

REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES

ELEVENTH PARLIAMENT-THIRD SESSION

REPORT

ON SUPPLEMENTARY INFORMATION ON STATEMENT ON THE ONGOING
PROPERTY DEVELOPMENT ON LAND REF. NO. NRB/BLOCK 90/599 -AT
THE JUNCTION OF LORESHO ROAD AND KAPTAGAT ROAD

CLERK'S CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI



MARCH 2015

On Wednesday 11th March 2015, the Committee met with officers from the Ministry of Lands, Housing & Urban Development, National Land Commission (NLC) and the National Environment Management Authority (NEMA) to seek further information and clarification in regard to the Statement on ongoing property development on **Land Ref. NO. NRB/BLOCK 90/599-at the junction of Loresho road and Kaptagat road.**

The Committee sought to know what measures the Ministry of Lands, Housing and Urban Development; and the National Land Commission had done in:

- a) Revoking the title to the parcel of land L.R. No. NRB/Block 90/599 since there was agreement that the land is public land that had been acquired fraudulently by a private developer;
- b) Stopping construction and any other development on the parcel of land; and
- c) Whether the Ministry of Lands, Housing and Urban Development has formally written to the National Land Commission to request that the Commission determines the process of revocation of the title.

The Committee further sought to know if the National Environment Management Authority had approved the ongoing constructions on the parcel of land.

Response by the Ministry of Lands, Housing and Urban Development

Mr. Peter Kahuho explained to the Committee that;

- i. The Ministry of Lands, Housing and Urban Development had determined that the said parcel of land was a public utility land and had been transferred to private land erroneously;
- ii. In the event that land for public utility was no longer needed, then the institution which was the custodian of the land was supposed to surrender it back to the entity which issued the land, and in this case, the Government.
- iii. He would confirm if the Ministry of Lands, Housing and Urban development had formally written to the National Land Commission to request the Commission to revoke the said parcel of land and committed to ensure that the letter was written.

Mr. Augustine Masinde explained that the physical planning process that was carried out on the parcel of land in question was done erroneously and did not get statutory approval because the process of acquisition by the developer was fraudulent.

Response by the National Land Commission

Ms. Abigael Mukolwe informed the Committee that;

- i. The National Land Commission (NLC) had received a complaint letter from the Nairobi City Water & Sewerage Company on encroachment of five parcels of land, one of which- Loresho Plot No. 596 (part of L.R. No. Nairobi/Block 90/599), was the subject matter of the statement;
- ii. NLC had initiated the process of determining whether the said parcel and other parcels of land had been acquired fraudulently;
- iii. NLC had invited stakeholders and members of the public to a public hearing to establish the legality of the parcel of land;
- iv. NLC was mandated by law to hear all parties to a land dispute in determining its legality;
- v. NLC had invited the purported owner of the land L.R. No. NRB/Block 90/599 to the public hearing but he did not attend and has been given a second chance to appear;
- vi. NLC had invited stakeholder to provide documentation on the said parcel of land;
- vii. From preliminary investigations, it was evident that the said parcel of land was public land reserved for development of a water reservoir;
- viii. NLC had recommended that public institutions to secure lands in their custody by way of fencing so as to keep off potential land grabbers.

Response by the National Environment Management Authority (NEMA)

Prof. Geoffrey Wahungu explained that;

- i. NEMA had received a complaint from the Nairobi City Water & Sewerage Company over allegations of illegal acquisition of the said parcel of land;
- ii. NEMA had not received any environmental impact assessment report on construction on the said parcel of land;
- iii. NEMA had not approved any development on the said parcel of land;
- iv. NEMA officers had visited the parcel of land and had sought for the name of the purported owner of the parcel of land to no avail;
- v. NEMA had issued a stop order on construction works that had been going at the time of the site visit;
- vi. NEMA was not aware of ongoing construction work on the said parcel of land after it had issued a stop order.

Committee findings

After further interrogation on the matter, the Committee established that:

- i. The parcel of land, Loresho Parcel No. 307, which was reserved for a police station and where there currently was a police post, had also been fraudulently acquired by the same person who had acquired the parcel of land Reference No. Nairobi/Block 90/599 situated at the junction of Loresho Ridge Road & Kaptagat Road; and

- ii. The following parcels of land belonging to Nairobi City Water & Sewerage Company had also been fraudulently acquired;
- a) Karen Ponds-L.R. No. 12037
 - b) Farasi Lane Reservoir
 - c) Dandora Sewage Treatment Plant-L.R. No. 12979/1
 - d) Kariobangi Sewage Treatment Plant -L.R. No. 8285/161

Resolutions of the Committee

The Committee made the following resolutions;

- i. The Ministry of Lands, Housing and Urban Development undertakes to write formally to the National Land Commission to review grant of ownership on the title for land Reference No. Nairobi/Block 90/599 situated at the junction of Loresho Ridge Road & Kaptagat Road;
- ii. NEMA enforces the stop order on construction works on the parcel of land Reference No. Nairobi/Block 90/599 immediately;
- iii. NEMA provides a copy of the stop order on construction on the said parcel of land;
- iv. NLC issues a stop order on development of land referred to as Loresho Parcel No. 307 by 25th March 2015;
- v. NLC determines the root of the title deeds for the following parcels of land;
 - a) L.R. No. Nairobi/Block 90/599
 - b) Loresho Parcel No. 307
 - c) Karen Ponds-L.R. No. 12037
 - d) Farasi Lane Reservoir
 - e) Dandora Sewage Treatment Plant-L.R. No. 12979/1
 - f) Kariobangi Sewage Treatment Plant -L.R. No. 8285/161
- vi. NLC provides the Committee with a summary of preliminary findings on the determination of review of grant and disposition (titles) on the above stated parcels of land by end of business day on 12th March 2015.

SIGNATURE.....

(CHAIRMAN; SEN. LENNY KIVUTI)

DATE.....



nema
mazingira yetu | ufai wetu | wajibu wetu

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

Tel: (254-020) 6005522/3/6/7, 6001945, 6008767, 6008687
Mbl: 0724-253398, 0723-363010, 0735-013046, 0735-010237
Telkom Wireless: 020-2101370
Fax: 254-020-6008997
Hotline: 020-8077233, 020-6006041

P.O. Box 67839, 00200
P.O. Road, Nairobi, Kenya
E-mail: dgnema@nema.go.ke
website: www.nema.go.ke

Ref: NEMA/PDE/NRB/21/14 VOL 1

22nd January, 2015

PLOT OWNER

L.R. NO NAIROBI/BLOCK 90/599

LORESHO- NAIROBI

SERVED ON SITE
BY COPINE MUTEMI
ENVIRONMENTAL INSPECTOR
ON 22/01/15

**RE: ENVIRONMENTAL RESTORATION ORDER FOR DEVELOPMENT ACTIVITIES ON
L.R. NO NAIROBI/BLOCK 90/599 AT THE JUNCTION OF LORESHO RIDGE ROAD
AND KAPTAGAT ROAD IN LORESHO**

Ground inspections carried out by Environmental Inspectors from NEMA on 21st January, 2015 established that you have begun development activities on L.R. NO NAIROBI/BLOCK 90/599 without an Environmental Impact Assessment (EIA) license issued by the Authority contrary to the provisions of Section 58 (1) of the Environmental Management and Coordination Act (EMCA), 1999

Your attention is drawn to the following provisions of the Constitution of Kenya which enlists **Environment as a right and fundamental freedom (Article 42)** and provides that "every person has the right to a clean and healthy environment". In addition;

Article 69 (2) states that "Every person has a duty to cooperate with state organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources"

Further, the **Environmental Management and Coordination Act (EMCA), 1999** provides that:

Part II – General Principles, Section 3 (1) states that "Every Person in Kenya is entitled to a clean and healthy environment and has a duty to safeguard and enhance the environment".

Section 58 (1) states that "Notwithstanding any approval, permit or licence granted under this Act or any other law in force in Kenya, any person, being a proponent of a project, shall, before financing, commencing, proceeding with, carried out, executing or conducting or causing to be financed, commenced, proceeded with,



NAIROBI CITY WATER & SEWERAGE COMPANY LTD.

KAMPALA RD, P. O. Box 30656-00100, Nairobi, Kenya

Tel: +254 20 3988000

Email: info@nairobiwater.co.ke

www.nairobiwater.co.ke



Our Ref: NWSC/MD2/NLC/03/2014/IN/rn

29 August 2014

The Chairperson
The National Land Commission
Ardhi House, 1st Ngong Avenue, Off Ngong Road
P. O. 44417-00100

NAIROBI

Dear Sir,

RE: **Encroachment of Land**

Nairobi City Water & Sewerage Company Ltd (NCWSC) is a public entity charged with providing water and sanitation services in Nairobi.

In the execution of its mandate the Company operates various installations on land previously owned by the City Council of Nairobi and now owned by the County Government. Over the years there has been encroachment on the land with the result that the provision of services, as well as future expansion of infrastructure for service delivery, are compromised. The encroached areas are as follows:

- i) Karen Ponds – L. R. No.12037
- ii) Loresho Reservoir – Parcel No. 596
- iii) Farasi Lane Reservoir
- iv) Dandora Sewage Treatment Plant – L.R. No.12979/1
- v) Kariobangi Sewage Treatment Plant – L.R. No.8285/161

We are made to understand that some of the occupants are in possession of titles. We are not able to establish the position of this or the authenticity of such titles.

We request that the Commission take up the issue and revoke such titles as may have been issued against these public properties. In addition, we request the Commission's assistance in clearing the encroachment and restoring the possession of these properties to the Company for public use.



Board of Directors:

Raphael Nzomo, MBS (Chairman), Maria Namuye (Vice-Chair), Lilian Ndegwa, Prof. John Gathenya, Odera Ojanga, Mercy Mutua, Prof. Joseph Kimura, Erastus Omolo, Moses Mooko, Timothy Muriuki, Stephen Mutoro, Eng. Philip Gichuki (Managing Director)



THE NATIONAL LAND COMMISSION

ARDHI HOUSE 1ST NGONG AVENUE, OFF NGONG ROAD P.O. BOX: 44417-00100, NAIROBI. Telephone: 2718050

PUBLIC NOTICE (READVERTISEMENT)

REVIEW OF GRANTS AND DISPOSITION OF PUBLIC LAND

The National Land Commission is established under Article 67 of the Constitution of Kenya 2010. Its functions include managing public land on behalf of the national Governments.

Under Section 14 of the National Land Commission Act, the Commission is mandated to, on its own motion or upon a complaint by the national or a county government, a co an individual, review all grants and dispositions (titles) to public land to establish their propriety or legality.

Further to public hearings held between 25th November and 6th December 2014, the Commission will in line with Section 8 and 14 of the National Land Commission Act, hearings to review the grants below in Nairobi, Eldoret and Kisumu on the dates indicated:

Note: All cases for Nairobi have been changed from ACK Garden Annex to NHIF Building Auditorium 2nd Floor. Public entrance is on 3rd Floor.

S/N	DESCRIPTION	LOCATION	INTERESTED PARTY	DATE AND TIME
NAIROBI COUNTY				
1	LR. No. 209/13332	Nairobi County	National Treasury	9 th February, 2015 10:00 am at NHIF building, Auditorium 2nd Floor, public entrance is on 3rd Floor, Ragati Road
2	LR. No. 209/12848	Nairobi County	Nairobi County Government Langata Road Primary School Airport View Housing Ltd.	
3	LR. No. 209/12132	Nairobi County	Satya Investment Limited Nairobi County Government Florence Walimu Mbugua	
4	LR. No. 12037	Nairobi County	Karen Sewerage Division Group Nairobi Water and Sewerage Company Nairobi City County	
5	Lonasia plot No. 598	Nairobi County	Nairobi Water and Sewerage Company Nairobi City County	
6	LR. No. 12979/1	Nairobi County	Dandora Sewerage Nairobi Water and Sewerage Company Nairobi City County	
	LR. No. 8285/161	Nairobi County	Kariobangi Sewerage Treatment Plant Nairobi Water and Sewerage Company Nairobi City County	
8	Firasi Lane Reservoir	Nairobi County	Nairobi Water and Sewerage Company Nairobi City County	
9	LR. No. 209/13298	Nairobi County	Greens Securities Ministry of Land, Housing and Urban Development (Directorate of Housing)	
10	LR. No. 24392	Embakasi Nairobi County	Francis K. Muturi, Sema Health Products	
11	LR. No. 3586/3 LR. No. 3586/202 LR. No. 3586/203 LR. No. 3586/204 LR. No. 3586/205 LR. No. 3586/206 LR. No. 3586/207 LR. No. 3586/208 LR. No. 3586/209 LR. No. 3586/210 LR. No. 3586/211 LR. No. 3586/212 LR. No. 3586/213 LR. No. 3586/214 LR. No. 3586/215 LR. No. 3586/216 LR. No. 3586/217	Nairobi County	Muchanga Investments Habenga Holdings Telesource Communication Ltd. Barclays Bank Ltd. Public Trustees Nairobi City County Jina Enterprises Ltd. Estate of John Godhard Mburu John Mugo Kamau Chief Land Registrar Director of Surveys L.K. Gitau (Surveyor) and others	

LR. No. 3586/218
LR. No. 3586/219
LR. No. 3586/220
LR. No. 3586/221
LR. No. 3586/222
LR. No. 3586/223
LR. No. 3586/224
LR. No. 3586/225
LR. No. 3586/228
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LR. No. 3586/279
LR. No. 3586/280
LR. No. 3586/281

Republic of Kenya
In the National Land Commission
NLC Review No.5 of 2015

Nairobi Water and Sewerage Company.....1st Interested Party
Nairobi County Government.....2nd Interested Party
Shital Bhandari.....3rd Interested Party

Before the Commission on 9th February 2015 at NHIF Building, Auditorium 3rd Floor.

ORDER

UPON HEARING the Representative of the 1st interested Party in the absence of attendance of representatives or counsels for the 2nd and 3rd Interested Parties;

IT IS HEREBY ORDERED:

1. **THAT** a restriction be Registered against Nairobi/block 90/599(Parcel No.596) pending the determination of this matter by the Commission.
2. **THAT** all works, construction, developments and/or transactions be suspended forthwith on Nairobi/block 90/599(Parcel No.596) pending the determination of this matter by the commission
3. **THAT** a last hearing date be given to the 2nd and 3rd interested parties to appear before the Commission failure to which the Commission will proceed to make its determination the absence notwithstanding.
4. **THAT** this order be served to all interested parties.

Given under the seal of the Commission this 9th day of February 2015

Issued at Nairobi this 2nd day of March - 2015


ABIGAEI MBAGAYA
VICE-CHAIRPERSON
NATIONAL LAND COMMISSION



**BRIEF ON ENCROACHMENT OF LAND RESERVED FOR NAIROBI CITY WATER
& SEWERAGE COMPANY LIMITED.**

The Commission received a complaint from the Nairobi Water and Sewerage Company dated 29th August 2014 alleging illegal acquisition by private persons of their land in various parts of the City. The Commission invited all interested parties for a hearing to determine the legality and propriety of the title documents in their hands as required by Section 14 of the National Land Commission Act, 2014 through the media on 19th January 2015 and scheduled the Hearing for 9th February 2015.

1.1. KAREN SEWERAGE TREATMENT PLANT -LR.NO.12037

The Managing Director, Nairobi water and Sewerage Company appeared before the Commission on 9th February 2015 and testified that the ponds are on land measuring 5.12 acres and they were commissioned in 1971 to serve the Karen Shopping Centre and its environs. The ponds are in place but other people have Title documents over the land.

Davjon Group Limited appeared before the Commission as an interested party and stated that they were allocated the property by the Nairobi County Government although they were unable to produce the minutes allocating the property to them. Our preliminary investigations indicate that the initial user of the land was for sewerage purposes.

**1.2. LORESHO PUMPING STATION AND WATER RESERVOIR-NAIROBI/BLOCK
90/599(PARCEL NO.596)**

The Managing Director, Nairobi Water and Sewerage Company testified that the tank reservoir in Loresho was constructed way back in 1970s. It has been in use since then and the land was apportioned for the user in 1978. The reservoirs serve very important installations of the city and they are security installations.

Kariobangi Sewerage Treatment Plant has been in existence since 1961 and has been encroached on leaving Nairobi Water Sewerage Company on 75 Acres. There is an operational plant on site.

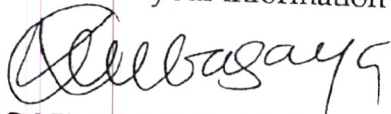
There are no titles that have been issued on the land but allotment letters and the Commission will make a determination on this complaint by April 2015.

1.5. FARASI LANE RESERVOIR

This is a wayleave for the main pipes from Ruiru Dam and Sasumwa Dam and also houses booster stations to pump water to Kabete Treatment Plant. This plot is particularly important to the city of Nairobi because 15% of the water is dependent on those pipelines that are on that plot. The land has unlawfully been sub divided and allocated to multiple numbers of people.

The Commission will make a determination on this complaint by April 2015.

Submitted for your information



ABIGAE M BAGAYA MUKOLWE (MRS)
VICE-CHAIRPERSON
NATIONAL LAND COMMISSION

**ATTENDANCE FOR MEETING OF THE STANDING COMMITTEE OF THE
SENATE ON LAND AND NATURAL RESOURCES HELD ON WEDNESDAY
11TH MARCH 2015 AT THE KICC 4TH FLOOR, SMALL BOARD ROOM FROM
11:00 A.M.**

Present

Sen. Lenny Kivuti, M.P.	- Chairman
Sen. Christopher Obure, M.P	- Member
Sen. Boy Juma Boy, M.P.	- Member
Sen. Martha Wangari, M.P.	- Member
Sen. Dawson Mwazo, M.P.	- Member

In Attendance

Sen. Kembi Gitura
Sen. Mike Mbuvi Sonko

Ministry of Lands, Housing and Urban Development

Mr. Peter Kahuho	-Ag. Land Secretary
Mr. Barasa Waahonjo	-Senior Deputy Secretary
Mr. Augustine K. Masinde	-Director of Physical Planning

National Land Commission (NLC)

Ms. Abigael Mukolwe	-Vice Chairman
Mr. Solomon Mbuthia	-Legal Officer

National Environment Management Authority (NEMA)

Prof. Geoffrey Wahungu	-Director General
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Secretariat

Mr. Boniface Lenairoshi	- Principal Clerk Assistant
Mr. Charles Ngatia	- Clerk Assistant
Mr. Kepha Omoti	- Principal Research Officer
Ms. Njeri Manga	- Media Relations Officer
Ms. Lucy Mwaniki	- Serjeant At Arms

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In Attendance

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