

CONFIRMATION OF MINUTES OF THE LAND ACQUISITION AND COMPENSATION COMMITTEE MEETING HELD ON MONDAY 25<sup>TH</sup> JANUARY, 2018 AT ARDHI HOUSE, BOARDROOM AT 10:00 A.M.

Annex 18

Present

1. Dr. Tom Konyimbih
2. Emma M. Njogu
3. Joash Oindo

Commissioner-Chairing  
Commissioner/Member  
D/Director Val & Tax

Min.1/1/25/01/2018 - Opening Prayers

The meeting started at 2:00 pm with a word of Prayer.

The agenda of the day was adopted for discussion having been proposed by the Committee Chair.

Min 1/2/01/2018 APPROVAL OF PAYMENT SCHEDULES

The following schedules were approved on account that due diligence had been done.

Min.1/3/25/01/2018 - RUARAKA HIGH SCHOOL AND DRIVE-IN PRIMARY SCHOOL (LR No. 7879/4-part)

Payment of Ksh. 1,500,000,000.00 to Afrison Export Import Limited was approved Registered owner to sign an indemnity confirming that all facts and documents of ownership provided are authentic.  
Agreed.

- Deputy Director Survey will undertake survey for vesting of the acquired parcel.
- National Land Commission to pay Ksh.1,500,000.00/= being part payment of the total compensation amounting to Kshs.3,269,040,600.00/=.

Min.1/4/25/01/2018 - MASARA - SUNA - KEHANCHA & AWENDO MARIWA ROAD

Payment approved for two PAPs suna/wiga/1237 and suna east/wasweta/ 318 amounting to Ksh. 504,550.00/=.

Min.1/5/25/01/2018 - KISUMU Northern BY-Pass

Payment for three PAPs amounting to Ksh.2,225,680.00/= was approved after all due diligence

Min.1/6/25/01/2018 - Kangema - Gacharage Road Project

Payment for one PAP amounting to Ksh.24,040.00/= was approved after all due diligence.

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Min.1/7/25/01/2018 - Ena - Ishlara - Ciakariga

Payment for two PAPs amounting to Ksh.424,604.00/= was approved after all due diligence.

Min.1/8/25/01/2018 - Allocation of Valuers and Project Officers for SGR, Phase 2A and Lapsset Corridor.

Phase 2A SGR

Gazettment of Intention to Acquire was done on 2nd December, 2017 and inspection have commenced. Challenge is delayed facilitation from Kenya Railways.

Project valuers are Joash Oindo, Dorleah Buyaki, Isabel Njeru and Jacob Kipaa.

Lapsset Corridor

Preliminary meeting is set for 30th January, 2018 between NLC and Lapsset. Director, to draw a work plan.

Project valuers are Dr. Salome Munubi, Joash Oindo, Dennis Ochang, Fidells Mt Jacob Kipaa and Dennis Kariuki.

Min.1/9/25/01/2018 - Acquisition of Land for New Ruiru Bus Park

Request approved subject to a new letter of instructions to be signed by the Government as required by the Land Act 2012 Article 107(I) on acquisition of land for Government.

Min.1/10/25/01/2018 - Confirmation of Previous minutes of 29th September 2017 and 19th December, 2017.

The Minutes were read through by the Chair and were confirmed as true and correct at the meetings.

Matters Arising

Min.16/1/29/9/2017 - Positions of Valuation Assistants.

Commissioner Emma Njogu informed the meeting that the position of valuation assistants had been advertised by HRM. It was agreed that similar advertisement be done for the positions of Principal Valuers.

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12/12/2017 - Policy paper on assessment of rent.  
Agreed. Ida Sa Godana to continue paying the existing rent until further notice  
on revised policy.

Min. 1/1/29/01/2018 - Confirmation of Previous minutes of 25<sup>th</sup> January 2018.

Signed

Director/Secretary ..... 

Chairperson ..... 

Date..... 29/1/2018

Date..... 29<sup>th</sup> January 2018

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*Afrison Export Import Limited*  
*Annex 19*

The National Lands Commission  
Ardhi House 1<sup>st</sup> Ngong Avenue  
OFF Ngong Road  
P.O Box 44417-00100  
NAIROBI

26<sup>th</sup> January 2018

Dear Sir,

LAND COMPANESATION FOR PUBLIC SCHOOLS  
UPON  
L.R NO. 7879/4 (PART) - NAIROBI COUNTY


We would like to inform you that we have changed the details of the account which is to be paid for the compensation for public schools on LR NO 7879/4.  
The account details that we want the total amount paid to is in the name of Whispering Palms Estate Limited, the account details are as follows;

Account name: Whispering Palms Estate Limited  
Bank: Barclays Bank of Kenya  
Account number: 061 - 1033613  
Branch: Westgate Branch

We thank you for your cooperation in the above matter.

Regards,

  
Justin Mburu  
Afrison Export Import Ltd  
DIRECTOR

  
Mark Mburu  
Huelands Limited  
DIRECTOR

Riverside Drive, Riverside Court, Suite 033

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Annex 20

INTERNAL MEMO

To: Secretary/CEO

From: Director, Valuation & Taxation

Ref: NLC.VAL.1446

Date: 26<sup>th</sup> January 2018

COMPENSATION PAYMENT FOR RUARAKA HIGH SCHOOL AND DRIVE INN PRIMARY SCHOOL - KSHS.1,500,000,000.00

We refer to the acquisition of land being undertaken by the Ministry of Education and a letter received from Ministry of Education Ref. MOE/ACCT/1/19(62) dated 15<sup>th</sup> January 2018 remitting Kshs.1,500,000,000/= to the Commission's bank account (copy attached).

We hereby attach a Schedule amounting to Kshs.1,500,000,000/= (Kenya Shillings One point Five Billion only).

Kindly approve for the disbursement of the funds. The Committee on Land Acquisition and Compensation approved this Schedule under Min.No.1/3/25/01/2018 of 25<sup>th</sup> January 2018.(copy attached).

The Director has authorized payment having undertaken due diligence and further adhered to the Land Act 2012 on compulsory acquisition.

Kindly approve for the disbursement of funds.

*Dr. Salome L. Munubi*  
**Dr. Salome L. Munubi**  
**DIRECTOR, VALUATION & TAXATION**

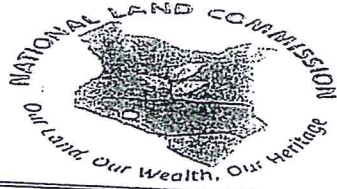
Encl.

*Dr. Salome*  
*1) Payment app 10/1/18*  
*Subject to Min. No. 1/3/25/01/2018*  
*dated 23/01/18*  
*Kindly observe due diligence*  
*as done before any*  
*payment is made*  
*101*  
*29/01/18*

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RUARAKA HIGH SCHOL AND DRIVE-IN PRIMARY SCHOOL - MINISTRY OF EDUCATION				
NO	PLOT NO	REGISTERED OWNER	AREA AQ. (HA)	AMOUNT PAYABLE (KSHS)
1	L.R. 209/7879/4	Afrison Import Export Ltd & Huelands Limited	5.5727	1,500,000,000.00
				1,500,000,000.00

Prepared by: Lillian S. Keverenge  
SECRETARY

*[Handwritten signature]*  
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Authorized by: Dr. Salome L. Munubi  
DIRECTOR, VALUATION & TAXATION

*[Handwritten signature]*  
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NATIONAL LAND COMMISSION

Telegrams: "MILANDS", Nairobi;  
Telephone: Nairobi 2718050  
When replying please quote

REF: NLC/FIN.1

ARDHI HOUSE  
NGONG ROAD  
P.O. Box 44417  
NAIROBI

Date: 29<sup>th</sup> January, 2018


The Managing Director  
National Bank of Kenya Limited  
P.O. Box 30121-00100  
NAIROBI


COMPENSATION PAYMENT FOR RUARAKA HIGH SCHOOL & DRIVE INN PRIMARY  
SCHOOL - KSHs.1,500,000,000.00

The above mentioned subject matter refers

We kindly request you to transfer the above amount from our Account No. 01001032950000 to the individual's Account as per the attached schedule. Cheque No.000936 totaling to Kshs.1,500,000,000.00 (One Billion, Five Hundred Million Only) Payable to yourselves is attached.

kindly return to us the attached copy of this letter stamped received.

  
FRANCIS KARIMI MUGO  
AUTHORIZED SIGNATORY

  
DR.SALOME L. MUNUBI  
AUTHORIZED SIGNATORY

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**COMPENSATION SCHEDULE FOR RUARAKA HIGH SCHOOL & PRIVE INN PRIMARY SCHOOL**

PLOT NO	PAYEE	REG NO.	PIN NO	BANK	BRANCH	ACCNO	CODE	AMOUNT
L.R 209/7879/4	WHISPERING PALMS ESTATE LTD	C.127827	P051233668F	BARCLAYS	WESTGATE	1033613	03061	1,500,000,000.00
<b>TOTAL</b>								<b>1,500,000,000.00</b>

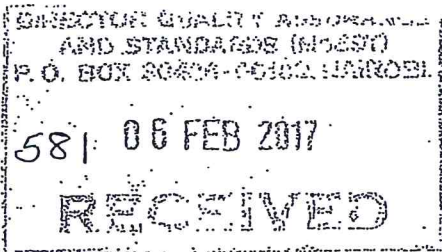
  
 FRANCIS KARIMI MUGO  
 AUTHORIZED SIGNATORY

  
 DR. SALOME L. MUNUBI  
 AUTHORIZED SIGNATORY

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**MINISTRY OF EDUCATION**  
STATE DEPARTMENT OF BASIC EDUCATION

Telegrams: "SCHOOLING", Nairobi  
Tel. 0202453699 Fax 2244831 Nairobi  
When replying please quote

**REGIONAL COORDINATOR OF EDUCATION**  
NAIROBI REGION  
NYAYO HOUSE  
P.O. BOX 74629-00200  
**NAIROBI**

Ref: CQAS/KAS/8/16(1)

Date: 3<sup>rd</sup> February 2017

The Principal Secretary  
State Department of Basic Education  
Ministry of Education  
P. O. Box 30040  
NAIROBI

**RE: QUALITY ASSURANCE AND STANDARDS INVESTIGATIVE REPORT –  
RUARAKA HIGH SCHOOL**

Enclosed please find a copy of assessment report compiled following an investigation of the school on 27<sup>th</sup> January 2017 by a team of officers led by the Regional Coordinator of Education for your attention. Major recommendations of the report include;

1. The Official Receiver and Liquidator, Mr. Paul Omondi Mbago should release the school land documents.
2. The Cabinet Secretary, Ministry of Education (MOE) in liaison with the Chairman, National Lands Commission to facilitate for the processing of the title deeds of the said public schools to have the matter settled once for all.
3. The Cabinet Secretary Ministry of Education and the Chairman National Lands Commission should hasten the processing of the school lands documents to protect them from grabbing or encroachment.
4. Having been a surrendered portion of land for the public utility, the panels view was that the claimant has no basis for compensation for the land.

  
**MR. JOHN L. OLOFTUAA**  
REGIONAL COORDINATOR OF EDUCATION  
NAIROBI REGION

cc.

~~CABINET SECRETARY, Ministry of Education~~

• ~~DIRECTOR GENERAL~~

• ~~DIRECTOR, QUALITY ASSURANCE AND STANDARDS~~

• ~~SUB-COUNTY DIRECTOR OF EDUCATION, Kasarani Sub-County~~

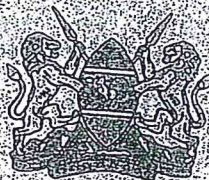
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Annex 23



MINISTRY OF EDUCATION

Office of the Principal Secretary, State Department of Basic Education

Telegrams: "EDUCATION", Nairobi  
Telephone: Nairobi 3318581  
Fax No: 254-2-214287  
E-mail: ps@education.go.ke  
When replying please quote

09 FEB 2017

PRINCIPAL SECRETARY  
JOGOO HOUSE "B"  
HARAMBEE AVENUE  
P. O. BOX 30040  
NAIROBI

Ref. No.

MOE/CONF/G5

7th February, 2017

Prof. Muhammad A. Swazuri, PhD, OGW  
Chairman,  
National Land Commission,  
Ardhi House  
NAIROBI

Director, Valuation and Taxation

Quickly provide these to us  
we advise

MMS  
09/2/17

Dear

RE: LR NO 7879/4 RUARAKA HIGH SCHOOL AND DRIVE INN PRIMARY SCHOOL

This is to acknowledge receipt of your letter ref. Val 1446 dated 13<sup>th</sup> September, 2016 addressed to the Cabinet Secretary in regard to the above subject matter.

The Ministry acknowledges that both Ruaraka High and Drive Inn Primary Schools occupy part of the above LR No which is private land. In the interest of securing public investments in the two schools, it is necessary to have the land on which the schools are developed, acquired through the principle of eminent domain i.e. acquisition in the public interest. As per your constitutional and legal mandate, the National Land Commission is requested to guide us in this process, including the gazetting of the said parcel, for purposes of compulsory acquisition and after gazetting, provide us with acquisition plans.

The Ministry therefore awaits your advisory note to determine the total acreage of the land on which the two schools occupy and the estimated value for the Ministry's further action.

Yours

Dr. Belio R. Kipsang, CBS  
PRINCIPAL SECRETARY

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Copy to: Cabinet Secretary  
Ministry of Education



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OFFICE OF THE CHAIRMAN

Telegrams: "MINILANDS", Nairobi  
Telephone: Nairobi 2718050  
When replying please quote.

ARDHI HOUSE  
NGONG ROAD  
P.O. Box 44417  
NAIROBI

Ref: VAL.1446

16<sup>th</sup> February 2017

Dr. Belio R. Kipsang, CBS  
Principal Secretary  
Ministry of Education  
Logoo House "B"  
NAIROBI

Dear *Dr. Kipsang,*

L.R. NO. 7879/4 RUARAKA HIGH SCHOOL AND DRIVE INN PRIMARY SCHOOL

We are in receipt of your letter Ref. MOE/CONF/G5 dated 7<sup>th</sup> February 2017.

The Commission shall undertake the proposed works under the law. Please note that Section 107(1) of the Land Act prescribes that whenever the National Government is satisfied that it may be necessary to acquire some particular land, the respective Cabinet Secretary shall submit a request for acquisition of public land to the Commission to acquire the land on its behalf.

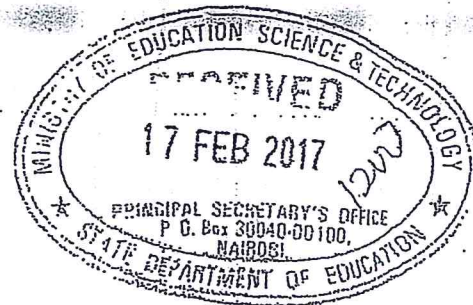
Kindly make your Cabinet Secretary aware of this requirement so that we proceed with the intended acquisition.

Yours *Sincerely,*

*Muhammad*

Prof. Muhammad A. Swazuri, PhD, OGW  
Chairman, National Land Commission and  
Associate Professor in Land Economics

Copy to: Director, Valuation & Taxation, NLC



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OFFICE OF THE CHAIRMAN

Telegrams: "MINILANDS", Nairobi  
Telephone: Nairobi 2718050  
When replying please quote

ARDHI HOUSE  
NGONG ROAD  
P.O. Box 44417  
NAIROBI

NLC/VAL.1446

24th April 2017

Dr. Fred Matiang'i  
Cabinet Secretary  
Ministry of Education, Science & Technology  
P. O. Box 30040-00100  
NAIROBI.

Dear

L.R. 7879/4 RUARAKA HIGH SCHOOL AND DRIVE INN PRIMARY SCHOOL

The Commission refers to your letter Ref. MOE/CONF/G5 dated 7<sup>th</sup> February 2017 whereby the Ministry of Education acknowledges that both Ruaraka High and Drive Inn Primary Schools occupy part of L.R. No.7879/4 which is private land. The commission has noted the Ministry's interest to secure the public investments in the two schools through the principle of eminent domain.

The purpose of this letter is to refer you to provisions in the Land Act 2012 Part VIII on compulsory acquisition whereby prompt compensation is to be paid. The land owner has cited a survey of the schools as occupying 13.5364 acres and the Commission's letter Ref.VAL.1446 of 13<sup>th</sup> September 2016 (copies attached for ease of reference)

Therefore kindly set aside the compensation funds for this land amounting to Kshs.3,269,040,600/= inclusive 15% statutory disturbance allowance provided under the Land Act 2012. The Commission is duly undertaking the legal process and the Ministry is expected to deposit the funds in the Commission details as provided hereunder;

Account Name	:	National Land Commission
Bank	:	National Bank
Branch	:	Upper Hill
Account Number	:	01001032980000
Bank Code	:	12004

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28 June 82

Your prompt action will enable the Commission to disburse the payments on time in accordance with constitutional provision on promptness of just compensation once the acquisition process is commenced.

Yours sincerely,

MMUWA

Prof. Muhammad A. Swazuri, PhD, OGW  
Chairman, National Land Commission and  
Associate Professor in Land Economics

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Annex 26

# MINISTRY OF EDUCATION

## Office of the Principal Secretary, State Department of Basic Education

Telegraphic: "EDUCATION", Nairobi  
Telephone: Nairobi 3318581  
Email: ps@education.go.ke  
When replying please quote

JOGOO HOUSE "B"  
IARAMBEE AVENUE  
P. O. BOX 30040-00100  
**NAIROBI**

MOE.GEN/4L/12/(17)

29<sup>th</sup> June, 2017

Ref. No.....

Date.....

Prof. Githu Muigai, EGH, SC  
Attorney General  
Office of the Attorney General and  
Department of Justice  
P. O. Box 40112-00100  
NAIROBI

Dear AG

RE: LEGAL OPINION ON COMPENSATION FOR LR NO7879/4 RUARAKA HIGH SCHOOL AND DRIVE IN PRIMARY SCHOOL

We are in receipt of letters Ref.VAL.1446 dated 13<sup>th</sup> September, 2016 and 24<sup>th</sup> April, 2017 from the National Land Commission (copies attached).

Ruaraka High School is a public secondary school established in the year 1984, while Drive-In-Estate Primary School was established in 1987.

The schools are located in part of LR. No.7879/4 measuring 13.5364 acres. Ruaraka High School occupies 7.6 acres which they claim to have been allocated to them. (Copy of the allotment letter attached).

The land in which the schools are situated was part of Drive-In-Estate.

A company by the name Afrison Export Import Limited has now written to the National Land Commission seeking to be compensated for the land measuring 13.5364 acres.

A gazette notice for the intention to acquire has been prepared and awaiting gazette.

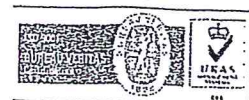
In view of the above, I now write to request for a legal opinion on the same before we request the National Treasury to set aside resources for compensation and gazette of the intention.

Enclosed are bundles of documents on the subject.

Yours

Dr. Belio Kipsang, CBS  
PRINCIPAL SECRETARY

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Annex 27



## MINISTRY OF EDUCATION

Office of the Principal Secretary, State Department of Basic Education

Telegraphic: "EDUCATION", Nairobi  
Telephone: Nairobi 3318581  
Email: ps@education.go.ke  
When replying please quote

JOGOO HOUSE "B"  
HARAMBEE AVENUE  
P. O. BOX 30040-00100  
NAIROBI

Ref. No. MOE.GEN/31L/8 VOL.X

30<sup>th</sup> June, 2017  
Date

Dr. Kamau Thugge, CBS  
Principal Secretary  
National Treasury  
P. O. Box 30007  
NAIROBI

Dear PS

RE: COMPENSATION FOR RUARAKA HIGH SCHOOL AND DRIVE IN PRIMARY SCHOOL


Reference is made to the above subject. We are in receipt of a self-explanatory letter from the National Land Commission advising us to allocate money for the compulsory acquisition of part of LR No.209/7879/4. (Copy of the letter attached).

We have sought the Attorney General's legal opinion, which we will share with you once we get it. In the meantime, the intention to compulsorily acquire the said parcels of land on which the two schools are situated, has been gazetted through the Gazette Notice No.6322 of 30<sup>th</sup> June, 2017.

The purpose of this letter is to bring to your attention the budgetary implication.

Yours

*Sincerely*

  
Dr. Belio Kipsang, CBS  
PRINCIPAL SECRETARY

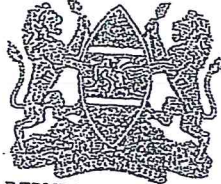
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REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

Our Ref: AG/CONF/21/72 VOL I

July 7, 2017

Dr. Bello Kipsang, CBS  
Principal Secretary  
Ministry of Education  
Jogoo House "B"  
P.O. Box 9583-00200  
NAIROBI

RE: LEGAL OPINION ON COMPENSATION FOR LR. NO. 7879/4 RUARAKA  
HIGH SCHOOL AND DRIVE IN PRIMARY SCHOOL

We refer to your letter under Ref. No. MOE.GEN/41/12/ (17) dated 29<sup>th</sup> June, 2017 in which you requested for our legal opinion on the above compulsory acquisition of LR. No. 7879/4 for purposes of continued establishment of Ruaraka High School and Drive In primary school.

The request is premised on the following background information:-

- i. That Ruaraka High School is a public secondary school established in the year 1984, while Drive-In-Estate Primary School was established in 1987.
- ii. The schools are located in part of LR No. 7879/4 Measuring 13,5364 acres. Ruaraka High School occupies 7.6 acres which they claim to have been allocated to them.
- iii. The Ministry had constituted a team to investigate the matter and a report was submitted to the Principal Secretary.
- iv. In the said report, the team was of the view that the company had surrendered a portion of the land for public utility and therefore no basis for their compensation.
- v. In the correspondence availed we note there was a letter of allotment issued to the secondary school.
- vi. A letter dated 28<sup>th</sup> March, 1984 from the Nairobi City Council to the Developer, informed them that their proposed development was given conditional subdivision approval and it's up to them to accept the same or cancel the subdivision.

SHERIA HOUSE, MARAMBEE AVENUE  
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/071 19445555/0732529995  
E-MAIL: [info.statecawoffice@kenya.go.ke](mailto:info.statecawoffice@kenya.go.ke) WEBSITE: [www.attorney-general.go.ke](http://www.attorney-general.go.ke)

DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337  
E-MAIL: [legal@justice.go.ke](mailto:legal@justice.go.ke) WEBSITE: [www.justice.go.ke](http://www.justice.go.ke)

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- vii. The developers in their letter dated 3<sup>rd</sup> April, 1984 declined the condition for the subdivision.
- viii. A letter dated 3<sup>rd</sup> August, 1984 the Ministry of Education wrote to the Commissioner of Lands supporting the Companies bid to erect a private school on the said land.
- ix. That a Certificate of Postal Search dated 8<sup>th</sup> December, 2016, indicates that the Land Reference LR. No. 7879/4 measuring approximately 96 acres under a Freehold tenure is registered in the name of Afrison Export Import Limited and Huelands Limited as tenants in common in equal shares.

Having considered the request in light of the background facts as rationalized against the Constitution and the applicable law, we advise as follows:-

1. The legal basis and the efficacy of the process of compulsory land acquisition in Kenya should be done within the broader constitutional and statutory framework of the right based approach to property protection under Article 40 of the Constitution; Chapter Five of the Constitution on Land and environment; and the Land Act, cap 280 of the Laws of Kenya, which are the primary legislations governing compulsory acquisition process.
2. As a right based approach, Article 40(3) states as follows:
 

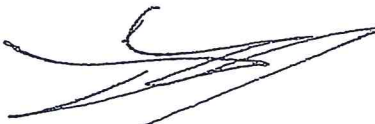
*"(3) The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—*

  - a. results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or*
  - b. is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that—*
    - i. requires prompt payment in full, or just compensation to the person; and*
    - ii. allows any person who has an interest in, or right over, that property a right of access to a court of law."*
3. The import of Article 40(3) of the Constitution is that for compulsory acquisition to issue, the land must be acquired for a public purpose or in the public interest and there should be prompt payment in full, of just compensation to the person.
4. We note that the both Ruaraka High School and Drive-In-Estate School are public schools. Accordingly, it is our legal advisory that the Constitutional requirement of public purpose or interest as a factor in compulsory acquisition of private land is fulfilled.

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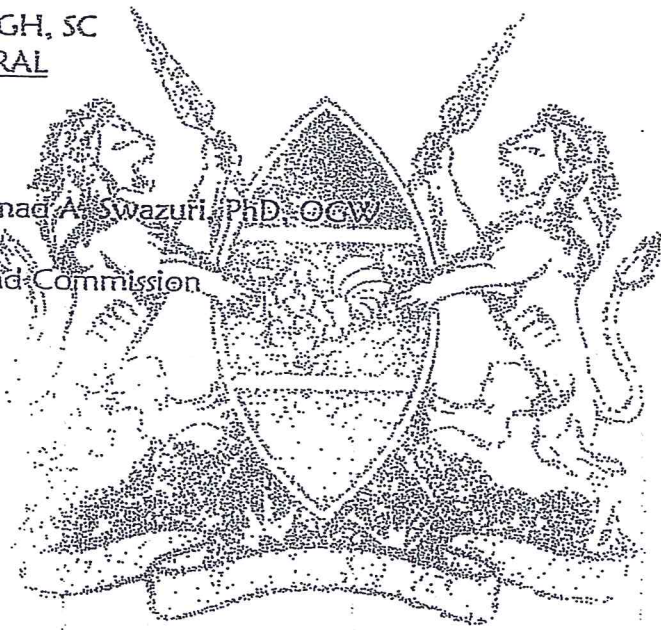
- vi. By dint of section 120 of the Land Act, the Commission is required to take possession of the land on the day specified by notice addressed to the registered proprietor of the land and the Registrar and the title shall then be deemed to vest in the national or county governments as the case may be; and
- vii. Under section 121 of the Land Act, the Commission is required to demand in writing for the surrender of the title documents to the Registrar in the event that the title documents have not been delivered by the person having possession of the documents of title.

Please be advised accordingly.

  
GITHU MUIGAI, EGH, SC  
ATTORNEY GENERAL

Copy to:

Dr. Muhammad A. Swazuri, PhD, CGW  
Chairperson  
National Land Commission  
NAIROBI.



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REPUBLIC OF KENYA  
THE NATIONAL TREASURY

Annex 29

Telegraphic Address: 22921  
FINANCE-NAIROBI  
Fax No.: 315779  
Telephone: 2252299  
Email: [ps@treasury.go.ke](mailto:ps@treasury.go.ke)  
Website: [www.treasury.go.ke](http://www.treasury.go.ke)

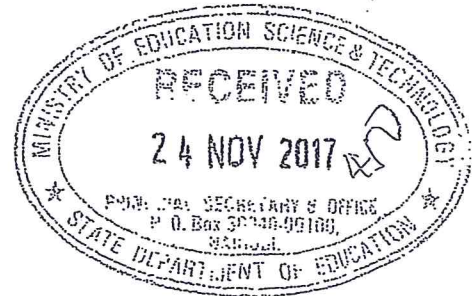
THE NATIONAL TREASURY  
P.O. Box 30007 - 00100  
NAIROBI

When replying please quote

Ref: DV/ES 1063/17/01 'A' (24)

Date: 13<sup>th</sup> November, 2017

Dr. Belio R. Kipsang, CBS  
Principal Secretary  
State Department for Basic Education  
Ministry of Education  
NAIROBI



Dear 

**RE: LAND COMPENSATION FOR RUARAKA HIGH SCHOOL AND  
DRIVE-IN PRIMARY SCHOOL**

Reference is hereby made to your letters Ref.No.MOE.GEN/3IL/8 VOL.X and MOEST/CONF/2/31-TY/39 dated 30<sup>th</sup> June, 2017 and 18<sup>th</sup> July, 2017 respectively on the above subject matter.

The National Treasury has noted your request for funding amounting to Ksh.3,269,040,600 to cater for compulsory acquisition of part of land LR No.7879/4 measuring 13.5364 acres on which the above mentioned schools are built. We have also noted that the land is registered under Afrison Export and Import Ltd and the owners had written to the National Land Commission demanding compensation for the land which the schools had occupied for the last thirty (30) years.

It is further noted that the Ministry sought for legal opinion from the office of the Attorney General and Department of Justice on the matter and the Attorney General confirmed that the two schools are public schools, the Constitutional requirement of public purpose or public interest as a factor in compulsory acquisition of private land is fulfilled. He further advised on the procedure to be followed by the National

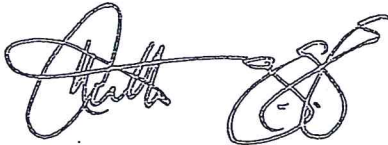
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~~Land Commission in the compulsory acquisition of the land in line with the Land Act.~~

In the light of the legal advisory provided by the Attorney General and given that the two schools are existing and running and also taking into account the prevailing fiscal constraints, authority is hereby granted for the State Department of Basic Education to spend Ksh.1,500,000,000.00 in the compulsory acquisition of the above mentioned land pending regularization of the expenditure in the FY 2017/18 Supplementary II Estimates. The balance of the funding will be reviewed in the context of FY 2018/19 budget.

Please Ensure that due diligence is exercised in the process of this compulsory acquisition.



~~DR. KAMAU THUGGE, CBS~~  
~~PRINCIPAL SECRETARY/THE NATIONAL TREASURY~~

Copy to:

Mr. Edward Ouko, CBS  
The Auditor General  
Kenya National Audit Office  
NAIROBI

Mrs. Agnes Nangira Odhiambo, CBS  
Controller of Budget  
Office of the Controller of budget  
NAIROBI

4.5.2

115



MINISTRY OF EDUCATION  
STATE DEPARTMENT FOR BASIC EDUCATION

Telegrams "Education," Nairobi  
Telephone: 318581  
Fax 214287  
E-mail: ps@education.go.ke

Jogoo House 'B'  
HARAMBEE AVENUE,  
P. O. Box 30040-0100  
NAIROBI, KENYA

Ref No.: MOE/ACCT/1/03/Vol. 17



11<sup>th</sup> December, 2017

The Principal Secretary  
National Treasury  
P O Box 30007-00100  
NAIROBI

ATTN: EXCHEQUER SECTION

REF: REQUEST FOR RECURRENT EXCHEQUER- KSHS.1, 500,000,000.00.

Reference is made to the office of the controller of budget no.3/2013 dated July 3<sup>rd</sup>, 2013.

This is to request for a recurrent exchequer of Kshs.1, 500,000,000.00 (One Billion, Five Hundred Million only) for the following purpose.

- Compensation for L.R NO.7879/4  
Ruaraka High School & Drive inn Primary School - Kshs. 1,500,000,000.00.

EMILIO MUKIRA  
For: PRINCIPAL SECRETARY



08:00 AM

08

MINISTRY OF EDUCATION

Annex 31



MINISTRY OF EDUCATION

Office of the Principal Secretary, State Department of Basic Education

Telegrams: "EDUCATION", Nairobi  
Telephone: Nairobi 3318581  
Fax No.: 254-2-214287  
E-mail: ps@education.go.ke  
When replying please quote

PRINCIPAL SECRETARY  
JOGOO HOUSE "B"  
HARAMBEE AVENUE  
P. O. BOX 30040  
NAIROBI

MOE/ACCT/1/19 (62)

15<sup>th</sup> January, 2018

Ref. No.....

.....  
date

Chavangi Aziz Tom  
Secretary/CFO  
National Land Commission  
Arathi House  
Ngong Avenue  
P.O. Box 44417  
NAIROBI

cc: Chavangi

FINANCING AND COMPENSATION FOR RUARAKA HIGH SCHOOL AND DRIVE-IN PRIMARY SCHOOL

We refer to your letters Ref. No. VAL.1446 and NLC/CAL.1446 of 13th September, 2016 and 24th April, 2017 respectively, on the above subject. Whereas you had requested us to deposit Ksh.3,269,040,600.00 in the Commission Account, the National Treasury granted us the authority to spend Ksh.1,500,000,000.00 in this FY 2017/2018. The balance of the funding will be reviewed in the context of FY 2018/2019.

The National Treasury has so far disbursed Ksh.1,500,000,000.00 to be transferred to your account to enable you settle part of the compensation. To enable us disburse the same amount to your account, kindly submit the following to my Office:-

1. A formal request of the said amount to be released to your bank account,
2. A valuation report showing clearly how the compensation amount of Ksh.3,269,040,600.00 was arrived at.

Kindly expedite.

Yours faithfully,

Beljo R. Kipsang, CBS  
PRINCIPAL SECRETARY

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18-10-1974

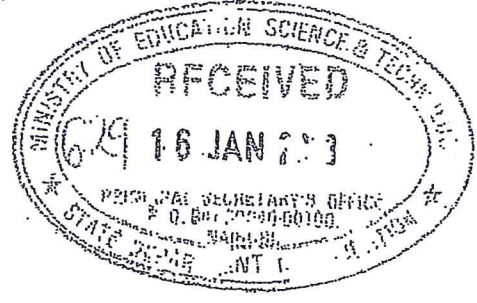
Annex 32



OFFICE OF THE SECRETARY/CEO

Telegrams: "MINILANDS", Nairobi  
Telephone: Nairobi 2718050  
When replying please quote

NLC/VAL.1446



ARDHI HOUSE  
NGONG ROAD  
P.O. Box 44417  
NAIROBI

16th January 2018

**Dr. Belio R. Kipsang, CBS**  
Principal Secretary  
Ministry of Education, Science & Technology  
P. O. Box 30040-00100  
**NAIROBI.**

Dear *Dr. Belio;*

**LAND COMPENSATION FOR RUARAKA HIGH SCHOOL AND DRIVE-IN PRIMARY SCHOOL UPON L.R. NO. 7879/4 (PART) – NAIROBI COUNTY**

The Commission acknowledges receipt of the letter from the Ministry of Education Ref. MOE/ACCT/1/19 (62) dated 15<sup>th</sup> January 2018. The request for a Valuation Report showing how the compensation amount was arrived at.

The Commission hereby submits the report and valuation for your further use.

Yours *Sincerely,*

**Chevanji Aziz Tom**  
**SECRETARY/CEO**

Encl.

Answer 35

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Annet 33

MINISTRY OF EDUCATION

Office of the Principal Secretary, State Department of Basic Education

Telegrams: "EDUCATION", Nairobi  
Telephone: Nairobi 3318581  
Fax No.: 254-2-214287  
E-mail: ps@education.go.ke  
When replying please quote

PRINCIPAL SECRETARY  
JOGOO HOUSE "B"  
HARAMBEE AVENUE  
P. O. BOX 30040  
NAIROBI

MOE/ACCT/1/19 (63)

19<sup>th</sup> January, 2018

Ref. No.....

.....  
date

of. Muhammad A. Swazuri, PhD, OGW  
Chairman  
National Land Commission  
The House  
Ngong Avenue  
Box 44417  
NAIROBI

*Prof*

RELEASE OF KSH.1,500,000,000.00 FOR LAND COMPENSATION FOR RUARAKA HIGH SCHOOL AND DRIVE-IN PRIMARY SCHOOL UPON L.R. NO. 7879/4 (PART) - NAIROBI COUNTY

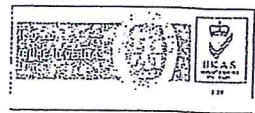
the above matter refers.

We have released an amount equivalent to Ksh.1,500,000,000.00, (One Billion, Five Hundred Million, only) to your National Bank Account No. 01001032980000, Upper Hill Branch. The money is meant for Land Compensation for Ruaraka High School and Drive-In Primary School as per earlier correspondence between different Government entities including National Land Commission and ourselves.

In light of the authority granted by the National Treasury and your formal request to release the funds, we are advised to ensure that you are in possession of the instruments of ownership for the land in accordance with the law. You are further advised to ensure that due diligence is exercised in the process of this compulsory acquisition.

Signed: *Belio R. Kipsang*  
Belio R. Kipsang, CBS  
PRINCIPAL SECRETARY

Copy to: Dr. Kamau Thugge, CBS  
The Principal Secretary  
The National Treasury  
P O Box 30007 - 00100  
NAIROBI



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Annex 34



**MINISTRY OF EDUCATION**  
Office of the Principal Secretary, State Department of Early  
Learning and Basic Education

Telegrams: "EDUCATION", Nairobi  
Telephone: Nairobi 3318581  
Fax No.: 254-2-214287  
E-mail: [ps@education.go.ke](mailto:ps@education.go.ke)  
When replying please quote

PRINCIPAL SECRETARY  
JOGOO HOUSE "B"  
HARAMBEE AVENUE  
P. O. BOX 30040  
NAIROBI

MOE.GEN/31L/8 VOL.X

21<sup>st</sup> February, 2018

Ref. No.....

.....  
date

Prof. Muhammad A. Swazuri, PhD, OGW  
Chairman  
National Land Commission  
P. O. Box 41777  
NAIROBI

Dear Prof Swazuri

RE: REMISSION OF BALANCE FOR LAND COMPENSATION FOR RUARAKA  
HIGH SCHOOL AND DRIVE INN PRIMARY SCHOOL

We acknowledge receipt of your letter Ref.NLC/VR.1446 contents whereof have  
been noted.

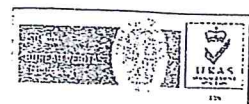
However, we wish to request that you formally acknowledge the receipt of  
Kshs.1,500,000,000.00 partial disbursement and confirm that the interest of  
the schools in the land has been secured.

Yours

*Sincerely*

  
Dr. Belio Kipsang, CBS  
PRINCIPAL SECRETARY

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948 km

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Annex 35

REPUBLIC OF KENYA  
OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

BUSINESS REGISTRATION SERVICE

Our Ref: CR13.

19th April 2018

Your Ref: //

Office of the Clerk of the Senate  
P. O. Box, 41842-00100  
NAIROBI

SDC (EG)  
DLC ✓

Any idea on this?

20/04/18



**RE: COMPANY RECORDS**

We refer to the above matter and your letter dated

**1. DRIVE-INN ESTATE DEVELOPERS LIMITED**

This company was registered on 3rd April 1985 under registration number C. 29352.

According to the company records, as at incorporation, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Francis Mburu	P. O. Box, 46817 Nairobi	Kenyan	1
Jane Mburu	P. O. Box, 46817 Nairobi	Kenyan	1
Maria Wanjiru	P. O. Box, 46817 Nairobi	Kenyan	NIL
<b>Total:</b>			<b>2</b>

The registered office is situated at: Plot No 209/3847 Moi avenue P. O. Box, 46817 Nairobi.

The directors filed annual returns for the year 1986 to 2016 on 9th October 2017. The filed returns omitted Maria Wanjiru as a director of the company.

SHERIA HOUSE, HARAMBEE AVENUE  
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995  
E-MAIL: [info.statelawoffice@kenya.go.ke](mailto:info.statelawoffice@kenya.go.ke) WEBSITE: [www.attorney-general.go.ke](http://www.attorney-general.go.ke)

DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/2240337  
E-MAIL: [legal@justice.go.ke](mailto:legal@justice.go.ke) WEBSITE: [www.justice.go.ke](http://www.justice.go.ke)

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Hand of 32

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**2. EQUATOR BRENT LIMITED**

According to the company records as at incorporation (no annual returns filed), the names of the directors/shareholders are as follows:

<u>Names</u>	<u>Description</u>	<u>Address</u>	<u>Nationality</u>	<u>Ordinary Shares</u>
FRANCIS MBURU	Director	P.O BOX 46817 00100 NAIROBI	Kenyan	50
MARK MUNGAI MBURU	Director	P.O BOX 46817 00100 NAIROBI	Kenyan	25
JUSTIN MUNGAI MBURU	Director	P.O BOX 46817 00100 NAIROBI	Kenyan	25
<b>Total Shares</b>				<b>100</b>

Company was registered on Dec 22 2009. The registered office of the company is situated at LR NO 165/70 Argwings Kodhek Road Nairobi

The company's registration number is CPR/2009/15903



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### 3. JORETH LIMITED

This company was registered on 25th September 1957 under registration number C. 26/73

According to the company records as at incorporation, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Jacob Hirshfeld	P. O. Box, 499 Nairobi	Israel	
Rita Hirshfeld	P. O. Box, 499 Nairobi	British	
<b>Non Director shareholder</b>			
Stewart Mackunju	P. O. Box, 111 Nairobi		1
Book Thomson			
Edwin Alfred Bristein	P. O. Box, 111 Nairobi		1
Total			2

**Michael Percival Klaus Johnson** was appointed as a director by a form 203A dated 29th March 1968.

**Anthony Pedder Davies** was appointed as a director by a form 203A dated 6th April 1970 and on the same date, **Michael Percival Klaus Johnson** resigned as a director.

With effect from 19th September 1973, **Jacob Hirshfeld, Rita Hirshfeld** and **Anthony Pedder Davies** resigned as directors and on the date **Duncan Nderitu Ndegwa, Peter Muigai Jomo Kenyatta, Arthur Kinyanjui Magugu** and **James Njenga Karume** were appointed as directors of the company.

According to the company's annual returns dated 15th October 1974, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Duncan Nderitu Ndegwa	P. O. Box, 20423 Nairobi	Kenyan	NIL
Peter Muigai Jomo Kenyatta,	P. O. Box, 7299 Nairobi	Kenyan	1250
Arthur Kinyanjui Magugu	P. O. Box, 47952 Nairobi	Kenyan	1250
James Njenga Karume	P. O. Box, 134 Kiambu	Kenyan	1250
<b>Non Director shareholders</b>			
Queensway Nominees (E.A) Limited	P. O. Box, 30356 Nairobi		1250
Total			5000

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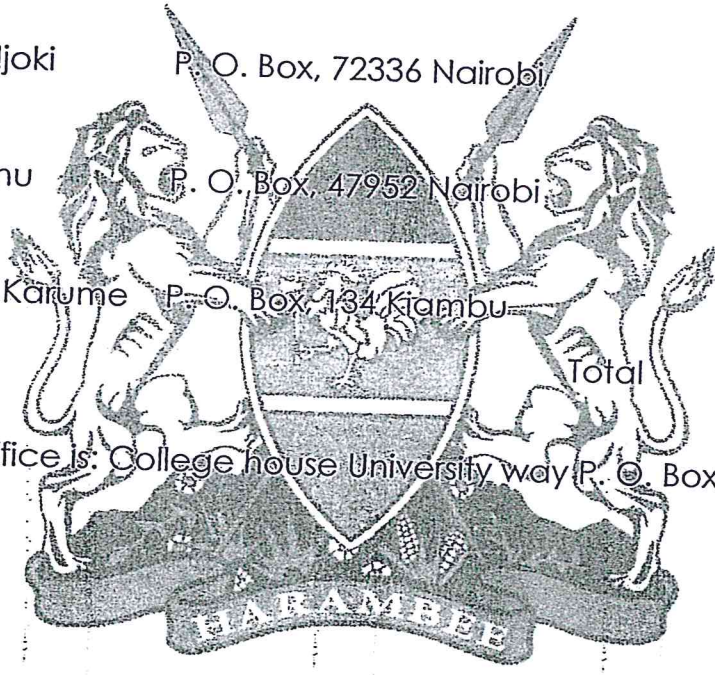
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According to the company's annual returns last dated 14<sup>th</sup> January 1988, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Duncan Nderitu Ndegwa	P. O. Box, 20423 Nairobi	Kenyan	NIL
Arthur Kinyanjui Magugu	P. O. Box, 47952 Nairobi	Kenyan	1,249
James Njenga Karume	P. O. Box, 134 Kiambu	Kenyan	1,249
<b>Non director shareholders</b>			
Estate of late Peter Muigai Jomo Kenyatta	P. O. Box, 47952 Nairobi		1,249
Barclays Nominees Kenya Limited	P. O. Box, 30356 Nairobi		1,250
Estate of Ester Njoki Kenyatta	P. O. Box, 72336 Nairobi		1
Margaret Wairimu Magugu	P. O. Box, 47952 Nairobi		1
Wairara Njenga Karume	P. O. Box, 134 Kiambu		1
Total			5,000



The registered office is: College house University way P. O. Box, 46578 Nairobi

Yours faithfully,

  
**ASSISTANT REGISTRAR OF COMPANIES**

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REPUBLIC OF KENYA  
OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

**BUSINESS REGISTRATION SERVICE**

Our Ref: CR13.

16th April 2018

Your Ref: SEN/CPA&IC/CORR/VOL.1/051/2018

Office of the Clerk of the Senate  
P. O. Box, 41842-00100  
NAIROBI

ATT:Ali Ibrahim

**RE: COMPANY RECORDS**

We refer to the above matter and your letter dated 10th April 2018

1. AFRISON EXPORT IMPORT LIMITED

This company was registered on 1st December 1981 under registration number C. 23387

According to the company records as at incorporation, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Francis Mburu	P. O. Box, 46817 Nairobi	Kenyan	1
John Williams	P. O. Box, 60158 Nairobi		1
		<b>Total</b>	<b>2</b>

The registered office is situated at: Plot No 209/71/1/2/1 Ainsworth road westlands P. O. Box, 46819 Nairobi.

SHERIA HOUSE, HARAMBEE AVENUE  
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995  
E-MAIL: [info.statelawoffice@kenya.go.ke](mailto:info.statelawoffice@kenya.go.ke) WEBSITE: [www.attorney-general.go.ke](http://www.attorney-general.go.ke)

DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337  
E-MAIL: [legal@justice.go.ke](mailto:legal@justice.go.ke) WEBSITE: [www.justice.go.ke](http://www.justice.go.ke)

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Mark Mungai Mburu and Justin Mungai Mburu were appointed directors by a form 203A dated 2nd December 2011.

Return of allotment (Form 213) dated 2nd December 2011 states as follows;

Mark Mungai                    25 shares  
 Justin Mungai Mburu    25 shares  
 Francis Mburu                48shares

**John Williams** Transferred **1 share** by a transfer of share stock dated 2nd December 2011 to **Francis Mburu**.

According to the company's annual returns dated 2nd December 2011, the names of the directors/shareholders are as follows:

<b>Names</b>	<b>Address</b>	<b>Nationality</b>	<b>Shares</b>
Francis Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	50
Mark Mungai Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	25
Justin Mungai Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	25
<b>Total</b>			<b>100</b>

**Justin Mungai Mburu** Transferred **25 shares** to **Equator Brent Limited** by a share transfer form dated 31st January 2015.

Mark Mungai Mburu transferred **25 shares** to **Equator Brent Limited** by a share transfer form dated 31st January 2015.

Francis Mburu transferred **49 shares** to **Equator Brent Limited** by a share transfer form dated 31st January 2015.

According to the company's annual returns dated 31st January 2014, the names of the directors/shareholders are as follows:

<b>Names</b>	<b>Address</b>	<b>Nationality</b>	<b>Shares</b>
Francis Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	1
Mark Mungai Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	NIL
Justin Mungai Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	NIL
<b>Non director shareholder</b>			
Equator Brent Limited	P. O. Box, 46817-00100 Nairobi		99
<b>Total</b>			<b>100</b>

The registered office is situated at; riverside drive apartments b3 P. O. Box, 4681-00100 Nairobi.

## 2. HUELANDS LIMITED

This company was registered on 6th November 1981 under registration number C. 23261

According to the company records as at incorporation, the names of the directors/shareholders are as follows:

<b>Names</b>	<b>Address</b>	<b>Nationality</b>	<b>Shares</b>
Stephen Gachuki Kimani	P. O. Box, 57192 Nairobi	Kenyan	NIL
John Wambicho Maina	P. O. Box, 57192 Nairobi	Kenyan	1
Phillip Wahome	P. O. Box, 57192 Nairobi	Kenyan	1
<b>Total</b>			<b>2</b>

The registered office is situated at: City Hall annexe P. O. Box, 57192 Nairobi

According to the company's annual returns dated 31st December 2009, the names of the directors/shareholders are as follows:

<b>Names</b>	<b>Address</b>	<b>Nationality</b>	<b>Shares</b>
John Wambicho Maina	P. O. Box, 57192 Nairobi	Kenyan	1
Philip Wahome	P. O. Box, 57192 Nairobi	Kenyan	1
<b>Total</b>			<b>1000</b>

The annual returns for the year 21983 to 2008 filed on 4th August 2011 reflects the above position, having omitted Stephen Gachuki Kimani as a director of the company.

With effect from 30th July 2011, John Wambicho Maina and Phillip Wahome resigned as directors and on the same date Francis Mburu and Geoffrey Mutisya were appointed as directors.

Philip Wahome transferred 1 share to Geoffrey Mutisya by a transfer share form dated 30th July 2011.

John Wambicho Maina transferred 1 share to Francis Mburu by a transfer share form dated 30th July 2011.

Return of allotment (form 213) dated 4th August 2011 indicates Drive In Estate Developers Limited was allotted 998 shares by the company.

According to the company's annual returns dated 31st December 2012, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Francis Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	1
Geoffrey Mutisya	P. O. Box, 46817-00100 Nairobi	Kenyan	1
<b>Non directorshareholder</b>			
<input checked="" type="checkbox"/> Drive In Estate Limited	P. O. Box, 46817-00100 Nairobi		998
<b>Total</b>			<b>1000</b>

Drive-In Estate Developers Limited transferred 998 shares to Equator Brent Limited by a transfer share form dated 31st January 2014.

According to the company's annual returns dated 30th August 2017, the names of the directors/shareholders are as follows:

Names	Address	Nationality	Shares
Francis Mburu	P. O. Box, 46817-00100 Nairobi	Kenyan	1
Geoffrey Mutisya	P. O. Box, 46817-00100 Nairobi	Kenyan	1
<b>Non directorshareholder</b>			
<input checked="" type="checkbox"/> Equator Brent Limited	P. O. Box, 46817-00100 Nairobi		998
<b>Total</b>			<b>1000</b>

The registered office is situated at; Riverside Drive Apartments B3 P. O. Box, 4681-00100 Nairobi.

### 3. WHISPERING PALMS ESTATE LIMITED

This company was registered on 29th August 2006 under registration number C. 127827

According to the company records as at incorporation (no annual returns filed), the names of the directors/shareholders are as follows:

<b>Names</b>	<b>Address</b>	<b>Nationality</b>	<b>Shares</b>
Francis Mburu	P. O. Box, 46817 Nairobi	Kenyan	50
Mark Mungai Mburu	P. O. Box, 46817 Nairobi	Kenyan	25
Justin Mungai Mburu	P. O. Box, 46817 Nairobi	Kenyan	25
		Total	

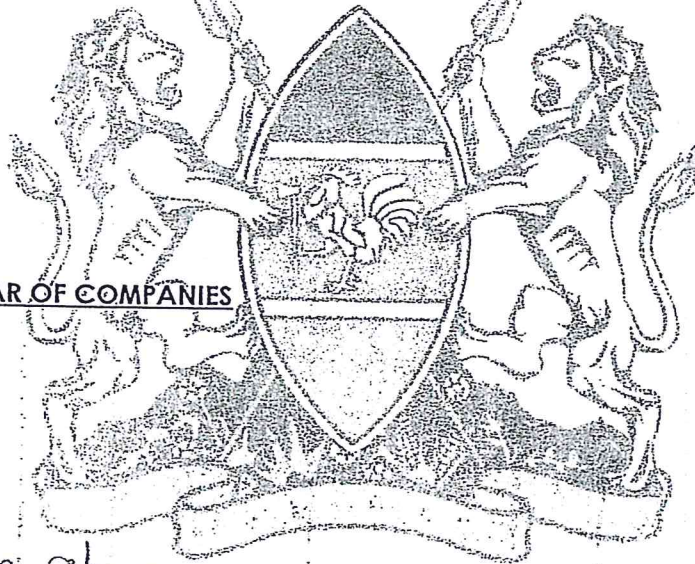
*\* No returns??*

The registered office is situated at; 209/656 Moi Avenue Nairobi. P. O. Box, 46817 Nairobi.

Yours faithfully,



**ASSISTANT REGISTRAR OF COMPANIES**



*New Act - filing returns*

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Annex 36

MINISTRY OF LANDS AND PHYSICAL PLANNING

QUESTIONS BEFORE THE SENATE SESSIONAL COUNTY PUBLIC ACCOUNTS  
AND INVESTMENTS COMMITTEE

Q. 1 Previous and current ownership of Land Parcel L.R. No. 7879/4

Hon Chair,

I wish to respond as follows:-

1. According to records held by the Ministry of Lands and Physical Planning, Afrison Export-Import Limited and Hueland Ltd are the registered owners of the LR No. 7879/4 having acquired it in 1981 (copy of the folio of LR 7879/4 attached as Annex I).

Background

3. LR No 7879/4 falls under the now repealed Government Land Act of 1902. By an instrument of conveyance dated 1905 the Crown first allocated a total of 1000 acres to Arthur Edward Atkinson as land No. 216 registered as No. 333/AII/1905. (see Entry No.1 of the attached folio as Annex II).

4. Through a conveyance dated 21st February 1906 A.E. Atkinson conveyed the land to Allan Thompson and Harris Temple by an indenture dated 5th of October 1905, Reg. No. 38/AII/1906. (see Entry No.2 of Annex II).

5. On 25th of March 1909, A.H. Thompson mortgaged the land to Ms Gertrude Grogan Regd. No 165/AV/1909 (see entry No. 3 of Annex II).

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6. The Land has gone through various hands and mortgages up to the late R.H.T Hancock in 1921.
7. By way of Letters of Administration dated the 30th November 1921 granted by the Supreme Court in Nairobi, the land passed onto Wilfred Arthur Randolph Nicholson from the estate of R.H.T Hancock (deceased) as per entry No.9 of Annex 11.
8. On the 19th of August 1925, the land ownership passed onto Gladys Thompson for consideration of Kshs. 210,000/- (see entry No.10 of Annex 11).
9. The parcel changed hands by an Indenture dated the 4th of December 1958 (registered in the Government Lands Registry in Nairobi Volume N 43 folio 302/1 between Gladys Thomson and Joreth Limited for a consideration. It was then transferred to Joreth Limited (see Entry No.24 of Annex 11 and annex 111 attached).
10. The land is delineated and described in Plan Number 47389 as fee simple and subject to the provisions of the Government Lands Act of 1902 (now repealed and replaced by the Land Act, 2012).
11. Having bought the entire parcel of land measuring 168.5 acres from Gladys Thomson, Joreth Limited subdivide the land into four separate parcels.
12. Afrison Export-Import Limited and Huelands Limited bought the parcel of land Reference No. 7879/4 at the price of Ksh. 14,000,000/= measuring ninety-six acres (96 acres) (see Annex 11, entry No. 1 of Volume N50 folio 1/27 of the subdivision).

Q.2. Whether there is any encumbrance on the parcel of land as at January 19th, 2018.

The land has an encumbrance. A caveat exists on the file by the Registrar of Government Lands dated March 1st 2018 claiming an interest under Sec.76 of the Land Registration Act no. 3 of 2012 (Copy of the Search dated April, 16th 2018 is attached).

Q. 3 Whether the Ministry of Lands and Physical Planning has acquired ownership documents for part of the land purchased for roads (1.319 Ha.) and the General Service Unit (37 acres)

Hon. Chair,

I wish to respond as follows:-

The Ministry of Lands and Physical Planning was not a party to the purchase of land for roads and the General Service Unit. In the case of the former, responsibility and ownership of land would lie with the Ministry of Transport and Infrastructure. In the case of the latter, the General Service Unit, responsibility lies with the Ministry of Interior and Coordination of National Government.

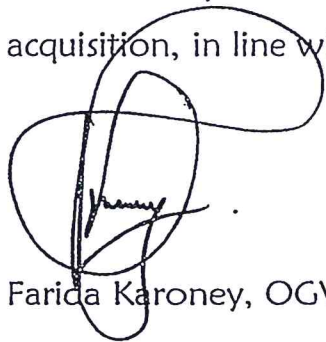
Q. 4 Whether the Ministry has acquired ownership documents for the 196 houses erected on the parcel of land (approximately 17.8 acres) purchased by Government and paid for in full, through an agreement dated August 18th, 1988 between the defunct Kenya Posts and Telecommunications Corporation and the then Permanent Secretary in the office of the President.

The Ministry of Lands and Physical is not privy to the agreement dated August the 18th, 1988. We are not in a position to answer to the question as to whether or

not the Ministry responsible the General Service Unit has the documents for the 196 acquired from Kenya Posts and Telecommunication Corporation.

**Q.5 The policy regarding adverse possession and compulsory acquisition.**

Sessional Paper no. 3 on National Land Policy does not explicitly address itself to the question of adverse possession and the Compulsory Acquisition. However, the principle of adverse possession is invoked by an individual or institution through a suit to a competent court of law claiming such a right to land. On the other hand, the Land Acquisition Act cap 295 spells the process and procedure for compulsory acquisition, in line with the principle of eminent domain.



Farida Karoney, OGW

**CABINET SECRETARY**

14th May 2018

581

Annex 37



MINISTRY OF LANDS AND PHYSICAL PLANNING

a) Whether there was a subdivision plan with regard to land parcel LR7879/4 and provide a copy if any;

Hon Chair I wish to respond as follows,

A proposal to subdivide LR. 7879/4 was submitted to the City Council of Nairobi through a company called Drive – In Estate Developments. This application was considered by the Town Planning Committee at its meeting held on 6<sup>th</sup> September, 1982 where the Committee recommended that the Subdivision Scheme be approved by the Commissioner of Lands subject to a number of conditions amongst which were:-

Condition No. 9 recommended that the road network be surrendered to the Council (City Council of Nairobi) free of cost.

Condition No. 10 recommended that the areas earmarked for: Nursery, Primary and Secondary School sites, Social centres, special purpose plot and shopping centres be surrendered to the City Council free of cost.

b) Was the subdivision plan for Land Parcel LR.7879/4 as approved by the then Nairobi City Council effected

Hon chair,

To facilitate approval of the Subdivision Scheme the Commissioner of Lands wrote to Drive – In Estate Development Company requesting the company to remit to the Commissioner of Lands a sum of Kshs.21, 500/- being subdivision approval fee.

FE 30m  
In response to the letter at paragraph (6) above Drive – In Estate Development made the requisite payments amounting to Kshs.21, 500/-. Where official receipt no. A758827 dated 18<sup>th</sup> November, 1983 was issued.

On 22<sup>nd</sup> November, 1983, the Commissioner of Lands approved the Subdivision Scheme as recommended by the City Council of Nairobi with slight amendments namely:-

Condition No. 10

That the Nursery, Primary and Secondary School sites, social centres, special purpose plot and shopping centres be surrendered to the Government free of cost.

Vide letter dated 4<sup>th</sup> July, 1984 addressed to the Commissioner of Lands, Drive – In Estate Developers confirmed their acceptance of the Surrender to the Government all the public utility plots mentioned in paragraph (10) of the approval letter dated 22<sup>nd</sup> November, 1983.

On 12<sup>th</sup> July, 1984, the Commissioner of Lands issued a “letter of reservation” reserving the site planned for Secondary School to the Permanent Secretary, Ministry of Education, Science and Technology.

Later, vide letter dated 20<sup>th</sup> June, 1999 the Commissioner of Lands formally issued a Letter of Allotment to the Permanent Secretary, Ministry of Education.

c) Was there any cancellation of the plan

Hon Chair,

There was no communication from Nairobi City Council and Drive Inn Estate Limited regarding the cancellation of the plan.

d) Whose Responsibility was it to ensure that the surrendered portion of Land Parcel LR No.7879/4 was classified as public land?

Hon Chair,

It was the responsibility of the registered owner of the land to execute deeds of surrender in respect of the public utilities together with the corresponding deed plans and submit the documents for purposes of registration in favour of the Government.

e) What documents does the Government use or show for ownership of public utilities such as roads or road reserves.

Hon Chair,

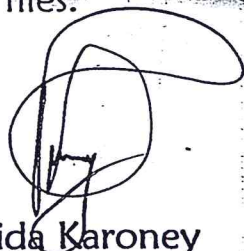
According to the law, land may be converted from one category to another. In instances of conversion from private to public, land may be converted through compulsory acquisition, reversion of leasehold interest to Government after expiry of a lease, transfer and surrender of a portion or the whole land.

The above process is completed by issuance of title to the relevant Government/ State body in respect of the acquired or surrendered land.

f) Provide to the committee all correspondence maps and any other documentation in respect to Land Parcel 7879/4.

Hon Chair,

As you are aware that this matter is under investigation by The Ethics and Anti-Corruption Commission hence the deed and correspondence files are in their custody. The same will be availed to your Committee upon receipt of the files.



Farida Karoney  
Cabinet Secretary OGW

28

Telegrams: "LANDS", Nairobi  
Telephone: Nairobi 718050/9

REGISTERED

DEPARTMENT OF LANDS  
P.O. Box 30089

The Permanent Secretary,  
Ministry of Education,  
P.O. Box 30040, NAIROBI  
Ref. No. 108096/57

28th June NAIROBI 1999

SIR(S)/MADAM,

RE: UNS. SECONDARY SCHOOL SITE - OFF THIKA ROAD ON A PC  
OF L.R.NO. 7879/4 NAIROBI

LETTER OF ALLOTMENT

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

AREA: 3.05 - 7.532 Acres Appr. 7.532 Acres  
hectares (approximately)

TERM: 99 years from the 1.7.1999

STAND PREMIUM: Sh. Nil

ANNUAL RENT: Sh. 72/-

} 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	Nil
Rent from 1.7.99 to 31.12.99	36.00
Conveyancing Fees	1,250.00
Registration Fees	250.00
Rates on demand	--
Stamp Duty	30.00
Survey Fees on demand	--
Road and Road Drains on demand	--
Others Allocation fees	2,000.00
<b>TOTAL</b>	<b>3,566.00</b>

Receipt No. Less Deposit

TOTAL Sh.

3,566.00

\*Delete as appropriate.

Handwritten signature and date 1/9/99 [P.T.O] 137

88 40/11/44

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.

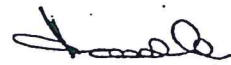
If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction 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  
File 108096/44

  
P. AMIANI (MRS)

for Commissioner of Lands

ENCL.

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

The Director of Surveys, Nairobi.

The Town Clerk. Nairobi City Council

~~The Clerk to the Council, County Council of~~

~~The District Commissioner~~

The Director of Physical Planning, Nairobi.

~~District Land Office~~

The Board of Governors, Ruaraka High School,  
P.O. Box 57378, NAIROBI

O/C Land Rents.

Rates Assistant.

The Accountant.

O/C Records. *Noted 31.8.79 AL to note.*

Senior Plan Record Officer.

Plot File.

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

2. The Grantee shall within six months of the commencement of the term submit in triplicate to the Local Authority and the Commissioner of Lands plans (including block plans showing the positions of the buildings and a system of drainage for disposing of sewage surface and sullage water) drawings elevations and specifications of the buildings the Grantee proposes to erect on the land and shall within 24 months of the commencement of the term complete the erection of such buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the Commissioner PROVIDED that notwithstanding anything to the contrary contained in or implied by the Government Lands Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the Commissioner of Lands or any person authorized by him on behalf of the President to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the President or the Commissioner of Lands in respect of any antecedent breach of any condition herein contained.

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

4. The land and the buildings shall only be used for educational purposes and the accommodation for the Headmaster/Principal.

5. If the school erected on the land shall cease to function as such under the provisions of the Education Act 1968 or such other Act amending or repealing it or may be in force then the terms hereby created shall ipso facto also be determined and the land shall be deemed automatically to have reverted to the Government as from the date of such cessation without the necessity of any formal surrender thereof.

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

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

8. The Grantee shall not sell transfer sublet charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the Commissioner of Lands. No application for such consent (except in respect of a loan required for building purposes) will be considered until special condition No. 2 has been performed.

9. The Grantee shall pay to the Commissioner of Lands on demand such sum as the Commissioner of Lands may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and the proportionate cost for the supply of both the water and the electric power to the land and shall on completion of such construction and the ascertainment of the actual cost either pay (within 7 days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.

10. The Grantee shall from time to time pay the Commissioner of Lands on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Commissioner may assess.

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

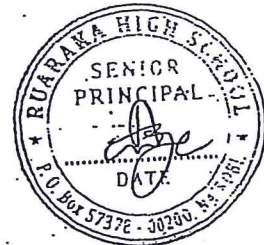
12. The Grantee shall pay such rates charges duties assessments or outgoings of whatever description as may be imposed charged or assessed by any Government or Local Authority upon the land or the buildings erected thereon including any contribution or other sum paid by the President in lieu thereof.

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

14. The Commissioner of Lands reserves the right to revise the annual ground rental payable hereunder after the expiration of the ~~thirty-third and sixty-sixth~~ year of the term hereby granted. Such rental will be at the rate of ~~4~~ **A** per cent of the ~~unimproved~~ freehold value of land as assessed by the Commissioner of Lands.

~~14. 15.~~ Notwithstanding anything to the contrary contained herein or implied by the said Government Lands Act (Cap. 280) the Grantee shall on receipt of six months' notice in writing in that behalf surrender all or any part of the land required for public purposes without payment of compensation save in respect of such of the approved buildings as may have to be evacuated or demolished. No compensation shall be payable in respect of surrender of part of the land by reason of such surrender.

15. The Commissioner of Lands reserves the right to revise the annual ground payable hereunder on 31st December, 1998 and thereafter at the expiration every ten years of the term.



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III

Annex 39

REPUBLIC OF KENYA

THE LAND ACT NO. 6 OF 2012

THE GOVERNMENT LANDS ACT CAP 280 (REPEALED)

CERTIFICATE OF POSTAL SEARCH

AS ON: ..... 16/4/2018

AREA ..... 96 Acres.

L.R NUMBER ..... 7879/4

REGISTER: ..... N 110 Folio 47 File 10178

TENURE ..... Fee Simple

CURRENT REGISTERED PROPRIETOR: AFRICAN EXPORT IMPORT LIMITED and HUELANDS LIMITED as tenants in common in equal shares

ENCUMBRANCES

-Caveat By The Registrar of Government Lands dated 1<sup>st</sup> March, 2018 claiming an interest under Sec.76 of The Land Registration Act no.3 of 2012

Signed..... 

REGISTRAR OF GOVERNMENT LANDS

141

98-1011-A

4/1

NILU TUKO YET

Annex 40

2(a) (b)



OFFICE OF THE CHAIRMAN

Telegrams: "MINILANDS", Nairobi  
Telephone: Nairobi 2718050  
When replying please quote

ARDHI HOUSE  
NGONG ROAD  
P.O. Box 44417.  
NAIROBI

REF: NLC/VAL.1528

Chief Land Registrar  
Ministry of Lands & Physical Planning  
Ardhi House  
NAIROBI



14<sup>th</sup> May 2018

PLACEMENT OF RESTRICTION UPON L.R. NO. 7879/4

The Commission has made payments for the acquisition of land for public utilities upon L.R. No. 7879/4. This is to request to place restrictions on the following parcels of land as indicated in the respective gazette notices;

1. Gazette Notice No. 6055 of 29<sup>th</sup> August 2014 indicating the land parcel number, registered owner and area acquired for construction of Outering Road (copy attached)
2. Gazette Notice No. 5885 of 29<sup>th</sup> July 2016 for access roads and Outering Road (copy attached)
3. Gazette Notice No. 6322 of 30<sup>th</sup> June 2017 for Drive Inn Primary School and Ruaraka High School. (copy attached)

*M.S.W.*

Prof. Muhammad A. Swazuri, PhD, OGW  
Chairman, National Land Commission and  
Associate Professor in Land Economics

Encl.

*Check  
Endorse de Gazette No 6055  
against the Land Records*

*Soul  
18/5/18*

*16/5/2018  
Control Registry  
142 habone*

001 40000

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0

001



3

Annex 41

CONTINENTAL CREDIT FINANCE LIMITED  
(IN LIQUIDATION)  
NGURU HOUSE, 1<sup>ST</sup> FLOOR  
107A N. B.O. ROAD STREET  
P.O. BOX 57192 - 00200  
Tel: 320-244755  
NAIROBI

CONTINENTAL CREDIT FINANCE LIMITED

WINDING UP CAUSE NO. 29 OF 1986

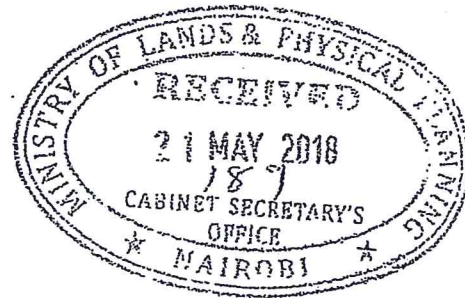
Our Ref: .....

Your Ref: .....

21<sup>st</sup> May, 2018.....

THE CABINET SECRETARY,  
MINISTRY OF LAND AND PHYSICAL  
PLANNING,  
ARDHI HOUSE,  
NAIROBI.

ATT: MARTIN OLOO



Dear Sir,

RE: L.R NO. 7879/4 AT RUARAKA

We acknowledge receipt of your letter dated 16<sup>th</sup> May, 2018 with regard to the above matter.

We confirm that the following documents were sent to M/S Harit Sheth Advocates who are acting for the registered owners, Afrison Export Import and Huelands Ltd:-

- i. Original last conveyance dated 29<sup>th</sup> December, 1981 for L.R No. 7879/4.
- ii. Original Deed plan for L.R No. 7879/4.
- iii. Original mortgage dated 20<sup>th</sup> December, 1981.

The title documents were given to the advocates on a professional undertaking to pay Continental Credit Finance Ltd (in liquidation) the outstanding loan balance, due and owed by the loanees.

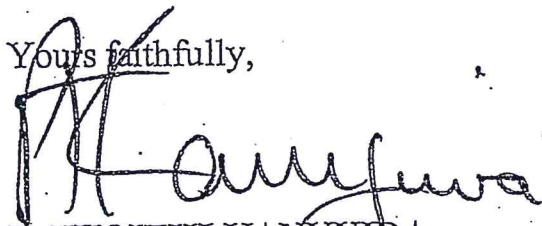
The address of the said advocates is:-

91711

143

Harit Sheth Advocates  
4<sup>th</sup> Floor, Block 3, Delta Riverside,  
Riverside Drive,  
P.O Box 43045-00100,  
Tel: 0722 306 830/0733 440 648  
0705 009999/ 072809999,  
Nairobi.

Yours faithfully,

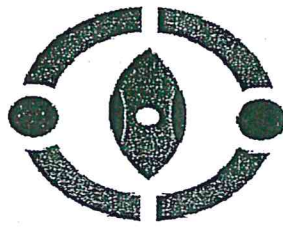


**P. THOITHI KANYURA**  
**DEPUTY CHIEF STATE COUNSEL**  
**FOR: OFFICIAL RECEIVER & PROVISIONAL LIQUIDATOR**

/sao

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**IGRTC**  
INTERGOVERNMENTAL  
RELATIONS TECHNICAL  
COMMITTEE

Annex 42

Consultation, Cooperation & Coordination in Devolution

**Email:** [info@igrtc.go.ke](mailto:info@igrtc.go.ke),  
**Website:** [www.igrtc.go.ke](http://www.igrtc.go.ke)  
When replying please quote:

Parklands Plaza  
P.O. Box 44880-00100  
NAIROBI

Telephone: 020 2101489

**Ref: IGR/ADM/1/78/Vol.I (16)**

**14<sup>th</sup> May, 2018**

Mr. J.M. Nyegenye, CBS  
Clerk of the Senate/Secretary  
Parliamentary Service Commission  
**NAIROBI**

Dear

**RE: BRIEF TO THE SENATE SESSIONAL COUNTY PUBLIC ACCOUNTS  
AND INVESTMENT COMMITTEE ON LAND PARCEL L/R No. 7879/4**

Reference is made to the above matter and your letter REF: SEN/ CPA & IC/ CORR/ VOL.1/ 139/2018 where the Committee resolved that the IGRTC Chairman apprise the Senate Sessional County Public Accounts and Investments Committee on land parcel L/R No. 7879/4 situated within Nairobi City County.

Gazette Notice No 2701 dated 24<sup>th</sup> March 2017 established the institutional structures for the verification, validation and transfer of assets and liabilities of the defunct local authorities. As per the requirements of the Gazette Notice, Nairobi City County established the County Assets and Liabilities Committee (CALC), which undertook the exercise on identification, verification and validation of assets and liabilities of the defunct Nairobi City Council.

The County Assets and Liabilities Committee submitted its final report to IGRTC in January 2018. An analysis of the report indicates that land parcel No. L/R No. 7879/4 is an asset of the Nairobi City County. Details of the land parcel were captured in the CALC report as follows:

L/R No	Exact Physical Location	status	Planned	surveyed	Current use/name	Size(Ha)	Fair Value	County	Local Authority
7879/4	Not indicated	27 class rooms 1 office	yes	yes	Mathare North primary school	Not Indicated	Not indicated	Nairobi City County	Nairobi City Council

An agency of the Summit & the Council of County Governors

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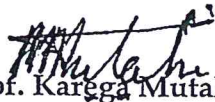
59/2011

The above parcel of land was also captured as an asset in the form of buildings in the unaudited inventory prepared by the defunct Transition Authority (TA).

**Conclusion**

1. The parcel of land L/R No. 7879/4 is located in Mathare area of Nairobi City County
2. The current use of the property is indicated as Mathare North Primary School composed of 27 classrooms and one office
3. The CALC report indicates that land has been planned and surveyed but the report does not indicate the size of the land

Yours

  
Prof. Kariga Mutahi, CBS  
CHAIRMAN

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NAIROBI CITY COUNTY

Annot 44

Telephone: 020 344194

web: www.nairobi.go.ke



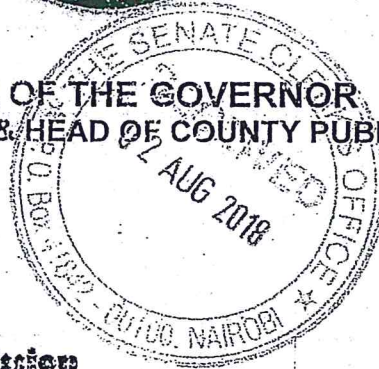
City Hall,  
P. O. Box 30075-00100,  
Nairobi,  
KENYA.

OFFICE OF THE GOVERNOR  
COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE

REF: UP/PCE/00121

1<sup>st</sup> August 2018

**J.M. Nyegenye, ES**  
**Clerk of the Senate/Secretary**  
**Parliamentary Service Commission**  
**Clerk's Chambers**  
**The Senate**  
**Parliament Buildings**  
**P.O. Box 41842-00100**  
**Nairobi**



Dear *Sr*

**RE: DOCUMENTS RELATING TO L.R. NO. 7879/4 - RUARAKA**

Your letter dated 30<sup>th</sup> July 2018 ref. SEN/CPAIC/CORR/VoL.1/177/2018.

Following the meeting on Wednesday 18<sup>th</sup> July 2018 and as directed, find attached: -

1. Authenticated extract of the Nairobi City Commission Town Planning Committee minutes of 6<sup>th</sup> September 1982 for the Sub-division of L.R. No. 7879/4.
2. Copies of Survey Plan for the plots currently accommodating the two schools - (Drive-Inn Primary School and Ruaraka High School) as extracted from the Sub-divided L.R. No. 7879/4. It is important to point out that the approved Sub-division Scheme plan for L.R. No. 7879/4 is missing in the Nairobi City County's correspondence file in City Hall.
3. On waiver of Land Rates, Nairobi City County Government is only aware of a general adjustment for all properties in the City in 2015 arising from a Court Case (Order). However, after the order was vacated, the adjustment lapsed. Therefore, the plot (L.R. No. 7879/4) does not enjoy any waiver on Land Rates.

0411

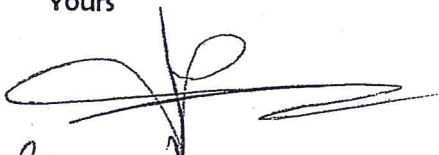
148

- 444 to mmh
4. A copy of letter dated 28<sup>th</sup> March 1984 ref CPD/O644/7879/4 by the Director of City Planning addressed to M/S Drive Estate Developers Ltd stating the Nairobi City Commission position on the Sub-division.
  5. Copy of unreferenced letter from the Drive in Estate dated 5<sup>th</sup> April 1984 to the Director of City Planning. Your attention is drawn to the fact that Nairobi City County Government cannot vouch for the authenticity of the copy even though it has been found in the correspondence file
  6. Copy of unreferenced letter dated 7<sup>th</sup> February 2017 from Afrison Export Import Ltd addressed to the Director of City Planning. The objective of this letter is not clear since it is written over 30 years from the date of the Subdivision approval.

The Nairobi City County Government would like to bring to the attention of the Committee that, had the Sub-division been cancelled, the same would have been minuted and the decision of the Nairobi City Commission/Council communicated to the other respective Government agencies, *to wit*, the Commissioner of Lands; the Director of Surveys; and the Land Registrar No evidence is available to this effect.

Consequently, from the stand point of Nairobi City County Government, L.R. No. 7879/4 remains Sub-divided as per the resolutions of 6<sup>th</sup> September 1982.

Yours



**PETER KARIUKI, EBS**

**COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE**

Cc H.E. the Governor  
Nairobi City County  
City Hall

Mr. Charles Kerich  
County Executive Committee Member  
Urban Planning, Land, Urban Renewal & Building Services  
City Hall

Encls.

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(iii) 9m. strip of land to be surrendered to Council for road widening.

(iv) A temporary right of way 6m. wide to be provided along the northern boundary of sub-plot 2 to serve sub-plot 1 until such time access to this sub-plot is available from the proposed 18m. road along the western boundary.

Certified True Copy of the Original  
Chief Officer - Urban Planning

Date: 1/8/82 Sign: [Signature]

(v) 6m. x 6m. road truncation to be provided as shown on the deposited plan.

Action by:

Director of City Planning.

Sub-division—  
Amendment on  
Plot No.  
L.R.330/230—  
Gitanga Road.

14. The Director of City Planning reported that under minute 3 of the meeting of this Committee held on 2nd June, 1981 (p. 2625), approval was accorded to sub-divide Plot No. L.R.330/230, Gitanga Road, into two sub-plots subject to four conditions. However, subsequent to this approval it had been found necessary to widen Gitanga Road and accordingly, he recommended that the following condition be added to the approved sub-division scheme.

(i) A 5m. wide strip of land along Gitanga Road to be surrendered to Council free of cost for road widening.

Resolved:

That the recommendation of the Director of City Planning be approved.

Action by:

Director of City Planning.

Sub-division—  
Plot No.  
L.R.7879/9/4—  
Outer Ring  
Road—Thika  
Area of Land  
24 hectares  
No. of  
sub-plots:  
1170—Zone:  
Comprehensive  
Scheme.

15. Resolved:

That an application for sub-division received in respect of Plot No. L.R.7879/9/4, Outer Ring Road, Thika, be recommended to the Government for approval, subject to the following seventeen conditions:—

- (i) 230mm. diameter foul sewer to be extended to serve all sub-plots. Plans and specifications to be approved by Council.
- (ii) All sub-plots to be connected to sewer.
- (iii) Each sub-plot to be provided with an adequate supply of wholesome water to the satisfaction of the Medical Officer of Health.
- (iv) A comprehensive surface water drainage scheme to be submitted and implemented to the satisfaction of the City Engineer.
- (v) The proposed roads serving the scheme including the 20m. road along the southern boundary to be constructed to an adoptive standard including surface water drainage and street lighting. Plans and specifications to be approved by Council.
- (vi) Permanent vehicular access to 18m. and 25m. road reserves will not be permitted.

24 10/11

10/11/11  
10/11/11  
10/11/11

20

- (vii) 5 metre wide strip of land along southern boundaries to be surrendered to Council free of cost for road widening.
- (viii) 15 x 15 metre truncations to be provided at the junction with Outer Ring Road.

Certified True Copy of the Original  
 Chief Officer - Urban Planning  
 Date: 11/11/82 Sign: [Signature]

- (ix) Area of land coloured blue on the deposited plan to be surrendered to Council free of cost.
- (x) Nursery, primary and secondary school sites, social centres special purpose plot and shopping centres to be surrendered to City Council free of cost.
- (xi) The scheme to be developed comprehensively and the proposal to conform to plot density for the area. Development to commence when the infrastructural services are available.
- (xii) Previous change of use and sub-division scheme to be cancelled.
- (xiii) All developments fronting the power wayleave to be cleared by East African Power and Lighting Company.
- (xiv) The power wayleave to be maintained as shown on deposited plan.
- (xv) A building line of 9m. to be maintained along the Outer Ring Road and the 25m. road reserve and 6m. building line for all other internal estate roads.
- (xvi) Type plans for buildings to be submitted to Council for approval and construction to be completed before final approval is accorded.
- (xvii) A tree planting and landscaping scheme to be submitted to Council for approval and to be implemented by the developer to the satisfaction of the Director of City Planning.

Action by:  
 Director of City Planning.

16. Resolved:

That the application for sub-division in respect of Plot No. L.R.1870/VI/194, Westlands Eastchurch Road, be recommended to the Government for approval, subject to the following eight conditions:—

- (i) Application for water supply to each sub-plot to be made to the General Manager (Water and Sewerage Dept.) and his conditions for such supply to be met.
- (ii) Sewer connection to sub-plot "A" to be realigned. Plans to be approved by Council.
- (iii) Sub-plot "A" to be connected to sewer. Plans and specifications to be approved by Council.
- (iv) No new manhole will be constructed on existing Nairobi City Council sewer.

Sub-division—  
 Plot No.  
 L.R.1870/VI/  
 194—  
 Westlands  
 Eastchurch  
 Road—Area of  
 Land:  
 0.3438 hectare  
 No. of  
 sub-plots:  
 2—Zone:  
 0.1 hectare.

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# KENYA REVENUE AUTHORITY

Annex 46

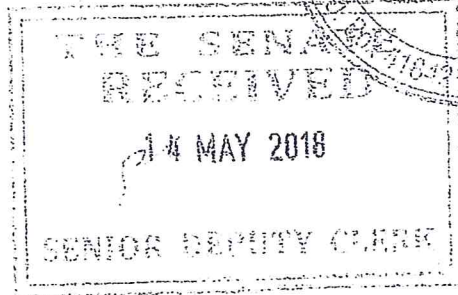
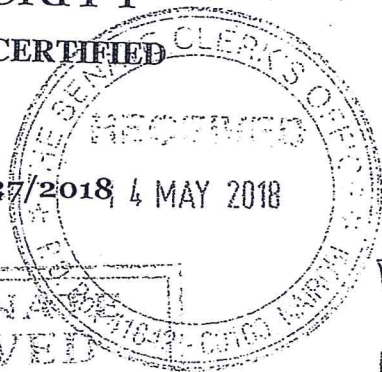
ISO 9001:2008 CERTIFIED

Our Ref: KRA/CDT/HO/81

Your Ref: SEN/CPA&IC/CORR/VOL.1/137/2018, 4 MAY 2018

10<sup>th</sup> May, 2018

J.M. Nyegenye, CBS  
Clerk  
The Senate  
P. O. Box 41842-00100  
NAIROBI



DJ Com  
Kindly bring to the attention of the Committee.  
Eg 17/05/18

Dear Sir,

## REQUEST FOR INFORMATION ON TAX COMPLIANCE

We refer to your letter dated 7<sup>th</sup> May, 2018 on the subject matter herein.

The tax compliance status of the taxpayers is as follows:-

	PIN	NAME	COMPLIANCE STATUS	DIRECTORSHIP
1	P000615146T	Afrison Export Import Ltd	Not Compliant	Director: A004504205G
2	A004504205G	Justin Sam Mburu	Not Compliant	-
3	P000615186D	Huelands Ltd.	Not Compliant	Company is not registered in our current system (iTax) and does not have details of directors under the previous system (legacy)
4	P051233668F	Whispering Palms Estate Ltd	Not Compliant	Company is not registered in our current system (iTax) and does not have details of directors under the previous system (legacy)
5	P051348672Q	Equator Brent Ltd	Not Compliant	Company is not registered in our current system (iTax) and does not have details of directors under the previous system (legacy)

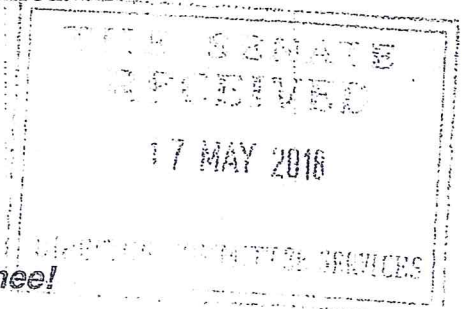
Kindly provide us with Business Registration Number or PIN for Drive Inn Estate Developers Ltd to enable us verify the information required.

Yours faithfully,

E. Meyo (Mrs)

For Commissioner of Domestic Taxes

*Tulipe Ushuru, Tujitegemeel!*



②

PCA - CPA&IC

Please bring to the attention of the Committee  
17/05/18

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24 Jan 1971

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24 Jan 1971

# PANORAMA VALUERS

Annex 47

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## LIMITING CONDITIONS

This Property Report and Valuation is subject to the following limiting conditions:

1. Neither the whole nor any part of this Report and Valuation or any reference to it may be included in any published document, circular or statement nor published in any way without the prior written approval of the firm of the form and context in which it may appear.
2. Where it is stated in the report that information has been supplied to the firm by another party, this information is believed to be reliable but the firm can accept no responsibility if this should prove not to be so, where information is given without being attributed directly to another party, this information has been obtained by our own search of records and examination of documents or enquiry from Government or other appropriate departments.
3. The responsibility of the firm in connection with this Report and Valuation is limited to the client to whom the Report is addressed.
4. The values assessed in this Report are for the subject property and any allocation of values between parts of the property apply only in the terms of and for the purposes of this Report. The values assessed should not be used in conjunction with other assessment as they may prove incorrect if so used.
5. The valuer has taken no note of significant building defects in the course of inspection, this is a Report and Valuation and not a structural survey and no guarantee is given in respect of rot, termite or pest infestation of other defects whether exposed or unexposed.
6. Where the values are assessed, they reflect the full contract value and no account is taken of any liability to taxation on sale or of the costs involved in effecting the sale.

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# PANORAMA VALUERS

3/8

## REPORT AND VALUATION

DATE OF

INSPECTION:

31st March, 1988

L. R. NUMBER:

7879/4 (PART ONLY)

SITUATION:

The property is situated at the junction of Thika Road and Outering Road and it is easily identified as Drive-In Estate.

TITLE:

A freehold interest registered in the names of AFRISON EXPORT LIMITED AND HUELANDS LIMITED of P.O. Box 40469 and 57192 Nairobi respectively.

Both companies are tenants in common in equal shares.

The following encumbrances are registered against the title.

1. Mortgage dated 29th December, 1981 for KShs. 21,000,000/= in favour of Continental Credit Finance Limited.
2. 2nd mortgage dated 11th July, 1986 for KShs. 165,000,000/= in favour of Kenya Posts and Telecommunication Corporation.

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# PANORAMA VALUERS

4/9

3. Caveat dated 29th July, 1986 by Drive-In Estate Developers Limited claiming mortgagees interest by virtue of agreement in writing between the parties absolutely.
4. Prohibitory order dated 11th August, 1994 Civil Suit No. 1239 of 1993 in the 1st Class Magistrate's Court at Nairobi.
5. Prohibitory order dated 16th February, 1994 of Civil Suit No. 4 of 1991.
6. Notification of charge dated 10th June, 1997 by the Commissioner of Income Tax for KShs. 5,000,000/=.
7. Prohibitory order dated 4th February, 1997 Winding up Cause No. 29 of 1986 in the High Court of Kenya, Nairobi.

## AREA:

The whole parcel measures approximately 96 acres.

## RATING

## ASSESSMENT:

The current assessment of the entire 7872/4 is KShs. 10,000,000/=

Rates payable in 1998 amounts to KShs. 1,200,000/- \*

# PANORAMA VALUERS

4/9

3. Caveat dated 29th July, 1986 by Drive-In Estate Developers Limited claiming mortgagees interest by virtue of agreement in writing between the parties absolutely.
4. Prohibitory order dated 11th August, 1994 Civil Suit No. 1239 of 1993 in the 1st Class Magistrate's Court at Nairobi.
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## AREA

The whole parcel measures approximately 96 acres

## RATING

## ASSESSMENT

The current assessment of the entire 7879/4 is KShs. 10,000,000/=

Rates payable in 1998 amounts to KShs. 1,200,000/=

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# PANORAMA VALUERS

5/9

## SERVICES:

All the main services that is water, electricity, public sewer and telephone are connected to the property. The same services will be available to the subplots arising from the subdivision.

The property is well served with tar surfaced main roads namely Outerings Road and Thika Road.

The access roads in the estate are tar surfaced.

## THE PLOT:

A fairly level parcel of land apart from a small part on the eastern tip that slopes gently into Mathare River.

The parcel is mainly composed of murram which is fairly good for construction purposes.

Boundaries are marked with a chain link wire fence carried precast concrete posts.

## IMPROVEMENTS:

Drive-In Estate was ambitious, potentially viable well planned housing scheme which would provide ancillary requirements such as schools, shopping centres, facilities and open spaces.

Instructions are to value the undeveloped part of the scheme.

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# PANORAMA VALUERS

6/8

We take this to mean the entire parcel exclusive of the following.

1. That part which is developed with maisonettes and occupied by the G.S.U. Personnel.
2. That part developed and occupied by Ruaraka Primary School.
3. That part developed and occupied by Ruaraka Secondary School.
4. That part currently being developed with a permanent church.
5. All open spaces, roads of access and proposed roads of access.

Our exclusion of 2 to 5 above assumes that the same have been surrendered for public utility as a condition for the approval of the subdivision scheme.

## THE UNDEVELOPED PART:

The undeveloped part of L.R. NUMBER 7879/4 comprises the following scheme.

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# PANORAMA VALUERS

7/9

1. 317 No. Serviced residential sub-plots.
2. 103 No. Surveyed residential sub-plots but without services.
3. 421 No. Planned residential sub-plots.
4. Shopping centre plot planned to have 22 No. commercial sub-plots.
5. 7 No. Corner commercial sub-plots.
6. 2 No. Nursery school or any other public utility plots.

## GENERAL REMARKS.

Drive-In Estate is situated in a convenient location along the famous Thika Road and Outer Ring Road.

The Estate is well planned with all ancillary facilities such as schools, shopping facilities and open spaces. It lies opposite the Ruaraka Industrial Area.

Our valuation assumes a maximum development of the plot. We have further assumed that any would be purchaser of the plot would buy the land together with the proposed subdivision scheme which is

159

# PANORAMA VALUERS

8/9

partly implemented and 198 maisonettes developed and occupied.

Since the title for the entire parcel is freehold we have assumed that titles for the sub-plots arising from the subdivision scheme will also be freehold.

The completed and occupied part of the project gives good indication and impression of how the rest of the project will look like when completed.

This is a project that will give a new image to this part of Ruaraka.

The eastern tip of the plot is occupied by squatters while part of the portion to the east of Ruaraka Secondary School has been quarried for building stones.

The quarries are shallow and would have little effect on construction.

The portion with serviced residential sub-plots is let to Rafiki Enterprises who use it as an open storage yard.

This is prime property that is ripe for development.

It would however be noted that the property market is currently depressed.

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# Ruaraka High School

Annex 48

P.O. Box 57378, NAIROBI, Kenya  
TEL: 860303

Ref. No:.....

Date: 11/8/99.....

MR PAUL OMONDI MBAGO  
OFFICIAL RECEIVER & LIQUIDATOR  
C.C.F LTD  
P.O BOX 57192  
NAIROBI

Dear sir,

RE: DRIVE IN ESTATE L.R NO 7879/4

RUARAKA HIGH SCHOOL L.R. NO, 13421/243

Ruaraka High School is a public school and formed part of Drive in Estate in Ruaraka. It occupies the public utility plot which was supposed to have been surrendered to the Commissioner of Lands.

According to the sub division of the Estate which was carried out by Mr Kamwere (surveyor) it was given L.R. No. 13421/243.

The surveyor, who is still having the Deed plans for the School has indicated that, given instructions by you, he can release the Deed plans for the School so that we can be able to obtain a title for the School land.

We are therefore kindly requesting that you help us. Our development is at present hampered by not having a title Deed.

Yours Faithfully,

M.N. KAMAU (MRS)  
PRINCIPAL /B.O.G. SECRETARY



cc. The Commissioner of lands  
P.O BOX 30089  
NAIROBI

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*Appendix*

# Annex 49



SURVEY OF KENYA  
P.O. Box 30046, NAIROBI  
KENYA

25TH November  
Date....., 19<sup>99</sup>

All Correspondence  
Should be addressed to:-  
Director of Surveys

Telegrams: "Surveys"  
Head Office: Ardhi House  
Telephone: 718050

Field Headquarters, Ruaraka  
Telephone: 802241-2

CR/197/VOL.56/143

Our Ref.....

The Provincial Surveyor  
P.O. Box 30046  
NAIROBI

DATA BOOK NO. NBI/20/99

RE: UNS. SECONDARY SCHOOL SITE - OFF THIKA ROAD  
ON A PORTION OF L.R. NO. 7879/4 - NAIROBI

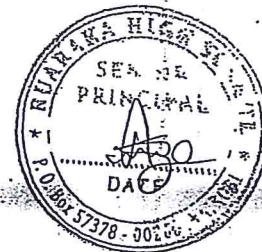
Please arrange to undertake the Survey of the above mentioned portion of Land on accordance with the attached P.D.P. and letter of allotment Ref NO. 108096/57 of 28th June, 1999.

Relevant data information will be found on F/R NO. 107/9, a print is enclosed herewith.

Have a representative of the School sign a beacon certificate and submit your records with the P.D.P. intact for further processing.

F.M. Kamwaro  
For: DIRECTOR OF SURVEYS

C.C.



The Permanent Secretary  
Ministry of Education  
P.O. Box 30040  
NAIROBI

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Annex 50  
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# Ruaraka High School

P.O. Box 57378, NAIROBI, Kenya  
TEL: 860303

Ref. No: .....

Date: 18th January 2000

THE OFFICIAL RECEIVER & LIQUIDATOR

C.C.F. LTD  
P. O. BOX 57192  
NAIROBI

Dear Sir,

RE: DRIVE-IN ESTATE LR NO. 7879/4 RUARAKA HIGH SCHOOL

Our letter dated 11th August 1999 and my subsequent visits to your office refers.

On your instruction, I went to see Mr. Kamware who said that he requires written instructions from you and also payment.

As we had discussed, the school's development has been greatly hampered by the lack of a title deed. Potential donors insist in seeing the official title before they extend any assistance. We have lost several donors because of this.

The school community and the Board of Governors would be very grateful if you can solve this problem urgently.

Yours faithfully

M. N. KAMAU (MRS)  
PRINCIPAL/B.O.G. SECRETARY



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Telegrams: "INTESTATE", Nairobi  
Telephone: Nairobi 227461  
Please address all communications to:  
THE REGISTRAR-GENERAL and  
Quote Ref. No. ORW/30/86  
and date



DEPARTMENT OF THE REGISTRAR-GENERAL  
P.O. Box 30031  
NAIROBI

21<sup>st</sup> February, 2000.

....., 19.....  
**Annex 51**

Mrs. M.N. Kamau,  
Principal,  
Ruaraka High School,  
P.O. Box 57378,  
**NAIROBI.**

Dear Madam,

**BANKRUPTCY AND WINDING UP CAUSE NO. 30 OF 1986**  
**CONTINENTAL CREDIT FINANCE LIMITED (IN LIQUIDATION)**  
**RUARAKA HIGH SCHOOL.**

I refer to your letter dated 17<sup>th</sup> February, 2000 and the letter from the Provincial Director of Education for Nairobi ref. NP/GA/I/6/193 of 15<sup>th</sup> February, 2000 regarding the status of your school's land in Ruaraka and would like to inform you that the school is on a piece of land located within Drive-In- Estate in Ruaraka whose title I am holding. I am informed that the piece of land is one of those surrendered by Drive-In-Estate to the City authorities for the establishment of public utilities such as your school. If this is the case then I will be able to give you your title deed for the school's plot once the deed plans for the separate titles are registered, a task which I am in the process of undertaking with the assistance of my surveyor and planner.

Yours faithfully,

P. Omondi Mbago  
**OFFICIAL RECEIVER**  
**AND LIQUIDATOR**



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12/10/11

10/11

# Ruaraka High School

P.O. Box 57378, NAIROBI, Kenya  
TEL: 860303

Ref. No: .....

Date: 20th July 2001

THE PROVINCIAL COMMISSIONER  
NAIROBI PROVINCE  
P. O. BOX 30124  
NAIROBI

RE: RUARAKA HIGH SCHOOL - TITLE DEED

This is to inform you of the problems we have encountered in trying to obtain a title deed for the school.

Ruaraka High School is on a piece of land LR7879/4 which was included in Governor's Estate. This piece of land was supposed to have been surrendered for public utility.

This land LR7879/4 was surveyed and subdivided by M/s Kanyere and Associates who still holds the deed plans for all the subdivided plots including the school. The deed plans have never been submitted to the Commissioner of Lands because the surveyor was not paid his fees.

The Title Deed for the same LR7879/4 is held by the Registrar General as the official Receiver for Continental Credit Finance Ltd. The official Receiver has, via his letter Ref. 010/30/06 of 21st February 2001 (copy attached) recognized that the school has legal claims over the land it stands on. Our numerous efforts to have him release the deed plans for the school so that we can get the Title Deed registered have been futile.

The lack of the Title has cost the school dearly as we have lost a potential donor who insisted on the school having a title before any development assistance could be given.

On behalf of the Board of Governors and the entire Ruaraka High School community I humbly request you to assist us to sort out this issue.

Yours faithfully

M. N. KIMANI (MRS)  
PRINCIPAL



1. THE PROVINCIAL DIRECTOR OF EDUCATION  
P. O. BOX 74629  
NAIROBI

2. THE PERMANENT SECRETARY  
MINISTRY OF EDUCATION SC. & T.E.C.  
P. O. BOX 30480  
NAIROBI

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Annex 53



RUARAKA HIGH SCHOOL  
P.O. Box 57378, NAIROBI  
Date: 25-7-2001

# OFFICE OF THE PRESIDENT

Telegrams: \_\_\_\_\_  
Telephone: Nairobi 333551  
When replying please quote  
Ref. No. **LND 16/10**

PROVINCIAL COMMISSIONER  
NAIROBI AREA  
P.O. Box 30124  
NAIROBI

25<sup>th</sup> July, 2001..... 20.....

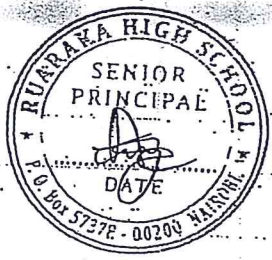
Mr. P. Omondi Mbago  
Official Receiver and Liquidator  
P.O. Box 30031  
**NAIROBI**

## RUARAKA HIGH SCHOOL - TITLE DEED

Reference is made to your letter Ref. ORW/30/86 of 21<sup>st</sup> February, 2001 addressed to Principal Ruaraka High School on the above subject.

You did indicate that you were in the process of undertaking a process with the assistance of your surveyor and planner to get a title deed for the school.

Kindly let me know how far you have gone with the exercise since the school has lost a lot of potential donors who cannot assist without knowing the school land status.



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Appendix 15  
Annex 54

Telegrams: "LANDS", Nairobi  
Telephone: Nairobi 718050-9  
When replying please quote



DEPARTMENT OF LANDS  
P.O. Box 30089  
NAIROBI

Ref. No. 217905/9  
and date

MINISTRY OF LANDS AND HOUSING

26 May 2005

Principal/Secretary BOG  
Ruaraka High School  
P.O. Box 57378  
NAIROBI

CONFIRMATION - L.R. NO. 7479/4

I refer to your letter of 12<sup>th</sup> May 2005. As you may realize the Letter of Allotment is in the name of the permanent Secretary, Ministry of Education and not your school who are the real beneficiaries.

I would therefore suggest you approach your parent Ministry for assistance.

  
G.L. MUKOFU  
For: COMMISSIONER OF LANDS



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Amor 214

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(b) Physical Address .....

Description of Parcel applied for

(a) County.....

(b) City/Municipality/Town.....

(c) Locality.....

(d) Parcel No.....

(e) Current user as per approved land use plan .....

(f) Purpose for which the land is being Converted .....

(Where only a part of a parcel of land is to be converted, a map indicating the said area should be attached)

Date .....

Signature.....

Dated the 21st November, 2017

MUHAMAD SWAZURI,  
Chairperson, National Land Commission.

LEGAL NOTICE NO. 283

THE LAND ACT

(No. 6 of 2012)

IN EXERCISE of the powers conferred under section 111(2) of the Land Act, the National Land Commission makes the following rules—

THE LAND (ASSESSMENT OF JUST COMPENSATION) RULES, 2017

1. These Regulations may be cited as the Land (Assessment of Just Compensation) Rules, 2017.

Citation.

2. In these Rules unless the context states otherwise requires—

Interpretation.

“market value” means the value of the land at the date of publication in the *Gazette* of the notice of intention to acquire the land.

3. The Commission shall consider the following factors when assessing compensation—

Factors to be considered in the assessment of compensation.

- (a) the market value of the land;
- (b) damage sustained or likely to be sustained by persons interested at the time of the Commission’s taking possession of the land by reason of severing the land from his or her other land;
- (c) damage sustained or likely to be sustained by persons interested at the time of the Commission’s taking possession

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of the land by reason of the acquisition injuriously affecting his or her other property, whether moveable or immovable, in any other manner or his or her actual earnings;

- (d) reasonable expenses incidental to the relocation any of the persons interested or who will be compelled to change residence or place of business as a consequence of the acquisition; and
- (e) damage genuinely resulting from diminution of the profits of the land between the date of publication in the *Gazette* of the notice of intention to acquire the land and the date the Commission takes possession of the land.

4. (1) The Commission shall determine an award based on the market value of the land to be acquired.

Assessment of  
market value.

(2) When assessing the market value—

- (a) the commission shall take into consideration the effect of any express or implied condition of title or law which restricts the use to which the land concerned maybe put;
- (b) if the market value of the land has been increased, or is currently increased, in either of the following ways, the increase shall be disregarded—
  - (i) an increase by reason of an improvement by the owner or his or her predecessor after the date of publication in the *Gazette* of the notice of intention to acquire the land; or
  - (ii) an increase by reason of the use of the land or premises in a manner which could be restrained by a court or is contrary to the law, or is detrimental to the health of the occupiers of the premises or to public health.

5. In determining the amount of compensation to be awarded for land acquired under the Act, the Commission shall not consider—

Factors not to be  
considered in the  
determination of an  
award.

- (a) the degree of urgency which has led to acquisition;
- (b) any disinclination of the person interested to part with the land;
- (c) damage sustained by the person interested which, if caused by a private person, would not be a good cause of action;
- (d) damage which is likely to be caused to the land after the date of publication in the *Gazette* of the notice of intention to acquire the land or in consequence of the use to which the land will be put;
- (e) any increase in the actual value of the land as at the date of publication in the *Gazette* of the notice of intention to acquire likely to accrue from the use to which the land will be put when acquired; and
- (f) any outlay on additions or improvement to the land, incurred after the date of publication in the *Gazette* of the notice of

intention to acquire land, unless the additions or improvements were necessary for the maintenance of any building in proper state of repair.

6. The Commission shall add a sum equal to fifteen per cent of the market value to the amount of compensation as compensation for disturbance.

Additional  
compensation.

Dated the 21st November, 2017

MUHAMAD SWAZURI,  
*Chairperson, National Land Commission.*

LEGAL NOTICE NO. 284

THE LAND ACT

(No. 6 of 2012)

IN EXERCISE of the powers conferred by section 12(11) of the Land Act, 2012, the National Land Commission makes the following regulations—

THE LAND (ALLOCATION OF PUBLIC LAND) REGULATIONS,  
2017

PART I—PRELIMINARY

1. These Regulations may be cited as the Land (Allocation of Public Land) Regulations, 2017.

Citation.

2. In these Rules unless the context states otherwise requires—

Interpretation.

“ballot paper” means an instrument picked by applicants to determine successful persons in land allocation process;

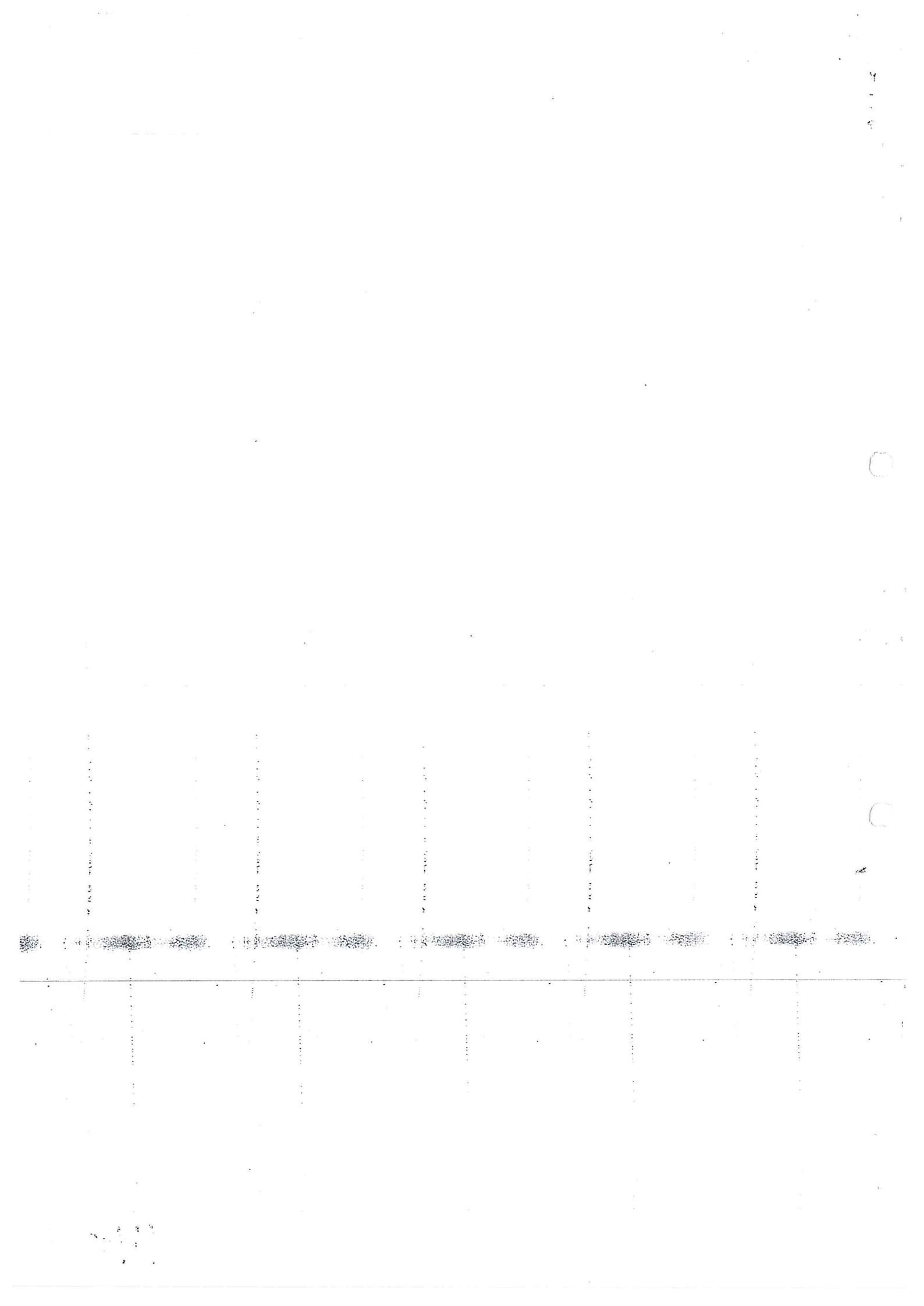
“base map” means a topographical map depicting the natural and man-made features of the land;

3. (1) Pursuant to section 12(1) of the Act, the Commission shall upon the request of the national or a county government, where necessary, allocate the whole or part of a specific public land, by—

Methods of  
allocation of public  
land.

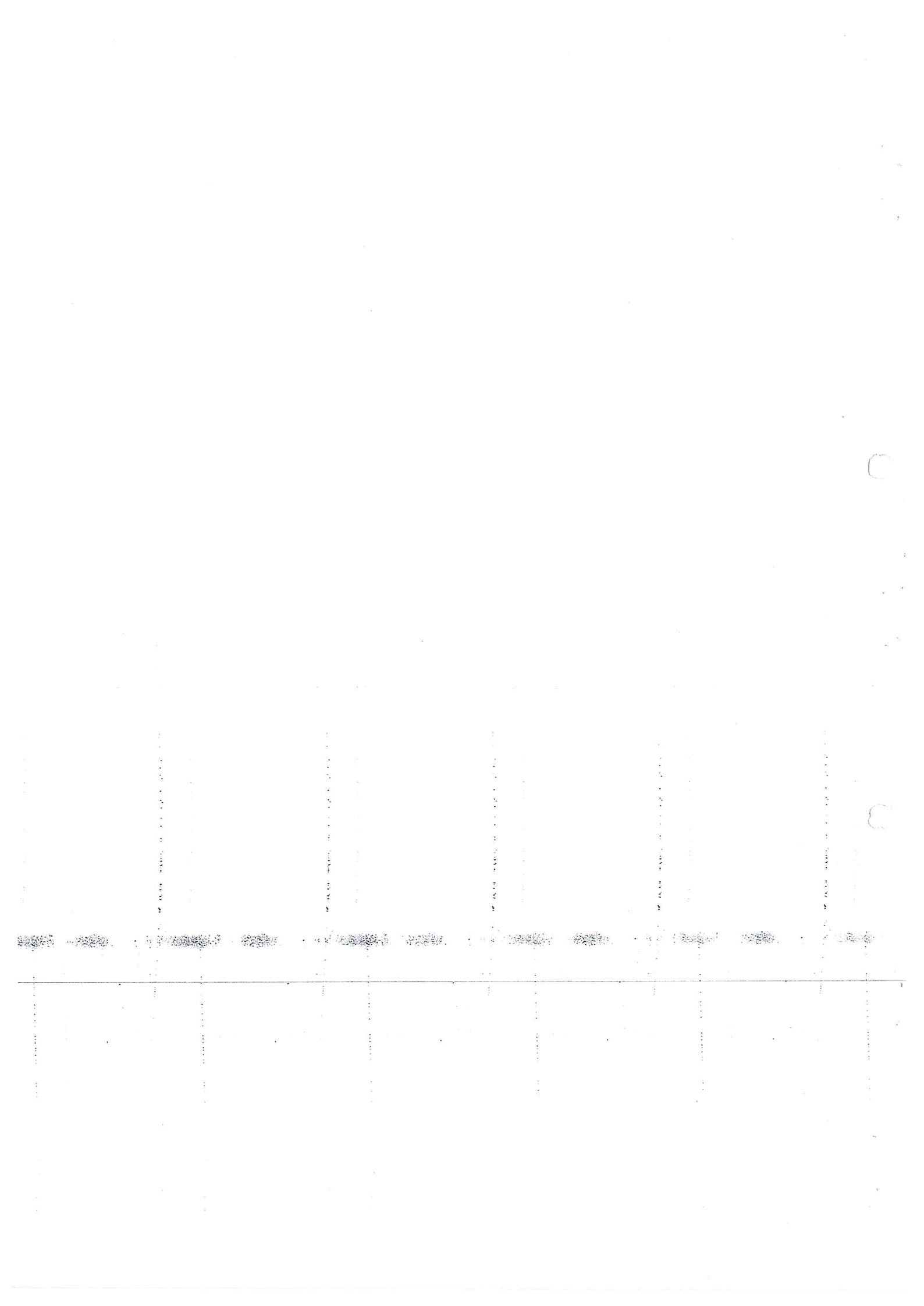
- (a) public auction;
- (b) application confined to a targeted group of persons or groups;
- (c) public notice of tenders;
- (d) public drawing of lots;
- (e) public request for proposals; and
- (f) public land exchange of equal value.

(2) In determining the method of allocation the Commission shall, in consultation with the national government or respective county Government as the case may be, take into consideration all prevailing circumstances including the purpose for the allocation.



**ANNEX 56: MINUTES OF THE SITTINGS OF THE COMMITTEE**

- 1. Minutes of the 8<sup>th</sup> Sitting**
- 2. Minutes of the 9<sup>th</sup> Sitting**
- 3. Minutes of the 10<sup>th</sup> Sitting**
- 4. Minutes of the 11<sup>th</sup> Sitting**
- 5. Minutes of the 12<sup>th</sup> Sitting**
- 6. Minutes of the 17<sup>th</sup> Sitting**
- 7. Minutes of the 18<sup>th</sup> Sitting**
- 8. Minutes of the 19<sup>th</sup> Sitting**
- 9. Minutes of the 23<sup>rd</sup> Sitting**
- 10. Minutes of the 24<sup>th</sup> Sitting**
- 11. Minutes of the 30<sup>th</sup> Sitting**
- 12. Minutes of the 32<sup>nd</sup> Sitting**
- 13. Minutes of the 33<sup>rd</sup> Sitting**



**MINUTES OF THE 8<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON TUESDAY 3<sup>RD</sup> APRIL 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 11:00 A.M.**

**PRESENT**

1. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson (*Chairing*)
2. Sen. Fatuma Dullo Adan, CBS, M.P.
3. Sen. Paul Kimani Wamatangi, M.P.
4. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
5. Sen. Charles Reubenson Kibiru, M.P.
6. Sen. Millicent Omanga, M.P.

**ABSENT WITH APOLOGY**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Ledama Olekina, M.P.
3. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Ms. Emmy Chepkwony -Principal Clerk Assistant
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Leonard Koech -Legal Counsel
5. Ms. Lucianne Limo -Media Relations Officer
6. Mr. Patrick Murindo -Serjeant-At-Arms
7. Mr. Robert Rop -Audio Recording Officer

**NATIONAL LAND COMMISSION**

1. Prof. Mohammad Swazuri -Chairperson
2. Mr. Chavangi Aziz Tom -CEO
3. Dr. Salome Munubi -Director, Valuation and Taxation
4. Mr. Benard Cherotich - DDFA
5. Mr. Joash Dindi -DD, Valuation and Tax
6. Mr. Daniel Mwakio -PFO

**MIN. NO. SEN/CPAIC/43/2018:**

**PRELIMINARIES**

The session chairperson called the meeting to order at 11:17 a.m. and there followed introduction.

The session chairperson gave a brief of the matter that was before the Committee and welcome the delegation from the National Land Commission to respond to the issues raised into possible loss of funds through the acquisition of land /R No. 7879/4.

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**MIN. NO. SEN/CPAIC/44/2018: MEETING WITH THE NATIONAL LAND COMMISSION ON THE POSSIBLE LOSS OF FUNDS THROUGH THE ACQUISITION OF LAND /R NO. 7879/4.**

Prof. Mohamed Swazuri, the Chairman, National Land Commission informed the Committee as follows:

1. The parcel of land under inquiry was L /R NO. 7879/4 which was private land acquired for two public schools and measured 5.597 Ha. or 13.700 acres;
2. The land was part of a larger lad that measured 96 acres along Thika Super Highway;
3. The land had been acquired for Fox-Drive-In Primary School and Ruaraka High School;
4. The schools were built on the parcel of land way back between 1984-1987;
5. There were other public utilities that had been built on the larger parcel of land that measured 96 acres and there were previous acquisitions of part of the same by the Government for the public utilities built thereon;
6. A valuation exercise for 4 acres of part of the had been done and the valuation report indicated its value at Ksh. 1.7 billion;
7. The Government had so far paid Ksh. 1.5 billion as part payment for the parcel of land L /R NO. 7879/4 to Afrisom Ltd.;
8. National Land Commission (NLC) had entered into an agreement with a company Ms. Joreth Ltd. which was the owner of the parcel of land but had instructed the NLC to pay a company by the name of Ms. Whispering Palms Ltd.;
9. Ms. Joreth Ltd. Had sold ownership of the land to Ms. Whistling Palm and Ms. Hue Africa Ltd.;

The Committee raised the following questions and concerns from the National Land Commission;

1. Who the owners/directors of the companies that are listed to have owned the land are;
2. Whether there were any sale agreements between the sellers and the schools in regard to the parcel of land;
3. Whether there was budgetary provision for the purchase of the land from the NLC;
4. Whether the NLC took into consideration the aspect of quiet occupation of land as a result of the existing public entities on the land;
5. Whether there was any document showing the request for compensation of the land by the owners;
6. Whether there was any dispute between the Ministry of Education and the owners of land that necessitated the acquisition of the land;

7. Whether there was a gazette notice indication government's intention to acquire the land;
8. Whether there was any legal advice from the Attorney General as to whether the land in question was public or private land;
9. Why there was a variation in the valuation report of the same parcel of land from a private valuer and that of the NLC; and
10. How payment was done to a different entity other than the one that signed the contract for payment.

The Chairperson, NLC responded to the question and concerns raised by the Committee as follows:

1. That NLC would require more time to provide the following documents;
  - a) sale agreements between the sellers and the schools;
  - b) legal advice from the Attorney General as to whether the land in question was public or private land;
  - c) gazette notice showing government's intention to acquire the land;
  - d) list of names of directors of the three companies said to have the land are;
  - e) documents/correspondence showing the request for compensation of the land by the owners;
2. The acquiring government agency/entity was the one that made budgetary provision and paid for the land acquired and the role of the NLC was to facilitate the processes of acquisition and then given the go-ahead to purchase after ensuring that due diligence had been done;
3. The difference in the valuation report of the land was because the report done by the private valuer was for 4 acres whereas the land in question measures 13 acres;
4. Payment was done to a different company from the one that signed the contract based on request;

#### **Committee Observation**

The Committee observed that the government may have paid Ksh. 1.5 billion to the wrong people and not the owner of the parcel of land.

#### **MIN. NO. SEN/CPAIC/45/2018: WAYFORWARD/RESOLUTIONS**

In light of the information give and the evidenced before the Committee, the following resolution were made:

1. NLC provides the Committee with the following documents on or by 12<sup>th</sup> April, 2018;
  - a) sale agreements between the sellers and the schools;
  - b) legal advice from the Attorney General as to whether the land in question was public or private land;
  - c) gazette notice showing government's intention to acquire the land;
  - d) list of names of directors of the three companies said to have the land are;

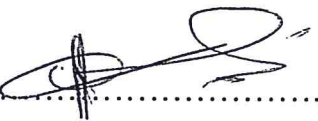
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- e) documents/correspondence showing the request for compensation of the land by the owners;
  - f) Information on parcels of land previously acquired for other government entities occupying the larger parcel of land that originally measured 96 acres, valuation report of the land prior to acquisition, the cost paid thereof and the size of the land acquired;
2. No further payment in regard to the said parcel of land should be made until the committee concludes the inquiry; and
  3. The next meeting with the NLC was scheduled for 17<sup>th</sup> April, 2018.

**MIN. NO. SEN/CPAIC/46/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 1:08 p.m.

Signed  .....

Date 07 AUGUST 2018 .....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

**MINUTES OF THE 9<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON TUESDAY 17<sup>TH</sup> APRIL 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 10:00 A.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P. **-Chairperson**
2. Sen. Franklin Mithika Linturi, M.P. **-Vice Chairperson**
3. Sen. Paul Kimani Wamatangi, M.P.
4. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
5. Sen. Charles Reubenson Kibiru, M.P.
6. Sen. Millicent Omanga, M.P.

**ABSENT WITH APOLOGY**

1. Sen. Fatuma Dullo Adan, CBS, M.P.
2. Sen. Ledama Olekina, M.P.
3. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Ms. Emmy Chepkwony **-Principal Clerk Assistant**
2. Mr. Yussuf Shimoy **-Clerk Assistant**
3. Mr. Charles Ngatia **-Clerk Assistant**
4. Ms. Julia Gachoki **-Serjeant-At-Arms**
5. Mr. Robert Rop **-Audio Recording Officer**

**IN ATTENDANCE**

1. Mr. Jackson King'oo **Lawyer for the Companies**
2. Ms. Esther Nthokoi
3. Mr. Justus Sila
4. N R Nyamai **Lawyer for the three companies**
5. J. N. Ngoka
6. Eng. Omari Harison

**MIN. NO. SEN/CPAIC/47/2018: PRELIMINARIES**

The meeting was called to order at 10:25 a.m. and there followed a word of prayer by Sen. Franklin Mithika Linturi, M.P.

Introduction was done and the chairperson explained that the purpose of the meeting was to meet with the directors of the following companies; Whispering Palms Estate Ltd., Afrison Export Import Ltd. and Huelands Ltd. in regard to inquiry into possible loss of funds through the acquisition of land /R No. 7879/4 by the National Land Commission.

**MIN. NO. SEN/CPAIC/48/2018: MEETING WITH THE DIRECTORS OF WHISPERING PALMS ESTATE LTD., AFRISON EXPORT IMPORT LTD. AND HUELANDS LTD. ON THE POSSIBLE LOSS OF FUNDS THROUGH THE ACQUISITION OF LAND /R NO. 7879/4.**

The Committee was informed that the three companies were sister companies and that the directors of the three companies were not present but had sent M/S. N.R. Nyamai & Co. Advocates and M/S. Nzioka & Co. Advocates to represent them.

The Committee sought to know the kind of representation that the advocated had been sent to make before the Committee. The advocates then submitted a sets of documents highlighting the history of ownership of the land parcel No. 7879/4.

The Committee deliberated on the matter of representation of the directors by their advocates and made the following observation;

1. The invitation had been made to the directors of the companies;
2. The matter before the Committee was not an criminal but rather to seek information and therefore could not understand why the directors of the three companies could not appear in person before the Committee; and
3. The advocates had not presented before the Committee and brief of undertaking from the directors of the three companies indicating their appointment to represent the directors before the Committee sitting.

The Committee therefore resolved as follows:

1. The Directors of Whispering Palms Estate Ltd., Afrison Export Import Ltd. and Huelands Ltd. To appear in person on Monday, 30<sup>th</sup> April, 2018 before the Committee to respond to the issues raised by the Committee in its previous correspondence; and
2. The advocates could not make representation before the Committee without the presence of the directors themselves;

**MIN. NO. SEN/CPAIC/49/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 11:47 a.m. until Monday, 30<sup>th</sup> April, 2018.

Signed.....

Date.....07 AUGUST 2018.....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

**MINUTES OF THE 10<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON TUESDAY 17<sup>TH</sup> APRIL 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 11:30 A.M.**

**PRESENT**

- |  |                   |
|--|-------------------|
| 1. Sen. Moses Otieno Kajwang', M.P.          | -Chairperson      |
| 2. Sen. Franklin Mithika Linturi, M.P.       | -Vice Chairperson |
| 3. Sen. Paul Kimani Wamatangi, M.P.          |                   |
| 4. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P. |                   |
| 5. Sen. Charles Reubenson Kibiru, M.P.       |                   |
| 6. Sen. Millicent Omanga, M.P.               |                   |
| 7. Sen. Mohammed Faki, M.P.                  |                   |

**ABSENT WITH APOLOGY**

1. Sen. Fatuma Dullo Adan, CBS, M.P
2. Sen. Ledama Olekina, M.P.

**SENATE SECRETARIAT**

- |                       |                            |
|-----------------------|----------------------------|
| 1. Ms. Emmy Chepkwony | -Principal Clerk Assistant |
| 2. Mr. Yussuf Shimoy  | -Clerk Assistant           |
| 3. Mr. Charles Ngatia | -Clerk Assistant           |
| 4. Mr. Leonard Koech  | -Legal Counsel             |
| 5. Ms. Julia Gachoki  | -Serjeant-At-Arms          |
| 6. Mr. Robert Rop     | -Audio Recording Officer   |

**IN ATTENDANCE**

- |                           |                                   |
|---------------------------|-----------------------------------|
| 1. Prof. Mohammad Swazuri | -Chairperson                      |
| 2. Ms. Abigael Mukolwe    | -Vice Chairperson                 |
| 3. Mr. Chavangi Aziz Tom  | -CEO                              |
| 4. Dr. Salome Munubi      | -Director, Valuation and Taxation |
| 5. Mr. Benard Cherotich   | -DDFA                             |
| 6. Mr. Sospeter Ohanja    | -DD, Survey                       |
| 7. Mr. Charles Kagema     | - County Coordinator              |
| 8. Mr. Wahome Muralearu   | -Legal Officer                    |
| 9. Mr. Daniel Mwakio      | -PFO                              |

**MIN. NO. SEN/CPAIC/50/2018:**

**PRELIMINARIES**

The meeting was called to order at 11:36 a.m. and there followed a word of prayer by Sen. Kimani Wamatangi, M.P.

**MIN. NO. SEN/CPAIC/51/2018: MEETING WITH THE NATIONAL LAND COMMISSION (NLC) ON THE POSSIBLE LOSS OF FUNDS THROUGH THE ACQUISITION OF LAND /L.R. NO. 7879/4**

The chairperson gave a highlight of the deliberations of the previous meeting with the National Land Commission that was held on 3<sup>rd</sup> April, 2018. He emphasized that the intention of the Committee was to ensure that public funds were used for the intended purpose and that there was value for money.

The Chairman of the National Land Commission informed the Committee that;

1. The Government of the Republic of Kenya was the buyer of the parcel of land L.R. No. 7879/4;
2. The acreage of the original (mother) title for the parcel of land measured 168 acres;
3. The process of acquisition of the land commenced after the Cabinet Secretary for Education made a request to the National Land Commission for purchase of the land for the two schools namely; Drive In Primary School and Ruaraka High School;
4. The registered owners of the parcel of land L.R. No. 7879/4 were Afrison Export Import Ltd. and Huelands Ltd. As per judgement made by the High Court in Civil Case No. 617 of 2012 and an official search done at the Land Registry in Nairobi on 19<sup>th</sup> January, 2018 and legal advisory from the Attorney General vide letter Ref. AG/CONF/21/72 VOL. 1 dated 7<sup>th</sup> July, 2017;
5. When the request for purchase of the land from the Cabinet Secretary was received, the National Land Commission wrote to the Chief Registrar of Lands to register a caveat on the land for the Government's intention to acquire the parcel of land;
6. Part payment for the parcel of land had been paid;
7. There was no sale agreement between the two schools namely; Drive In Primary School and Ruaraka High School and the owners of the land for the sale of the parcel of land;
8. Gazette Notice for intention of Government to acquire the land was published on 30<sup>th</sup> June, 2017;
9. Possession of the land had not been secured by the Government since that could only be done when full payment for the land had been done; and
10. Ruaraka High School had been issued with an allotment letter for the land it occupies but the NLC had verified that that the allotment letter was invalid.

The Committee observed that the Government of Kenya had illegally occupied private land (L.R. No. 7879/4) and constructed two public schools.

The Committee considered a set of documentation submitted by the NLC and sought the following information to be submitted by Friday 20<sup>th</sup> April, 2018;

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1. A report of the team constituted by the Ministry of Education to investigate the matter on how the two public schools were constructed on private land;
2. Provide documentation on how approvals for construction of the two schools on private land were given;
3. The letter from the owners of the land instructing the NLC to pay Ksh. 1.5 billion to another company;
4. Submit a certified copy of the signed and sealed confirmation of payment of Ksh. 1.5 billion; and
5. Provide details of the amounts of money paid for by the Government for parcels of land acquired for Outer Ring road and other roads constructed by KURA on the same parcel of land.

**MIN. NO. SEN/CPAIC/49/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 1:35 p.m.

Signed.....

Date.....07 AUGUST 2018.....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 11<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON TUESDAY 17<sup>TH</sup> APRIL 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 1:45 P.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P.
2. Sen. Franklin Mithika Linturi, M.P.
3. Sen. Paul Kimani Wamatangi, M.P.
4. Sen. Charles Reubenson Kibiru, M.P.
5. Sen. Mohammed Faki, M.P.

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

**ABSENT WITH APOLOGY**

1. Sen. Fatuma Dullo Adan, CBS, M.P
2. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
3. Sen. Ledama Olekina, M.P.
4. Sen. Millicent Omanga, M.P
- 5.

**SENATE SECRETARIAT**

- |                       |                            |
|-----------------------|----------------------------|
| 1. Ms. Emmy Chepkwony | -Principal Clerk Assistant |
| 2. Mr. Yussuf Shimoy  | -Clerk Assistant           |
| 3. Mr. Charles Ngatia | -Clerk Assistant           |
| 4. Mr. Leonard Koech  | -Legal Counsel             |
| 5. Ms. Julia Gachoki  | -Serjeant-At-Arms          |
| 6. Mr. Robert Rop     | -Audio Recording Officer   |

**IN ATTENDANCE**

- |                        |   |
|------------------------|---|
| 1. Mr. Kenneth Gathuma | - Ag. Director General, Business Registration Service |
| 2. Mr. Duncan Ngedwa   | - Legal Counsel                                       |
| 3. Ms. Jemimah Mungai  | - Snr. Clerk  |

**MIN. NO. SEN/CPAIC/54/2018:**

**PRELIMINARIES**

The meeting was called to order at 1:50 p.m. and there followed introductions.

**MIN. NO. SEN/CPAIC/55/2018: MEETING WITH THE DIRECTOR-GENERAL, BUSINESS REGISTRATION SERVICE ON THE REGISTRATION DETAILS OF COMPANIES INVOLVED IN THE SALE OF LAND /L.R. NO. 7879/4**

The chairperson welcomed the officers from the Business Registration Service and explained that the Committee was carrying out an inquiry into the possible loss of funds through the acquisition of land parcel L. R. No. 7879/4 by the Government.

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The Director-General, Mr. Kenneth Gathuma submitted original and copies of the following documents of Whispering Palms Estate Ltd., Afrison Export Import Ltd. and Huelands Ltd.;

- a) Certification of Incorporation;
- b) Dates of registration and duration of existence of the companies;
- c) The current and previous Directors of the companies;
- d) Status of incorporation of the companies, the shareholders and chairpersons;
- e) Current postal and physical address of the companies;

The Committee was informed as follows;

1. That details of Whispering Palms Estate Ltd. were reconstructed because the files from the office of the Registrar of companies could not be traced;
2. Whispering Palms Estate Ltd., Afrison Export Import Ltd. and Huelands Ltd. had not filed annual returns to the Registrar's office as required by law;
3. The returns that should be filed by private companies should have the following information-
  - a) the structure of the company;
  - b) address of the company;
  - c) names of directors; and
  - d) any changes in the directorship that may have taken place in the course of the year
4. Whereas the returns for public companies should be similar to those filled by private companies and in addition include financial statements;
5. All companies that had not complied by filling their annual returns to the Registrar of Companies had been given until Septembers 2018 to comply of face deregistration;

The Committee considered the document submitted by the Director- General of the Business Registration Service and requested for the following information of Equator Brent Ltd.; Drive In Estate Ltd., and Joreth Ltd.-

- a) Certification of Incorporation;
- b) Dates of registration and duration of existence of the companies;
- c) The current and previous Directors of the companies;
- d) Status of incorporation of the companies, the shareholders and chairpersons;
- e) Current postal and physical address of the companies;
- f) Status of returns filed by the companies; and
- g) A report on encumbrances by the companies if any.

**MIN. NO. SEN/CPAIC/56/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 2:15 p.m.

Signed.  .....

Date... 07 AUGUST 2018 .....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**



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**MINUTES OF THE 12<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON TUESDAY 30<sup>TH</sup> APRIL 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 9:00 A.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Paul Kimani Wamatangi, M.P.
3. Sen. Fatuma Dullo Adan, CBS, M.P
4. Sen. Charles Reubenson Kibiru, M.P.
5. Sen. Ledama Olekina, M.P.
6. Sen. Millicent Omanga, M.P

**ABSENT WITH APOLOGY**

1. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson
2. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
3. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Ms. Emmy Chepkwony -Principal Clerk Assistant
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Mitch Otoro -Legal Counsel
5. Mr. Godana Mamo -Serjeant-At-Arms
6. Mr. Robert Rop -Audio Recording Officer

**IN ATTENDANCE**

1. Mr. Francis Mburu Managing Director, Afrison Export Import Limited, Huelands Limited, Whispering Palms Estate Limited, and Drive-inn Estate Limited
2. Eng. Omari Harison General Manger, Afrison Export Import Ltd
3. N.R Nyamai Lawyer for the companies
4. Mr. Jackson King'oo Lawyer for the Companies

**MIN. NO. SEN/CPAIC/57/2018:**

**PRELIMINARIES**

a) *Prayer*

The Chair called the meeting to order at 9:20 a.m. and there followed a word of prayer by Sen. Ledama Olekina, M.P.

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*b) Remarks by the Chairperson*

The Chair of the Committee opened his remarks by noting the concerns raised by the members of the National Assembly Committee on Lands against the Committee of the Senate for holding a parallel probe into controversial compensation for land occupied by Ruaraka High School and Drive Inn Primary School.

He stated the County Public Accounts and Investment Committee of the Senate from the perspective of value for money and whether or not the County of Nairobi city lost the land during the transfer of Assets and liabilities from the defunct local government authorities. He further opined that the Land Committee of the National Assembly was to look at the policy issues affecting the land sector at the National level and hence the Senate was not overstepping its mandate.

The Chair reminded those raising concerns against the parallel probe to bear in mind the bicameral nature of parliament and further pointed a case where CEO of Facebook appeared before the US Senate and the House of Representative on 10<sup>th</sup> April, 2018 and 11<sup>th</sup> April, 2018 respectively, two consecutive days. Therefore, concurrent inquiry on the same matter was not only unique to the Kenyan Parliament.

In addition, he urged members of the public who may have information regarding the matter under consideration to submit to the committee or appear before it and he assured protection.

**MIN. NO. SEN/CPAIC/58/2018: ADOPTION OF AGENDA**

The agenda of the meeting was adopted after having being proposed by Sen. Ledama Olekina, M.P and seconded Sen. Charles Kibiru, M.P.

**MIN. NO. SEN/CPAIC/59/2018: MEETING WITH THE DIRECTORS OF WHISPERING PALMS ESTATE LTD, AFRISON EXPORT IMPORT LTD AND HUELANDS LTD ON THE POSSIBLE LOSS OF FUNDS THROUGH THE ACQUISITION OF LAND PARCEL L/R NO. 7879/4**

Introduction was done and the chairperson explained that the purpose of the meeting.

During the introduction, the Committee noted that all directors of the companies were not present as invited and asked the Managing Director to explain the reason.

Mr. Francis Mburu informed the Committee that-

1. He was the Managing Director of Afrison Export Import Limited, Huelands Limited, Whispering Palms Estate Limited, and Drive-inn Estate Limited;
2. He manages the said companies on day to day basis and that his sons (Mr. Mark Mungai Mburu and Justin Mungai Mburu) and Mr. Geoffrey Mutisya Mbili were silent directors of the companies;

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3. Mr. Geoffrey Mutisya Mbili resigned as a director a week prior to the meeting;
4. Mr. Philip Wahome, Mr. John Wambicho and Mr. Stephen Gichuki Kimani were directors of Huelands Ltd. with equal shares.
5. When Mr. Philip Wahome passed on his spouse Ms. Esther Wahome replaced him as a director in the company.
6. The three directors of Huelands Ltd. sold the company to him after a law was enacted prohibiting directors of banks from owning companies that had secured loans with the same banks where they were directors.
7. He bought shares worth Ksh. 40 million from Ms. Esther Wahome but since he had delayed in payment for the shares, the value had increased to Ksh. 100 million though the dispute was before Court of Law.
8. That since the other directors (his sons) were not involved in the daily operations of the companies, he felt there was no need of them being there in person.

The Committee noted that Mr. Mark Mungai Mburu and Justin Mungai Mburu signed the letter that advised National Land Commission to pay Kshs. 1.5B to Whispering Palms Estate Limited hence could not be regarded as silent directors. The Committee therefore reminded the Managing Director that the other directors were involved in certain decisions in regard to the matter under consideration and the need to have them in the meeting so that each one was held accountable.

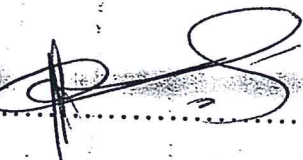
The Committee informed the managing director and the lawyers to the Companies that it would only listen to the presentations by the companies when all directors were present.

The Committee resolved that all directors of Afrison Export Import Ltd Huelands Ltd and Whispering Palms Estate Ltd to appear before it in person on Monday, 7<sup>th</sup> May, 2018.

**MIN. NO. SEN/CPAIC/60/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 11:10 a.m.

Signed.....



Date.....

07 AUGUST 2018

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 17<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS&INVESTMENTS HELD ON MONDAY 14<sup>TH</sup> MAY 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 10:30 A.M.**

**PRESENT**

1. Sen. Moses OtienoKajwang', M.P. -Chairperson
2. Sen. (Prof) Sam K. Onger, EBS, EGH, M.P.
3. Sen. Paul Kimani Wamatangi, M.P.
4. Sen. Charles ReubensonKibiru, M.P.
5. Sen. Millicent Omanga, M.P

**ABSENT WITH APOLOGY**

1. Sen. Franklin MithikaLinturi, M.P. -Vice Chairperson
2. Sen. FatumaDullo Adan, CBS, M.P
3. Sen. LedamaOlekina, M.P.
4. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Ms. EmmyChepkwony -Principal Clerk Assistant
2. Mr. YussufShimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Leonard Koech -Legal Counsel
5. Mr. Patrick Murindo - Serjeant-At-Arms
6. Mr. Robert Rop -Audio Recording Officer

**IN ATTENDANCE – MINISTRY OF LANDS**

1. Ms. Farida Karoney, OGW -Cabinet Secretary
2. Hon. Gideon Mung'aro -Chief Administrative Secretary
3. Dr. Nicholas Muraguri -Principal Secretary
4. Mr. Stephen Chege -Senior Land Registration Officer

**MIN. NO. SEN/CPAIC/82/2018:**

**PRELIMINARIES**

The meeting was called to order at 10:37 a.m. and there followed a word of prayer by Sen. Charles ReubensonKibiru, M.P.

**MIN. NO. SEN/CPAIC/83/2018:**

**ADOPTION OF AGENDA**

The agenda of the meeting was adopted after it was proposed and seconded by Sen. Millicent Omanga, M.P. andSen. Paul Kimani Wamatangi, M.P. respectively as follows;

- 1 Preliminaries,

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- a. Prayer,
- b. Remarks by the Chairperson

- 2 Adoption of the Agenda
- 3 Confirmation of Minutes of the Previous Sittings
- 4 Meeting with the following stakeholders in regard to inquiry into possible loss of funds through the acquisition of land L/R No. 7879/4 by the National Land Commission
  - a) Ministry of Education
  - b) Ministry of Lands
  - c) Nairobi City County
  - d) Intergovernmental Technical Relations Committee
- 5 Any Other Business
- 6 Adjournment

**MIN. NO. SEN/CPAIC/84/2018: MEETING WITH CABINET SECRETARY FOR LANDS IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

The Chairperson welcomed the delegation from the Ministry of Lands and there followed introduction.

The Chairperson read out the letter of invitation to the Cabinet Secretary to attend the meeting and invited her to respond to the issues the Committee sought for.

The Cabinet Secretary for Lands, Ms. Farida Karoney responded as follows-

- 1 According to records held by the Ministry of Lands and Physical Planning, Afrison Export-Import Limited and Huelands Ltd are the registered owners of the LR No. 7879/4 having acquired it in 1981;
- 2 The background on the ownership of the land is as follows-
  - a) L.R. No 7879/4 falls under the now repealed Government Land Act of 1902. By an instrument of conveyance dated 1905 the Crown first allocated a total of 1000 acres to Arthur Edward Atkinson as land No. 216 registered as No. 333/AII/1905;
  - b) Through a conveyance dated 21st February 1906 A.E. Atkinson conveyed the land to Allan Thompson and Harris Temple by an indenture dated 5th of October 1905, Reg. No. 38/AII/1906;
  - c) On 25th of March 1909, A. H. Thompson mortgaged the land to Ms. Gertrude Grogan Regd. No 165/AV/1909;
  - d) The Land has gone through various hands and mortgages up to the late R.H.T Hancock in 1921;
  - e) By way of Letters of Administration dated the 30th November 1921 granted by the Supreme Court in Nairobi, the land passed onto Wilfred Arthur Randolph Nicholson

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from the estate of R.H.T Hancock (deceased);

- f) On the 19th of August 1925, the land ownership passed onto Gladys Thompson for consideration of Kshs. 210,000/-; The parcel changed hands by an Indenture dated the 4th of December 1958 (registered in the Government Lands Registry in Nairobi Volume N 43 folio 302/1 between Gladys Thomson and Joreth Limited for a consideration. It was then transferred to Joreth Limited;
- 3 The land is delineated and described in Plan Number 47389 as fee simple and subject to the provisions of the Government Lands Act of 1902 (now repealed and replaced by the Land Act, 2012); Having bought the entire parcel of land measuring 168.5 acres from Gladys Thomson, Joreth Limited subdivide the land into four separate parcels; and Afrison Export-Import Limited and Huelands Limited bought the parcel of land Reference No. 7879/4 at the price of Ksh. 14,000,000/= measuring ninety-six acres (96 acres). The land has an encumbrance. A caveat exists on the file by the Registrar of Government Lands dated March 1st 2018 claiming an interest under Sec.76 of the Land Registration Act no. 3 of 2012;
- 4 The Ministry of Lands and Physical Planning was not a party to the purchase of land for roads and the General Service Unit. In the case of the former, responsibility and ownership of land would lie with the Ministry of Transport and Infrastructure. In the case of the latter, the General Service Unit, responsibility lies with the Ministry of Interior and Coordination of National Government; The Ministry of Lands and Physical Planning is not privy to the agreement dated August the 18th, 1988. We are not in a position to answer to the question as to whether or not the Ministry responsible the General Service Unit has the documents for the 196 acquired from Kenya Posts and Telecommunication Corporation;
- 5 Sessional Paper no. 3 on National Land Policy does not explicitly address itself to the question of adverse possession and the Compulsory Acquisition. However, the principle of adverse possession is invoked by an individual or institution through a suit to a competent court of law claiming such a right to land. On the other hand, the Land Acquisition Act cap 295 spells the process and procedure for compulsory acquisition, in line with the principle of eminent domain.

The Committee expressed its dissatisfaction with responses no. 4 & 5 above and noted that the Cabinet Secretary had the collective responsibility to seek information from other Government Agencies.

The Committee sought to know the following information-

1. Whether the Ministry had secured the interest of the land that government had paid for in full from the same parcel of land such as land acquired by Kenyan Urban Roads Authority (KURA) for roads;
2. Whether the Ministry was aware that the Commissioner for Lands had issued an allotment letter to Ruaraka High School;
3. Whether the Government should have applied the right of adverse possession of the land since the schools had occupied the land in question for over thirty years; and

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4. Whether the requirement that land for public utilities be set aside as a condition for subdivision of the parcel of land was still in force.

The Cabinet Secretary explained that-

1. The Registrar of Government Lands have registered an encumbrance to the land in March, 2018 as a way of securing government interest to the land;
2. There was however, a charge to the same parcel of land by Continental Credit Finance Ltd. Bank (now under receivership);
3. There was no change of user to the parcel of land though the land was not subdivided as per the approved subdivision plan of 1981 and therefore because the land was not subdivided then the conditions of the subdivision plan would not apply;
4. Ruaraka High School had been issued with an allotment letter for the school occupies though it was issued without due process since it was issued on private land;
5. The Government could not use the right to adverse possession on private land because the Government cannot be a squatter and the only recourse that the Government could use was compulsory acquisition by fair compensation;
6. There were legislative and policy gap in the process of acquisition of land by the Government namely- when gazettment of intention of Government to acquire land is done, encumbrance should be registered within a specific timeline that should be set out in law so that the land of interest should not be transferred to another party;
7. The National Land Use Policy was due for review and some of the identified gaps would be sealed during the review; and
8. The process of acquisition of the part parcel of the land for the schools was not followed to the letter and the transaction could have been handled better.

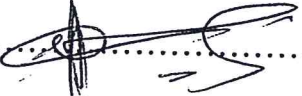
The Committee noted that the foot prints of the Ministry of Lands in the acquisition of the parcel of land had not been seen and requested for the following information and documentation to be submitted by Friday 18<sup>th</sup> May, 2018-

1. Subdivision plan of L.R. No. 7879/4 of 1981;
2. Whether there was a requirement that for any subdivision on the land to be undertaken, there had to be set aside land for public utilities;
3. All encumbrances to the parcel of land;
4. Confirmation of previous payments made by the Government of Kenya for part of the land;
5. Whether the Government is owed money in the form of land rates for the land acquired by Kenya Urban Roads Authority for roads and General Service Unit headquarters acquired though not transferred to Government;
6. Status of transfer of the title for the land paid for in full by the Government;
7. Who has the custody of the title to the parcel of land;
8. Copy of the allotment letter issued to Ruaraka High School by the Commissioner of Lands on 28<sup>th</sup> June, 1999; and

9. When and who made the decision to annul the letter of allotment issued to Ruaraka High School.

**MIN. NO. SEN/CPAIC/85/2018: ADJOURNMENT**

Having concluded the business of the meeting, the sitting was adjourned at 12:16p.m.

Signed.....

Date..... 07 AUGUST 2018 .....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 18<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS&INVESTMENTS HELD ON MONDAY 14<sup>TH</sup> MAY 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 12:30 P.M.**

**PRESENT**

1. Sen. Moses OtienoKajwang', M.P. -Chairperson
2. Sen. (Prof) Sam K. Onger, EBS, EGH, M.P.
3. Sen. Paul Kimani Wamatangi, M.P.
4. Sen. Charles ReubensonKibiru, M.P.
5. Sen. Millicent Omanga, M.P

**ABSENT WITH APOLOGY**

1. Sen. Franklin MithikaLinturi, M.P. -Vice Chairperson
2. Sen. FatumaDullo Adan, CBS, M.P
3. Sen. LedamaOlekina, M.P.
4. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Ms. EmmyChepkwony -Principal Clerk Assistant
2. Mr. YussufShimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Leonard Koech -Legal Counsel
5. Mr. Patrick Murindo - Serjeant-At-Arms
6. Mr. Robert Rop -Audio Recording Officer

**IN ATTENDANCE – INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE**

1. Prof.KaregaMutahi -Chairperson
2. Mr. Patrick Karanja -Ag. Chief Executive Officer
3. Mr. Mahat Osman Shalle -Director
4. Ms. Amutavy Sophie -Principal Legal Officer

**MIN. NO. SEN/CPAIC/86/2018: PRELIMINARIES**

The meeting was called to order at 12:30 a.m. and there followed introduction. The Chairperson welcomed the officers from the Intergovernmental Relations Technical Committee (IGRTC).

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**MIN. NO. SEN/CPAIC/87/2018: MEETING WITH THE CHAIRPERSON OF THE INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

The Chairperson of the ITGRC responded to the information sought by the Committee as follows;

1. Gazette Notice No 2701 dated 24<sup>th</sup> March 2017 established the institutional structures for the verification, validation and transfer of assets and liabilities of the defunct local authorities. As per the requirements of the Gazette Notice, Nairobi City County established the County Assets and Liabilities Committee (CALC), which undertook the exercise on identification, verification and validation of assets and liabilities of the defunct Nairobi City Council;
2. The County Assets and Liabilities Committee submitted its final report to IGRTC in January 2018. An analysis of the report indicates that land parcel No. L/R No. 7879/4 is an asset of the Nairobi City County;
3. The above parcel of land was also captured as an asset in the form of buildings in the unaudited inventory prepared by the defunct Transition Authority (TA).
4. The parcel of land L/R No. 7879/4 is located in Mathare area of Nairobi City County;
5. The current use of the property is indicated as Mathare North Primary School comprised of 27 classrooms and one office; and
6. The CALC report indicates that land has been planned and surveyed but the report does not indicate the size of the land

The Chairperson of the ITGRC further informed the Committee that-

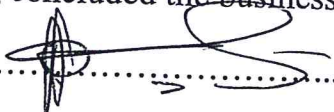
1. Only 32 County Governments had submitted a final report of their assets and liabilities;
2. The CALC of Nairobi City County was broad based and comprised officers from the National Land Commission and the Ministry of Lands;
3. The promulgation of the Constitution of Kenya 2010, transferred all assets and liabilities of the defunct Local Authorities to County Governments and the Gazette Notice of 24<sup>th</sup> March, 2017 was only to operationalize structures for the verification, validation and transfer of assets and liabilities;
4. The IGRTC could not establish the acreage of the land occupied by Mathare North Primary School because the report submitted by Nairobi City County Government did not indicate the acreage.

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**MIN. NO. SEN/CPAIC/88/2018: ADJOURNMENT**

Having concluded the business of the meeting, the sitting was adjourned at 1:00 p.m.

Signed.....

Date.....07 AUGUST 2018.....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 19<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS&INVESTMENTS HELD ON MONDAY 14<sup>TH</sup> MAY 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 1:00 P.M.**

**PRESENT**

1. Sen. Moses OtienoKajwang', M.P. -Chairperson
2. Sen. (Prof) Sam K. Onger, EBS, EGH, M.P.
3. Sen. Paul Kimani Wamatangi, M.P.
4. Sen. Charles ReubensonKibiru, M.P.
5. Sen. Millicent Omanga, M.P

**ABSENT WITH APOLOGY**

1. Sen. Franklin MithikaLinturi, M.P. -Vice Chairperson
2. Sen. FatumaDullo Adan, CBS, M.P
3. Sen. LedamaOlekina, M.P.
4. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Ms. EmmyChepkwony -Principal Clerk Assistant
2. Mr. YussufShimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Leonard Koech -Legal Counsel
5. Mr. GodanaMamo - Serjeant-At-Arms
6. Mr. Robert Rop -Audio Recording Officer

**IN ATTENDANCE – MINISTRY OF EDUCATION**

1. Dr.BelioKipsang, CBS -Principal Secretary
2. Ms. Faith Chirchir -State Counsel
3. Mr. Andrew Rukaria -Director Administration
4. Mr. Paul Kiber -Director
5. Mr. John Ololtuaa -Regional Coordinator of Education, Nairobi

**MIN. NO. SEN/CPAIC/89/2018: PRELIMINARIES**

The meeting was called to order at 1:00p.m. and there followed introduction. The Chairperson welcomed the officers from the Ministry of Education.

**MIN. NO. SEN/CPAIC/90/2018: MEETING WITH THE CABINET SECRETARY FOR EDUCATION IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

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The Principal Secretary, Dr. Belio Kipsang conveyed the apologies of the Cabinet Secretary who could not attend the meeting.

The Principal Secretary was invited to respond to the information sought by the Committee. He submitted a set of three documents of informed the Committee as follows;

1. Ruaraka High School and Drive Inn Primary are both public schools located in Kasarani Sub County and established in the years 1984 and 1986 respectively.
2. For a school to be registered the following documents are required-
  - Duly filed application form for registration
  - Recent report of the institution by the Sub county Quality Assurance & standards officer and Sanitary Assessment Report by the Public health recommending registration of the school.
  - Approved site and building plans by public works
  - Land ownership documents i.e. title deed, letter of allotment, consent to transfer through sale or as a gift between the owner of the land and the institution.
  - Environment assessment certificate
3. Drive Inn Primary School was established in the year 1986 on plot No. R/7879/4 (part);
4. The school has a TSC pay code No. 934001040;
5. Ruaraka High School was established in the year 1984 and registered on 5th March, 1987 and issued with a provisional registration certificate number NA/819/87. It was fully registered on 9th June, 1997 and issued with registration number GP/729/97. The school was re-registered on 23rd March, 2009 and issued with registration number GP/A/5879/09;
6. The schools were initially built by the Community but the Government has so far disbursed in the 2016/17 financial year a sum of Kshs.6,000,000 to Ruaraka High School for infrastructure development and for the primary the defunct Nairobi City Council has invested heavily;
7. Drive Inn primary school is not in possession of any document to prove the ownership of the land;
8. However, Ruaraka High school is in possession of an allotment letter dated 28th June, 1999 but has not been able to acquire a title to the land since land ownership has been under dispute;
9. The government has released a sum of Kshs.1.5 Billion as advised by the National Land Commission whose mandate amongst others is to secure or acquire public land;
10. Drive Inn Primary School and Ruaraka High Schools have been on the land for 34 and 32 years respectively;
11. The acreage of the land in which the two schools sit on is 13.5364 acres;
12. A total of Kshs.1.5 billion has so far been paid to the claimant of the land through National Land Commission, although the valuation by the National Land

Commission is Kshs.3.2 Billion;

13. It was only prudent that the investment Government has put in the two schools and public interest is secured/safeguarded through acquisition on the land the schools sit on; and
14. Ruaraka has so far received a sum of Kshs.9, 740,132 for the financial year 2017/2018 Free Day Secondary Education and in the Financial Year 2016/2017 they received Kshs.6, 000,000 for infrastructure development. The enrolment in the school is 630 students.

The Principal Secretary further informed the Committee that-

1. Nairobi was one of the seven Municipalities that operated and managed primary schools within their respective jurisdictions and the Ministry did not have documents relating to such schools;
2. The Ministry of Education engaged with Drive Inn Primary School by way of posting teachers to the school;
3. Schools are always registered whenever there is an increase in streams of classes;
4. The requirements for re-registering already established schools is an assessment report from the Sub County Quality Assurance & Standards Officer;
5. The Ministry had so far invested approximately Ksh. 20 million in the form of infrastructure development and capitation for Ruaraka High School and there were plans to invest Ksh 15 million to increase the number of classrooms;
6. The National Land Commission (NLC) wrote to the Ministry of Education informing it that the land on which the two schools occupied was private land and that the owner of the land had requested compensation for the same;
7. The notice to Treasury for payment for the land was done by the Ministry of Education with a rider that the Attorney General's opinion on the matter would be shared before processing of payment;
8. An assessment team from the Ministry of Education carried out an investigation on the ownership of the land in which the two schools occupied in 2017;
9. NLC had not responded to a letter from the Ministry of Education asking whether the interest of the Ministry in the land had been secured; and
10. The Ministry had requested for purchase of 13.5364 acres of land but the NLC purchased 13.71 acres;

The Committee was however not satisfied with the submissions given by the Principal Secretary, Ministry of Education and resolved to invite the Cabinet Secretary, Ministry of Education on the following-

- a) Why the recommendations of the team appointed by the Ministry of Education to investigate ownership of the land that the schools occupy were not taken into consideration;
- b) The letter from the National Land Commission that brought to the attention of the Ministry of Education the matter of construction of Ruaraka High School and

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Drive Inn Primary School on private land, referred to in a letter dated 13<sup>th</sup> September, 2016;

- c) The acreage of the land acquired by the National Land Commission for the two public schools and paid for in part; and

A breakdown of funds released to the two schools by the Ministry of Education, the defunct Nairobi City Council and the Community since 2013

**MIN. NO. SEN/CPAIC/91/2018: ADJOURNMENT**

Having concluded the business of the day, the meeting was adjourned at 3:16 p.m.

Signed.....

Date..... 07 AUGUST 2018

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 23<sup>RD</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON MONDAY 14<sup>TH</sup> JUNE 2018 AT RUARAKA HIGH SCHOOL FROM 10:00 A.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson
3. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
4. Sen. Ledama Olekina, M.P.
5. Sen. Charles Reubenson Kibiru, M.P.

**ABSENT WITH APOLOGY**

1. Sen. Fatuma Dullo Adan, CBS, M.P
2. Sen. Paul Kimani Wamatangi, M.P.
3. Sen. Mohammed Faki, M.P.
4. Sen. Millicent Omanga, M.P

**SENATE SECRETARIAT**

1. Ms. Emmy Chepkwony -Principal Clerk Assistant
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. MS. Lucianne Limo -Media Relations Officer
5. Mr. John Pere -Serjeant-At-Arms
6. Mr. Robert Rop -Audio Recording Officer

**IN ATTENDANCE**

**A. BOARD OF MANAGEMENT -RUARAKA HIGH SCHOOL**

1. Prof. Elizabeth Nafula - Chair, Board of Management (BOM)
2. Ms. Agnes Chege - Principal/secretary, BOM,
3. Mr. John Thuo - BOM Member
4. Ms. Jazillah Mohamed - BOM Member
5. Mr. James Nyaga - BOM Member
6. Ms. Susan Nyamathwe w. - BOM Member
7. Mr. Harun Otieno - BOM Member
8.

**B. MINISTRY OF EDUCATION**

1. Mr. John L. Ololtuaa -Regional Coordinator Nairobi
2. Ms. Victoria Mbwika -Sub county Director of Education  
Kasarani

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MIN. NO. SEN/CPAIC/116/2018: PRELIMINARIES

The meeting was called to order at 10:18 a.m. and there followed introduction.

MIN. NO. SEN/CPAIC/117/2018: MEETING WITH THE BOARD OF MANAGEMENT OF RUARAKA HIGH SCHOOL IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)

The Chairperson thanked the Board of Management for reception accorded to the Committee and invited the Principal of Ruaraka High School to make a presentation on the issues the Committee had requested.

The Principal invited the Chairman of the Board of Management who in turn welcomed Mr. John Thuo, member of the Board who had the institutional memory since the establishment of the school.

Mr. Thuo informed the Committee that-

1. The School was established in 1981 by a Mr. Dsouza, a European referred to by the local as 'Baba Dogo';
2. By then, the school was located where Valley Bridge Primary School is today;
3. The school was later shifted to its current location in 1984 when the foundation stone was laid and in 1985 the school was opened;
4. The Community contributed in cash, kind and labour to construct the school;
5. The Community was also assisted to build the school by the former Mayor of Nairobi City council, Mr Andrew Ngumba;
6. The School was built on land that was set aside for public utility purposes;
7. The approval for establishment of the school was given through the then District Development Committee structures;
8. The School was managed by the defunct City Council of Nairobi;
9. The School was re-registered in 1997 and 2009 as requirement by the Ministry of Education whenever there is an increase in the streams of classes;
10. However, the school was issued with an allotment letter in 1999;
11. The school land was surveyed by Mr. Kamwere and Associates with the understanding that the school would acquire a title deed to the land; and
12. Mr. Thuo supervised the erection of a perimeter wall around the school compound because he knew where the beacons were.

The Principal informed the Committee that-

1. There was a mutation form (*which was tabled*) dated 1966 of the larger parcel of land that the school occupied;
2. The school management was not aware of anybody laying claim to the land the school occupies until March, 2017;
3. Nobody or any institution informed the school management that they was a counter claim on the land the school occupied;

4. The National Land Commission visited the school to undertake an assessment but did not engage the school management on their mission;
5. The school received Ksh. 7 million in FY 2017/2018 from the Ministry of Education for capitation and development;
6. The school has the following population-
  - a) Students -685( 285 girls and 400 boys)
  - b) Teaching staff (TSC) -30 (9 men and 21 women)
  - c) Teaching staff (BOM) - 4
  - d) Non-teaching staff -15 (8 men and 7 women)
7. The school has a shortage of five (5) teachers;
8. The School occupies an area of 3.05 ha. as indicated on the allotment letter issue to the school;

**MIN. NO. SEN/CPAIC/118/2018: ADJOURNMENT**

The Chairperson thanked the school management for the cooperation they had given the Committee and adjourned at 11:40 a.m.

Signed.....

Date.....07 AUGUST 2018.....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

50.

**MINUTES OF THE 24<sup>TH</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON THURSDAY 14<sup>TH</sup> JUNE 2018 AT DRIVE IN PRIMARY SCHOOL, STAFF ROOM FROM 11:30 A.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson
3. Sen. Charles Reubenson Kibiru, M.P.
4. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.

**ABSENT WITH APOLOGY**

5. Sen. Ledama Olekina, M.P.
6. Sen. Fatuma Dullo Adan, CBS, M.P
7. Sen. Paul Kimani Wamatangi, M.P.
8. Sen. Mohammed Faki, M.P.
9. Sen. Millicent Omanga, M.P.

**IN ATTENDANCE**

**SENATE SECRETARIAT**

1. Ms. Emmy Chepkwony -Principal Clerk Assistant II
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Robert Rop -Audio Recording Officer

**DRIVE- IN PRIMARY SCHOOL MANAGEMENT**

1. Mr. James Kawga - Chair, Board of Management (BOM)
2. Mr. Benjamin Ouma Oloo - Head teacher and Secretary, BOM
3. Mr. Evans Mbola - Member, Bom
4. Ms. Damaris Ndunge - Member, BOM
5. Mr. John Mungai - Member, BOM

**MIN. NO. SEN/CPAIC/119/2018: PRELIMINARIES**

The meeting was called to order at 11:56 a.m. and there followed a word of prayer

**MIN. NO. SEN/CPAIC/120/2018: ADOPTION OF AGENDA**

The agenda of the meeting was adopted after it was proposed and seconded by Sen. Charles Kibiru M.P. and Sen. (Prof) Sam K. Ongeru M.P.

**MIN. NO. SEN/CPAIC/121/2018: MEETING WITH THE BOARD OF MANAGEMENT OF DRIVE-INN PRIMARY SCHOOL IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

The Chair thanked the school management for receiving the Committee and allowed round of introductions.

He explained to the Board that the Senate Committee on Public Accounts and Investment was undertaking an inquiry into the possible loss of public funds in the acquisition of Land Parcel L/R. No. 7879/4 by the National Land Commission for Ruaraka High School and Drive-Inn Primary School in Ruaraka, Nairobi County.

He further informed the school board that the objective of the visit was to establish the ownership and legitimacy of the school's claim to the land.

The Drive Inn Primary School Board of Management (BoM) informed the Committee that

1. The school was founded, built and managed by the former Nairobi Municipality.
2. The school had a new principal who has been in the school only for six (6) months.
3. Previously the School was managed exclusively by the defunct local authority and therefore the teachers had only teaching roles.
4. The attempt to establish details of ownership in the recent month has been impossible as there had been no positive response from city hall.
5. The Board was not aware of any claim to the school land for all the years it existed and that the matter was drawn to their attention vide a letter dated 13<sup>th</sup> February, 2018 from the Ethics and Anti-Corruption Commission requesting the head teacher to record a statement on the history of the school.
6. The Area Member of Parliament had through CDF sponsored the construction of a social hall in the school that was complete and in use. The construction was done with the knowledge that Drive Inn Primary School is a public school and a property of the defunct Nairobi City Council.
7. That officers from National Land Commission came to survey the school and the reasons of the survey was not disclosed to the school Board.

The Board further informed the Committee that the National Assembly Committee on Lands visited the school matter.

**Committee observations**

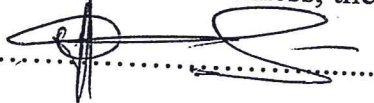
1. The School had no title deed or Allotment letter.
2. The Board could not confirm the land acreage under the occupation of the school.
3. That there were gaps in transition from one head teacher to the other.

4. The Committee noted that there were no communication claims from Afrison Export Import Ltd, Hue lands Ltd or Whispering Palms or any other entity or individual claiming the ownership of the school's land.

The Committee directed the school management to confirm the Legal status of the school from county government of Nairobi.

**MIN. NO. SEN/CPAIC/122/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 12:40 p.m.

Signed.....

Date..... 07 AUGUST 2018 .....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson, County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 30TH SITTING OF THE SESSIONAL COMMITTEE  
ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON  
WEDNESDAY 18<sup>TH</sup> JULY 2018 AT COMMITTEE ROOM 5 FROM 11:30  
A.M.**

**PRESENT**

1. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson
2. Sen. Paul Kimani Wamatangi, M.P.
3. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
4. Sen. Millicent Omanga, M.P
5. Sen. Charles Reubenson Kibiru, M.P.

**ABSENT WITH APOLOGY**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Fatuma Dullo Adan, CBS, M.P
3. Sen. Ledama Olekina, M.P.
4. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Mr. Boniface Lenairoshi -Principal Clerk Assistant
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Ms. Josphine Kusyini -Principal Legal Counsel
5. Mr. Eric Ososi -Research Officer
6. Mr. Patrick Murindo -Serjeant-At-Arms
7. Mr. Philemon Okinda -Serjeant-At-Arms
8. Mr. Robert Rop -Audio Recording Officer
9. Mr. Brian Mengich -Intern

**IN ATTENDANCE**

**NAIROBI CITY COUNTY GOVERNMENT**

1. Hon. Mike Mbuvi Sonko -Governor
2. Mr. Peter Kariuki -County Secretary
3. Mr. Charles Kerich -CECM, Finance & Lands
4. Ms. Lydia Kwamboka -County Attorney
5. Mr. S.G. Mwangi -Chief Officer, Lands
6. Mr. Albert Okiro -Chief Accountant, Rates

**MIN. NO. SEN/CPAIC/155/2018: PRELIMINARIES**

The meeting was called to order at 11:45 a.m. and there followed a prayer by Sen. Millicent Omanga, M.P. and thereafter introduction was done.

The Committee noted with concern the failure by the Governor, Hon. Mike Mbuvi Sonko to appear before the Committee as invited on two occasions and without any communication from his office on the reasons for his absence.

The Governor tendered his apology for not appearing before the Committee when invited and stated that his absence was caused by political reasons that had rendered him immobile and also due to several changes of officers in the county.

**MIN. NO. SEN/CPAIC/156/2018: MEETING WITH THE GOVERNOR, NAIROBI CITY COUNTY IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

The Chair welcomed the delegation from Nairobi City County and invited the Governor to respond to the issues that the Committee has sought on the matter.

The Governor submitted a copy of subdivision plan for Land L.R. No. 7879/4 and then responded to the issues requested by the Committee as follows-

- 1) Drive Inn Primary School was registered/ opened in 1986 by the Nairobi City Commission;
- 2) The County Government did not have information on when Ruaraka High School was registered because and such information was with the Ministry of Education;
- 3) The Ruaraka High School and Drive Inn Primary School were built on land that resulted from the surrender of land from subdivision of LR. 7879/4 dated 6th September 1982;
- 4) The County Government did not have any correspondences between the defunct Nairobi City Council and the relevant stakeholders on the ownership of Land Parcel LR. 7879/4. However, various officers were under investigation for possible collusion of ensuring the disappearance of documents;
- 5) The land on which the two school were built was Public land and the acreage is as follows:
  - i. Drive inn primary school 2.741 Ha (About 6.8. Acres)
  - ii. Ruaraka High School 2.737 Ha (About 6.7. Acres)
- 6) The main building of Drive Inn Primary School was funded by the then Nairobi City Commission. However the school has also been funded by donors and well-wishers on several occasions as follows:
  - i. Perimeter Wall - Thomas Gayle
  - ii. Renovation of Six (6) classrooms - Bayer East Africa
  - iii. Renovation of ablution block- Johnson and Johnson
  - iv. roofing walkways - Johnson and Johnson

- v. Rehabilitation of Computer (Tablet) room - G4S
- vi. Furniture -Dela rue
- vii. Energy Saving Jikos – World Food Programme

- 7) The County Government did not have information on the construction of Ruaraka High School since it did not manage the school;
- 8) The County Government did not have a copy of the letter of allotment issued to Ruaraka High School by the Commissioner of Lands;
- 9) He presented a Statement of Land Rates paid to the County in regard to L.R.7879/4 for the last three years;
- 10)He submitted an extract of the Assets and Liabilities Register of the Nairobi County Government listing the land occupied by the schools as item no. 37 and 125 in the list;
- 11)The County Government charges rates on the basis of a percentage of unimproved site value. Initially it was 17 % then increased to 34% and thereafter reduced currently to 25 % of the unimproved site value;
- 12)Land rates are billed to the registered owner of the property and in this case it was Afrison Export Import Ltd. and Huelands Ltd.;
- 13)According to records available only one payment on land rates was made on 22nd April 2015 for kshs. 3,502,000 in regard to land parcel L.R.7879/4;
- 14)There was a tax waiver given in December 2015 in regard to LR: 7879/4 where the adjustment was done pursuant to a court order in 2015 from Ksh.1,049,206,814 in March 2015 to Kshs. 87,530,000;
- 15)He submitted an extract of minutes of the meeting of the Town Planning Committee held on 6th September, 1982 that approved the subdivision plan land parcel L.R.7879/4.

The Committee considered the extract of the minutes of the meeting of the Town Planning Committee submitted and noted that approval of the subdivision of land parcel L.R. 7879/4 was given with the following conditions-

- 1) 230mm. diameter foul sewer to be extended to serve all sub-plots. Plans and specifications to be approved by Council.
- 2) All sub-plots to be connected to sewer,
- 3) Each sub-plot to be provided with an-adequate supply of wholesome water to the satisfaction of the Medical Officer of Health.

80 4) A comprehensive surface water drainage scheme to be submitted and

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**MINUTES OF THE 32<sup>nd</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON MONDAY 23<sup>RD</sup> JULY 2018 AT COMMITTEE ROOM 5 FROM 8:00 A.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Fatuma Dullo Adan, CBS, M.P.
3. Sen. Ledama Olekina, M.P.
4. Sen. Paul Kimani Wamatangi, M.P.
5. Sen. (Prof) Sam K. Ongeru, EBS, EGH, M.P.
6. Sen. Millicent Omanga, M.P.
7. Sen. Johnson Sakaja, M.P. -In attendance

**ABSENT WITH APOLOGY**

1. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson
2. Sen. Charles Reubenson Kibiru, M.P.
3. Sen. Mohammed Faki, M.P.

**SENATE SECRETARIAT**

1. Mr. Boniface Lenairoshi -Principal Clerk Assistant
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Eric Ososi -Research Officer
5. Ms. Lucianne Limo -Media Relations Officer
6. Mr. Patrick Murindo -Serjeant-At-Arms
7. Mr. James Ngusya -Serjeant-At-Arms
8. Mr. Robert Rop -Audio Recording Officer

**IN ATTENDANCE**

**MINISTRY OF EDUCATION**

1. Amb. (Dr.) Amina C. Mohamed -Cabinet Secretary
2. Mr. Andrew Rukeria - Director, Administration
3. Mr. John Ololtuaa - Regional Coordinator of Education
4. Ms. Faith Chirchir - Legal Officer
5. Rose W. Macharia - Office of the CS
6. Mr. Paul Kibet - ASDSE
7. Mr. Khadiazala B - SCFO

**MIN. NO. SEN/CPAIC/163/2018: PRELIMINARIES**

The meeting was called to order at 8:30 a.m. and there followed a prayer by Sen. Fatuma Dullo Adan, CBS, M.P. and thereafter introduction was done.

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The Committee noted with concern and empathy the failure by the Cabinet Secretary to appear before the Committee as invited on five occasions. However, the Committee was aware that the non-appearance on the fifth occasion was as a result of the bereavement.

The Cabinet Secretary explained that her non-appearance on two occasions was as a result of her absence out of the country on official assignments and on one occasion she was indisposed but sent the Principal Secretary to represent her.

The Committee however acknowledged the initiative of the Cabinet Secretary to seek an alternative date at the earliest moment to meet with Committee.

**MIN. NO. SEN/CPAIC/164/2018: MEETING WITH THE CABINET SECRETARY, MINISTRY OF EDUCATION IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

The Chairperson welcomed the delegation from Ministry of Education and invited the Cabinet Secretary, Amb. (Dr.) Amina C. Mohamed to respond to the issues that the Committee has sought on the subject matter.

The Cabinet Secretary submitted a written response and then responded to the issues requested by the Committee as follows-

1. The National Land Commission initiated the process of acquisition of land for Ruaraka High School and Drive Inn Primary School by officially writing to the Cabinet Secretary, Ministry of Education vide letter dated 13<sup>th</sup> September, 2016;
2. The acquisition of the land for the schools was prompted by a claim for compensation of the land by Afrison Export Import Ltd. through the National Land Commission and therefore the Ministry of Education was obligated to secure the interest of the schools and the general public;
3. The requirements for registration of public schools were as follows-
  - a) Duly filled application form for the registration of the public institution (form is available for free at the County Education Office);
  - b) A signed assessment report of the institution not exceeding six (6) months by the quality Assurance & Standards Officers;
  - c) A signed sanitary assessment report not exceeding six (6) months by a Public Health Officer to establish if Health and Safety Standards are met;
  - d) Approved site and building plans;
  - e) Environmental assessment certificate (for new sites only);
  - f) A copy of the title deed or allotment letter, and in some cases consent to transfer through sale or as a gift (where land is purchased or the land is donated by the community or individual);
  - g) Land search certificate not exceeding six (6) months; and
  - h) Certified copies of receipts issued as proof of payment of all statutory fees or

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licences or taxes.

4. Funds Received by Drive-Inn Primary School from the Ministry of Education.

(a) Free Primary Education funds

Year	Simba Account (Ksh)	General Purpose Account (Ksh)	Total (ksh)
2013	719,500.00	616,709.00	1,336,209.00
2014	760,062.00	724,170.00	1,484,232.00
2015	926,170.00	871,957.70	1,798,127.70
2016	957,610.00	766,088.00	1,723,698.00
2017	957,610.00	1,039,092.00	1,996,702.00
<b>Total</b>	<b>4,320,952</b>	<b>4,018,016.70</b>	<b>8,338,968.70</b>

(b) Infrastructure Funds (CDF)

Purpose	Amount
Class repair	700,000.00
Lockers	600,000.00
Multi-purpose hall	9,000,000.00
<b>Total</b>	<b>10,300,000.00</b>

5. Funds received by Ruaraka High school from GOK (MOE) and Parents

Year	Tuition Account (Ksh)	Operation Account (Ksh)	PTA/ Lunch (Ksh)	Total (Ksh)
2013	2,322,180.00	4,153,590.00	7,426,253.00	13,902,023.00
2014	2,268,000.00	4,190,130.00	9,320,212.00	15,778,342.00
2015	2,443,710.00	4,351,410.00	8,120,550.00	14,915,670.00
2016	3,044,790.00	5,189,310.00	12,352,983.00	20,587,083.00
2017	2,901,150.00	5,080,950.00	5,915,481.00	13,897,581.00
2018	1,290,240.00	3,780,000.00	4,429,287.00	9,499,527.00
<b>Total</b>	<b>14,270,070.00</b>	<b>26,745,390.00</b>	<b>47,564,766.00</b>	<b>88,580,226.00</b>

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The Cabinet Secretary further informed the Committee that-

1. The process of acquisition of land for the schools should have been initiated by the Ministry of Education or a court of law;
2. There was no urgency in the acquisition of the land for the schools because they were already in existence on the same parcel of land for many years;
3. The recommendations of the team established by the Ministry of Education to investigate the ownership of the land on which Ruaraka High School was built were not taken into consideration when the decision to acquire the land for Ruaraka High School and Drive Inn Primary School was made;
4. There was no budgetary allocation to purchase the land for the schools but the Ksh. 1.5 billion that was paid out as first tranche for payment for the acquisition of the land for the schools came from a vote on legal fees within the Ministry of Education's budget item that was later to be regularized in a supplementary budget;
5. She was waiting for completion of investigations on the same that were being carried out by various government agencies and then would take administrative action on any officers found culpable; and
6. There was a disparity on the acreage acquired by the National Land Commission and that requested by the Ministry of Education.

The Committee considered the response and submission of the Cabinet Secretary and made the following observations-

1. The process of acquiring the land for Ruaraka High School and Drive Inn Primary School took a curiously short time especially when there was no budgetary provision the same;
2. The National Land Commission had not responded to a letter from the principal Secretary, Ministry of Education, Dr. Belio Kipsang, Ref. No. MOE/ACCT/1/19 (63) dated 19<sup>th</sup> January, 2018 as to whether it had secured instruments of ownership of the land and as to whether due diligence had been exercised in the process of acquisition of the land; and
3. There was no urgency in the acquisition of the land for the schools noting that the schools had been in existence on the land for thirty four (34) years and the instruments of ownership of the land had not been secured by the National Land Commission.

The Committee sought a progress report from the Ministry of Education on repository of land holding for all public schools in Nairobi City County.

**MIN. NO. SEN/CPAIC/165/2018: MEETING WITH THE CABINET SECRETARY, MINISTRY OF LANDS IN REGARD TO THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH ACQUISITION OF LAND L. R. NO. 7879/4 BY THE NATIONAL LAND COMMISSION (NLC)**

The Committee was informed that the Cabinet Secretary for Lands had sent a written response on the issues the Committee had sought on.

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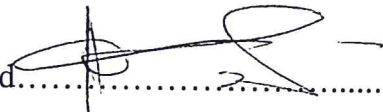
The Committee considered the response by the Cabinet Secretary for Lands which informed as follows-

1. A proposal to subdivide LR. 7879/4 was submitted to the City Council of Nairobi through a company called Drive - In Estate Developments. This application was considered by the Town Planning Committee at its meeting held on 6th September, 1982 where the Committee recommended that the Subdivision Scheme be approved by the Commissioner of Lands subject to a number of conditions amongst which were:-
  - a) Condition No. 9 recommended that the road network be surrendered to the Council (City Council of Nairobi) free of cost.
  - b) Condition No. 10 recommended that the areas earmarked for: Nursery, Primary and Secondary School sites, Social centres, special purpose plot and shopping centres be surrendered to the City Council free of cost.
2. To facilitate approval of the Subdivision Scheme the Commissioner of Lands wrote to Drive - In Estate Development Company requesting the company to remit to the Commissioner of Lands a sum of Kshs.21, 500/~ being subdivision approval fee.
3. In response to the letter at paragraph (6) above Drive - In Estate Development made the requisite payments amounting to Kshs.21, 500/-. Where official receipt no. A758827 dated 18th November, 1983 was issued.
4. On 22nd November, 1983, the Commissioner of Lands approved the Subdivision Scheme as recommended by the City Council of Nairobi with slight amendments namely:-
  - a) Condition No. 10 recommended that the Nursery, Primary and Secondary School sites, social centres, special purpose plot and shopping centres be surrendered to the Government free of cost.
5. Vide letter dated 4<sup>th</sup> July, 1984 addressed to the Commissioner of Lands, Drive - Inn Estate Developers confirmed their acceptance of the Surrender to the Government all the public utility plots mentioned in paragraph (10) of the approval letter dated 22<sup>nd</sup> November, 1983.
6. On 12th July, 1984, the Commissioner of Lands issued a "letter of reservation" reserving the site planned for Secondary School to the Permanent Secretary, Ministry of Education, Science and Technology.
7. Later, vide letter dated 20<sup>th</sup> June, 1999 the Commissioner of Lands formally issued a Letter of Allotment to the Permanent Secretary, Ministry of Education.
8. There was no communication from Nairobi City Council and Drive Inn Estate Limited regarding the cancellation of the plan.
9. It was the responsibility of the registered owner of the land to execute deeds of surrender in respect of the public utilities together with the corresponding deed plans and submit the documents for purposes of registration in favour of the Government.
10. According to the law, land may be converted from one category to another. In instances of conversion from private to public, land may be converted through compulsory acquisition, reversion of leasehold interest to Government after expiry of a lease, transfer and surrender of a portion or the whole land.

11. The above process is completed by issuance of title to the relevant Government/ State body in respect of the acquired or surrendered land.
12. As you are aware that this matter is under investigation by The Ethics and Anti-Corruption Commission hence the deed and correspondence files are in their custody. The same will be availed to your Committee upon receipt of the files.

**MIN. NO. SEN/CPAIC/166/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 10:41 a.m.

Signed.....

Date.....07 AUGUST 2018.....

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**

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**MINUTES OF THE 33<sup>RD</sup> SITTING OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS & INVESTMENTS HELD ON TUESDAY 7<sup>TH</sup> AUGUST 2018 AT MAIN PARLIAMENT BUILDING, COMMITTEE ROOM 5 FROM 9:30 A.M.**

**PRESENT**

1. Sen. Moses Otieno Kajwang', M.P. -Chairperson
2. Sen. Franklin Mithika Linturi, M.P. -Vice Chairperson
3. Sen. (Prof) Sam K. Onger, EBS, EGH, M.P.
4. Sen. Charles Reubenson Kibiru, M.P.
5. Sen. Mohammed Faki, M.P.
6. Sen. Ledama Olekina, M.P.
7. Sen. Millicent Omanga, M.P.

**ABSENT WITH APOLOGY**

1. Sen. Fatuma Dullo Adan, CBS, M.P.
2. Sen. Paul Kimani Wamatangi, M.P.

**SENATE SECRETARIAT**

1. Mr. Yussuf Shimoy -Clerk Assistant
2. Mr. Charles Ngatia -Clerk Assistant
3. Ms. Caroline Cheruiyot -Legal Counsel
4. Mr. Eric Osoi -Research Officer
5. Mr. Godana Mamo -Serjeant-At-Arms
6. Mr. Robert Rop -Audio Recording Officer

**MIN. NO. SEN/CPAIC/167/2018: PRELIMINARIES**

The meeting was called to order at 9:45 a.m. and there followed prayers by Sen. Ledama Ole Kina, M.P.

**MIN. NO. SEN/CPAIC/168/2018: ADOPTION OF AGENDA**

The agenda of the meeting was adopted after having being proposed by Sen. Ledama Olekina, M.P. and seconded Sen. Charles Kibiru, M.P.

**MIN. NO. SEN/CPAIC/168/2018: ADOPTION OF REPORT ON THE INQUIRY INTO POSSIBLE LOSS OF FUNDS THROUGH THE ACQUISITION OF LAND LR. NO. 7879/4 (PART) BY THE NATIONAL LAND COMMISSION FOR USE BY TWO PUBLIC SCHOOLS (RUARAKA SECONDARY SCHOOL AND DRIVE-IN PRIMARY SCHOOL), NAIROBI CITY COUNTY**

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The Committee considered a draft report on the inquiry into possible loss of funds through the acquisition of Land Parcel L.R. No. 7879/4 (part) by the National Land Commission for use by two public schools (Ruaraka High School And Drive-In Primary School), Nairobi City County.

Members observed that the Committee had considered Chapter one, and two and made recommendations thereon.

The Committee verified that the recommendation of the Committee made during a report writing retreat on 27<sup>th</sup> and 28<sup>th</sup> July, 2018 had been captured in the draft report.

The Committee considered chapter three, four and five and made further recommendations and corrections to the draft report.

Having made recommendations on the Report, the Committee unanimously adopted the report for tabling in the Senate.

Members resolved to table the report on Tuesday, <sup>7<sup>th</sup> August</sup> 7<sup>th</sup> July, 2018.

**MIN. NO. SEN/CPAIC/60/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 11:13 a.m.

Signed.....

Date..... 07 AUGUST 2018

**Sen. Kajwang' Moses Otieno, M.P**  
**Chairperson,**  
**County Public Accounts &**  
**Investment Committee**