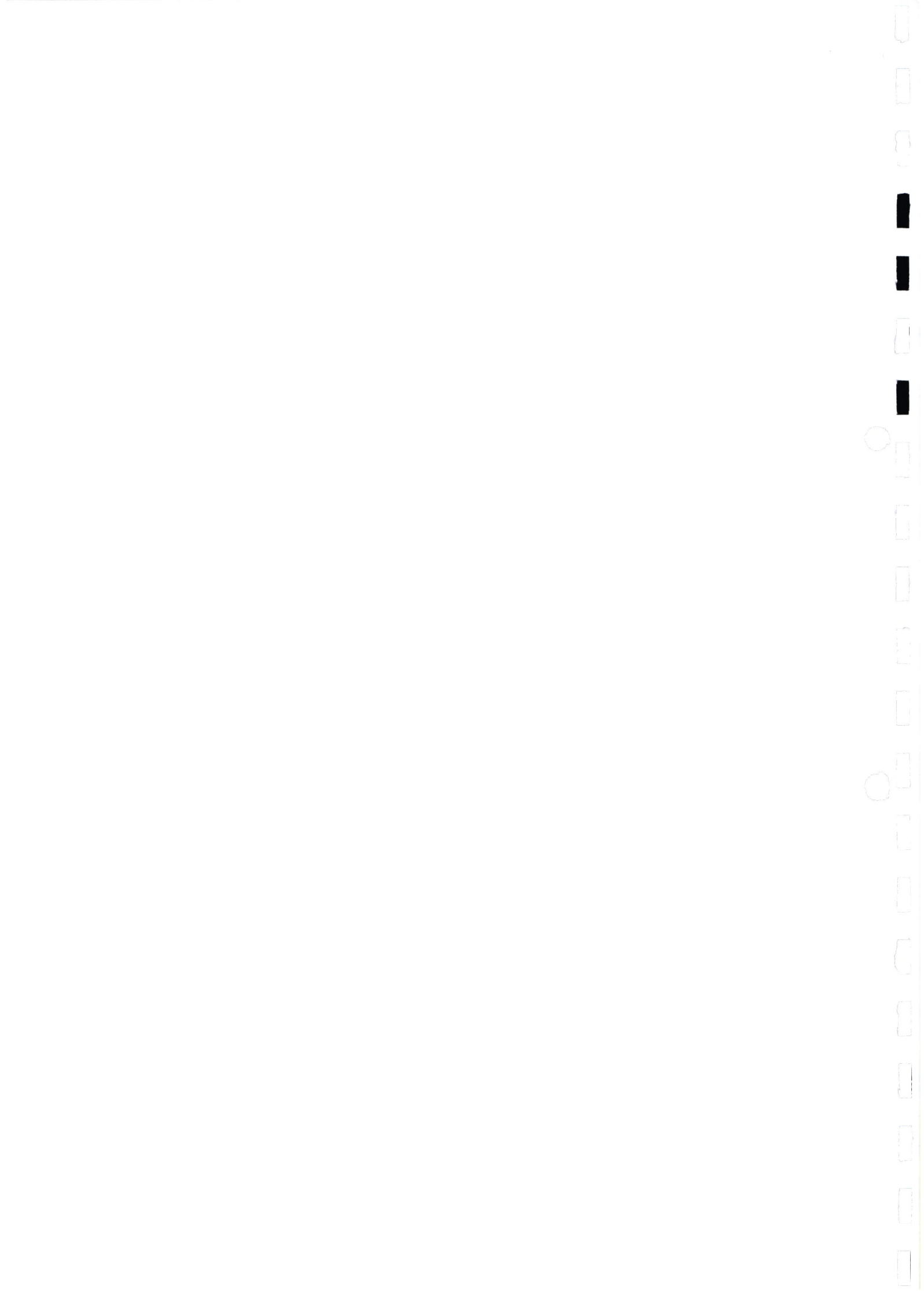
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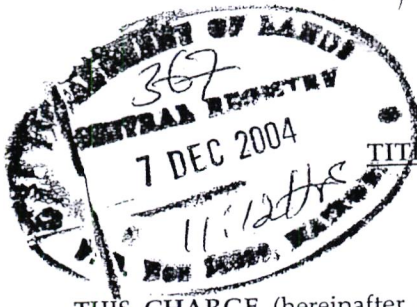
LAND REFERENCE NUMBER 23393
(ORIGINAL NUMBER 11622/3)
AND
LAND REFERENCE NUMBER 5875/2 - NAIROBI

WALKER KONTOS
ADVOCATES
HAKIKA HOUSE
BISHOPS ROAD
P.O. BOX 60680
00200 CITY SQUARE
NAIROBI

K53/44/AK

C15101





REPUBLIC OF KENYA
REGISTRATION OF TITLES ACT
TITLE NUMBERS: I.R. 80925 & I.R. 85371

CHARGE

THIS CHARGE (hereinafter referred to as "this Security") is made the 23rd day of November Two thousand and Four BETWEEN

- (1) KASARANI MALL LIMITED a limited liability company incorporated in the Republic of Kenya whose address is care of Post Office Box Number 73167 Nairobi in the said Republic (hereinafter called "the Chargor")
- (2) KENYA COMMERCIAL BANK LIMITED a banking company incorporated in the said Republic of Post Office Box Number 48400 - 00100 GPO Nairobi aforesaid (hereinafter called "the Bank") and
- (3) UCHUMI SUPERMARKETS LIMITED a limited liability company incorporated in the said Republic of Post Office Box Number 73167 Nairobi aforesaid (hereinafter called "the Borrower").

WHEREAS:-

- (1) The Chargor is registered as proprietor as lessee from the Government of the Republic of Kenya (subject to such charges and other matters as are notified by the Memoranda endorsed hereon) of ALL THOSE two pieces of land more particularly described in the Schedule hereto but otherwise free from encumbrances;
- (2) The Bank has at the request of the Chargor agreed to make advances to the Borrower by way of loan by permitting the Borrower overdraw the Borrower's current account with the Bank or granting to the Borrower other financial accommodation from time to time with such limit as may from time to time be fixed by the Bank and/or to refrain from demanding immediate repayment of moneys already owing by the Borrower to the Bank in respect of any such advances already made upon having the same secured in manner hereinafter appearing.

NOW in pursuance of the said agreement and in consideration of the premises THIS CHARGE WITNESSETH as follows:-

1. Each of the Chargor and the Borrower hereby jointly and severally covenant and agree with the Bank:-
 - (a) On the Legal Date of Redemption (hereinafter defined) to pay to the Bank or to one of its cashiers for the time being such sum or sums in whatever currency denominated as may then be due and owing by the Borrower to the Bank not exceeding the Prescribed

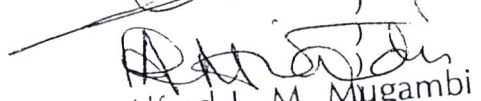
COMMISSIONER OF LANDS
P.O. Box 80089, NAIROBI

2. The Special Conditions contained in the Grant registered as Number I.R. 85371/1.

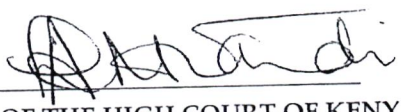
SEALED with the Common Seal of the Chargor
in the presence of:-)

DIRECTOR )

DIRECTOR/SECRETARY )

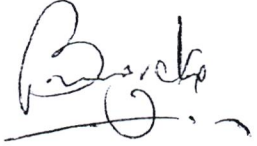
ADVOCATE )
Alfred L. M. Mugambi
Advocate & Commissioner for Oaths
P. O. Box 4206,
00100 - NAIROBI.
CERTIFICATE

I HEREBY CERTIFY that I have explained to Mr. K.K. Bett.....a Director and
Mr. I.S. Mugaka..... another Director/Secretary of the Chargor the effect of sub-
section (1) of Section 69 and sub-section (1) of Section 100A of the Transfer of Property Act 1882
of India as incorporated therein by the Indian Transfer of Property Act (Amendment) Act 1959
and copies whereof are set out hereunder and that I am satisfied that they understood the same.

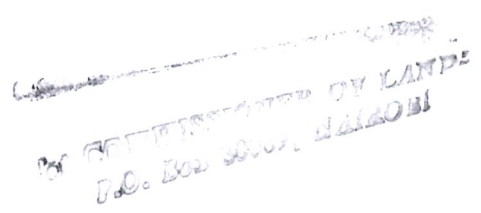
Alfred L. M. Mugambi
Advocate & Commissioner for Oaths
P. O. Box 4206, Signed: 
00100 - NAIROBI. ADVOCATE OF THE HIGH COURT OF KENYA

SEALED with the Common Seal of the
Borrower in the presence of:-)

DIRECTOR )

DIRECTOR/SECRETARY )

ADVOCATE)



SIGNED by M. N. GATIUMA
the duly constituted Attorney of the Bank
in the presence of:-

COMMISSIONER OF LAND
P.O. Box 30089, NAIROBI

For KENYA COMMERCIAL BANK LTD

M. O. Ochieng
CORPORATE SUPPORT DIVISION

IP/A No. 37757/1

Alexandra Kontos
Alexandra Kontos
ADVOCATE
P. O. Box 60680
NAIROBI

ADVOCATE

FOR KENYA COMMERCIAL BANK LTD.
CORPORATE SUPPORT DIVISION

Section 69(1) of the Transfer of Property Act 1882 of India as amended by the Indian Transfer of Property Act (Amendment) Act 1959 reads as follows:-

"69(1) A mortgagee, or any person acting on his behalf where the mortgage is an English mortgage, to which this section applies, shall, by virtue of this Act and without the intervention of the Court, have power when the mortgage-money has become due, subject to the provisions of this section, to sell, or to concur with any other person in selling, the mortgaged property or any part thereof, either subject to prior encumbrances or not, and either together or in lots, by public auction or by private contract, subject to such conditions respecting title, or evidence of title, or other matter, as the mortgagee thinks fit, with power to vary any contract for sale, and to buy in at an auction, or to rescind any contract for sale, and to resell, without being answerable for any loss occasioned thereby; the power of sale aforesaid is in this Act referred to as the mortgagee's statutory power of sale and for the purpose of this Act the mortgage-money shall be deemed to become due whenever either the day fixed for repayment thereof, or part thereof by the mortgage instrument has passed or some event has occurred which, according to the terms of the mortgage instrument, renders the mortgage-money, or part thereof, immediately due and payable".

AND

Section 100A of the said Act as so amended as aforesaid reads as follows:-

"Section 100A (1) A Chargee under a charge executed in accordance with the provisions of Section 46 of the Registration of Titles Act and duly registered under that Act shall have the same rights, powers and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rent and profits, or any of them) as if the charge were an English mortgage to which Section 69 of this Act applies".

WE MR. K.K. Bett a Director and MR. I.B. Moga another Director/Secretary of the above-named Chargor have had explained to us the above sections and confirm that we understand the same.

Signed [Signature]
DIRECTOR

Signed [Signature]
DIRECTOR/SECRETARY

For COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

CONSENT

WE, EASTERN AND SOUTHERN AFRICAN TRADE AND DEVELOPMENT BANK, of care of Post Office Box Number 48596 Nairobi in the Republic of Kenya being the holders of a Charge dated the 23rd day of September 2004 created by the Chargor in our favour to secure the sum of Kenya Shillings Five hundred million (K.Shs. 500,000,000.00) ("the PTA Charge") HEREBY CONSENT to the within-written Charge created by the Chargor in favour of KENYA COMMERCIAL BANK LIMITED to rank pari passu in all respects with the PTA Charge.

SEALED with the Common Seal of EASTERN AND SOUTHERN AFRICAN TRADE AND DEVELOPMENT BANK in the presence of:-

[Signature]
PRESIDENT
[Signature]
SECRETARY



LAND TITLES REGISTRY - NAIROBI REGISTRY
REGISTRATION OF TITLE ACT

REGISTERED AS No. LR. 80925/3

PRESENTED 7th December 2004

TIME 11:12 AM [Signature]
Registrar of Titles

[Signature]
F. P. Lubalilian

WE Mr. K.K. Bett.....a Director and Mr. I.B. Mugeke..... another Director/Secretary of the above-named Chargor have had explained to us the above sections and confirm that we understand the same.

Signed [Signature]
DIRECTOR

Signed [Signature]
DIRECTOR/SECRETARY

for COMMISSIONER OF LANDS
P.O. Box 30039, NAIROBI

CONSENT

WE, EASTERN AND SOUTHERN AFRICAN TRADE AND DEVELOPMENT BANK, of care of Post Office Box Number 48596 Nairobi in the Republic of Kenya being the holders of a Charge dated the 23rd..... day of September.....2004 created by the Chargor in our favour to secure the sum of Kenya Shillings Five hundred million (K.Shs. 500,000,000.00) ("the PTA Charge") HEREBY CONSENT to the within-written Charge created by the Chargor in favour of KENYA COMMERCIAL BANK LIMITED to rank pari passu in all respects with the PTA Charge.

SEALED with the Common Seal of EASTERN AND SOUTHERN AFRICAN TRADE AND DEVELOPMENT BANK in the presence of:-

[Signature]
PRESIDENT

[Signature]

SECRETARY



Registry of Companies
7-12-2004
7-12-2007

[Signature]

C. 92820



**Certificate of the Registration
of a
Mortgage**

FOR COMMISSIONER OF LANDS (Section 99 of the Companies Act, Cap. 486)
P.O. Box 30089, NAIROBI

I Hereby Certify that a CHARGE COLLATERAL TO A DEBENTURE.....

dated TWENTY THIRD day of NOVEMBER Two

thousand AND FOUR and created by KASARANI
MALL LIMITED.....

for securing the sum of KENYA SHILLINGS ONE HUNDRED AND TEN
MILLION ONLY.....

was this day REGISTERED pursuant to section 96 of the Companies Act.

Given under my hand at Nairobi, this SEVENTH
day of DECEMBER Two thousand AND FOUR


Snr. Asst. Registrar of Companies

No. of Company

Form No. 214.

THE COMPANIES ACT
(Cap. 486)

**PARTICULARS OF A MORTGAGE OR CHARGE CREATED BY A COMPANY REGISTERED
IN KENYA**

Name of Company: **KASARANI MALL LIMITED.**Presented by: **WALKER KONTOS ADVOCATES, HAKIKA HOUSE, BISHOPS ROAD,
P.O. BOX 60680 - 00200 CITY SQUARE, NAIROBI.**Particulars of mortgage or charge created by: **KASARANI MALL LIMITED**, a Company registered in Kenya.

(1) Date and description of the instrument creating or evidencing the mortgage or charge (a)	(2) Amount secured by the mortgage or charge	(3) Short particulars of the property mortgaged or charged	(4) Names postal addresses And descriptions of the Mortgagees or persons Entitled to the charge	(5) Amount of rate per cent of the commission allowance or discount (if any) paid or made either directly or indirectly by the Company to any person in consideration of the subscribing or agreeing to subscribe, whether absolutely or conditionally or procuring or agreeing to procure subscriptions whether absolute or conditional, for any of the debentures included in this return (b)
23.11.2004 Charge collateral to a Debenture dated 25.03.2004	K.Shs. 110,000,000.00	(See Over-page)	Kenya Commercial Bank Limited, P.O.Box 48400 - 00100, GPO NAIROBI.	NIL

Date 23rd November, 2024.Signed 

(Designation of position in relation to the Company)

DIRECTOR

Fee Sh.20.00

(a) A description of the instrument, e.g. "trust deed", "mortgage", "debenture", etc. should be given.

(b) The rate of interest payable under the terms of the debentures should not be entered.

COMMISSIONER OF LANDS
P.O. Box 30009, NAIROBI

COLUMN 3: Short particulars of the property mortgaged or charged

FIRSTLY ALL THAT piece of land situate in the City of Nairobi in the Nairobi Area of the Republic of Kenya comprising by measurement One decimal one nine three (1.193) hectare or thereabouts known as Land Reference Number 23393 (Original Number 11622/3).

SECONDLY ALL THAT piece of land situate in the City of Nairobi in the Nairobi Area of the Republic of Kenya comprising by measurement Six decimal nine four four (6.944) hectares or thereabouts known as Land Reference Number 5875/2.

for COMMISSIONER OF LAND
P.O. Box 30007, NAIROBI

2020.33-64

TO BE RETAINED BY THE PRESENTOR

64

FOR COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

QUADRUPPLICATE

The Conditions on the Back of this Form shall be Complied with
REPUBLIC OF KENYA

1253/44/AK

APPLICATION FOR REGISTRATION

of the undermentioned documents in the following order of priority:

Date of Documents	Description (1)	Land Reference Number (2)	Title Deed File Number (3)	Fee (4)	For Official Use only
23/11/04	CHARGE	LR. NOS 23393 + 587 1/2	IR. NOS 80925 + 85371	Sh. 500/-	367
23/9/04	CHARGE	-do-	-do-	500/-	368

Number of new certificates of title required at Sh. 125 each

Adhesive revenue stamps affixed hereto to the value of

1000/-

The following documents are enclosed for endorsement:

Grant No. IR. NOS: 80925 + 85371 Certificate of Title No. _____ Lease No. _____

The following supporting documents are also enclosed: (6)

- Clearance Certificates
- "Registration Copy" of Divisional Land Board Consent
- "Registration Copy" of the County Council's/Commissioner's Consent
- Valuation forms
- Land Rent Certificates
- W. 70

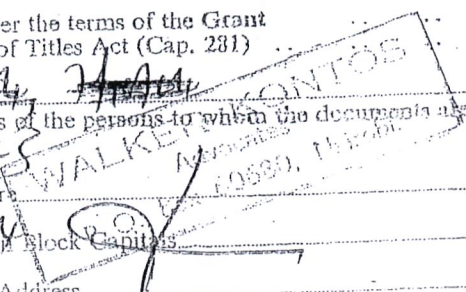
① Rent clearance certificates x 2) Commissioner's Consent to Charge

The following consents are enclosed on the documents:
Commissioner of Lands or the Chief Engineer, Kenya Railways under the terms of the Grant
Charge to surrender of lease under section 44 of the Registration of Titles Act (Cap. 281)

③ Stamp duty receipt nos 26/11/04, 26/11/04
dated 26/11/04, 26/11/04 respectively
other than the presenter: 0011702 9135237 83304-5

Signature _____
Name in Block Capitals _____

Date: 6/12 2004



TO BE SUBMITTED IN TRIPLICATE

202033-63

63

Nº 127054

Serial No. 0006967

Ref. No. 224153

DEPARTMENT OF LANDS,
P.O. BOX 30089,
NAIROBI.

To: Walter Kontos Advi 19.11.2007
P.O. Box 60680
Nairobi

Sir/Madam,

Letter of Consent

Nature of Transaction Charge

Plot No. L.R. No. 5875/2

With reference to your letter dated 5.10.07

I hereby give consent in respect of the above-mentioned transactions.

Yours faithfully

[Signature]
for Commissioner of Lands

This letter is issued without erasure or alteration

K 5886-150 Bks.-9/2004

ORIGINAL

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

REPUBLIC OF KENYA

Ser: No. 10614

GOVERNMENT LANDS ACT

Nº 091666

RENT CLEARANCE CERTIFICATE

This is to certify that the Land Rent in respect of Plot No. 233934 5875/2
registered in the name of Kasarani Mall Hd
has been paid up to and including 31st December, 2007

[Circular Stamp]
22
[Signature]

5/10/07
[Signature]
for Commissioner of Lands

This certificate is issued without erasure or alteration.

4/10/04



62

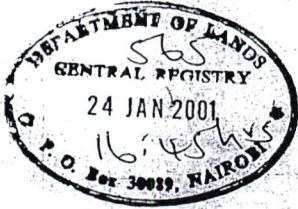
S. D. 16,500
23.1.2001

residential)



REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(Chapter 281)



GRANT: NUMBER I.R. 85371
ANNUAL RENT: SHS. 480,480/- (REVISABLE)
TERM: 99 YEARS FROM 1.7.1999

KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of Shillings two million four hundred and two thousand four hundred (Shs.2,402,400/-) by way of stand premium paid on or before the execution hereof THE PRESIDENT OF THE REPUBLIC OF KENYA hereby GRANTS unto SOLIO CONSTRUCTION COMPANY LIMITED, a limited liability company having its registered office at NAIROBI (Post Office Box Number 49634) (hereinafter called "the Grantee") ALL that piece of land situate in the city of Nairobi in the Nairobi Area District containing by measurement six decimal nine four four (6.944) hectares/aces or thereabouts that is to say L.R. No. 5875/2 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 232448 deposited in the Survey Records Office at Nairobi

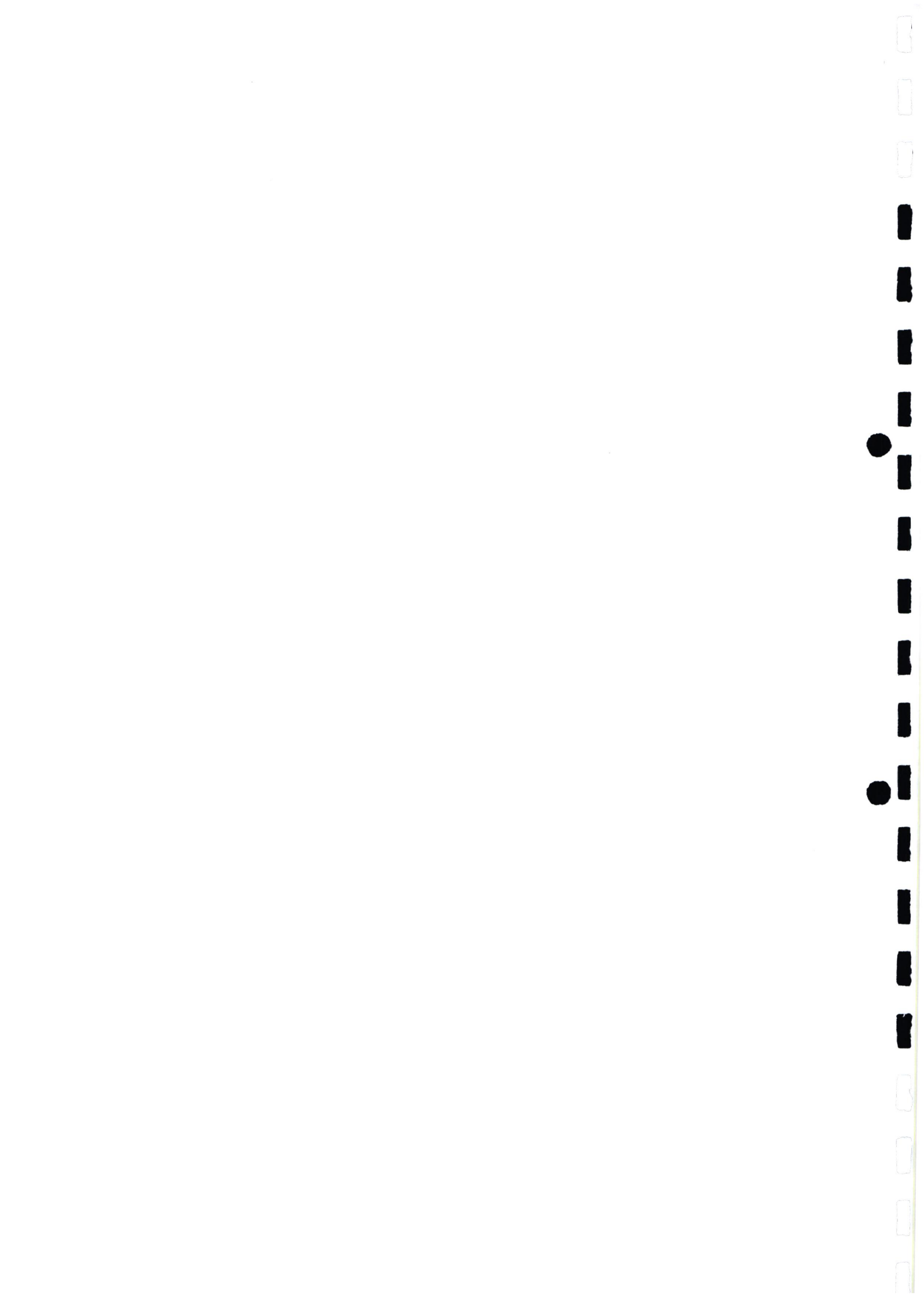
TO HOLD
for the term of ninety nine (99) years from the
First day of July One thousand nine hundred and
ninety nine

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of Shillings four hundred and eighty thousand four hundred and eighty (Shs.480,480/-) (Revisable) with effect from 1.7.1999 (b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (namely):

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 Commissioner of Lands and the Local Authority. The Commissioner shall not give his approval unless he is satisfied that the proposals are such as to develop the land adequately and satisfactorily.
2. The Grantee shall within six calendar months of the actual registration of the Grant submit in triplicate to the Local Authority and the Commissioner of Lands plans (including block plans showing the positions of the buildings and a system of drainage for disposing of sewage surface and sullage water) drawings elevations and specifications of buildings the Grantee proposes to erect on the land and shall within 24 months of the actual registration of the Grant complete the erection of such buildings and the construction of the drainage system in conformity with plans drawings elevations and specifications as amended (if such be the case) by the Commissioner PROVIDED that notwithstanding anything to the contrary contained in or implied by the Government Lands 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 Commissioner of Lands or any person authorized by him on behalf of the President 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 President or the Commissioner of Lands in respect of any antecedent breach of any condition herein contained.



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

4. Should the Grantee give notice in writing to the Commissioner of Lands that it is unable to complete the buildings within the period aforesaid the Commissioner of Lands shall (at the Grantee's expense) accept a surrender of the land comprised herein:

(i) Provided further that if such notice as aforesaid shall be given within 12 months of the actual registration of the Grant the Commissioner of Lands shall refund to the Grantee 50 per centum of the stand premium paid in respect of the land, or

(ii) at any subsequent time prior to the expiration of the said building period the Commissioner of Lands shall refund to the Grantee 25 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 shops offices and/or flats (excluding the sale of petrol or motor oils).

6. The buildings shall not cover more than 75 per centum of the area of land if used for shops and/or office purposes or such lesser area as may be laid down by the Local Authority in its by-laws and not more than 50 per centum of the area of the land if used for the combined purposes of shops offices and flats or such lesser area as may be laid down by the Local Authority in its by-laws.

7. The land shall not be used for any purposes which the Commissioner of Lands considers to be dangerous or offensive.

8. The Grantee shall not subdivide the land without the prior consent in writing of the Commissioner of Lands.

9. The Grantee 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 Commissioner of Lands. 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 PROVIDED that such consent shall not be required for the letting of individual shops offices or flats.

10. The Grantee shall pay to the Commissioner of Lands on demand such sum as the Commissioner of Lands may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and the proportionate cost for the supply of both the water and the electric power and shall on completion of such construction and the assessment of the actual proportionate cost either pay (within 30 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. The Grantee shall from time to time pay to the Commissioner of Lands on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Commissioner may assess.

12. Should the Commissioner of Lands at any time require the said roads to be constructed to a higher standard the Grantee shall pay to the Commissioner on demand such proportion of such construction as the Commissioner may assess.

13. The Grantee 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 President in lieu thereof.

14. The President 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 Grantee shall not erect any buildings 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.

15. The Commissioner of Lands reserves the right to revise the annual ground rent payable on the 1st January, 1989 and thereafter at the expiration of every ten years of the term. Such rental will be at the rate of 2 per centum of the unimproved freehold value of the land as at 31st December, 1988 as assessed by the Commissioner of Lands or at the rate in force on the 31st December, 1988 whichever is the greater.

15. ~~15.~~ The Commissioner of Lands reserves the right to revise the annual ground rent payable hereunder at the expiration of every ten years of the term. Such rental shall be at a rate to be determined by the Commissioner of Lands of the unimproved value of the land as at the end of every tenth year of the term.

COMMISSIONER OF LAND
P.O. Box 30089, NAIROBI

20223-60

60

REPUBLIC OF KENYA

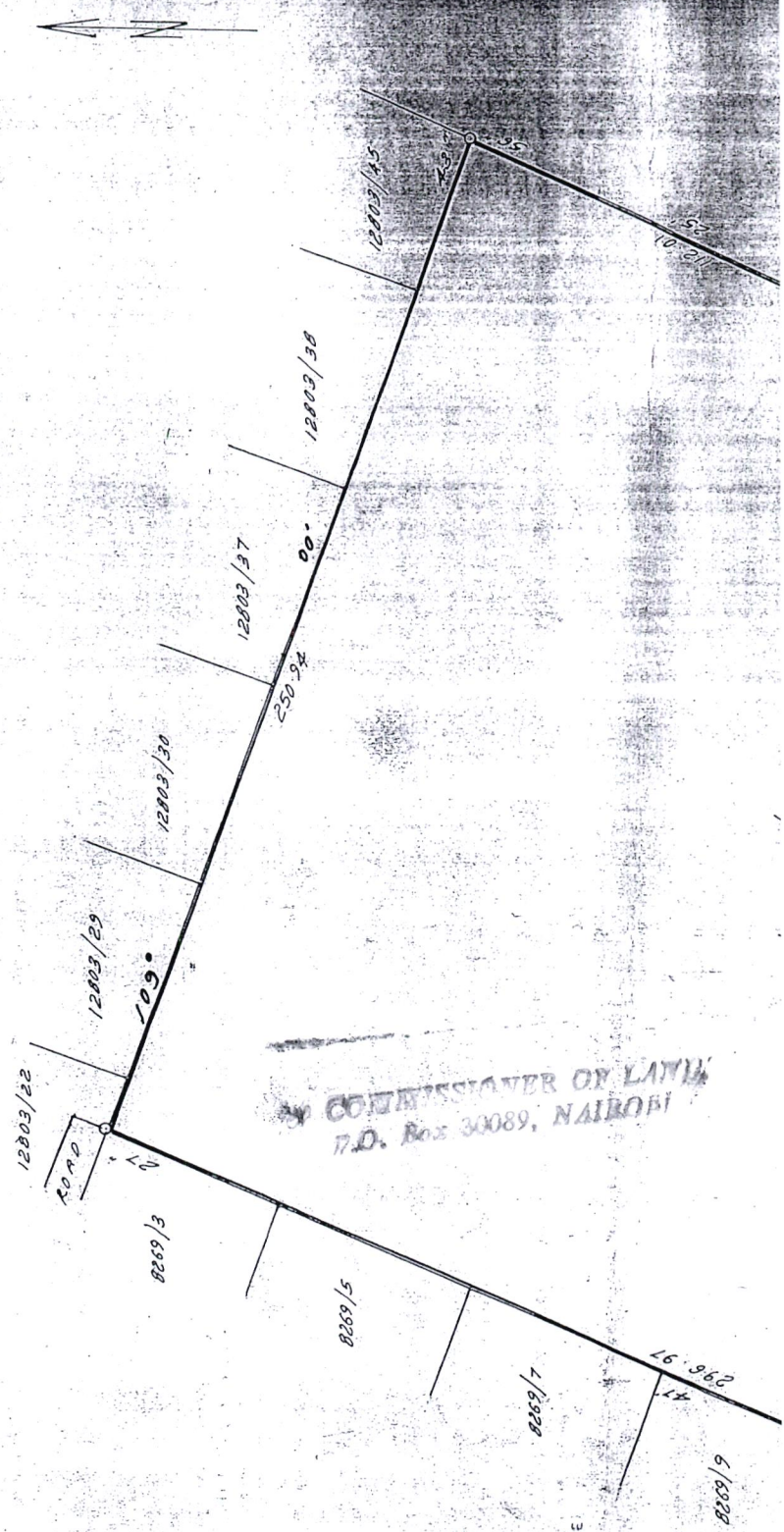
DISTRICT OF NAIROBI AREA
Locality City of Nairobi
Reference Map South A. 37
6. 11. 6

Land Reference No. 5875/2
(Orig. No.)

Sub division No. (Orig. No.)
of Section No.

Area = 6.944 Ha. (Approx.)

Bearings	Distances Metres



COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

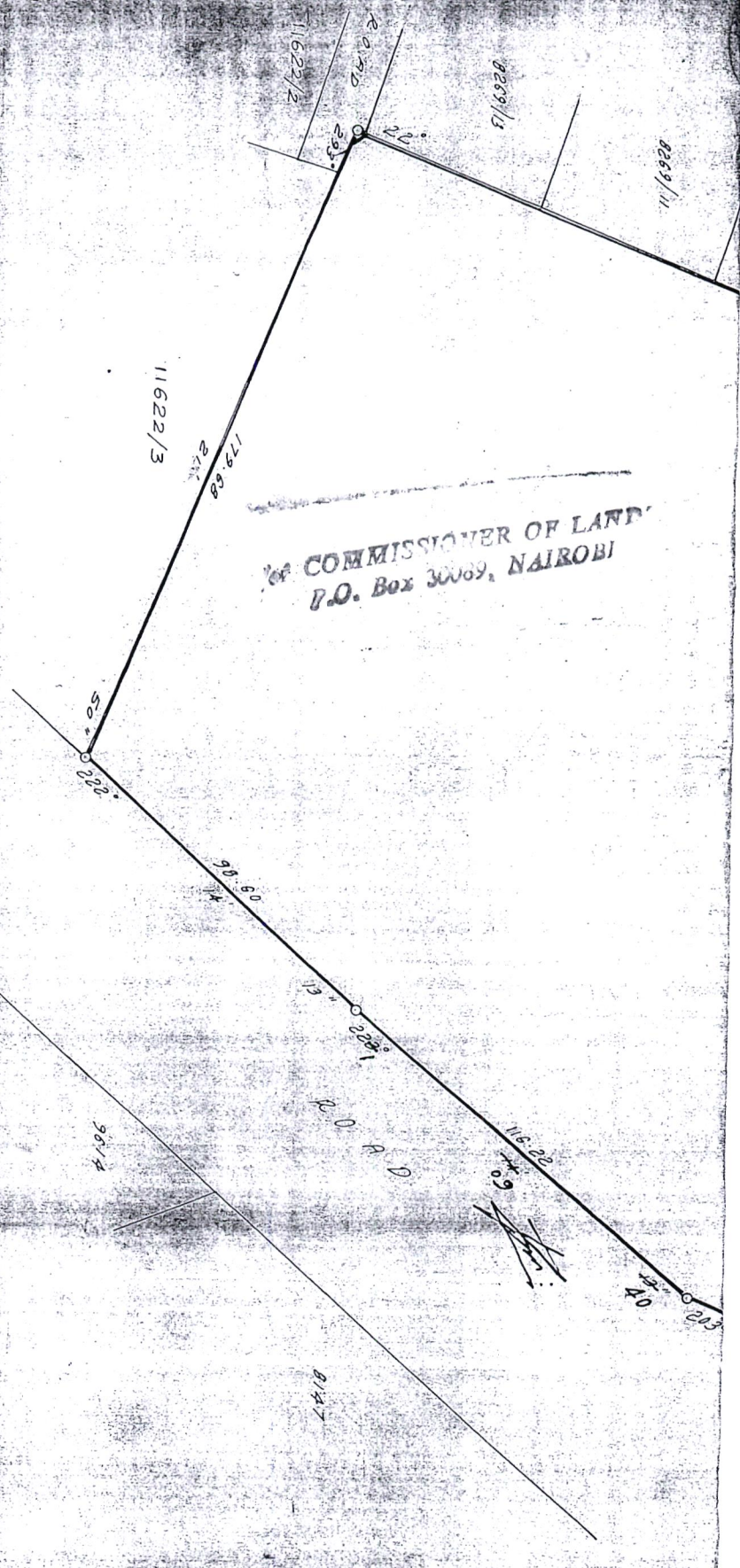
202633-59

59

Traced by *William*
Compared by *Smith*

OF COMMISSIONER OF LAND
P.O. Box 30009, NAIROBI

Scale 1 in 1250



for Director of Surveys
Nairobi 1974 OCT 7 2000
DEED PLAN NO. 232448

202033 - 58

58

KENYA REVENUE POUNDS 650 HR.

IN THE WITNESS WHEREOF I, SAMMY SILAS ~~the~~ KOMEN MWAITA
the
Commissioner of Lands have by order of the
President hereunto set my hand this 23rd
day of January
~~one thousand nine hundred and~~ Two thousand and one
in the presence of:

[Signature]

500

[Signature]
CALEB T. MUHUYI (90)
REGISTRAR OF TITLES

DRAWN BY:

CALEB T. MUHUYI
REGISTRAR OF TITLES
P.O. BOX 30089
NAIROBI

million
um paid
ANTS
gistered
Nairobi Area

LAND TITLES REGISTRY - NAIROBI REGISTRY
REGISTRATION OF TITLE ACT
REGISTERED AS No. I.R. 85371/1
PRESENTED 24th January 2001
TIME 16.45hrs. *[Signature]*
Registrar of Titles
E. N. GICHEHA (010)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Transfer to Kasarani Mall Limited

Presentation No: 862 Date of Registration: 20-3-2001 *[Signature]*
Registrar
E. N. GICHEHA (010)

eighty

(57)

(33)



MINISTRY OF LANDS AND HOUSING

INTERNAL MEMO

TO: ✓ Commissioner of Lands	FROM: Deputy Secretary/Legal REF: MLH.29/002/8/72/(5) DATE: 28 th September, 2005
------------------------------------	---

**RE: NAIROBI HC MISC. APPLICATION NO. 737 OF 2004:
MESHUMOR JACOB SAMUEL – VS – THE PERMANENT
SECRETARY MINISTRY OF LANDS AND HOUSING**

As you are aware, the Government compulsorily acquired L.R. No. 5875/2.

Due to lack of adequate budgetary provisions this Ministry has not been able to settle the sum awarded to the plaintiff. However, we intend to take up the issue with Treasury.

Therefore, please urgently avail the following documents:-

1. A copy of the judgement
2. A copy of the decree
3. A copy of the certificate of costs

Your quick action is awaited.

of COMMISSIONER OF LANDS
P.O. Box 30069, NAIROBI


WENSLAS S.A. ONG'AYO

56

34

IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: GICHERU, SHAH & OWUOR, JJ.A.)

CIVIL APPEAL NO. 109 OF 1997

BETWEEN

THE COMMISSIONER OF LANDS APPELLANT

AND

MESHUMOR JACOB SAMUEL RESPONDENT

(Appeal from a judgment of the High Court of Kenya at Nairobi
(Shields, J.) dated 3rd June, 1987

in

H.C.LAND ACQUISITION NO. 2 OF 1996)

"By consent the application dated 11th
October, 2002 and served upon the appellant on
14th October, 2002 be and is hereby withdrawn.

The appeal itself is hereby settled upon the
following terms:

1. The appellant to pay the decretal amount as per the order the High Court dated 3rd June, 1987 within 60 days from today.
2. Each party to bear its own costs of the appeal and the cross-appeal.
3. In default of payment within the stipulated time, the appellant to pay to the respondent the costs of the appeal and cross-appeal to the respondent."

of COMMISSIONER OF LANDS
P.O. Box 30069, NAIROBI

55

ORDER OF THE COURT

Upon hearing the counsel to both parties this appeal be and is hereby marked settled in terms of the consent order recorded hereinabove.

Made at Nairobi this 25th day of October, 2002.

J.E. GICHERU

.....
JUDGE OF APPEAL

A.B. SHAH

.....
JUDGE OF APPEAL

E. OWUOR

.....
JUDGE OF APPEAL

for **COMMISSIONER OF LANDS**
P.O. Box 30089, NAIROBI

I certify that this is a true copy of the original.

DEPUTY REGISTRAR

54

33

202033/33

for **COMMISSIONER OF LANDS**
P.O. Box 30089, NAIROBI

26th July, 2004

The Permanent Secretary,
Ministry of Lands and settlement,
NAIROBI.

RE: FRAUDULENT ALLOCATION OF LAND L.R. NO. 5875/2
ACQUIRED FOR MILITARY USE

Please refer to your Memo in respect of the above mentioned parcel of land.

I presume that the client you refer to is the Department of Defence. They actually deposited the original acquisition sum of Shs.3,530,000/- (computed compensation payable then) with the Department. They then took possession of the land, On which were residential flats and by the time Mr. Meshumor appealed in Court, the Military was in occupation of the land. However, when the Court enhanced the compensation by an additional 20,000,000/- they did not pay the money when called upon to pay and instead their officers moved out and the land remained unoccupied for several years until allocated to Solio Construction Company Limited on 26th June, 1999.

In my opinion, Mr. Meshmor Jacob Samuel is still entitled to compensation as calculated by the Court – because for over 20 years he has been denied the use of this land. This is definitely a pending Bill for the Government and arrangements should be made for the money to be paid because the principal is attracting interest at court rates on a daily basis. Even if the title issued to Solio Construction Limited was to be cancelled through the court, a case for such cancellation would have to go through the whole court process before the order for such cancellation is made. I recommend that a case be made to Treasury to avail the funds for payment because currently, we have no budgetary provision to cover this claim.

J. M. OKUNGU

J. M. OKUNGU (MRS.)
COMMISSIONER OF LANDS

37

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

	Brought Forward	38,681,924-20
01-12-06	To 30-11-96 interest @ 6% per annum	<u>2,200,915-60</u> 38,882,842-80
01-12-97	To 30-11-98 interest @ 6% per annum	<u>2,332,970-60</u> 41,215,814-40
01-12-98	To 30-11-99 interest @ 6% per annum	<u>2,472,948-80</u> 43,688,876-20
01-12-99	To 30-11-2000 interest @ 6% per annum	<u>2,621,332-50</u> 46,310,208-70
10-12-2000	To 30-11-2001 interest @ 6% per annum	<u>2,778,612-50</u> 49,088,821-20
01-12-2001	To 30-11-2002 interest @ 6% per annum	<u>2,945,329-20</u> 52,034,150-40

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Telegrams: "SHERIA", Nairobi
Telephone: Nairobi 227461
When replying please quote

Ref. No. **AG/MLS/94/87**



202033-36 (36)
ATTORNEY-GENERAL'S CHAMBERS
P.O. Box 40112
NAIROBI, KENYA

24th October 2002, 20.....

" U R G E N T B Y H A N D "

**Commissioner of Lands
Ministry of Lands & Settlement
Lands Department
NAIROBI**



RE: CIVIL APPEAL NO. 109 OF 1987
THE COMMISSIONER OF LANDS - VS - MESHUMOR JACOB
SAMUEL

This Appeal has been pending since October 1987 for various reasons not of our own.

The matter came up for hearing on 24th September 2002 when Honourable Judges complained of the poor state of the record due to age. As the matter was being adjourned it was noted by the Respondent that the appeal itself had certain defects such as being filed out of time and the primary documents having not been included in the record filed way back on 6th October 1987. The record was caught up by the strict Court of Appeal Rules. The Respondent's Advocate took the advantage of filing an Application to strike out the appeal.

The same is scheduled for hearing tomorrow 25th October 2002.

In the appeal we were challenging the High Court award which had enhanced the acquisition award from KShs. 3,530,500/- to KShs. 23,000,000/-. The Respondent had also filed a Cross-Appeal for the enhancement from KShs. 23,000,000/- to KShs. 46,000,000/-.

If the appeal is struck out so will go the Cross-appeal.

Upon enquiry with the Department of Defence on the status of the acquired land I was referred to you on the basis that the Department of Defence for whose benefit the acquisition was

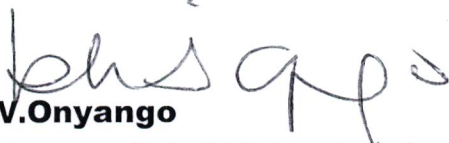
done, had surrendered the land back to the Commissioner of Lands.

In view of the long delays involved in this appeal and the fact that if the appeal is struck out the risk of the cross-appeal will be eliminated, I would like your formal instructions on this matter as to the way forward. Should we apply to Court for extension of time, to file a fresh appeal or should we proceed to deal with the payment of High Court award plus the normal interest?

The interest was at 6% per annum to be calculated on the balance of KShs. 19,469,500/- from the date of taking possession that is 25th June 1986 until date of payment in full.

The Respondent had been paid the initial award of KShs. 3,530,000/- through a Court Order.

The payment will have to come from your Department since the land had been surrendered back to you.


V. Onyango
Deputy Chief Litigation Counsel
For: Attorney General

of **COMMISSIONER OF LANDS**
P.O. Box 30089, NAIROBI

Telegrams: "SHERIA", Nairobi
Telephone: Nairobi 227461
When replying please quote

Ref. No.
and date



202033-34 (34)
ATTORNEY-GENERAL'S CHAMBERS
P.O. Box 40112
NAIROBI, KENYA

....., 20.....

AG/MLS/94/87

11th November, 2002

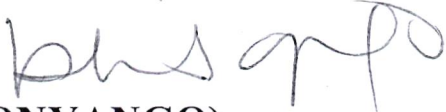
"URGENT BY HAND"

**Commissioner of Lands
Ministry of Lands & Settlement
Lands Department
NAIROBI**

ATTN: MR. Z. A. MABEA

**RE: CIVIL APPEAL NO. 109 OF 1987
THE COMMISSIONER OF LANDS
- V E R S U S -
MESHUMOR JACOB SAMUEL**

Further to my letter of 5th November, 2002 I enclose herewith a copy of the Court Order issued on 25th October, 2002 for your records.


**(V. ONYANGO)
Deputy Chief Litigation Counsel
FOR: ATTORNEY GENERAL**

**of COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI**

Encl.

IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: GICHERU, SHAH & OWUOR, JJ.A.)

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

CIVIL APPEAL NO. 109 OF 1997

BETWEEN

THE COMMISSIONER OF LANDS APPELLANT

AND

MESHUMOR JACOB SAMUEL RESPONDENT

(Appeal from a judgment of the High Court of Kenya at Nairobi
(Shields, J.) dated 3rd June, 1987

in

H.C.LAND ACQUISITION NO. 2 OF 1996)

"By consent the application dated 11th
October, 2002 and served upon the appellant on
14th October, 2002 be and is hereby withdrawn.

The appeal itself is hereby settled upon the
following terms:

1. The appellant to pay the decretal amount as per the order the High Court dated 3rd June, 1987 within 60 days from today.
2. Each party to bear its own costs of the appeal and the cross-appeal.
3. In default of payment within the stipulated time, the appellant to pay to the respondent the costs of the appeal and cross-appeal to the respondent."

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

ORDER OF THE COURT

Upon hearing the counsel to both parties this appeal be and is hereby marked settled in terms of the consent order recorded hereinabove.

Made at Nairobi this 25th day of October, 2002.

For COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

J.E. GICHERU

.....
JUDGE OF APPEAL

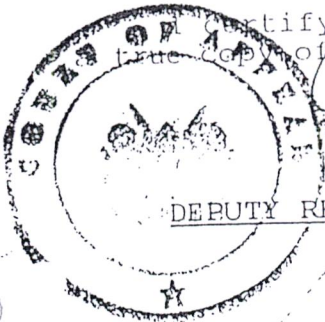
A.B. SHAH

.....
JUDGE OF APPEAL

E. OWUOR

.....
JUDGE OF APPEAL

I certify that this is
a true copy of the original.



DEPUTY REGISTRAR

27
31

IN THE COURT OF APPEAL
AT NAIROBI

CORAM: GICHERU, OWUOR & O'KUBASU, JJ.A)

CIVIL APPEAL NO. 109 OF 1987

BETWEEN

THE COMMISSIONER OF LANDS APPELLANT
AND
MESHUMOR JACOB SAMUEL RESPONDENT

(Appeal from the Judgment of the High Court of Kenya at
Nairobi (Mr. Justice Shields) dated 3rd June, 1987

in

H.C Land Acquisition Appeal No. 2 of 1986)

ORDER OF THE COURT

At counsel's request, this matter is hereby set down for
mention on 15th day of October, 2002 before this Bench. There
shall be no order for today's costs.

Made and delivered at Nairobi this 24th day of September,
2002.

J.E GICHERU
.....
JUDGE OF APPEAL

E. OWUOR
.....
JUDGE OF APPEAL

E.O. O'KUBASU
.....
JUDGE OF APPEAL

COMMISSIONER OF LANDS
P.O. Box 80089, NAIROBI



I certify that this is a
true copy of the original.

DEPUTY REGISTRAR

COMMISSIONER OF LANDS
P.O. Box 80089, NAIROBI

202033-30
26 30
for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI
202033/28

11th November, 2002

The Permanent Secretary,
Ministry of Lands & Settlement,
NAIROBI.

RE. CIVIL APPEAL NO. 109 OF 1987
THE COMMISSIONER OF LANDS
- VERSUS -
MESHUMOR JACOB SAMUEL

The above appeal case has been pending since October, 1987.

The suit arose from a land acquisition process of L.R. No.5875/2 measuring approximately 17.16 acres situated at Roysambu along Thika Road.

The Notices of intention to acquire and inquiry were published on November, 11, 1985 vide Gazette Notice N. 5151 and 5152. The inquiry was held on 5th and 18th February, 1986 and the registered proprietor made an oral claim of Kshs.25,000,000/=. He was however awarded Kshs.3,530,000/= which he appealed against under land acquisition Case No. 2 of 1986.

The appeal was heard by the High Court which awarded Kshs.23,000,000/= The Government appealed and challenged the High Court award which enhanced the award from Kshs.3,530,500/= to Kshs.23,000,000/=. The respondent also filed a cross - appeal for the enhancement of Kshs.23,000,000/= to Kshs.46,000,000/=.

However, on 27th February, 1997 the Court of Appeal stood over the matter to allow the parties to settle the matter, out of Court, which however to date has not been finalised. The Attorney General's ~~Letter~~ ref. AG/MLS/94/87 of 24th April, 1997 (marked 1)) is instructive.

The matter came up for hearing on 24th September, 2002 and we have affirmed Government position to proceed with the settlement of the award as agreed.

I am therefore forwarding a letter ref. AG/MLS/94/87 dated 5th November, 2002 (marked 2) from the Attorney General together with certificate of order against the Government indicting the amount (i.e Kshs.52,034,150/40 for payment and settlement.

The Attorney General has advised that this be settled before the end of November as the outstanding amount attracts an interest of half a million monthly.

Z. A. MABEA
FOR. COMMISSIONER OF LANDS

for COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Rayani, Rach & Sevany

Advocates & Commissioner for Oaths

P.O. Box 41919, Nairobi, Kenya
Telephones: 335396 / 331714 / 227709
Fax: 254-2-221022
E-Mail: rayani@africaonline.co.ke

20-233-29
Apartment No. 12
6th Floor
Agip House
Haile Selassie Avenue

29

[Handwritten signature]

Our Ref: JR/U/7/35 & 36/CK

Your Ref:

Date: 26th April, 2001

The Commissioner of Lands,
NAIROBI.



COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Dear Sir,



CONSOLIDATION AND EXTENSION OF USER
LR NO.23393 (ORIGINAL NO.11622/3) I.R. NO.80925

AND

LR NO.5875/2 - I.R NO.85371 - THIKA ROAD, NAIROBI

SAC
For Access this
amalgamation.
SL
23/5/2001

We act for Kasarani Mall Limited the owners of the above mentioned 2 adjoining properties. Our client Kasarani Mall Limited are a wholly owned subsidiary of Uchumi Supermarkets Limited.

The user for LR NO.5875/2 is "for shops, offices and or flats (excluding the sale of petrol)" whereas the user for LR NO.23393 is "residential purposes".

Our client's intentions are to amalgamate the 2 properties and develop the whole area as shopping mall or hyper market but with the inclusion of a petrol station at one end of the development.

We shall be grateful if approval is granted for the amalgamation of the 2 plots with the user extended to include shops, offices, flats and petrol service station.

We shall be most grateful if approval is given as soon as possible so that our client's Board of Directors can approve the necessary funding for the development.

Yours faithfully,
RAYANI, RACH AND SEVANY

[Signature]
JIMMY RAYANI

of COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

SL (WR)
Change of user
Amalgamation approved
in principle subject
to rent assessment
and production
of deeds
for use
consolidation
etc
SL
24/5/2001

c.c. Uchumi Supermarkets Ltd (Attention: Mr.Mutisya)
Aga Khan Walk,
NAIROBI.

c.c. Harunary & Associates,
P.O. BOX 11416
NAIROBI.

202033-28

(28)

(RUB)

DUPLICATE

REPUBLIC OF KENYA

Serial No. 143!.....

GOVERNMENT LANDS ACT N° 075790

RENT CLEARANCE CERTIFICATE

to COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

This is to certify that the Land Rent in respect of Plot No. 5875/2
registered in the name of SOLID CONSTRUCTION CO. LTD
has been paid up to and including 31st December, 19 2001

te: 20/3/2001.....

for Commissioner of Lands

20/3/01

This certificate is issued without erasure or alteration.

GPB 6027-200 Bks.-8/99

Bal Ksh ~~.....~~

Vertical stamp on the left margin, partially illegible.

(26)

(M)

Solio Construction Ltd
P.O. Box 49634
NAIROBI.
19/3/01.

The Commissioner of Lands
P.O. Box 30089
Nairobi

DEPARTMENT OF LANDS
RECEIVED
20 MAR 2001
CASH & DOCUMENTS
RECORDS

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

Dear sir,

RE: L-R. No. 5875/2

Kindly let us have your consent to transfer the above property to Kasarani Mall Limited.

Enclosed please find a cheque for Kenya Shillings One million Seven Hundred thousand Only (KSh. 1,700,000/-).

Yours faithfully

For and on behalf of
Solio Construction Ltd.

Cashier
Accept Sh 1,700,000/-
Consent fees.

As sacd
20/3/2001

52767

Entered 20.3.2001

20

25

70009/III/63

7th March, 2001

Rayani, Rach & Sevany
Advocates
P.O. Box 41919
NAIROBI

COMMISSIONER OF LANDS
P.O. Box 30089, NAIROBI

RE: LR NO. 5875/2 (IR. 85371)

This is with reference to your letter Ref. No. JR/U/7/33/CK dated 5th March, 2001 on the above property. I wish to confirm the correctness of the information contained in our letter Ref. No. 70009/III/59 dated 20th February, 2001. I furthermore wish to state that the previous file and title were closed together with the encumbrances when the vesting order was registered.

In answer to the issues itemised 1 to 3, I wish to confirm as follows:-

- (1) The property properly and legally vested in Government and we do not envisage any complications.
- (2) The grant to Solio construction Company Ltd is proper and were duly documented on presentation of an Incorporation Certificate from the Registrar of Companies.
- (3) The particulars of this title (IR 8537) are guaranteed by law and that there are no defects to the title or subsists no misrepresentation

Z.A. MABEA
FOR: COMMISSIONER OF LANDS

c.c. **P. Mutisya**
Uchumi Supermarkets Ltd
Aga Khan Walk
NAIROBI

Amrit Kaur Soar (Mrs)
Hamilton Harrison and Mathews
Advocates
ICEA Building
Kenyatta Avenue
NAIROBI

/tw

202033-24

24

LR

Rayani, Rach & Sevany
Advocates & Commissioner for Oaths

PO Box 41919, Nairobi, Kenya
Telephones: 355396 / 331714 / 227708
Fax: 254-2-221022
E-Mail: rayani@africaonline.co.ke

Apartment No. 12
6th Floor
Agile House
Hale Belaxia Avenue

Our Ref: JR/U/7/33/CK

Your Ref: 70009/III/59

Date: 5th March, 2001



Commissioner of Lands,
NAIROBI.

ATT: SARAH MWENDA
REGISTRAR OF TITLES



Dear Madam,

LR NO.5875/2 (IR.85371)

We refer to your letter dated 20th February, 2001 addressed to Hamilton Harrison and Mathews Advocates and copied to us, a photocopy of which is enclosed herewith for ease of reference. Your letter of 20th February, 2001 whilst giving some explanation and information does not deal with other issues such as charge in favour of Barclays Bank DCO, court orders, Gazette notices and Notice of taking Possession being addressed to persons other than those specified by law, etc. Our client Uchumi Supermarkets Limited (who are interested in purchasing the property for value and intend substantially to develop the same and effect a huge investment) would like following confirmation and assurance from you regarding Grant NO.IR.85371 issued to Solio Construction Company Limited in respect of LR.NO.5875/2.

1. That the property was properly and legally acquired by the Government under the Land Acquisition Act and properly and legally vested in the Government and there would be no complications or claims from persons and parties who may have had any interest whatsoever under the old title.
2. That the Grant NO.IR.85371 issued to Solio Construction Company Limited is proper and that Solio Construction Company Limited is proper and lawful owner of

Partners: Jimmy Rayani, Jayant Rach, Mohamood Gevany
VAT Reg. No. 10721

23

VBA

Dear Madam

RE: L.R. 5875/2 (L.R. 85371)

I refer to the discussion we had in respect of the above land recently in which we assured to give further details.

On checking the records, it is apparently clear that the said property was absolutely vested to the Government. Hence the latter grant is in order.

As for the compensation, it suffices to state that it was settled and indeed deposited to a local Bank on advice of original owner.

Yours faithfully,



**SARAH MWENDA
REGISTRAR OF TITLES
FOR: COMMISSIONER OF LANDS**

c.c.

**Mr. J. Rach
Rayani Rach & Sevanj
Advocates
P.O. Box 41919
NAIROBI**

/tw

P.O. Box 11024
Telephone 221924
222007
220893

202033-22

22

Corner House,
Kimathi Street,
Nairobi.

The Commissioner of Lands

We spoke; Please
hand over the Grant
to C.R. 5872/2 to the
Deputy

Thanks

A. Jambani

25/1/01.

With Compliments
ESMAIL & ESMail
ADVOCATES

21

Serial No. 145/2001
To:

DEPARTMENT OF LANDS
LAND TITLES REGISTRY
NAIROBI/MOMBASA

17

- THE COMMISSIONER OF LANDS (RECORDS BRANCH)
- THE COMMISSIONER OF LANDS (VALUATION OFFICE)
- THE COMMISSIONER OF LANDS (LAND RENTS)
- THE COMMISSIONER OF INCOME TAX.
- THE CITY VALUER, NAIROBI.
- THE MANAGING DIRECTOR, KENYA RAILWAYS.

- THE TOWN CLERK,
- THE CLERK, COUNTY COUNCIL OF
- THE SENIOR ECONOMIST/STATISTICIAN, P.O. Box 30289, NAIROBI.
- THE EXECUTIVE OFFICER, THE PROVINCIAL AGRICULTURAL BOARD, P.O. BOX

MEMORANDUM OF REGISTRATION OF TRANSFER OF LANDS

NEW GRANT { the details whereof appear below, has this day been registered as IR 85371/1

Date of Document
Transferor GRANTOR: THE PRESIDENT OF THE REPUBLIC OF KENYA

Transferee GRANTEE: SOLIO CONSTRUCTION COMPANY LIMITED.

Address of Transferee, P.O. Box 49634 NAIROBI

L.R. No. 5875/2 (Orig. No.)

Area 6.944 Ha.

Locality CITY OF NAIROBI

Consideration Sh. 2,402,400/= BY WAY OF STAND PREMIUM PAID.

Term 99 YEARS FROM 1-7-1999.

Annual Rent Sh. 480,480/= (REVISABLE)

Due From
Presented by R.T. CONVEYANCING, BOX 30089 NAIROBI

Date of Presentation 24-1-2001

P-M. MUTHOKA.
for Registrar of Titles

	Noted by	Checked by	Remarks
OFFICER I/C RECORDS:			
Land Register			
Return of Grants			
Files			
Cards			
RECORD DRAUGHTSMAN ..			
VALUATION OFFICE			

20
Stamped
14-01-2001
[Signature]

CERTIFICATE OF STAMP DUTY

No. 42141

AUTHORITY/FILE 202033 ② ④ ⑬

LEDGER FOLIO No. NAIROBI, 24/1/2001, 19

DEBIT TO: Solio Construction Company Ltd.

Sh. cts.

the sum of Shillings One hundred and thirty thousand only.

cents as per marginal statement in respect of:

Stamping of Grant
LA NO. 5875/2 Nairobi
vide Receipts nos.
E 700707 of 22/1/2001
and E 700737 of
24/1/2001

	Sh.	cts.
	130,000/-	
TOTAL	130,000/-	

Sh. 130,000/- [Signature]
for Commissioner of Lands

SALE No. 202033

202033-19
TRIPPLICATE

DEPARTMENT OF LANDS
FEE RECEIPT

Cheque 019692
E 70073

Station NBI

19
24/11 20 01

		NATURE OF FEE	Sh.	cts.
Received from	Solid Construction Ltd	Certificate of Title Registration ..		
of		Search Certificate ..		
		Opening New Register ..		
		Attestation ..		
		Inspection ..		
		Copying ..		
			Conveying/Preparation	
Cash				
By the sum of				
Cheque				
Shillings		Survey Fees		
	Twenty four	Rent		
	thousand two	Stand Premium		
	hundred sixty	Stamp Duty		
	only			
cents		Land Adjudication Fees		
At per marginal statement nature of transaction		Deposits		
Title Number				
for COMMISSIONER OF LANDS		TOTAL KSh.		

DOCUMENT IS STAMPED
 FOR LAND REGISTRY
 FILE NO. 242260
 CERT. NO. 1914
 SIGN ACCOUNTANT/CLERK
 DATE 24/11/2001

24260

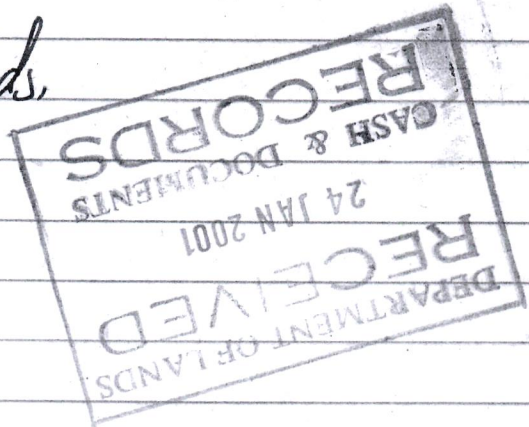
L125875/2

2427

W

18

The Commissioner of Lands,
P.O. Box 30089,
Nairobi.



Dear Sir

RE: L.R. 5875/2

I hereby forward Banker's Cheque)
NO. 019692 dated 24.1.01 being
payment of Additional Stamp duty

Yours faithfully

Solo Construction Company Ltd

51979

23/1/2001

17

12

SRT
Process

24/01/01

FORWARDING FORM FOR EXECUTION OF DOCUMENTS BY C.O.L

1. Please find at b.o.f. Lease / Grant / Transfer / Endorsment / Surrender: for your execution.

2. No. of documents One in triplicate

LO (N) Labun (S) Date 23-01-01

SLO (N) WANGILA Date 23/01/01

PASSED TO PRT/CLR:

Grant / Lease / Transfer / endorsement / Surrender: duly executed for your further action.

COL SK Date 23/01/2001

A. APPROVAL/AUTHORITY:

1. To allocate by PAC/Council/ Govt OR Central Authority Approval in File 34480/v Folio.....

2. For variation of grant / lease / extension of term of lease / change of use / extension of use / extension of building period / subdivision or consolidation / informal transfer in file

3. LETTER OF ALLOTMENT:

Issued at Folio 1 By S.K.W. WANGILA

Designation SLO (N)

Remarks

DCL Date 12/8/2001

B. PLOT PARTICULARS/DETAILS

1. L. R. No./ Parcels No. 20203 L R No: 5878/2

2. Plan at folio 1a

3. Area as per L/A 6.864 Ha

4. Area as per title survey 6.944 Ha

5. Remarks

SACL no DATE 23/1/2001

C. TITLE DETAILS:

1. Grantee's/lessee's name's in full Solo Construction Company Ltd.

2. Term 99 years w.e.f. 1-7-99

Archiver
Accept additional
Stamp
ASACL
23/1/2001

Amesher

23/1/2001

(17)
(16)

LAND OFFICER NAIRSB

Please refer to your instructions at folio (10)

This file 1000 and find at b.o.f. the documents
Commissioner of Lands for execution.

1. NEW GRANT/LEASE/EXTENSION OF TERM/EXTENSION OF BUILDING PERIOD/
SURRENDER/VARIATION OF LEASE/CHANGE OF USER/TRANSFER.

2. Authority for Allocation
was given by Govt at file 1000

3. Letter of allotment is at file 1000 folio (1)

4. Fees paid at folio No. 1000 folio (5)

6. Certificate of Incorporation at folio (8)

Forwarded to you by [Signature]

23/1/2001

R/T CONVEYANCING

Thro'

D.P.R.T.

/mwm

19

GOVERNMENT OF KENYA/COUNTY COUNCIL

15

DATE 23/1/2001

(T) POOL

ANNUAL RENT 480,480/- (REVISABLE) w.e.f 1.7.1999. a peppercorn (if demanded)

TERM 99 YEARS FROM 1.7.1999

NEW GRANT/DRAET GRANT/in pursuance of a surrender

STAND PREMIUM 2,402,400/- PAID BY WAY OF STAND Premium

GRANTEE Solis CONSTRUCTION COMPANY LTD, a limited liability company incorporated in the Republic of Kenya of P.O Box 49634, NAIROBI

ADDRESS

SPECIAL CONDITIONS at folio (STATS, OFFICERS AND FEES) attached

Checked by:

Registrar of Titles

Date:

To: LAND OFFICERS

Herewith find new Grant duly engrossed and checked by me for execution by the C.L.

Conveyancing section

Counter checked by:-

R: Sticker

RS 23/1/2001

RS Please sign and pass the form to the Conveyancing for action 23/1/2001

INSTRUCTIONS TO PREPARE A NEW LEASE

LR No. 5875/2

Please prepare a new lease in respect of title No.

NAIROBI

14

Letter of Allotment is at ①

Lessee's full names Solo Construction Company Limited

Lessee's Postal Address

If Lessee is a Company its registered office Address

P.O. Box 49634 NAIROBI

Term 99

Years from 1-7-99

Rent 4,80,480/- from 1-7-99

If revisable give details from period commenced

Every 10th years

Rent has been paid to-date

Stand Premium has been paid to-date Yes/No

STAND PREMIUM KSHS 2,402,400/-

USER Shops offices and flats

Special Conditions (see folio varied by:-

PAYMENT OF FEES: The following is the position as to fees:-

Conveyancing fees KShs 1250/- paid at

Registration fees KShs 250/- paid at

Stamp Duty KShs 105,740/- paid at

Survey fees KShs 2450/- paid at

Area 6.944 ha approx.

Any special conditions instructions

Plot Area

DATE 23/01/01 L.O. I, ~~XXXXXX~~ (S) L.O. II L.O. III

(S) (N)

202033-13

13

9

FORM 1

GOVERNMENT OF KENYA

SURVEY OF KENYA

The Commissioner of Lands,
P. O. Box 30089,
NAIROBI

19th October, 2000

To

Reference your Indent No. 21946/11 of 12th October, 2000


The undermentioned 1 deed plans 1 isar forwarded herewith:—

Land Ref. No. ..5875/2.....	Net Area ..as on plan.....
District ...NAIROBI AREA.....	Road Res. Area
Locality ...CITY OF NAIROBI.....	Total Area

Plan(s) No(s). 232448

File No. CR/197/VOL.58/76 Entered 19th October, 2000

Survey Fees due	Sh.
Survey Fees paid	Sh.
Balance	Sh.



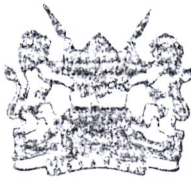
for Director of Surveys.

Receipt No.

Received the ONE deed plans in duplicate and account as above.

Please return this form to the Director of Surveys, P.O. Box 30046, Nairobi, without delay.

12



No.
C. 86743

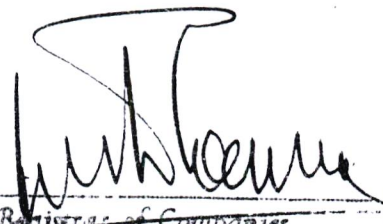
CERTIFICATE OF INCORPORATION

I hereby Certify, that

SOLIO CONSTRUCTION COMPANY LIMITED.....

is this day Incorporated under the Companies Act (Cap. 486) and that the Company is LIMITED.

Given under my hand at Nairobi this EIGHTEENTH day
of AUGUST One Thousand Nine Hundred and NINETY NINE


Snr. Dy. Registrar of Companies.

ORIGINAL
REPUBLIC OF KENYA
OFFICIAL RECEIPT BT853234

Station N/A Date 23/1/2007

RECEIVED from Solis Construction

Billings Ltd

One Million Seven hundred
and ninety nine thousand
only Kenya Sh. 1,799,000/-

Vote Head [Signature]
Sub-Head [Signature]

Sh.	1,799,000/-
Ac.	1
No.	N/A

Cash Queue No. 019684

[Signature]
Signature of Officer receiving remittance.

Rates -

MINISTRY OF LANDS & SETTLEMENT

Department of Lands,
P.O. Box 30089,
NAIROBI

Ref. ²⁰²⁰³³~~224133~~/4

Date 17-01-2001

Mr, Mrs, Miss, M/s. Solio Construction Ltd
P.O. Box 49634,
Nairobi

CONTRIBUTIONS IN LIEU OF RATES

L.R. NO. LR NO 5875/2 Nairobi

Please refer to my letter of allotment Ref No. 21946/11
dated 26-6-99..... I would be grateful if you would let me
have a remittance of KShs. 1,799,000/2..... in respect of
Contributions in Lieu of Rates payable on the above mentioned property
for the period 1-7-99..... to 31-12-2001.....
details of which are as follows:-

MINISTRY OF LANDS & SETTLEMENT

Serial No.	Period	Site Value KShs.	Rate Struck KShs. Percent	Amount Payable KShs.
	1-7-99 to 31-12-99	5,140,000/2	14%	359,800/2
	1-1-2000 to 31-12-2001	5,140,000/2	14%	1,439,200/2
				<u>1,799,000/2</u>

CONTRIBUTIONS IN LIEU OF RATES

for Nairobi
Commissioner of Lands

33/1/2001
Cashier
Accept 22/1/2001
Cheque No 019654
KShs 1,799,000/2
20/1/2001

Solis Construction Ltd

P.O. Box 49634
Nairobi

22/01/2001

The Commissioner Lands,
P.O. Box 30089,
Nairobi.

DEPARTMENT OF LANDS
RECEIVED
23 JAN 2001
CASH & DOCUMENTS
RECORDS

Re: L-R no 5895

Forwarded here for payment,
find a Bankers cheque in respect
of the above L.R. no.

Cheque no 019683 of KSh.
3,306,802 (Three million, three
hundred thousand eight hundred
and two only).

Account payments.

Yours faithfully,

Solis Construction Ltd.

51953

Entered 23.1.2001

7

3

C.V.O

Please advice on Rates

~~Ohm~~
Cash Document

10/1/2001

Site Value

5,140,000

Wanyande

11/1/2001

Ms Wanyande

L.O Nairuki

Please give
Conditions

Wanyande

10/1/2001.

NB

See the
Attached
sheet for
location.

~~Ohm~~

10/1/2001

⑥

②

THIKA ROAD

JUNCTION OF ROY SAMBUR

& THIKA ROAD NEAR

SAFARI PARK.

E

Pb

1500
1500

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 Commissioner of lands and the Local Authority. The Commissioner of Lands shall not give his approval unless he is satisfied that the proposals are such to develop the land adequately and satisfactorily.
2. The lessee shall within 6 calendar months of the actual registration of the lessee's submit in triplicate to the local authority and the commissioner of lands plans (including block plans showing the positions of the buildings and system of drainage for the disposal of sewerage surface and drainage water) registration of the lease complete the erection of the buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the Commissioner PROVIDED that notwithstanding anything to the contrary contained in or implied by Government of lands Act (chapter 280) if default shall be made in the performance or observation of any of the requirements of this condition it shall be lawfully for the commissioner of lands or any person authorized by him on behalf of the President to re-enter into and upon the land or any part thereof in the name of the whole and there upon the term hereby created shall cease but without prejudice to any right or action or remedy of the President or the Commissioner in respect of any condition herein contained.
3. The lessee shall maintain in good and substantial repair and condition of all buildings at any time erected on the land.
4. Should the lessee give notice in writing to the Commissioner of lands that he is unable to complete the buildings within the period aforesaid the Commissioner of lands shall (at the lessor's expense) accept a surrender of land comprised herein PROVIDED FURTHER that if such notice as aforesaid shall be given (1) within Commissioner of lands 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 Commissioner of Lands shall refund 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 buildings shall only be used for shops, offices and flats (excluding the sale of petrol and motor oils) B.C.R.
6. The buildings shall not cover more than seventy - five per centum of the area.
7. The grantee shall not subdivide the land without the prior consent in writing of the Commissioner of lands.

8. The Grantee shall not sell, transfer, sublet, charge or part with the land or any part thereof or any buildings thereon except with the prior consent in writing of the Commissioner of lands. No application for such consent (except in respect of a loan required for building purpose) will be considered until special conditions (2) has been performed.
9. The Grantee shall pay to the Commissioner of lands on demand such sum as the Commissioner may estimate to be proportionate cost of constructing all roads and drains and sewers 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 either exceeding or fall short of the amount paid as aforesaid).
10. The Grantee shall from time to time pay to the Commissioner of lands on demand such proportionate of the cost of maintaining all roads and drains serving or adjoining the land as the Commissioner may assess.
11. Should the Commissioner of lands at any time require the roads to be constructed to higher standard the Grantee shall pay to the Commissioner of lands on demand such proportion of the cost of such construction as the Commissioner may assess.
12. The Grantee shall pay rates, 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 buildings erected thereon, including any contribution or other land or building erected thereon or other sum paid by the President of the Republic of Kenya in lieu thereof.
13. The President of the Republic of Kenya or such person or authority as may be appointed for the purpose shall be 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 grantee shall not erect any buildings in such a way as to cover or interfere with an existing alignments of water or service pipes or telephone or telegraph wires and electric mains.
14. The Commissioner of lands reserves the right to revise the annual ground payable hereunder at the expiration of every ten years of the term. The rental shall be at a rate to be determined by the Commissioner of lands of the unimproved value of the land as at the end of every tenth year of the term.

202033-4

New file

①
202033
224153

REPUBLIC OF KENYA

DEPARTMENT OF LANDS

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

REGISTERED

P.O. Box 30089

Solio Construction Ltd
P.O. Box 49634, NAIROBI

26th June, 1999

Ref. No. 21946/11

SIR(S)/MADAM,

L.R. NO. 5875/2 NAIROBI

LETTER OF ALLOTMENT

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

AREA: 6.864 hectares (approximately).
 TERM: 99 years from the 1-7-99
 STAND PREMIUM: Sh. 2,402,400 } Subject to adjustment on survey, but
 ANNUAL RENT: Sh. 480,480 } there is no claim for reduction in area on survey.

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

SPECIAL CONDITIONS: See attached.

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

			Sh
Stand Premium	..	..	2,402,400/-
Rent from	1-7-99	to 31-12-99	240,240/-
Conveyancing Fees	..	..	1,250/-
Registration Fees	..	..	250/-
Rates	..	..	-
Stamp Duty	..	..	105,740/-
Survey Fees	..	..	2,450/-
Road and Road Drains	..	..	..
Others . approval fee	..	..	2,000/-
Planning fee	..	..	7 2,072/-

Receipt No. Less Deposit

REFERENCE SECTION
 TO NOTE THIS TRANSACTION
 ON THE CARD.
 [Signature]
 CHIEF CLERK
 11/10/2000

2826,402/-

[P.T.O.]

*Delete as appropriate.

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

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

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

Your full name(s) in BLOCK LETTERS should be given for the purpose of the grant which will be submitted later to you. The attached special conditions form part of the offer which should be accepted in writing.

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

Authority: 34480/V

[Signature]
S.R.W. WANGILA
for Commissioner of Lands

ENCL.

Y TO: P/S Ministry of Lands and Settlement, Nairobi

The Director of Surveys, Nairobi.

The Town Clerk. Nairobi

The Clerk to the Council, County Council of

The District Commissioner

The Director of Physical Planning, Nairobi.

District Land Officer.

O/C Land Rents.

Rates Assistant.

The Accountant.

O/C Records.

Senior Plan Record Officer.

Plot File.

All to note.

[Signature] 12/10/2000

GPK (L)

202033-2

2



From the Desk of

Wilson Gacanja

Commissioner of Lands

Ministry of Lands & Settlement

**Ardhi House
P.O.Box 30089
Nairobi.**

**Tel: 718050
Ext. 2270**

①

SOLIO CONSTRUCTION COMPANY LTD
P.O. BOX 49634
NAIROBI.

**The Commissioner for,
Lands and Settlement,
Ardhi House,
NAIROBI.**

Dear Sir,

APPLICATION FOR A PLOT IN NAIROBI
L.R. NO. 5875/2

We wish to apply for the above mentioned plot marked in red on the attached sketch map.

If granted we wish to develop it immediately.

Yours faithfully,


DIRECTOR

REPUBLIC OF KENYA



MINISTRY OF DEFENCE

**MEMORANDUM TO THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON LANDS**

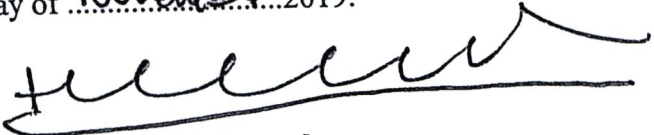
ON

**THE PETITION BY THE FORMER WORKERS OF THE
LATE MAYER JACOBS SAMUELS REGARDING
LR NO. 5875/2 IN ROYSAMBU**

**RESPONSE TO THE PETITION BY THE FORMER WORKERS OF THE LATE
MAYER JACOBS SAMUEL REGARDING LAND LR NO. 5875/2 IN ROYSAMBU
CONSTITUENCY**

1. The above petition was presented to the National Assembly by persons who allege that they were the former workers of the late Mayer Jacob Samuels who was the registered owner of LR No. 5875/2 measuring 17.6 Acres. They allege that they were owed wages arrears by the late Mayer Jacobs Samuels and with the support of the local administration, Nairobi City Council and Village Elders, they settled into the land to protect it from grabbers. They further allege that they were issued with letters of allotment by the Nairobi City Council with the concurrence of the National Land Commission after subdivision was effected.
2. The land the subject of the petition was compulsorily acquired by the Commissioner of Lands vide Gazette Notices No. 5151 and 5152 of 1985. The property was valued at Kshs. 3,350,500 by the Commissioner of Lands which sum was duly paid by the Ministry. The Land in question was formerly handed over to the Ministry on 25th June 1986 when it took possession of the same. The land was used as a training area and a temporary vehicle workshop by the Kenya Army. Following the establishment of a fully-fledged workshop at Kahawa Garrison, the temporary workshop in the land was closed. The land was subsequent used as a temporary camp for military athletes owing to its close proximity to Kasarani Sports Complex. The Camp is also being used to house a detachment from Kahawa garrison
3. The Ministry was in early 2019 requested to identify potential land for affordable housing programme. The Roysambu camp was identified as a potential land for the construction of Senior NCO's housing under the affordable housing programme. Consequently, the Ministry elected to improve security at the camp by repairing the land's fence.
4. The Ministry observes that the persons claiming ownership of the land are not known to it. The Ministry states that at the time of improving the camps security, no persons other than the military athletes were residing in the camp and no property was destroyed in the process.
5. The Ministry observes that the Nairobi City Council lacked the capacity to allocate the land as it does not own the same and any purported allocation of the same is a nullity. The Ministry states that it has not consented to the purported sub-division.
6. The Ministry reiterates that it lawfully owns the parcel of land and it is lawfully occupied by the Kenya Defence Forces.
7. The following documents are annexed hereto:
 - a. Gazette Notices No. 5151 and 5152 of 1985.
 - b. Hand/Take Over of Roysambu Site Minutes.
 - c. High Court Deposit Receipt for Kshs. 3,350,500/=
 - d. Notice of taking possession.

Dated at Nairobi this^{5th} day of November 2019.


Dr Ibrahim Mohamed
Principal Secretary for Defence

GAZETTE NOTICE No. 5148

THE CIVIL AVIATION ACT
(Cap. 394)

THE CIVIL AVIATION BOARD
NOTICE OF APPLICATION FOR, OR VARIATION OF AN AIR
SERVICE LICENCE

PURSUANT to the provisions of the Civil Aviation Act, 1977, notice is given that Coast Car Hire and Tours Ltd., P.O. Box 99143, Mombasa, has applied to the Civil Aviation Board for a three-year licence to operate air charter and inclusive tours based at Moi International Airport, Mombasa, with a capacity of twenty (20) seats.

Any objections or representations to this application should be made in writing to the Civil Aviation Board, Ministry of Transport and Communications, Ngong' Road, P.O. Box 52692, Nairobi, so as to reach it within twenty-eight (28) days of the date of publication of this notice. Every such objection or representation should state the specific grounds on which it is based and specify any conditions which it is desired that the board should impose on the licence, if granted. It should further be noted that a copy of every objection, or representation should be sent by the person making the same to the applicant at the same time that it is sent to the Civil Aviation Board.

Dated the 8th November, 1985.

F. J. UTANJE,
for Chief Executive Officer/Secretary,
Civil Aviation Board.

GAZETTE NOTICE No. 5149

THE CIVIL AVIATION ACT
(Cap. 394)

THE CIVIL AVIATION BOARD
NOTICE OF APPLICATION FOR, OR VARIATION OF AN AIR
SERVICE LICENCE

PURSUANT to the provisions of the Civil Aviation Act, notice is given that African Express Airways (K) Ltd., P.O. Box 43356, Nairobi, has applied to the Civil Aviation Board for a two-year renewal, with effect from 18th November, 1985, of their air service licence OAB (No. 40). The current licence services for passengers and freight to and from and within Kenya expires on 17th November, 1985, and authorizes air charter based at Malindi with a capacity of twenty-one (21) seats.

Any objections or representations to this application should be made in writing to the Civil Aviation Board, Ministry of Transport and Communications, Ngong' Road, P.O. Box 52692, Nairobi, so as to reach it within twenty-eight (28) days of the date of publication of this notice. Every such objection or representation should state the specific grounds on which it is based and specify any conditions which it is desired that the board should impose on the licence, if granted. It should further be noted that a copy of every objection, or representation should be sent by the person making the same to the applicant at the same time that it is sent to the Civil Aviation Board.

Dated the 8th November, 1985.

F. J. UTANJE,
for Chief Executive Officer/Secretary,
Civil Aviation Board.

GAZETTE NOTICE No. 5150

THE CIVIL AVIATION ACT
(Cap. 394)

THE CIVIL AVIATION BOARD
NOTICE OF APPLICATION FOR, OR VARIATION OF AN AIR
SERVICE LICENCE

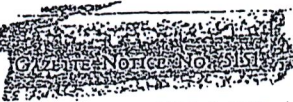
PURSUANT to the provisions of the Civil Aviation Act, notice is given that African Express Airways (K) Ltd., P.O. Box 43356, Nairobi, has applied to the Civil Aviation Board for a two-year renewal, with effect from 18th November, 1985,

of their air service licence OAB (No. 40). The licence expires on 17th November, 1985, and authorizes non-scheduled air coach services (with right to sell individual seats) on the routes: Malindi-Lamu-Malindi; Malindi-Hola-Malindi; and Lamu-Hola-Lamu.

Any objections or representations to this application should be made in writing to the Civil Aviation Board, Ministry of Transport and Communications, Ngong' Road, P.O. Box 52692, Nairobi, so as to reach it within twenty-eight (28) days of the date of publication of this notice. Every such objection or representation should state the specific grounds on which it is based and specify any conditions which it is desired that the board should impose on the licence, if granted. It should further be noted that a copy of every objection, or representation should be sent by the person making the same to the applicant at the same time that it is sent to the Civil Aviation Board.

Dated the 8th November, 1985.

F. J. UTANJE,
for Chief Executive Officer/Secretary,
Civil Aviation Board.



THE LAND ACQUISITION ACT
(Cap. 295)

NOTICE OF INTENTION TO ACQUIRE LAND

IN PURSUANCE of section 6(2) of the Land Acquisition Act I give notice that the Government intends to acquire the following land for a public purpose.

SCHEDULE

L.R. No	Locality	Registered Owner	Approx. Area to be Acquired in Acres
5875/2	Roysambu Estate, Nairobi.	Mayer Jacob Samuels	16.16

A plan of the affected land may be inspected during office hours at the Office of the Commissioner of Lands, Ardhi House, Ngong Road, Nairobi.

Dated the 8th November, 1985.

J. R. NJENGA,
Commissioner of Lands.

GAZETTE NOTICE No. 5151

THE LAND ACQUISITION ACT
(Cap. 295)

NOTICE OF INQUIRY

IN PURSUANCE of section 9(1) of the Land Acquisition Act I give notice that an inquiry will be held at 10. a.m., Wednesday 5th February, 1986 at Lands Office, 3rd floor, Ardhi House, Ngong Road, Nairobi for the hearing of claims to compensation by persons interested in the following land:

SCHEDULE

L.R. No	Locality	Registered Owner	Approx. Area to be Acquired in Acres
5875/2	Roysambu Estate, Nairobi.	Mayer Jacob Samuels	16.16

Every person who is interested in the land is required to deliver to me, not later than the day of inquiry, a written claim to compensation

Dated the 8th November, 1985.

J. R. NJENGA,
Commissioner of Lands.

INTER OFFICE MEMO

Soik (12)

To: S01 Projects

From: DOD/698/2/Wks

Date: June 1986

To: D/Ch of Logs (Dev&Wks)

[Handwritten signature]

SUBJECT

May this evacuation of area

HAND/TAKE OVER ROYSAMBU AREA SITE PLOT LR 5875/2 ON 25/6/86 AT 1000 HRS

8/7

GENERAL:

As agreed between DOD (Wks) Vs Ministry of Lands & Settlement the above Plot was to be formally taken over today 25/6/86 and this has been done.

Officials Present:

Those present at the site were as follows:

- a. Mr Mwaniki - Ministry of Lands
- b. Mr Waruingi - Area District Officer
- c. Col D Mwangi - Corps Comdr EME
- d. Lt Col Njuguna - DOD (Works)
- e. Lt Col Bosuben - Corps HQ (EME)
- f. Lt Col Dande - Base Wkshp
- g. Lt Col Makuu - Wkshp Bn
- h. Major Luruti - Wkshp Bn
- i. Major Ahmed - AHQ (Logs)

The lawyer representing the defendant was not available although he had been informed formally.

Acresage of Site: The area taken over is comprised of 7.16 acres.

Demarcation Beacons: The team could only locate Two hence it was agreed that Mr John Koti of Survey of Kenya be tasked to send some surveyors immediately to come and point out the rest of the Beacons. If the Beacons have been pulled out then he could arrange to refix.

Tenants/Families in area: The DO informed the team that there are approximately 215 (Two hundred and fifteen) living around.

Structures: During the visit the team observed that some of the buildings have collapsed or demolished. However, there are approximately 43 (Fourty three) blocks still existing although in poor condition and soon becoming ruins. Any repairs/maintenance will be very expensive.

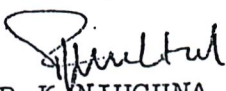
Joint Identification of Tenants: The area DO together with the servicement will take Census of all those living on the Plot on 26 June 86 (Thurs). This exercise will identify the right tenants and henceforth served with quit notice of, which the PC Nairobi should be made aware.

Security of Area: The Corps Comdr directed that a marquee tent be erected today 25/6/86 to accommodate servicement for guard duties. Concertina wire & pickets have already been demanded for through AHQ.

High Court: The former owners have filed a case suit demanding Kshs 25,000,000 although the proposal for now is Kshs 3,000,000. However DOD need not worry about this legal implications since the taking over has formalized.

AOB:

- a. There exists two JUA KALI garages but One is obviously in our plot while the other stands outside the Plot, however, the surveyors will give the correct standing.
- b. Mr Mwaniki (Lands) has promised to avail all the necessary correspondence to DOD by 29/6/86.
- c. According to the Map there is an existing "BOREHOLE" (~~discussed~~) but the team could not locate it during the tour of the area.


R K NJUGUNA
Lt Colonel
SOI Projects

Copy to:-

- SO1 Works
- SO2 Works
- SO3 Projects
- SO3 Works

To amount of amount received by the commissioner of lands
of 5/5/36 from department of defence in
acquisition of land in the name of
wards transmission to the care of the

Checked
Ledger
CLRS
[Signature]

241260

76

52

REPUBLIC OF KENYA

DEPOSIT RECEIPT

high

ORIGINAL FILE

150200

Comm of Lands 16-5-36
five hundred thirty thousand five hundred

248/36

Acquisition

3-3

Director General

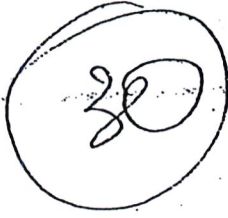
[Signature]

MINISTRY OF LANDS AND SETTLEMENT

DEPARTMENT OF LANDS
P.O. Box 30089, NAIROBI

Address: "LANDS", Nairobi
Phone: Nairobi 721750
Fax 723348
In replying please quote

No. _____
and date



943)

Mrs. S. KENNEDY
P.O. BOX 292
C/O. Hon. Mr. Jacob Pambol,
e/1205/86/29 11:17
Nairobi,
P.O. Box 30423,
NAIROBI.

OUR HONO. ACQUITTANCE FOR C.I.T 295
WATER RIGHTS NOTICE NOS. 7151 AND 5152
DATED NOVEMBER 22, 1986
REG. NO. 5775/7 EXPLANATION, L.S. 6/8

[Handwritten signature]

NOTICE OF RESURRECTION

TAKING NOTICE that I have taken possession of the above
mentioned land in pursuance of Section 20(1) of the Land
Acquisition Act 1962 and the land is accordingly vested
in the Government.

The documents of titles should be surrendered to the
Principal Registrar of Titles/Chief Land Registrar, Nairobi
under section 20(1) for cancellation.

[Handwritten signature]
SHERIFF CLIVE VANDER (MURUKU)
OFF: CHIEF REGISTRAR OF LANDS

Volume No 18 folio 292
file 6/8

✓ to the Principal Registrar of Titles,
P.O. Box 30089,
NAIROBI.

to the Assistant Commissioner of Lands,
NAIROBI.

to the Director of Surveys,
NAIROBI.

to the Chief Clerk,
P.O. Box 30089,
NAIROBI.

[Handwritten note:]
Pl. con. Please refer to
the notice of taking
possession of

He said 3:5 a was not

① No Payment was ~~not~~ Made

② 33. was the consideration and it was
not paid

③ RBF does not own the land



Our Ref: MK/MM/CON/117/18
Your Ref: TBA

Date: 7th November 2019

The Clerk of the National Assembly
National Assembly of Kenya,
Parliament Building,
NAIROBI

*Documents
to be going to
the attention
of the
Ant.
CNA
7/11/19*

Dear Sir,

RE: SALE OF TITLE NUMBERS 5875/2 & 23393 (AMALGAMATED TO L.R NO. 25544) THIKA ROAD NEXT TO TRM, VENDOR: KASARANI MALL LIMITED TO JEWEL COMPLEX LIMITED

We act for Jewel Complex Limited.

Our client is in the process of acquiring the above parcel of land from the current registered owner Kasarani Mall Limited a subsidiary of Uchumi Supermarkets Limited.

We understand that this matter had come up in the National Assembly Committee of Land for discussion. In order to assist the Committee we enclose herewith the following:-

- (a) Copy of the Agreement for Sale dated 20th September 2018;
- (b) Copy of the Title over Land Reference Number 5875/2
- (c) Copy of the Title over Land Reference Number 23393
- (d) Copy of the Amalgamated Title Number 25544

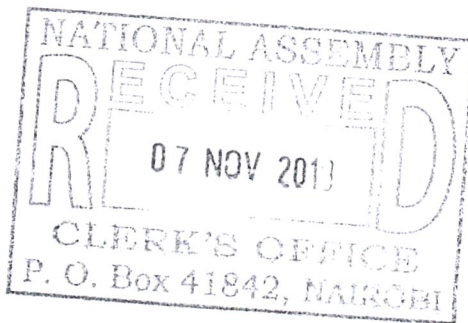
*Leonard machira
pls TWA
we ref to
7/11/19*

Your kind assistance will be appreciated.

Yours faithfully,
MUCHOKI, KANGATA, NJENGA & CO

MOSES G. MUCHOKI
mmuchoki@mkn.co.ke

CC. Jewel Complex Limited
Roisambu
NAIROBI



DATED 20th SEPTEMBER 2018

KASARANI MALL LIMITED

- and -

JEWEL COMPLEX LIMITED

AGREEMENT
for the Sale and Purchase of
Land Reference Number 25544
Nairobi

HH&M

Hamilton Harrison & Mathews

Advocates
1st Floor, Delta Office Suites, Block A,
Off Waiyaki Way, Muthangari
P.O. Box 30333 – 00100
NAIROBI
Email: hbm@hbm.co.ke
Ref: (31/U0049/90)



THIS AGREEMENT is made the 20th day of SEPTEMBER 2018

BETWEEN

- (1) **KASARANI MALL LIMITED** a limited liability company duly incorporated in the Republic of Kenya and of Post Office Box Number 73167-00200 Nairobi, Kenya (hereinafter called "the Vendor" which expression shall where the context admits include its successors and assigns) of the one part; and
- (2) **JEWEL COMPLEX LIMITED** a limited liability company duly incorporated in the Republic of Kenya of Post Office Box Number 767-00618 Ruaraka, Kenya (hereinafter called "the Purchaser" which expression shall where the context admits include its successors and assigns) of other part.

WHEREAS:

- A. The Vendor is registered as proprietor as lessee of ALL THAT piece of land comprising Eight Decimal One Three Seven (8.137) hectares or thereabouts situate in the City of Nairobi in the Nairobi area of the Republic of Kenya and known as Land Reference Number 25544 as delineated on Land Survey Plan Number 241290 hereinafter called "the Property").
- B. The Vendor is in the process of obtaining the new title for the Property resulting from the amalgamation and change of user of Land Reference Numbers 5875/2 and 23393.
- C. The Vendor has agreed to sell the Property to the Purchaser, and the Purchaser has agreed to purchase the Property from the Vendor on the terms and conditions set out in this Agreement.

WHEREBY IT IS AGREED as follows:-

1. In this Agreement and in the Schedules hereto:-
 - 1.1. "Balance of the Purchase Price" means Kenya Shillings Two Billion Four Hundred and Seventy Million (Kshs. 2,470,000,000/-);
 - 1.2. "Completion Date" means the date provided for under Clause 5 of this Agreement;
 - 1.3. "Deposit" means Kenya Shillings Three Hundred and Thirty Million (Kshs. 330,000,000/-) only;
 - 1.4. "Documents" means the deeds and documents listed in the First Schedule;
 - 1.5. "Interest Rate" means the rate of 24% per annum;
 - 1.6. "Parties" means the parties to this Agreement, and the term "Party" shall be construed accordingly;
 - 1.8. "Purchase Price" means Kenya Shillings Two Billion Eight Hundred Million (Kshs 2,800,000,000/-) only exclusive of all taxes;
 - 1.9. "Purchaser's Advocates" Messrs Muchoki Kangata Njenga Advocates Bruce House,



Floor, Standard Street Post Office Box Number 926-00100., Nairobi and Naikuni Ngaah & Miencha:

- 1.10 "Transfer" means the transfer of the Vendor's interest in the Property to the Purchaser;
- 1.11 "VAT" means the Value Added Tax payable by the Purchaser in accordance with the Value Added Tax Act 2013.
- 1.12 "Vendor's Advocates" are Hamilton Harrison & Mathews, Advocates, 1st Floor, Delta Office Suites, Waiyaki Way, Post Office Box Number 30333-00100, Nairobi;
- 1.14 Words importing the singular shall be construed as importing the plural and vice versa;
- 1.15 Words of the neuter gender include the feminine and masculine genders and words denoting natural persons include corporations and firms and all such words shall be construed interchangeably in that manner;
- 1.16 References to a Clause or a Schedule are (unless the context otherwise requires) to a Clause or Schedule respectively of this Agreement and references to a paragraph are (unless the context requires) to a paragraph of a Schedule to this agreement;
- 1.17 The clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.

2. AGREEMENT FOR SALE AND PURCHASE

- 2.1 The Vendor agrees to sell and the Purchaser agrees to purchase the Property for the Purchase Price. The sale does not include any movables.
- 2.2 The interest sold is leasehold.
- 2.3. The sale of the Property is subject to the Vendor undertaking to do the following at its own costs:-
- a) Resolution of the third party interest in the Property;
 - b) Obtaining a discharge of charge from its financiers;
 - c) Obtaining a new title after the extension of lease, amalgamation and change of user for the Property; and
 - d) Removal of the caveat placed by the Registrar of Titles on the Property.

3. PAYMENT OF THE DEPOSIT

Within seven (7) days from 3rd September 2018, the Purchaser shall pay the Deposit into the account of the Vendor's Advocates to be held as stakeholders pending the Completion Date. Any interest earned on the Deposit will be for the account of the Vendor.

4. PAYMENT OF THE PURCHASE PRICE

- 4.1 On or before the Completion Date, the Purchaser shall remit the Balance of the Purchase Price into the Vendor's Advocates account to be held as stakeholders pending the registration of the Transfer of the Property in favour of the Purchaser. Any interest earned on the Balance of the Purchase Price will be for the account of the Vendor on condition that the Vendor does

not breach the terms of this Agreement and in the event the Vendor is in breach it shall be for the account of the Purchaser less any disbursements incurred by the Vendor.

- 4.2 The payment of the Purchase Price shall be made by way of Real Time Gross Settlement to the Vendor's Advocates client's account details of which are provided below:

ACCOUNT NAME:	HAMILTON HARRISON & MATHEWS
BANK NAME:	KENYA COMMERCIAL BANK KENYA LTD
BRANCH:	LAVINGTON BRANCH
BANK A/C NO:	1128552779
POSTAL ADDRESS:	P.O BOX 48400-00100 GPO NAIROBI
TELEPHONE NO:	+254 20 3270000
CELL NO:	+254 722-207345/7 +254 734-330001/2
SWIFT:	KCBLKENX
BANK CODE:	01
BRANCH CODE:	320

5 COMPLETION

- 5.1 Subject to clause 2.3 above, the Completion Date shall be 60 calendar days from the date of this Agreement or upon issuance of the new title whichever is later, time being of the essence or as agreed in writing by the parties PROVIDED THAT the Vendor reserves the right to extend the Completion Date by 15 calendar days.
- 5.2 Completion of the sale and purchase of the Property shall take place on the Completion Date at the offices of the Vendor's Advocates or otherwise as they may direct.
- 5.3 The Purchaser shall within fourteen (14) days from the date of signing this Agreement and prior to the Completion Date, furnish to the satisfaction of the Vendor and its Advocates with a letter evidencing proof of funds from a 1st tier bank in Kenya confirming that the Purchaser has deposited the balance of the purchase price. In the event that the Purchaser fails to provide the letter, it shall be in default of the Agreement for Sale and trigger clause 11.1 of the Agreement for Sale:
- 5.4 Upon or prior to the Completion Date and subject to receipt of the proof of funds for the balance of the purchase price and the VAT and apportioned outgoing, the Vendor's Advocates shall deliver the Documents specified in the First Schedule hereto to the Purchaser's Advocates.
- 5.5 The Purchaser hereby undertakes that it shall submit the Transfer for stamping and registration within fourteen (14) days from the Completion Date and shall inform the Vendor's Advocates in writing of the Day Book Number. The Purchaser shall register the Transfer within thirty (30) days from the Completion Date.
- 5.6 Notwithstanding Clauses 4.1, the Vendor's and Purchaser's Advocates shall unconditionally release the Purchase Price, the interest thereon and the apportioned outgoing after the lapse of thirty (30) days from the Completion Date.

6 CAPACITY

The Vendor sells as legal and beneficial owner.

7 MATTERS AFFECTING THE PROPERTY

7.1 The Property is sold (so far as the same relate to and affect the Property and are still subsisting and capable of being enforced and taking effect) subject to and with the benefit of:-

7.1.1 All easements, quasi easements, rights exceptions and other similar matters whether or not apparent on inspection of the Title Documents or disclosed in any of the documents referred to in this Agreement;

7.1.2 All matters disclosed or which might reasonably be expected to be disclosed as a result of inspection of the Property prior to the date hereof or searches or enquiries formal or informal whether personal or in writing made by or on behalf of a purchaser prior to the date hereof:-

but otherwise free from all encumbrances.

7.2 The Purchaser admits that it has inspected the Property and purchases it with full knowledge of its actual state and condition and takes the Property as it is on the date of this Agreement. Any condition or warranty whatsoever as to the condition of the Property or its fitness for any purpose other than what is specifically provided herein are hereby expressly excluded and the Vendor shall not be required to effect any repairs or improvements to the Property whatsoever even after the completion of the sale of the Property and as the Tenant of the Property.

7.3 By this Agreement, the Purchaser intends to develop the Property and has agreed to give the Purchaser the option to take up a portion of the development for its absolute use.

7.4 The Purchaser shall be deemed to purchase with full knowledge of all the entries deeds documents interests rights matters and other things referred to in the above clause 7.1 and reflected in the title and shall raise no objection thereto or requisition thereon.

7.5 The Vendor shall not be obliged to point out or identify the boundary beacons of the Property to the Purchaser. The Purchaser may carry out a boundary beacon survey of the Property at its own cost and convenience prior to the Completion Date

8 INSURANCE

The Vendor shall insure the Property up to the Completion Date. As from the Completion Date and following Completion the risk in the Property shall pass to the Purchaser who shall at its cost and expense insure the Property against such risks as fire earthquake accident lightning and floods AND the Purchaser shall pay all premiums for insurance of the Property.

9 APPORTIONMENT

All outgoings payable in respect of the Property shall be apportioned between the Parties as at the Completion Date and paid by the Purchaser to the Vendor on or before the

Completion Date. For the avoidance of any doubt, the Purchaser shall not be entitled to receive the income earned from any tenancies until the Vendor is in receipt of the entire Purchase Price, VAT and apportioned outgoings in cleared funds.

10 RIGHT TO TERMINATE THE AGREEMENT

The Vendor shall have the right to terminate this Agreement in its sole discretion prior to the Completion Date. In this case, the Purchaser shall be entitled to receive the Deposit paid to the Vendor and the Purchaser shall have no further claim against the Vendor.

11 BREACH OF AGREEMENT BY THE PURCHASER OR THE VENDOR

11.1 If the Purchaser shall fail to comply with any of the conditions hereof or of the condition subject to which this sale is made including the condition relating to providing proof of funds and the completion of the sale the Vendor may give to the Purchaser at least Twenty One (21) calendar days' notice in writing confirming the Vendor's readiness to complete the sale in all respects and specifying the default and requiring the Purchaser to remedy the same before the expiration of such notice AND if the Purchaser shall fail to comply with such notice the Vendor shall be entitled to do any of the following:

11.1.1. to sue the Purchaser forthwith for all sums due and unpaid by the Purchaser under the terms hereof and for specific performance; or

11.1.2. subject to the payment by the Purchaser of Interest on the Purchase Price as provided in Clause 9.3 below) extend from time to time the Completion Date provided always that the Vendor may in its sole discretion rescind this Agreement at any time after the Completion Date if at such time the Purchaser shall not be ready, able or willing to pay the entire Purchase Price; or

11.1.3. to rescind this Agreement whereupon the Purchaser shall forfeit the Deposit in favour of the Vendor as agreed liquidated damages and resell or otherwise deal with the Property

11.2 If the Vendor shall fail to complete the sale due to no default on the part of the Purchaser, the Purchaser shall give to the Vendor Twenty One (21) days' notice in writing to comply with its obligations and such notice shall specify the default and require the Vendor to make it good within Twenty One (21) calendar days' and if the Vendor then fails to comply with the notice, the Vendor's Advocates shall refund to the Purchaser forthwith the Deposit together with interest thereon and interest earned on the funds remitted to the Vendor's Advocates account less any disbursements incurred by the Vendor the Purchaser shall have no further claim against the Vendor

11.3 If any sum payable by the Purchaser hereunder is not paid on its due date for payment or if any condition is not complied to by the Purchaser, the Purchaser shall (without prejudice to the exercise by the Vendor of any other rights or remedies in favour of the Vendor) pay to the Vendor interest at the Interest Rate on the unpaid sum from (and including) the due date for payment of such sum until the date of actual payment of the unpaid sum (together with all accrued interest) in full or until the Purchaser complies with the condition. Such interest shall accrue from day to day and be compounded monthly.

12 LAW SOCIETY CONDITIONS OF SALE

The Conditions of Sale known as the Law Society Conditions of Sale of 2015 do not apply

to this Agreement.

13 **DISCLAIMER AND WARRANTIES**

13.1 This Agreement and the conditions constitute the entire agreement between the Parties and may only be varied or modified whether by collateral contract or otherwise in writing under the hands of the Parties or their advocates. The Purchaser acknowledges that he has not entered into this Agreement in reliance wholly or partly on any statement or representation made to him.

13.2 The Purchaser admits that it has inspected the Property and purchases it with full knowledge of its actual state and condition on the date of this Agreement and takes the Property as it is on the date of this Agreement and the Vendor expressly disclaims and negates any express statutory or implied warranties, whether of description, physical condition, merchantability, fitness for a particular purpose or otherwise covering the Property. The Purchaser, by acquiring the Property on an 'as is, where is' basis waives any claims or rights of indemnification, contribution or recourse they may have against or from the Vendor with respect to or arising out of the physical condition of the Property.

14 **COSTS**

Each party shall bear its own legal costs. The Purchaser shall pay any stamp duty and registration fees on the Transfer. The Vendor shall not be responsible for any additional stamp duty payable by the Purchaser on the Transfer due to a higher value of the Property (than the Purchase Price) being assessed by the Government Valuer and if such additional stamp duty shall become payable, it will be the sole responsibility of the Purchaser and shall not in any way prejudice the Vendor's rights or the Purchaser's obligations to the Vendor under this Agreement.

15 **TIME OF THE ESSENCE**

Time shall be deemed to be of essence for the obligations of the parties under this Agreement.

16 **PERMITTED USER**

The Purchaser is aware of the user of the Property and is fully satisfied in that regard.

17 **TAXES**

The Purchaser shall pay any tax (if applicable) at the rate for the time being in force chargeable in respect of the Purchase Price made to the Vendor save for the Capital Gain Tax which shall be the responsibility of the Vendor.

18 **MISCELLANEOUS**

18.1 No failure or delay to exercise any power, right or remedy shall operate as a waiver of that right, power or remedy and no single or partial exercise of any right, power or remedy shall preclude its further exercise or the exercise of any other right, power or remedy.

18.2 The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

- 18.3 If any term or condition of this Agreement shall to any extent be found or held to be invalid or unenforceable, the parties shall negotiate in good faith to amend such term and condition so as to be valid and enforceable.
- 18.4 If any term or condition of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected and the other term and conditions shall be valid and enforceable to the full extent permitted by law.
- 18.5 Notwithstanding the Transfer of the Property to the Purchaser this Agreement shall remain in force with regard to anything remaining to be done performed or observed hereunder and not provided for in the said Transfer.
- 18.6 Notwithstanding completion all the provisions of this Agreement shall continue in full force and effect to the extent that any of them remain to be implemented or performed.
- 18.7 This Agreement shall not be varied or cancelled, unless such variation or cancellation shall be expressly agreed in writing by each party.
- 18.8 *The Purchaser shall not assign nor transfer its interest in this Agreement or any portion thereof without the prior written consent of the Vendor.*

19 NOTICES

Any notice required to be given hereunder shall be sufficiently served on the intended Party if forwarded to that Party by registered post to their respective last known postal address in Kenya with a copy to its Advocates. A notice given by post shall be deemed to have been served three days after the date of posting.

20 JURISDICTION

This Agreement shall be interpreted according to the laws of Kenya and the parties hereby submit to the jurisdiction of the Courts of Kenya.

IN WITNESS whereof this Agreement has been duly executed by the parties hereto on the day and the year first hereinabove written.

THE FIRST SCHEDULE The Documents

- (a) The original Title for Land Reference Number 25544 together with Deed Plan attached;
- (b) Duly executed Transfers for Land Reference Number 25544 in favour of the Purchaser or its nominee (both in triplicate);
- (c) Certified Copy of Vendor's Certificate of Incorporation and PIN Certificate;
- (d) Three passport size photographs of the directors of the Vendor who shall have executed the Transfers;
- (e) Certified copies of the National Identity cards/passport and PIN certificate of the Directors/a Director and Secretary of the Vendor who shall have executed the Transfer;
- (f) Valid Rates Clearance Certificates for Land Reference Number 25544 (valid for at least 21 days).

- (g) Land Rent Clearance Certificate and Consent to Transfer for Land Reference Number 25544; and
- (h) The sketch map indicating the route to the Property for valuation purposes;
- (i) Vendor's Resolution to sell;
- (j) Capital Gain Tax Acknowledgement slip/exemption thereof.

SEALED with the common seal of)
 KASARANI MALL LIMITED)
 in the presence of:)
 Director)
 Director/Secretary)

affix seal

And before me)
)
)

Nancy Gitau
 NANCY GITAU
 HAMILTON HARRISON & MATHEWS
 ADVOCATES
 DELTA OFFICE SUITES, WAIYAKI WAY
 P. O. BOX 30333
 GPO - NAIROBI 00100

Advocate
 I CERTIFY that the above-named.....and both
 directors or a director and company secretary of the Vendor appeared before me on
 17th SEPTEMBER 2016 and being known to me /being identified by* of
having produced to me for such identification purposes their Identity Card
 Numbers..... acknowledged the above signature[s] or mark[s] to be theirs and that they had
 freely and voluntarily executed this instrument and understood its contents

NANCY GITAU
 HAMILTON HARRISON & MATHEWS
 ADVOCATES
 DELTA OFFICE SUITES, WAIYAKI WAY
 P. O. BOX 30333
 Advocate Nairobi High Court

SEALED with the common seal of
JEWEL COMPLEX LIMITED

in the presence of:-

Director

EO

Director/Secretary

[Signature]

And before me

[Signature]

Advocate

affix seal

I CERTIFY that the above-named *Edward Mui* and *Raphael Muli* both directors or a director and company secretary of the Purchaser appeared before me on20... and being known to me /being identified by* ofhaving produced to me for such identification purposes their Identity Card Numbers..... acknowledged the above signature[s] or mark[s] to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.

[Signature]

Advocate of the High Court

Drawn by:
Hamilton Harrison & Mathews
Advocates
1st Floor, Delta Office Suites
Block A, Off Waiyaki Way, Muthangari
P.O. Box 30333-00100
Nairobi



Home Of Value

Our Ref: USL/CEO/GOK/MOT/005

6th November 2019

To:
The Clerk
National Assembly
NAIROBI.

Diants
7/11/19
Leonard Machira
pls TWA
4/11/19
8/11/19

Dear Sir,

RE: UCHUMI SUPERMARKET – LAND OWNERSHIP DISPUTE WITH KDF

Reference is made to the above captioned matter.

We understand that this matter has come up in the National Assembly Committee of Land for discussion. In order to assist the committee we enclose herewith:

- Copy of the Titles L.R 5875/2 & 23393
- Copy of the New Lease which is in the process of completion

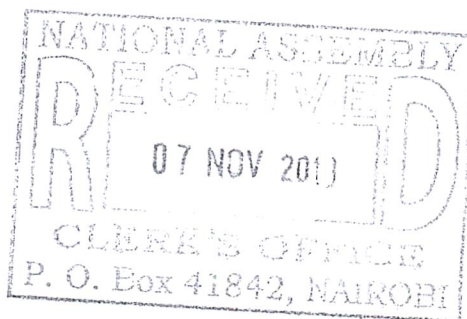
Further to the above, we have a ready buyer for the land whom we are in the process of finalizing the sale. From the attached documents, it can be seen that Kasarani Mall Ltd (A subsidiary of Uchumi Supermarkets Plc) is the registered owner of the two parcels of land.

Yours Sincerely,

For: UCHUMI SUPERMARKETS PLC

Mohamed Ahmed Mohamed
Chief Executive Officer

- c.c. Board of Directors
- c.c. Mr. Owen Koimburi
- c.c. Dr. Chris Kiptoo CBS (PHD, AKIB, MEFMI FELLOW)



Uchumi Supermarkets PLC | P.O. Box 73167 - 00200 Nairobi | Fax: +254 (020) 554768, 553501
Email: customerservice@uchumi.com | Yarrow Road, Off Nanyuki Road (Industrial Area)
Mobile: 0722 205442, 0733 410028 | Wireless: 020 204 1267, 206 2769, 802 0080/1-5
Twitter: @UchumiKenya | Facebook: Uchumi Supermarkets | Instagram: Uchumi Supermarkets PLC

Directors: J. Karani - (Chairperson), M. Mohamed - (C.E.O), T. Kabiru, Y. Oenga, G. Karanja, ICDC, PS Ministry of Trade, Fred Rabongo, Bajju Shah

LA No. 6 of 2012

(to be completed in quadruplicate)

Presentation Book Date received for registration: Registration Fees: KSh.

Paid on 20..... Receipt No:

CF 215826



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012)

THE LAND ACT

(No. 6 of 2012)

REGISTERED LAND ACT (Repealed)

REGISTRATION OF TITLES ACT (Repealed)

Handwritten notes: 29 € 2, 26/11/18, G. W. Ogo '21'

LEASE

(This LEASE is issued pursuant to the transitional provision in Sections 160 and 161 of the Land Act and Section 108 of the Land Registration Act)

REGISTRATION UNIT Nairobi Central PARCEL NO LR NO.25544

THE NATIONAL GOVERNMENT

in pursuance of a Amalgamation and change of User

HEREBY LEASES to KASARANI MALL LIMITED, A LIMITED LIABILITY

COMPANY DULY ESTABLISHED UNDER THE PROVISIONS OF THE COMPANIES ACT OF 2015 OF THE

LAWS OF KENYA (POST OFFICE BOX NUMBER 73167, 00200 NAIROBI)

hereinafter called the Lessee .

ALL THAT piece of land comprised in the Registry Index Map No. /Deed Plan No. 241290 containing by measurement approximately 8.137 Hectares or thereabouts for the term of 99 years

from the 1st day of July, 1999

at the annual rent of Kenya Shillings 2,082,000.00 (REVISABLE) WEF 01/10/2018 payable

in advance on the first day of January in each year and subject to the following special conditions

1964 Jacobs

9. The Lessee shall pay such rates, charges, duties, assessments or outgoings of whatever descriptions as may be imposed charge or assessed by the National / County Government on behalf of the National / County Government upon the land or the buildings erected thereon, including any contribution or other sum paid in lieu thereof.

10. The National Government or respective County Government or such other 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 main service pipes and drains, telephone wire, fiber optic and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or Services pipes or fiber optic or telephone wires and electric mains.

ION)

11. The National Government/County Government may revise the annual ground rent payable Such rental shall be at a rate to be determined by the National Government/County Government of the unimproved value of the land.

Dated this 26th day November 18, 2018

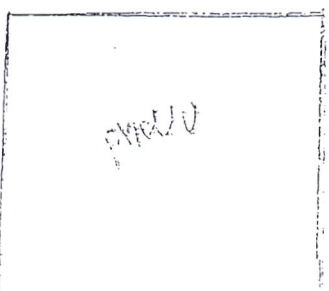
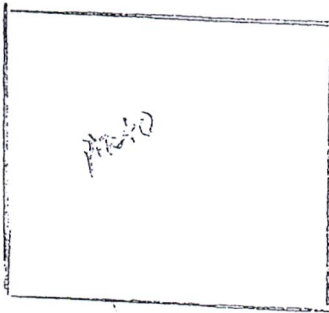
SIGNED BY:

For: CHIEF LAND REGISTRAR

[Signature]
G. W. Oware *217

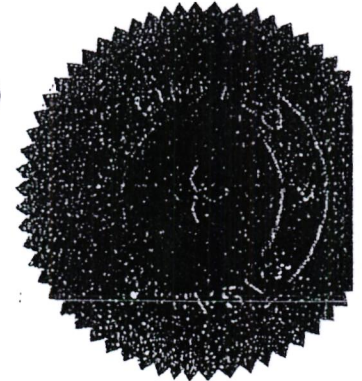
COMMON SEAL of the Lessee was affixed hereto in the presence of:

not



Name TIM KABIRU
ID 11143428
PIN
Signature *[Signature]* A002449508W

Name MOHAMED A. MOHAMED
ID 13198046
PIN A001183464L
Signature *[Signature]*



SPECIAL CONDITIONS

1. No further buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with the plans and specifications previously approved in writing by the National / County Government.

The National/County Government shall not give its approval unless it is satisfied that the proposals are such as to develop the land adequately satisfactorily.

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

3. The land and buildings shall always be used for SHOPPING MALL (INCLUDING PETROL SERVICE S

4. The buildings shall not cover **more than 50% of the** area of the land or such lesser area as may be prescribed by the National / County Government Development Control Regulations.

5. The land shall not be used for any purpose which the National / County Government considers to be dangerous or offensive.

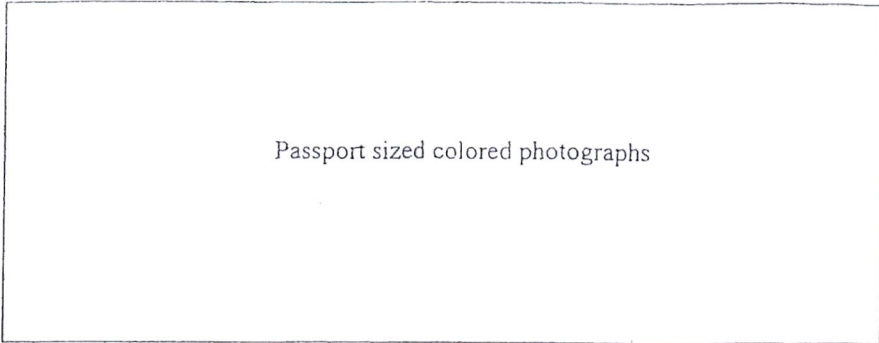
6. The Lessee shall not subdivide, change or extend use of the land, without prior written consent and approval of the National Government or County Government.

7. The Lessee shall not sell, transfer, sublet, charge or part with possession of the land or any part thereof or any building thereon except with prior consent in writing of the National / County Government.

8. The Lessee shall from time to time pay to the National / County Government on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the National Government/County Government may assess.

SIGNED by the Lessee

IN THE PRESENCE OF:



Passport sized colored photographs

Signature

ID/PASSPORT

PIN NO

I CERTIFY that the above-named appeared before me on the day of, 20 and being known to me/being identified by acknowledged the above signature or marks to belong to the Lessee and that the Lessee freely and voluntarily executed this instrument and understood its contents.

.....
Signature and Designation of Person Certifying

REGISTERED this, day of, 20.....

Land Registrar

Name

DRAWN BY:

LAND REGISTRAR

P.O. BOX 30089

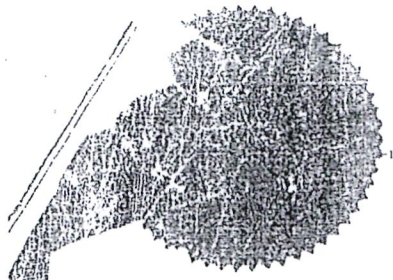
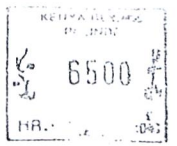
NAIROBI



1482894238

23d482d85fbb89ab108076aa15b99366

(1)



residential)



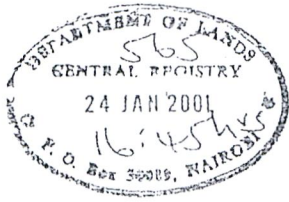
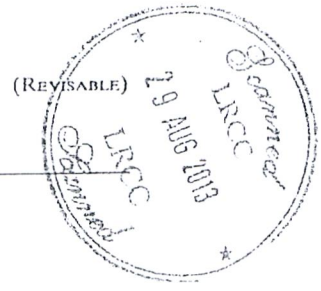
REPUBLIC OF KENYA

S. Shy \$6,500
23-1-2001

201033

THE REGISTRATION OF TITLES ACT
(Chapter 281)

GRANT NUMBER L.R. 85371
ANNUAL RENT: SHS. 480,480/-
TERM: 99 YEARS FROM 1.7.1999



KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of Shillings two million four hundred and two thousand four hundred (Shs.2,402,400/-) by way of stand premium paid on or before the execution hereof THE PRESIDENT OF THE REPUBLIC OF KENYA hereby GRANTS unto SOLIO CONSTRUCTION COMPANY LIMITED, a limited liability company having its registered office at NAIROBI (Post Office Box Number 49634) (hereinafter called "the Grantee") ALL that piece of land situate in the city of Nairobi in the Nairobi Area District containing by measurement six decimal nine four four (6.944) hectares/ACRES or thereabouts that is to say L.R. No. 5875/2 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 232448 deposited in the Survey Records Office at Nairobi

TO HOLD

for the term of ninety nine (99) years from the First day of July One thousand nine hundred and ninety nine SUBJECT to (a) the payment in advance on the first day of January

in each year of the annual rent of Shillings four hundred and eighty thousand four hundred and eighty (Shs.480,480/-) (Revisable) with effect from 1.7.1999 (b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (namely):

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 Commissioner of Lands and the Local Authority. The Commissioner shall not give his approval unless he is satisfied that the proposals are such as to develop the land adequately and satisfactorily.
- 2. The Grantee shall within six calendar months of the actual registration of the Grant submit in triplicate to the Local Authority and the Commissioner of Lands plans (including block plans showing the positions of the buildings and a system of drainage for disposing of sewage surface and sullage water) drawings elevations and specifications of buildings the Grantee proposes to erect on the land and shall within 24 months of the actual registration of the Grant complete the erection of such buildings and the construction of the drainage system in conformity with plans drawings elevations and specifications as amended (if such be the case) by the Commissioner PROVIDED that notwithstanding anything to the contrary contained in or implied by the Government Lands 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 Commissioner of Lands or any person authorized by him on behalf of the President 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 President or the commissioner of LANDS in respect of any antecedent breach of any condition herein contained.

3. The Grantee shall maintain in good and substantial repair and condition all buildings at any erected on the land.
4. Should the Grantee give notice in writing to the Commissioner of Lands that it is unable to complete the buildings within the period aforesaid the Commissioner of Lands shall (at the Grantee's expense) accept a surrender of the land comprised herein:
 - (i) Provided further that if such notice as aforesaid shall be given within 12 months of the actual registration of the Grant the Commissioner of Lands shall refund to the Grantee 50 per centum of the stand premium paid in respect of the land, or
 - (ii) at any subsequent time prior to the expiration of the said building period the Commissioner of Lands shall refund to the Grantee 25 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 shops offices and/or flats (excluding the sale of petrol or motor oils).
6. The buildings shall not cover more than 75 per centum of the area of land if used for shops and/or office purposes or such lesser area as may be laid down by the Local Authority in its by-laws and not more than 50 per centum of the area of the land if used for the combined purposes of shops offices and flats or such lesser area as may be laid down by the Local Authority in its by-laws.
7. The land shall not be used for any purposes which the Commissioner of Lands considers to be dangerous or offensive.
8. The Grantee shall not subdivide the land without the prior consent in writing of the Commissioner of Lands.
9. The Grantee 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 Commissioner of Lands. 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 PROVIDED that such consent shall not be required for the letting of individual shops offices or flats.
10. The Grantee shall pay to the Commissioner of Lands on demand such sum as the Commissioner of Lands may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and the proportionate cost for the supply of both the water and the electric power and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within 30 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. The Grantee shall from time to time pay to the Commissioner of Lands on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Commissioner may assess.
12. Should the Commissioner of Lands at any time require the said roads to be constructed to a higher standard the Grantee shall pay to the Commissioner on demand such proportion of such construction as the Commissioner may assess.
13. The Grantee 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 President in lieu thereof.
14. The President 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 Grantee shall not erect any buildings 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.
15. The Commissioner of Lands reserves the right to revise the annual ground rent payable on the 1st January, 1989 and thereafter at the expiration of every ten years of the term. Such rental will be at the rate of 2 per centum of the unimproved freehold value of the land as at 31st December, 1988 as assessed by the Commissioner of Lands or at the rate in force on the 31st December, 1988 whichever is the greater.
15. ~~fix~~ The Commissioner of Lands reserves the right to revise the annual ground rent payable hereunder at the expiration of every ten years of the term. Such rental shall be at a rate to be determined by the Commissioner of Lands of the unimproved value of the land as at the end of every tenth year of the term.

11/2001 B

IN THE WITNESS WHEREOF I, SAMMY SILAS ~~xxx~~ KOMEN MWAITA
the
Commissioner of Lands have by order of the
President hereunto set my hand this 23rd
day of January
two thousand nine hundred and one The thousand and one
in the presence of:

[Signature]

[Signature]
CALEB T. MUIIYI (2)
REGISTRAR OF TITLES

DRAWN BY:
CALEB T. MUIIYI
REGISTRAR OF TITLES
P.O. BOX 30089
NAIROBI

LIVESTOCK REGISTRY - NAIROBI REGISTRY
REGISTRATION OF TITLE ACT

REGISTERED AS No. I.R. 85371/1
PRESENTED 24th January 2001
TIME 16.45 Hrs. *[Signature]*
Registrar of Titles
E. N. CICHERA (10)

862
3/2001

2
THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Transfer to Kasarani Mall Limited
for Kshs. 85,000,000/-

GPS (1)

862 20-3-2001 Registrar

REGISTERED AGAINST THE TITLE

Registrar of Title
RTA

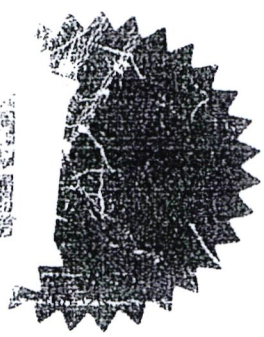
[Signature]
Registrar of Title

Case order dated 23rd December 2016 in the
the Judicial Review and Constitutional Division
Misc. Application No. 652 of 2016 of a stay of all
evictions and demolitions on the written word.

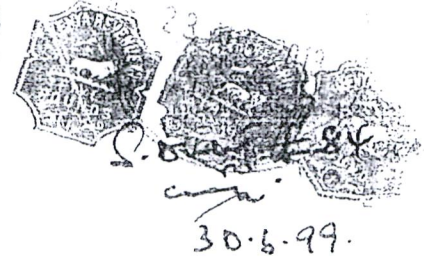
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04-01-2017
S. C. Nyarugi 174

215826



REPUBLIC OF KENYA



30.6.99.

THE REGISTRATION OF TITLES ACT
(Chapter 281)



GRANT No. IR80925

ANNUAL RENT: SHS.83,310/- (Revisable)

TERM: Fifty three (53) Years and 4 months from 1.7.1965

K NOW ALL MEN BY THESE PRESENTS in pursuance of a Surrender registered in the
lands titles Registry in Nairobi as I.R. 21394/2 THE PRESIDENT OF THE REPUBLIC
OF KENYA hereby Grants unto GRACE INDEPENDENT BAPTIST MISSION TRUSTEES (REGISTERED)
a body corporate duly registered under the Land Perpetual Succession Act (Cap. 286)
of the Laws of Kenya and of Post Office Box Number 66227

hereinafter called "the Grantee") all that piece of land situate in the City of Nairobi in the Nairobi area

~~of~~ containing by measurement One decimal one nine three (1.193) hectare

~~of~~ or thereabouts that is to say Land Reference Number 23393 (Orig. No. 11622/3)

which said piece of land with the dimensions abutments and boundaries thereof is delineated on the plan
annexed hereto and more particularly on Land Survey Plan Number 217731 deposited in the
Survey Records Office at Nairobi To Hold for the term of Fifty three (53) Years and 4 months

from the First (1st) day of July One thousand nine hundred and sixty five.

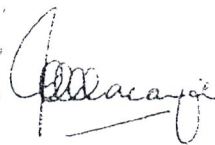
SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of
Shillings eighty three thousand three hundred and ten (Shs.83,310/-) (Revisable) w.e.f. 1.4.1999

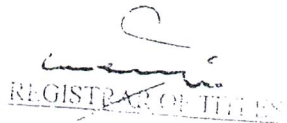
(b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (Namely:-)


SPECIAL CONDITIONS

1. No further 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 Commissioner of Lands and ^{the Local} Authority. The Commissioner of Lands shall not give his approval unless he is satisfied that the proposals are such as to develop the land adequately and satisfactorily.
2. The Grantee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.
3. The land and buildings shall only be used for Residential purposes.
4. The buildings shall not cover more than fifty (50%) per centum of the area of the land or such lesser area as may be laid down by the Local Authority in its by-laws.
5. The Grantee shall not subdivide the land without the prior written consent of the Commissioner of Lands.
6. The Grantee shall not sell, transfer, sublet, charge or part with the possession of land or any part thereof without the prior written consent of the Commissioner of Lands.
7. The Grantee shall pay such rates, taxes, charges and duties assessments of outgoings of whatever description as may be imposed, charged or possessed by any Government or Local Authority upon the land or the buildings erected thereon including any contributions or other sum paid by the Commissioner of Lands in lieu thereof.
8. The Commissioner of Lands or such persons or authority as may be appointed for that 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.
9. The Commissioner of Lands reserves the right to revise the annual ground rent thereunder at the expiration of every ten years of the term. Such rental shall be at a ~~rate~~ ^{rate} to be determined by the Commissioner of Lands on the unimproved value of the land as at the end of every tenth year of the term.

IN WITNESS WHEREOF I, WILSON GACANJA, the Commissioner of Lands have by Order of the President hereunto set my hand this 25th day of June One thousand nine hundred and ninety nine in the presence of




REGISTRAR OF TITLES

809251
13 July 1999
JASON 

764

REPUBLIC OF KENYA

DISTRICT OF NAIROBI AREA

Locality City of Nairobi

Reference Map South A.378
S II 8

Land Reference No 23393

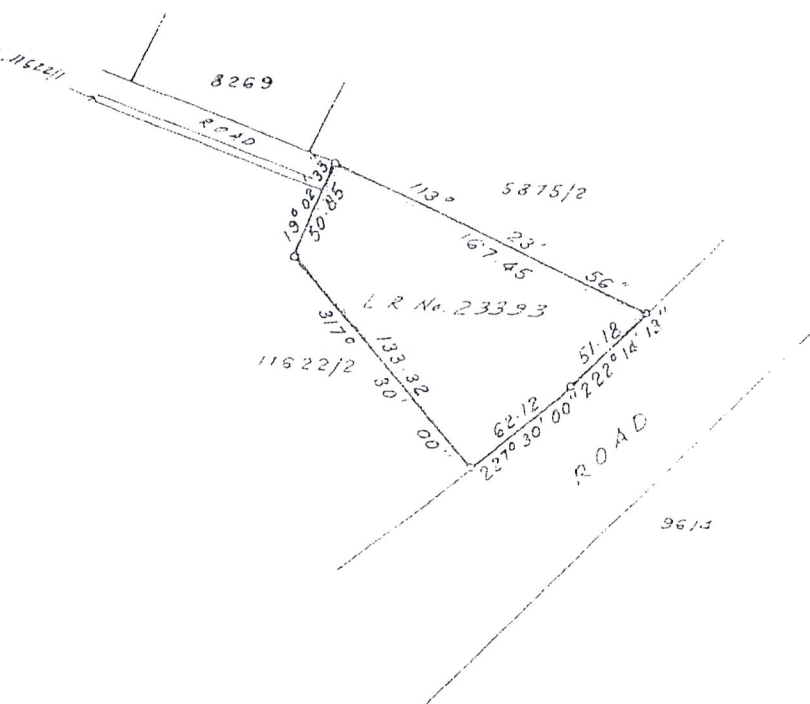
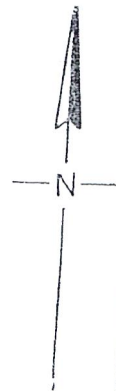
(Orig No. 1622/3)

Sub division No. (Orig No

of Section No

Area = 1.193 Ha (Approx)

Bearings	Distances
°	Meters



W. F. Hume
Licensed Surveyor

[Signature]
Director of Surveys

Scale 1 in 2500

24th / March 98

DEED PLAN No. 217731

Transfer to Kasarani Mall Limited
for Ksh. 19,500,000/-

Presentation No. 764

Date of Registration: 22-2-2007

Flu
Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
charge to Kenya Commercial Bank limited
for Kshs. 110 000 000/-
(with other lands)

Presentation No. 367 Date of Registration: 7-12-2004

Flu
Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
charge to Eastern and Southern African Trade
and Development Bank
for Kshs. 500 000 000/-
subject to No. 3 above

Presentation No. 368 Date of Registration: 7-12-2004

Flu
Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Discharge of Charge No. 4 above

Presentation No. 2578 Date of Registration: 28.06.2011

Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Discharge of Charge No. 3 above

Presentation No. 2579 Date of Registration: 28.06.2011

Registrar

(over-leaf) on Daring
28/6/11

G. M. Mwangi 211

2

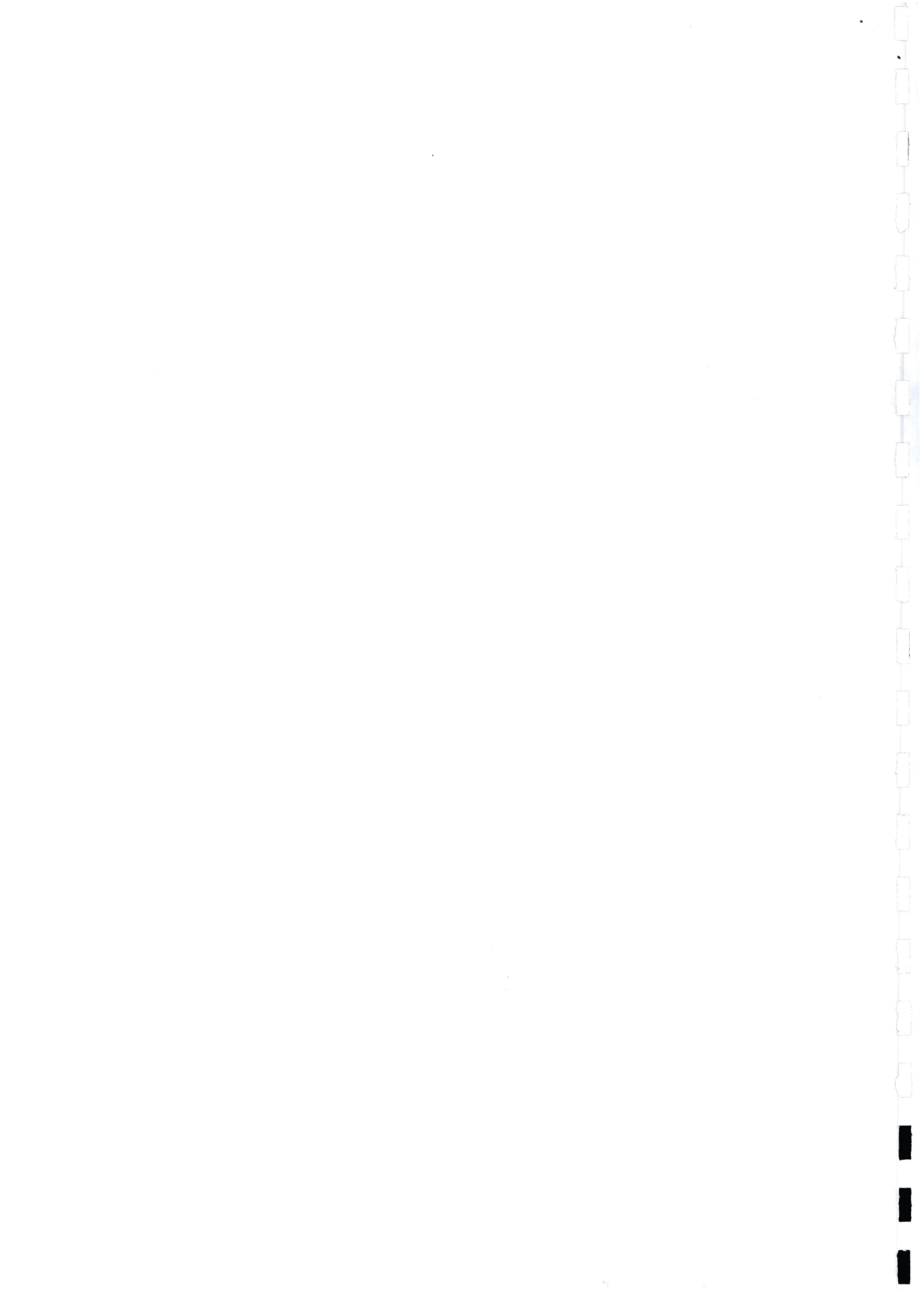
4

5

2578-9

06/11

6
G.M.M.
2/11



Kencorn House,
Moi Avenue,
P.O. Box 48400 - 00100,
Nairobi, Kenya.
Tel: +254 20 3270000,
2852000, 2851000
Mobile: +254 711012000/
734 108200

DIC-4001
8
7/11/19

7 November, 2019

The Chairman,
Thro' the Clerk,
Committee on Lands, Environment
& National Resources,
Parliament,
NAIROBI

Leonard Machira
pls TNA
7/11/19

NATIONAL ASSEMBLY
RECEIVED
07 NOV 2019
DEPUTY CLERK
J.W.N
P. O. Box 41842 - 00100, NAIROBI

Dear Sir,

RE: PROPERTIES - LR NO.5875/2 AND LR No. 23393
IN THE NAME OF KASARANI MALL LIMITED

We wish to confirm that the above referenced titles in the name of Kasarani Mall Limited (copies enclosed) are pledged to KCB Bank Kenya Limited ("the Bank") by way of third party securities to secure advances to Uchumi Supermarkets PLC.

Kasarani Mall Limited have since entered into a sale agreement to sell the said property to a client financed by the Bank. In December 2018 the Purchasers lawyers wrote to the Bank requesting for the release of the said titles to facilitate change of user and amalgamation. The Bank released the said titles in line with the request and purpose.

The surrender of Titles and the new Lease were booked at the Ministry of lands as evidenced by the enclosed booking form and currently await issuance of the Certificate of Title upon lifting of a caveat placed by one of the creditors of Uchumi Supermarkets Limited.

We provide herewith copies of the supporting documents for your information and review.

We hope this information clarifies your query as regards to this matter, however kindly contact the undersigned in case you require further information/clarification on the same.

Yours faithfully,

BONNIE OKUMU
DIRECTOR, LEGAL SERVICES & COMPANY SECRETARY

NATIONAL ASSEMBLY
RECEIVED
07 NOV 2019
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

REGISTRATION FEE RECEIPT NO. 29/3/2019/7254

Please affix adhesive revenue stamps in payment of fees here. If this space is insufficient, continue on the back of this form where indicated.

For Official Use Only

The Land Registration Act No. 3 of 2012 (Section 108)
(Cap. 300) (Repealed)

RECEIVED:



Form J—Government Lands Act (Chapter 280), rule 2
Form T—Registration of Titles Act (Chapter 281), rule 2
Form G—Land Titles Act (Chapter 282), rule 3
Form A—Registration of Documents Act (Chapter 265), rule 2

The Conditions on the Back of this Form shall be Complied with
REPUBLIC OF KENYA

APPLICATION FOR REGISTRATION

of the undermentioned documents in the following order of priority:—

Date of Documents	Description (1)	Land Reference Number (2)	Title Deed File Number (3)	Fee (4)	For Official Use only
14/01/2019	SARAWAN	23357/2	1A 80925 85391 ✓	Sh. 500/-	626
20/11/2018	1000-10000	25544		500/-	627
Number of new certificates of title required at Sh. 125 each				1000/-	
Adhesive revenue stamps affixed hereto to the value of					

The following documents are enclosed for endorsement:—(5)

Grant No. Certificate of Title No. Lease No.

The following supporting documents are also enclosed:—(6)

Clearance Certificate	<input type="checkbox"/>	Land Rent Certificate	<input type="checkbox"/>
"Registration Copy" of Divisional Land Board Consent	<input type="checkbox"/>		<input type="checkbox"/>
"Registration Copy" of the County Council's/Commissioner's Consent	<input type="checkbox"/>		<input type="checkbox"/>
Valuation forms	<input type="checkbox"/>	W. 70	<input type="checkbox"/>

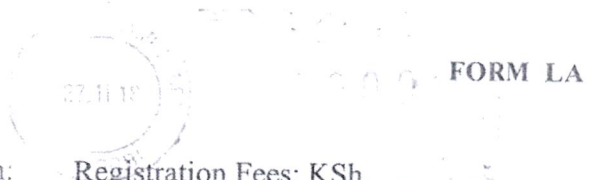
The following consents are endorsed on the documents:—

Commissioner of Lands or the Chief Engineer, Kenya Railways under the terms of the Grant	<input type="checkbox"/>
Charge to surrender of lease under section 44 of the Registration of Titles Act (Cap. 281)	<input type="checkbox"/>

Special instructions, including, if necessary, the name and address of the persons to whom the documents are to be sent if other than the proprietor:—

Signature
Name in Block Capitals
Postal Address

LA No. 6 of 2012
(to be completed in quadruplicate)



Presentation Book Date received for registration: Registration Fees: KSh.

Paid on 20..... Receipt No:

CF 215826



REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012)

THE LAND ACT

(No. 6 of 2012)

REGISTERED LAND ACT (Repealed)

REGISTRATION OF TITLES ACT (Repealed)

LEASE

(This LEASE is issued pursuant to the transitional provision in Sections 160 and 161 of the Land Act and Section 108 of the Land Registration Act)

REGISTRATION UNIT Nairobi Central PARCEL NO LR NO.25544

THE NATIONAL GOVERNMENT

in pursuance of a Amalgamation and change of User

HEREBY LEASES to KASARANI MALL LIMITED , A LIMITED LIABILITY

COMPANY DULY ESTABLISHED UNDER THE PROVISIONS OF THE COMPANIES ACT OF 2015 OF THE

LAWS OF KENYA (POST OFFICE BOX NUMBER 73167 , 00200 NAIROBI)

hereinafter called the Lessee .

ALL THAT piece of land comprised in the Registry Index Map No..... /Deed Plan

No 241290..... containing by measurement approximately 8.137..... Hectares or

thereabouts for the term of 99..... years

from the 1st..... day of July....., 1999

at the annual rent of Kenya Shillings 2,082,000.00 (REVISABLE) WEF 01/10/2018.....payable

in advance on the first day of January in each year and subject to the following special conditions

SPECIAL CONDITIONS

1. No further buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with the plans and specifications previously approved in writing by the National / County Government.

The National/County Government shall not give its approval unless it is satisfied that the proposals are such as to develop the land adequately satisfactorily.

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

3. The land and buildings shall always be used for **SHOPPING MALL (INCLUDING PETROL SERVICE)**

4. The buildings shall not cover **more than 50% of the** area of the land or such lesser area as may be prescribed by the National / County Government Development Control Regulations.

5. The land shall not be used for any purpose which the National / County Government considers to be dangerous or offensive.

6. The Lessee shall not subdivide, change or extend use of the land, without prior written consent and approval of the National Government or County Government.

7. The Lessee shall not sell, transfer, sublet, charge or part with possession of the land or any part thereof or any building thereon except with prior consent in writing of the National / County Government.

8. The Lessee shall from time to time pay to the National / County Government on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the National Government/County Government may assess.

9. The Lessee shall pay such rates, charges, duties, assessments or outgoings of whatever descriptions as may be imposed charge or assessed by the National / County Government on behalf of the National / County Government upon the land or the buildings erected thereon, including any contribution or other sum paid in lieu thereof.

10. The National Government or respective County Government or such other 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 main service pipes and drains, telephone wire, fiber optic and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or Services pipes or fiber optic or telephone wires and electric mains.

11. The National Government/County Government may revise the annual ground rent payable Such rental shall be at a rate to be determined by the National Government /County Government of the unimproved value of the land.

Dated this 26th day November, 2018

SIGNED BY: [Signature] *217

For: CHIEF LAND REGISTRAR

COMMON SEAL of the Lessee was affixed of:



Name TIM KABIRU
ID 11143428 A002449508W
PIN
Signature [Signature]



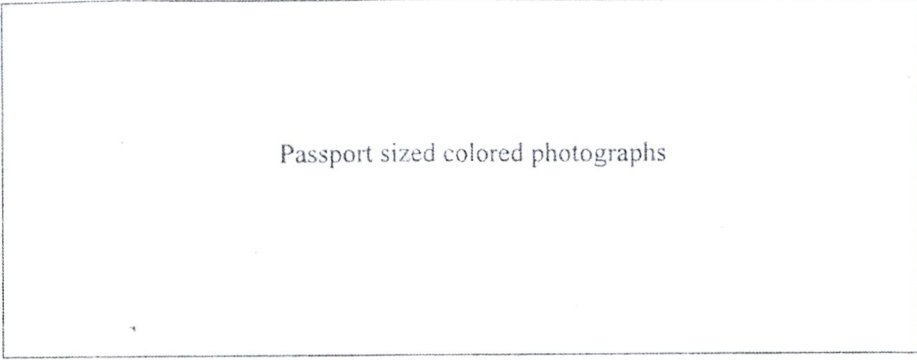
Name MOHAMMED A. MOHAMMED
ID 13195046
PIN A001183464L
Signature [Signature]



(ATION)

SIGNED by the Lessee

IN THE PRESENCE OF:



Signature
ID/PASSPORT
PIN NO

I CERTIFY that the above-named appeared before me on the day
of, 20 and being known to me/being identified by
.....
acknowledged the above signature or marks to belong to the Lessee and that the Lessee freely
and voluntarily executed this instrument and understood its contents.

.....
Signature and Designation of Person Certifying

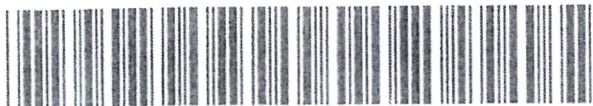
REGISTERED this, day of, 20.....

Land Registrar

Name

DRAWN BY:

LAND REGISTRAR
P.O. BOX 30089
NAIROBI



1482894238

23d482d85fbb89ab108076aa15b99366





16/45

residential)

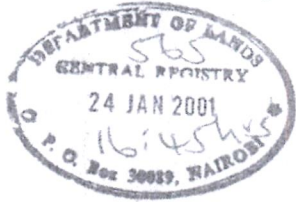


REPUBLIC OF KENYA

S. 200/16,500
23.1.2001

THE REGISTRATION OF TITLES ACT
(Chapter 281)

GRANT: NUMBER I.R. 85371
ANNUAL RENT: SHS.480,480/- (REVISABLE)
TERM: 99 YEARS FROM 1.7.1999



KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of Shillings two million four hundred and two thousand four hundred (Shs.2,402,400/-) by way of stand premium paid on or before the execution hereof THE PRESIDENT OF THE REPUBLIC OF KENYA hereby GRANTS unto SOLIO CONSTRUCTION COMPANY LIMITED, a limited liability company having its registered office at NAIROBI (Post Office Box Number 49634) (hereinafter called "the Grantee") ALL that piece of land situate in the city of Nairobi in the Nairobi Area District containing by measurement six decimal nine four four (6.944) hectares/acres or thereabouts that is to say L.R. No. 5875/2 which said piece of land with the dimensions abutments and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 232448 deposited in the Survey Records Office at Nairobi

TO HOLD
for the term of ninety nine (99) years from the
First day of July One thousand nine hundred and
ninety nine

SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of Shillings four hundred and eighty thousand four hundred and eighty (Shs.480,480/-) (Revisable) with effect from 1.7.1999 (b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (namely):

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 Commissioner of Lands and the Local Authority. The Commissioner shall not give his approval unless he is satisfied that the proposals are such as to develop the land adequately and satisfactorily.
2. The Grantee shall within six calendar months of the actual registration of the Grant submit in triplicate to the Local Authority and the Commissioner of Lands plans (including block plans showing the positions of the buildings and a system of drainage for disposing of sewage surface and sullage water) drawings elevations and specifications of buildings the Grantee proposes to erect on the land and shall within 24 months of the actual registration of the Grant complete the erection of such buildings and the construction of the drainage system in conformity with plans drawings elevations and specifications as amended (if such be the case) by the Commissioner PROVIDED that notwithstanding anything to the contrary contained in or implied by the Government Lands 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 Commissioner of Lands or any person authorized by him on behalf of the President 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 President or the Commissioner of Lands in respect of any antecedent breach of any condition herein contained.

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

4. Should the Grantee give notice in writing to the Commissioner of Lands that it is unable to complete the buildings within the period aforesaid the Commissioner of Lands shall (at the Grantee's expense) accept a surrender of the land comprised herein:

(i) Provided further that if such notice as aforesaid shall be given within 12 months of the actual registration of the Grant the Commissioner of Lands shall refund to the Grantee 50 per centum of the stand premium paid in respect of the land, or

(ii) at any subsequent time prior to the expiration of the said building period the Commissioner of Lands shall refund to the Grantee 25 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 shops offices and/or flats (excluding the sale of petrol or motor oils).

6. The buildings shall not cover more than 75 per centum of the area of land if used for shops and/or office purposes or such lesser area as may be laid down by the Local Authority in its by-laws and not more than 50 per centum of the area of the land if used for the combined purposes of shops offices and flats or such lesser area as may be laid down by the Local Authority in its by-laws.

7. The land shall not be used for any purposes which the Commissioner of Lands considers to be dangerous or offensive.

8. The Grantee shall not subdivide the land without the prior consent in writing of the Commissioner of Lands.

9. The Grantee 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 Commissioner of Lands. 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 PROVIDED that such consent shall not be required for the letting of individual shops offices or flats.

10. The Grantee shall pay to the Commissioner of Lands on demand such sum as the Commissioner of Lands may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and the proportionate cost for the supply of both the water and the electric power and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within 30 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. The Grantee shall from time to time pay to the Commissioner of Lands on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Commissioner may assess.

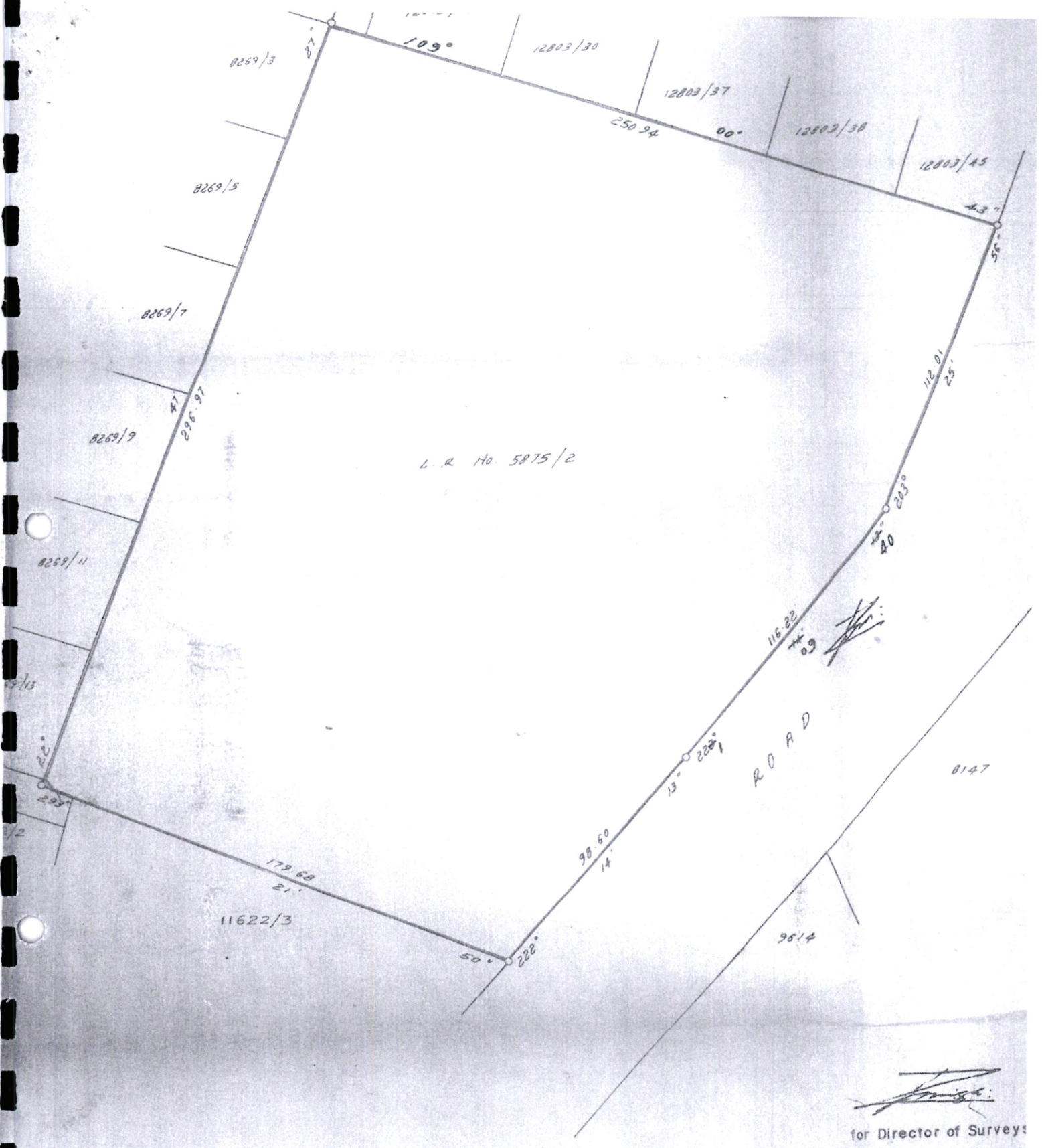
12. Should the Commissioner of Lands at any time require the said roads to be constructed to a higher standard the Grantee shall pay to the Commissioner on demand such proportion of such construction as the Commissioner may assess.

13. The Grantee 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 President in lieu thereof.

14. The President 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 Grantee shall not erect any buildings 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.

15. The Commissioner of Lands reserves the right to revise the annual ground rent payable on the 1st January, 1989 and thereafter at the expiration of every 10 years of the term. Such rental will be at the rate of 2 per centum of the unimproved freehold value of the land as at 31st December, 1988 as assessed by the Commissioner of Lands or at the rate in force on the 31st December, 1988 whichever is the greater.

16. The Commissioner of Lands reserves the right to revise the annual ground rent payable hereunder at the expiration of every ten years of the term. Such rental shall be at a rate to be determined by the Commissioner of Lands of the unimproved value of the land as at the end of every tenth year of the term.



F. 215826

delivered



REPUBLIC OF KENYA



30.6.99

THE REGISTRATION OF TITLES ACT

(Chapter 281)



GRANT No. **IR80925**

ANNUAL RENT: SHS.83,310/- (Revisable)

TERM: Fifty three (53) Years and 4 months from 1.7.1965

KNOW ALL MEN BY THESE PRESENTS in pursuance of a Surrender registered in the lands titles Registry in Nairobi as I.R. 21394/2 THE PRESIDENT OF THE REPUBLIC OF KENYA hereby Grants Unto GRACE INDEPENDENT BAPTIST MISSION TRUSTEES (REGISTERED) a body corporate duly registered under the Land Perpetual Succession Act (Cap. 286) of the Laws of Kenya and of Post Office Box Number 66227)

(hereinafter called "the Grantee") all that piece of land situate in the City of Nairobi in the Nairobi area

~~Extent~~ containing by measurement One decimal one nine three (1.193) hectare

~~and~~ or thereabouts that is to say Land Reference Number 23393 (Orig. No. 11622/3)

which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 217731 deposited in the Survey Records Office at Nairobi To HOLD for the term of Fifty three (53) Years and 4 months

from the First (1st) day of July One thousand nine hundred and sixty five
SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of Shillings eighty three thousand three hundred and ten (Shs.83,310/-) (Revisable) w.e.f. 1.4.1999

(b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (Namely:-)

SPECIAL CONDITIONS

1. No further 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} Commissioner of Lands and Authority. The Commissioner of Lands shall not give his approval unless he is satisfied that the proposals are such as to develop the land adequately and satisfactorily.

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

3. The land and buildings shall only be used for Residential purposes.

4. The buildings shall not cover more than fifty (50%) per centum of the area of the land or such lesser area as may be laid down by the Local Authority in its by-laws.

5. The Grantee shall not subdivide the land without the prior written consent of the Commissioner of Lands.

6. The Grantee shall not sell, transfer, sublet, charge or part with the possession of land or any part thereof without the prior written consent of the Commissioner of Lands.

7. The Grantee shall pay such rates, taxes, charges and duties assessments of outgoings of whatever description as may be imposed, charged or possessed by any Government or Local Authority upon the land or the buildings erected thereon including any contributions or other sum paid by the Commissioner of Lands in lieu thereof.

8. The Commissioner of Lands or such persons or authority as may be appointed for that purpose shall have the right to enter upon the land and lay and have access to mains service pipes and drains, telephone or telegraph wires and electric mains.

9. The Commissioner of Lands reserves the right to revise the annual ground rent thereunder at the expiration of every ten years of the term. Such rental shall be at a ^{rate} to be determined by the Commissioner of Lands of the unimproved value of the land as at the end of every tenth year of the term.

IN WITNESS WHEREOF, I, WILSON GACANIA)

the Commissioner of Lands have by Order of the)

President hereunto set my hand this 25th)

day of June One thousand nine)

hundred and ninety nine in the presence of:)

[Signature]

REGISTRAR OF TITLES

RECORDED AT 11.11.80
REGISTERED AT 13th July 1999
80925/11
LAO TITLES REGISTRY - NATIONAL OFFICE

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE Transferred to Kasarant Mall Limited

2

Registration No. 764 Date of Registration: 22-2-2001

K. I. LUBUPELAI (S)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE change to Kenya Commercial Bank Limited (with other lands)

Registration No. 357 Date of Registration: 7-11-2007

K. I. LUBUPELAI (S)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE change to Eastern and Southern African Trade and Development Bank (with other lands) subject to the 3 other ranking passu with No. 3 above

Registration No. 368 Date of Registration: 7-12-2007

K. I. LUBUPELAI (S)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE Discharge of charge No. 4 above

Registration No. 2578 Date of Registration: 28.06.2011

K. I. LUBUPELAI (S)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE Discharge of charge No. 3 above

Registration No. 2579 Date of Registration: 28.06.2011

K. I. LUBUPELAI (S)

G. M. Mwangi (S)

ADVOCATES, NOTARIES PUBLIC, COMMISSIONERS FOR
OATHS AND PATENT AGENTS

22 November 2018

KCB Bank Kenya Limited
Head Office
Kencom House
Moi Avenue
NAIROBI

Attention: Bonnie Okumu

Our Ref: 31/U0049/90
Your Ref: TBA

Dear Madam

**RE: SALE AND PURCHASE OF LAND REFERENCE NUMBER 25544
KASARANI MALL LIMITED AND JEWEL COMPLEX LIMITED**

We refer to the above matter in which we act for Kasarani Mall Limited ("our client").

We are aware that you hold the original titles ("the Titles") for Land Reference Number 5875/2 and Land Reference Number 23393 ("the Properties") to secure facilities advanced to our client.

Our client and Jewel Complex Limited ("the Purchaser") have entered into an Agreement for Sale dated 20th September 2018 (the "Agreement") for the sale of the two Properties subject to our client undertaking an amalgamation process, the change of user and the extension of lease on the said Properties.

Our client has obtained the approvals for the amalgamation, change of user and the extension of lease of the Properties and received the new deed plan number 241290 for Land Reference 25544. As such, we are in the process of obtaining the new title ("the New Title") on behalf of our client.

To facilitate the amalgamation, the change of user and the extension of lease processes, we should be grateful if you would kindly let us have the Titles for the Properties for the sole purpose of surrendering the Titles and obtaining the New Title.



R Omwela
K. A Fraser* SC
K Kimani
A Khawaja (Managing)
A Mugambi
M Kirimi
D W Muriu
L Mainnah
S Koech
N Adam
W Gitao

*British

Hamilton Harrison & Mathews
1st Floor
Delta Office Suites
Waiyaki Way
P.O. Box 30333-00100
Nairobi, Kenya
Dropping zone no 144

dentonshhm.com

T: +254 20 3258 000

+254 20 222 5981

M: +254 703 068 000

+254 733 382 341

+254 722 453 202

F: +254 20 325 8222

In consideration of you releasing the Titles for the Properties, we hereby give you our undertaking in the following terms:

1. That we will hold the Titles, to your order, returnable on demand and will not be released, without first obtaining your written consent, to any advocate or person whatsoever for any purpose other than the Land Titles Registry for the surrender of the Titles and obtaining the New Title.
2. That the Titles will not be utilized for any purpose other than for purposes of finalizing the amalgamation, change of user and extension of lease processes of the previously mentioned Properties.
3. That we will exercise our best endeavors to ensure that the formalities in respect of surrender of the Titles and obtaining the New Title are completed expeditiously.
4. That upon surrender of the Titles for purposes of the amalgamation, change of user and extension of lease processes, we shall furnish you with a copy of the booking form and pursue the expeditious registration of the necessary instruments and issuance of the New Title at the Lands Office.
5. That we hereby confirm and undertake that immediately we obtain the New Title from the Lands Registry, we shall release it to you as soon as possible without any delay.
6. Time shall be of essence in respect of all our aforesaid obligations.

We trust the undertaking is acceptable to you and should be grateful if you would please arrange to forward to us the Titles to enable us finalize the amalgamation, change of user and extension of lease processes.

Yours faithfully



Andrew Mugambi
Partner
Hamilton Harrison & Mathews



Lorna Mainnah
Partner
Hamilton Harrison & Mathews



BANK

KCB Bank Kenya Limited
Securities & Documentation
Centre
Kencom House, Mezzanine
Floor
P.O. Box 48400-00100,
NAIROBI
Telephone: +254 20 3270000

Tuesday, December 04, 2018

Mohamed Madhani & Co. Advocates
Nation Centre, Tower A
Kimathi Street
P.O Box 48539-00100
NAIROBI

Dear Sirs,

**AMALGAMATION, CHANGE OF USER PROCESS FROM KCB OVER L.R. NO. 5875/2 & 23393 ("the Properties") AND LEASE EXTENSION OVER L.R. NO. 23393 INO KASARANI MALL LIMITED
ACCOUNT: UCHUMI SUPERMARKETS LIMITED**

We refer to the above matter and advise that the Bank has appointed your firm to represent them in the transaction, noting that your costs will be borne by the customer.

We advise that the Bank has approved the release for the above titles to enable the amalgamation process, change of user process and Lease Extension over L.R. NO. 23393.

We therefore forward to you the original; Grants over L.R. No. 5875/2 and 23393 (Original No. 11622/3) for onward transmission to **Hamilton Harrison Mathews** upon receipt of the appropriate undertakings. Kindly note to share with us the undertakings before proceeding to release the title.

Kindly, acknowledge receipt of the instruction on extra copy of this letter.

Yours sincerely,

BEATRICE OKONGO
ASSISTANT MANAGER, SECURITIES
Email: jkamaru@kcb.co.ke

JANET MWALUMA
HEAD, SDC
Email: jmwaluma@kcb.co.ke

Cc: Anne Osir
Corporate Banking

M&Co.

Mohamed Madhani & Co.
Advocates, Commissioners for Oaths and Notaries Public

M.A.K. Madhani

James Rimui
Stephen Kamau
Safina Madhani
Collins Otieno
Benson Kuria

Jackson Kisinga
Henry okech
Harshil Shah
Adeel Madhani
Joyce Muriithi

Nation Centre, Tower A,
14th, 15th & 16th Floors
Kimathi street
P.O.Box 48539 - 00100
Nairobi, Kenya
VAT No: 26515N

TEL: +254 20 2228255/2229233/2230867
Cell: 0722 929 863/ 0733 929 067
Fax: +254 20 2230896
Email: madhani.office@madhanilaw.com
Website: www.madhanilaw.com
PIN No: A000164792R

Our Ref: CONV/I8/KCB/05/SK

Your Ref: 31/U0049/90

28th December 2018

Messrs Hamilton, Harrison & Mathews
Advocates
Delta Office Suites (1st Floor)
Waiyaki Way
NAIROBI

"Advance copy by e-mail"

Attn: Mr. Adil Khawaja

Dear Sir,

LEASE EXTENSION OVER LAND REFERENCE NUMBER 23393 AND AMALGAMATION AND CHANGE OF USER OVER LAND REFERENCE NUMBERS 5875/2 AND 23393 NAIROBI ("the PROPERTIES") BY KASARANI MALL LIMITED.

We acknowledge receipt of your undertaking letter of even date.

We, on behalf of our Client, KCB Bank Kenya Limited, enclose the following original Titles to enable you attend to completion of the extension of the lease over Land Reference Number 23393, amalgamation of Land Reference Numbers 23393 and 5875/2 and subsequent change of user on the amalgamated property and issuance of the new title in respect of the property:

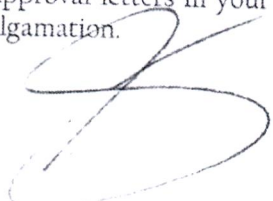
1. Original Grant Number I. R. 80925 in respect of the said Land Reference Number 23393 (Original Number I1622/3) and having original Deed Plan Number 217731 annexed thereto; and
2. Original Grant Number I. R. 85371 in respect of the said Land Reference Number 5875/2 and having original Deed Plan Number 232448 annexed thereto.

Kindly acknowledge safe receipt by countersigning, dating and returning to us the duplicate of this letter.

Please note to keep us apprised of the progress made in finalising the aforementioned processes.

In the meantime and to facilitate the financing of the purchase of the amalgamated property, we would appreciate if you would forward to us copies of the following documents:

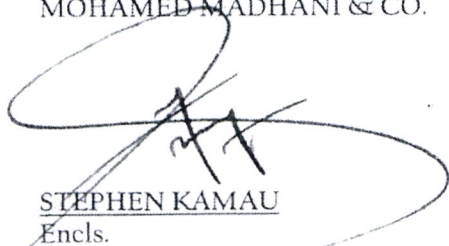
1. The signed new Lease duly completed;
2. The new Deed Plan; and
3. All approval letters in your possession for the Extension of Lease, Change of User and Amalgamation.



M&Co

Your quick action will be highly appreciated noting that our Client would like to close on the financing aspect as soon as possible.

Yours faithfully
MOHAMED MADHANI & CO.



STEPHEN KAMAU
Encls.

c. c. The Securities Manager
KCB Bank Kenya Limited
Head Office
Kencom House (Mezzanine Floor)
NAIROBI

"Copy by e-mail only"

(Attention: Ms. Juliet Kamaru)

c. c. The Director- Legal Services
KCB Bank Kenya Limited
Head Office
Kencom House (8th Floor)
NAIROBI

"Copy by e-mail only"

(Attention: Ms. Bonnie Okumu)

ADVOCATES, NOTARIES PUBLIC, COMMISSIONERS FOR
OATHS AND PATENT AGENTS

Adil Khawaja
Managing Partner
adil.khawaja@dentons.com
D +254 20 325 8292

R Omwela
K. A Fraser* SC
K Kimani
A Khawaja (Managing)
A Mugambi
M Kirimi
D W Muriu
L Mainnah
S Koech
N Adam
W Gitao
*British

Hamilton Harrison & Mathews
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Waiyaki Way
P O. Box 30333-00100
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Dropping zone no 144
dentonshhm.com
T: +254 20 3258 000
+254 20 222 5981
M: +254 703 068 000
+254 733 382 341
+254 722 453 202
F: +254 20 325 8222

28 December 2018

Advance Copy By Email:

Messrs Mohamed Madhani & Company
Advocates
Nation Centre (14th Floor)
Kiimathi Street
NAIROBI

Attention: Mr. MAK Madhani

Our Ref: 31/U0049/90
Your Ref: CONV/18/KCB/05/SK

Dear Sir

RE: LEASE EXTENSION OVER LAND REFERENCE NUMBER 23393 AND AMALGAMATION AND CHANGE OF USER OVER LAND REFERENCE NUMBERS 5875/2 AND 23393 NAIROBI ("the PROPERTIES") BY KASARANI MALL LIMITED

We are advised that you hold the original title documents over the captioned Properties which have been charged to your Client, KCB Bank Kenya Limited, by way of simple deposit of the original titles as security for loan facilities advanced by your Client to Uchumi Supermarkets Limited guaranteed by our Client, Kasarani Mall Limited ("*the Chargor*").

We, on instructions of the Chargor, request for the release of the following original Titles ("*the Documents*") to enable us attend to completion of the extension of the lease over Land Reference Number 23393, amalgamation of Land Reference Numbers 23393 and 5875/2 and subsequent change of user on the amalgamated property and issuance of the new title in respect of the Property. We confirm that we shall also act for you in this regard and that in doing so we will not conflict with our role as the Chargor's Advocates:

1. Original Grant Number I. R. 80925 in respect of the said Land Reference Number 23393 (Original Number 11622/3) and having original Deed Plan Number 217731 annexed thereto; and
2. Original Grant Number I. R. 85371 in respect of the said Land Reference Number 5875/2 and having original Deed Plan Number 232448 annexed thereto.

To enable you to release the Documents, we hereby give you our irrevocable Professional Undertaking in accordance with the terms set out hereunder:-

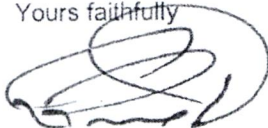
1. That we shall hold the Documents in trust and to your order, returnable upon demand and shall not release the same to any person or Advocate whatsoever (except the Registrar of Titles for the sole purpose of



completion of the extension of the lease over Land Reference Number 23393, amalgamation of Land Reference Numbers 23393 and 5875/2 and subsequent change of user on the amalgamated property and issuance of the new title in respect of the Property) for any purpose without obtaining your written consent which will only be granted on such other Advocate giving a Professional Undertaking in terms similar to the present one and on the understanding that whether such advocate complies with such undertaking or not you will continue to hold us liable on our undertaking herein;

2. That we shall not utilize the Documents for any purpose other than for completion of the extension of the lease over Land Reference Number 23393, amalgamation of Land Reference Numbers 23393 and 5875/2 and subsequent change of user on the amalgamated property and issuance of the new title in respect of the Property. In this regard, we shall exercise our best endeavors to ensure that the formalities are completed within sixty (60) days (or such longer period as may be extended in writing by you on approval of your client) of receipt of the Documents at our offices and shall provide you and your Client with progress reports every two weeks;
3. That in the event that we will not have completed the extension of the lease over Land Reference Number 23393, amalgamation of Land Reference Numbers 23393 and 5875/2 and subsequent change of user on the amalgamated property and issuance of the new title in respect of the property within the said sixty (60) days, we shall seek for an extension of the period and if the same is not granted, we shall upon demand return the Documents (in the same state they were in when delivered to us) to you for onward transmission to your Client;
4. That upon issuance of the new title to the property, we shall let you have the Original Certificate of Title and Lease in respect of the property for onward transmission to your Client for their safe custody;
5. That by accepting, retaining or utilizing the Documents sent to us by ourselves, we shall be deemed not only to have accepted and confirmed the foregoing undertaking, terms and conditions as set forth hereinabove, but also to have acknowledged and confirmed that we are unequivocally and unconditionally liable and responsible for full compliance with the said undertaking's terms and conditions and shall indemnify you and/or your Client fully in respect of any loss and damage which you and/or your Client may suffer by reason of any breach by us of this undertaking;
6. That time shall be of the essence in respect of all our obligations herein;
7. That this undertaking shall be governed by the Laws of Kenya and shall remain in force until such time that we shall return the Documents or the new title for the Property.

Yours faithfully



Richard Omwela
Senior Partner
Hamilton Harrison & Mathews

c.c: Ms. Juliet Kamaru
The Securities Manager-KCB Bank Kenya Limited
Head Office
Kencom House (Mezzanine Floor)
NAIROBI By Email: jkamaru@kcb.co.ke

c.c: Ms. Bonnie Okumu
The Director- Legal Services
KCB Bank Kenya Limited
Head Office
Kencom House (8th Floor)
NAIROBI By Email: bokumu@kcb.co.ke

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MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO PETITIONS FROM THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

Honourable Chair,

Pursuant to a letter Ref: **NA/DCS/ENR/2019(077)** dated September 20, 2019, the Committee invited the Cabinet Secretary, Ministry of Lands and Physical Planning to provide responses on the following petitions:

- i. Petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction from their land in Roysambu Constituency by the Kenya Defence Forces
- ii. Petition by Hon. Josephat Kabeabea, MP on behalf of residents of Tigania East Constituency regarding unlawful occupation of ancestral land in Tigania East Constituency by the Kenya Defence Forces

1.0 PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING INVASION AND EVICTION FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

Honourable Chair, the Petitioners aver;

- 1) That they are Former Workers of the deceased Mayer Jacob Samuels who were employed in various cadres in his sisal processing and workshop industry on L.R. No. 5875/2 before he passed away in 1974. They claim to have lived on the premises since then.
- 2) That the deceased Sons revived the business later and the Petitioners continued working for them. The Employers allegedly defaulted on paying

salaries and instead requested the Employees to continue living on the land when they were away abroad.

- 3) That the Petitioners registered Roysa Community Development Society to safeguard the land from grabbers. A subdivision scheme was allegedly approved by the County Government of Nairobi and the National Land Commission and the Petitioners were issued with letters of allotment.
- 4) That a platoon of Kenya Defence Forces(KDF) later evicted the Petitioners and demolished their homes, business premises and the old structures which housed the factory on the grounds that the land belonged to KDF. The Petitioners have since been blocked from accessing the premises.
- 5) That there is no matter pending in Court in relation to the above issues.

Reasons for which the Petitioners pray that the National Assembly's Departmental Committee on Lands assists in;

- i. The upholding of the Petitioners' right to occupy, reside and do business and own L.R. NO. 5875/2
- ii. Expedites the issuance of subtitles/leases to the approved letter of allotment to Members of Roysa Community Development Society
- iii. Preserves and issues title deeds for the public purposes whose allotments are held by the Community
- iv. Investigate the eviction and invasion by Kenya Defence forces (KDF) from L.R. NO. 5875/2 and any claims of ownership by the same or any other interested party
- v. Order compensation for the demolition of the Petitioners' premises and any other relief that may be available.

RESPONSE

Honourable Chair, I wish to respond as follows,

- a) **Background and context**

L.R. No. 5875/2 measures 17.16 Acres as reflected in survey maps F/R 25/220.

(The map is attached as annexure I) The parcel arose from the subdivision of L.R. NO. 1012, which measured approximately 4,443 Acres.

- i. L.R. NO. 5875/2 was registered under the Government Lands Act in volume N.10 at Folio 292/23
- ii. In 1964, it was transferred to Mayer Jacob Samuels from Bau Salau under a 99-year lease with effect from 1st November 1904
- iii. The lease expired on 1st November, 2003
- iv. Vide Kenya Gazette Notice No. 5151 and 5152 of November 22, 1985 the Government published a notice of intention to acquire the land. On August 8, 1995 an award by the Commissioner of Lands amounting to Kshs. 4,140,000/- was issued. **(Notices attached as Annexure II)**
- v. The notices reflected the size to be 16.16 Acres but this was corrected vide a corrigenda in the Kenya Gazette on March 14, 1986 **(Annexure III Correction of land parcel size)** to read 17.16 Acres
- vi. A 'Notice of Taking Possession' by the Government absolutely was lodged and registered in volume N. 10, Folio 494/30 File 6943 on June 25, 1986. **(Memorandum of registration of transfer is attached as annexure IV)**
- vii. On December 1, 1995, a request for allocation of the same land from Prilscot Company Limited was communicated but was declined as the land had prior commitments and was not available for allocation.

However, there was an unprocedural attempt by the National Land Commission (NLC) and the County Government of Nairobi (CGN) to allocate the same land.

b) Observations

L.R. NO. 5875/2 was initially Crown land allocated under the Government Lands Act. The lessor was the Government. It was compulsorily acquired and reserved for the KDF. Under Article 62 (2a) of the Constitution, public land held, used or

occupied by a National State organ is not within the purview of the County Governments or the National Land Commission.

c) **Conclusions**

According to records in the office, L.R. NO. 5875/2 is still registered to the Government upon acquisition for KDF in 1986. Therefore, it is not available for allocation or subdivision.

2.0 PETITION BY HON. JOSEPHAT KABEABEA, MP ON BEHALF OF RESIDENTS OF TIGANIA EAST CONSTITUENCY REGARDING UNLAWFUL OCCUPATION OF ANCESTRAL LAND IN TIGANIA EAST CONSTITUENCY BY THE KENYA DEFENCE FORCES

Honourable Chair, the petitioners aver that;

- i. They have lived on their ancestral land in Tigania Constituency for years and that in 1977, the then County Councils of Isiolo, Samburu and Turkana jointly hived off from the community land hundreds of acres and allocated it to the Armed Forces School of Artillery through Gazette Notice No. 3210 of 31st October 1977 for the purposes of expansion (Annexure VIII setting apart land for military use).
- ii. In 2015, the Kenya Defence Forces (KDF) encroached on and annexed more land belonging to the Residents of Tigania East Constituency and claimed ownership of approximately 20,000 acres in excess of what was allocated by the said County Councils. The Residents aver that they later learnt with shock that the KDF had been hurriedly issued an allotment letter Ref. 189464/11 of 12th June 2018 in respect of the 20,000 acres belonging to them.
- iii. The encroachment resulted in displacement of more than forty thousand people, closure of: nine schools, two institutions offering special assistance to vulnerable individuals in the community, three administration police camps, one dispensary and thirteen boreholes used for irrigation by the Community.
- iv. Officers from the KDF forcibly accessed the land, demolished fences and structures and evicted Residents from the said land, rendering them homeless and condemning them to nomadic lifestyle. The displacement of

people has increased animosity between the displaced Residents and the soldiers who have occupied their land

- v. The evictions have disrupted Residents' lives, rendered them homeless and cut them off from basic social amenities, including access to education by their Children and that the petitioners efforts to resolve the matter at the grass root level through consultative meetings with the KDF have not been successful
- vi. The matters raised in the petition are not pending before a Court of Law or any other legal or constitutional body.

The Petitioners prayers are that the Committee:

- i. Inquires into the circumstances under which the KDF annexed an extra 20,000 acres of land belonging to residents in excess of what was allocated to it by the County Councils of Isiolo, Samburu and Turkana in 1977 and the issuance thereof of an allotment letter on 12th June 2018 in respect of the 20,000 acres of land
- ii. Intervenes, through the Ministry of Lands and other relevant Government Agencies, to cause survey of the land so that it can clearly demarcate the portion of land that rightfully belongs to Residents and that which was allocated to the KDF by the County Councils of Isiolo, Samburu and Turkana in 1977 and
- iii. Makes any other recommendation(s) it deems fit in the circumstances of the Petitioners.

RESPONSE

Honourable Chair, I wish to respond as follows,

a) Background and context

Vide Kenya Gazette Notice No. 3210 of 1977 the Government reserved land for military use in Isiolo, Samburu and Turkana.

According to our office records, the KDF Land in Tigania East that has been set apart Includes: -

- 78 Tank Battalion with approximate 20,170 acres;
- School of Artillery with approximate 9,071 acres;
- 86 Battalion with approximate 2,557 acres and
- Landing Site with approximate 250 acres (LR NO. 270980).

(The notice is attached as Annexure V)

- The 78 Tank Battalion also lies within Ngare Mara Gambella Adjudication section, which was declared on March 11, 2016, and an amendment of the sectional boundaries done on June 29, 2018. **(Annexures VI and VII)** During demarcation and survey, the 78 tank Battalion it was discovered that out of the 20,170 Acres of the 78 Tank Battalion parcel only approximately 700 Acres had been fenced off. The remainder of the portion was adjudicated.
- The school of Artillery and the 86 Battalion both lie in the Nyambene National Reserve which covers approximately 640.6 square kilometers running to Igembe Sub Counties. A Conservatory Order was issued barring the Ministry from continuing with demarcation of the area referred to in the corrigendum of June, 2018.

The Conservatory Order was issued following petition No. 5 of 2019 at the Environment and Land Court (ELC) Meru where the Petitioners mainly Ameru (Tigania) claimed that the Ministry was adjudicating their ancestral land and issuing it to other Communities (Borana, Turkana & Somali). After the orders were issued, the Court directed the Ministry to align itself with the existing law.

Recommendations: -

- The Ministry inadvertently erred in the demarcation of boundaries for the adjudication section
- The Ministry shall revise the sectional boundaries of Ngare Mara Adjudication section to conform to the reservation of KDF land
- KDF owns the land vide LR NO. 27098



Dr. Nicholas Muraguri
PRINCIPAL SECRETARY

Serial No.

DEPARTMENT OF LANDS
LAND TITLES REGISTRY
NAIROBI/~~MOMBASA~~

To:—

- THE COMMISSIONER OF LANDS (RECORDS BRANCH)
- THE COMMISSIONER OF LANDS (VALUATION OFFICE).
- THE COMMISSIONER OF LANDS (LAND RENTS).
- THE COMMISSIONER OF INCOME TAX.
- THE CITY VALUER, NAIROBI.
- THE TOWN CLERK,

- THE CLERK, COUNTY COUNCIL OF
- THE SENIOR ECONOMIST/STATISTICIAN, P.O. BOX 30289, NAIROBI.

MEMORANDUM OF REGISTRATION OF TRANSFER OF LANDS

Assignment. } the details whereof appear below, has this day been registered as.....
 N.10 folio 292/23.

Date of Document 15th August, 1964.

Transferor Bau Salau Dean

Transferee Mayer Jacob Samuels.

Address of Transferee, P.O. Box 4378, Nairobi.

L.R. No. 5875/2 (Orig. No. 1012/1/1/1.)

Area 17.16 acres.

Locality City of Nairobi.

Consideration Sh. 300,000/=

Term

Annual Rent Sh. 600/=

Due From

Presented by M/S. Akram and Esmail, Advocates, Nairobi.

Date of Presentation 15th August, 1964.

M. J. Samuels
for Registrar of Titles

	Noted by	Checked by	Remarks
OFFICER I/C RECORDS:			
Land Register	<i>[Signature]</i>		
Return of Grants			
Files			
Cards			
RECORD DRAUGHTSMAN	<i>[Signature]</i> 9/11/64		<i>noted</i>
VALUATION OFFICE			

Telegrams: "Defence", Nairobi
 Telephone: Nairobi 721100
 When replying please quote
 Ref. No DCD/598/2/4ks
 and date



OFFICE OF THE PRESIDENT

DEPARTMENT OF DEFENCE
 ULINZI HOUSE
 P.O. Box 40668, NAIROBI
 KENYA

8 August 19 85

Commissioner of Lands,
 P.O. Box 30089,
 NAIROBI.

LAND RESERVATION AND ACQUISITION - LR NO. 5875/2 ROYSAMBU

1. Due to the congestion of troops in Kahawa Garrison, we have identified the above piece of land near Roysambu to establish our Logistics and associated elements. The land, comprising of 17.16 acres, is considered ideal and very suitable for our requirements.
2. In this respect therefore, you are kindly requested to issue the necessary letter of reservation for eventual acquisition and an estimated value for compensation purposes as there are about ten (10) standard houses and other developments.
3. We understand that there is a civil case No. 2799 of 1980 claiming the same land, and there are other two interested parties for the same. Kindly take up this matter as the area is vital to us.

N T M MULANDI
 Major
 for Permanent Secretary

In CCIS

Sir,

This is the letter we had already forwarded to the Commissioner of Lands in respect of the Roysambu Land for the EMO Corp HQs.

JAL 4 Sep 85

20

21946/II ✓



OFFICE OF THE PRESIDENT

Telegrams: "DEFENCE", Nairobi
Telephone: Nairobi 721100
When replying please quote
Ref. No. DOD/28/18A(14)
and date

DEPARTMENT OF DEFENCE
ULINZI HOUSE
P.O. Box 40668, NAIROBI
KENYA

8th August, 1985

Mr. J.R.Njonga

Commissioner of Lands,
Department of Lands,
P.O Box 30089,
NAIROBI

RECEIVED
9/8/85
NAIROBI

RE: ACQUISITION OF L.R 5875/Z RAYSAMBU FOR SCHOOL OF KAEME AND CORPS HEADQUARTERS

We refer you to a visit made to you by Lt. Cols. Gichuki and Mwangi of K.A on the 12th July, 1985 and the subsequent discussion centering on the above parcel of land.

As explained to you by the two officers, a need has arisen to identify an area to build the above school and Corps Headquarters as they cannot be accommodated within Kahawa Garrison which is already too congested. The rate of expansion of our Armed Forces of recent, has been fairly high hence the need for more accommodation. The above identified parcel of land comprises of 17.16 acres and we feel it is quite adequate for the proposed school and Corps Headquarters.

The purpose of this letter is therefore to formally inform you of our interest on the piece of land and to request you to set the acquisition machinery moving to acquire the land for this Department. It would be of great interest to us to know your sentiments about the issue.

FOR:

(N. E. G. KANYIRI)
PERMANENT SECRETARY

Cvo

No objection if they have the money. I have seen another letter on the same. P's deal.

See

(called for the

file

KH

16/8

JRN 16/8

22

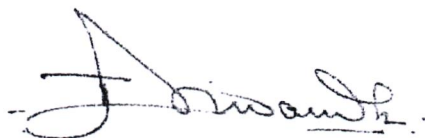
C.L.

L.R. NO. 5785/2 - ROYSAMBU ESTATE, NAIROBI

Reference is made to your instructions.

The houses have been neglected over the years and I suggest the following:-

Land 17.16 acs	Shs. 1,700,000/=
Buildings	Shs. 1,900,000/=
	<hr/>
	Shs. 3,600,000/=
Add Statutory 15%	Shs. 540,000/=
	<hr/>
Total	Shs. 4,140,000/=
	<hr/>


JOSEPH B.K. MWANIKI
DEPUTY CHIEF VALUER (URBAN)

Vos 207 Z. 14

20th September, 1985

JBKM/em

GAZETTE NOTICE No. 5148

THE CIVIL AVIATION ACT

(Cap. 394)

THE CIVIL AVIATION BOARD

NOTICE OF APPLICATION FOR OR VARIATION OF AN AIR SERVICE LICENCE

PURSUANT to the provisions of the Civil Aviation Act, 1977, notice is given that Coast Car Hire and Tours Ltd., P.O. Box 99143, Mombasa, has applied to the Civil Aviation Board for a three-year licence to operate air charter and inclusive tours based at Moi International Airport, Mombasa, with a capacity of twenty (20) seats.

Any objections or representations to this application should be made in writing to the Civil Aviation Board, Ministry of Transport and Communications, Ngong' Road, P.O. Box 52692, Nairobi, so as to reach it within twenty-eight (28) days of the date of publication of this notice. Every such objection or representation should state the specific grounds on which it is based and specify any conditions which it is desired that the board should impose on the licence, if granted. It should further be noted that a copy of every objection, or representation should be sent by the person making the same to the applicant at the same time that it is sent to the Civil Aviation Board.

Dated the 8th November, 1985.

F. J. UTANJE,
for Chief Executive Officer/Secretary,
Civil Aviation Board.

GAZETTE NOTICE No. 5149

THE CIVIL AVIATION ACT

(Cap. 394)

THE CIVIL AVIATION BOARD

NOTICE OF APPLICATION FOR OR VARIATION OF AN AIR SERVICE LICENCE

PURSUANT to the provisions of the Civil Aviation Act, notice is given that African Express Airways (K) Ltd., P.O. Box 43356, Nairobi, has applied to the Civil Aviation Board for a two-year renewal, with effect from 18th November, 1985 of their air service licence CAB No. 40. The current licence services for passengers and freight to and from and within Kenya expires on 17th November, 1985, and authorizes air charter based at Malindi with a capacity of twenty-one (21) seats.

Any objections or representations to this application should be made in writing to the Civil Aviation Board, Ministry of Transport and Communications, Ngong' Road, P.O. Box 52692, Nairobi, so as to reach it within twenty-eight (28) days of the date of publication of this notice. Every such objection or representation should state the specific grounds on which it is based and specify any conditions which it is desired that the board should impose on the licence, if granted. It should further be noted that a copy of every objection or representation should be sent by the person making the same to the applicant at the same time that it is sent to the Civil Aviation Board.

Dated the 8th November, 1985.

F. J. UTANJE,
for Chief Executive Officer/Secretary,
Civil Aviation Board.

GAZETTE NOTICE No. 5150

THE CIVIL AVIATION ACT

(Cap. 394)

THE CIVIL AVIATION BOARD

NOTICE OF APPLICATION FOR OR VARIATION OF AN AIR SERVICE LICENCE

PURSUANT to the provisions of the Civil Aviation Act, notice is given that African Express Airways (K) Ltd., P.O. Box 43356, Nairobi, has applied to the Civil Aviation Board for a two-year renewal, with effect from 18th November, 1985,

of their air service licence CAB No. 54. The licence expires on 17th November, 1985, and authorizes non-scheduled air coach services (with right to sell individual seats) on the routes: Malindi-Lamu-Malindi; Malindi-Hola-Malindi; and Lamu-Hola-Lamu.

Any objections or representations to this application should be made in writing to the Civil Aviation Board, Ministry of Transport and Communications, Ngong' Road, P.O. Box 52692, Nairobi, so as to reach it within twenty-eight (28) days of the date of publication of this notice. Every such objection or representation should state the specific grounds on which it is based and specify any conditions which it is desired that the board should impose on the licence, if granted. It should further be noted that a copy of every objection, or representation should be sent by the person making the same to the applicant at the same time that it is sent to the Civil Aviation Board.

Dated the 8th November, 1985.

F. J. UTANJE,
for Chief Executive Officer/Secretary,
Civil Aviation Board.

GAZETTE NOTICE No. 5151

THE LAND ACQUISITION ACT

(Cap. 295)

NOTICE OF INTENTION TO ACQUIRE LAND

IN PURSUANCE of section 6(2) of the Land Acquisition Act I give notice that the Government intends to acquire the following land for a public purpose.

SCHEDULE

L.R. No.	Locality	Registered Owner	Approx. Area to be Acquired in Acres
5875/2	Roysambu Estate, Nairobi.	Mayer Jacob Samuels	15-16

A plan of the affected land may be inspected during office hours at the Office of the Commissioner of Lands, Ardi House, Ngong' Road, Nairobi.

Dated the 8th November, 1985.

J. R. NJENGA,
Commissioner of Lands.

GAZETTE NOTICE No. 5152

THE LAND ACQUISITION ACT

(Cap. 295)

NOTICE OF INQUIRY

IN PURSUANCE of section 9(1) of the Land Acquisition Act I give notice that an inquiry will be held at 10. a.m. Wednesday 5th February, 1986 at Lands Office, 3rd Floor, Ardi House, Ngong' Road, Nairobi for the hearing of claims to compensation by persons interested in the following land:

SCHEDULE

L.P. No.	Locality	Registered Owner	Approx. Area to be Acquired in Acres
5875/2	Roysambu Estate, Nairobi.	Mayer Jacob Samuels	15-16

Any person who is interested in the land is required to appear at the inquiry not later than the day of inquiry, a written claim to compensation.

Dated the 8th November, 1985.

J. R. NJENGA,
Commissioner of Lands.

7 1

7 1





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21944

OFFICE OF THE PRESIDENT

Telegrams: "Defence", Nairobi
Telephone: Nairobi 721100
When replying please quote
Ref. No. DOD/28/18A/(27)
and date

DEPARTMENT OF DEFENCE
ULINZI HOUSE
P.O. Box 40668, NAIROBI
KENYA
19th September 1985

Mr. J.R. Njonga
Commissioner of Lands
Lands Department
NAIROBI

RE: ACQUISITION OF L.R. 5875 FOR SCHOOL OF
K.A.E.M.E. ROYSAMBU

Further to this office letter Ref. No. DOD/28/18A/(4) dated 3th August, 1985 on the above subject matter, it is now confirmed that we have adequate funds to the tune of K1550,000.00 during this 1985/86 Financial Year for acquisition of Military land. We intend to fund acquisition of the above 17.16 acres from this provision.

Arrangements are also underway to issue to you with an AIE for the said sum of K1550,000.00 for your Department to carry out the compensation process to those who own the land in various areas in the country we have occupied.

Handwritten notes:
The above is available
11/10/85
E.V.O.

Signature: Kanyire
M. E. G. KANYIRE
FOR PERMANENT SECRETARY

Handwritten notes:
9/10/85
The above is available
Per copy we enforced
progress
20/9/85

25

FILE NO. VAL.21946/II

P.R.T.

THE LAND ACQUISITION ACT CAP.295
KENYA GAZETTE NOTICE NOS.5151 AND 5152
DATED NOVEMBER 22, 1985
L.R. NO. 5875/2 ROYSAMBU ESTATE, NAIROBI

I attach herewith a copy of Notice of Taking Possession of the above mentioned land and a plan showing the area acquire edged red.

I should be very grateful if a caveat is urgently lodged against the title to protect Government's acquisition interest.

N. Muchai
N. MUCHAI
for: C.V.O.

C.C.
VAL.847

C.V.O.
This the above plot has been acquired we should request a notice of taking possession rather than a caveat signed by the original title holder
Notice of taking possession for registration was of 29.8.1985
19/85
supply a signed and call
26/6/86

23

25th September 65

21946/II/23

General J.K. Mulinge, BGN, CES, DCO,
Chief of General Staff,
Department of Defence,
P.O. Box 40668,
NAIROBI.

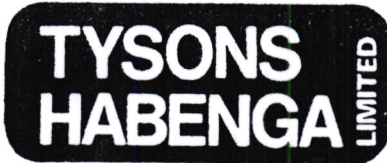
Dear

L.F. NO. 5875/2 ROYSAMBU ESTATE, NAIROBI

The above estate has been subject to a discussion with H.E. the President. I have also discussed this issue with you. As stated briefly over the telephone, Lt.Col. James Hays Sadler who was His Majesty's Commissioner for East African Protectorate leased L.R.1012 comprising of 4,443 acres in 1904 to a Mr. Henry Herbert Tarlton for a period of 99 years with effect from 1st November 1904 at an annual rent of shs.133/-.

According to my records, the lessee, i.e. Mr.H.H. Tarlton subdivided the said land in 1920 into 5 sub-plots each comprising of 200 acres. In 1927 the sub-plots were further subdivided into 20 acres the sub-division which created L.R.5875/2 comprising 17.16 acres. This plot was transferred to Mr.H.V. Briscoe. On 19.2.1930, Mr. Briscoe transferred the plot to Mrs. K.M. Forbes who in turn on the 1st of March, 1940 transferred to Mr. E.F. Kelly, who in turn transferred the said plot to Mr. H.C. Walker who in turn transferred the plot to E.A. Residential Estate Ltd who built residential houses on the plot without approved building plans and without an approved change of use. However, on application, the situation was regularised in 1963.

In 1964 a Mr. Smith was appointed a liquidator of the Company by the Kenya Government but it would appear the company, namely E.A. Residential Estate Ltd. with Mr. S.G. Smith acting in his capacity as liquidator transferred the property to a Mr. Bau Salou Dean. Mr. D.S. Dean transferred the property during the same year to a Mr. Mayer Jacob Samuels who died on the 12th of December 1974 but remains the registered owner of the property to this day. However, in 1976 a Mr. Raphael Jacob Samuel the deceased's brother of the full blood and Mechumor Jacob Samuels the deceased's brother of the half blood by the same father applied to the High Court in Nairobi for the grant of letters of administration



Surveyors, Valuers,
Estate and Managing Agents

Directors:
S.M. Ethangatta, B.A.(L.E.), M.Sc. M.I.S.K. (Managing)
H.M. Mathu, B.A. (L.E.), M.Sc. M.A.A.K. (T.P.), M.I.S.K.
J.K. Gitonga, B.A. (L.E.), M.I.S.K.
B.O. Ragalo, B.A. (L.E.), M.I.S.K.

Associates:
A.C. Muningye (Miss), B.A. (L.E.), M.I.S.K.
C.E. Mbindah, B.A. (L.E.), M.I.S.K.
L.N. Ngibuini, B.A. (L.E.), M.Sc. M.I.S.K.

Consultants:
Hon. P.H. Okondo, B. Comm., Dip. Accty., MP.
M.W.B. Airy, C. Eng., M.I. Mech, E. Ass. I.E.E.

28

Please address all correspondence to the Company
and not to individuals
Kindly quote our reference

JUBILEE INSURANCE HOUSE WABERA STREET
P.O. BOX 40228 NAIROBI KENYA
TELEPHONES: 22011, 330331
CABLES: VALUATION

OUR REF: BOR/VAL/mm

YOUR REF:

4th November, 1985.

The Commissioner of Lands,
Lands Department,
Ministry of Lands & Settlement,
Ardhi House,
P.O. Box 30089,
NAIROBI.

Dear Sir,

RE: EXTENSION OF LEASE - L.R. NUMBER 5875/2
ROYSAMBU ESTATE (NAIROBI)

We on behalf of our Client, Mr. M.J. Samuel, would like to lodge an application for the extension of Lease on the above property to a further 99 years.

The current term is 99 years from 1st November, 1904, which leaves an unexpired term of only 18 years.

We hope to hear from you at your earliest convenience.

Yours faithfully,
for and on behalf of
TYSONS HABENGA LIMITED

B. O. RAGALO

c.c. Mr. M.J. Samuel
P.O. Box 47349,
Nairobi.

Mr. L.N. Ngibuini,
Building.

CORRECTIONS

The Gazette Notice No. 1112 of 10th March 1986, which had the effect of cancelling the appointments of the members of the National Social Security Fund, is hereby cancelled with effect from 1st March 1986, for the reasons stated in the said notice.

IN Gazette Notice No. 5151 and 5152 of 22nd November 1985, the appointments of the members of the National Social Security Fund, is hereby cancelled with effect from 1st March 1986.

GAZETTE NOTICE No. 1112

THE NATIONAL SOCIAL SECURITY FUND

(Cap. 254)

APPOINTMENTS TO THE NATIONAL SOCIAL SECURITY ADVISORY COUNCIL

IN EXERCISE of the powers conferred by section 4 of the National Social Security Fund Act, the Minister for Labour appoints the following persons to be members of the National Social Security Advisory Council for a period of three years with effect from 1st March, 1986:

Government Representatives:

The Permanent Secretary, Ministry of Labour,
The Permanent Secretary, Ministry of Finance,
The Permanent Secretary, Ministry of Commerce and Industry,
The Permanent Secretary and Director of Personnel Management.

Employers Representatives:

Albert Alexander Aggrey Ekirapa—*Vice-Chairman*,
Tom Dju Owior,
Raymond Hugh Kester,
Joseph Kamunya Waweru,
George Kang'ona Mwai.

Workers Representatives:

Justus Muloi Vele,
Phillip Mwangi,
Ambrose Adongo,
George Odiko,

and appoints Albert Alexander Aggrey Ekirapa as Vice-Chairman and Benjamin Kakuti Kisilu as the Secretary.

The appointments in Gazette Notice No. 1727 of 12th June, 1982 are cancelled.

Dated the 10th March, 1986.

P. C. OLOO-ARINGO,
Minister for Labour.

GAZETTE NOTICE No. 1113

THE CO-OPERATIVE SOCIETIES ACT

(Cap. 490)

AUTHORIZATION

IN EXERCISE of the powers conferred by section 4 (2) of the Co-operative Societies Act, the Minister for Co-operative Development authorizes:

ASHFORD MUTUNGA MURITHI, Senior Assistant Commissioner for Co-operative Development

to exercise the powers and duties conferred on the Commissioner for Co-operative Development under the said Act on the dates between 11th March, 1986 and 10th April, 1986.

Dated the 11th March, 1986.

H. K. KOSGLY,
Minister for Co-operative Development.

GAZETTE NOTICE No. 1114

THE POLICE ACT

(Cap. 84)

APPOINTMENT OF A POLICE STATION

IN EXERCISE of the powers conferred by section 2 of the Police Act, the Commissioner of Police appoints:

L.R. No. 200/10467—Nairobi

to be Police Station.

Dated the 7th March, 1986.

B. K. NDIRITU,
Commissioner of Police.

GAZETTE NOTICE No. 1115

THE FORESTS ACT

(Cap. 324)

APPOINTMENTS OF MEMBERS

IN EXERCISE of the powers conferred by section 4 (1) of the Forests Act, the Chief Conservator of Forests appoints:

Francis Mwangi, Kamuk,
Mahendra Vaidyachari Patel,
Jacob Eric Rotere,
Willy Njoro Alongo,
Samuel M. Kibuka,
Harish Singh Karanika,
Dilip Chandra Wambua Mutwa,
David Clement Kahuku,
Ivor Sinauel Keen,
Nareshbhai Ishwarbhai Patel,
Gideon Wakoni,
Harbans Singh Bainsath,
Raboy Singh Bhachu,
Samuel Kiria,
Jonathan Paul Mbiti,
Khwazi Abdul Qayyum,
Ved Prakash Bhalla,
Mustafa Manujee,
Gurbhans Singh Brar,
Stephen Njoroge,
Alfred Mwanyuma,
Cyrus Mutahi Ndegwa,
Titus Kathendu Njagi,
Francis Nganga,
Moses Obare Abwao,
G. K. Harley,
Job Nyaroo,
Sebastian Njiraini Mwangi,
Patrie Weru Wangombe,
Moses Muriithi Njiru,
Samuel Mwangi,
Andrew Kiria Mwiruri,
Shadrack N. Kibua,
Newton Njeru Mumanjama,
John Njonjo,
Bridget Njeki Kang'a,
John Kimen Kamali,
Hudson Arema,
Pascel Marungu Justus,

to be members for the purposes of the Act, for a period of one year, with effect from 1st March, 1986.

Dated the 26th February, 1986.

S. C. MBINDA,
Acting Chief Conservator of Forests.

GAZETTE NOTICE No. 1116

THE LIQUOR LICENSING ACT

(Cap. 121)

THE WEST PAKOT LIQUOR LICENSING COURT

Advisory Meeting

NOTICE is given that an advisory meeting of the West Pokot Liquor Licensing Court will be held in the district commissionary headquarters, Kapenguria, on Monday, 12th May, 1986, at 10 a.m.

All applications for new licences, transfer, removal or renewal of existing licences must be submitted in triplicate on the appropriate forms and a fee of KSh. 100 on the receipt of which the Chairman, West Pokot Liquor Licensing Court, P.O. Box 1, Kapenguria, will later call a Wednesday, 20th March, 1986. Any application received after this date will only be considered if it is received on or before 16th April, 1986, and on payment of KSh. 500 late fee.

Applications for new licences, transfer and renewal may also be made to the district commissionary, Kapenguria, on or before 16th April, 1986, and on payment of KSh. 500 late fee.

(27)

[Handwritten initials]

1F

28th January,

86

64637/58.

M/s. Robson, Harris & Co.,
Advocates,
P.O Box 30423,
NAIROBI

Sirs,

RE: EXTENSION OF LEASE - L.R. Number 5875/2
ROYSAMBU ESTATE 9 (NAIROBI)

I am in receipt of your letter ref. CF/15/83/Vol.II dated 10th December, 1985, lodging an application for extension of lease of the above property, and would advice you to submit building plans duly approved by Nairobi City Commission showing the improvements your client wish to carry out on the plot. The above requirement would enable me consider your application further.

Yours faithfully,

(Akinyi V.O. (Miss))
for: COMMISSIONER OF LANDS.

AVO/wm.

Miss Akinyi

We discussed.

I have also discussed with cl/lands and his instructions are that you withdraw this letter immediately.

Please pass the file back to me.

Notwank:

12/3/86.

28

ST

F

21046/II/59

13th March 86

Robson, Harris & Co.,
Advocates,
P.o Box 30423,
NAIROBI

RE: EXTENSION OF LEASE - L.R. NUMBER 5875/2
- ROYSAMBU ESTATE (NAIROBI)

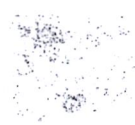
Your application for extension of lease of the above plot vide
your letter ref: CF/15/83 Vol.II dated 10th December, 1985,
has been overtaken by events, therefore consideration for extension
of the same by this office is now not possible.

You are hereby advised to consider my letter ref: 64637/58
dated 28th January, 1986, formally withdrawn.

(Akinyi V.O. (Miss).
for: COMMISSIONER OF LANDS

/tnm.

RECEIVED
13/03/86



RECEIVED
13/03/86



29

61

RAPHAEL J. SAMUEL,
P.O. BOX 46436,
NAIROBI.

THE COMMISSIONER OF LANDS,

Dear Sir,

REF: LR 5875/2 COMMONLY KNOWN AS ROYSAMBU ESTATE.



I am writing to humbly inform you that the above property which you gave judgement on the 3rd day of June 1987 "LAND ACQ 2 of 1986 that MR MESHUMOR JACOB SAMUEL is the sole owner of the above property.

I strongly oppose any judgement made on his favour without my consent as I own 60% of the property and he own only 40%.

Please I am writing to kindly urge the court to ask my brother MR MESHUMOR to pay me 60% of whatever he has claimed on the case he wrote to you on the 31/7/86.

Please arrange for the court to give me an arab interpretor as I have language problem.

Yours faithfully, 26-9-85

25,000,000=00
200=00

Total 25,000,200=00

RAPHAEL J. SAMUEL.

Raphael Jacob Samuel

CC: KHAMATI, MURISHI & COMPANY.
O'CONNOR J.
EMUTAILE.





Ag. AS/A

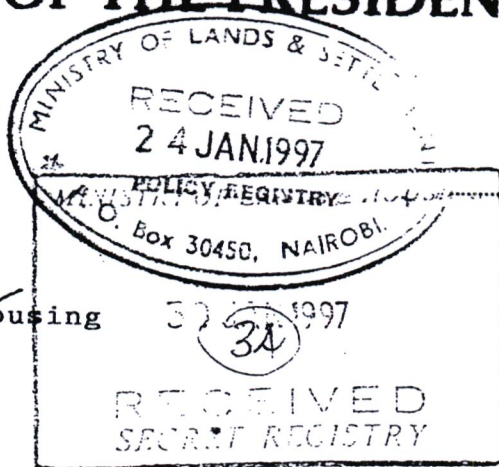
OFFICE OF THE PRESIDENT

Telegrams: "DEFENCE", Nairobi
Telephone : Nairobi 721100
When replying please quote

Ref. No. DOD/1780/37/LEGAL
and date

DEPARTMENT OF DEFENCE
ULINZI HOUSE
P.O. Box 40668, NAIROBI
KENYA

13 JANUARY, 1997



Permanent Secretary
Ministry of Lands & Housing
Ardhi House
P.O. Box 30450
Nairobi

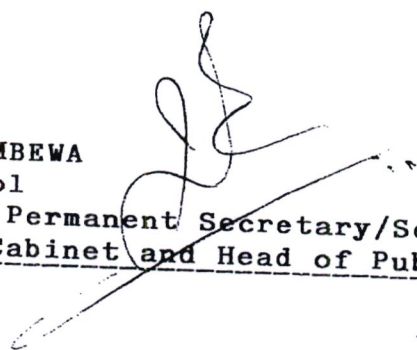
COMPULSORY ACQUISITION OF LAND - L.R. NO. 5875/2 - ROYSAMBU, NAIROBI

1. Your most recent correspondence to us in this matter appears to be your letter Ref. No. CON/LH/A/15/29 Vol. 11/103 dated 14.6.1991. You will recall that the compulsory acquisition of the above-mentioned land gave rise to the Land Acq. Dispute Case No. 2 of 1986 (Meshumor Jacob Samuels vs Commissioner of Lands) in which Mr Justice (now Rtd) J.F. Shields of the High Court at Nairobi enhanced the compensation from Kshs 3,530,500/= to Kshs 23,000,000/= by his judgment dated 3.6.87. In mid-1991, the Nairobi City Council sued the proprietor (and rate-payer) of the same land (Mr Meshumor Jacob Samuels) for arrears of rates amounting to kshs 196,270.50 in Nairobi RMCC No. 734 of 1991. A decree for Kshs 229,888.55 was eventually passed against him. Apparently the decree devolved upon this Department to pay as this Department was the actual user and occupant of the land in question. The rate-payer (leaseholder) was, in fact, out of the country and we think he would not have been bothered to defend the suit against himself even if he had been in the country.

2. All the above-mentioned matters were put in the hands of Hon. the Attorney-General to handle on behalf of the Government. The Attorney-General's reply to all the issues involved is still awaited here. What we request from your Ministry at the moment is whether the lease of the land in question to the Lessee/rate-payer (Mr. Meshumor Jacob Samuels) or his predecessor(s) - in - title has expired and, if so, when it did expire. If the lease, however, is still in force, please let us know when it is due to expire so that we can plan appropriately and also inform the Attorney-General accordingly. It is our hope that the expiry of the Lease will bring to an end all these wrangles (with or without prejudice to our paying Mr Justice Shield's judgment). In the meantime, we have requested the Attorney General to brief us on what is happening in relation to his intended appeal

1996

to the Court of Appeal against Mr Justice Shield's award to the lease holder. More so, it is our hope that this lease will not be renewed after its expiry.


J Q MBEWA
Lt Col
for Permanent Secretary/Secretary to
the Cabinet and Head of Public Service

NAIROBI CITY COUNTY

Telephone: 020 344194
Web: www.nairobi.go.ke



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

Our Ref: LS/L/0001845/SGM/mk

7TH NOVEMBER, 2019

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

Attention: Serah M. Kioko

Dear

RE: PETITION BY FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS REGARDING INVASION AND EVICTION OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS FORM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

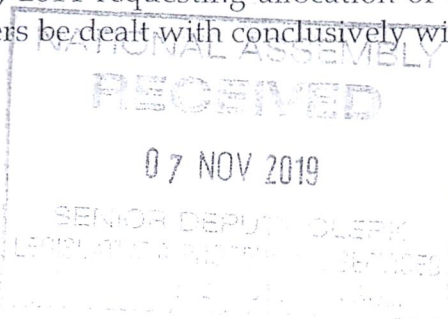
The Nairobi City County Government has received a letter from The National Assembly Reference NA/OC/LANDS/2019/(127) dated 30th October, 2019.

The County Government of Nairobi would like to respond as follows:-

The land in question is LR. No.5875/2 and is located at Roysambu. It measures about 17.16 Acres (6.947Ha.) and the ratable owners in County records is Mr. M.J. Samuels (see attached copy of rates demand notes).

In the year 2014 the "Roysa Community Development Society" applied to The Secretary Nairobi City County for allocation of the land LR.5875/2 by a letter dated 6th August, 2014.

This community group was made of employees and dependants who had lived on the land which was owned by White Settlers. They had lived on the land as employees from the early 1970's. They later wrote to the Governor Nairobi County on 16th September, 2014 requesting allocation of the land. The Governor directed the issue of the squatters be dealt with conclusively within the Law.



DL/Coms
Please deal.
07/11/19

Leonard Macharia
pls TNA
8/11/19

The Land Sector within the County Government carried out some due diligence to confirm some of the issues raised by the community in the application letter. The following was found to be correct:-

1. *The squatters were employees and persons born on the land.*
2. *The population at the time was approximately 400 to 500 people (attached Minutes of 25th June, 1986 of Hand/Take over Roysambu Area Plot LR.5875/2) showing the occupants to be roughly 215 persons).*
3. *Despite the above there were no military personnel on site.*
4. *There was an informal primary school for squatters children.*
5. *There was a nursery school.*
6. *The land was occupied by permanent and semi-permanent buildings. 43 Rows of 10 houses.*
7. *There were a few commercial buildings and garages and workshops (Formerly warehouse sheds).*
8. *There were two structures being used as churches*
9. *An area set aside and approved by Kasarani Sub District Development Committee in 1984 for Polytechnic.*
10. *Numerous kiosk and market centre.*

As per the current constitution and Laws governing land matters the County Government of Nairobi wrote to the National Land Commission a *no objection* to the squatters being settled on the land. The letter was Ref:NCC/GOV/HOC/3 dated 17th February, 2015.

The National Land Commission wrote to Nairobi City County Government letter Ref:NLC/CHAIRMAN/VOL.XIX/14 dated 10th March, 2016. In the letter the following was stated:—

- (a) *The lease of this land expired in early 2003 and the Government declined to renew.*
- (b) *With the advent of the New Constitution, the land vests in Nairobi City County Government. The County may therefore proceed to deal with the applicants as per the Laws and Regulations of the department, subject to any Court Orders to the contrary.*

There being no Court Order the County Government proceeded to allocate the land as per "*Nairobi County Regularization Act 2015.*" This Act gave the County authority to settle people who had occupied County or Government land for a long period of time. Even within the National Law the squatters could claim adverse possession or prescriptive rights having occupied the land for more than 30 years. The squatters continued to occupy the land even after the owner relocated from Kenya.

Due to social responsibility of the County Government, the County went ahead to plan the land and carry out survey for the squatters to have individual plots and security of tenure. The survey was completed and the Director of Survey approved the same on 1st November, 2017 letter Ref:CR.197/Vol.78/7.

The RIM was amended on payment of K.Shs.196,700/= (One hundred ninety one thousand seven hundred only) by the squatters to the National Government.

The Director of Survey amended the RIM and also produced area list for each subplot. The same was forwarded to the Land Registrar for issuance of titles to the squatters, letter Ref:CR197/Vol.78/26 dated 19th December, 2017.

Since the land had reverted to the Nairobi City County, a letter was written to the Ministry of Lands Ref:LS/007/OQ1754/SGM/mk dated 9th August, 2018 requesting allocation of the land to Nairobi City County Government. As the land was already occupied by Roysa Community and the County Government had regularized the settlement, The Ministry of Lands was requested to include the members in the titling program which was initiated by H.E. The President of the Republic of Kenya.

The County Government also issued letters to the Roysa Members regularizing individual ownership and requested each member to pay K.Shs.69,500/- (Sixty nine thousand five hundred only). Some members paid the said sum to the County Governments while others requested to pay in installments.

The Ministry of Lands and Physical Planning started the title processing by issuing letters to individual members of Roysa Community. This information was given by Roysa Community officials to the County Government. There was some payment which was done to the National Government a copy of payment receipt was forwarded to the County Government by the Roysa Community.

The process of titling was not completed due to issues unknown to the County Government. It is the hope of the County Government that through this petition "The National Assembly" will resolve this matter. Roysa Community members have been suffering but the Member of Parliament representing the area had requested an area be planned for putting a Secondary school and Technical Vocational Training Institute. This is the same area that had been earmarked by Kasarani Sub District Development Committee in the early 1980's which was done during the planning stage. Correspondences between Roysa Community, County Government, Ministry of Lands & Physical Planning and the National Land Commission are attached. This process was transparent and guided by Law and it's the prayer of the County Government that Roysa Community Members be granted security of tenure as per the Kenya Constitution 2010.

Yours

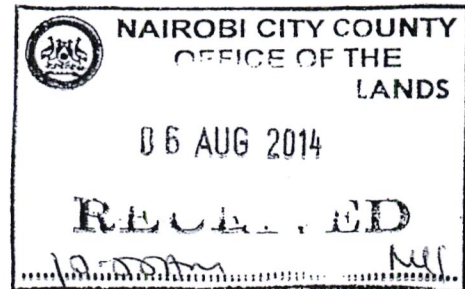
Sincerely
Leboo Ole Morintat
LEBOO OLE MORINTAT, OGW
COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE

ROYSA COMMUNITY DEVELOPMENT SOCIETY

P.O BOX 19611-0100

Date: 6th August ,2014

The Nairobi County Secretary
P.O. Box 30075-00100
NAIROBI.



ATT: S.G. Mwangi

Dear Sir/Madam,

RE: APPLICATION FOR REGULARIZATION (ALLOCATION) OF LR.NO.5875/2

Roysa Community is a membership of workers, children and grandchildren all who have resided on the above piece of land for over fifty years. To some it's the only home they know having been born and brought up there.

The members registered Roysa Community Development Society in the year 2014 and received Certificate No. 44760. This was necessary in order to pursue their interest particular ownership of the lands as they had peacefully lived there for over 20 years since the owners left the country and relocated to another area. This confirmed to them prescriptive lights/adverse possession as per the laws governing land rights.

It is important to note that the original owner died in 1974 and the sons took over the running of the estate up to around 1985 when they relocated. They allowed the workers and their children to continue living on the land without any interruption up to now.

Under the current constitution we believe we have a right to be allocated the land. It is important to note that we have built temporary houses, we have also built a nursery school where our children have been attending classes in an informal way.

It is our sincere prayer that the plight of the residents will be considered favourably when making your decision.

Yours Faithfully,

Chairman
Secretary
Trustee

Three handwritten signatures in black ink, corresponding to the Chairman, Secretary, and Trustee positions listed to the left.

NAIROBI CITY COUNTY



Telephone: +254 20 2214750,2224281
Website: www.nairobi.go.ke
Twitter: @county-Nairobi

P. O. Box 30075 00100
Nairobi
KENYA

NCC/GOV/HOL/3

17th February, 2015

The Chairman
National Lands Commission
P.O. Box 44417
NAIROBI

RE: ALLOCATION OF LR 5875/2

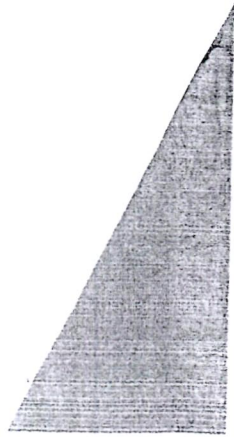
We have received a request from ROYSA Community Development Society requesting for allocation of the ref land which I understand has been the subject of court cases that have now been resolved.

Subject to your due diligence and verifying all claims appertained to the subject land, the County Government has no objection in NLC exercising its discretion to acceding to this request.

Kind regards,

Handwritten signature of S.G. Mwangi in black ink.

S.G. MWANGI, LS(K)
COUNTY CHIEF OFFICER LANDS





NATIONAL LAND COMMISSION

Tel.0202718050

Email:info@nlc.or.ke

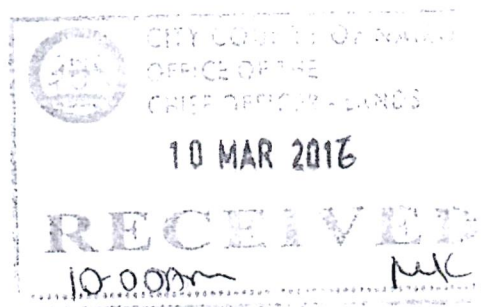
Website:www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

Ref: NLC/CHAIRMAN/VOL.XIX/143

10th March, 2016

S. G. Mwangi LS (K)
County Chief Office Lands
Nairobi County Government
P. O. Box 30075 – 00100
NAIROBI



ALLOCATION OF LR.5875/2

We are in receipt of your letter Ref.No.NCC/GOV/HOL/3 dated 17th February, 2015 in respect of the request for allocation of LR.5875/2 to the applicants Roysa Community Development Society.

We are also in receipt of the said application. From available records, the parcel of land belonged to Meshumar Jacob Samuel and Rafael Jacob Samuel.

The lease of this land expired in early 2003 and government declined to renew.

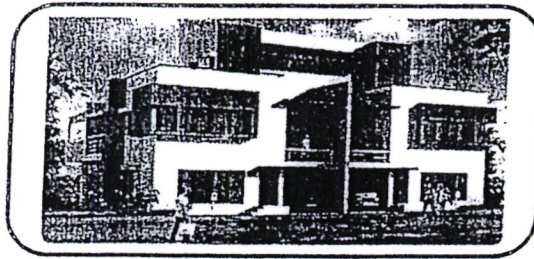
With the advent of the new Constitution the land vests in the Nairobi City County Government. The County may, therefore, proceed to deal with the applicants as per the laws and regulations of the department, subject to any court orders to the contrary

MSWAZURI
Prof. Muhammad A. Swazuri, PhD, OGW
Chairman, National Land Commission and
Associate Professor of Land Economics

10 MAR 2016

10-0000m

MK



ROYSA COMMUNITY DEVELOPMENT SOCIETY

TEL: TEL: 0723363770

Email: roysacommunitydevelopment@gmail.com

16 March 2016

The County Secretary
Nairobi City County
P.O. Box 30075-00100
NAIROBI

Dear Sir/Madam

RE: ACCEPTANCE OF OFFER FOR LR.5875/2

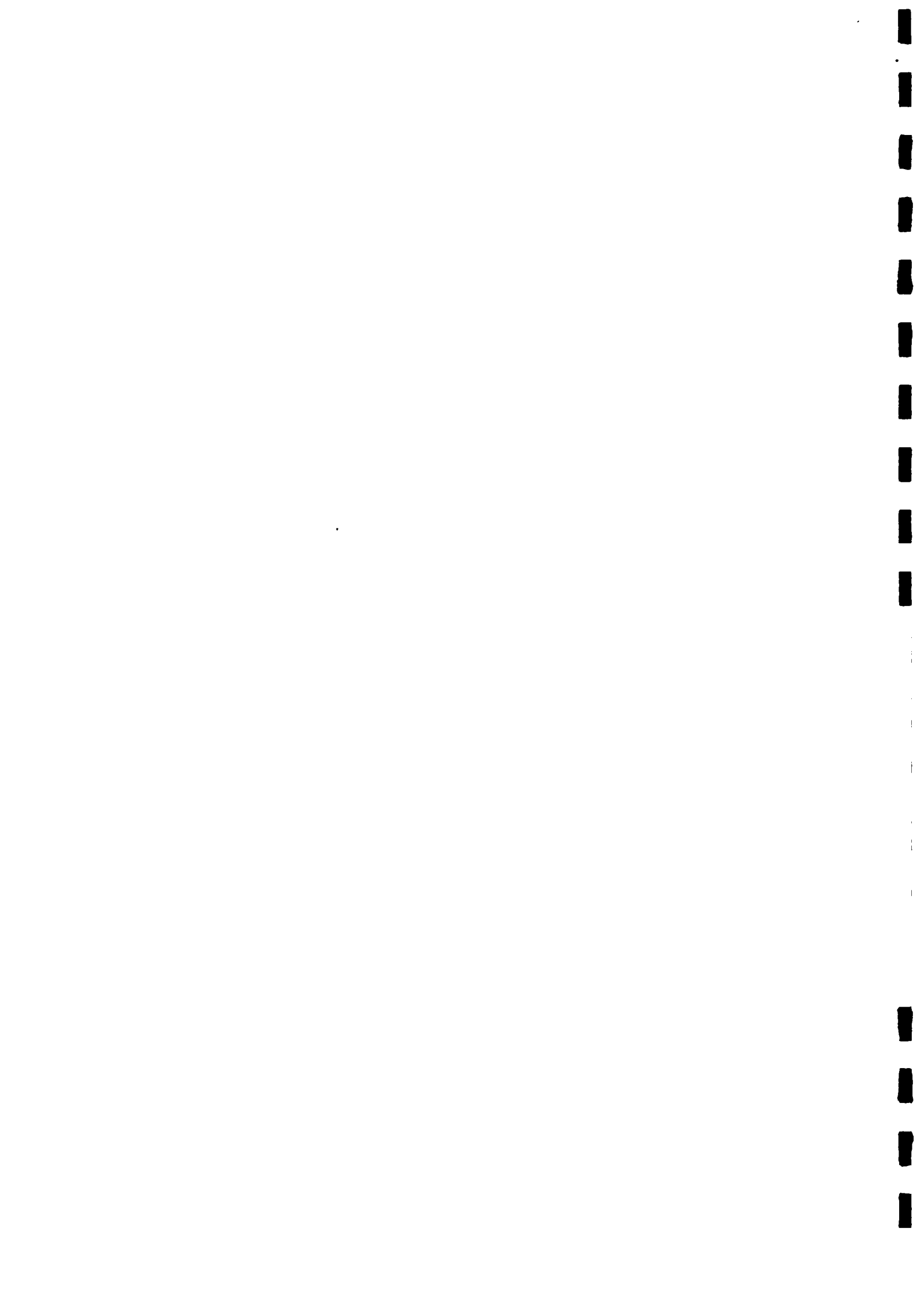
Your letter dated 11th March, 2016 on the above plot was received on 11th March, 2016.

The society members during a meeting held on 18th March, 2016 resolved to accept the conditions as set out by the Nairobi City County Government.

Yours faithfully

Chairman - Roysa Community Dev. society

5/

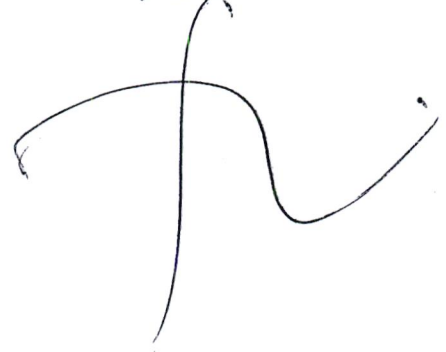


ROYSA COMMUNITY DEVELOPMENT SOCIETY
P.O. BOX 285- 00623, TELEPHONE 0723 363770, NAIROBI

Our Ref: RCH

12th July 2017

The County Secretary & Head of County Public Service
Office of the Governor
City Hall
P.O. Box 30075-00100
NAIROBI



Dear Sir,

RE: PAYMENT FOR COUNTY FEES - THE ALLOTMENT AND REGULARIZATION OF
LR 5875/2 AND 23393 SUB PLOTS

We thank your office for the regularization process of the settlement of our members in 5875/2.


As our society membership had undertaken most of the members have already raised the amounts for payment of stand premium, ground rent and survey fees.

We request your authority to facilitate the process of payment for the above so that members immediately remit fees to the County.

Attached please, find list of beneficiaries who have raised requisite fee and respective plot numbers.

We pray for time for those still struggling to raise the amounts required.

Yours faithfully,

Trustee - Peter Muthee Kihunyu 



Telegrams: "DEFENCE", Nairobi
Telephone: Nairobi 721109
When replying please quote
Ref. No. ... DOD/CGS/49/LND
and date



OFFICE OF THE PRESIDENT

DEPARTMENT OF DEFENCE
ULINZI HOUSE
P.O. Box 40668, NAIROBI
KENYA

10 April, 1987

The Commissioner of Lands
P O, Box 30089
NAIROBI



(84)

Attn: Mr J Mwaniki

INTENTION TO ACQUIRE LAND LR No.5875/2
AREAS ADJACENT KAEME ROYSAMBU

Reference: Our letter DOD/698/2/WKS dated 26 Jan 87.

Please disregard the contents of our above reference letter, which discussed intention to acquire land at Roysambu, until we contact you on the issue.

J MUNYAO
Major General
for Chief of General Staff

Copy to:-
Chief of Logs

29/4/87

[Handwritten initials and date]
29/4



IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL DIVISION
ELC CIVIL CASE NO. 515 OF 2011

HIGH COURT OF KENYA
NAIROBI, REGISTRY
19 SEP 2011
CIVIL SIDE
NAIROBI

UCHUMI SUPERMARKETS LIMITED 1ST PLAINTIFF
KASARANI MALL LIMITED 2ND PLAINTIFF

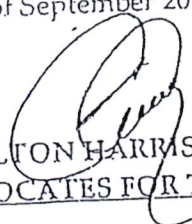
VERSUS

DANIEL OTIENO MIGANGA 1ST DEFENDANT
DAVID J KOLLAL 2ND DEFENDANT
GILBERT THUO MACHARIA 3RD DEFENDANT
ROYSA COMMUNITY SELF HELP GROUP 4TH DEFENDANT

NOTICE OF DISCONTINUANCE OF SUIT

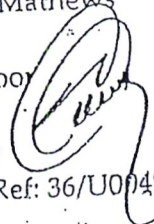
Take Notice that the plaintiffs herein do wholly discontinue this suit.


Dated at Nairobi this 15th day of September 2011


HAMILTON HARRISON & MATHEWS
ADVOCATES FOR THE PLAINTIFFS

Drawn and filed by :-

Hamilton Harrison & Mathews
Advocates
ICEA Building - 4th Floor
Kenyatta Avenue
P O Box 30333 - 00100
NAIROBI
Ref: 36/U0049/73



KUTE & CO. ADVOCATES
RECEIVED
19 SEP 2011
Time: 4.20 P.M. Sign: 
P. O. Box 50698 - 00200
NAIROBI

INTER OFFICE MEMO

S01 Projects

DOD/698/2/Wks

June 1986

To: D/Ch of Logs (Dev&Wks)

SUBJECT

HAND/TAKE OVER ROYSAMBU AREA SITE PLOT LR
5875/2 ON 25/6/86 AT 1000 HRS

GENERAL:

As agreed between DOD (Wks) Vs Ministry of Lands & Settlement the above Plot was to be formally taken over today 25/6/86 and this has been done.

Officials Present:

Those present at the site were as follows:

- a. Mr Mwaniki - Ministry of Lands
- b. Mr Waruingi - Area District Officer
- c. Col D Mwangi - Corps Comdr EME
- d. Lt Col Njuguna - DOD (Works)
- e. Lt Col Bosuben - Corps HQ (EME)
- f. Lt Col Dande - Base Wkshp
- g. Lt Col Makuu - Wkshp Bn
- h. Major Luruti - Wkshp Bn
- i. Major Ahmed - AHQ (Logs)

The lawyer representing the defendant was not available although he had been informed formally.

Acrerage of Site: The area taken over is comprised of 7.16 acres.

Demarcation Beacons: The team could only locate Two hence was agreed that Mr John Koti of Survey of Kenya be tasked to and some surveyors immediately to come and point out the rest the Beacons. If the Beacons have been pulled out then he could arrange to refix.

Tenants/Families in area: The DO informed the team that there are roughly 215 (Two hundred and fifteen) living around.

Structures: During the visit the team observed that some buildings have collapsed or demolished. However, there are 43 (Fourty three) blocks still existing although in poor condition and soon becoming ruins. Any repairs/maintenance will be very expensive.

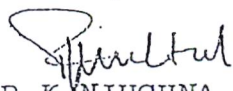
Joint Identification of Tenants; The area DO together with the Servicement will take Census of all those living on the Plot on 26 June 86 (Thurs). This exercise will identify the right tenants and henceforth served with quit notice of, which the PC Nairobi should be made aware.

Security of Area: The Corps Comdr directed that a marquee be erected today 25/6/86 to accommodate servicement for guard duties. Concertina wire & pickets have already been demanded for through AHQ.

High Court: The former owners have filed a case suit demanding Kshs 25,000,000 although the proposal for now is Kshs 10,000,000. However DOD need not worry about this legal implications since the taking over has formalized.

AOB:

- a. There exists two JUA KALI garages but One is obviously in our plot while the other stands outside the Plot, however, the surveyors will give the correct standing.
- b. Mr Mwaniki (Lands) has promised to avail all the necessary correspondence to DOD by 29/6/86.
- c. According to the Map there is an existing "BOREHOLE" (~~discussed~~) but the team could not locate it during the tour of the area.


R K NJUGUNA
Lt Colonel
SOI Projects

Copy to:--

SO1 Works

SO2 Works

SO3 Projects

SO3 Works

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Roysa Community Development Society

P.O Box 130-00618

Nairobi

27th June, 2017

Our Ref: PMK/RCDS/13/06/2017

To

County Secretary and Head of County Public Service

City Hall

P.O Box 30075-00100

Nairobi

Att: S G Mwangi L S (K)

Dear Sir

REF: LR 5875/2/PLOT NO 1-147 Regularization

We members of Roysa Community Development Society have received the above letters of allotment which we thank you for. All the above plots have been allocated to our members except public utility plots, Plot No 118(Technical Training Institute And Secondary School) Plot No 131(Play Ground) Plot No 145 (Bus Park).Our members have resolved to contribute and make their payments through the society trustees.

As members we have each accepted the allotment letters and offers contained therein and undertake to pay the requisite fees required through the office of the society for onward transmission to NCC.

We request that when payments are made, each member be issued with receipts individually for the purposes of record just like the allotment were issued. Attached please find minutes of the resolution of Roysa community development society.

Yours faithfully


Peter Muthee Kihuyu(Trustee)

MINUTES OF ROYSA COMMUNITY DEVELOPMENT SOCIETY MEETING HELD
ON 24th JUNE 2017 AT BLUE SPRINGS HOTEL THIKA ROAD

MEMBERS PRESENT

1. Peter Muthee Kihuyu
2. Alfred Odhiambo
3. Humprey Waweru Kariuki
4. Joseph Nduati Ngobu
5. Don Onyango
6. Marvin Mutelule Wasike
7. Dorothy A.Ogada
8. Joseph Thiong'o
9. Hottensia Wanjiru Gaturu
10. Dennis Martin Mburu
11. Jackson Nyang'oma
12. Collins Awandu Wasonga
13. Lawrence Arimi
14. Phoebe O. Adhiambo
15. Catherine W. Mwangi
16. Eliza O. Owiti
17. Benson Mbugu Muiruri
18. David Maina Gichuri
19. Edward Maina Chege
20. Richard Ochaka
21. Philip Odhiambo
22. Julius Mwangi
23. Emmanuel Abur
24. Dan Aluoch
25. Lucas Okumu Ogaga
26. Patrick Thuo
27. Simon Wachira

MEMBERS ABSENT WITH APOLOGY

1. Ernest Otieno
2. Bernard Oluoch Okello
3. Zachary Mbote
4. Josphat Maina Mwangi
5. Francis Kibe
6. Alex Gerald M. Macharia
7. Martin Muhoro Gichuki
8. Odindo Odhiambo

28. Edwin Owino
29. Daniel Mugai
30. Suleiman Muchiri Kamau
31. Wellington Njogu
32. Daudi Nyamangu
33. Bildad Ogweno Tindi
34. John Ndonga Mwangi
35. Brenda Apondi
36. Charles Obadha
37. Carolyne Akinyi
38. Titus Ndambuki
39. Joseph Waweru
40. Charles Munene
41. Juliana Akonya
42. Mercy Akoth Auma
43. Bob Odhiambo Koga

Min 1. The meeting started with a word of prayer led by Lawrence Arimi

Introduction

Min 2. The chairman introduced new members

Min 3 . Matters Arising

All members to collect their letters of allotment for individual plots.

Min 4. Members agreed with the terms of the letters of allotment and have resolved to accept the conditions that that each member to contribute 69,500 kshs for each plot, being payment for stand premium 40,000kshs, ground rent 4,500 kshs and survey fees of 25,000kshs.

Min 5. Members resolved to make acceptance and payments of individual plots through the society office
Members agreed that each member pay up the amount required to the society office for transfers to forward the same for payment to the county government. That the amounts payments be effected by the society but each member be issued with individual receipts.

Min 6. Members resolved that society officials follow up the issuance of title after payment of allotment.

Min 7. Members agree to make committee for the education facilities, Technical teachers college, and secondary school. That the committee works with elected leaders to start the facilities with National Government Constituency development Fund (NGCDF) and the Nairobi County government.

Signed and confirmed by Peter M Kihuyu (Trustee)

For and on behalf of Roysa Community development society

ROYSA COMMUNITY DEVELOPMENT SOCIETY
P.O. BOX 285- 00623, TELEPHONE 0723 363770, NAIROBI

Our Ref: RCH

12th July 2017

The County Secretary & Head of County Public Service
Office of the Governor
City Hall
P.O. Box 30075-00100
NAIROBI

CRO
Accept payments
in the sealed
list
AAh
12/7/17
C.O. Lands

Dear Sir,

RE: PAYMENT FOR COUNTY FEES - THE ALLOTMENT AND REGULARIZATION OF
LR 5875/2 AND 23393 SUB PLOTS

We thank your office for the regularization process of the settlement of our members in 5875/2.

As our society membership had undertaken most of the members have already raised the amounts for payment of stand premium, ground rent and survey fees.

We request your authority to facilitate the process of payment for the above so that members immediately remit fees to the County.

Attached please, find list of beneficiaries who have raised requisite fee and respective plot numbers.

We pray for time for those still struggling to raise the amounts required.

Yours faithfully,

Trustee - Peter Muthee Kihunyu 



NAIROBI CITY COUNTY

Telephone: 020 344194
web: www.nairobi.go.ke



City Hall,
P. O. Box 30075-00
Nairobi,
KENYA.

DEPARTMENT OF LAND SURVEY & GEO-INFORMATICS

Our Ref: DLSG/02/303/2017/CWK/lnk

2nd November, 2017

Director of Surveys
P.O Box 30046 -00100
NAIROBI

RE: REGISTRY INDEX MAP AMENDMENT NAIROBI BLOCK 184 FR 437/24-25 CR 197/Vol. 78/7 COMPS. 70928

The above matter refers.

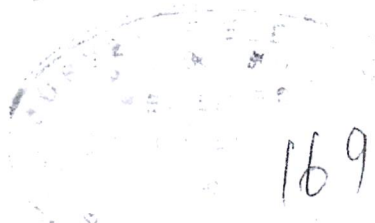
Kindly amend the Registry Index Map (R.I.M) with respect to parcel numbers *Nairobi/Block 184 FR 437/24-25 Parcels No. 1-147* and provide the sealed R.I.M together with the respective area list.

This will enable the Nairobi City County to issue sublease to the tenant.

Your checking fees will be paid on demand.

The amended R.I.M. should be released to Shadrack Okach ID No. 9342771 Tel No. - 0722-484-292.

CECILIA W. KOIGU - LS (K)
COUNTY LAND SURVEYOR
NAIROBI CITY COUNTY
Encl.



REPUBLIC OF KENYA

3306166

OFFICIAL RECEIPT IS

DATE: NB/ 7/11/17
TO: A. ROYSA COMMUNITY DEV. SEC

AMOUNT: One hundred ninety
one thousand seven hundred
City of NRB 184/1-147

Value: Dep 36
Type: Rev
Account: Checking fee
Cash: 021435

SSS 191,700/-
AC
NO 036-1420212

Signature of Officer in Charge for the Survey
For DIRECTOR OF SURVEY

3306166

NB/ 7/11/17

~~7.~~ ROYSA COMMUNITY DE SOLIC
One hundred ninety
one thousand seven hundred
City of HRS 134/1-147

Dep 36 191,700/2

Rev
Checking fee 030-1420212

021435

For DIRECTOR OF SUPERVISOR



REPUBLIC OF KENYA
MINISTRY OF LANDS AND PHYSICAL PLANNING
SURVEY OF KENYA

All correspondence
Should be addressed to:-
Director of Surveys

Telegrams: "Surveys"
Head Office: Ardhi House
Telephone: 2718050
Fax: 2717553
E-mail sok@gt.co.ke

Field Headquarters, Ruaraka
Telephone: 8562902/8562968

Survey of Kenya,
P.O. Box 30046,
00100 - NAIROBI.

Date: 19th December, 2017

Our Ref: **CR197/Vol.78/26**

The Chief Land Registrar
P.O. Box 30089 - 00100
NAIROBI

RE: SUBDIVISION OF L.R. No.5875/2(ROYSA COMMUNITY DEVELOPMENT) NAIROBI

Enclosed herewith, please find sealed copies of a new Registry Index Map (R.I.M.) as a result of the above subdivision.

Area List is hereby attached.

Relevant details are as below:-

<u>New Registration Block</u>	<u>Old No.</u>	<u>New Nos.</u>	<u>No. of sheets</u>	<u>Type of boundary</u>
Nairobi Block 184 (Roya Community Development)	L.R.No 5875/2	1-147	1(2 Copies)	FIXED F/R 437/24-25

R.I.M amendment fee has been paid vide receipt No. B3806166 of 07/11/2017.


W. O. Oganga

FOR: DIRECTOR OF SURVEYS

C.C. C.W.Koigu
Licensed Land Surveyor
P.O. Box 30075-00100
NAIROBI

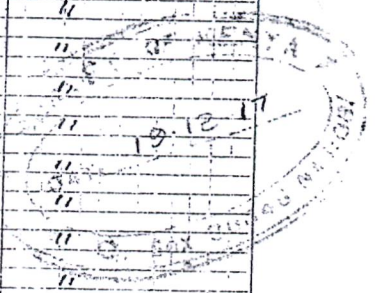
Registration Block NAIROBI BLOCK 184

Registration District ROYSA

R.I.M. Sheet Nos.

Survey Plan F/R

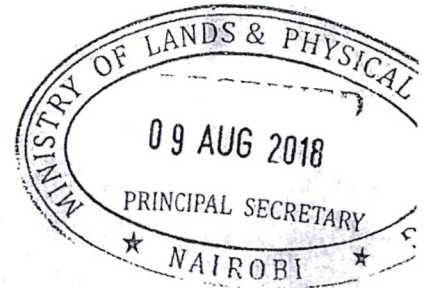
Parcel No.	Area (Hectares)	Comments	Parcel No.	Area (Hectares)	Comments
01	0.0339	ER 437/24	51	0.0287	ER 437/24
02	0.0288	"	52	0.0291	"
03	0.0288	"	53	0.0296	"
04	0.0288	"	54	0.0298	"
05	0.0288	"	55	0.0302	"
06	0.0288	"	56	0.0306	"
07	0.0288	"	57	0.0287	"
08	0.0288	"	58	0.0286	"
09	0.0288	"	59	0.0325	"
10	0.0288	"	60	0.0280	"
11	0.0288	"	61	0.0342	"
12	0.0288	"	62	0.0288	"
13	0.0350	"	63	0.0288	"
14	0.0290	"	64	0.0335	"
15	0.0328	"	65	0.0318	"
16	0.0288	"	66	0.0288	"
17	0.0288	"	67	0.0294	"
18	0.0288	"	68	0.0309	"
19	0.0288	"	69	0.0288	"
20	0.0288	"	70	0.0288	"
21	0.0288	"	71	0.0288	"
22	0.0288	"	72	0.0288	"
23	0.0288	"	73	0.0288	"
24	0.0288	"	74	0.0288	"
25	0.0288	"	75	0.0288	"
26	0.0288	"	76	0.0288	"
27	0.0288	"	77	0.0288	"
28	0.0288	"	78	0.0288	"
29	0.0288	"	79	0.0288	"
30	0.0288	"	80	0.0288	"
31	0.0288	"	81	0.0347	"
32	0.0288	"	82	0.0363	"
33	0.0288	"	83	0.0434	"
34	0.0312	"	84	0.0362	"
35	0.0312	"	85	0.0302	"
36	0.0291	"	86	0.0300	"
37	0.0336	"	87	0.0279	"
38	0.0370	"	88	0.0279	"
39	0.0384	"	89	0.0279	"
40	0.0301	"	90	0.0302	"
41	0.0297	"	91	0.0302	"
42	0.0329	"	92	0.0279	"
43	0.0317	"	93	0.0279	"
44	0.0311	"	94	0.0279	"
45	0.0306	"	95	0.0300	"
46	0.0301	"	96	0.0302	"
47	0.0295	"	97	0.3435	"
48	0.0290	"	98	0.0282	ER No 437/25
49	0.0298	"	99	0.0290	"



Parcel No	Area (Hectares)	Comments	Parcel No	Area (Hectares)	Comments
01	0.0288	FRH0437/25	51		
02	0.0288	"	52		
03	0.0288	"	53		
04	0.0288	"	54		
05	0.0396	"	55		
06	0.0016	"	56		
07	0.0267	"	57		
08	0.0271	"	58		
09	0.0272	"	59		
10	0.0278	"	60		
11	0.0278	"	61		
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13	0.0302	"	63		
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29	0.0269	"	79		
30	0.0380	"	80		
31	0.0314	"	81		
32	0.0312	"	82		
33	0.0300	"	83		
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38	0.0333	"	88		
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40	0.0325	"	90		
41	0.0311	"	91		
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NAIROBI CITY COUNTY

Telephone: 020 344194
Web: www.nairobi.go.ke



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

OFFICE OF THE GOVERNOR COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE

Our Ref: LS/007/001754/SGM/mk

9TH AUGUST, 2018

The Permanent Secretary
Ministry of Lands & Physical Planning
P.O. Box 30540-00100
NAIROBI

RE: ALLOCATION OF LR.5875/2

Reference is made to a letter from The National Land Commission on the above plot, Reference NLC/CHAIRMAN/VOL.XIX/143 dated 10th March, 2016.

The new lease should be made in the name of Nairobi City County Government.

Since the land was occupied by Roysa Community Development Society and the County Government had already regularized the settlement, it's requested that the Roysa members be included in the titling program and be issued with personal titles.

The letter is attached for ease of reference.

A handwritten signature in black ink, appearing to read "S. G. Mwangi".

S. G. MWANGI LS (K)
FOR: COUNTY SECRETARY

Sale No. 21946/11 Dec 12 ORIGINAL 4

DEPARTMENT OF LANDS

FEE RECEIPT

Station. NB 530070 20/12/18

		NATURE OF FEE	Sh.	cts.
Received from	<i>Royal Community</i>	Certificate of Title ..		
		Registration ..		
		Search Certificate ..		
Of	<i>Dev. Society</i>	Opening New Register ..	73500-	
		Attestation ..		
		Inspection ..		
		Copying ..		
		Conveying/Preparation ..		
Cash	By... the sum of	<i>(1250 x 147)</i>	183750-	
	Cheque			
Shillings	<i>Two hundred</i>	Survey Fees ..		
		Rent ..		
	<i>And seven by one</i>	Stand Premium ..		
	<i>thousand nine</i>			
		Stamp Duty ..	14700-	
cents	<i>hundred and nine</i>	Land Adjudication Fees		
As per marginal statement of nature of transaction	<i>Subdivision</i>	Deposits		
Title Number	<i>NBI/BL 184/1-147</i>			
for: COMMISSIONER OF LANDS	<i>[Signature]</i>	TOTAL KSh.	271950-	

Serial No.

DEPARTMENT OF LANDS
LAND TITLES REGISTRY
NAIROBI/~~MOMBASA~~

To:—

- THE COMMISSIONER OF LANDS (RECORDS BRANCH)
- THE COMMISSIONER OF LANDS (VALUATION OFFICE).
- THE COMMISSIONER OF LANDS (LAND RENTS).
- THE COMMISSIONER OF INCOME TAX.
- THE CITY VALUER, NAIROBI.
- THE TOWN CLERK,

- THE CLERK, COUNTY COUNCIL OF
- THE SENIOR ECONOMIST/STATISTICIAN, P.O. BOX 30289, NAIROBI.

MEMORANDUM OF REGISTRATION OF TRANSFER OF LANDS

Assignment, } the details whereof appear below, has this day been registered as
 N.10 folio 292/23.

Date of Document 15th August, 1964.

Transferor Bau Salau Dean

Transferee Mayer Jacob Samels.

Address of Transferee, P.O. Box 4578, Nairobi.

L.R. No. 5875/2 (Orig. No. 1012/1/1/1.)

Area 17.16 acres.

Locality City of Nairobi.

Consideration Sh. 300,000/=

Term

Annual Rent Sh. 600/=

Due From

Presented by M/S. Akram and Esmail, Advocates, Nairobi.

Date of Presentation 15th August, 1964.

9

AKRAME
for Registrar of Titles

	Noted by	Checked by	Remarks
OFFICER I/C RECORDS:	<i>[Signature]</i>		
Land Register			
Return of Grants			
Files			
Cards			
RECORD DRAUGHTSMAN	<i>Abumbala</i> 9/10/64		<i>noted</i> 11/10/64



7

PROPERTY RATES PAYMENT REQUEST	Number	LR1502-14908
	Date	17-Feb-2015

LA Name: - 001 - NAIROBI CITY COUNTY

CUSTOMER SERVICES OFFICE

The Customer Services Office Notifies

MR. M. J. SAMUELS (U0072060-U)

that the PROPERTY RATES payment for 5875/2 /5875/2 is due at the CASH OFFICE of the council

DETAIL OF CHARGES

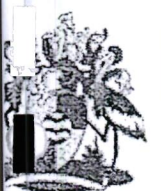
Account	CostCentreID	Description	Amount (KSh)
			Bill Total Amount
<i>Rates : 204,000 Ground Rent : 0 Other Charges : 0 Total : 204,000</i>			

The total outstanding amount before payment is KShs. 0

NOTE : LATE PAYMENTS ATTRACT A PENALTY OF 3.00% PER MONTH FROM DUE DATE

Payment Information

(Customer Copy)



PROPERTY RATES PAYMENT REQUEST	Number	LR1502-14908
	Date	17-Feb-2015

LA Name: - 001 - NAIROBI CITY COUNTY

CUSTOMER SERVICES OFFICE

The Customer Services Office Notifies

MR. M. J. SAMUELS (U0072060-U)

that the PROPERTY RATES payment for 5875/2 /5875/2 is due at the CASH OFFICE of the council

DETAIL OF CHARGES

Account	CostCentreID	Description	Amount (KSh)
			Bill Total Amount
<i>Rates : 204,000 Ground Rent : 0 Other Charges : 0 Total : 204,000</i>			

The total outstanding amount before payment is KShs. 0

NOTE : LATE PAYMENTS ATTRACT A PENALTY OF 3.00% PER MONTH FROM DUE DATE

Payment Information

(Cash Office Copy)



PROPERTY RATES PAYMENT REQUEST	Number: LR/17/06-03820
	Date: 08-Jun-2017

LA Name: - 001 - NAIROBI CITY COUNTY

CUSTOMER SERVICES OFFICE
The Customer Services Office Notifies

MR. M. J. SAMUELS (U0072060-U)

that the PROPERTY RATES payment for 5875/2 /5875/2 is due at the CASH OFFICE of the council

DETAIL OF CHARGES			
Account	CostCentreID	Description	Amount (KSh)
			Bill Total Amount
<i>Rates : 150,000 Ground Rent : 0 Other Charges : 0 Total : 150,000</i>			

The total outstanding amount before payment is KShs. 0
NOTE : LATE PAYMENTS ATTRACT A PENALTY OF 3.00% PER MONTH FROM DUE DATE

Payment Information

(Customer Copy)



PROPERTY RATES PAYMENT REQUEST	Number: LR/17/06-03820
	Date: 08-Jun-2017

LA Name: - 001 - NAIROBI CITY COUNTY

CUSTOMER SERVICES OFFICE
The Customer Services Office Notifies

MR. M. J. SAMUELS (U0072060-U)

that the PROPERTY RATES payment for 5875/2 /5875/2 is due at the CASH OFFICE of the council

DETAIL OF CHARGES			
Account	CostCentreID	Description	Amount (KSh)
			Bill Total Amount
<i>Rates : 150,000 Ground Rent : 0 Other Charges : 0 Total : 150,000</i>			

The total outstanding amount before payment is KShs. 0
NOTE : LATE PAYMENTS ATTRACT A PENALTY OF 3.00% PER MONTH FROM DUE DATE

Payment Information

(Cash Office Copy)



PROPERTY RATES PAYMENT REQUEST	Number	LR1902-22641
	Date	25-Feb-2019

LA Name: - 001 - NAIROBI CITY COUNTY

CUSTOMER SERVICES OFFICE

The Customer Services Office Notifies

MR. M. J. SAMUELS (U0072060-U)

that the PROPERTY RATES payment for **5875/2 /5875/2** is due at the CASH OFFICE of the council

DETAIL OF CHARGES

NO.	Account Code	CostCentreID	Description	Amount (KSh)
1	1-2102	0304-02-00	Land Rates Penalties	57,634
2	1-2103	0304-02-00	Land Rates Arrears (Principal)	150,000
3	1-2101	0304-02-00	Land Rates Current Year	150,000
Bill Total Amount				357,634

Annual Rates : 150,000 Ground Rent : 0 Other Charges : 0 Total : 150,000

The total outstanding amount before payment is KShs. 357,634

NOTE : LATE PAYMENTS ATTRACT A PENALTY OF 3.00% PER MONTH FROM DUE DATE

Payment Information

(Customer Copy)



PROPERTY RATES PAYMENT REQUEST	Number	LR1902-22641
	Date	25-Feb-2019

LA Name: - 001 - NAIROBI CITY COUNTY

CUSTOMER SERVICES OFFICE

The Customer Services Office Notifies

MR. M. J. SAMUELS (U0072060-U)

that the PROPERTY RATES payment for **5875/2 /5875/2** is due at the CASH OFFICE of the council

DETAIL OF CHARGES

NO.	Account Code	CostCentreID	Description	Amount (KSh)
1	1-2102	0304-02-00	Land Rates Penalties	57,634
2	1-2103	0304-02-00	Land Rates Arrears (Principal)	150,000
3	1-2101	0304-02-00	Land Rates Current Year	150,000
Bill Total Amount				357,634

Annual Rates : 150,000 Ground Rent : 0 Other Charges : 0 Total : 150,000

The total outstanding amount before payment is KShs. 357,634

NOTE : LATE PAYMENTS ATTRACT A PENALTY OF 3.00% PER MONTH FROM DUE DATE

Payment Information

(Cash Office Copy)



NATIONAL LAND COMMISSION

**RESPONSE TO PETITIONS REFERRED TO THE
DEPARTMENTAL COMMITTEE ON LANDS**

**REPORT SUBMITTED BY
KABALE TACHE ARERO
AG. SECRETARY/CHIEF EXECUTIVE OFFICER**

10TH SEPTEMBER, 2019

Hon. Chair

We received an invitation dated 14th August 2019, from the Clerk of the National Assembly requiring us to appear to this Committee to respond to four petitions referred to your esteemed Committee. We wish to respond to the petitions as follows:-

PETITION NO.1

PETITION BY HON. ANDREW MWADIME MP ON BEHALF OF TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED ON ILLEGAL OCCUPANCY OF LAND OWNED BY TAITA TAVETA TEACHERS INVESTMENT COMPANY LIMITED.

THE PETITION:

1. **THAT**, Taita Taveta Teachers Investment Company Limited is a registered Company having been incorporated in March 1980 and operating under Kenya Revenue Authority PIN number **P051411254Q**.
2. **THAT**, the Company's include over 1,200 shareholders composed of both teachers and non-teachers, and its core business is to acquire land subdivide into plots for its members, as well as investing in real estate.
3. **THAT**, through concerted efforts of Taita Taveta KNUT Branch officials, the Company bought 122.7 acres of land at Mshomoroni Area (Junda Creek) in Kisauni Constituency of Mombasa, namely **MN/II/56, 57, 293, 1165, 766, 767, 771 and 222**
4. **THAT**, the Capital to purchase the said chunks of Land was realized through a check-off system from the teachers' salaries and cash payments through loans and cash subscriptions from non-teaching shareholders.
5. **THAT**, at a time when the Company was experiencing financial hardships, aggressive individuals invaded the said lands and began to irregularly sell parts of the land to buyers who later masqueraded as squatters.

6. **THAT**, to date over one thousand irregular occupants on the lands owned by the Company, and who on occasions have harassed and threatened to lynch Company directors who make visits to the land.
7. **THAT**, several shareholders have already died on account of shock of not realizing any gains from the hard work of the Investment and being forcefully driven out of their land.
8. **THAT**, efforts to resolve the matter with relevant authorities including the Mombasa City Clerk(Mayor), City Planner and Surveyor, County Executive for Lands, various leaders and even reaching out to the illegal occupants in an attempt to solve the matter amicably have been completely futile.
9. **THAT**, the issue in respect of which this petition is made are not pending before any court of law, or any constitutional or statutory body.

Therefore, your humble petitioners pray that the National Assembly through the departmental Committee of Lands;

- i. Intervenes through the ministry of Lands to halt any further developments on the plots of lands in question pending investigations.
- ii. Investigate the illegal occupation of the land owned by the Taita Taveta Teachers Investment Company Ltd with the objective of overseeing the reverting of the occupied lands back to the Company and its shareholders.
- iii. Recommends to the ministry of Lands to settle bonafide squatters and
- iv. Makes any other order or direction that it deems fit in the circumstances of the petition.

RESPONSE TO THE PETITION

Hon chair,

Taita Taveta Teachers' Investment Company Limited is the registered owner of the following properties having bought the properties in the 1980s:

S/NO	L.R NO.	ACRES
1	MN/II/56	4.93
2	MN/II/57	12.02
3	MN/II/293	10.00
4	MN/II/765	10.00
5	MN/II/766	3.10
6	MN/II/771	47.62
7	MN/II/767	3.10
TOTAL ACREAGE		90.77

However, Taita Teachers Investment Company Limited claim that they had entered into a sale agreement with the registered owner of **LR. MN/II/222** and that they had paid half of the purchase price of the property in the 1990s and that they have a legitimate claim in the parcel of land known as **MN/II/222**. This property has been included in the petition to parliament hence bringing the acreage of the parcels claimed by Taita Taveta Teachers Investment Co. Ltd to a total of **122.77** Acres.

Taita Taveta Teachers Investment Company Ltd claim that the intention of purchase of these parcels of land was to subdivide the land among the members and put up rental houses for income generation. They allege that their intended project stalled in 1988 when the Taita/Taveta KNUT branch Executive Secretary, the late Adiel M. Kachili, who was the pioneer of the project, was elected to parliament and handed over to a new Executive secretary. They allege that the new executive secretary never called a single meeting and that the project stalled to date.

That Taita Taveta Teachers Investment Company Limited was revived in the year 2008, and immediately did a follow up of their lands. That is when they realized that their land was fully occupied by squatters. The board of directors therefore resolved to sell these parcels of land to recover member's contributions

LITIGATION AND ADR IN RESPECT OF MN/II/222

- The property was a subject of a suit in court for 11 years (2003 - 2014)
- The court ruled in favor of the (defendant) landowner and the plaintiffs (Squatters) were ordered to vacate the land.
- To avoid eviction the squatters sought for the intervention of the Commission. The Chairman reached out to both parties and advised them to embrace Alternative Dispute Resolution (ADR) for an amicable solution.
- Several sessions were held between the squatters and the administrators of the estate **MN/II/222**
- The commission advised the parties to do their private valuations and table offers for purchase and sale.
- Squatters tabled a valuation of 2.5 Million per acre and the land owner presented a valuation of 10 Million per acre.

- An agreement was reached that the Government should do valuation to give a compromise value to pave way for further negotiation.

GOVERNMENT VALUATION FOR MN/II/56, 57, 293, 1165, 766, 767, 771

The Chairman of the Commission vide his letter **Ref: NLC/CHAIRMAN/VOL. VIX/28** of 13th January, 2016 informed the Governor of Mombasa County that he had received a request from lawyers representing two clients (Taita Taveta teachers Investment Co. Ltd and Noorunisa Essaji), that their clients were willing to sell their properties which were occupied by squatters at 10 Million per acre.

The Chairman suggested that the County Government should purchase the pieces of land to settle the squatters at a fee the - Waitiki model.

The Chief Officer - Lands, Planning and Housing, County Government of Mombasa vide his letter **Ref: LPH/LND/1-1** of 22nd March, 2016 and addressed to the County Secretary confirmed that the department held a meeting with the squatters and that the squatters expressed willingness to be settled/documentated and to be allowed to pay for the land in small installments.

Evidence that indeed the National Government Valuer did valuation of the above properties is contained in a letter **Ref: LPH/LND/4-1/(19)** of 22nd February, 2017 by the Chief Officer-Land, Planning and Housing addressed to the Chief Officer-Finance and Economic Planning. National Government Valuers completed valuation, and issued a fee note of Kshs 875,000. The amount was required to facilitate release of the valuation report.

The County Government of Mombasa requested for waiver of the valuation fee but the ministry of Lands and Physical Planning vide letter **Ref: MOLPP/ADM/LND.7/13** of 13th December, 2017 declined the request and advised that the fee has to be paid before the report is released.

Succession Issues In respect of MN/II/222

There is a family dispute between the possible heirs of the estate of the deceased Mohamedali Sulemanji Essaji. Taita Teachers Investment Co. Ltd will need to have further negotiation with the heirs to the property **MN/II/22** in respect of their interest emanating from the partial purchase.

OBSERVATIONS:

From the forgoing the following observations can be deduced.

1. The parcels of land listed in this petition are heavily squatted.
2. The County Government of Mombasa has previously attempted to address the dispute.
3. The County Government of Mombasa recommended that Government valuation be done in order to assist in further negotiation.
4. The Chairman of the Commission also proposed for Government Valuation followed by purchase of the parcels of land by the County Government for squatter settlement at a fee.
5. The Land owners have also proposed that they should be compensated for their lands and that squatters should not be evicted.

RECOMMENDATIONS:

Owing to the forgoing the Commission recommends as follows:

1. The County Government of Mombasa should hasten the valuation fee payment to the Ministry of lands in order for the report to be issued.
2. Mediation to be done between the squatters and the Taita Taveta Investment Co. Ltd

3. Agreement to be reached on in respect of purchase price by the squatters.
4. Taita Taveta Teachers Investment Co. Ltd should be adequately compensated for their parcels of land.
5. After agreement in respect of compensation Taita Taveta Teachers Co. Ltd to surrender their titles to Government to pave way for squatter regularization.

PETITION NO 2.

PETITION BY HON. DAVID GIKARIA MP ON BEHALF OF MRS. JULIET NYAGUTHI, A RESIDENT OF NAKURU COUNTY ON PUBLIC ACCESS AND USE OF PUBLIC UTILITY PLOTS IN NAKURU WEST WARD.

Hon. Chair,

This petition was lodged by Hon. David Gikaria, Member of Parliament, Nakuru Town East Constituency on behalf of Juliet Nyaguthi, a resident of Nakuru County.

The petition relates to seven (7) parcels which the public claim are public utility plots and would therefore want to have access and utilize the plots for public good.

The parcels are as follows

1. LR. 12570/183----- Market
2. LR. 12570/184----- Water Reservoir
3. LR. 12570/185----- Market
4. LR. 12570/186----- Religious
5. LR. 12570/187-----Primary School
6. LR. 12570/188-----Service Station

7. LR. 12570/189----- Nursery School

Methodology used in gathering information on the said petition.

- a. Scrutiny of available records held by the ministry of Lands and physical planning
- b. Site visit to determine ground status including gathering information from institutions and key persons who would have a stake in the petition.
- c. Survey records scrutiny

In answering the above petition the Commissions objective is to determine the legitimacy of claims made by the residents, investigate what rights prevail in the circumstances while recognizing the supremacy of public interest since public right overrides any other individual rights.

BACKGROUND

The above parcels originated from a subdivision and change of user of LR. 11264 measuring 219 Acres owned by Nagara Estates Limited a subsidiary of Nakuru Industries Limited. The subdivision scheme plan was approved by the then commissioner of lands vide approval granted as 19068/111/33 dated 1.2.1983. However, file 19068/111 cannot be traced.

CURRENT RECORD AND GROUND STATUS

LR 12570/183 (1.466 HAC) NURSERY SCHOOL/MARKET

According to residents in the neighborhood the plot is reserved for a market and should be surrendered to the public. However the subdivision scheme plan indicates that the plot was proposed for a nursery school.

A site inspection indicates that the plot is not developed but under subsistence cultivation.

According to records held by the Ministry of Lands and Physical Planning the plot was re-granted to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/27 dated 19th March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 6,500 for residential purpose.

No stand premium was demanded. The offer was paid for vide receipt D 715126 dated 23RD April 1997 and E 026549 dated 10/12/1997 and a title prepared and issued as IR 75295.

A proposal was then received for subdivision of the said plot into 21 portions measuring approx. 0.046 Hac each. A letter of consent dated 29th Nov 2016 L.C.R No. NELCB/10/11/16 from the Land Control Board for the subdivision was received in the commissioner of lands office. This was however, not permissible because the said land was not freehold nor was it for agricultural purposes.

A letter ref 190772/21 dated 1st Feb 2018 purporting to have granted provisional approval for the subdivision did not originate from the National Land Commission office nor the alleged author of the letter. Thus the status remains the same.

LR 12570/184 (3.906 HAC) - OPEN SPACE AND WATER RESERVOIR

According to the residents the plot is a water reservoir that should be surrendered to the public. According the proposed subdivision the plot was proposed for an open space with existing water tanks.

A site visit shows that there is a dilapidated water tank that has not been in use for a long time. No other development is on site.

According to one of the directors of Nakuru industries limited the tanks were constructed by the company for their own water needs.

Records indicate that the said plot was re-granted by the government for residential purpose to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/26 dated 19th March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 15,500.

No stand premium was demanded. The offer was paid for vide receipt D 715129 dated 23RD April 1997 and E 026548 dated 10/12/1997 and title prepared and issued as IR 75293.

LR 12570/185 (1.073 HAC) OPEN SPACE /MARKET

According to the residents the plot is reserved for a market and should be surrendered to the public for the same purpose. According the subdivision scheme plan the plot was earmarked for an open space.

A site visit shows that it is not developed and is being used as volley ball playing ground.

The office records were not available for scrutiny.

LR 12570/186 (1.073HAC) RELIGIOUS PURPOSES

The residents want the plot availed to them for religious purposes.

The ground is not developed and is under grass cover

The said plot was re-granted for residential purposes to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/24 dated 19th March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 5,000.

No stand premium was demanded. The offer was paid for vide receipt D 715128 dated 23RD April 1997 and a title prepared and issued as IR 75292.

File 19068/VI could not be traced for more clarification. The MRT is dated 17/12/1997

LR 12570/187 (4.903 HAC) PRIMARY SCHOOL

There is an existing primary school (Hyrax Hill Primary School) run by the Ministry of Education.

According to one of the Directors of Nakuru Industries they developed the school infrastructure and handed over to the government (Municipal Council of Nakuru) for day to day management as a public school.

However, according to records there is a re-grant for residential purposes to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/28 dated 19th March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 20,000.

No stand premium was demanded. The offer was paid for vide receipt D 715127 dated 23RD April 1997 and D838253 dated 12/11/1997 and title prepared and issued as IR 75293.

File number 19068/VI could not be traced for more clarification.

LR 12570/188 (1.498 HAC) SERVICE STATION

The plot is owned by a cousin to one of the directors of Nakuru Industries Ltd. This information was given by Mr. Raju Shah

The plot abuts the Nakuru Gilgil Highway and is not developed. Remnants of the stone fence that was demolished by residents can be seen.

There is an ongoing court case.

LR 12570/189 (1.637HAC) NURSERY SCHOOL

The plot is not developed but is under subsistence cultivation.

Records indicate that there was re-grant for residential purposes to M/S Nakuru Industries Ltd. Of Box 22, Nakuru vide letter of allotment ref 19068/VI/29 dated 19th March 1997 for 99 years w.e.f. 1.4.1997 at an annual rent of Kshs. 7,300. No stand premium was demanded.

The offer was paid for vide receipt D 715130 23RD April 1997 and title prepared and issued as IR 75294. Files 19068/VI could not be traced for more clarification.

EFFORTS MADE BY THE COMMISSION TO RESOLVE THE MATTER

The commissioners had looked at the issues raised by the Nakuru residents and concluded as follows

- That LR.Nos 12570/183, 184, 185, and 189 were all converted from public to residential user. The total acreage of the loss being 8.082Hac
- LR. 12570/188 is not a public purpose because the operation of a service station does not constitute a public purpose.
- L. R. No. 12570/194 (amalgamation of LRs. 12570/131 – 142 on F/R 241/11) – 3.788 Ha and L.R. 12570/155 – 1.1317 Ha adding to a total of 4.920Hac surrendered for public purpose.
- There is therefore a net loss of 3.162 Ha of public purpose land to the developer.
- According to the commissioners there was a negotiation between the developer, the Government through the Commissioner of Lands and Nakuru Municipal Council and the following consensus arrived at :-

1. Nakuru Industries Limited donated L.R 21975 (adjacent to Nagaria Estate) to the National Museum of Kenya for Museum purpose free of cost. This is a 13.77 Ha parcel of land
2. Nakuru industries Limited to build and equip hyrax Hill Primary School on LR 12570/187 and hand over the management of the school to the Municipal Council of Nakuru.
3. Nakuru industries Limited to develop the Religious Site and Feeding Centres on LR Nos 12570/155 and L.R. 12570/156 respectively, adding upto 0.7545 Ha.
4. Nakuru Industries Limited to build a Diagnostics Centre for the poor and less fortunate members of the community on parcel LR No. 12570/157 and provide treatment at no cost to the patients. The area of this parcel 0.3773 Ha.
5. Nakuru Industries Limited to vacate the residential status of L.R. Nos 12570/131 – 142 adding up to **3.788** Ha and convert them into a Nursery and Primary school with ancillary facilities including a sports ground, auditorium and swimming pool. The amalgamated parcel is L.R 12570/194 on F/R 241/11. This is where Shah Lalji Nagpar Academy now stands.
6. L.R. No. 12570/185, which was proposed as a market was vacated because there are adequate markets in the neighborhood.

The net gain by the public after the above donations and conversions is 10.608 Ha.

According to the commissioners the public gained in the exchange of land and at the same time got further concessions from the developer to build schools, a Diagnostic Centre, religious and social facilities and feeding centres on land they

donated, built and equipped for the benefit of the community. In exchange the Government transferred and changed the use of the subject parcels to residential.

However, there is a general feeling by the public that the facilities are not benefitting them as residents of Nakuru hence, the reason for the petition.

WAY FORWARD/OPTIONS FOR REVERTING THE PARCELS TO PUBLIC

For the parcels to revert back to public there are two options;

- Through the court process
- Through review of grants and dispositions on public land by the National Land Commission. However, the period for the same lapsed and has not been renewed by the National Assembly.

PETITION NO 3

PETITION BY FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS REGARDING INVASION AND EVICTION OF FORMER WORKERS OF THE LATE MAYOR JACOB SAMUELS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES.

Hon chair,

We request for more time to respond to this matter. We however note that apart from the Department of Defense, and the petitioners, Uchumi Supermarket also lay claim to the land that is the subject of the petition.

We have also noted from the documents supporting the petition that letters of offer were issued both by the Ministry of Lands and the County Government of Nairobi.

Considering the complexity of the matter, and considering that the former Commission chair had taken a position on the claim, we do request that the petition be addressed by the incoming Commission. We hope the ministry will avail the correspondence file for our perusal and to inform decision making on the petition.

PETITION NO 4

PETITION BY MACKINNON ROAD LAND OWNERS ASSOCIATION REGARDING ALLEGED IRREGULARITIES IN THE ALLOCATION OF LAND IN MACKINNON ROAD SETTLEMENT SCHEME.

Hon chair, the settlement function was moved from the Commission to the Ministry of Lands and Physical Planning by the Land Laws Amendment Act of 2016.

The Cabinet Secretary in charge of land would be in a better position to respond to the petition since this matter is squarely within the mandate of the ministry.

Thank you.



KABALE TACHE ARERO
Ag. SECRETARY/CEO



**NATIONAL LAND COMMISSION
DIRECTORATE OF LEGAL AFFAIRS AND ENFORCEMENT**

REPORT ON THE OWNERSHIP STATUS OF LR. No. 5875/2 DATED 3RD JUNE 2016

CHRONOLOGY OF PARCEL KNOWN AS LR No. 5875/2 NAIROBI

LT. Col. James Hays Sadler who was his Majesty's Commissioner for East Africa Protectorate leased LR No. 1012 comprising of 4,443 acres in 1904 to a Mr. Henry Herbert Tarlton for a period of 99 years with effect from 1st November 1904 on annual rent of 138/-.

According to the records, the leasee i.e. Mr. H. H. Tarlton subdivided the said land in 1920 into the five sub plots each comprising of 200 acres. In 1927 the sub-plots were further subdivided into 20 acres, the subdivision which created L.R. 5875/2 comprising 17.16 acres.

This plot was transferred to Mr H.V. Briscoe, On 19th February 1930, Mr Briscoe transferred the plot to Mrs K.M. Forbes who in turn, on the 1st of March 1940, transferred it to Mr F.K Kelly, who in turn transferred the plot to E.A. Residential Estate Limited who built residential houses on the plot without approved building plans and without an approved change of user. However, on application the situation was regularised in 1963.

In 1964, a Mr Smith was appointed a liquidator of the Company by the Kenya Government but it would appear the company, E.A. Residential Estate Ltd, with Mr Smith acting in his capacity as liquidator transferred the property to a Mr Bau Salou Dean. Mr B.S. Dean transferred the property during the same year to a Mr Mayer Jacob Samuels who died on the 12th December 1974 but remains the registered owner of the property to date on records

However in 1976, a Mr Raphael Jacob Samuel the deceased brother of the full blood brother and Meshumor Jacob Samuels the deceased's brother of the half-blood brother by the same father applied to the High Court in Nairobi for the grant of letters of administration under Probate and Administrative Cause No. 103 of 1976. ***(See Kenya Gazette Notice No.1247 dated 23rd April 1976 page 458)***

Since the deceased was Jewish, it is not known whether letters were granted because under the law of inheritance applicable to the Jewish Community of Aden, only the surviving brothers can inherit the deceased's. The deceased had a brother and therefore an heir who can inherit the property.

But in a letter from Robson, Harris & Company Advocates dated 31st January 1986 to the Commissioner of Lands, it is claimed that Meshumor Jacob Samuel obtained an order vesting in him sole beneficial and became the registered owner.

PURPORTED ACQUISITION BY THE KENYAN MILITARY IN 1985

The government through a Kenya Gazette notice No. 5151 dated 22nd November 1985 published an intention to compulsorily acquire the same parcel to set up a Kenya Army School. The land was registered in the name of Mayer Jacob Samuel who died in 1974.

On 31st January, 1986 Robson, Harris & Company Advocates wrote to the then Commissioner of Lands Mr J.R. Njenga on behalf of M.J. Samuel to protest that his client just stumbled on a gazette notice that the government intends to acquire his land without the courtesy of writing to the client, and that he did not believe and seriously doubted if the government intended to acquire the estate for a public purpose.

Albeit, the inquiry on acquisition was held on the 5th and 18th of February 1986, and Meshumor Jacob Samuel gave oral claim of 25,000,000/- Chief Government Valuer had valued the land at 3,535,000 which Mr. Meshumor Jacob Samuel rejected and went to court. The High Court enhanced the value to 23,000,000.

The government in Civil Appeal No. 109 of 1997, appealed against this award and the government appeal stayed in court for over ten years. On 27th February 1997, the Court of Appeal stood over the case generally to allow the parties reach out of court settlement to date nothing went on.

In the meantime in a letter dated 26th January 1987 referenced DOD/698/2/Wks the Permanent Secretary in the Department of Defence wrote to the Commissioner of Lands explaining that a team from DoD had carried a ground visit on the proposed site and they found it unsustainable for the intended purpose unless additional surrounding properties were also acquired due to security reasons, the major one being that it was located in a residential area.

They listed four additional properties in the neighbourhood and requested that they too be acquired and requested to know the value. The Commissioner of Lands, in a comment on the same letter indicated that he was not convinced that DoD required the land.

On 10th April 1987 Major General Munyao wrote to the Commissioner of Lands in a letter reference DOD/CGS/49/LND to disregard the content of the letter dated 26th January 1987 reference DOD/698/2/Wks which discussed intention to acquire land in Roysambu and wait until they make further contacts on the issue. No further contacts on the issue were made to date.

In a letter dated 12th March 1986, the Deputy Chief Valuer wrote to the accountant to prepare a cheque for 3,530,500 being the cost of the acquisition, but he commented that he had written to the Ministry of Defence to facilitate the cheque but they could not pay due to financial hardship hence the acquisition was not completed because no payment was done.

CURRENT STATUS OF LR No. 5875/2

Current search at the registry on LR No. 5875/2 shows that no records exist on it in the systems. I endeavoured from 22nd April 2015 to date, to get the correspondence file in the records office but they have failed to trace the file and our assumption is that it has been stolen, hidden or maliciously destroyed.

The only available record at the ministry of lands is the valuation file where I have been able to extract the available information contained in this report. Current search at the County government of Nairobi still shows that the property still belongs to Mr M. J Samuels who was the last registered owner. On 4th November 1985, Tysons Habenga Limited in a letter reference BOR/VAL/mm wrote to the Commissioner of Lands requesting an extension of lease for LR No. 5875/2 on behalf of Mr. M.J. Samuel for a further 99 years explaining that the land only had eighteen years left into the lease.

On 10th December 1985 Robson, Harris & Company Advocates wrote a further letter referenced CF/15/83 Vol. II, again to the Commissioner of Lands on behalf of Mr. M.J. Samuel requesting for the same extension of lease.

On 13th March 1986, in a letter referenced 21046/II/50 Miss Akinyi Valerie Onyango, responded to Robson, Harris & Company Advocates on behalf of the Commissioner of Lands in which the Commissioner of Lands declined the application for extension of lease.

Technically the land then reverted back to the government and by extension of the new constitution 2010 to the County Government of Nairobi.

OTHER CLAIMANTS

Other players have also made several attempts to take over the parcel of land fraudulently. Solio Constructions Limited claimed to have been allocated the land by the government of Kenya. But this grant is fraudulent because of the following anomalies in their title:-

- 1. Solio Constructions Company Limited has two sets of title for the same property. The first set was registered 18th May 1992 bearing two different IR numbers, and charged to Barclays Bank of Kenya on 26th October 1993. How could it have been charged to the Bank before the title was registered, stamp duty paid and signed?***
- 2. The second set of title to Solio Constructions Company Limited was registered on 24th January 2001, when the same according to the records the property had been charged to Barclays Bank on 26th October 1993.***
- 3. There was no surrender of the original certificate of lease.***

4. *They claim that this is a new grant whose leases is for 99 years effective from 1/7/1999, but this cannot be so because the old lease held by Mr Mayer Jacob Samuels was still valid and effective as it was to expire in 2003.*
5. *Solio Constructions Limited title was registered on 18th May 1992 before their Lease even commenced on 1/7/ 1999.*
6. *The Lease to Solio Constructions Limited became effective on 1/7/1999 according to their title.*
7. *This title has two IR Nos. 85371 and 55575/1 which is not possible and makes this title outright forgery.*

These are just but a few outright anomalies on this title.

Solio Constructions Limited then purport to have sold the same property to Kasarani Mall Limited who transferred it to Uchumi Supermarkets.

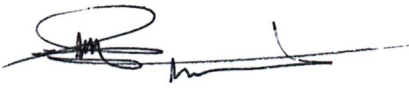
WHO ARE KASARANI MALL?

1. According to the Registrar of Companies; this is how shareholding is filed with the Registrar of Companies.
 2. Uchumi Supermarkets Limited Kenyan Shares9998
 3. Kwa Holdings (EA) Limited Kenyan Shares1
 4. (ICDC) Kenyan Share 1
- Total Shares10,000**

Uchumi Supermarkets became stakeholders through this fraudulent transfer. Kasarani Mall Limited and Uchumi Supermarkets which is the same thing went to Civil Court with their dubious title.

CONCLUSION

In a letter dated 13th March 1986, referenced 21046/II/50 by Miss Akinyi Valerie Onyango, to Robson, Harris & Company Advocates on behalf of the Commissioner of Lands in which the Commissioner of Lands declined the application for extension of lease to Mr Mayer Jacob Samuels reverted the land back to the government and by extension of the new constitution 2010, to the County Government of Nairobi.



ANTIPAS NYANJWA
DEPUTY DIRECTOR INVESTIGATIONS & FORENSIC SERVICES
NATIONAL LAND COMMISSION

