



**KENYA PLANT HEALTH INSPECTORATE SERVICE  
(KEPHIS)**

**DETAILED SUBMISSION IN RESPONSE TO  
CONTROLLER & AUDITOR-GENERAL'S REPORT ON  
2005/2006 FINAL ACCOUNTS  
AND  
FOR APPEARANCE BEFORE THE PUBLIC  
INVESTMENTS COMMITTEE MEETING TO BE HELD  
ON JULY 2 2013**



## KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)

### HEADQUARTERS

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 3536171/2 • Fax: 3536175 • E-mail [director@kephis.org](mailto:director@kephis.org) •

Website: [www.kephis.org](http://www.kephis.org) •

### MANAGEMENT RESPONSE ON THE OBSERVATION OF AUDITOR GENERAL ON THE ACCOUNTS FOR THE PERIOD ENDED 30<sup>TH</sup> JUNE 2006

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#### 1. Property, Plant and Equipment

Included in the Property, Plant and Equipment balance of Kshs. 431,391,850, as at 30 June 2006 is an amount of Kshs. 103,516,351 being the value of nine (9) parcels of land in Nakuru Municipality, Muguga-Kiambu, Kitale-Trans Nzoia, and Karen in Nairobi, all measuring approximately 119.64 Hectares. However, except for the Karen land, the Inspectorate does not possess title documents in respect of the parcels of land in Nakuru, Muguga and Kitale, which are still registered in the name of Kenya Agricultural Research Institute. In addition, the ownership of a parcel of land in Kabete, which is excluded from the Inspectorate's financial statements, is in dispute between the Inspectorate Service and the Veterinary Department of the Ministry of Livestock and Fisheries Development. Further, 91.21 Hectares of land also in Kitale excluded from the Inspectorate's financial statements have been taken up by third parties with part of the land being allocated to private developers, while the other part has been encroached upon by squatters. In view of the foregoing it was not possible to confirm the ownership status of the land without title documents and to ascertain that the property, plant and equipment balance of Kshs. 431,391,850 as at 30 June 2006 is fairly stated

#### Management Response:

- *Kitale LR. 2197/2/2R*

The Auditor General report correctly observes that private developers had encroached on land set aside for seed quality assurance activities in Kitale. The encroachment on the Kitale

land by private developers preceded the inception and operationalization of KEPHIS on 1<sup>st</sup> November 1997. In the early 80s the total land set aside for the seed and plant varieties assurance activities was 400 acres in size however 70 acres were later hived off and allotted to a Primary School and Coffee Research Foundation respectively leaving the 330 acres. Seed and plant varieties testing are critical in ensuring food security and economic development.

Through the efforts of KEPHIS in collaboration with Provincial Administration, 105 acres from the 330 acres was recovered and further encroachment stopped. The recovery entailed physical evictions, legal action, blockages and destruction of crops planted by private developers. These actions did put KEPHIS employees in harm's way. Also recovered were houses that had been taken over by private individuals. The recovery exercise was undertaken in various phases between 2002 and 2010.

The Corporation has now fenced the recovered portion of the land.

The following is a chronology of some other actions taken towards recovery and protection of the land:

Date	Actions	Evidence Reference Page
19 <sup>th</sup> October 2011	The Corporation, vide a letter Ref. PH/1/61 sought approval for appointment of a lawyer to undertake processing of titles of parcels of land in Kitale, Muguga and Nakuru. The Ministry declined approval in their letter Ref. MOA/B.1/60A/VOL.V/47 dated 8 <sup>th</sup> December 2011.	Appendix Pages 1-3
30 <sup>th</sup> July 2010	The Corporation vide letter ref. PH/1/109 Vol 3/(46) wrote to the Commissioner of Lands requesting for the survey and title deed for Kitale Land.  The Commissioner of Lands did not respond.	Appendix Page 4
November	The Corporation issued eviction notices to individuals who were	Appendix

2009	still occupying KEPHIS land and houses. Attached is a response received from Mr Ben Mogaka one of the 'grabbers'. Mogaka and others were later forced out with the assistance of Provincial Administration.	Page 5,6
17 <sup>th</sup> March 2006	The Corporation vide a Letter Ref. PH/1/109( C) wrote to PS Agriculture requesting for documents that would help the Corporation obtain support from Provisional Administration. This follows challenges experienced by the Corporation in its attempts on undertaking evictions in 2005	Appendix Pages 7
14 <sup>th</sup> February 2005	KEPHIS wrote to PS Agriculture request facilitation in recovery of the land	Appendix Page 8
31 <sup>st</sup> March 2003	KEPHIS wrote to KARI requesting documents and information on the various parcels of land that the Corporation had inherited. This is one of the many letters written to KARI on the land issue	Appendix Pages 9
2003	The Corporation successful defended a legal suit brought by private developers that had sought Court Orders to bar KEPHIS staff from interfering with the land in Kitale	Appendix Pages 10,11,12,13,14
March 4 <sup>th</sup> 2003, 19 <sup>th</sup> April 2002	KEPHIS wrote to PS Agriculture request facilitation in recovery of the land	15,16,17
4 <sup>th</sup> April 2002	KEPHIS wrote to Director Surveys requesting facilitation to obtain title for the land. No response was received.	Page 18
8 <sup>th</sup> August 2001	The Corporation wrote to Commissioner of Lands asking clarification on the status of land since it had been allegedly allotted to individuals. No response was received.	Page 19
May 18 <sup>th</sup> 1999	KEPHIS wrote to PS Agriculture giving details on the intended use of the land.	Page 20-24

• ***Nakuru Municipality***—LR 9290/4- I.R 93234

The parcel of land which hosts KEPHIS Nakuru Regional Office was inherited from KARI in 1997. This parcel of land is intact and was surveyed and development planning commenced. However the process stalled when one of the Part Development Plans could not be found at the land office in Nakuru. We are following up with the lands office with a view to

successfully conclude the exercise. *Evidence is attached in appendix pages 25,26,27,28,29*

- *Muguga L.R. No. 23880*

This parcel which hosts KEPHIS Plant Quarantine Station is intact and there is no dispute over ownership. The Corporation is still pursuing transfer of title from KARI as evidenced by Letter *Ref. No. BM/VOL.10/002/2010 attached in Appendix Page 30,31,32*

- *Kabete LR 22380/25*

This parcel of land was allotted to KEPHIS by the Ministry of Agriculture. The Corporation's efforts to obtain the title for the land were successful as evidenced by copy of the title on *page 33, 34 of the Appendix.*

## 2. Debtors and prepayments

The debtors and prepayments balance of Kshs.48,508,660 as at 30 June 2006 includes a debt of Kshs.14,403,496 owed by Kenya Agricultural Research Institute which has remained outstanding since the year 2000. No indication has been given as to the recoverability of this debt considering that the debtor is a reputable and financially sound organization

### Management Comments:

The Corporation followed up on the debt culminating in settlement vide cheque number 007027 of Kshs. 16,113,423 which was received on 22<sup>nd</sup> April 2008. **Evidence is provided in the Appendix Pages 35,36,37**

## 3. Illegal Water Connection

The inspectorate purchased its current premises together with the developments thereon including a borehole that supplies it with water. However, unknown to the Inspectorate at the time, a neighbor to the premises had made an underground connection enabling him to draw water from the borehole for his private use. The neighbor happens to be a senior official of a multi-national bank, which sold the property to the Inspectorate. It is therefore apparent that the neighbor used his position to illegally draw water from the Inspectorate's premises. Efforts by the Inspectorate to stop this illegal connection have since failed and a case has been filed in court by the neighbor. The Inspectorate has however invoiced the neighbor for the water consumed worth Kshs.236,385 which he has failed to settle, while the bill continues to

accumulate. Management has not explained when or how the inspectorate will recover the outstanding amount, which now stands at about Kshs.472,770 excluding the costs of the case that is in court and is yet to be determined.

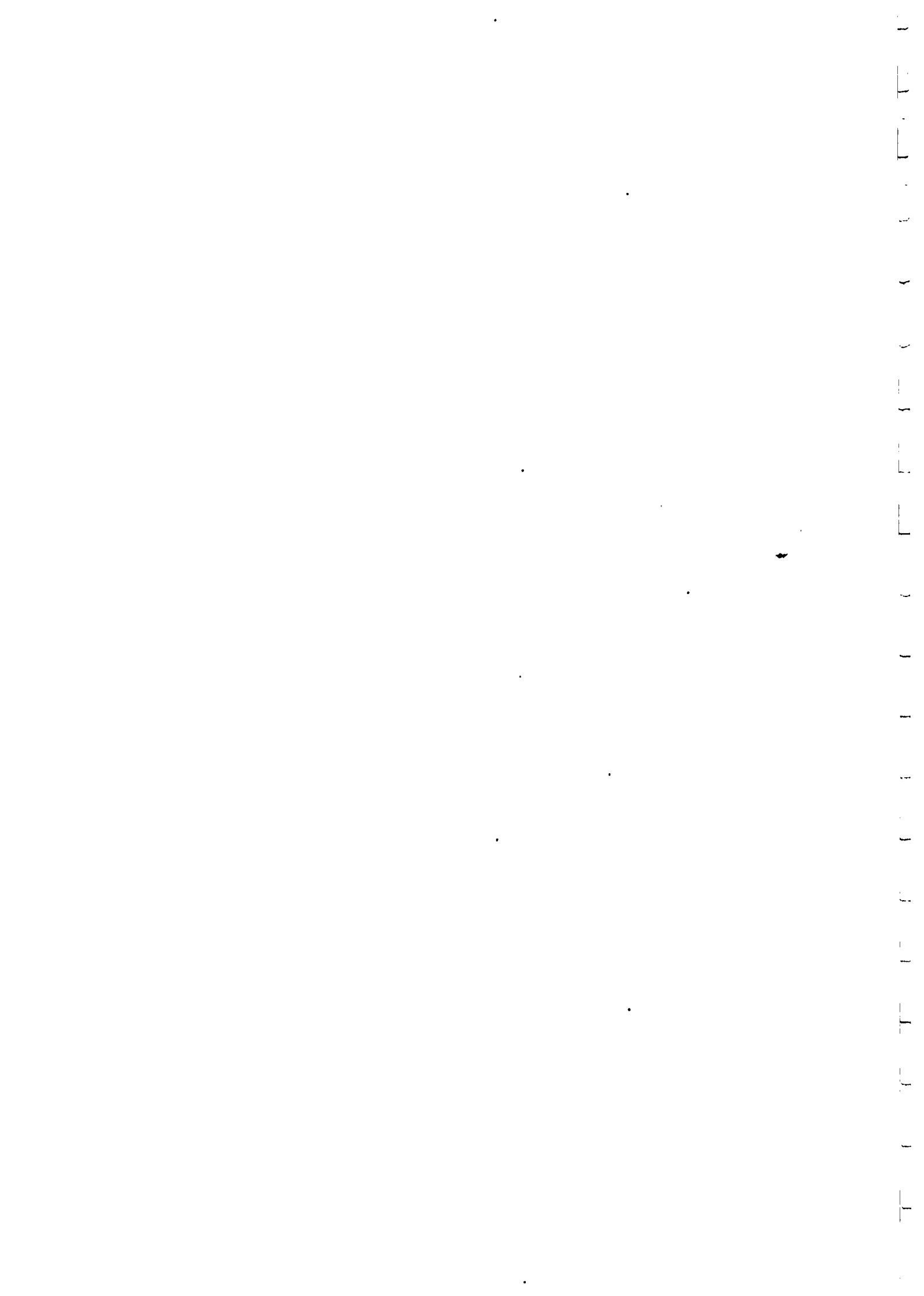
### **Management Comments**

In 2005 the individual filed a civil suit no. 1347 seeking reprieve from paying his water bill which currently stands at Kshs. 643,586. Prior to instituting the case the individual had obtained a court order barring the Corporation from interfering with the supply of water to his premises. The case dragged on for a number of years until an offer of out of court settlement was discussed in 2010. The Corporation, through its lawyer made a settlement offer vide letter Ref. JKM/15/NBI/dc 07/49. In his response through his lawyer, Mr. Adan Mohamed made a counter offer, vide a letter Ref. JKM/05/NBI/dc 07/34, which we found not reasonable. The case is waiting fixing of date of mention following failure of out of court settlement. **Evidence is provided in the Appendix Pages 38, 39, 40, 41, 42, &43.**



James M. Onsando, PhD

MANAGING DIRECTOR



*Secy*  
*7/2/12*

REPUBLIC OF KENYA



*GMEA*  
*Please follow up the administrative work*  
*14/12/11*

**MINISTRY OF AGRICULTURE  
OFFICE OF THE PERMANENT SECRETARY**

Telephone: 2718870/9  
Fax: 2711149  
When replying please quote

KILIMO HOUSE  
CATHEDRAL ROAD  
P.O. Box 30028  
NAIROBI

Ref: MOA/B.1/60A/VOL. V/47

Date: 8<sup>th</sup> December, 2011

**Dr. James M. Onsando**  
Managing Director  
Kenya Plant Health Inspectorate Service  
P.O BOX 49592-00100  
**NAIROBI**



Dear *Dr. Onsando*

**RE: VETTING OF LEGAL FIRMS TO PURSUE KEPHIS TITLE DEEDS**

Reference is made to your letter Ref. KEPHIS/HQ/1/61/Vol.4 dated 2<sup>nd</sup> December, 2011 on the above subject.

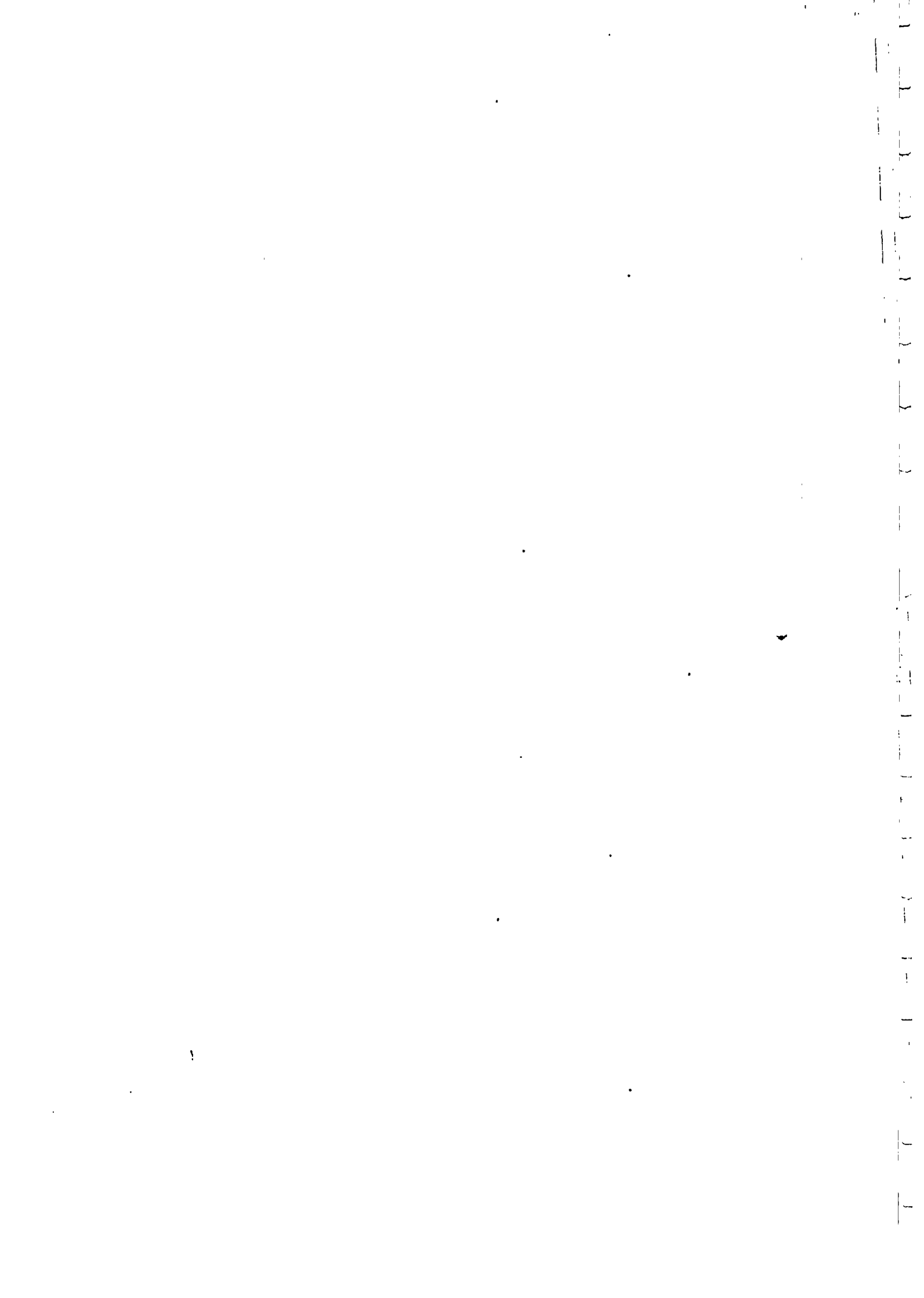
I have noted that lack of proper documents of land ownership has been the subject of several audit queries by the Kenya National Audit Office and Parliamentary Investment Committee. I have however noted that the land parcels for which KEPHIS is seeking title documents are already registered under KARI.

This is to advise you that this matter does not necessitate the hiring of a private legal firm by KEPHIS and should therefore be pursued administratively to ensure that the land is registered under KEPHIS.

Yours *Sincerely*

*Romano M. Kiome*  
**ROMANO M. KIOME PhD, (CBS)**  
**PERMANENT SECRETARY**

*1*



Our Ref: PH/1/61

Date: 19<sup>th</sup> October 2011

The Permanent Secretary  
Ministry of Agriculture  
P. O. Box 30028  
NAIROBI

Dear sir,

**RE: VETTING OF LEGAL FIRMS**

Following the telephone conversation between our Head of procurement and your Mr. Mathu on the above subject we hereby forward a list of law firms that have been shortlisted to provide various legal services to us:

**Litigation:**

(Selected through annual prequalification procedure):

1. J. K. Muchae and Company advocates  
P.O. Box 60664 00200 NAIROBI
2. Ojiambo & Co Advocates  
P.O. Box 1021 00100 NAIROBI


**Conveyance (to pursue KEPHIS land titles):**

(Selected through open tender procedure):

Kiangoi Mitema & Co. Advocates  
P.O. Box 11784 00400 NAIROBI

This is to request that the firms be vetted as advised.

Yours faithfully,

  
James M. Onsando, PhD  
MANAGING DIRECTOR

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**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 020 3536171/2 • Fax: 020 3536175 • E-mail [director@kephis.org](mailto:director@kephis.org) • Website: [www.kephis.org](http://www.kephis.org)

October 6, 2011

Our Ref: PH/1/61/Vol. 4

The Permanent Secretary  
Ministry Of agriculture  
P.O. Box 30028  
Nairobi

Att. Mr. Kiritu W. Wamai

Dear sir,

**RE: APPOINTMENT OF LEGAL FIRM TO PURSUE KEPHIS LAND TITLE  
DEEDS**

Reference is made to your letter MOA/B.1/60A Vol. V/75 dated 28<sup>th</sup> September 2011 regarding appointment of a legal firm to pursue KEPHIS land title deeds.

Our intention is to appoint one legal firm for the purpose of assisting us in pursuing the titles, as opposed to a panel of lawyers.

With regard to the procurement procedure, the following is the process that was followed in arriving at M/s Kiangoi Mitema & Co Advocates:

- An open tender for prequalification was advertised on 20<sup>th</sup> January 2011 (a copy of newspaper cutting attached)
- Tenders were opened on 19.07.2011 and ten bids were received (list attached).
- Upon evaluation, four firms were shortlisted and invited to submit a financial proposal ( see extract of evaluation report attached)

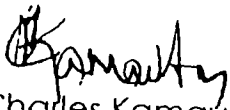
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- However, only one financial bid was received before the deadline for submission (opening report attached).
- Negotiations were entered into, with the only bidder as provided under sec. 84 of the public Procurement and Disposal Act, 2005 (minutes attached).

This therefore, is to confirm that Public Procurement Procedures were fully complied with.

We therefore wish to request that the same be forwarded to the Attorney General for consideration and approval in view of the Office of the President circular ref. OP.CAB.9/1A dated 27th July 2011 (copy attached).

Yours sincerely,



Charles Kamau  
Head, Procurement

For: MANAGING DIRECTOR

Monday afternoon 17/11/11 went to Wamai's office.  
 Wamai - acted as a letter Tuesday (M.D. - called in the evening).  
 Mathu - State Corp. Office - called Kamau (Chyptic) (Tuesday afternoon)  
 - requested list of our lawyers for vetting.

Our Ref: PH/1/109Vol,3/(46)

Date:30<sup>th</sup>July 2010

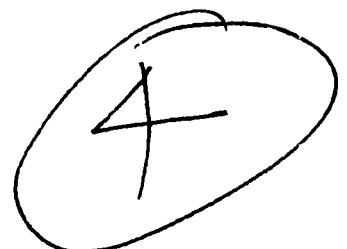
Your Ref:

Commissioner of Lands  
Ministry of Lands and Settlement  
Department of Lands  
P.O. Box 30089  
NAIROBI

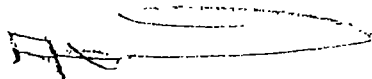
RE: REQUEST TO SURVEY AND ISSUE TITLE DEED – LR.9197/2/2R – KITALE

We wish to request your office to survey and issue title deed for the above parcel of land. KEPHIS is a state corporation under Ministry of Agriculture established under the State Corporation Act (CAP 446). The corporation is mandated to undertake quality services of agricultural inputs, plant variety protection and plant health.

When the corporation commenced operations in 1997, it inherited 25 acres of land from Kenya Agricultural Research Institute (KARI) out of a total acreage of 330 acres. The balance of 305 acres had been grabbed by illegal private individuals (see attached copy of Auditor General's report). Over time, the corporation has made effort individually and sometimes with support from Provincial Administration and has managed to recover back 112.9 acres. This has not been an easy task to undertake but as an institution we are proud to have made this achievement for our national interest. A major challenge is still ahead of us; as there is a total of 192.1 acres still with illegal land grabbers. Already we have spent some funds and fenced the 137.9 acres and fully utilised them mainly for National Performance Trials.



Our request is to survey for us the total parcel of the 137.9 acres and issue us with a title while we persue recovery of the remaining acreage.



S.K. Ithili  
General Manager – Support Operations  
for: MANAGING DIRECTOR

cc: Permanent Secretary  
Ministry of Agriculture  
P.O. Box 30028  
NAIROBI

Controller & Auditor General  
P.O. Box 30084  
00100 NAIROBI

P.O. BOX 3952,  
KISII.  
23<sup>RD</sup> NOVEMBER, 2009

MR. ALFRED MUSUYA,  
THE MANAGER,  
KEPHIS,  
P.O. BOX 249,  
KITALE.

MD KEPHIS

ATT. GM-50

For your information. Mr Mogaka  
brought this to my office yesterday  
30/11/09. ~~1/12/09~~ 1/12/09

Dear Sir,

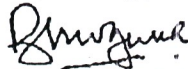
**RE: NOTICE TO VACATE PUBLIC PROPERTY**

I refer to your letter of 2<sup>nd</sup> November, 2009 in which you threatened to take over my land and its properties. Although your claims that the Government has authorized you to take over my land, you did not give me a copy of that letter. The truth is that you have not received any authority to do that.

*the how?*  
My land of 10 acres was allocated to me with authorized in 1/11/1994 by the Ministry of Lands with the authority of the Government. KEPHIS was not in Kitale. About 4 years later you settled about 100 acres. My land was not and has never been part of the land where you stay. I have stayed in my land for 15 years. Your closing of the road and fencing the land is illegal. I have a legal letter for my land.

My allocation is very valid and I will not move out. Your office does not have authority to evict Kenyans from their land. The law is very clear and there is a legal process by the Government through the Ministry of land. Your action without the act of law cannot be respected or acted.

Yours faithfully,



**Ben Omambia Mogaka**

C.C.

The Commissioner of Lands  
Ministry of Lands  
Nairobi

*Copy of your letter of your allocation*

The District Commissioner  
Trans-Nzoia West  
P.O. BOX 11  
Kitale

*Copy of letter of allocation*

The OCPD  
Kitale

*Copy of letter of allocation*

✓ Barongo Advocate  
Kitale

*Copy of letter of allocation*

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REPUBLIC OF KENYA

Telegrams: "LANDS", Nairobi  
 Telephone: Nairobi 718050/9  
 George Ombaso,  
 P. O. Box 11,  
KITALA

DEPARTMENT OF LANDS  
 P.O. Box 30089  
 NAIROBI

9th November 1994

Ref. No. 00089/XXVIII

SIR(S)/MADAM,

RE: UNS. RESIDENTIAL PLOT 'D' KITALA

**LETTER OF ALLOTMENT**

I have the honour to inform you that the Government, ~~of Kenya~~  
~~County of Kericho~~, hereby offers you a grant of the above plot shown edged red on the  
 attached plan No. KTL/10/94/55 subject to your formal written acceptance of the  
 following conditions and to the payment of the charges as prescribed hereunder:

AREA: 2.0 hectares (approximately).  
 TERM: 99 years from the 1-11-94  
 STAND PREMIUM: Sh. 160,000/=  
 ANNUAL RENT: Sh. 32,000/= } Subject to adjustment on survey, but  
 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 .. .. .	160,000.00
Rent from <u>1-11-94</u> to <u>31-12-94</u> .. .. .	5,400.00
Conveyancing Fees .. .. .	1,250.00
Registration Fees .. .. .	250.00
Rates .. on demand .. .. .	.....
Stamp Duty .. .. .	7,050.00
Survey Fees on demand .. .. .	.....
Road and Road Drains on demand .. .. .	.....
Others Allocation Approval .. .. .	2,000.00
<hr/>	
Receipt No. .... Less Deposit .. .. .	.....
TOTAL Sh.	175,950.00

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REPUBLIC OF KENYA

Telegrams: "LANDS", Nairobi  
Telephone: Nairobi 71805/9

REGISTERED

DEPARTMENT OF LANDS

P.O. Box 30089

Mrs. Grace K. Omambia,  
P. O. Box 11,  
KITALE.

NAIROBI

9th November, 19 94

Ref. No. 00089/XXVIII

SIR(S)/MADAM,

RE: UNS. RESIDENTIAL PLOT 'C' KITALE

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. KTL/10/94/55 subject to your formal written acceptance of the following conditions and to the payment of the charges as prescribed hereunder:

AREA: 2.0 hectares (approximately).  
TERM: 99 years from the 1-11-94  
STAND PREMIUM: Sh. 160,000/=  
ANNUAL RENT: Sh. 32,000/= } Subject to adjustment on survey, but 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).

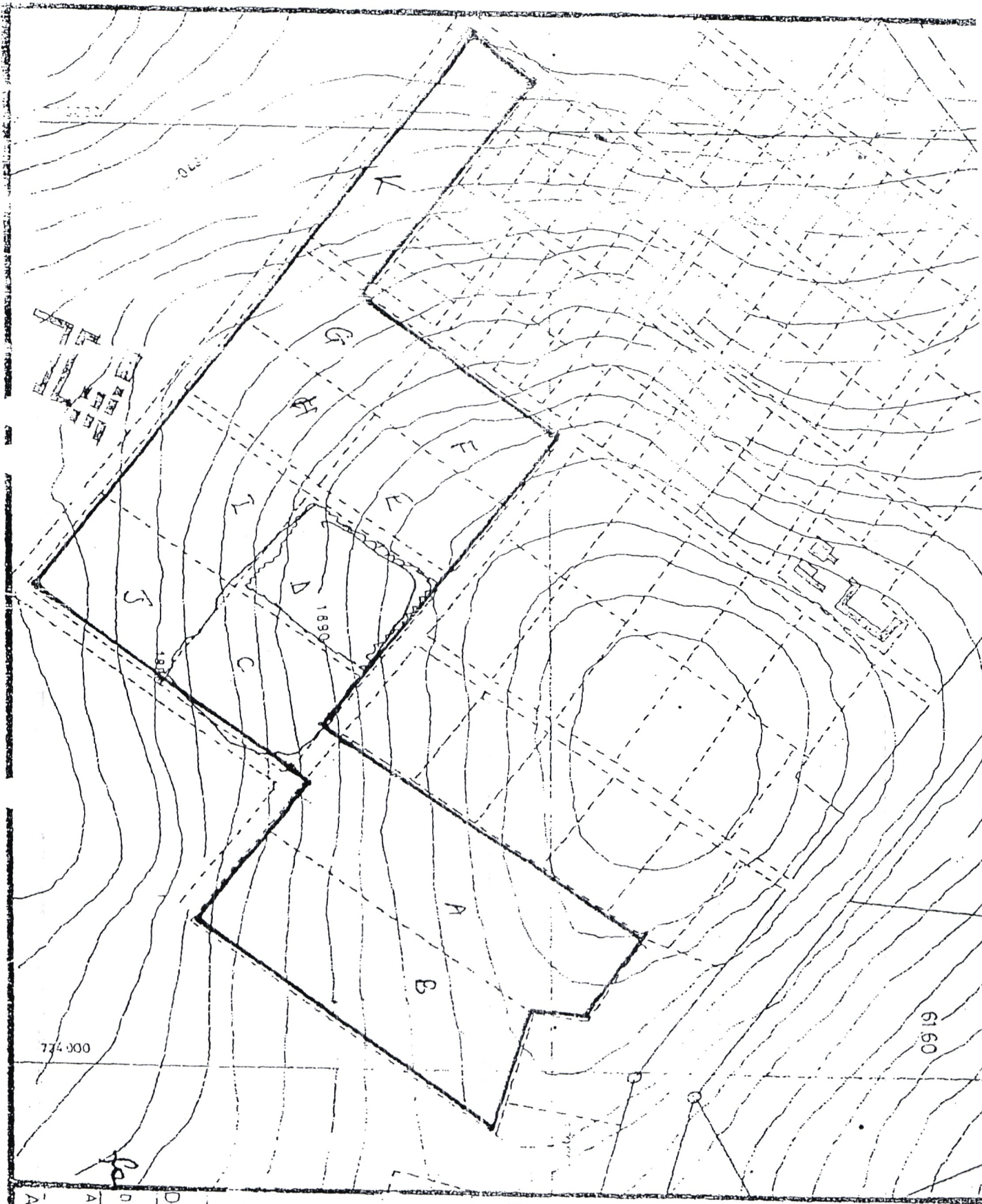
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Conveyancing Fees .....	1,250.00
Registration Fees .....	250.00
Rates on demand .....	
Stamp Duty .....	7,050.00
Survey Fees on demand .....	
Road and Road Drains on demand .....	
Others Allocation Approval .....	2,000.00
Receipt No. .... Less Deposit .....	
TOTAL Sh.	175,950.00

[P.T.O.]

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**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882733 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

Our ref: PH/1/109(C)

Date: 17<sup>th</sup> March 2006

Dr. Romano Kiome, MBS  
Permanent Secretary  
Ministry of Agriculture  
P. O. Box 30028  
**NAIROBI**

Dear Sir,

**RE: LAND ISSUE – KITALE MUNICIPALITY TRANS NZOIA ; LR2197/2/2R**

Reference is made to our earlier correspondences on the above piece of land to which there has never been a response. We wish to inform as follows:

1. The land was available for research and seed testing activities.
2. The land was later subdivided and part given to the Coffee Research Foundation and Top Station Primary School. Later it is said to all have been allotted to private developers.
3. Upon establishment, KEPHIS managed to reclaim 25 acres and a title deed issued. Later, with the support of the then District Commissioner, KEPHIS managed to “reclaim” further parcels measuring approximately 80 acres of land. We subsequently requested the Commissioner of Lands to facilitate processing of the necessary documents. However, the files related to these parcels could not be traced at the Ministry of Lands, and no progress has been made to date.
4. The District Commissioner’s office in Kitale has asked KEPHIS to produce documentary evidence that the land in question indeed belongs to KEPHIS in order to provide requisite security. Our request to the Ministry of Agriculture has been a letter indicating the land belongs to the institution which to date has not been given.
5. It is noteworthy that none of the private developers have produced valid title deeds for the indicated parcels of land.
6. In 2002, one of the private developers went to the High Court seeking jailing of the Managing Director for trespass. The case was dismissed after being heard by the High Court.

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7. In line with the Ministry of Lands Circular Ref:Con/LH/A/23/20VolII/III dated 29<sup>th</sup> June 2005, we informed the land beneficiaries to vacate the illegally occupied land. Some of the individuals have responded that they will not voluntarily vacate the land (see attached letters from their lawyers).

Based on their foregoing, there is definitely going to be litigation in the quest to reclaim the land. It is therefore important for the Ministry to indicate clearly that the land belongs to the state.

Yours faithfully,



**Chagama J. Kedera (Dr)**  
**MANAGING DIRECTOR**



**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882933 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

Your Ref:

Date: 14<sup>th</sup> February 2005

Mr. James E.O. Ongwae, CBS, EBS, OGW  
Permanent Secretary  
Ministry of Agriculture  
P.O. Box 30028  
**NAIROBI**

Dear Sir,

**RE: LAND ISSUE – KITALE REGIONAL OFFICE – KITALE MUNICIPALITY  
TRANS NZOIA: LR 2197/2/2R**

We refer to various correspondences on the institution land claimed by "grabbers".

Some of the supposed beneficiaries of the above land for seed certification activities have been attempting to take possession of the land. On 21<sup>st</sup> January 2005, in a meeting at the Trans Nzoia District Commissioner's office, the DC wondered why KEPHIS was not ploughing the developers land. The DC sent the DOI to investigate the issue but no results have been given so far. It is noteworthy that at no time have the said beneficiaries produced valid title deeds for the said parcel of land.

On 1<sup>st</sup> February 2005, one of the private developer took a tractor to plough the land but was prevented by KEPHIS staff. On the same day, the private developers again brought a tractor for ploughing claiming that the DC had allowed them to plough their land. At the moment, KEPHIS staff who have stood to protect the public land are being threatened with charges of assault on the private developer.

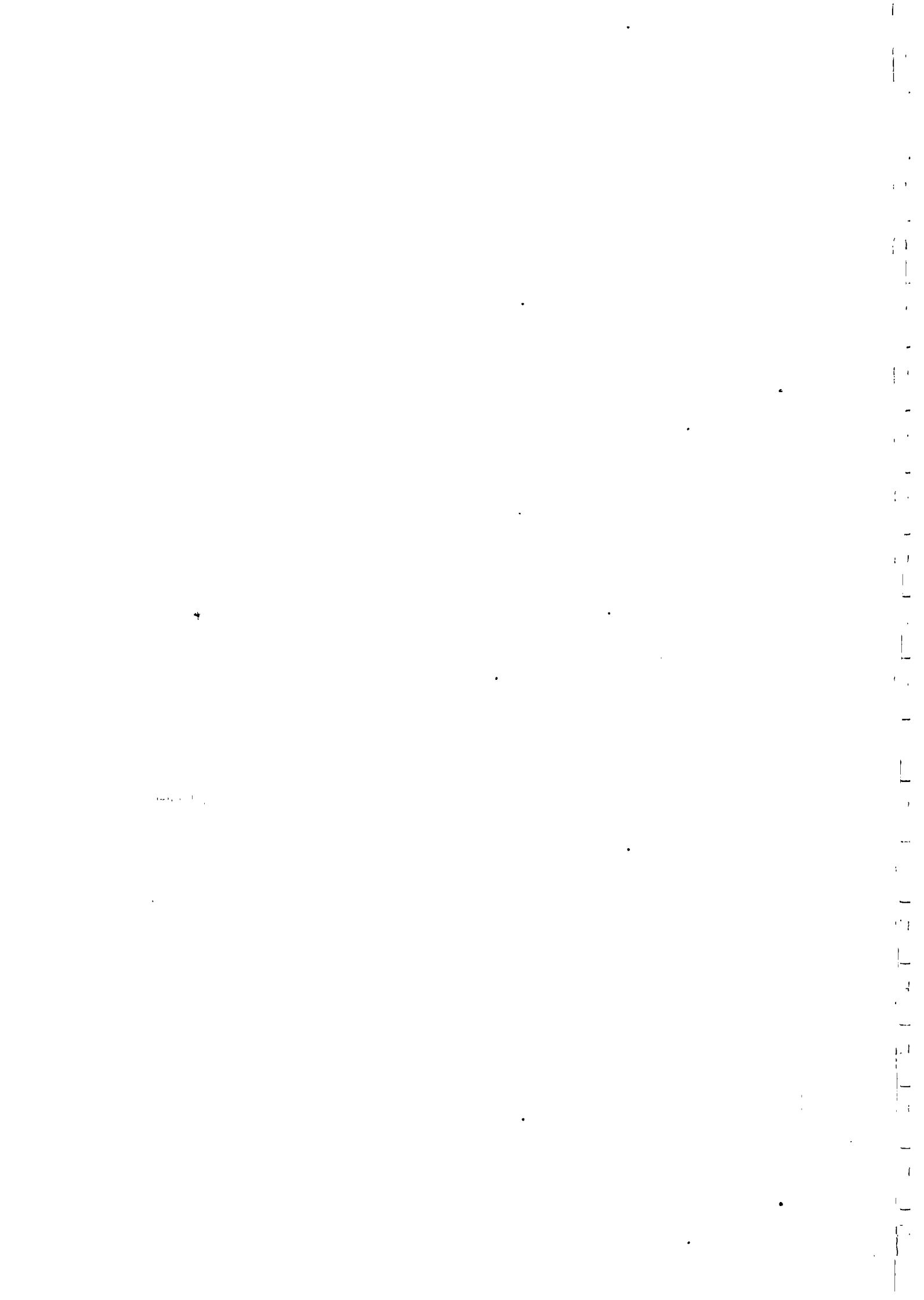
The National Audit office has stated that the inspectorate land in Kitale measuring 330 acres was irregularly allocated to private developers. Although in its 9<sup>th</sup> Report, the Public Investment Committee directed that the land should be repossessed, no such repossession had taken place.

It is therefore important that the status of the land is clarified to avoid what is becoming an annual ritual of run-ins with private developers every time the planting season approaches.

Yours faithfully,

Chagama J. Kedera (Dr.)  
**MANAGING DIRECTOR**

cc: Commissioner of Lands  
P.O. Box 30089





**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882933 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

Our Ref: PH/1/41

Date: 31<sup>st</sup> March, 2003

Your Ref:

Dr. R.M. Kiome,  
Director, KARI,  
P.O. Box 57811,  
**NAIROBI.**

**RE: KITALE MUNICIPALITY BLOCK 13/82 (FORMERLY L.R. No.24802)**

Reference is made to the letter Ref. PH/1/109(C) dated 4<sup>th</sup> December, 2002 and other previous letters on the above subject. We forwarded to your office the lease documents on 24<sup>th</sup> May, 2002 in respect of the above parcel of land on which the KEPHIS Kitale office is located.

KEPHIS made the necessary follow-up and paid the necessary fees leading to preparation of the lease documents and KARI was required to submit the original forwarding letter and a copy of the Registry Index Map to the Trans Nzoia District Land Registrar for registration and subsequent issuance of the title deed. To date, we have not received any response yet there is a critical need to formalise ownership of the parcels of land particularly in view of the continuous encroachment by "private developers". KARI was to follow up on the issue of the title deed since the land belonged to the Institute at the time of allotment. The same principle applies to the land for KEPHIS – Nakuru and Plant Quarantine Station – Muguga.

We therefore request that the documents be returned to us if the Institute is not in a position to finalize the process.

**Chagem J. Kedera (Dr)  
MANAGING DIRECTOR**

c.c. The Permanent Secretary  
Ministry of Agriculture & Livestock Development  
P. O. Box 30028  
**NAIROBI**

The Auditor General  
P. O. Box 49384  
**NAIROBI**

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# Corporation wins bid to keep its land

By KENNEDY LUMWAMU

Two people in Kitale have lost a bid to wrest land they claimed to have bought from a State corporation.

Mr James Wanyoike and Mr Samuel Mukora lost an application for court orders barring Kenya Plant Health Inspectorate Services employees from interfering with two disputed parcels of land. They also wanted the High Court to recognise them as the owners of the land.

They told Mr Justice Alex Etyang that Kephis employees had trespassed on the land on June 7 and uprooted a wire fence and destroyed maize.

This, they said, had prevented them from developing the land measuring 2.02 hectares and 1.720 hectares and selling it to potential buyers. The buyers had allegedly shunned the plots after the Kephis employees interfered with them.

They claimed to have bought the land from Mr Patrick Chavanga and Mr Samuel Malenya on March 30, last year, for Sh3,150,000.

However, Mr Chagama Kedera, the Kephis managing director, opposed the application, saying the land was given to the corporation by the Kenya Agricultural Research Institute.

He claimed that Mr Chavanga and Mr Malenya colluded with some officials at the Commissioner of Lands office and the Trans Nzoia District lands office in Kitale to fraudulently subdivide the land. The land, he said, was later registered in other people's names after they paid Sh105,000 each for allocation.

Mr Kedera said the two complainants misrepresented the facts by claiming that the parcels in dispute were government land and vacant.

In his ruling, the judge said Mr Chavanga and Mr Malenya were allocated the parcels on condition that they did not sell them. He said they had not provided evidence why they could sell the land, transfer it, subdivide, sublet it or sell it

without permission from the Commissioner of Lands.

They could, however, use the land to obtain loans for building, Mr Justice Etyang said.

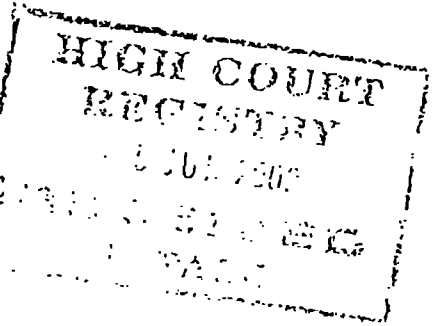
"The property was allocated to Kephis by Kari for seed certification research and control and ought not to have been sold or assigned to individual developers.

"I dismiss the application with costs to the defendants," he said.



Judge Etyang

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REPUBLIC OF KENYA  
IN THE HIGH COURT AT KITALE  
CIVIL SUIT No. 54 of 2002

1. JAMES WANYOIKE  
2. SAMUEL M. MUKORA

PLAINTIFFS

VERSUS

KENYA PLANT HEALTH INSPECTORATE  
SERVICE (KEPHIS)

DEFENDANT

PLAINT

1. The plaintiffs are individuals residing and working for gain in Kitale. Their address for service for the purpose of this suit shall be c/o RISPER ARUNGA & CO. ADVOCATES P O Box 4538, Kitale.
2. The defendant is a state corporation established under the provisions of the State Corporation Act (Cap 446) Legal Notice No. 305 of 1996. Service of summons shall be effected upon the Managing Director at Nairobi. Service through the plaintiffs advocates office.
3. The plaintiffs are the owners of two parcels of land in L.R. Nos 21043 and L.R. No. 21046, Kitale Municipality measuring 2.02 ha and 11.72 ha or hereabouts having purchased the land from the original registered proprietors in or about 30<sup>th</sup> March, 2002.
4. The plaintiffs state that they are legally entitled to quiet use and possession of the suit premises
5. The plaintiffs state that on or about 7<sup>th</sup> June, 2002 the defendants through their agents the Regional Manager, Kitale, their workers and agents unlawfully trespassed on the suit premises and committed acts of destruction by uprooting fencing wire and posts and maize.
6. The plaintiffs state that on inquiry at the defendants offices, the plaintiffs were told that the defendants are claiming the plot to be theirs.
7. The plaintiffs state that the defendants have continued to interfere with and prevent the plaintiffs from developing the suit premises which actions have greatly

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8. The plaintiffs state that they have subdivided the suit property into plots measuring 0.25 of an acre each and intend to dispose of the plots to third parties.
9. The plaintiffs state that since the acts of destruction by the defendants, the intended purchasers are apprehensive and have put on hold their intentions to purchase the plots.
10. The plaintiffs state that the defendants have no interests whatsoever on the suit property and pray for a permanent injunction restraining them from interfering with their possession of the plot.
11. The plaintiffs state that there is no other suit pending nor are there previous proceedings regarding the suit properties.
12. Despite demands and notice of intention to sue, the defendants have persisted in their actions.
13. The cause of action arose within Kitale Municipality and the court has jurisdiction.

REASONS WHEREFORE the plaintiffs jointly and severally pray for the following orders;

- a) A declaration that the plaintiffs are legally in occupation of L.R. Nos. 21043 and 21046 measuring 2.02ha and 1.720ha respectively within Kitale Municipality.
- b) A permanent injunction restraining the defendants its servants and/or agents from trespassing on, committing acts of destruction or in any other way interfering with the plaintiffs use and possession of the suit property.
- c) Costs of this suit.
- d) Interest

DATED at KITALE this 25<sup>th</sup> day of

June

2002.

*Risper Arunga & Co.*  
Advocates

Drawn & filed by

*Risper Arunga & Co.*  
Advocates  
KITALE

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HIGH COURT  
REGISTRY  
KITALE

REPUBLIC OF KENYA

IN THE HIGH COURT AT KITALE

CIVIL SUIT No. .... of 2002

JAMES WANYOIKE ..... PLAINTIFF  
SAMUEL MUKORA

VERSUS

KENYA PLANT HEALTH INSPECTORATE  
SERVICE (KEPHIS) ..... DEFENDANT

VERIFYING AFFIDAVIT

I, JAMES WANYOIKE of P O BOX 1004, Kitale hereby make oath and state as follows:-

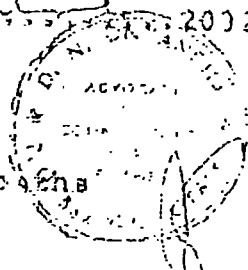
1. THAT I am a male adult of sound mind and capable of making an oath.
2. THAT I am the plaintiff herein.
3. THAT all the averments in the plaint are correct.
4. THAT there are no previous proceedings nor pending suit regarding the suit property.
5. THAT what I have stated is true to the best of my knowledge, information and belief.

SWORN at Kitale this 25<sup>th</sup> .....

day of ..... 2002.

before me:-

Commissioner for Oaths



*[Handwritten signature]*

13

REPUBLIC OF KENYA  
IN THE HIGH COURT AT KITALE  
CIVIL SUIT No.....of 2002

**HIGH COURT**  
**REGISTRY**  
 5 JUN 2002  
 KITALE

JAMES WANYOIKE ..... PLAINTIFFS  
 SAMUEL MUKORA .....

VERSUS

KENYA PLANT HEALTH INSPECTORATE ..... DEFENDANT  
 SERVICE (KEPHIS) .....

FURTHER VERIFYING AFFIDAVIT

I, SAMUEL MUKORA of P O BOX 4004, Kitale hereby make oath and state as follows:-

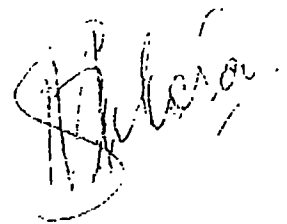

1. THAT I am a male adult of sound mind and capable of making an oath.
2. THAT I am the 2nd plaintiff herein.
3. THAT I am a co-owner with the 1st plaintiff herein of the suit property.
4. THAT all the averments in the plaint are correct.
5. THAT what I have stated is true to the best of my knowledge, information and belief.

SWORN at Kitale this.....<sup>25</sup>.....

day of.....<sup>June</sup>.....2002.

Before me:-

Commissioner for oaths



**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Waiyaki Way • P.O. BOX 48592 • TEL: 4440097/4441804/4448663 • FAX: 448940 • E-mail kephis@ntnet.co.ke • Nairobi, Kenya

Our Ref. PH/1/109C/(110)

Date: 4<sup>th</sup> March, 2003

Mr. Daniel Mule,  
The Permanent Secretary,  
Ministry of Agriculture & Livestock Development,  
P. O. Box 30028,  
**NAIROBI.**

Dear Sir,

**RE: LAND FOR KEPHIS KITALE REGIONAL OFFICE -  
KITALE MUNICIPALITY LR.2197/2/2/R**

The functions of KEPHIS include seed certification which is an important service especially in a liberalized economy where several seed companies undertake seed multiplication, processing, distribution and marketing. For effective certification, land is a critical resource for planting of post-control plots (an important part of seed certification); post certification plots; National Performance Trials (for testing varieties for release); testing the varieties (for distinctness, uniformity and stability); and quarantine checks. Our regional office in Kitale is expected to carry out these activities but the land is inadequate since it was "allocated" to the "private developers".

In the recent past, there has been a series of occurrences in relation to the land on which KEPHIS Kitale Regional Office stands (LR.2197/2/2/R - Kitale Municipality). The original land measured approximately 400 acres and only 25 acres is now available for seed certification activities. The events are as follows:

- (i) Towards the end of April, 2002, two gentlemen - Mr. Samuel M. Mukora and James Wanyoike went to the Regional Office and contended that they had purchased a portion of the land from the "allottees" namely Mr. Patrick Chavanga and Mr. Samuel Malenya. However, they only provided a copy of the title deed.

They consequently cultivated some terraces for planting just next to the experimental plots which definitely posed a threat to the experiments. Thereafter Mr. Mukora asked a member of staff occupying a staff house to vacate as it belonged to them and an occupant was expected. In addition, he contended that the Conference Centre which was opened by the Minister for Agriculture in 2001 year belonged to them.

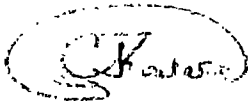
- (ii) They later fenced off the plots and the staff could not thereby gain access to the

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that the Commissioner of Lands clearly states the current position of the land in question to avoid misunderstandings and more so in view of the court ruling. We still await a response from the Commissioner of Lands on the issue.

The country's economy is dependent on agriculture and agricultural production will only be enhanced if seed available to farmers is of high and expected quality. As the National Designated Authority, KEPHIS cannot effectively implement this mandate if the available resource (land) for the activity is interfered with. Currently we can only evaluate 10% of the expected maize seed on the available land.

Yours faithfully,



**Chagema J. Kedera (Dr)**  
**MANAGING DIRECTOR**

Mrs J.M. Okungu,  
The Commissioner of Lands,  
Ministry of Lands,  
P.O. Box 30089,  
NAIROBI.

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**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882933 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

PH/1/109C /79

19<sup>th</sup> April, 2002

Prof. S. Migot Adholla  
Permanent Secretary  
Ministry of Agriculture & Rural Development  
P.O. Box 30028  
NAIROBI.

Dear Sir,

**RE: LAND ISSUE-KITALE REGIONAL OFFICE**

We refer to our various correspondences on the above issue and particularly on letter Ref:PH/1/109 C/(61) dated 9<sup>th</sup> January 2001.

We wish to notify you of the serious threatening events which occurred this week from 17<sup>th</sup> – 19<sup>th</sup> April, 2002.

On 17<sup>th</sup> April 2002, a Mr. Samuel Mukora with a group of people tried to obstruct our staff planting post control plots which he claimed he had bought for Kshs.2,000,00 (two million) from unidentified person. After a lengthy argument, he left after threatening our staff with dire consequences if they did not stop planting. This is the plot we have used for the planting post control seed for years.

On 18<sup>th</sup> April 2002 (yesterday) our Kitale regional manager reported the incidence to the area District Commissioner Mr. Samuel Oreta who not only gave him appreciated support but told him to ignore the people and continue planting. On the same day around 12:30 p.m the "grabber" S. Mukora came to our regional offices and asked our Manager Mr. Komen; who had approved his posts. Again after threatening, he left only to have his agent re-surface an hour later with armed Administration police officers. The agents were a Mr. James Wanyoike and Samuel Mwaura who claimed that they had bought the ten (10) acres from a Mr. Sammy Malenga of unidentified address in Nairobi. After some discussions, they left after learning that the D.C had been informed and was handling the issue.

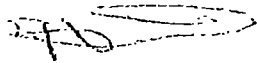
17

This morning 19<sup>th</sup> April 2002, I talked to the D.C over the phone and he assured me of his support to our office in regard to the illegal acquisition of the public land. He promised to investigate who had sent the two armed Administration Policemen without his authority. This was certainly meant to intimidate our staff for they seemed to have been hired rather than officially sent.

These events have raised serious worries particularly in lieu of the shooting and injury to our staff in the 1998 incidence by the same "grabbers or private developers".

Your intervention and assistance on this issue will not only go along way to preserve the public land but will also assist us achieve our National mandate of ensuring availability of high quality seed in the country.

Yours faithfully,



Stephen K. Ithili  
Assistance Director – Finance & Administration  
for: **MANAGING DIRECTOR**

cc: Director of Agriculture & Livestock Production  
Ministry of Agriculture & Rural Development  
P.O. Box 30028  
**NAIROBI.**



**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882933 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

PH/1/109(C)

4<sup>th</sup> April 2002

The Director of Surveys  
P.O. Box 30046  
**NAIROBI**

Dear Sir,

**RE: MISSING DOCUMENTS FOR LR 24802**

The above piece of land situated in Kitale Municipality was re-allocated to Kenya Agricultural Research Institute (KARI) after allocations to three individuals (LR 21028, 21029 and 21030) were cancelled in 1999 (copies of relevant documents attached). Consequently, we applied for a consolidation of the three pieces into one to facilitate issuing of a single certificate of title in the same year.

The process has been very slow caused mainly by frequent "misplacement" of related files and/or documents, and is now at the stage where the survey department should provide deed plans to facilitate the registration. However, the survey plans F/R no. 257/76 and computations file number 34091 have been missing since January 2002 and cannot be traced.

This is therefore to request your intervention and guidance on the matter to facilitate preparation of the deed plans so that the registration can be done.

Your assistance will be greatly appreciated as the matter has taken rather too long.

Yours faithfully,

Chagema J. Kedera (Dr.)  
**MANAGING DIRECTOR**

P/s: we are applying for the title deed on behalf of KARI as the functions of the KARI station on that land were taken over by KEPHIS upon its establishment in 1996.

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**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882933 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

PH/1/109C/68

8<sup>th</sup> August, 2001

Mr. S.K. Mwaita  
Commissioner of Lands  
Ministry of Lands  
P.O. Box 30089  
NAIROBI.

**RE: LAND FOR KEPHIS REGIONAL OFFICE- KITALE (KITALE MUNICIPALITY  
LR.2197/2/2/R)**


The seed industry is the basis of agricultural production thereby contributing to growth in rural incomes and employment as well as improved food security. It is with this in mind that seed certification processes must be carefully undertaken. With liberalization of the seed industry, a number of seed companies undertake seed multiplication, processing, distribution and marketing. Hence seed of many crop varieties both locally produced and imported are available in the local market. Planting and Post-control plots, Post Certification plots, National Performance Trials (used in testing varieties for release), DUS tests and Quarantine checks in a secure, easily accessible area by all (merchants, farmers, breeders etc) is therefore a significant and important function of KEPHIS.

Seed quality control service was started and has been undertaken at the Top Station Farm (approximately 400 acres) in Kitale since 1970. Part of the land was available to Coffee Research Foundation (50 acres) and Top Station Primary School (20 acres). Later on, the remaining land is said to have been allocated to private developers thereby leaving nothing for the seed certification exercise.

The KEPHIS Board of Directors deliberated on the issue and appealed that the allocation (if any) of the above land be nullified to avoid compromising a critical national service. As much as the total land at Top Station was ideal being left for the seed certification exercise, 202 acres was considered the minimal requirement for the various seed certification activities. This information was communicated to your office and subsequently the allocation to individuals of three parcels of land measuring 25 acres was cancelled and the parcels available for KEPHIS activities. Based on our request, the 25 acres was not adequate for the activities indicated above.

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Please note that currently, private developments, including fencing off of staff houses and erecting of buildings, are taking place. We therefore urgently request for direction and current status of this parcel of land as outlined in our previous communications.



Chagema J. Kedera (Dr.)  
**MANAGING DIRECTOR**

cc: Head of Public Service and  
Secretary to the Cabinet  
Office of the President  
P.O. Box 30510  
**NAIROBI.**

Permanent Secretary  
Ministry of Agriculture and  
Rural Development  
P.O. Box 30028  
**NAIROBI.**



**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
HEADQUARTERS**

Oloolua Ridge, Karen • P.O. Box 49592 Nairobi, Kenya • Tel: 884545/882933 • Fax: 882265 • E-mail: director@kephis.org • Website: www.kephis.org •

PH/1/109C/(46)

28<sup>th</sup> May, 1995

The Permanent Secretary,  
Ministry of Agriculture,  
P.O. Box 30028,  
NAIROBI.

Dear Sir,

**RE: LAND FOR KEPHIS REGIONAL OFFICE - KITALE (KITALE MUNICIPALITY LR.2197/2/2/R)**

Seed quality control is one of the functions of the Kenya Plant Health Inspectorate Service (KEPHIS). This function formerly under KARI is undertaken at Kitale and Lanet. At Kitale, there are problems of individuals having encroached on the post-control seed certification plots making it difficult for KEPHIS to undertake its national mandate.

In Kenya, the seed industry is the basis of agricultural production thereby contributing to growth in rural incomes and employment as well as improved food security. It is with this in mind that seed certification processes must be carefully undertaken. With liberalization of the seed industry, it is expected that a number of seed companies will carry out seed multiplication, processing, distribution and marketing. It is also expected that seed of many crop varieties both locally produced and imported will come into the local market. This will require the strengthening of the seed quality control services. Planting of Post-control plots (an important part of seed quality control), Post Certification plots, National Performance Trials (used in testing varieties for release), DUS tests and Quarantine checks in a secure, easily accessible area by all (merchants, farmers, breeders etc) is therefore a significant and important function of KEPHIS. Thus KEPHIS is severely handicapped since the land under the KEPHIS Regional Office - Kitale has been interfered with.

Seed quality control was started and has been located at the Top Station Farm (approximately 400 acres) of National Agricultural Research Centre - Kitale since 1970. In 1978, the Ministry of Agriculture constructed an office block, seed stores and a car park. In 1991, the Director, KARI allocated Seed Quality Control Services part of the Top

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Station Farm. Part of the land was allocated to Coffee Research Foundation (50 acres) and Top Station Primary School (20 acres). Later on, the land is said to have been allocated to private developers thereby leaving nothing for post control seed certification exercise.

The KEPHIS Board of Directors has therefore appealed to the Government through the Ministry that the allocation (if any) of the above land be nullified to avoid compromising a critical national service.

As much as the total land at Top Station would be ideal being left for the seed certification exercise, the following are the minimal requirements for the various activities:

(1) National Performance Trials - NPT - (5 acres)

Crops under Schedule (II) Cap 326 require to be tested in these trials to ascertain the breeders claim on the stability/adaptability of a variety. Such tests by the designated authority produce data and results by which recommendations are made to Director of Agriculture on a variety which is either released for farmer's use or otherwise.

All imported seeds have also to go through these tests for local adaptation before approval. Failure to carry such tests would jeopardize seed quality and country's decision on damping of poor quality seeds. Presently, there are many varieties for these trials due to liberalisation with many companies entering the seed trade

(2) DUS (Distinct; Uniform; Stability) Tests (Variety Registration) - (10 Acres)

Kenya has acceded to UPOV. The Seed and Plant Varieties Act provides for registration of varieties being locally bred or imported. The pre-requisite of registration is proof of the special characteristics claimed by the breeder appearing *distinctively from existing breeds*. This requires all such varieties are grown and variety registrars and scientists agree that there are special and added advantages of the new varieties hence they be protected under the act by PBR registration.

Companies and agricultural breeders are requiring registration hence these proof tests must be carried out according to national and international plant protection regulations.

(3) Soyabean Tests - (1 acre)

Soyabean production in the country is on the increase and KEPHIS on behalf of the government conducts trials on seed materials for performance and adaptability. These tests for now are not extensive on our grounds but on increased crop adoption, more land may be required.

(4) Post Control Plots - (25 acres)

Maize, Pasture, Sunflower, Sorghum and Horticultural seeds require seed certification processes. This process requires laboratory analysis of seeds, fields' inspections and factory processing inspection up to sealing seeds. Certified seeds are then ready for sale to farmers. These seeds in and out of field inspection must be ascertained that they behave similarly on farmers farms, claims on such seed would not be attended by our staff if they stopped at sealing. This requires that samples of all government certified seeds are planted in post control plots for demonstration of technology achievement. This would also quickly detect problem seeds before dispatch to farmers leading to withdrawal of such seeds in time to safe farmers' losses.

Post certification surveys are undertaken at planting time and note is taken of what seeds farmers are planting as follows:

- (a) Random samples of what the farmers are growing are taken
- (b) Checks on the stockist and condition of seed storage
- (c) Doubtful seed is sampled, tested for germination and post controlled

Each crop requires isolation to avoid contamination and must be replicated severally for non biased recommendation.

(5) Quarantine Checks - (5 acres)

Imported seeds and planting materials are subjected to tests to ensure they are free of pests and diseases. Those that do not meet the country's specifications are rejected and destroyed. Those requiring quarantine clean up are subjected to quarantine conditions before release for use in farmers fields. On subjection to the quarantine conditions, planting materials and seeds are planted on designated research government land before release to farmers for quality assurance. It is the responsibility of the government through KEPHIS to protect our country from foreign pests and diseases. These isolation tests are of absolute necessity in better crop husbandry.

(6) Rotation Acreage - (46 acres)

All the above indicated land requirements involve trials of different crops and different pests and diseases. The trials are continuous and the effects of carry-over indications do interfere with the recommendations. Trials without bias require clean plots to avoid transfer of previous crop effect. Crop rotation under limited land resources is not viable currently on farmers land hence the need for experimental crop rotation. The results of such trials form the basis of advisory farmers service in agricultural production. This justifies the double acreage for all specified trials.



(7) Seed Research – (100 acres)

KEPHIS is mandated to advise farmers, government, agribusiness and researchers on seed matters. Seed quality control and certification requires research in all aspects including isolation distance. Research findings are a necessary pre-requisite for scientific recommendation and especially in relation to national and international standards. This requires large land acreage to examine all aspects pertaining to all seeds and planting materials. KEPHIS Kitale is mandated to agro-ecological zones of high and medium altitude areas dominated by large scale crop production and thus must be equipped to serve the region effectively and efficiently.

NB: Horticultural seeds in the country have not been tested for variety purity, adaptability and post controls. This has resulted in low germination and variety purity problems. KEPHIS plans to include horticultural seeds and planting materials in all the above trials subject to land allocation considerations.

(8) Laboratories/Offices/Housing – (10 acres)

KEPHIS is expected to establish service laboratories to monitor the quality and health of agricultural inputs (e.g. seeds, fertilizers etc) and outputs. Currently there are a few of these laboratories/offices/houses for stall at Kitale. It is important that these laboratories/offices/houses be retained under KEPHIS given the limited resources available.

These requirements were forwarded to the Commissioner of Lands on 15<sup>th</sup> March, 1999.

Following our request, the Commissioner of Lands allocated KARI (KEPHIS) 10 hectares by cancelling the allocations on LR No.21028, 21029 and 21030 and notifying the previous allottees accordingly.

Yours faithfully,

**C.J. Kadera (Dr)**  
**MANAGING DIRECTOR**

c.c. The Provincial Commissioner,  
Rift Valley Province,  
P.O. Box 28,  
NAKURU.

The Chairman.  
KEPHIS Board of Directors

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# EXPERIMENTAL STATION -- KITALE (TOP)



L.R. No. 2197/2/2/R  
 400 ACRES  
 SCALE 1:10000

24



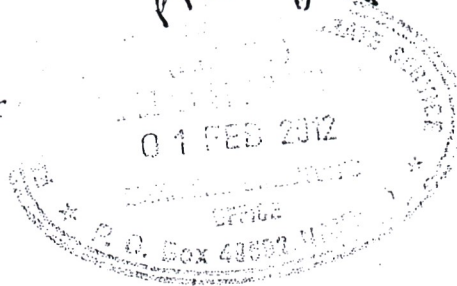
**KENYA PLANT HEALTH INSPECTORATE SERVICE (KEPHIS)  
NAKURU REGIONAL OFFICE**

• P.O. BOX 1679 NAKURU • TEL (WIRELESS): 020-2401198/9 • FAX: 020-3536170 • CELLPHONE:  
0734-330020/0722-209503 • E-mail: kephisnakuru@kephis.org • website: www.kephis.org •

**Our ref:** PH/NKR/63(4)/70  
**Your ref:**

**Date:** 31<sup>st</sup> January, 2012

The Managing Director  
KEPHIS  
P.O. Box 49592  
NAIROBI



*Handwritten:* P/O 109 /  
1/2/12

**Attn: GM - SO**

**RE: UPDATE REPORT ON SEARCH FOR KEPHIS NAKURU REGIONAL  
OFFICE TITLE DEED - LR NO. 9290/4-LR 93234**

Reference is made to our telephone discussion today (31/1/2012) on the above issue.

We also refer to our earlier letter to your office PH/SQC/63(4)/30 dated 22<sup>nd</sup> September, 2009 on the above subject and PH/SQC/63(4)/40 dated 2<sup>nd</sup> November, 2010 to the Director of Physical Planning Nakuru on the same.

The search for the title deed started in the year 2007. Officers from Nakuru District Physical Planning department came to KEPHIS - Lanet and did a Part Development Plan i.e. site seeing in August 2007. After the completion of the Development Plan it was required that an advertisement be done in the local dailies, i.e. both in English and Kiswahili version and in the Kenya Gazette too. An advertisement was done in the local dailies and in the Kenya Gazette (copies of the advertisements and Part Development Plans (PDPs) attached for ease of reference). After the expiry of the mandatory sixty (60) days from the date of publication i.e. 30<sup>th</sup> August 2007 no objection was received at their office.

In May 2009 we presented the copies of the advertisements to the Nakuru District Physical Planning office for the Part Development Plans to be circulated to the various relevant government offices namely; District Lands Officer, District Surveyor, District Agricultural Officer and District Health Officer (Nakuru North District) respectively. On presentation, officers from

*Handwritten:* 25

that office realized that one of the Part Development Plans was missing which was to be an attachment in the circulations. The Draughtsman, the Deputy Provincial Physical Planning Officer and the Provincial Physical Planning Officer searched for it, but was not found.

On Thursday, 10<sup>th</sup> September 2009 we were asked by the Provincial Physical Planning Officer to present them with FRs (Maps for Lanet Area) which were in our possession and we did, still the Part Development Plan had not been found yet. On the same day the Provincial Physical Planning Officer informed us he was going to be away on official duty in Moyale as from Monday, 14<sup>th</sup> September 2009 upto Wednesday, 30<sup>th</sup> September 2009. The Deputy Physical Planning Officer was leaving the country for further studies abroad as from Monday 14<sup>th</sup> September, 2009 while the draughtsman had started his annual leave as from Wednesday 16<sup>th</sup> September, 2009.

Since October 2009, the Nakuru District Co-ordinator's office are supposed to have come back to do another Part Development Plan (Site Seeing) but have not yet done so reason being that they are busy.


Auditors from the Efficiency Monitoring Unit office visited our office in October 2010 and wanted to see a copy of our title deed. We updated them on the progress and they promised to liaise with the Nakuru District Physical Planning Co-ordinator's office (through the attached letter).

In mid-last year (2011) the District Physical Planning officer was transferred, the incumbent upon taking office made a call to our Regional office as he wanted to get the actual position on the search.

We updated him a (Mr. Muthuri) who said he will seek authority from the Commissioner of Lands in Nairobi to repeat the site seeing so as to draw afresh the Part Development Plan which has been missing. The officer has been busy during the last quarter of year 2011 as they have been working on the parcels of land for re-locating the Internally Displaced Persons (IDPs), hence he has been out of the office most of the time.

We called him today (31/1/2012) and he said they are out of the office on their way to Rumuruti to sub-divide some ADC land we call him tomorrow (1/2/2012) where he will update us on the progress so far.

Attached herein are the relevant correspondences to that effect.

  
J.K. Cheptaiwa  
REGIONAL MANAGER

PH/SQC/63(4)/40

2<sup>nd</sup> November, 2010

The Director of Physical Planning  
Nakuru

**REPORT ON SEARCH FOR KEPHIS NAKURU REGIONAL OFFICE TITLE  
DEED – LR NO. 9290/4-I.R 93234**

Reference is made to the above subject.

The search for the title deed started in the year 2007. Officers from your office came to KEPHIS – Lanet and did a Part Development Plan i.e. site seeing in August 2007. After the completion of the Development Plan it was required that an advertisement be done in the local dailies, i.e. both in English and Kiswahili version and in the Kenya Gazette too. An advertisement was done in the local dailies and in the Kenya Gazette (copies of the advertisements and Part Development Plans (PDPs) attached for ease of reference). After the expiry of the mandatory sixty (60) days from the date of publication i.e. 30<sup>th</sup> August 2007 no objection was received at your office.

In May 2009 we presented the copies of the advertisements to your office for the Part Development Plans to be circulated to the various relevant government offices namely; District Lands Officer, District Surveyor, District Agricultural Officer and District Health Officer (Nakuru North District) respectively. On presentation, officers from your office realized that one of the Part Development Plans was missing which was to be an attachment in the circulations. The Draughtsman, the Deputy Provincial Physical Planning Officer and the Provincial Physical Planning Officer have searched for it, but in vain.

26

On Thursday, 10<sup>th</sup> September 2009 we were asked by the Provincial Physical Planning Officer to present them with FRs (Maps for Lanet Area) which were in our possession and we did, still the Part Development Plan had not been found yet. On the same day the Provincial Physical Planning Officer informed us he was going to be away on official duty in Moyale as from Monday, 14<sup>th</sup> September 2009 upto Wednesday, 30<sup>th</sup> September 2009. The Deputy Physical Planning Officer was leaving the country for further studies abroad as from Monday 14<sup>th</sup> September, 2009 while the draughtsman had started his annual leave as from Wednesday 16<sup>th</sup> September, 2009.

Since October 2009, the Nakuru District Co-ordinator's office are supposed to have come back to do another Part Development Plan (site seeing) but have not yet done so because they are busy.

Attached are the relevant correspondences to that effect.

  
J.K. Chepchiwa  
**Aq. REGIONAL MANAGER**

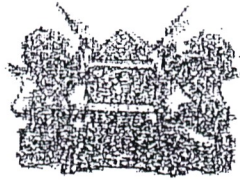
101 (Part Development Plan)

MINISTRY OF LANDS

Telegrams: PHYSICAL PLANNING  
Telephone: Nakuru 051-2210225  
When replying please quote:

REF: PU/ADVTS/NOTICES/20

DEPARTMENT OF PHYSICAL PLANNING  
DISTRICT PHYSICAL PLANNING OFFICE  
P.O. BOX 372  
NAKURU



28<sup>TH</sup> August, 2007

The Government Printers,  
P.O. Box 30128,  
NAIROBI

NOTICE OF COMPLETION OF DEVELOPMENT PLAN No. R7/2007/2

In accordance with Section 19 of the Physical Planning Act, attach a notice of Completion of Development Plan: EXISTING SITE FOR KEPHIS PLANET R7/2007/2

A handwritten signature in black ink, appearing to read 'C.O. Konyango'.

C.O. Konyango  
DPPO/CO-ORDINATOR  
RIFT VALLEY PROVINCE

27

11046&1

**THE PHYSICAL PLANNING ACT  
(NO. 6 OF 1996)**

**FORM P.P.A. 3**

**NOTICE OF COMPLETION OF DEVELOPMENT PLAN**

Title of Development Plan: EXISTING SITE FOR KEPHIS LANET R7/2007,2

NOTICE is hereby given that preparation of the above Development Plan was completed on 15<sup>TH</sup> August, 2007.

The Development Plan relates to land situated within Nakuru, Lanet. A copy of the Development Plan as prepared has been deposited for public inspection at the office of the **District Physical Planning Officer, Nakuru** at **Provincial Administration Office Block D Ground Floor.**

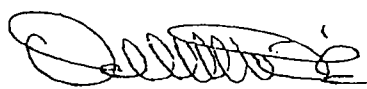
The copy so deposited is available for inspection free of charge by all persons interested at the above mentioned office between the hours of 8.00 a.m. and 5.00 p.m.

Any interested person who wishes to make any representation in connection with or objection to the above Development Plan may send such representations or objections in writing to be received by the District Physical Planning Officer, P.O. Box 372, Nakuru not later than 60 days of the date of THIS NOTICE.

30<sup>th</sup>

AUGUST

DATED.....DAY OF.....2007



OTIENO KONYANGO  
FOR: DIRECTOR OF PHYSICAL PLANNING  
NAIROBI

Death and Funeral Announcement

We regret to announce the death of Joseph Mburu Kibira (husband of Muboni W. Gichungu)...



Joseph Mburu Kibira

Death and Funeral Announcement

It's with deep sorrow that we announce the passing on of Mrs. Magret Adhiambo Ouma (Otieno)...



Magret Adhiambo Ouma (Otieno)

Death Announcement

We regret to announce the sudden death of Mathew Lububu Lububi which occurred on 1st September, 2007...



Mathew Lububu Lububi

Death and Funeral Announcement

Death has occurred of Mama Anne Adhiambo Juma of Esidende village Bukhaya Central Location, Busta District...



Anne Adhiambo Juma

Online Transition Announcements

Advertisement for online transition announcements with website URL: http://www.nationmedia.com

NAIROBI AND UP-COUNTRY

PERSONAL NOTICES

A109: Lost LOST Laptop Fujitsu Siemens Amilo Pro V210...

A116: Marriage A cheating partner Call investigators on 0722-149426

A123: Prayers/Mass NOVENA to St. Claire: May the sacred heart of Jesus be praised...

A167: Acupuncture COUT palm: 0733718337/0722424243

A174: Astrology SHINE MONEY/SPENDING PROBLEM

DR. Florna Dr. Florna Dr. Florna

DR. Sheikh Sharif love portion, winning support, business, employment, barter etc. 0723097571

A181: Beauty Arsen your Natural Beauty With Wondrous Beauty Experts

Advertisement for beauty services with contact information for SUPERB, ANITA, and NEV.

15+ 9 Thr By Pr. 0722-405098 "EXOTIC by/mg 0722-20779

INEMY mix in town 500 0736308280

ADIAJA Salon w/Lands 0732272722 ARAB by pr 0722-394100

ASHARA Beauty Tel: 0724-811936 FOR Mlg car Shiba 0725292988

MOBILE Massage 0710-292819 NEW mg in town 0725-842241

PETITE beauty Tel: 0720967462 PRIVATE By 0737845111

TASHANA beauty Tel: 0723262574 MENI'S Cozy warm 073876179

Advertisement for MENI POWER CAPSULES & GELS with list of benefits.

A202: Entertainment DATE sms/call 'lonely' 0720-001587

LONELY sms "DATE" to 3310 LOVE dating sms 0721462353

A230: Health MALE ENHANCEMENT - NEW! Pro-solution Pills for men

Advertisement for male enhancement pills with list of benefits.

For hair consultation & delivery contact: TIMEX ENTERPRISES

NATURAL PASSION: PHILIP ENLIGHTENMENT PILLS

Advertisement for natural passion pills with list of benefits.

NEW AND HEALTHY LIFE NATURALLY: Fresh! Natural Products & Remedies available to help...

NEW AND HEALTHY LIFE NATURALLY: For men's consultation & delivery call...

NEW AND HEALTHY LIFE NATURALLY: MEN VIG-Rxplus Intense pro-solution pills...

NEW AND HEALTHY LIFE NATURALLY: Massage 300-0727391828

NEW AND HEALTHY LIFE NATURALLY: U-RELAX mg 500mg 0725470709

NEW AND HEALTHY LIFE NATURALLY: BRIDGIT mg in town 0728400633

NEW AND HEALTHY LIFE NATURALLY: FANTASY By 0710461450

NEW AND HEALTHY LIFE NATURALLY: FABULOUS mg pr 0725274409

NEW AND HEALTHY LIFE NATURALLY: UPRETTY relax mg 0733336540

Advertisement for VIG-Rxplus Intense pro-solution pills.

Advertisement for The Ultimate Solution to Smoking Problems.

Advertisement for SLIM-UP TRIM-UP FIRMA-UP SHAPE-UP CELLULITE REDUCTION.

A249: Herbal Medicine ALL your personal problems Shiba Pr...

Advertisement for HERBALS SOLUTION: HERBAL FORMULARY.

HERBALS SOLUTION: HERBAL FORMULARY: Help for men...

HERBALS SOLUTION: HERBAL FORMULARY: Ladies Solution

Advertisement for Ladies Solution: Ladies Solution

HERBALS SOLUTION: HERBAL FORMULARY: Men Capsule

HERBALS SOLUTION: HERBAL FORMULARY: Medical

Advertisement for HELP FOR MEN: HELP FOR MEN

Advertisement for QUALITY INSTITUTE: QUALITY INSTITUTE

Advertisement for LOSE THE BACK PAIN: LOSE THE BACK PAIN

LOSE THE BACK PAIN: I just a short time or three possibly...

LOSE THE BACK PAIN: PAIN RELIEF CLINIC

Advertisement for SLIM-UP TRIM-UP FIRMA-UP SHAPE-UP CELLULITE REDUCTION.

LOSE THE BACK PAIN: MISSING PERSON

LOSE THE BACK PAIN: MISSING PERSON: The above person has been located...

Advertisement for MISSING PERSON: MISSING PERSON

THE PHYSICAL PLANNING PLAN (NO. 8 OF 1996)

NOTICE OF COMPLETION OF DEVELOPMENT PLAN

NOTICE is hereby given that preparation of the above Physical Planning Plan...

The copy on deposit is available for inspection...

Any interested person who wishes to make any representation...

Dated: 30<sup>th</sup> August 2007

Dilno Konyango For Director of PHYSICAL PLANNING

Advertisement for DAILY NATION: More news More views More Nation

DAILY NATION: More news More views More Nation

DAILY NATION: More news More views More Nation

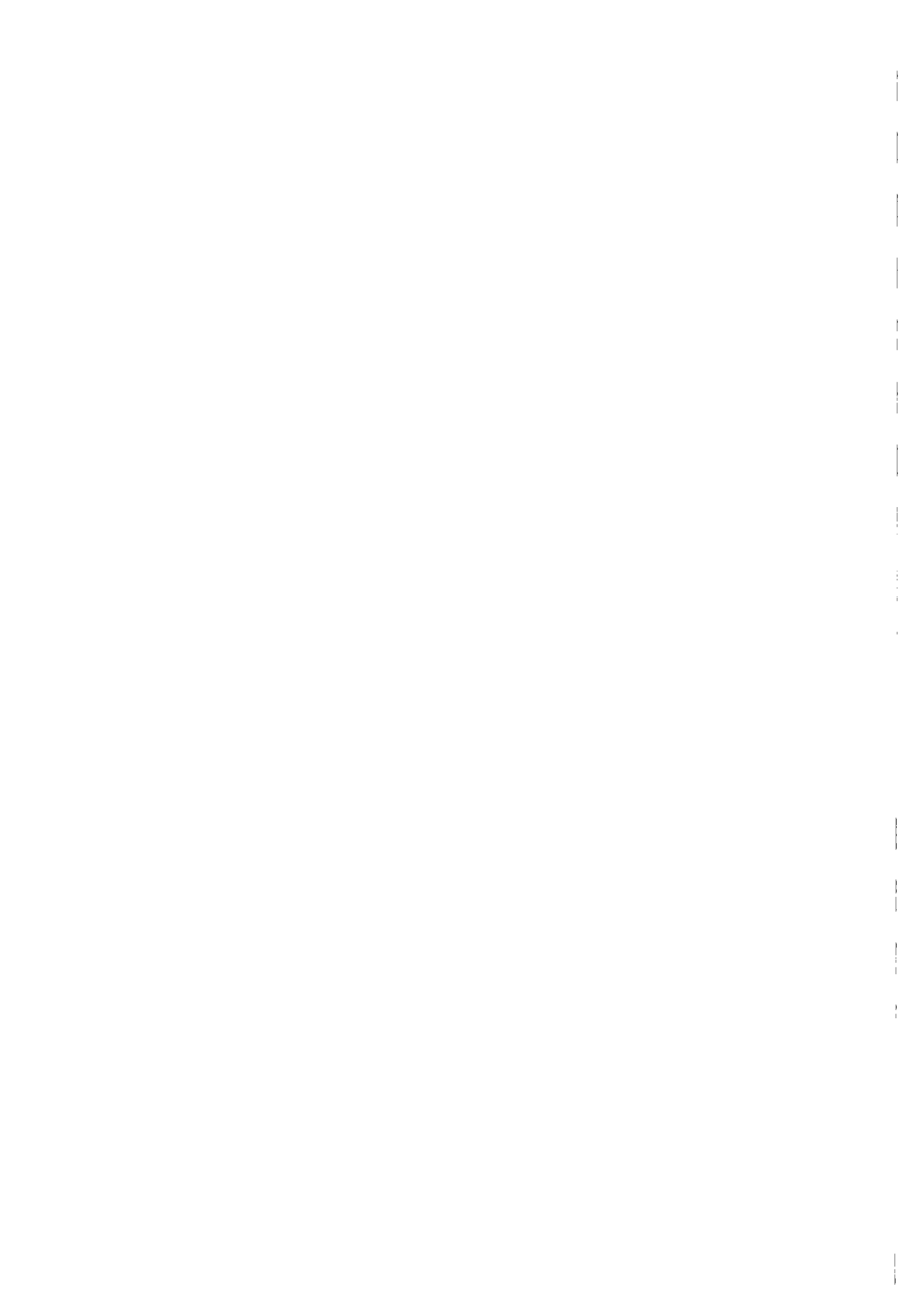
DAILY NATION: More news More views More Nation

DAILY NATION: More news More views More Nation

DAILY NATION: More news More views More Nation

DAILY NATION: More news More views More Nation

DAILY NATION: More news More views More Nation



21<sup>st</sup> September, 2007

GAZETTE NOTICE NO. 9221

THE PHYSICAL PLANNING ACT

(No. 3 of 1996)

COMPLETION OF PART DEVELOPMENT PLAN

PDP No. R7/2007/2 for Existing Site for Kephis Land

NOTICE is given that the above-mentioned part development plan was on 15th August, 2007, completed

The part development plan relates to land situated within Land Nakuru

Copies of the part development plans have been deposited for public inspection at the offices of the District Physical Planning Officer, Nakuru at Provincial Administration Office Block "D", Ground Floor.

The copies so deposited are available for inspection free of charge by all persons interested at the offices of the District Physical Planning Officer, Nakuru at Provincial Administration Office Block "D", Ground Floor, between the hours of 8.00 am to 5.00 pm on any day to Friday

Any interested person who wishes to make any representation in connection with or objection to the above-named part development plans may send such representations or objections in writing to be received by the District Physical Planning Officer, Nakuru, within sixty (60) days from the date of publication of this notice and such representation or objection shall state the grounds on which it is made.

Dated the 23rd August 2007

OTIENO KONYA (S.O.)  
for Director of Physical Planning

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COPY of  
O-12 Muguga  
on 23.12.10  
Plse file O-12  
23/12/10



# BOMA

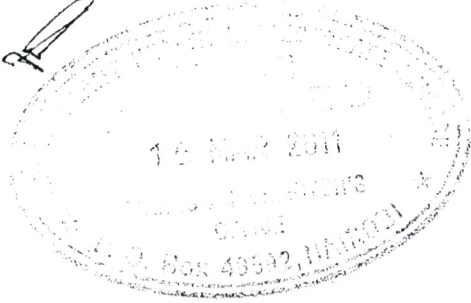
## SURVEYS LTD

Topographical & Engineering Surveys, Title Surveys, Geographical Information Systems, Land Planning, Consultancy & Agency

BM/VOL. 10/002/2010

See  
I need to discuss  
this with O-1-C  
P.S.

Winnie  
Let's get a copy of  
LR 23878 and forward  
through our O-1-C  
17/2



The Centre Director,  
KEPHIS,  
MUGUGA,  
P.O Box 49592  
NAIROBI

Dear Sir,

**RE: TITLE DEED FOR MUGUGA KARI LAND LR No.23878.**

You did commission us to excise the above property with title under Kenya Agricultural Research Institute. We are now in the process of preparing the survey-related documents to facilitate issuance of land title in the name of KEPHIS for the excised portion.

We are therefore requesting you to obtain for us a copy of the mother title of LR 23878 to enable us expedite the acquisition of the separate title deed.

Your quick action on the matter will greatly assist us in our endeavor to prepare the said title deed.

BOMA SURVEYS  
Sincerely yours  
  
B.M. OKUMU  
Licensed Surveyor

ENCL.

30

18th November, 1997

Ref. No. 71527

SIR(S)/MADAM, RE: uns. plot no. c - Muguga Kiambu

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: 280 hectares (approximately).
  - TERM: 99 years from the 1.11.1997
  - STAND PREMIUM: Sh. NIL
  - ANNUAL RENT: Sh. \_\_\_\_\_
- } Subject to adjustment on survey, but 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:

Stand Premium	.. .. .	Sh.	NIL
Rent from	..... to .....		.....
Conveyancing Fees	.. .. .		1,250/=
Registration Fees	.. .. .		250/=
Rates	.. .. . on demand		.....
Stamp Duty	.. .. .		.....
Survey Fees	.. .. . on demand		.....
Road and Road Drains	.. .. . on demand		.....
Others	.. .. .		.....

Receipt No. \_\_\_\_\_ Less Deposit \_\_\_\_\_  
TOTAL Sh. \_\_\_\_\_

1,500/=

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[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. The Government shall not accept any liability whatsoever in the event of prior commitment or otherwise.

I have the honour to be,  
Sir(s)/Madam,  
Your obedient servant,

Authority: Government  
F. 71527

  
C. M. GITHENYA

for Commissioner of Lands

ENCL.

COPY TO: P/S Ministry of Lands and Settlement, Nairobi

The Director of Surveys, Nairobi.

~~The Town Clerk~~

The Clerk to the Council, County Council of Kiambu, Box 170

The District Commissioner. Kiambu, Box 32

The Director of Physical Planning, Nairobi.

District Land Officer. Kiambu, Box 291

O/C Land Rents.

Rates Assistant.

The Accountant.

O/C Records.

Senior Plan Record Officer.

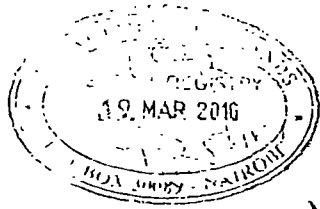
Plot File.

} All to note.

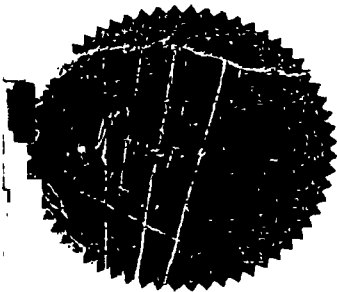
SPECIAL CONDITIONS

1. The land shall be used for Agricultural purposes and residence for the Grantee.
2. The land be used and managed in good husbandry manner and maintaining of the soil to the satisfaction of the Commissioner of Lands and the Director of Agriculture.
3. The Grantee shall not sell, transfer, sublet charge or subdivide the land or any part thereof without prior written consent of the Commissioner of Land (Land Control Board).
4. The Grantee shall develop the land to the satisfaction of the Commissioner of Lands and the Director of Agriculture.
5. The grantee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever descriptions as may be imposed, charged, or assessed by any Government or Local Authority upon the land or the buildings erected there upon including any contributions or any other such paid by the President in lieu thereof.
5. The local authority or such person or authority as may be appointed for the purpose shall have the right to enter upon the land hereby leased and have access to water, mains, service pipes and drains, telephone wires and electric mains of all description whether overhead or underground and the grantee shall not erect any building in such a way as to cover or interfere with any existing alignments of mains or service pipes or telephone or telegraph wires and drains.
6. The Commissioner of Lands reserves the right to revise the annual ground rent payable hereunder after the expiration of every tenth year of the term.





S/S: 223  
JP Wangari 006  
J.R. 25/1/06



REPUBLIC OF KENYA

**THE REGISTRATION OF TITLES ACT**  
(Chapter 281)

GRANT No. **1R 122950**

ANNUAL RENT: Kshs. 232,500/= (REVISABLE)

TERM: 99 years from 1.9.2003

**K**NOW ALL MEN BY THESE PRESENTS that THE PRESIDENT OF THE REPUBLIC OF KENYA hereby grants unto KENYA PLANT HEALTH INSPECTORATE SERVICE, duly established under the state corporations Act (Cap. 466) of the Laws of Kenya of NAIROBI (Post Office Box Number 49592)

(hereinafter called "the Grantee") all that piece of land situate in the city of Nairobi in NAIROBI AREA

~~District~~ containing by measurement five decimal nought nought nought (5.000) hectares

~~acre~~ or thereabouts that is to say Land Reference Number 22380/25

which said piece of land with the dimensions abutals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 243648 deposited in the Survey Records Office at Nairobi To HOLD for the term of ninety nine (99) years

from the First day of September ~~One thousand nine hundred and~~ two thousand and three  
SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of  
Shillings two hundred and thirty two thousand five hundred (Kshs. 232,500/=) (Revisable) w.e.f. 1.9.2003

(b) the provisions of the Government Lands Act (Chapter 280)

(c) the following special conditions (Namely):-

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Our Ref: PH/3/11/Vol. 2/ (108)

Date: 19<sup>th</sup> February 2008

Dr. Ephraim Mukisira  
Director  
KARI  
P.O. Box 57811  
NAIROBI

Dear

**RE: LONG OUTSTANDING DEBT – KShs.16,113,423.00**

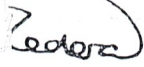
This is in reference to the long outstanding debt amounting to KShs.16,113,423.00 owed to us by KARI.

The above debt has been outstanding for many years and in spite of your verbal commitment to settle it, this has not happened. In the meantime, the pending debt continues to accumulate and feature as an audit query in the Controller and Auditor General's Reports for the last three financial years. In his report for the year 2006/7, the Controller and Auditor General observed that, "It is not clear why this debt has not been recovered from a reputable and financially sound Institution"

While KEPHIS appreciates our mutual collaboration in the interest of the agricultural sector, we also understand that the continued provision of services to our clients for free is not financially sustainable. Therefore, there is a need to expedite the resolution of the debt issue and we are ready to discuss with you, a payment schedule.

Your urgent response to this letter will be appreciated.

Yours



Gemma J. Kedera, PhD  
**MANAGING DIRECTOR**

Controller and Auditor General  
Permanent Secretary, Ministry of Agriculture

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Our Ref: PH/1/98

Date: July 19, 2007

Your Ref. KARI 1/158/VOL VIII/30

Kenya Agricultural Research Institute  
P.O Box 57811 00200  
**NAIROBI.**

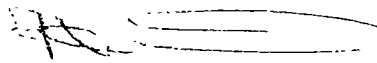
Attn: Mr.T. Njagi

**RE: DEBT OWED TO KEPHIS BY KARI**

We refer to your above referenced letter, dated 4<sup>th</sup> July 2007.

Enclosed herewith, please find certified copies of invoices for your headquarters and other centres. Copies of the same had earlier been forwarded to your Mr. Muga.

We will appreciate prompt settlement of the same.



Stephen K. Ithili  
**General Manager - Finance & Administration**

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Headquarters  
P.O. Box 49592 - 00100  
Tel: 882308 / 884545 / 882933  
Fax: 882265  
NAIROBI  
E-mail: kephis@nbnet.co.ke

24/6  
my

143493

KENYA PLANT HEALTH INSPECTORATE SERVICE

OFFICIAL RECEIPT

KEPHIS/RECEIPT

Station: Headquarters

Date: 21.04.2008

Received from: KARI KARI

The sum of Kenya Shillings <sup>Two</sup> million <sup>one</sup> hundred <sup>thirty</sup> thousand <sup>two</sup> hundred <sup>thirty</sup> only  
on account of long outstanding inspection fees for KARI Centre

/C No

Kshs 1,633,434

Cts

Signature of Issuing/Receiving Officer: [Signature]

Cash/Cheque No: 007027

Department: F&A

KARI - Cheque

37

**Kaplan Stratton  
Advocates**

Williamson House  
4th Ngong Avenue  
P.O. Box 40111 - 00100  
Nairobi, Kenya

www.kaplanstratton.com  
Email: KS@kapstrat.com  
VAT No. 0011219D PIN P000615541S

T: (0) 20 2841  
(0) 20 2733  
M: (0) 722 205  
(0) 733 699  
F: (0) 20 2734  
Intl. Code: +254  
DZ: No. 19

YOUR REFERENCE  
JKM/05/NBI/dc 07/34

OUR REFERENCE  
PMG/MO/126/3

DATE  
08 March 2011

**Without Prejudice**

J.K. Muchae & Co.  
Advocates  
Elgon Court  
Ralph Bunche Road  
NAIROBI

Dear Sir,

Re: Hccc No. 1347 of 2005  
Adan Mohamed vs. Kenya Plant Health Inspectorate Services

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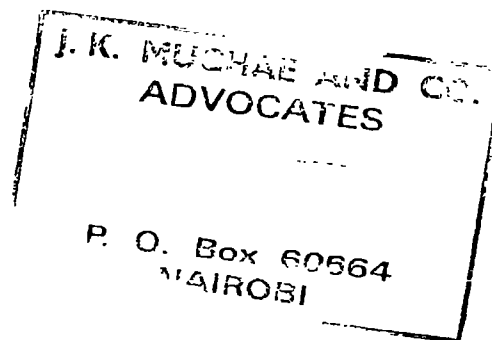
We refer to your letter dated 21<sup>st</sup> September 2010. Our client is willing to settle this matter on making a payment of KShs. 150,000/= in full and final settlement. Our client is not willing to terminate the water agreement or vacate the easement due to the nature of water supply and distribution in that area. Further, your client suffers no prejudice if the status quo is maintained.

Yours faithfully,

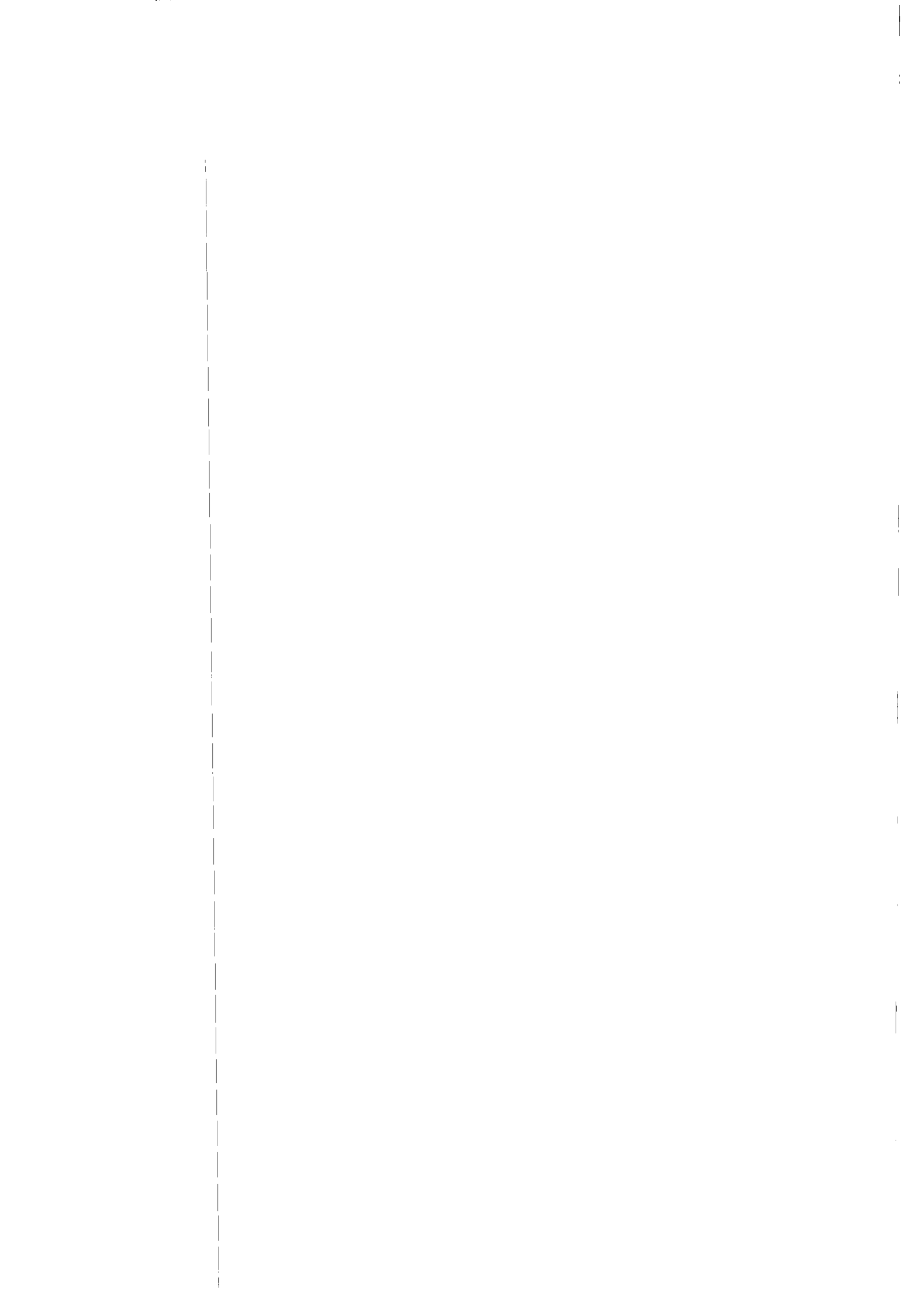
  
P.M. Gachuhi  
KAPLAN & STRATTON

cc. Client

PMG cm



38



91

Our Ref: PH/ 1/61 Vol.III

Date: 13<sup>th</sup> September, 2010

Your Ref:

J.K. Muchae  
Muchae & Co. Advocates  
P.O. Box 60664  
00200 NAIROBI

**RE: ELC CASE NO.L1692 OF 2007 (ORIGINAL HCC NO.1347 OF 2005)**  
**ADAN MOHAMED VS. KEPHIS**

We refer to your letter Ref:JKM/09/CON 6/04 dated 5<sup>th</sup> August 2010 on the above subject.

As you rightly said, we consented to the above case settled out of court as per the request of the plaintiff. You further indicated that the issue at stake; particularly on settling the case out of court is the rate and amount of water charged which is on the higher side. You proposed we re-calculate the rate using Nairobi Water Company Ltd rates.

After calculating using the Nairobi Water Co. Ltd. rates, the final amount is Kshs.205,010.00 (see attachment). You may therefore proceed to negotiate for this amount to be paid plus two issues of termination of previous agreement and vacation of easement as you indicated on Page 2 of your letter.



S.K. Ithili  
General Manager – Support Operations  
for: MANAGING DIRECTOR

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Period	consumption in m <sup>3</sup>	Tabulations			Bill per month	
June,july,August 2004	165.33	120	360	825.00	3,638.10	4,943.10
September 04	57.29	120	360	1,978.80		2,458.80
October, Nov 2004	122.92	120	360	825.00	2,173.26	3,478.26
Dec 2004	121.96	120	360	825.00	2,140.10	3,445.10
Jan, Feb 2005	219.49	120	360	825.00	5,508.78	6,813.78
mar, April 2005	219.95	120	360	825.00	5,524.67	6,829.67
May, June 2005	192.65	120	360	825.00	4,581.73	5,886.73
July 2005	106.09	120	360	825.00	1,591.95	2,896.95
September 04	94.65	120	360	825.00	1,196.81	2,501.81
Oct, Nov 2004	140.42	120	360	825.00	2,777.71	4,082.71
Nov 2005	87.51	120	360	825.00	950.20	2,255.20
Dec 2005	174.19	120	360	825.00	3,944.12	5,249.12
Jan 2006	192.85	120	350	825.00	4,588.64	5,893.64
Feb-April 06	229.11	120	350	825.00	5,841.06	7,146.06
May-June 2006	239.44	120	350	825.00	6,197.86	7,502.86
July 06-August 06	479.04	120	360	825.00	14,473.64	15,778.64
Sep 06-Dec 06	680.09	120	360	825.00	21,417.91	22,722.91
Jan-Mar 2007	257.12	120	360	825.00	6,808.52	8,113.52
April-May 2007	253.15	120	360	825.00	6,671.40	7,976.40
June 07	96.21	120	360	825.00	1,250.69	2,555.69
July-August 2007	226.6	120	360	825.00	5,754.36	7,059.36
Sept-Oct 2007	339.65	120	360	825.00	9,659.11	10,964.11
Nov-Dec 2007	170.91	120	360	825.00	3,330.83	5,135.83
Jan 2008-Feb 2008	480.01	120	360	825.00	14,507.15	15,812.15
Mar, April, May, June 2008	517.04	120	360	825.00	15,736.16	17,091.16
July, August, Sept 2008	378.52	120	360	825.00	11,001.68	12,306.68
Oct, Nov 2008	99	120	360	825.00	1,347.06	2,652.06
Dec 2008, Jan-March 2009	94.47	120	360	825.00	1,190.59	2,495.59
Apr-09	107.98	120	360	825.00	1,657.23	2,962.23
<b>Cummulative Bill Receivable</b>						<b>205,010.13</b>

Murgant  
Price 2891  
23/9/10  
File

# J.K. MUCHAE & COMPANY

## ADVOCATES

JOHN K. MUCHAE, HSC, CPS (K),  
LL.B (DAR), DIP. IN LAW (KSL),  
ELGON COURT  
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0720-793494

Ref. No. JKM/15/NBI/dc 07/49

Messrs. Kaplan & Stratton  
Advocates,  
9<sup>th</sup> Floor,  
Williamson House,  
4<sup>th</sup> Ngong Avenue,  
P.O. Box 4011-00100,  
NAIROBI



21<sup>st</sup> Sept. 2010

"WITHOUT PREJUDICE"

- Discussed with  
Mr. Muchae  
- To await the response  
from Mr. Adon's advocate.  
y

Attention: Mr. P. M. Gachuhi,

Dear Sirs,

**RE: ELC CASE NO. 1962 OF 2007: ADAN MOHAMED VS. KEPHIS**

We refer to the telephone conversation of Thursday 16<sup>th</sup> September, 2010, between your Mr. Gachuhi and our Mr. Muchae.

Our client has recalculated the electricity cost of pumping water from its borehole to your client's property. Our client shall be grateful if your client pays our client a sum of Kenya Shillings Two Hundred Five Thousand and Ten (KShs. 205,010.00), being our client's electricity cost of pumping water from its borehole to your client's property.

In our honest opinion this is a very reasonable amount of the said cost.

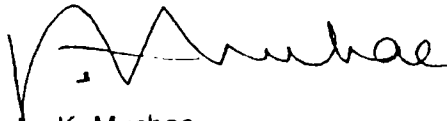
Please request your client to pay our client the said sum of KShs. 205,010.00 in full and final settlement of our client's claim against your client.

If your client agrees to pay the said sum of KShs. 205,010.00 to our client, both parties would then record a consent order in court. We would suggest that the following terms be included in the consent order-

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- (1) there will be order as to payment of costs. Each party will hear its own costs;
- (2) The Water Agreement dated 1<sup>st</sup> July 2002 between the Barclays Bank of Kenya and Adan Mohamed be terminated, and
- (3) The Grant of Easement dated 1<sup>st</sup> November, 2002, Between Barclays Bank of Kenya Limited to Adan Mohamed over LR. NOS. 4743/8 and 4943 for the benefit of LR. No. 4943/6, Nairobi, registered at the Nairobi Titles Registry at Nairobi as I.R. 87819/2 and 86430/2 be vacated or lifted.

Yours truly, faithfully,



John K. Muchae  
**For: J. K. Muchae & Company**  
**Advocates**

✓ cc. Client.



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL SUIT No. 1347 OF 10, 2005

Adan Mohhamed
(Kaplan & Stratton Advocates)
Plaintiff

against

Kenya Plant Health Inspectorate Service
Defendant

To: Kenya Plant Health Inspectorate Service
NAIROBI (service of Summons through Kaplan & Stratton Advocates)

WHEREAS the above-named Plaintiff has instituted a suit against you upon the claim, the particulars of which are set out in the copy plaint with annexure attached hereto.

YOU ARE HEREBY REQUIRED within 15 days from the date of service hereof to enter an appearance in the said suit.

Should you fail to enter an appearance within the time mentioned above, the Plaintiff may proceed with the suit and judgement may be given in your absence.

Given under my hand and the Seal of the Court this 10th day of NOVEMBER 2005

Note.—You may appear in this by entering an appearance either personally or by duly appointed advocates at Nairobi. Appearance can be entered by filing with the Court Memo. of Appearance (forms are obtained from Court at 15 cents each) in duplicate, showing the defendant's

DEPUTY REGISTRAR, HIGH COURT

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REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CIVIL CASE NO. 1347 OF 2005

ADAN MOHAMMED ..... PLAINTIFF

VERSUS

KENYA PLANT HEALTH INSPECTORATE SERVICE ..... DEFENDANT

IN CHAMBERS ON 9<sup>TH</sup> NOVEMBER 2005, BEFORE THE  
HONOURABLE LADY JUSTICE MUGO

**ORDER**

An application for:

1. THAT this application be heard ex-parte in the first instance.
2. THAT the Defendant by itself, its officers, servants or agents or otherwise howsoever be restrained until further orders from doing the following acts that is to say:
  - a) Interfering in any manner with the right of the Plaintiff to the free and uninterrupted passage and flow of water from the Borehole and Water Tank situate on the Defendant's Property to the Plaintiff's property known as L.R. No. 4943/6 Karen, Nairobi along the line of pipes shown on the plan attached to a Grant of Easement dated 1<sup>st</sup> November 2002 and registered in the Land Titles Registry on 17<sup>th</sup> February 2003.
  - b) Disconnecting, obstructing or permitting the disconnection or obstructing of the free passage and flow of water or placing or allowing to be placed anything restricting preventing the free passage and flow of the water or otherwise interfering with the Plaintiff's full use and enjoyment of the water.
3. THAT the defendant do forthwith remove any obstruction to the free and uninterrupted passage and flow of water and must reconnect any pipes.
4. THAT the costs of this application be awarded to the Plaintiff.

UPON READING the application presented to this Court on 9<sup>th</sup> November 2005 by the counsel for the Plaintiff under Order XXXIX rule 1, 2, 3 and 7 of the Civil Procedure Rules and Section 3A of Civil Procedure Act AND UPON READING the Supporting Affidavit of Adan Mohammed sworn on 9th

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November 2005 in support of the application and the annexures thereto AND UPON HEARING the counsel for the Applicant/Plaintiff Ex-parte.

**IT IS HEREBY ORDERED:**

1. **THAT** this application be and is hereby heard ex-parte in the first instance.
2. (a) **THAT** there be an interim injunction restraining the Defendant by itself, its officers, servants or agents or otherwise howsoever from interfering in any manner with the right of the Plaintiff to the free and uninterrupted passage and flow of water from the Borehole and Water Tank situate on the Defendant's Property to the Plaintiff's property known as L.R. No. 4943/6 Karen, Nairobi along the line of pipes shown on the plan attached to a Grant of Easement dated 1<sup>st</sup> November 2002 and registered in the Land Titles Registry on 17<sup>th</sup> February 2003
- 2 (b) **THAT** the defendant by itself, its officers, servants or agents or otherwise be restrained from disconnecting, obstructing or permitting the disconnection or obstruction of the free passage and flow of water or, placing or allowing to be placed anything restricting preventing the free passage and flow of the water or otherwise interfering with the Plaintiff's full use and enjoyment of the water for 14 days.
3. **THAT** the application be served for the hearing interparties on 23<sup>rd</sup> November 2005.
4. **THAT** costs be in the cause.

**GIVEN** under my hand and seal of the court at Nairobi this 9<sup>th</sup> day of November 2005.  
**ISSUED** at Nairobi this 10<sup>th</sup> day of November 2005.

  
**DEPUTY REGISTRAR**  
**HIGH COURT OF KENYA AT NAIROBI**

  
10/11/05

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