

Approved by
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3/12/14

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION - 2014

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS

ON

LAND ISSUES IN TAITA / TAVETA COUNTY

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

*Paper laid
by chair
Committee on
3/12/14
W. W. Njiru*

DECEMBER, 2014

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DEPARTMENTAL COMMITTEE ON LANDS

The Departmental Committee on Lands was constituted on 16th May 2013, pursuant to the provisions of Standing Order no. 216 (1) and (5) of the National Assembly. The functions and mandate are outlined in the SO and House Rules.

The Committee oversees the operations of the Ministry of Lands, Housing and Urban Development on the following matters: Land Policy and Physical Planning, Land Transactions, Survey and Mapping, Land Adjudication, Settlement, Land registration, Land Valuation, Administration of community and Public Land, and Land Information and Management System.

COMMITTEE MEMBERSHIP

The Committee comprises of the following Members:

The Hon. Alex Mwiru, M.P - Chairman	The Hon. George Oner
The Hon. Moses Ole Sakuda, M.P. -Vice Chairman	The Hon. Mathew L. Lempurkel
The Hon. Rev. Mutava Musyimi	The Hon. Shakila Abdallah
The Hon. John Kihagi	The Hon. Dr. Paul Otuoma
The Hon. Francis W. Nderitu	The Hon. Thomas Mwadeghu
The Hon. Eusilah J. Ngeny	The Hon. Ali A. Shariff
The Hon. Raymond K. Moi	The Hon. Francis Njenga
The Hon. Hellen Chepkwony	The Hon. Hezron Awiti Bollo
The Hon. Sarah Korere	The Hon. Benard Bett
The Hon. Benson Mbai	The Hon. Esther Murugi
The Hon. Kanini Kega	The Hon. Oscar Sudi
The Hon. Gideon Mung'aro	The Hon. Onesmus Ngunjiri
The Hon. Suleiman Dori	The Hon. Julius Ndegwa
The Hon. Lawrence Mpuru Aburi	The Hon. Joseph Magwanga
The Hon. Patrick King'ola	

ACKNOWLEDGEMENT

Mr. Speaker Sir,

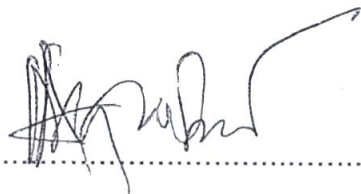
The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee and the staff, in the execution of its mandate.

Let me take this opportunity to thank all Members of the Committee for their patience, endurance and dedication to committee business, despite their other commitments and tight schedules, which enabled the Committee to complete this Report.

On behalf of the Departmental Committee on Lands, and pursuant to Standing Orders No.199 of the National Assembly, I now have the honor to present the Report and Recommendations thereto for adoption pursuant to the provisions of standing orders of the National Assembly.

Thank You,

SIGNED



CHAIRPERSON

(HON. ALEX M. MWIRU, MP)

DEPARTMENTAL COMMITTEE ON LANDS

DATE

2 / 12 / 2014

1.0 INTRODUCTION

1. During its various sittings, the Committee noted the public outcry in Taita / Taveta County and the rising tension in the area due to heightened land conflict between the Owner of Teita Sisal Estate and the Local Community.
2. The Committee resolved to conduct an inspection tour in order to take stock of the situation on the ground with a view to recommending sustainable solution to the conflicts and settle the outstanding issues.

2.0 FINDINGS AND CONCERNS BY PETITIONERS

2.1 Meeting with the Governor of Teita Taveta

3. The Committee toured the County and met the Governor Hon. John Mrutu on 21st March 2014 in which it interacted with the Governor of the County and the Deputy Governors on 21st March 2014 who informed the Committee as follows, That:
4. The problem of Land Disputes started immediately after independence when settlers refused to hand over to the natives.
5. The Land which was previously owned Hon. Basil Criticos was charged to the National Bank of Kenya when it was allocated to residents the allocation was not done in an open and transparent manner.
6. Some people have invaded Government land and they are now claiming that they have lived in the said land for years
7. There is hope that Land problems in Teita will be a thing of the past.
8. County Land Management Boards have not been established however the County Land Executive Officer is seized of the matter and was developing a policy for the County Government to tackle the matter.
9. Peace in the County is their key objective and that the National Land Commissioners had visited the area and were yet to revert back to the County Government on possible Solutions.
10. In Mwatate there are three antagonistic parties involved in the tassel for Teita Sisal Estate.
11. Squatters and Mwasima Mbuva group don't agree on the boundary of the Community land and the Estate since it is believed that Mwasima Mbuva group comprises of members of the elitist class within the County and they don't reside in the area whereas squatters live mainly in Singila Majengo area.

12. The main issue under contestation is the boundary issue between the estate and the estate coupled with the struggle to access public utilities inside the estate which include; schools, dams and roads.
13. The government offered to purchase 440 acres of land from the management of the estate (Teita Estate Ltd) near Singira Majengo so that they can resettle the people / squatters but local politics stopped the action.
14. A survey conducted showed that 6631 squatters belong to the Mwasima Mbuva group.

2.2 Meeting with the Deputy County Commissioner for Taveta

15. On 21st March 2014 the Committee met the Deputy County Commissioner where it was briefed on the security situation on Land Matters in the County and the effects of the land problems on Peace and Security further the Commissioner informed the Committee as follows, That:
 16. The Entire Land in dispute is 15000 Ha. And 2,000 ha were set aside in Taveta for government use.
 17. Taveta Settlement Scheme phase I and II were to be allocated from the allocated from the 13,000 Ha. Phase I was to be 5, 000 Ha and Phase II was to be 8, 000 Ha.
 18. The 2 phases were created because the Criticos family had independently sold land whereas the reaining was sold by the National Bank of Kenya since the title was charged in that Bank.
 19. The Government bought 15, 300 Ha and the town council got 2, 000 Ha for expansion purposes.
 20. The Criticos Family entered into an agreement with Agro Co. with the sole aim of swindling residents of the Land

2.3 Meeting with Petitioners

2.3.1 Memorandum presented to Parliamentary Committee On Land And Natural Resources On 22/3/2014 Cdf Hall Mwatate

21. The Committee received a memorandum as understated by Christopher Mwadime Mwambingu, citizen of Kenya, resident of Taita /Taveta County on behalf of Civil Society and Directors of Taita Resource Centre, drawing the attention of the House to the following, That:

22. Pursuant to Articles 1, (1) 2,(1)3 (37) and 119 of the constitution and petition to Parliament (Procedure) ACT.
23. In the matter of land procurement for the purpose of constructing the county head quarters under tender notice NO. TTCG/06/1013; Refer to the daily of 1st Nov 2013 other land disputes especially in Singila Majengo, Taveta and other areas in the Coastal region and management of natural resources including minerals.
24. All indications according to the tender requirement are that Teita Sisal Estate is likely to win this tender.

2.3.2 They intended to notify Parliament as follows; that:

25. Teita Sisal Estate Limited is alleged to currently engage in a dispute with Mwasima Mbuwa in High Court case (H.C.C.C) number 103 of 2007 consolidated with H.C.C.C number 352 of 1998;
26. Court rules are always clear about engaging in a matter that is in court;
27. The company is in custody with is charged to Standard Bank for a total of Kshs. 91,000,000. This is according to Director of land adjudication and settlement.
28. The said land is in dispute and contest by Singila Majengo people and others as a land historical injustice by the colonial masters and the oppressive willing buyer willing seller capitalist dispositive principle;
29. The fundamental question here is how can we buy our own ancestral land, In the case of willing buyer willing seller, did our people have financial and political muscle to engage in this unjustified colonial capitalist principle? Article 67(2) e of the constitution provides for a way forward in resolving these injustices;
30. Sections of the Sessional paper No. 3 of 2009 policy; 171 describes land issues requiring special attention, 172 provided for mechanisms for resolving special land issues and 178 provides for the establishment of mechanisms to resolve historical land claims arising from 1895 thereafter;
31. Sections; 245,246,247,248,249,250,251,252,253 of TJRC Land chapter describes findings on land injustices, including are happening under the alleged instructions and leadership of provincial administration under the DC and the ministry of land, while the National Land Commission is watching helplessly. During the case of our human rights and social justice work we have received massive complaints on gross violation of human rights, the rule of law and the Constitution with regards to access to land in Taveta for those considered politically incorrect.

2.3.3 The following were highlighted, THAT:

32. Following the filling of a petition Civil Suit No.325 of 2011 in the High Court of Kenya, Milimani before Justice Isaac Lenaola by Mathenge Kamozu, Wilson Abuya and Athman Moze Msafari.
33. In the matter of Article 20,20,22,23,27,28,40,43,48,60,62,63,159,232,234,358, and 259 of the Constitution. In the matter alleged contravention of fundamental rights and freedoms under Articles 10,27,40,62 and 63 of the constitution of Kenya and in the matter of the local government Act Cap 265 registration of Titles Act Cap 281 the Anti corruption and Economic Crimes Act No. 3 of 2003 the Agriculture Act chapter 281 and Public officers and Ethics Act of 2003. Hon Judge Isaac Lenaola subsequently issued the conservatory orders pending conclusion and judgment of this matter, in November 2011. Final submission on the same will be on 7th March, 2014, in High Court of Kenya, Milimani before Judge Isaac Lenaola.
34. Any party engaging in any transaction concerning the land in dispute is in contempt of Court.

2.3.4 Therefore, they are requesting Parliament to:

35. Recommend against this procurement exercise in Teita Sisal Estate Limited in case the company wins the land procurement tender for the purpose of constructing the county head quarters under tender notice NO. TTCG/060/1013;
36. Recommend the immediate formation of either a task force or a committee that is inclusive to all stakeholders, including the civil society. The mandate of the task force or committee will be to engage Mwatate people in identifying land for the construction of the county head quarters. The committee or task force will also give recommendations on the process of acquisition of such land as per the people's opinion and the Law. It is also prudent to consider the fact that the County has enough community land, which should be managed by the county government until the community land bill is enacted by parliament;
37. Investigate issues surrounding land managed by Teita Sisal Estate, Voi Taveta Sisal, Ziwani farm and all the 29 ranches and other community Lands. These issues may include but not limited to status of their ownership, certificate of titles, economic viability and access to ownership among communities in the case of ranches;
38. Parliamentary committee handling this matter, in cooperate stakeholders including civil society to ensure citizens participations, transparency and accountability;

39. Work on mechanisms to ensure that the petitioners and human rights defenders in Taveta are safe and secure. As the situation currently, these patriots are living under fear and threats from the impunity perpetrators;
40. Constantly monitor the process including identification of beneficiaries and allocation of land to ensure that there is JUSTICE and FAIRNESS;
41. Compels National Land Commission, Land ministry and other stakeholders to fulfill its legal mandate of identification of beneficiaries and administration in settlement programs in Taita Taveta, Coast and other parts of the Country urgently. This will facilitate the long awaited access to land ownership and management by residents of Mwatate (Singila Majengo), Taveta and other parts of the country (Section 134 of the Land Act);
42. compel the National Land Commission to initiate an inquiry into land historical injustices and seek redress as provided by the law;
43. Orders the National Land Commission and the Land ministry to ensure that all community land is registered and that principles of land policy as provided in Article 60 1(a) (b) (c) (d) and (g) are applied in any land transaction in the County; and
44. Enact a legislation ensuring investments in property benefits local community and their economy as provided for in Article 66(2) the Constitution.

2.4 Meeting with Members of Mwasima Mbuwa

The Committee received submissions from Mr. Gibson Mwabili, Mr. Mnjala Mwaluma and Mr. Patrick Mwalukware, They informed the Committee as hereunder:

45. Mwasima Mbuwa is a registered organization in the office of the Attorney General Nairobi. The reason of having this organization was to mobilize Singila Majengo and those who wished to support and protect their rights. This was after the management of Teita Sisal Estate went to court and prosecuted 91 families among others within Singila Majengo villagers on what they called "trespass". Singila Majengo from the beginning has never been part and parcel of Teita Sisal Estate.
46. The history of Teita Sisal Estate Co. originated from the first management of Teita Conciliation Ltd. The land was given by King George Sixth of England as a reward, to Sir Major Goldman after the World War I; the land was NOT bought or given by community by consent. The time the land was given by King George of England, the colonial Government was aware that the land belonged to the community, but they did not consult the community. The land stretched from Voi

to Taveta. Goldman used the land for game hunting; he later turned the land for sisal farming.

47. In 1945, when poaching exercise was banned all over the world, Goldman and Major Leyzell used the land for sisal farming. The community complained through the late Hon. Mengo Wa Woresha and other elders under the Taita Hills Association. They lodged complaints against the Colonial Government that the big land given to Sir Golden and forced community to become squatters. The District Officer (D.O), by then called Stringer used to arrest people in Modambogho, Manganga near Msau, which made Elders angry.
48. In 1952, the Colonial Government directed surveyors to resurvey the land, some parcels of the land were returned to the Government as TRUST LAND, which Modambogho, Manganga near Msau, Singila Majengo and other parcels of the land.
49. In 1972, the Management of Teita Sisal under the Greeks, Mr. Alender Kriazy through his manager Mr. Andrew (Andrea), also a Greek, and the Manager was very famous and powerful who used to extend the boundary even towards Singila and others areas.
50. In 1991, Teita Sisal Estate encroached towards Majengo village and ploughed down food crops, maize, cassava, beans, cowpeas and other food crops. The cattle were forced to be shifted to other places like Mgeno Reserve, Mwachabo, etc. The graves of the beloved ones were excavated and other graves were cut twice at the middle heartlessly. The community believes that preserving graves is part of their culture and must be respected.
51. Teita Sisal Estate continued with threats in Singila Majengo that nobody will be allowed to build permanent houses. Those who were found building or repairing Houses were taken to Court, in Wundanyi and Mombasa High Court.
52. Their rights were violated by the management of Teita Sisal Estate; use of Police, Administration and Chiefs to harass Singila Majengo residents in their Community land. The same management used Politicians to campaign against the rights of Singila Majengo people and especially the land.
53. Politicians when seeking for votes during campaign period, they humbled themselves and promise the Community that once elected they will join hands together to fight for the land and boundary be restored. But immediately they win the Election they become servants of the management, some turned around and supported the management because of their self interests.
54. In 1998, Teita Sisal Estate took, Mnjala Mwaluma the secretary of Mwasima Mbuwa to court at Mombasa for building a house of four (4) rooms at Majengo his home place since the old house was about to fall down. Mnjala Mwaluma was

taken to Mombasa High Court and later the matter was dismissed by Hon Justice Serگون on 15th Nov. 2006 for Non Prosecution and Non Attendance with costs but surprisingly the matter is still pending in court.

55. They live in fear, risks from cobras and other dangerous creatures from the sisal plants which have been attacking the residents and most of the time getting into their houses.
56. Teita Sisal Estate later on went ahead and proceeded with the matter without the knowledge of the defendant (Mnjala Mwaluma) and consolidated the suit with civil Suit 103 of 2007 of the (91) families taken to court at Mombasa and the same defendant Mnjala Mwaluma was among (91) families, in Singila Majengo.
57. Teita Sisal Estate disrespects the Rule of Law by disobeying decisions made by High Court especially when Hon Justice Ojwang issued Court Orders for Joint Survey.
58. In 2011 the High court of Mombasa granted court orders ordering that joint survey be conducted by both parties and represent the survey report in court, the orders were issued by Hon Justice Jackton Ojwang' who now is in the Supreme Court of Kenya at Nairobi. It is evident that Taita Sisal Estate refused to comply with court orders, copies attached. Their surveyors Geomatics Services Co. produced a survey report which was not challenged.
59. Teita Sisal Estate relies on documents of 1926 from the time the land was donated to Sir Sidney Golden after World War 1.
60. Major Leyzell was allowed to build two residential houses temporarily one for his manager and the for himself, on conditions that immediately he left or died the residential houses will remain community property as a way of demonstrating appreciation to the community. But today the current management does not recognize the good relationship between the former management and the community, yet they still live in the community land harshly. The late Major Leyzell was buried at Voi in the Mashujaa cementery.
61. **Railway**; the railway station belongs to the government and it is a government property. How is it then lying on same land as a private property? Does the Government invest on a private land.
62. **Mwatate Airfield**; Mwatate Airfield is a Government property, the Airport Authority can confirm this, the colonial government planned Air fields or Airstrips all over the country mainly for public operations.
63. **Public roads**; Mwatate Kasigu road across the Teita Sisal Estate, today the management puts illegal road blocks and mostly inspect vehicles using the public roads without permission contrary to Kenya Traffic rules. Traffic is the only

institution allowed by law to inspect the suspected vehicles on security reasons. This picture shows that there is NO good relationship between the management and community contrary to the Social Cooperate ACT. The Majengo village cannot access good roads because the management cannot maintain community roads or provide any assistance to community as Social Cooperate Act provides.

64. **Mwatate Dam;** Mwatate dam was constructed in 1952 during the former management called Teita Conciliation Ltd (TCL). It is evident that Mwatate dam approximately (55) acres does NOT belong to Teita Sisal Estate, the community by then donated the land for water obstruction which they agreed with the former management that they obstruct water for domestic use and the management there was a mutual agreement and the community used to cultivate along the stream from the beginning, today Teita Sisal Estate management protect the dam as their personal property and prohibit people from using the water. Our people are being harassed and taken to Sisal police patrol base and later taken to court.
65. **Administration;** In Teita Sisal Estate there is Sembe sub-location which to date exists .Why is it that private farm owns Government institutions? Police patrol base and Sembe sub-location instituted in the private company, who do they serve? We are the tax payers, Sembe Assistant Chief who is always found giving relief food to employees of TEITA Sisal Estate are in the payroll when Government is targeting the poor and the disabled. The Government cannot give relief to people who are in payroll.
66. **The National Flag;** Which provision of the law supports private companies to raise national flags.
67. The boundary should be restored as per the records of 1992 from the Survey of Kenya to separate the 33,000 acres that belongs to Teita Sisal Estate and the rest be given back to the community. The survey should be conducted under the supervision of the Director of survey and the Director of internal boundaries dispute.
68. Damages caused by the management of Teita Sisal Estate in 1991 in Majengo when food crop were ploughed down without NOTICE when there was no court case and obstructing Community developments. All land grabbed be recovered from the Sisal Estate be compensated since they have been using it illegally for a very long time.
69. Mwatate dam should be under the supervision of the County Government.
70. They should be stopped from continuing with further encroachments towards the Community Land.
71. Title deed and Deed Plan be reviewed

72. Land lease should be reviewed whether its terms has expired or not and if was renewed without legal procedure should be revoked and the land be given back to the community.
73. They support county headquarters as it was proposed by their leaders at the same Land, but boundary be restored.
74. All illegal road blocks on public roads be removed and community access public roads without conditions.
75. Railway stations and other Government institutions be separated from Teita Sisal Estate.
76. The acreage of the land should not exceed 33,000 acres of Teita Sisal Estate.
77. Sisal Police Patrol base be removed from the Sisal Estate because the management uses it as a private security institution to intimidate innocent people of Singila Majengo.

2.5 Meeting With Elders In Mwatate

The Committee received submissions from; Jasper Moses Mruttu, John Nyongesa, Kelly Aduo, Julius Nyambu, they informed the Committee as hereunder, That:

78. That, land distribution and allocation was completed by 2010 according to Stephen Maina Ngugi's letter to the National Water Conservation and Pipeline Corporation but land allocation continued up to late 2013. The land, according to Ngugi's letter, was supposed to benefit the poor landless people and squatters which largely is not the case.
79. The land officers took an opportunity to irregularly allocate multiple portions of land to non-squatters such as former councilors, CDF officers, Taveta Town council workers, selected civil servants and influential businessmen and their respective family members at the expenses of squatters and the poor landless.
80. That in the year 2011, the public filed a petition in the high court citing irregular and illegal distribution of land and sought conservancy orders to stop any activity by the Ministry of Land, Settlement Fund Trustees or any other interested parties until the case is heard and determined. The orders were granted and have not been overturned to date.
81. That, in 2012, the Ministry of Land, through Settlement Fund Trustees (SFT) gave out letters of offer of the same settlement scheme and has continued to issue Title deeds in the disputed land (LR 5865/2) in contempt of court ruling made by Justice Mumbi Ngugi on October, 2012.

82. That in the year 2012, November, lands officers and the administration police using unreasonable force evicted squatters around Riata area and torched (burnt) their houses living many families in the cold. Property worth millions was lost. This was done regardless to the fact that the court was yet to determine the pending public interest petition in the High Court, Nairobi.
83. That, in the year 2012 the victims of the arson perpetrated by the government went to court and filed a criminal case against individual officers behind the barbaric act.
84. That, at the same time the police arrested some of the arson victims and charged them in court on various charges on the same matter Ref. case No. 630 and 631 of 2012, Taveta.
85. That, on 5th December 2012 the High Court gave an injunction that was issued preserving the status quo prohibiting the Taveta Court from further hearing criminal case Nos. 630/2012 pending the hearing and determination of petition number 325 of 2011. The order was served to the Taveta Court but the cases continued over a period of time in the defiance of the High Court order and more people are still being prosecuted over matter related to the same petition.
86. That, the victims who are still living in the land are being harassed and intimidated through the police and the CID. Some have been arrested and charged in court for allegedly "causing disturbance" while others are constantly called for questioning in a manner tantamount to intimidation or victimization.
87. That, in the said settlement scheme, there are many people who have been Disinherited or dispossessed land to benefit the rich and influential individual. Most of the affected are poor squatters who have been using the land for between fifteen (15) to fifty (50) years. The affected villagers are Lesesia, Lotima, Msheghsheni, Malukiloriti, California, Riata and Kitobo/ Madarasani.
88. That, the land was allocated to the political correct, relatives of government officials; public officers as well as the rich and influential persons.
89. That, the land distribution committee which was not elected through public participation but selected by the District Commissioner Taveta, used dubious ways to disguise identity of beneficiaries of multiple or double allocations in the settlement scheme.
90. That, over two months since the issuance of the title deeds, beneficiaries have been busy swearing affidavits to either change identify card numbers or names to justify ownership of the title deeds with cooked names or/ and identity numbers.

208. In 1966, Mr. Alexander Kyriazy was appointed receiver manager of Taita & Taveta Company by Standard bank. In 1972 he bought the land from Taita & Taveta Company. The Property is currently charged to Standard Bank.
209. Squatters began encroaching in Teita Sisal Estate in 1998 and in 2007; several buildings were put up by squatters which are both permanent and semi-permanent the buildings are situated in Singila and majengo which borders the township and the estate.
210. In 2006, the former President Mwai Kibaki issued a directive that the squatters in the area be resettled by the government. As a result, the government approached Teita Sisal estate Ltd in 2008 and offered to purchase land to settle Squatters. Teita Estate Ltd earmarked 400 acres to be sold to the government, the government offered Ksh.14.8 Million in 1998 for the land but the squatters opposed the sale before the transaction could be commenced. The legal transactions were consequently put on hold.
211. In an attempt to reach a consensus between the Government, Squatters and the Estate a committee was formed by stakeholders. In a meeting held on 11th December 2008, and on 8th April 2009 it was pointed out that the estate had obtained orders to evict the squatters but had deferred the action to avoid conflict due to the fact that the Squatters of Singila/ Majengo needed land it was agreed that squatters be settled on 400 acres once a consen.sus between the government and the Estate is agreed.
212. The government was willing to purchase the said land and later negotiate for more land from the estate had not been affected.
213. The process to purchase the land by the government was stalled because squatters and residents frustrated the process by threatening Surveyors who went on site and by removing the beacons at Singila area.
214. Teita Sisal estate is the largest Sisal estates in the country and employs about 2,100 people while about 8000 people benefit directly or indirectly from the farm and that the estate creates an important infrastructure for the whole county including schools, Houses and a hospital as a result of the direct investment from the company.
215. Government surveyors have never been declined access to survey the land by the management and that that the management is willing to allow government surveyors into the farm any time.
216. Teita Sisal Estate Ltd is willing to discuss on the amount of land to sell to the government and to seek alternative methods of dispute resolutions on issues residents have highlighted. Further, that currently about 350 acres of the farm has already been encroached on by the squatters.

217. The dam in the estate lies within the boundaries of Teita Sisal Estate and was constructed by the British army Engineers in 1958. However the management has not denied residents usage and access of the dam and there is a passage-way that has been left to allow animals to access the dam for water.
218. Access to the farm is not restricted per se. The main entrance to the farm is private and since the estate is privately owned and the roads to the farm are private roads, any restrictions are security measure however there are other public roads which are open to the public and which are used by the public.
219. The Estate has not closed the public roads however it has erected an electric fence on the Kasingau Road and from Mwatate to Mugeru to prevent elephants and other wild animals from straying into the farm.
220. The school within the farm is open to the public and has over 1000 children both from employees of the farm and neighboring community, and that the management does not collect any revenue from the school.
221. The railway station based in the estate is open to the public and that the four go-downs along the railway line belong to the estate and had been constructed to store sisal which was to be delivered to Mombasa and they are situated about 300-400 meters from the Kenya Railways go-down.
222. The forest in the neighborhood of the farm is maintained by the Estate and the estate strives to keep it in its original form and occasionally when there are fires the estate helps in putting them off, the forest attracts researchers from other parts of the world as it contains some rare plant species, Further, that residents have been destroying the forest and Teita Sisal estates provides security to protect it from destruction.
223. Mr. Alexander Keriazzy was attacked as a result of the dispute surrounding the farm and has been incapacitated.
224. Individuals within Taita County have established a group called Mwasima Mbuwa and are collecting monies from unsuspecting members of the public with a purporting to be selling then estate at a cost of Kshs. 5,500.00 per half an acre. The Management has since put caveats on the land cautioning the public from being conned.

2.12 Evidence From Mr. Mr. S. W. Juma, County District Surveyor, Taita Taveta County

The Committee was informed that:

225. There has never been a formal request to establish the boundaries of Teita Sisal estate and no commitment whatsoever from any party in terms of facilitation to determine the boundary. However, the boundary is well mapped on the survey plan and it is just a matter of re- establishing the boundary once the request is made survey maps depicting the land had indicated the acreage as: LR 3380/5(3880/4/R) being 16875 acres, LR 11378 being 3344 acres, LR 6924 10010 acres, LR 9487(Dam) being being 55 acres and the total Area 30284 acres;
226. That previous correspondences from the survey office indicate that residents had invaded the sisal farm at Singila;
227. That the difference of about 284 acres between the acreage provided by Mr. Kyriazy could be the land on Voi river which the company has never used and part of which had been offered for sale to the government;
228. That the boundaries to the farm are not in contention and that there are underlying currents that are driving the conflict over the land driven by two associations, (one named Mwasima Mbuwa group) run by one individual, and who are selling the land to unsuspecting residents and using the estate as a smokescreen.

3.0 OBSERVATIONS

The Committee Made the Following Observations in Taita Taveta County, THAT:

1. The boundary had been tampered with.
2. Damages had been caused by the management of Teita Sisal Estate in 1991 at Majengo where food crop were ploughed down without NOTICE when there was no court case and obstructing Community developments leading to the grabbing of land by the Sisal Estate.
3. Sisal Police Patrol is used by the Sisal Estate management as a private security institution to intimidate innocent people of Singila Majengo

The Committee Made the Following Observation in Taveta Sub-County, THAT

1. There are activities by land officers in Taveta Sub County and the beneficiaries to the scheme that needed to be stopped forthwith to pave way for thorough investigation and audit by the National Land Commission and other relevant bodies.

4.0 RECOMMENDATIONS

The Committee recommends as follows, THAT;

A. GENERAL RECOMMENDATIONS

1. The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring proposals for legislation to ensure that investments in property benefits local communities and their economy as provided for in Article 66(2) the Constitution.
2. The National Cohesion and Integration Commission should intervene for the purpose of averting possible land based ethnic clashes in the County.
3. The National Commission on Human Rights should intervene to ascertain the outright and blatant breach of the Bill of Rights (Chapter four of the Constitution).
4. The Constitution Implementation Commission intervenes to ensure that the entire process is constitutional, and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly.
5. The National Land Commission to initiate an inquiry into land historical injustices in Taita/Taveta County and seek redress as provided by the law.
6. Title deeds and Deed Plans be reviewed in the entire county and Land lease reviewed to establish whether its terms have expired or not, and if it was renewed without legal procedures followed, be revoked and the land be given back to the community.

B. IN TEITA SISAL ESTATE

1. The Ministry of Interior and Coordination of Government should with immediate effect remove all illegal Road blocks on public roads and allow members of the local community access to public roads without conditions in Teita Sisal Estate and its neighborhood.
2. The Ministry of Lands, Housing and Urban Development through the Director of survey should carry out a survey with a view to ascertaining the boundaries as per the records of 1992 from the Survey of Kenya, so as to separate the 33,000 acres that belongs to Teita Sisal Estate (LR Nos. LR 3380/5 (3880/4/R), LR 11378, LR 6924 and LR 9487(Dam) from the total acreage of 33,284 acres), and the neighboring trust lands, so that the rest is given back to the community.
3. The Government through the Ministry of Land Housing and Urban Development and the National Lands Commission should determine if there is any

encroachment on the road, airstrip, sanctuary, trust land around Tasha Hill and railway reserves by Teita Sisal Estate Limited.

4. Teita Sisal Estate Limited should compensate the neighboring indigenous citizens for economic, socio-cultural, other losses and damages for all their years of illegal occupation and the exploitation of the resources of the areas occupied illegally.
5. Damages caused by the management of Teita Sisal Estate in 1991 in Majengo when food crops were ploughed down without NOTICE when there was no court case and obstructing Community developments should be fully compensated.

C. IN MWATATE

1. The National Land Commission, Ministry of Lands, Housing and Urban Development and other stakeholders should fulfill their legal mandate of identification of beneficiaries and administration in settlement programs in Taita Taveta, Coast and other parts of the Country urgently. This will facilitate the long awaited access to land ownership and management by residents of Mwatate (Singila Majengo), Taveta and other parts of the country (Section 134 of the Land Act).
2. The Mwatate settlement scheme settlers should be given title deeds.
3. The Government through the Ministry of Transport and Infrastructure should establish why the public feeder road that links the Voi - Mwatate road with the Voi - Mwatate -Taveta - Moshi Railway Line (1911) near Mwatunge entrance gate has been blocked and measures put in place to re-open the roads and railways.

D. IN TAVETA

1. Kenya Ethics and Anti Corruption Commission should institute investigation against Settlement Fund Trust (SFT), the Taveta Land's Office and the entire land allocation committee, for the purpose of unearthing corruption and fraud committed during issuance of title deeds.
2. The National Land Commission initiates an audit for the list of beneficiaries and the entire process leading to land allocation in the contentious Taveta Settlement Scheme.
3. The Commission of Administrative Justice (Ombudsman) should investigate and take action against public officers (Taveta Land's Office, the CDF office, the Provincial Administration and their collaborators involved in the distribution and allocation of the Taveta Settlement Scheme Phase I and II.

DEPARTMENTAL COMMITTEE ON LANDS

DATE: 11/11/14

VENUE: Protection House, 4th floor

AGENDA: ADOPTION OF THE REPORT ON LAND ISSUES IN TAITA/TAVETA COUNTY

NO.	NAME	TITLE	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)		
2.	The Hon. Moses-Ole Sakuda, M.P. (Vice Chairperson) (Chairing)	Chairman	
3.	The Hon. Onesmas Ngunjiri, M.P.	M-	
4.	The Hon. Mutava Musyimi, M.P.		
5.	The Hon. John Kihagi, M.P.	Member	
6.	The Hon. Francis W. Nderitu, M.P.	member	
7.	The Hon. Francis Njenga, M.P.		
8.	The Hon. A. Shariff, M.P.	member	
9.	The Hon. Eusilah Jepkosgei, M.P.		
10.	The Hon. Benard Bett, M.P.	member	
11.	The Hon. Kipruto Moi, M.P.	Member	
12.	The Hon. Oscar Sudi, M.P.		
13.	The Hon. Hellen Chepkwony, M.P.	Member	
14.	The Hon. Sarah Korere, M.P.		
15.	The Hon. Julius Ndegwa, M.P.	Member	
16.	The Hon. Benson Mbai, M.P.	Member	
17.	The Hon. Kanini Kega, M.P.		
18.	The Hon. Esther Murugi, M.P.	member	
19.	The Hon. Gideon M. Mung'aro, M.P.		
20.	The Hon. Hezron Awiti Bollo, M.P.		
21.	The Hon. Suleiman Dori Ramadhani, M.P.	"	
22.	The Hon. George Oner Ogalo, M.P.		
23.	The Hon. Lekidime Lempurkel Mathew, M.P.		
24.	The Hon. Shakila Abdallah, M.P.		
25.	The Hon. Paul Otuoma, M.P.	M	
26.	The Hon. Thomas Mwadeghu, M.P.	Member	
27.	The Hon. Magwanga Joseph Oyugi, M.P.	member	
28.	The Hon. Aburi Lawrence Mpuru, M.P.		
29.	The Hon. King'ola Patrick Makau, M.P.		

MINUTES OF THE NINETY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON TUESDAY 4TH NOVEMBER 2014, AT THE 4TH FLOOR BOARD ROOM, PROTECTION HOUSE AT 10.00 A.M

PRESENT:

1. The Hon. Moses Ole Sakuda, M.P. - Chairing
2. The Hon. Mutava Musyimi, M.P.
3. The Hon. Francis W. Nderitu, M.P.
4. The Hon. Onesmus Ngunjiri, M.P.
5. The Hon. Francis Kigo Njenga, M.P.
6. The Hon. Hellen Chepkwony, M.P.
7. The Hon. Joseph Oyugi Magwanga, M.P.
8. The Hon. Bernard Bett, M.P.
9. The Hon. Kipruto Moi, M.P.
10. The Hon. Patrick Makau, M.P.
11. The Hon. John Kihagi, M.P.
12. The Hon. Benson Mbai, M.P.
13. The Hon. Julius Ndegwa, M.P.
14. The Hon. Suleiman Dori, M.P.
15. The Hon. Thomas Mwadeghu, M.P.
16. The Hon. Eusilah Ngeny, M.P.
17. The Hon. A. Shariff, M.P.
18. The Hon. Dr. Paul Otuoma, M.P.
19. The Hon. Esther Murugi, M.P.

APOLOGIES

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Kanini Kega, M.P.
3. The Hon. Gideon Mung'aro, M.P.
4. The Hon. Mpuru Aburi, M.P.
5. The Hon. Sarah Korere, M.P.
6. The Hon. George Oner, M.P.
7. The Hon. Hezron Awiti Bollo, M.P.
8. The Hon. Mathew L. Lempurkel, M.P.
9. The Hon. Shakila Abdallah, M.P.

ABSENT

1. The Hon. Oscar Sudi, M.P.

KENYA NATIONAL ASSEMBLY

- | | |
|-----------------------|-----------------------------|
| 1. Mr. James Ginono | Clerk Assistant I |
| 2. Ms. Ruth Mwihaki | Clerk Assistant III |
| 3. Ms. Noah Too | Research and Policy Analyst |
| 4. Ms. Lynette Otieno | Legal Counsel II |

MINUTE NO. DCK/LN/2014/239

PRELIMINARIES

The Chairman called the meeting to order at 10.20 a. m with a word of prayer.

MINUTE NO. DCK/LN/2014/240

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by the Hon. Esther Murugi, M.P and seconded by the Hon. Bernard Bett, M.P.

MINUTE NO. DCK/LN/2014/241

CONFIRMATION OF MINUTES

The minutes of the 93rd sitting held on Thursday 23rd October 2014 were proposed by Hon. Francis Nderitu, M.P and seconded by the Hon. Onesmus Ngunjiri, M.P as a true record of the

proceedings and signed by the Chairman.

MINUTE NO. DCK/LN/2014/242 MATTERS ARISING

1. Vide MINUTE NO. DCK/LN/2014/225(i) Auction of Land in Kajiado West Constituency
Members were informed that the date of the planned Auction of public land in Kajiado West Constituency was 27th November 2013.

MINUTE NO. DCK/LN/2014/243 SUBMISSIONS FROM THE CABINET SECRETARY FOR LANDS, HOUSING AND URBAN DEVELOPMENT

Members were informed that the Cabinet Secretary had not confirmed her attendance in the days meeting despite various attempts by the Secretariat to contact her office on Monday 10th November to confirm attendance.

Members noted that the Committee had not received a formal Communication from the Cabinet informing the committee that she would not attend the sitting. Members further expressed their displeasure with the failure of the Cabinet Secretary to appear before the committee even on matters which she had prior Committed herself to. Members observed that the actions of the Cabinet Secretary in snubbing Committee invitations were rendering the Committee impotent and unable to fully perform its oversight function

Members also noted that the Committee leadership had failed to provide leadership to the Committee noting that the Committee had not achieved much in the one and a half years of its existence.

The Committee resolved to hold a press briefing at 1.00 p.m to address the issue of the Cabinet Secretary snubbing Committee invitation and exonerate itself.

The Committee further resolved to hold an in house meeting to deliberate on the Committee's leadership and look for a way forward.

MINUTE NO. DCK/LN/2014/244 ADOPTION OF THE REPORT ON COMPENSATION OF EVICTEES OF GALLERIA MALL AND THE EXPANSION OF LANG'ATA ROAD

The Report was adopted after being proposed by the Hon. Bernard Bett, M.P and Seconded by the Hon. Hellen Chepkwony, M.P with the following amendments:

The Committee observed THAT:

1. KURA had erred by entering into verbal agreements with the land owner's in regard to taking up their properties pending payment.
2. Payment should be fair, prompt and just and paying only five people in full would amount to discrimination against the 20 land owner's whose properties had already been taken over by KURA.
3. The valuation of Kshs. 1,037, 813, 089.00 was excessive and an inflated cost in comparison to the initial estimate of Kshs. 450 million leading to mistrust as to whether valuation was done with due diligence. (Valuation attached)

The Committee makes the following recommendations, THAT:

1. The Ministry of the Interior through the Criminal Investigation Department and the Ethics and Anti Corruption Commission investigates the alleged conspiracy for the escalation and inflation of the cost of the Land in question with a view to prosecute those found to be behind the scheme.
2. The Ethics and Anti Corruption Commission to investigate the Managers in Kenya Urban Roads Authority (KURA) who committed public funds in informal meetings and casual interactions, with a view to establishing if they are fit to hold public office and instigate measures to ensure that any agreement made by KURA and other parties in future touching on public funds should be in writing.
3. In future, calculations for compensation should be integrated in the road designs to allow for costing and budgeting for the compensations.
4. The National Treasury should consider prioritizing on compensation for land on Compulsory acquisitions while allocating funds to KURA in the supplementary budget.

MINUTE NO. DCK/LN/2014/245 ADOPTION OF THE REPORT ON THE DEGAZZETMENT OF LAND BELONGING TO CHORLIM COOPERATIVE SOCIETY

The Report was adopted after being proposed by the Hon. Thomas Mwadeghu, M.P and Seconded by the Hon. Francis Nderitu, M.P with the following amendments:

The Committee makes the following observations THAT:

1. No documentation showing ownership of the Land can be produced by the Government Forest Department.
2. The coordinates of the land as observed from the Global Positioning System equipment showed that the area in question is outside the Forest Land.
3. The Forest department in the area were acting with impunity and harassing the people in the area.
4. The gazzement of the area as forest land was influenced by political reasons.
5. The inhabitants of the area had paid the Government some money and issued with allotment letters.

The Committee makes the following recommendations. THAT:

1. The government through the Ministry of Lands, Housing and Urban Development should formalize the allocation of the land to the shareholders of the Cooperative Society and a directive issued to the forest department to forthwith cease harassing the people and to vacate the land.
2. The government through the Ministry of Lands, Housing and urban Development with the relevant agencies should institute investigations with a view of establishing the status and ownership and subsequently resettling and/or compensating the people evicted from the land.

MINUTE NO. DCK/LN/2014/246 ADOPTION OF THE REPORT ON LAND ISSUES IN TAITA/TAVETA COUNTY

The Report was adopted after being proposed by the Hon. Joseph Magwanga, M.P and Seconded by the Hon. Esther Murugi, M.P with the following amendments:

The Committee Made the Following Observations in Taita Taveta County, THAT:

1. The boundary had been tampered with.
2. Damages had been caused by the management of Teita Sisal Estate in 1991 at Majengo where food crop were ploughed down without NOTICE when there was no court case and obstructing Community developments leading to the grabbing of land by the Sisal Estate.
3. Sisal Police Patrol is used by the Sisal Estate management as a private security institution to intimidate innocent people of Singila Majengo

The Committee made the following observation in Taveta Sub-County, THAT:

1. There are activities by land officers in Taveta Sub County and the beneficiaries to the scheme that needed to be stopped forthwith to pave way for thorough investigation and audit by the National Land Commission and other relevant bodies.

The Committee makes the following recommendations. THAT:

The Committee recommends as follows, THAT;

A. GENERAL RECOMMENDATIONS

1. The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring proposals for legislation to ensure that investments in property benefits local community and their economy as provided for in Article 66(2) the Constitution.
2. The National Cohesion and Integration Commission should intervene for the purpose of averting possible land based ethnic clashes in the County.
3. The National Commission on Human Rights should intervene to ascertain the outright and blatant breach of the Bill of Rights (chapter four of the constitution).
4. The Constitution Implementation Commission intervenes to ensure that the entire process is constitutional, and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly.
5. The National Land Commission to initiate an inquiry into land historical injustices in Taita/Taveta County and seek redress as provided by the law.
6. Title deed and Deed Plans be reviewed in the entire county and Land lease reviewed to establish whether its terms have expired or not, and if it was renewed without legal procedures followed, be revoked and the land be given back to the community.

B. IN TEITA SISAL ESTATE

1. The Ministry of Interior and Coordination of Government should with immediate effect remove all illegal Road blocks on public roads and allow members of the local community access to public roads without conditions in Teita Sisal Estate and its neighborhood.
2. The Ministry of Lands, Housing and Urban Development through the Director of survey should carry out a survey with a view to ascertain the boundaries as per the records of 1992 from the Survey of Kenya, so as to separate the 33,000 acres that belongs to Teita Sisal Estate (LR Nos. LR 3380/5 (3880/4/R), LR 11378, LR 6924 and LR 9487(Dam) with a total acreage

of 33,284 acres), and the neighboring trust lands, so that the rest is given back to the community.

3. The Government through the Ministry of Land Housing and Urban Development and the National Lands Commission should determine if there is any encroachment on the road, airstrip, sanctuary, trust land around Tasha Hill and railway reserves by Teita Sisal Estate Limited.
4. Teita Sisal Estate Limited should compensate the neighboring indigenous citizens for economic, socio-cultural, other losses and damages for all their years of illegal occupation and the exploitation of the resources of the areas occupied illegally if any.
5. Damages caused by the management of Teita Sisal Estate in 1991 in Majengo when food crops were ploughed down without NOTICE when there was no court case and obstructing Community developments should be fully compensated.

C. IN MWATATE

1. The National Land Commission, Ministry of Lands, Housing and Urban Development and other stakeholders should fulfill their legal mandate of identification of beneficiaries and administration in settlement programs in Taita Taveta, Coast and other parts of the Country urgently. This will facilitate the long awaited access to land ownership and management by residents of Mwatate (Singila Majengo), Taveta and other parts of the country (Section 134 of the Land Act).
2. The Mwatate settlement scheme settlers should be given title deeds.
3. The Government through the Ministry of Transport and Infrastructure should establish why the public feeder road that links the Voi - Mwatate road with the Voi - Mwatate -Taveta - Moshi Railway Line (1911) near Mwatunge entrance gate have been blocked and measures put in place to re-open the roads and railways.

D. IN TAVETA

1. Kenya Ethics and Anti Corruption Commission should institute investigation against Settlement Fund Trust (SFT), the Taveta Land's Office and the entire land allocation committee, for the purpose of unearthing corruption and fraud committed during issuance of title deeds.
2. The National Land Commission initiates an audit for the list of beneficiaries and the entire process leading to land allocation in the contentious Taveta Settlement Scheme.
3. The Commission of Administrative Justice (Ombudsman) should investigate and take action against public officers (Taveta Land's Office, the CDF office, the Provincial Administration and their collaborators involved in the distribution and allocation of the Taveta Settlement Scheme Phase I and II.

MINUTE NO. DCK/LN/2014/247 ADOPTION OF THE REPORT ON LAND ADJUDICATION ISSUES IN MERU AND THARAKA NITHI COUNTIES

The Report was adopted after being proposed by the Hon. John Kihagi, M.P and Seconded by the Hon. , M.P with the following amendments:

The committee observed in Tharaka Nithi County that:-

1. The historical background of Tharaka people settlement in Kwang'ombe/Kiburine dates as early as 1960 according to the boundaries of 1954 imposed by colonial Government which have never been changed in other parts of Kenya, but were changed in Tharaka.
2. There is insecurity in Murinda due to historical land injustices hence there is no peace and further residents have been denied title deeds in Murinda sub-location, Gakurungu Location, Chiaaringa Wards, Tharaka sub-country, Tharaka- Nithi County.
3. The Ogongo Taskforce Report Gazette Notice NO. 6064 of 11412 – 2008 was not implemented in its full content by the Government
4. Over 3,500 Tharaka families are displaced and primary schools destroyed during clashes of 1997 between Igembe and Kamba against Tharaka people, the Primary Schools include;
 - i. Karimba Primary School Code Number 84-069-03-023
 - ii. Kabangua Primary School Code Number 84-069-03-021
 - iii. Mpunguru Primary School Code Number 84-069-03-024
 - iv. Machabini Primary School Code Number 84-069-03-022
 - v. Kanjoro Primary School Code Number 84-069-03-027
 - vi. Riamiku Primary School Code Number 84-069-03-025
 - vii. Kiumbe Primary School Code Number 84-069-03-026
5. There is insecurity and lack of cohesion among the population living along the borders of Tharaka Nithi and Meru.
6. There are visible signs of historical injustices imbedded on the Tharaka Community.
7. There are IDPS still living in KINDANI as a result of the 1997 clashes.

The Committee Observed in Meru Town that:-

1. There are squatters living in slums in Meru town in such villages as Mjini, Majengo and Salama.
2. Residents of villages in Meru town have not been issued with title deeds despite having paid for them and being in possession of allotment letters.

The Committee Recommends That:-

- 1) The National Land Commission and the Ministry of Lands, Housing and Urban Development to form joint peace and land committees with a view to maintaining and sustaining peace and cohesion along the bordering sub-counties of Tharaka Nithi and Meru.
- 2) The National Land Commission to include Tharaka Nithi and Meru in their inquiry into land historical injustices and seek redress as provided by the law.
- 3) The National and County Government, Church leaders and the Ministry of Lands, Housing and Urban Development be fully involved in the process of resettlement and peace keeping once historical land injustices are addressed.
- 4) The security personnel at Gatithini Chief's Camp, Tharaka should enforce joint patrol across Ura River together with security personnel at Kianda in Meru North/Igembe to give people confidence in the government so as to restore the status quo prior to 1997

evictions and curfew imposition.

- 5) The County Administration, the National Government representatives and security agencies should form a joint peace initiative committee to include the Tharaka, Igembe and Kamba people for resettlement and peace keeping in the area.
- 6) The Ministry of Lands, Housing and Urban Development should implement the recommendations of the Zachary Ogongo task force which directed that land on the common border be adjudicated.
- 7) That Parliament should allocate resources to the relevant Ministry and compel the Ministry of Education, Science and technology to reconstruct the destroyed and closed schools in Tharaka County namely;
 - a. Karimba Primary School Code Number 84-069-03-023
 - b. Kabangua Primary School Code Number 84-069-03-021
 - c. Mpunguru Primary School Code Number 84-069-03-024
 - d. Machabini Primary School Code Number 84-069-03-022
 - e. Kanjoro Primary School Code Number 84-069-03-027
 - f. Riamwanki Primary School Code Number 84-069-03-025
 - g. Kiumbe Primary School Code Number 84-069-03-026

The Committee Recommends In Meru County That:-

The Ministry of Lands, Housing and Urban Development should issue title deeds to residents of the villages of Mjini, Salama, Shauri Yako slums and Majengo in Meru town .

MINUTE NO. DCK/LN/2014/248 ANY OTHER BUSINESS.

a. Foreign Visits

The Committee was informed that foreign visits have been rescheduled for the beginning of next year when the House resumes from long recess.

b. Galeria Mall Evictees

The Committee was informed that most tenants of Galeria mall have moved out after a fence that had been put up collapsed making the area insecure.

The committee was further informed that the balance of compensation to the evictees is still outstanding.

c. Lamu Report

Members were informed that the Report of the National land Commission on the Lamu Land has been released.

It was resolved that the report be availed to the members.

MINUTE NO. DCK/LN/2014/249 ADJOURNMENT & DATE OF THE NEXT SITTING

And the time being fifty four minutes past eleven O'clock, the Chairperson adjourned the Sitting to Thursday 13th November at 10.00 a. m

SIGNED


.....
(CHAIRPERSON)

DATE

2/12/2014
.....

MINUTES OF THE SIXTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY, 19TH JUNE 2014, AT SECOND FLOOR BOARD ROOM, CONTINENTAL HOUSE AT 10.00 A.M.

PRESENT:

1. The Hon. Moses Ole Sakuda, M.P.-Vice Chairperson –In the Chair
2. The Hon. John Kihagi, M.P.
3. The Hon. Francis Kigo Njenga, M.P.
4. The Hon. A. Shariff, M.P.
5. The Hon. Eusilah Ngeny, M.P.
6. The Hon. Bernard Bett, M.P.
7. The Hon. Kipruto Moi, M.P.
8. The Hon. Hellen Chepkwony, M.P.
9. The Hon. Sarah Korere, M.P.
10. The Hon. Benson Mbai, M.P.
11. The Hon. Kanini Kega, M.P.
12. The Hon. Gideon Mung'aro, M.P.
13. The Hon. Suleiman Dori, M.P.
14. The Hon. Dr. Paul Otuoma, M.P.
15. The Hon. Thomas Mwadeghu, M.P.
16. The Hon. Joseph Magwanga, M.P.
17. The Hon. Mpuru Aburi, M.P.
18. The Hon. Mpuru Aburi, M.P.

ABSENT WITH APOLOGY

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Mutava Musyimi, M.P.
3. The Hon. Onesmus Ngunjiri, M.P.
4. The Hon. Francis W. Nderitu, M.P.
5. The Hon. Oscar Sudi, M.P.
6. The Hon. Julius Ndegwa, M.P.
7. The Hon. Esther Murugi, M.P.
8. The Hon. Hezron Awiti Bollo, M.P.
9. The Hon. George Oner, M.P.
10. The Hon. Mathew L. Lempurkel, M.P.
11. The Hon. Shakila Abdallah, M.P.
12. The Hon. Patrick Makau, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | |
|---------------------|---------------------|
| 1. Mr. James Ginono | Clerk Assistant I |
| 2. Ms. Ruth Mwhaki | Clerk Assistant III |
| 3. Ms. Linet Otieno | Legal Counsel II |

MINUTE NO. DCL/LN/2014/77

PRELIMINARIES

The Chairman called the meeting to order at 10.25 a.m with a word of prayer.

MINUTE NO. DCL/LN/2014/78

CONFIRMATION OF MINUTES

The minutes of the sitting held on 9th June 2014 were proposed by Hon. Hellen Chepkwony, M.P and seconded by the Hon. Benson Mbai, M.P as a true record of the proceedings and signed by the Chairman.

MINUTE NO. DCL/LN/2014/79

EVIDENCE

Mr. Phillip Andrew Kyriazy, Managing Director, Teita Sisal Estate appearing on behalf of Mr. Alexander Kyriazy, accompanied by his lawyer Mr. Evans Monari, and Mr. S. W. Juma, County District Surveyor, Taita Taveta County appeared before the committee and gave evidence on Land dispute in Taita Taveta County-Teita Sisal Estate.

MINUTE NO. DCL/LN/2014/80

EVIDENCE FROM MR. PHILLIP ANDREW KYRIAZY,
MANAGING DIRECTOR, TEITA SISAL ESTATE

The Committee was informed as follows; THAT,

- a) Teita Sisal Estate is a registered parcel of land known as Land Reference number 3880, 3881, 6924, 9487 and 11378 and has a valid title deed with a total acreage of 30,000 acres.
- b) The grant of the land was issued to Waericon Concession which later became Teita Concession in 1929.
- c) The land was subsequently transferred to Taita and Taveta Company limited in 1964 and was charged to Standard Chartered bank.
- d) In 1966, Mr. Alexander Kyriazy was appointed receiver manager of Taita & Taveta Company by Standard bank. In 1972 he bought the land from Taita & Taveta Company. The Property is currently charged to Standard Bank.
- e) Squatters began encroaching in Teita Sisal Estate in 1998 and in 2007; several buildings were put up by squatters which are both permanent and semi- permanent the buildings are situated in Singila and majengo which borders the township and the estate.
- f) In 2006, the former President Mwai Kibaki issued a directive that the squatters in the area be resettled by the government. As a result, the government approached Teita Sisal estate Ltd in 2008 and offered to purchase land to settle Squatters. Teita Estate Ltd earmarked 400 acres to be sold to the government, the government offered Ksh.14.8 Million in 1998 for the land but the squatters opposed the sale before the transaction could be commenced. The legal transaction were consequently put on hold.
- g) In an attempt to reach a consensus between the Government, Squatters and the Estate a committee was formed by stakeholders. In a meeting held on 11th December 2008, and on 8th April 2009 it was pointed out that the estate had obtained orders to evict the squatters but had deferred the action to avoid conflict due to the fact that the Squatters of Singila/ Majengo needed land it was agreed that squatters be settled on 400 acres once a consensus between the government and the Estate is agreed.
- h) The government was willing to purchase the said land and later negotiate for more land from the estate had not been affected.
- i) The process to purchase the land by the government was stalled because squatters and residents frustrated the process by threatening Surveyors who went on site and by removing the beacons at Singila area.

The Committee was further informed that;

- a) Teita Sisal estate is the largest Sisal estates in the country and employs about 2,100 people while about 8000 people benefit directly or indirectly from the farm and that the estate creates an important infrastructure for the whole county including schools, Houses and a

hospital as a result of the direct investment from the company.

- b) Government surveyors have never been declined access to survey the land by the management and that the management is willing to allow government surveyors into the farm any time.
- c) Teita Sisal Estate Ltd is willing to discuss on the amount of land to sell to the government and to seek alternative methods of dispute resolutions on issues residents have highlighted. Further, that currently about 350 acres of the farm has already been encroached on by the squatters.
- d) The dam in the estate lies within the boundaries of Teita Sisal Estate and was constructed by the British army Engineers in 1958. However the management has not denied residents usage and access of the dam and there is a passage-way that has been left to allow animals to access the dam for water.
- e) Access to the farm is not restricted per se. The main entrance to the farm is private and since the estate is privately owned and the roads to the farm are private roads, any restrictions are are security measure however there are other public roads which are open to the public and which are used by the public.
- f) The Estate has not closed the public roads however it has erected an electric fence on the Kasingau Road and from Mwatate to Mugeru to prevent elephants and other wild animals from straying into the farm.
- g) The school within the farm is open to the public and has over 1000 children both from employees of the farm and neighboring community, and that the management does not collect any revenue from the school.
- h) The railway station based in the estate is open to the public and that the four go-downs along the railway line belong to the estate and had been constructed to store sisal which was to be delivered to Mombasa and they are situated about 300-400 meters from the Kenya Railways go-down.
- i) The forest in the neighborhood of the farm is maintained by the Estate and the estate strives to keep it in its original form and occasionally when there are fires the estate helps in putting them off, the forest attracts researchers from other parts of the world as it contains some rare plant species, Further, that residents have been destroying the forest and Teita Sisal estates provides security to protect it from destruction.
- A j) Mr. Alexander Keriazy was attacked as a result of the dispute surrounding the farm and has been incapacitated.
- * k) Individuals within Taita County have established a group called Mwasima Mbuwa and are collecting monies from unsuspecting members of the public with a purporting to be selling then estate at a cost of Kshs. 5,500.00 per half an acre. The Management has since put caveats on the land cautioning the public from being conned.

MINUTE NO. DCL/LN/2014/81

EVIDENCE FROM MR. MR. S. W. JUMA, COUNTY DISTRICT SURVEYOR, TAITA TAVETA COUNTY

The Committee was informed that:

- a) There has never been a formal request to establish the boundaries of Teita Sisal estate and no commitment whatsoever from any party in terms of facilitation to determine the boundary. However, the boundary is well mapped on the survey plan and it is just a matter of re-establishing the boundary once the request is made survey maps depicting the land had indicated the acreage as:

LR 3380/5(3880/4/R)

16875 acres

LR 11378

LR 6924

LR 9487 (Dam) 94876

TOTAL AREA

3344 acres

10010 acres

55 acres

30284 acres

- b) That previous correspondences from the survey office indicate that residents had invaded the sisal farm at Singila.
- c) That the difference of about 284 acres between the acreage provided by Mr. Kyriazy could be the land on Voi river which the company has never used and part of which had been offered for sale to the government.
- d) That the boundaries to the farm are not in contention and that there are underlying currents that are driving the conflict over the land driven by two associations, (one named Mwasima Mbuwa group) run by one individual, and who are selling the land to unsuspecting residents and using the estate as a smokescreen.

COMMITTEE RESOLUTIONS

The Committee resolved that the owners of Mwasima Mbuwa Group be invited to appear before the committee to adduce evidence before the committee makes its recommendations.

MINUTE NO. DCL/LN/2014/83

A.O.B

The following matters arose:


1. REGULATIONS and Amendments under the National Land Commission Act of 2012

The committee was informed that the Cabinet Secretary had written to the speaker claiming that the regulations were improperly before the committee. The Committee noted that during the retreat between the Ministry and the NLC held in Mombasa between May 29th to 31st 2014, it was resolved that the NLC and the Ministry to each presents their draft regulations.

MINUTE NO. DCL/LN/2014/84 **ADJOURNMENT & DATE OF THE NEXT SITTING**

And the time being Fifty Minutes past twelve O'clock, the Chairperson adjourned the Sitting until Tuesday 19th June 2014 at 10.00am at the Board Room, Fourth Floor Protection House.

SIGNED


.....
(CHAIRPERSON)

DATE

24/6/2014
.....

MINUTES OF THE SEVENTY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON TUESDAY 15TH JULY 2014, IN THE COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. John Kihagi, M.P.
3. The Hon. Francis W. Nderitu, M.P.
4. The Hon. Francis Kigo Njenga, M.P.
5. The Hon. A. Shariff, M.P.
6. The Hon. Bernard Bett, M.P.
7. The Hon. Kipruto Moi, M.P.
8. The Hon. Hellen Chepkwony, M.P.
9. The Hon. Benson Mbai, M.P.
10. The Hon. Kanini Kega, M.P.
11. The Hon. Mathew L. Lempurkel, M.P.
12. The Hon. Shakila Abdallah, M.P.
13. The Hon. Joseph Oyugi Magwanga, M.P.
14. The Hon. Mpuru Aburi, M.P.
15. The Hon. Patrick Makau, M.P.

ABSENT WITH APOLOGY

1. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
2. The Hon. Onesmus Ngunjiri, M.P.
3. The Hon. Eusilah Ngeny, M.P.
4. The Hon. Julius Ndegwa, M.P.
5. The Hon. Esther Murugi, M.P.
6. The Hon. Suleiman Dori, M.P.
7. The Hon. Paul Otuoma, M.P.
8. The Hon. Sarah Korere, M.P.
9. The Hon. Thomas Mwadeghu, M.P.
10. The Hon. George Oner, M.P.
11. The Hon. Gideon Mung'aro, M.P.
12. The Hon. Hezron Awiti Bollo, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Mutava Musyimi, M.P.
2. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. The Hon. Augustino Neto, M.P.
2. Ms. Phyllis Mirungu Principal Clerk Assistant I
3. Mr. James Ginono Clerk Assistant I
4. Ms. Ruth Mwihaki Clerk Assistant III
5. Ms. Lynette Otieno Legal Counsel II

MINUTE NO. DCL/LN/2014/111 PRELIMINARIES

The Chairman called the meeting to order at 10.30a.m with a word of prayer.

MINUTE NO. DCL/LN/2014/112 ADOPTION OF THE AGENDA

The agenda was proposed by the Hon. Francis Waweru Nderitu, M.P and seconded by the Hon. Shakilla Abdalla, M.P.

MINUTE NO. DCL/LN/2014/113 CONFIRMATION OF MINUTES

The minutes of the sitting held on 1st July 2014 were proposed by Hon. Francis Waweru Nderitu, M.P and seconded by the Hon. Benson Mbai, M.P as a true record of the proceedings and signed by the Chairman.

MINUTE NO. DCL/LN/2014/114 MATTERS ARISING

UNDER MINUTE NO. DCL/LN/2014/108 FOREIGN VISITS TO BE UNDERTAKEN BY THE
COMMITTEE IN THE CURRENT FY

The Committee noted the proposed destinations for foreign visits and resolved that delegations for foreign visits should be identified based on Committee attendance and those who did not travel in the last FY

MINUTE NO. DCL/LN/2014/115 EVIDENCE

Mr. Mnjala Mwaluma, Secretary, Mwasima Mbuwa Welfare Association, accompanied by the group's lawyer Mr. John Odera Were, and Messrs. John D. Obel-Licensed Surveyor, Thomas Nduku-Private Investigator, Mr. George Mwamondo, Mr. Washington B.S Weere, Mr. Joliph Harris and Mr. Ronald Mwasi appeared before the committee and gave evidence on allegations that the group is taking subscriptions of Ksh.5, 500 from the members and selling part of Teita Sisal Estate Land.

The Committee was informed as follows; THAT:

- a) The group has not been taking subscriptions of Ksh.5,500 to sell Teita Sisal estate land as alleged and that members of the group resolved to contribute the Ksh.5,500 to cater for legal fees and court fees for their lawyers after the Teita Sisal Estate management filed a case in Court against 91 families living in Singila Majengo. Members contribute according to their ability and conducts auctions to raise the money for those unable to meet their targets.
- b) Allegations by Teita Sisal Estate management that Mwasima Mbuwa and Javungo Council of elders are selling Teita Sisal Estate land are untrue.
- c) The History of that Teita Sisal Estate dates back to the pre-colonial period when Ex-Major Goldman was given the farm by King George VI for game hunting. There were indigenous Taita's who were living within the land at the time but there were no conflicts between Goldman and the residents.
- d) When Game hunting was banned, Ex. major Goldman allowed Mr. Raizene to farm on the land who in 1945 collected soil samples and sent it to Britain to establish if the land was favorable for sisal farming.
- e) When Mr. Raizene started Sisal farming the administration led by the then Colonial D.O Mr. Stringer begun harassing and arresting residents however Ex-Major Goldman protested the D.Os actions and the arrests and imprisonments stopped. Other locals were re-arrested prompting the then Senator Mengo to complain to the colonial government. A re-survey was ordered so that the larger portion of the land reverted back to the

Community.

- f) Mr. Alexander Kyriazy later took over the farm and buildings owned by Mar. Rezene and there was a peaceful co-existence between the Local community and the Farm management. It is only after Kyriazy's sons took the farm that the conflicts begun and residents started being harassed by the area Chief for constructing houses on the land.
- g) The Secretary for Mwasima Mbuwa was taken to Court on 25th September 1998 by Teita Sisal Estate for constructing a house on the land but later the case was dismissed over non- attendance by the prosecution on 14th November 2006. The Court ordered Teita Estate to pay the cost of the suit which has not been honored to date. The secretaries together with 90 other families were later sued for trespass by the Teita Estate Management.
- h) A court order for a joint survey was issued on 11th May 2011 but the Estate management failed to bring their surveyor. Mr. Kyriazy later went to court for further orders for survey but the survey never took place.
- i) Alternative land of 400 acres was identified in Maganga when Hon. Marsden Madoka was the M.P for the area so that residents of Singila Majengo could be moved but the group formally rejected the offer by the government and refused to move since Singila Majengo is their ancestral land, and because Maganga residents were also against the moving of Singila Majengo residents to their land.
- j) Maganga and Teita Sisal Estate farms are not adjacent to each other.
- k) The lawyer for Singila Majengo residents has never been invited nor involved in any negotiations regarding the sale of land to the government
- l) The farm in Maganga is LR no.3880/4 and is 257.97 acres and was surveyed in 1951.

The Committee was further informed that:

- a) Taita and Taita Sisal Company Limited sold Land to Teita Estate (1972) Ltd.
- b) According to a gazette notice of 9th February 1973, the acreage is as follows:

LR 3380/5	16875 acres
LR 6924	10010 acres
LR 94876(Dam)	55 acres
LR 11378	3344 acres
Total	30284 acres
- c) Taita and Taita Sisal Company gave the same acreage for the land, now owned by Teita Sisal Estate.
- d) LR No.3880/3 is not titled (is Community land) and is part of the Land that Teita Sisal Estate has encroached on.
- e) A memorandum of registration of transfer of lands in exchange for a new grant was issued on 14th August 1963 from Teita Sisal Estate (LR No.3880/4/1) to the Regional Assembly of the Coast region (LR.No.11378) for 3344 acres. The Airstrip used by the Estate is part of the LR NO.3880/4/1 which was surrendered in 1963
- f) The management was supposed to surrender the transferred land but is still holding on both lands.
- g) The acreage of the encroached land by Teita Sisal Estate is 2,997.66 acres (LR 3880/3), while the land that was supposed to be surrendered is 3,344 acres (LR 3880/4/1) bringing the total acreage under illegal occupation by Teita Sisal Estate to 6341.66
- h) LR No.3380/4/2 was later renumbered to LR 3380/5 which is 16,873 acres. It is not

clear how LR no. 3380/5 was created. The renumbering to 3380/5 created an extension which included Singila Majengo area.

- i) The LR No. 3380/4/2 once renumbered should have ceased to exist. Investigations however also show that the Sisal Plantation has not gone up to Majengo Singila area and that the area is a reserve.
- j) LR No.3380 initially was the number for the Land that belonged to Ex Major Goldman and that when /3 and /4 were excised; there was a remainder which is not accounted for.
- k) Original records are required to re-establish the LR No's on the ground.
- l) The local community has been denied access to the railway station since the access road which is public is within the estate gates. The dam is also within the estate and is manned by estate security denying the local residents free access.
- m) Mwandisha Primary school, also within the estate (LR Nos. 3380/5) was constructed by the Taita and Taita Sisal Company in 1952 but is run by the government (has government teachers). Access to the school by residents who are not employees of the sisal estate has however been limited by the Taita Sisal Estate management and the access road blocked.
- n) Orders for a joint survey should be given to establish the boundaries.
- o) Evidence from the Attorney General's office shows that only Mr. Alexander Kyriazy is a Kenyan Citizen and the rest of his children are not citizens.

MINUTE NO. DCL/LN/2014/116 A.O.B

The following matters arose:

1. The Committee noted a story that ran in a local media house, NTV claiming that the entire Committee Membership had taken a foreign visit to Zimbabwe to learn about Land matters at a cost to the taxpayer of Kshs.20million. It was resolved that the Chairman should respond to the allegations through a statement on behalf of the Committee.
2. Invitation by the National Land Commission for a workshop on Historical Injustices
The Committee noted the invitation letter for a workshop to be held in Naivasha in August 2014, and resolved that a confirmation of the Committee's attendance in the first week of August be made to the NLC.

MINUTE NO. DCL/LN/2014/110 PROGRAM FOR THE NAROK VISIT

The Committee considered and adopted the program for the Narok Visit subject to amendments to be made on the ground.

MINUTE NO. DCL/LN/2014/111 ADJOURNMENT & DATE OF THE NEXT SITTING

And the time being Twenty five Minutes past twelve O'clock, the Chairperson adjourned the Sitting until Thursday 3rd July 2014 at 10.00am in the Fourth Floor Board Room, Protection House.

SIGNED


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(CHAIRPERSON)

DATE

12/8/2014
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