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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

.....

DEPARTMENTAL COMMITTEE ON LANDS

.....

REPORT ON

THE INQUIRY INTO THE DEL MONTE KENYA LIMITED LAND TUSSLE

.....

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 05 OCT 2023
DAY: THUR
05/10/2023
TABLED BY: Hon Joash Nyamoko, MP
Chairperson, Lands Committee
CLERK AT THE TABLE: A. Ebubuka

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS, NAIROBI **OCTOBER, 2023**

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CHAIRPERSON'S FOREWORD

The Kandara Residents Association presented claims on historical land injustices allegedly committed by Del Monte Kenya Limited. The Association was calling for immediate action from Members of Parliament (MPs) to resolve a long-standing land dispute between the Association and Del Monte Kenya Limited.

Mr. Geoffrey Kairu, the Secretary General of the Association, presented documents prepared by Real Plan Consultants, outlining the land parcels claimed and occupied by Del Monte. The documents were initially submitted as part of a complaint filed with the National Land Commission in 2019. However, the implementation of the Commission's recommendations has been significantly delayed, prompting Mr. Philip Njuguna to present a petition to the House on behalf of the Kandara Residents Association.

According to the petition, the residents assert themselves as the original landowners, claiming that their land was unlawfully taken from them and leased to Del Monte Kenya Limited.

Upon careful scrutiny of the submitted documents, the Committee has established that 4,843 acres of land in Murang'a County and 2,696 acres of land in Kiambu County have reverted to their respective counties. However, the land could not be returned to the Kandara Residents Association, raising concerns. Mr. Kairu emphasized the disadvantaged economic situation of the Kandara residents, explaining that they lacked the means to defend themselves. He further claimed that Del Monte currently occupies 7,400 acres of government land.

As part of their investigation, the Committee visited the land under dispute in Kandara, Murang'a County and heard from the Kandara Residents Association and the Gatanga Quarry Owners Sacco. The Committee assured the parties involved that it would carefully review the submitted documents and report to the House in due course. The Departmental Committee on Lands of the 12th Parliament, had also investigated the matter and reported to the House.

I take this opportunity to thank and commend Committee Members for their devotion and commitment to duty, the Speaker and the Clerk of the National Assembly for providing leadership and direction and finally the Committee Secretariat for exemplary performance in the provision of technical and logistical support. The Committee is also grateful to various stakeholders for their submissions in relation to the land tussle. Their contributions gave the Committee the much-needed insights into the issue.

On behalf of the Departmental Committee on Lands and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present the Report of the Committee on its consideration of an inquiry into the Del Monte Kenya Limited Land Tussle.

Hon. Joash Nyamache Nyamoko, HSC, M.P.
Chairperson, Departmental Committee on Lands

' OF ANNEXURES

xure No.

1. Report adoption list
2. Minutes
3. Witness submissions

PART 1

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Lands is one of the Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:

   i) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

   ii) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*

   iii) *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*

   iv) *To study and review all legislation referred to it;*

   v) *To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*

   vi) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*

   vii) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*

   viii) *To examine treaties, agreements and conventions;*

   ix) *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

   x) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*

   xi) *To examine any questions raised by Members on a matter within its mandate.*

1.2 Subjects of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters in relation to the subject of lands and settlement.

3. In executing its mandate, the Committee oversights the Ministry of Lands and the National Land Commission.

1.3 Committee Membership

4. The Departmental Committee on Lands was constituted by the House on 27th October 2022 and comprises of the following Members:

Chairperson
Hon. Joash Nyamache Nyamoko, MP
North Mugirango Constituency
UDA Party

Vice-Chairperson
Hon. Jayne Kihara, MP
Naivasha Constituency

UDA Party
Hon. Dr. Rachael Kaki Nyamai, MP
Kitui South Constituency
Jubilee Party

Hon. Dr. Gideon Ochanda, MP
Bondo Constituency

Hon. Mathias Robi Nyambabe, MP
Kuria West Constituency
UDA Party

Hon. George Koimburi, MP
Juja Constituency
UDA Party

Hon. Paul Katan, MP
Kaloleni Constituency
ODM Party

Hon. Josses Lelmengit, MP
Emgwen Constituency
UDA Party

Hon. Gachoki Gitari, MP
Kirinyaga Central Constituency
UDA Party

Hon. Joseph Hamisi Dena, MP
Nominated
ANC Party

Hon. Esther M. Passaris, MP
Nairobi County
ODM PartyODM Party

Hon. Ali Wario Guyo, MP
Garsen Constituency
ODM Party

Hon. Omar Mwinyi, MP
Changamwe Constituency
ODM Party

Hon. Thaddeus Nzambia, MP
Kilome Constituency
WIPER Party

Hon. Anthony Kenga Mupe, MP
Rabai Constituency
JUBILEE Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following staff:

Mr. Joshua Ondari
Clerk Assistant II/Head of Secretariat

Mr. Sidney Lugaga
Senior Legal Counsel

Mr. Eugene Apaa
Research Officer II

Ms. Audrey Ogutu
Legal Counsel II

Ms. Collins Namulen
Fiscal Analyst III

Ms. Brenda Michira
Research Officer III

Ms. Yasmin Hassan
Sergeant-At-Arms

Mr. Binensa Mabungu
Clerk Assistant III

Mr. Salat Abdi
Senior Sergeant-At-Arms

Ms. Noel Chelagat
Media Relations Officer II

Ms. Lydia Shalom Migare
Research Officer III

Mr. Danton Kimutai
Audio Recording Officer

PART II

2.0 INTRODUCTION

6. The Kandara Residents Association presented claims on historical land injustices allegedly committed by Del Monte Kenya Limited. The Association called for immediate action from Members of Parliament (MPs) to resolve a long-standing land dispute between the Association and Del Monte Kenya Limited.

7. Mr. Geoffrey Kairu, the Secretary General of the Association, presented documents prepared by Real Plan Consultants, outlining the land parcels claimed and occupied by Del Monte. The documents were initially submitted as part of a complaint filed with the National Land Commission in 2019. However, the implementation of the Commission's recommendations has been significantly delayed, prompting Mr. Philip Njuguna to present a petition to the House on behalf of the Kandara Residents Association.

8. According to the petition, the residents assert themselves as the original landowners, claiming that their land was unlawfully taken from them and leased to Del Monte Kenya Limited.

PART III

WITINESS EVIDENCE

9. In considering the matter, the Committee received evidence from various witnesses as follows-

3.1 EVIDENCE BY THE MINISTRY OF LANDS PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

The Principal Secretary for the State Department of Lands and Physical Planning appeared before the Committee on 19th July 2023 and submitted as follows: THAT,

10. The Parcels of land registered under Del Monte Kenya Limited are situated in both Muranga and Kiambu Counties.

11. The Ministry undertook a resurvey of land parcels registered in favor of Del Monte Kenya Limited on recommendation by the National Assembly Departmental Committee on Lands in 2020. This was upon a petition by the Kandara Residents Association. The resurvey aimed at the following;

    a) To establish whether Del Monte Kenya Limited (the Company) occupied more land than that registered in their name,
    b) Excising several public purpose plots from the parcels to enable renewal and extension of lease for parcels of land remaining under the Company.

12. Upon the resurvey, the Ministry established that the Company did not occupy more land than registered in its favor.

13. The **L.R. No. 12158** which was situated in both Murang'a and Kiambu Counties was the main parcel in contention by the Kandara Residents Association. They alleged that the parcel had been surrendered to the Government and that Del Monte Kenya Limited was occupying the said land illegally.

14. The **L.R. No. 12158** measuring approximately 2972.8 Hectares (less 9,7 Hectares Road reserve) was created as a result of amalgamation of **L.R. Nos. 10741, 10862, 11146 and 2952** which were purchased by the Government. The Government leased the **L.R No. 12158** to Del Monte Kenya Limited for a term of 49 years with effect from May 1, 1973. The lease was set to expire in 2022. However, both County Governments of Muranga (in 2021) and Kiambu (in 2019) **approved** applications for extension of lease and subdivision of **L.R. No. 12158**. Pursuant to the approvals by the County Governments, the Ministry surveyed and prepared deed plans as per the approved subdivision scheme plans.

15. The following table shows how plot **L.R 12158** was subdivided;

L.R NUMBER	SIZE (HA.)	PURPOSE	COUNTY
12158/2	2.070	Nginyi Primary School (Surrender)	Murang'a
12158/3	1942	To remain with Del Monte	Murang'a
12158/4	1005	To remain with Del Monte	Kiambu
12158/5	4.970	Ndula Primary & Secondary School (Surrender)	Kiambu

16. The **L.R. No. 12158, L.R No's. 12157/1-5 and L.R. No. 13289** in Muranga County were also registered in favour of Del Monte Kenya Limited. Leases for these parcels were extended before they expired by the County Government of Murang'a. The approval included subdivision of **L.R. No. 12157/1**. Details of these parcels were presented in the table below;

L.R. NUMBER	SIZE (HECTARES)
12157/1 (IR 27081)	3860
12157/2 (IR 130608/1)	40.87
12157/3 (IR 130609/1)	2.987
12157/4 (IR 130610/1)	2.311
12157/5 (IR 130611/1)	5.677
13289 (IR 27081)	22.84

17. The leases for **L.R. numbers 12203/1 and 12203/2** registered in favour of Del Monte Kenya Limited which will fall in Kiambu County had already expired by the time the Ministry carried out the resurvey in 2022. The parcels therefore automatically reverted to the County Government of Kiambu.

18. On the *current status*, the extension of lease and subdivision of the parcels led to two categories of land ownership;

    a) Parcels to be registered in favor of Del Monte Kenya Limited.
    b) Parcels surrendered to the County Governments of Murang'a and Kiambu.

19. The leases in respect to the parcels listed here below were extended prior to expiry of term;

L.R NUMBER	SIZE (HA.)	STATUS
12157/2	40.86	
12157/3	1942	

12157/4	2.311	i.The leases for all these plots were extended for a new term for 99 years with effect from December 1, 2020. i.Lease documents and surrender documents were prepared, executed by the company, attested and lodged for booking and registration. i.Registration is ongoing.
12157/5	5.679	
12157/9	1.876	
12157/10	3154	
12158/3	1942	
12158/4	1005	
13289	22.84	

20. The lease in respect of **L.R. Nos. 12203/1 and 12203/2** situated in Kiambu County expired and the land reverted to the County Government of Kiambu.

21. The Ministry carried out a survey as per the approved subdivision scheme plan by the County Government of Kiambu for both **L.R. numbers 12203/1 and 12203/2** and the breakdown of the subdivision upon survey with the respective ownership is as follows;

New L.R Number	**Size (Ha.)**	**Purpose**
12203/3	1756.00	Del Monte Kenya Limited
12203/4	55.36	County Government of Kiambu
12203/5	61.13	County Government of Kiambu
12203/6	131.35	County Government of Kiambu
12203/7	25.65	County Government of Kiambu

22. The survey information on subdivision of the land falling in Kiambu County was submitted to the National Land Commission. The Commission vide its letter Ref. CF. 4993/68 dated May 29, 203 confirmed the status of the land as being vested in the County Government of Kiambu.

23. Del Monte Kenya Limited surrendered part of **L.R 12157/1** to the County Government of Murang'a as follows;

L.R NUMBER	**SIZE (Ha.)**
12157/8	526.6
12157/11	84.00

24. Additionally, the Company surrendered more parcels of land for public purposes as shown in the table below;

L.R NUMBER	**SIZE (Ha.)**	**PURPOSE**
12157/12	2.197	Ngati Police Station and Chief's camp
12157/13	1.046	Kihunguri Primary

12157/14	1.9140	Public Playground
12157/15	2.1290	Del Monte Mixed Secondary School
12157/16	0.9547	Ithanga Water Supply
12157/17	1.1110	Moi Primary Playground

25. All the surrendered parcels became public land. The Ministry through a letter Ref SDLPP/ADM/VOL1 (36) dated June 20, 2023 forwarded deed plans and surrender documents for the land in Murang'a County to the National Land Commission for further processing and issuance of letters of allotment.

26. All land surrendered by Del Monte Kenya Limited were awaiting processing at the National Land Commission. The Commission recommended the **70:30** sharing formula between Kandara Residents Association and the County Governments respectively as per its determination and a gazette notice. The Ministry was waiting for issuance of the letters of allotment by the Commission to enable processing of the title documents.

3.2 EVIDENCE BY THE NATIONAL LAND COMMISSION

27. The National Land Commission Chairperson appearing before the Committee on 10th July 2023 submitted as follows on the *Status of the Lease for L.R. No. 12158 which was to revert back to the Government of Kenya and be declared as public land and allocated to Kandara Residents Association for settlement.*

28. The land, **L.R. No. 12158** traverses both Muranga and Kiambu Counties (1015 Ha is located within Kiambu County with the remainder being in Muranga County) and measures 2972.8 Ha less road reserve of 9.7 Ha with a leasehold of 49 years from 1st May, 1973.

29. Prior to the Parliamentary Committee's consideration and subsequent recommendation on the subject matter, the National Land Commission had received a request for an extension of leases submitted by Del Monte Kenya Limited for the following LR. Nos in Muranga County (12157/1, 12157/2, 12157/3, 12157/4, 12157/5, 12158 & 13289) and Kiambu County (12203/1, 12203/2 & 12158) respectively.

30. The Commission using applicable Law and under Rule 2 (1-5) of the Land (Renewal and Extension of Leases) Rules 2017, the application for Lease renewal and supporting documentation were forwarded to the then Cabinet Secretary in charge of Lands and respective County Executive Committee Member in charge of Lands for consent and approval to renew or extend the Leases. (Letter Ref. NLC/8/1 dated 9th October 2020).

31. Pursuant to Sec 12(1) of the Land Act 2012, for the National Land Commission to allocate the land in question, a formal request to allocate the land to Kandara Residents Association or any other beneficiaries should be received from the respective County Executive

Committee Member in charge of Lands of Muranga and Kiambu Counties. Upon expiry of the existing lease or reversion of the land to the public in any other manner. The request should comprise;

a) An approved Physical Development Plan
b) An authenticated Survey
c) Beneficiaries

32. The National Land Commission affirms that as per the time of response to this Honourable Committee, no request relating to allocation with respect to **LR.No 12158** had been submitted by either the County Government of Muranga or the County Government of Kiambu. However, upon receipt of the appropriate request(s), the National Land Commission will proceed to process the request on the subject land as per its mandate taking into consideration the House recommendations.

33. Further, the National Land Commission informed the Committee of an active Court Case on the subject land, which is currently on appeal. Del Monte vide petition **No. 3 of 2020** filed in the Environment and Land Court at Muranga contesting NLC Historical Land Injustice determination NLC/HLI/004/2017 of 7th February 2019 partially succeeded (Ref. to Prayers No. 2(f), 4 & 5)- Annex 2. The matter has since been **appealed by Kandara Residents Association** in Court of Appeal at Nyeri **(Civil Application No. E48 of 2022)**.

34. While taking into consideration the mentioned legal/administrative requirements and subject to the ongoing judicial process, the National Land Commission remains committed to undertake its mandate towards conclusion of House recommendations maintaining full fidelity to the Law.

3.3 EVIDENCE BY KANDARA RESIDENTS ASSOCIATION

On 27th June 2023, Mr. Geoffrey Kairu, the Secretary General of the Kandara Residents Association appeared before the Committee and submitted as follows: -

35. The dispute was a historical injustice case dating back to the year 1920 then, Agro French which was later Kenya Canners and present day Del Monte Kenya Limited evicted the original owners of the disputant land parcels during forceful acquisition by the colonial government in the colonial period.

36. Upon the promulgation of the new constitution, under Article 67(2) of the Constitution of Kenya 2010 and under section 15 of the National Land Commission Act touching on Historical Land injustices, the 1920 victims in the area around Kiambu and Murang'a formed an association, Kandara Residents Association in 2014 which was later registered in 2017. The Association filed a complaint in 2017, against Del Monte Kenya Limited at the National

Land Commission, in the matter of Historical Land Injustice Reference: NLC/HLI/004/2017.

37. Upon review of the Petition, the National Lands Commission made a determination on 7th February, 2019 vide gazette notice no. 1995 of 1st March 2019 allowing the claim in favour of the Kandara Residents Association in the following terms:

    a) A resurvey to be undertaken by the Director of Survey in conjunction with the County Governments of Murang'a and Kiambu to establish if there is any variance between the leased land and the land that the company occupies. Any residue should be given/ surrendered to the claimants for resettlement and the respective County Governments for public purposes in the ratio of 70:30 respectively.

    b) Should it be found that there is no residue, then on expiry of the lease, a stable amount of land should be set aside and held in trust by the County Governments of Kiambu and Murang'a for purposes of resettlement and public utilities.

    c) The respondents (Del Monte Kenya Limited) to surrender all public utility land to the relevant National and County Government agencies whether the leases have expired or not.

38. There was an intentional and unexplained delay as to the implementation of the above recommendations by the National Land Commission. As a result, a petition to parliament was drafted and submitted to the Speaker on behalf of the Kandara Residents Association on 11th June 2019.

39. The then Departmental Committee on Lands heard submissions by the Petitioner (Kandara Residents Association), the National Land Commission, Chief Administrative Secretary of Land and Physical Planning, and Hon. Jude Njomo the then Member of Parliament for Kiambu and the Committee made the following recommendations:

    a) A resurvey on the land held by Del Monte Kenya Limited be made and a report made within 90 days.

    b) The National Land Commission investigates how Del Monte Kenya Limited acquired land parcels LR 10862, 10741, 11312, 11146 that had been surrendered to the Government of Kenya by Sassa Coffee and Rapport B Limited.

40. In acting on the above recommendations, on 22nd April 2021, the then Cabinet Secretary for the Ministry of Lands and Physical Planning, responded to recommendation Number 2 of the Departmental Committee on Lands on the circumstances under which LR 10862, 10741,

11312 and 11146 that were said to have been surrendered to the Government by companies, Sassa Coffee and Rapport B Limited were said to have been subsequently leased to Del Monte Kenya Limited.

41. Furthermore, on 2nd August 2021, the Ministry of Lands and Physical planning tabled a report of the resurvey of land parcels held by Del Monte Kenya Limited in Kiambu and Murang'a counties which held that Del Monte Kenya Limited did not hold excess land. Following the tabling of the aforementioned reports, the Select Committee on implementation observed that the recommendation by the National Land Commission was yet to be implemented and that the committee was not satisfied with the Ministry of Lands and Physical Planning's submission that Del Monte Kenya Limited did not hold excess land.

42. The Committee further stated that it was not clear how the company (Del Monte Kenya Limited) acquired the disputed land and that there were no sufficient records on how the transfer of Land to Del Monte Kenya Limited in 1973 was carried out and noted that the land ought to be public land. The final recommendations by the Committee were as follows:

    a) The lease for LR 12158, which resulted from the amalgamation of LR 10862, LR 11146, LR 11312 and LR 2952 should be reverted to the Government of Kenya and declared as public land.

    b) Further the land should be allocated to Kandara Residents Association for their settlement and;

    c) The Ministry of Lands and Physical Planning, in consultation with the National Land Commission should allocate the land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Kiambu and Murang'a in the ratio of 70:30 respectively as per the National Land Commission's gazette notice no. 1995 of 2019.

43. Further, in the recommendation by the select committee on implementation, on 28th July 2021, a caution was issued against the renewal of land leased on the parcel of land in question until the matter had been conclusively discussed and addressed between the Committee and the Ministry of Lands and Physical Planning. Contrary to the caution, the lease in respect to land parcel number 12158 was renewed as per the Murang'a County Government notification of approval serial number 0611 dated 17th November 2021.

44. The sixty days' notice since 2nd June 2022 had since lapsed and the recommendations by the National Land Commission and Parliament had not been implemented to date. The Ministry of Lands, Public Works, Housing and Urban Development approved the extension of the lease for LR 12158 despite caution by the National Assembly's Select Committee on Implementation on 28th July 2021 that the lease for this parcel of land should not be renewed

until the matter is conclusively discussed and addressed between the Committee and Ministry of Lands MIN.NO.NA/COI/2021/118.

45. A letter by the Murang'a County Government dated 17th February 2023, referenced PUBLIC PARTICIPATION MEETING ON MCG LAND DELMONTE AREA AND KENOL DECONGESTION mentions that 1400 acres of land having already been ceded by the Del Monte Kenya Limited. On the same day and in the same event, the county planners and surveyors submitted the plan of the land excised from LR. No 12157. Kandara Residents Association was not considered nor given their portion of 70% as petitioners as per the National Land Commission recommendations.

46. On the same day of the civic engagement on 15th June 2023 the Committee and the Kandara Residents Association both agreed that everything should be put on hold until the Kandara Residents Association had been given their land. However, on 21st June 2023, there were surveyors on the Land trying to do demarcation of the land.

47. Documents by Real Plan Consultants showed that all parcels of Land claimed and occupied by Del Monte Kenya Limited had the leases renewed in disregard of the National Assembly's select committee on implementation that no lease would be renewed until the matter had been conclusively discussed and settled by the Committee.

48. The Kandara Residents Association requested for expedited investigations into the resurvey of Land parcels;

a) **Land occupied by Del Monte in Muranga County**; LR 12157- 9730 acres, LR12157/2- 100.98 acres, LR 12157/3- 7.3 acres, LR 12157/4-7.7 acres, LR 12157/5- 9.07 acres, LR 13289-56 acres, LR 10862- 1372 acres, LR10741- 2260 acres, LR 11146- 1211acres Total 14,754 acres.

b) **Land surrendered to the government in Muranga**; LR 10862:1372 acres, LR 10741-2260 acres, LR11146- 1211 acres Total 4,843 acres.

c) **Land occupied by Del Monte in Kiambu County**; LR 12203/1- 5191 acres, LR 12203/2- 139 acres, LR 11312- 1606 acres, LR 2953- 1000 acres, LR 13169-60 acres Total 7890 acres.

d) **Land surrendered to government in Kiambu**: LR 11312- 1606 acres, LR 2953- 1000 acres

49. The Association guided the Committee through a visit to the Chui Estate land parcels. The Committee was informed that the parcels of land were given to the government through a memorandum of transfer of lands on January 5, 1973.

50. The government had paid Kshs 2,000,0000 for the five parcels of land. The five parcels that were paid for are as follows:

(i)	LR 10741	- 2260 acres in Chui II
(ii)	LR 11146	- 1211acres in Chui I
(iii)	LR 10862	- 1372 in Chui II
(iv)	LR 2953	- 1000 acres in Chui I
(v)	LR 11312	- 1606 acres in Chui I

51. The Association submitted that a search at the Registry of Lands revealed that the aforementioned land parcels are listed as government land. The residents of Kiambu and Murang'a County have never regained ownership of the land.

3.4 EVIDENCE BY GATANGA QUARRY OWNERS SACCO

52. On 29th June 2023, Mr Kelvin Kamau Wanjiru, the Chairperson of Gatanga Quarry Owners Sacco appeared before the Committee to submit on a claim over a portion of LR. No 12157 and LR. No 13169 and submitted as follows: -

53. The Sacco is composed of a group of 131 families from Gatanga Sub County who claim the above captioned parcels of land as being our historical right, on the following premises. The land falling under Gatanga Sub County belonged to their forefathers. Delmonte was given a grant over the two parcels of land and by law, was to process a certificate of title for each parcel of land as required under section 22(1) of the Registration of Titles Act Cap 281. However, Del Monte has never processed any certificate for LR. No 12157 and LR. No 13169.

54. The members of the Sacco have occupied the land for several years farming, grazing, and doing quarry activities without interruption. Thereafter, the members of the Sacco were unlawfully evicted despite securing court orders for a stay in the matter of Mishack Kibe Muiruri, Patrick Kibe Kiguru, Kevin Kamau Wanjiru and Joseph Njoroge Ndungu (Suing as The Representatives of Gatanga Quarry Owners Sacco Vs County Government of Murang'a and Delmonte Kenya Limited) (KANDARA MC.ELC 26 of 2019).

55. The leases registered to Del Monte expired on 30th April 2022. The said lease has not been renewed and if it has been renewed, it was done irregularly, and without public participation and following due process.

56. The parcel of land that the Sacco is claiming is approximately 1304 acres, is idle and has never been in used by Del Monte.The Sacco submitted that there is an ongoing judicial process. The Sacco filed a petition at the Environment and Land Court at Murang'a being Constitutional Petition No. E003 of 2022-Cyrus Njoroge Muthoni and 130 others Vs National Land Commission & 4 others which is now the subject of litigation at the Court of Appeal Nyeri being Civil Appeal Number E085 of 2023-Cyrus Njoroge Muthoni and 130 Others Vs National Land Commission & 4 Others.

57. The Sacco seeks the intervention of the National Assembly Departmental Committee on Lands in demanding for the lawful birth right of its members by issue of a lease in favor Gatanga Quarry Owners Sacco being the portion of roughly 1,000 acres registered under LR. No 12157 and LR. No 13169 located under Phase 1 which is along Chania River all the way past BAT with an approximate length of seven kilometres.

3.5 SUBMISSIONS FROM THE KANDARA RESIDENTS ASSOCIATION ON THE LIST OF BENEFICIARIES FOR THE DEL MONTE LAND

58. The Departmental Committee on Lands held a consultative meeting with representatives of the Kandara Residents Association in Committee Room 5 on the 5th floor of Continental House on Thursday, 17th August 2023 at 12:00 pm. The following persons representing Kandara Residents Association were present—

1. Mr. Karira Kimara-Chairperson, Kandara Residents Association
2. Mr. Geoffrey Kairu-Secretary General, Kandara Residents Association
3. Ms. Florence Mwaura-Organising Secretary, Kandara Residents Association
4. Mr. John K. Mahuti-Vice Organising Secretary, Kandara Residents Association (representative for Gachagi)
5. Mr. Swanya Victor Ogeto -Advocate, Kandara Residents Association
6. Mr. Dingii Bongo -Advocate, Kandara Residents Association
7. Mr. Daniel Mathenge -Member, Kandara Residents Association (representative for Lower Gatanga)
8. Mr. Joseph Wanjau - Member, Kandara Residents Association (representative for Matharau)
9. Mr. Ng'ang'a Njoroge -Member, Kandara Residents Association (representative for Umoja)
10. Mr. Mwaura Njoroge -Member, Kandara Residents Association (representative for Maragwa)
11. Mr. Anthony Kamicha-Member, Kandara Residents Association (representative for Makenji)
12. Mr. Gregory Wambaki-Member, Kandara Residents Association

59. The Secretary General of Kandara Residents Association submitted that the Association had adopted a list of the beneficiaries for the land to be distributed between the Kandara Residents Association and the County Governments of Kiambu and Muranga in the ratio of 70:30 respectively and the list consisted of 1927 names that were generated and adopted by consensus.

60. He informed the Committee that the list generated by the victims of the Historical Land Injustice, comprised beneficiaries from the following areas:

(i) Matharau - 200 persons

(ii)	Umoja	-	200 persons
(iii)	Gachagi	-	600 persons
(iv)	Lower Gatanga	-	400 persons
(v)	Makenji	-	100 persons
(vi)	Upper Gatanga	-	230 persons
(vii)	Maragwa	-	200 persons
	Total	-	**1930 persons**

61. The members of Kandara Resident Association agreed to withdraw an appeal by Kandara Residents Association (Civil Application No. E48 of 2022) pending before the Court of Appeal at Nyeri in order to facilitate the Committee to adopt and forward the recommendation on a list of the 1930 beneficiaries for Land known as LR 12158 comprising of 7449 acres to be distributed between the Kandara Residents Association and the County Governments of Kiambu and Muranga in the ratio of 70:30 respectively.

62. The Committee resolved to adopt a recommendation on a list of the 1930 beneficiaries for Land known as LR 12158 comprising of 7449 acres to be distributed between the Kandara Residents Association and the County Governments of Kiambu and Muranga in the ratio of 70:30 respectively.

63. The Committee noted that Alternative Dispute Resolution would play a fundamental role —

    (i) In resolving matters related to the victims of the Historical Land Injustice from Kandara Residents Association

    (ii) Towards achieving the presidential directive to conclude the matter of compensating the victims of the Historical Land Injustice from Kandara Residents Association and consequently, allow the process of setting up the proposed Export Processing Zone that would benefit the entire economy of Kenya.

PART IV

4.0 COMMITTEE OBSERVATIONS

64. The National Land Commission had received a request for extension of leases submitted by Del Monte Kenya Limited for the following LR. Nos in Muranga County (12157/1, 12157/2,12157/3, 12157/4, 12157/5, 12158 & 13289) and for Kiambu County (12203/1, 12203/2 & **12158**). The application was forwarded to the then Cabinet Secretary in charge of Lands and respective County Executive Committee Member in charge of Lands for consent and approval to renew or extend the Leases in October 2020.

65. There was no request relating to allocation with respect to LR. No 12158 that had been submitted to the National Land Commission by either the County Government of Muranga or County Government of Kiambu.

66. The Secretary General of Kandara Residents Association submitted that the Association had adopted a list of the beneficiaries for the land to be distributed between the Kandara Residents Association and the County Governments of Kiambu and Muranga in the ratio of 70:30 respectively and the list consisted of 1930 names that were generated and adopted by consensus.

67. The Committee resolved to adopt a recommendation on a list of the 1930 beneficiaries for Land known as LR 12158 comprising of 7449 acres to be distributed between the Kandara Residents Association and the County Governments of Kiambu and Muranga in the ratio of 70:30 respectively.

68. The Secretary General of Kandara Residents Association informed the Committee that the list generated by the victims of the Historical Land Injustice, comprised beneficiaries from the following areas:

(i)	Matharau	-	200 persons
(ii)	Umoja	-	200 persons
(iii)	Gachagi	-	600 persons
(iv)	Lower Gatanga	-	400 persons
(v)	Makenji	-	100 persons
(vi)	Upper Gatanga	-	230 persons
(vii)	Maragwa	-	200 persons
	Total	-	**1930 persons**

69. The Committee noted that Alternative Dispute Resolution would play a fundamental role —

(i) In resolving matters related to the victims of the Historical Land Injustice from Kandara Residents Association.

(ii) Towards achieving the presidential directive aimed at concluding the matter of compensating the victims of the Historical Land Injustice from Kandara Residents Association and consequently, allow the process of setting up the proposed Export Processing Zone and other government programmes and utility that would benefit the entire economy of Kenya.

70. The matter at hand was an active matter in the Court of Appeal at Nyeri following an appeal by Kandara Residents Association (Civil Application No. E48 of 2022). The representatives of Kandara Residents Association had given an undertaking to embrace Alternative Dispute Resolution (ADR) once Parliament approves this report.

PART V

5.0 COMMITTEE RECOMMENDATIONS

Having considered the evidence and submissions adduced, the Departmental Committee on Lands recommends as follows; THAT: -

71. **Within thirty days of tabling of this report, the Ministry of Lands and Physical Planning and the National Land Commission implement the recommendations of the report of the National Assembly Implementation Committee of the 12th Parliament dated 26th May 2022, providing that —**

    i. **The lease for L.R. NO 12158, which resulted from the amalgamation of LR.NO.11312 and 2593 be returned to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement within sixty (60) days of the adoption of the report.**

    ii. **in consultation with the National Land Commission, the Ministry of Lands and Physical Planning allocates excised land from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively as per the National Land Commission's gazette notice 1995 of 2019, within sixty (60) days of the adoption of this report.**

72. **Within sixty (60) days from the date of tabling this report in the National Assembly, the National Land Commission allocates land to 1,930 victims of historical injustice from seven villages including Matharau (200 victims), Makenji (100 victims), Maragwa (200 victims), Upper Gatanga (230 victims), Lower Gatanga (400 victims), Gachogi (600 victims) and Umoja (200 victims) in accordance with the list tabled on 17th August, 2023 and annexed to this Report.**

73. **The lease for L.R. NO 12157 and L.R. 13169 comprising 1000 acres should be returned to the Government of Kenya and declared as public land and allocated**

to 131 families for their settlement by the National Land Commission, within sixty (60) days of tabling of this report.

SIGNED .....

HON. JOASH NYAMACHE NYAMOKO, HSC, M.P.

(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LANDS)

DATE..... 05/10/2023 .....

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Lands, adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.
Date:

No.	MEMBER	SIGNATURE
1.	Hon. Nyamoko Joash Nyamache, HSC, MP	
2.	Hon. Kihara Jayne Wanjiru Njeri, MP	
3.	Hon. Rachael Kaki Nyamai, CBS, MP	
4.	Hon. Ogolla Gideon Ochanda, MP	
5.	Hon. Shimbwa Omar Mwinyi, MP	
6.	Hon. Robi Mathias Nyamabe, MP	
7.	Hon. Passaris Esther Muthoni, MP	
8.	Hon. Gitari Joseph Gachoki, MP	
9.	Hon. Guyo Ali Wario , MP	
10.	Hon. Nzambia Thuddeus Kithua, MP	
11.	Hon. Ndung'u George Koimburi, MP	
12.	Hon. Mupe Anthony Kenga, MP	
13.	Hon. Katana Paul Kahindi, MP	
14.	Hon. Joseph Hamisi Dena, MP	
15.	Hon. Lelmengit Josses Kiptoo Kosgey, MP	

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION, 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD AT THE MEDIA CENTER, MAIN PARLIAMENT BUILDINGS, ON TUESDAY, 3RD OCTOBER 2023 AT 11:30 AM.

PRESENT

1. Hon. Nyamoko Joash Nyamache, M.P. ***-Chairperson***
2. Hon. Kihara Jayne Wanjiru Njeri, M.P. **- Vice Chairperson**
3. Hon. Rachel Kaki Nyamai, CBS, M.P.
4. Hon. Passaris Esther Muthoni, M.P.
5. Hon. Ogolla Gideon Ochanda, M.P.
6. Hon. Shimbwa Omar Mwinyi, M.P.
7. Hon. Gitari Joseph Gachoki
8. Hon. Nzambia Thuddeus Kithua, M.P.
9. Hon. Ndung'u George Koimburi, M.P.
10. Hon. Guyo Ali Wario, M.P.
11. Hon. Joseph Hamisi Dena, M.P.

APOLOGIES

1. Hon. Robi Mathias Nyamabe, M.P.
2. Hon. Katana Paul Kahindi, M.P
3. Hon. Mupe Anthony Kenga, M.P.
4. Hon. Lelmengit Josses Kiptoo Kosgey, M.P.

COMMITTEE SECRETARIAT

1.	Mr. Joshua Ondari	-	Clerk Assistant II
2.	Mr. Binensa Mabungu	-	Clerk Assistant III
3.	Ms. Audrey Ogutu	-	Legal Counsel II
4.	Ms. Brenda Michira	-	Research Officer III
5.	Ms. Lydia Shalom Migare	-	Research Officer III
6.	Ms. Noelle Chelagat	-	Media Relations Officer III
7.	Ms. Yasmin Hassan	-	Serjeant- at- arms

MIN/NO./NA/DC-LANDS/2023/313: PRELIMINARIES

The Chairperson called the meeting to order at forty- seven minutes past eleven o'clock with a word of prayer by Hon. Guyo Ali Wario, M.P.

MIN/NO./NA/DC-LANDS/2023/314: ADOPTION OF THE AGENDA

AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. **Meeting:**

    a) **Consideration of the Report on the Inquiry into the compensation of Mombasa Special Economic Zone- Dongo Kundu Project Affected Persons**
    b) **Consideration of the Report on the Inquiry into the Del Monte land dispute**

6. Any Other Business
7. Adjournment

The agenda of the meeting was adopted after it was proposed by Hon. Joseph Hamisi Dena, M.P. and seconded by Hon. Gitari Joseph Gachoki, M.P.

MIN/NO./NA/DC-LANDS/2023/315: CONFIRMATION OF MINUTES

The Confirmation of the previous sitting's minutes was deferred.

MIN/NO./NA/DC-LANDS/2023/316: MATTERS ARISING

There were no matters arising.

MIN/NO./NA/DC-LANDS/2023/317: CONSIDERATION OF THE REPORT ON THE INQUIRY INTO THE COMPENSATION OF MOMBASA SPECIAL ECONOMIC ZONE- DONGO KUNDU PROJECT AFFECTED PERSONS

The Committee considered the Report and adopted it after having been proposed by Hon. Kihara Jayne Wanjiru Njeri, M.P and seconded by Hon. Joseph Hamisi Dena, M.P.

MIN/NO./NA/DC-LANDS/2023/318: CONSIDERATION OF THE REPORT ON THE INQUIRY INTO THE DEL MONTE LAND DISPUTE

The Committee considered and adopted report after having been proposed by Hon. Guyo Ali Wario, M.P and seconded by Hon. Joseph Hamisi Dena, M.P.

MIN/NO./NA/DC-LANDS/2023/319: ANY OTHER BUSINESS

a) The Chairperson briefed the Committee that there was a scheduled Inspection visit to the Ruiru and Murang'a land registry offices to be held between 5th to 8th October 2023.

b) The Committee further directed the secretariat to schedule an inspection visit to the land registry offices in Ngong' to be held on Tuesday 10th October 2023.

MIN/NO.NA/DC-LANDS/2023/320: ADJOURNMENT

There being no other business, the meeting was adjourned at twenty-three minutes past one o'clock. The next meeting would be held on notice.

Signed.....

Date.....05/10/2023.....

THE HON. JOASH N. NYAMOKO, MP

(CHAIRPERSO

REPUBLIC OF KENYA

MINISTRY OF LANDS PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

Office of the Cabinet Secretary

Tel: +254(0)20 2718050
Email: cslandskenya@gmail.com
Web: www.ardhi.go.ke
When replying please quote:

Ardhi House
1st Ngong Avenue
P.O.BOX 30450-00100
Nairobi, KENYA

Ref. No. MOLPWH&D/CSO/1/160 **19th July, 2023**

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear Clerk,

RE: RETREAT WITH THE DEPARTMENTAL COMMITTEE ON LANDS

Reference is made to your letter Ref. NA/DDC/LANDS/2023/052 dated 13th July 2023 on the above subject matter.

Attached, please find our response for your perusal and further necessary action

Yours Sincerely,

Zachariah M. Njeru
CABINET SECRETARY

Copy to: **Hon. Generali Nixon Korir**
Principal Secretary
State Department for Lands and Physical Planning

REPUBLIC OF KENYA

MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

STATE DEPARTMENT FOR LANDS AND PHYSICAL PLANNING

RESPONSES TO THE DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Pursuant to a letter Ref. NA/DDC/LANDS/2023/052 dated July 13, 2023, the Committee invited the Cabinet Secretary Ministry of Lands, Public Works, Housing and Urban Development to a consultative meeting to deliberate on the following:

1. Details of who owns plot number 289 and 290 in Boyani;
2. Action being taken to ensure the land in the Boyani settlement Scheme in Kilifi reverts to its rightful owners;
3. List of parcels of land surrendered back to Government and their status in the year 2001; and,
4. A status report on Del Monte land dispute

RESPONSE

Honourable Chair, on details of who owns plot number 289 and 290, I wish to respond as follows;

Boyani Settlement Scheme comprises a total of 223 parcels as per the Registry Index Map. We do not have Plot numbers 289 and 290 in Boyani Settlement Scheme.However, L.R. Nos. MN/III/289 measuring approximately 941 Acres and MN/III/290 measuring approximately 2090 Acres were initially Crown/ Government land. See F/R 8/161 and F/R 22/28 marked **annexure 1** and **2** respectively.

L.R. No. MN/III/289 was subdivided into two portions giving rise to L.R. Nos. MN/III/289/R and L.R. MN/III/289/1. L.R. No's MN/III/290 and MN/III/289/R measuring approximately 2690 acres in total were allocated to

Vipingo Estates Limited vide a letter of allotment Ref 36735/176 dated August 28, 1951 for a term of 999 years .**Annexure 3** is a copy of the allotment letter.

The two parcels were amalgamated resulting to L.R. No. MN/III/307. The application for amalgamation and approvals by the Ministry are marked **annexures 4.**

L.R. No. MN/III/307 has undergone numerous subdivisions over the years. Among the many subdivisions is Boyani Settlement scheme which was excised from L.R. No. MN/III/3545 and allocated L.R. No. MN/III/3916 with an approximate acreage of 99.20 Hectares (245.1 Acres).

Honourable Chair, on the action being taken to ensure the land in the Boyani settlement scheme in Kilifi reverts to its rightful owners, I wish to respond as follows;

The Ministry through a letter Ref no. AS/54/95 dated July 18, 2023 has sought assistance from the Ministry of Interior and National Administration to remove the perimeter wall built on Boyani Settlement Scheme land to allow the beneficiaries access their land. A copy of the letter is herewith marked **annexure 5.**

Honourable Chair, the following are the parcels surrendered back to the Government by Rea Vipingo Plantations Limited and Vipingo Estates Limited in 2001;

S/No.	LR. No.	Size (Ha)	Status
1.	MN/IV/117/2	12.25	Kadzinuni settlement scheme
2.	MN/IV/119/1	124.60	Kadzinuni settlement scheme
3.	MN/IV/120/2	57.11	Kadzinuni settlement scheme
4.	L.R. 8724/2	224.80	Kadzinuni settlement scheme
5.	L.R. 8724/4	2.431	Kapecha settlement scheme
6.	L.R. 5025/94	27.83	Kenya Utalii College
7.	L.R. 5025/95	35.99	Bureni settlement scheme
8.	L.R. 7334/1	116.50	Kapecha settlement scheme
9.	L.R. 7334/6	0.3214 (Road)	
10.	MN/III/3916	99.20	Boyani settlement scheme
11.	MN/III/3915	105.00	Vipingo Trading Centre
12.	L.R. 9025/91	6.154 (Road)	
13.	L.R. 5025/92	7.339(Road)	
14.	L.R.8724/1	2.065(Road)	

L.R. NUMBER	SIZE (HA.)	PURPOSE	COUNTY
12158/2	2.070	Nginyi Primary School (Surrender)	Murang'a
12158/3	1942	To remain with Del Monte	Murang'a
12158/4	1005	To remain with Del Monte	Kiambu
12158/5	4.970	Ndula Primary & Secondary School (Surrender)	Kiambu

In addition to L.R. No. 12158, L.R. No's 12157/1-5 and L.R. No. 13289 in Murang'a County were also registered in favour of Del Monte Kenya Limited. Leases for these parcels were extended before they expired by the County Government of Murang'a. The approval included subdivision of L.R. No. 12157/1. Details of these parcels are presented in the table below;

L.R. NUMBER	SIZE (HECTARES)
12157/1 (IR 27081)	3860
12157/2 (IR 130608/1)	40.87
12157/3 (IR 130609/1)	2.987
12157/4 (IR 130610/1)	2.311
12157/5 (IR 130611/1)	5.677
13289 (IR 26839/1)	22.84

Honourable Chair , leases for L.R. numbers 12203/1 and 12203/2 registered in favour of Del Monte Kenya Limited which fall in Kiambu County had already expired by the time the Ministry carried out the resurvey in 2022. The parcels therefore automatically reverted to the County Government of Kiambu.

Current status

Extension of lease and subdivision of the parcels led to two categories of land ownership;

i. Parcels to be registered in favour of Del Monte Kenya Limited.
ii. Parcels surrendered to the County Governments of Murang'a and Kiambu.

Leases in respect to the parcels listed herebelow were extended prior to expiry of term.;

L.R. NUMBER	SIZE (HA.)	STATUS
12157/2	40.86	i. The leases for all these plots were extended for a new term for 99 years with effect from December 1, 2020. ii. Lease documents and surrender documents were prepared, executed by the company, attested and lodged for booking and registration. iii. Registration is ongoing.
12157/3	1942	
12157/4	2.311	
12157/5	5.679	
12157/9	1.876	
12157/10	3154	
12158/3	1942	
12158/4	1005	
13289	22.84	

Leases in respect of L.R. No's. 12203/1 and 12203/2 situated in Kiambu County expired and the land reverted to the County Government of Kiambu.

The Ministry carried out survey as per the approved subdivision scheme plan by the County Government of Kiambu for both L.R. numbers 12203/1 and 12203/2 and the breakdown of the subdivision upon survey with the respective ownership is as follows;

New L.R Number	Size (Ha.)	Purpose
12203/3	1756.00	Del Monte Kenya Limited
12203/4	55.36	County Government of Kiambu

12203/5	61.13	County Government of Kiambu
12203/6	131.35	County Government of Kiambu
12203/7	25.65	County Government of Kiambu

Honourable Chair, the survey information on subdivision of the land falling in Kiambu County was submitted to the National Land Commission . The Commission vide its letter Ref. CF. 4993/68 dated May 29, 2023**(annexure 8)** confirmed the status of the land as being vested in the County Government of Kiambu.

Honourable Chair, Del Monte Kenya Limited surrendered part of L.R. 12157/1 to County Government of Murang'a as follows;

L.R. NUMBER	SIZE (HA.)
12157/8	526.6
12157/11	84.00

Additionally, the Company surrendered more parcels of land for public purposes as shown in the table below;

L.R NUMBER	SIZE (HA.)	PURPOSE
12157/12	2.197	Ngati Police Station and Chief's camp
12157/13	1.046	Kihunguri Primary
12157/14	1.9140	Public Playground
12157/15	2.1290	Del Monte Mixed Secondary School
12157/16	0.9547	Ithanga Water Supply
12157/17	1.1110	Moi Primary Playground

All the surrendered parcels are now public land. The Ministry through a letter Ref SDLPP/ADM/VOL1(36) dated June 20, 2023 forwarded deed plans and surrender documents for the land in Murang'a County to the National Land Commission for further processing and issuance of letters of allotment. **Annexure 9** is a copy of the letter.

Honourable Chair, all land surrendered by Del Monte Kenya Limited awaits processing at the National Land Commission. The Commission recommended the 70:30 sharing formula between Kandara Residents Association and the County

Governments respectively as per its determination and gazette notice marked **annexure 10.**

The Ministry awaits issuance of letters of allotment by the Commission to enable processing of the title documents.

Honourable Chair, I submit.

Zachariah M. Njeru
CABINET SECRETARY

July 19, 2023

NATIONAL LAND COMMISSION

RESPONSE TO THE COMMITTEE ON LANDS ON HISTORICAL LAND INJUSTICE ON LAND OCCUPIED BY DEL MONTE LTD

REPORT BY:

GERSHOM OTACHI BW'OMANWA

CHAIRMAN

10th July, 2023

12158

Honourable Chair, pursuant to a letter Ref. **NA/DDA/LANDS/2023/051** dated **10th July, 2023**, the Committee requested the Chairman, National Land Commission (NLC) to report on the following-

Status of the Lease for L.R. No. 12158 (resulted from the amalgamation of L.R. No. 10741, L.R. 10862, L.R. No. 11146, L.R. No. 11312 and L.R. No. 2953) which as per the recommendation of Departmental Committee on Lands and the Select Committee on Implementation of the 12th Parliament was to revert back to Government of Kenya and be declared public land, and allocated to Kandara Residents Association for their settlement.

Honourable Chair, we wish to respond as follows-

L.R. No. 12158 traverses both Muranga and Kiambu Counties *(1015 Ha is located within Kiambu County with the remainder being in Muranga County)* and measures 2972.8 Ha less road reserve of 9.7 Ha with a leasehold of 49 years from 1st May, 1973.

Hon Chair prior to the Parliamentary Committee's consideration and subsequent recommendation on the subject matter, the National Land Commission had received request on extension of leases submitted by Del Monte Kenya Limited for the following LR. Nos in Muranga County (12157/1,12157/2,12157/3, 12157/4, 12157/5, 12158 & 13289) and Kiambu County (12203/1, 12203/2 & 12158) respectively.

Hon Chair, the Commission using applicable Law and under Rule 2 (1-5) of the Land (Renewal and Extension of Leases) Rules 2017, the application for Lease renewal and supporting documentation were forwarded to the then Cabinet Secretary in charge of Lands and respective County Executive Committee Member in charge of Lands for consent and approval to renew or extend the Leases. (*Letter Ref. NLC/8/1 dated 9th October 2020*)-***Annex 1.***

Hon Chair, pursuant to Sec 12(1) of the Land Act 2012, for the National Land Commission to allocate the land in question, a formal request to allocate the land to Kandara Residents association or any other beneficiaries should be received from the respective County Executive Committee Member in charge of Lands of Muranga and Kiambu Counties. This is upon expiry of the existing Lease or reversion of the land to public in any other manner. The request should comprise;

i. An approved Physical Development Plan
ii. An authenticated Survey
iii. Beneficiaries

Hon Chair, the National Land Commission affirms that as per the time of response to this Honourable Committee no request relating to allocation with respect to LR.No 12158 has been submitted by either County Government of Muranga or County Government of Kiambu.

However, upon receipt of appropriate request(s), the National Land Commission will proceed to process the request on the subject land as per its mandate taking into consideration the House recommendations.

Further, NLC wishes to bring to the attention of the Committee of an active Court Case touching on the subject land which is currently on appeal. Del Monte vide petition No 3 of 2020 filed in the Environment and Land Court at Muranga contesting NLC Historical Land Injustice determination NLC/HLI/004/2017 of 7th February 2019 partially succeeded (Ref. to Prayers No. 2(f), 4 &5)- ***Annex 2***. The matter has since been appealed by Kandara Residents Association in Court of Appeal at Nyeri (Civil Application No. E48 of 2022)- ***Annex 3***

Hon Chair while taking into consideration the mentioned legal/administrative requirements and subject to the ongoing judicial process, the National Land Commission remains committed to undertake its mandate towards conclusion of House recommendations maintaining full fidelity to the Law.

Honourable Chair and Committee Members, I Submit

GERSHOM OTACHI BW'OMANWA
CHAIRMAN
10th July, 2023

Annex 1

NATIONAL LAND COMMISSION
Our Land, Our Wealth, Our Heritage

OFFICE OF THE CHAIRMAN

Tel. 0208000242
Email. chair@landcommission.go.ke
Website: www.landcommission.go.ke
When replying please quote

ACK GARDEN ANNEX BUILDING
1st NGONG AVENUE
P.O BOX 44417-00100
NAIROBI

Ref: NLC/8/1

9th October, 2020

Ms. Farida Karoney, EGH
Cabinet Secretary
Ministry of Lands and Physical Planning
Ardhi House
NAIROBI

Dear C.S. Farida Karoney,

RE: APPLICATION FOR EXTENSION OF LEASES FOR LR NOS. 12157/1, 12157/2, 12157/3, 12157/4, 12157/5, 12158 AND 13289, DEL-MONTE KENYA LIMITED: MURANG'A COUNTY

We have received applications for extension of leases for the above Seven (7) listed properties located in Muranga County from Del-Monte Kenya Limited under Rule 2 (1) of the Land (Renewal and Extension of Leases) Rules, 2017. The application letters are supported by the following documents:-

i. Completed Form LA 22;
ii. Official Searches from Land Registry;
iii. Copy of titles for each property;
iv. Copies of Certificates of Incorporation;
v. Company Search (CR 12);
vi. A resolution of the Del-Monte (K) Limited Board to apply for extension of leases Murang'a County Rates Clearance Certificate;
vii. Rent payment receipts;
viii. A Planning Report prepared by their appointed Planners;
ix. Copy of the Physical Planner's Practicing Certificate;
x. Copy of a written consent from Del-Monte Kenya Limited appointing Plan Consultants Limited to act on their behalf; and
xi. Summary report on Del-Monte.

We forward the above documents and for your consideration and action as provided for in Rules 2 (2), 2 (3), 2 (4) and 2 (5) of the Land (Renewal and Extension of Leases) Rules, 2017.

We would also like to draw your attention to a determination of the Commission of a Historical Land Injustice Claim filed by Kandara Residents Association. Find enclosed herewith a copy of the determination contained in the Commission's Report on Historical Land Injustice Claim No. NLC/HLI/004/2017 and Gazette Notice Number 1995 dated 1st March 2019 (page 879) which may have a bearing on your decision.

We look forward to your response.

Thank you for your support and cooperation.

Yours

Gershom Otachi Bw'Omanwa
CHAIRMAN

Encls.

Copy to: The County Executive Committee Member
Lands, Housing, Physical Planning, Municipal Administration
and Urban Development
Muranga County
MURANGA

Annex 1

NATIONAL LAND COMMISSION
Our Land, Our Wealth, Our Heritage

OFFICE OF THE CHAIRMAN

Tel. 0208000242
Email. chair@landcommission.go.ke
Website: www.landcommission.go.ke
When replying please quote

ACK GARDEN ANNEX BUILDING
1st NGONG AVENUE
P.O BOX 44417-00100
NAIROBI

Ref: NLC/8/1

9th October, 2020

Ms. Farida Karoney, EGH
Cabinet Secretary
Ministry of Lands and Physical Planning
Ardhi House
NAIROBI

Dear C.S. Karoney,

RE: APPLICATION FOR EXTENSION OF LEASES FOR LR NOS. 12203/1, 12203/2 AND 12158, DELMONTE (K) LIMITED: KIAMBU COUNTY

We have received applications for extension of leases for the above three (3) listed properties located in Kiambu County from Del-Monte Kenya Limited under rule 2 (1) of the Land (Renewal and Extension of Leases) Rules, 2017. The application letters are supported by the following documents:-

i. Completed Form LA 22;
ii. Official Searches from Land Registry;
iii. Copy of titles for each property;
iv. Copies of Certificates of Incorporation;
v. Company Search (CR 12);
vi. A resolution of the Del-Monte (K) Limited Board to apply for extension of leases Murang'a County Rates Clearance Certificate;
vii. Rent payment receipts;
viii. A Planning Report prepared by their appointed Planners;
ix. Copy of the Physical Planner's Practicing Certificate;
x. Copy of the written consent from Del-Monte Kenya Limited appointing Plan Consultants Limited to act on their behalf; and
xi. Summary report on Del-Monte.

We forward the above documents for your consideration as provided for in rules 2 (2), 2 (3), 2 (4) and 2 (5) of the Land (Renewal and Extension of Leases) Rules, 2017.

We look forward to your response.

Thank you for your support and cooperation.

Yours Sincerely,

Gershom Otachi Bw'Omanwa
CHAIRMAN

Encls.

Copy to: The County Executive Committee Member
Lands, Housing, Physical Planning, Municipal Administration
and Urban Development
Kiambu County
P.O. BOX 2344-00900
KIAMBU

Annex 3

REPUBLIC OF KENYA

THE JUDICIARY

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MURANG'A

PETITION CAUSE NO. 3 OF 2020

(FORMERLY NAIROBI HIGH COURT PETITION NUMBER 48 OF 2019)

IN THE MATTER OF ARTICLE 22(1) OF THE CONSTITUTION OF THE REBULIC OF KENYA

AND

IN THE MATTER OF ARTICLE 1, 2, 10, 19, 20, 21, 22, 23, 25, 27, 35, 40, 46, 48, 50, 60, 67, 156, 165, 249, AND 258 OF THE CONSTITUTION OF THE REBULIC OF KENYA.

AND

IN THE MATTER OF NATIONAL LAND COMMISSION ACT NUMBER 5 OF 2012 OF THE LAWS OF KENYA

AND

IN THE MATTER OF CONTRAVENTION AND THREATENED. CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLE 1, 2, 10, 19, 20, 21, 22, 23, 25, 27, 28, 35, 40, 46,48, 50, 60, AND 67 OF THE CONSTITUTION OF THE REBULIC OF KENYA.

BETWEEN

DEL MONTE KENYA LIMITED ..... PETITIONER

VERSUS

NATIONAL LAND COMMISSION .....1ST RESPONDENT

THE ATTORNEY GENERAL ..... 2ND RESPONDENT

-AND-

KANDARA RESIDENCE ASSOCIATION ..... 1ST INTERESTED PARTY

CANNERIES ENVIRON RESIDENCE ASSOCIATION ..... 2ND INTERESTED PARTY

COUNTY GOVERNMENT OF MURANG'A ..... 3RD INTERESTED PARTY

COUNTY GOVERNMENT OF KIAMBU .....4TH INTERESTED PARTY

JUDGMENT

By an Amended Petition dated 10th April 2019, the Petitioner herein sought for the following orders;

i. A declaration do issue that unless the proceedings conducted by the 1st Respondent in relation to the Amended Complaint Number NLC/HLI/004/2017 dated 20th April 2018, and the Determination thereof dated 7th February 2019, contravene a number of fundamental and other rights guaranteed to the Petitioner by the Constitution of Kenya, including the following: -

   a) Article 1 as regards exercise of sovereign power.

   b) Article 10 as regards National Values and Principles of governance which bind the Respondents herein.

   c) Article 24 which forbids any limitation to the right of fair trial.

   d) Article 40 relating to protection of the right to acquire and own property.

   e) Article 46 which guarantees consumer rights.

   f) Article 50 which guarantees the right to fair hearing.

   g) Article 60 as regards principles of land policy in Kenya.

ii. A declaration be issued that Section 15(3) (b) (i) of the National Land Commission Act, Number 5 of 2012, is unconstitutional

and therefore null and void as the section is inconsistent with and contradicts the express provisions of Articles 24, 25, 27(1), 40, 50(1), and 60 of the Constitution.

iii. An Order of Certiorari do issue calling to this Honourable Court and quashing/ setting aside the Determination of the National Land Commission's Historical Land Injustices Committee dated 7th February 2019, made in NLC/HLI/004/2017; Kandara Residents Association Vs Del Monte Kenya Limited.

iv. An Order of Certiorari do issue calling to this Honourable Court and quashing/ setting aside Gazette Notice Number 1995, dated 18th February 2019, and published on 1st March 2019, in so far as it relates to the Petitioner's Parcel of land, namely; Land Reference Numbers 12157, 12157/2, 12157/3, 12157/4, 12157/5, 12158, 12203/1, 12203/2, and 13289.

v. An Order of Prohibition do issue forbidding and/or restraining the 1st Respondent from entertaining, hearing, and/or determining any complaint on Historical Land Injustices in relation to the Petitioner's Parcel of land, namely, Land Reference Numbers 12157, 12157/2, 12157/3, 12157/4, 12157/5, 12158, 12203/1, 12203/2, and 13289.

vi. That this Honourable Court do issue such Orders and give such Directions as it may deem fit, just and appropriate in the circumstances of this matter.

vii. The costs of the Petition be awarded to the Petitioner.

The Petitioner averred that it engages in the business of growing

said **Section** be declared so is **not merited** and the same is **dismissed entirely.**

(iv) **Whether the Petitioner is entitled to the orders sought; -**

Having now carefully considered the available evidence, the exhibits thereto, the written submissions and the relevant provisions of law, the Court finds that the Petitioner's claim partially succeeds in terms of prayers **No.2(f), 4 &5,** of the Amended Petition dated **10th August, 2019.**

However, the Petitioner's claim that **Section 15 (3)(b)(i)** of the **National Land Commission Act,** is unconstitutional is **not merited** and the said prayer is disallowed. In respect to prayer 6, this Court is cognizant of the powers and functions of the 1st Respondent as guaranteed by the Constitution and the **National Land Commission Act Cap 5 of 2012.** Therefore, the Court will refrain itself from issuing any Orders that may curtail and/or limit the functions and mandate of the 1st Respondent and will therefore **not** grant the above prayer as sought by the Petitioner.

(v) **Who should beat the Costs of this suit?**

Section 27 of the Civil Procedure Acts gives the Court the discretion to grant costs. However, it is trite that costs usually follow the event, unless special circumstances present themselves. In the instant case, the Respondents have succeeded in making their case. However, this being a public interest matter, there shall be no orders as to costs.

In a nutshell, having analysed the available evidence, the Court finds and holds that the Petitioner's claim succeeds only in terms of

prayers No. 2 (f), 4 and 5. However, all the other prayers are dismissed with no orders as to costs.

It is so ordered.

Dated, Signed and Delivered Virtually at Murang'a this 28th day of April, 2022.

L. GACHERU
JUDGE 28/4/2022

Delivered virtually;
In the presence of;
Mr Thuo for the Petitioner
N/A for the 1st Respondent
Mr Weche H/B for M/s Mutindi for 2nd Respondent
N/A for the 1st Interested Party
N/A for the 2nd Interested Party
N/A for the 3rd Interested Party
N/A for the 4th Interested Party
Kuiyaki – Court Assistant

L. GACHERU
JUDGE 28/4/2022

I CERTIFY THIS IS A TRUE COPY OF THE ORIGINAL
DATED... 11/05/2022
DEPUTY REGISTRAR
ENVIRONMENT AND LAND COURT
MURANGA

Annex 3

IN THE COURT OF APPEAL

AT NYERI

(CORAM: W. KARANJA, J. MOHAMMED & MUCHELULE JJ.A)

CIVIL APPLICATION NO. E48 OF 2022

BETWEEN

KARIRA KIMARA (suing on behalf of) KANDARA RESIDENCE ASSOCIATION.....APPLICANT

AND

DEL MONTE (k) LTD. & 4 Others..... 1ST RESPONDENT

THE NATIONAL LAND COMMISSION.....2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

COUNTY GOVERNMENT OF MURANGA.....4TH RESPONDENT

COUNTY GOVERNMENT OF KIAMBU.....5TH RESPONDENT

(Being an application for stay pending the hearing and determination of an intended appeal from the ruling and orders of the Environment and Land of Kenya at Murang'a (Gicheru, J.) dated 28.4.2022

in

ELC Petition No. 3 of 2020)

****

ORDER OF THE COURT

Following a Court initiated conversation learned counsel **Mr. Ikua** and **Mr. Kimwere** appearing for the applicant and the 4th respondent respectively have agreed on maintenance of status quo pending the hearing and determination of the appeal.

Accordingly we enter consent on the following terms.

1. By consent the status quo pertaining to the land, the subject of this application be maintained pending the hearing and determination of the substantive appeal.

2. Counsel for the applicant to file and serve the record of appeal within 30 days from the date hereof.

3. The appeal be given a hearing date on priority basis.

4. Costs of the application be in the appeal.

Made at Nyeri this 8th day of November, 2022.

W. KARANJA

.....

JUDGE OF APPEAL

J. MOHAMMED

.....

JUDGE OF APPEAL

A.O. MUCHELULE

.....

JUDGE OF APPEAL

COURT OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR

KELVIN KAMAU WANJIRU,

CHAIRPERSON.

11th July 2023.

THE CHAIRPERSON,

PARLIAMENTARY COMMITTEE ON LAND,

NATIONAL ASSEMBLY.

Dear Sir,

RE: OUR CLAIM OVER A PORTION OF LR NO 12157 AND LR NO 13169(DELMONTE LAND)

The above refers,

We are a group of 131 families from Gatanga Sub county who claim the above captioned parcels of land as being our historical right , on the following premises;

1. The land falling under Gatanga Sub County belonged to our fore fathers.
2. Delmonte was given a grant over the two parcels of land and by law they were to process a certificate of title for each **(Section 22(1) of the Registration of Titles Act Cap 281)** However they never had it processed.
3. We have been in occupation of the land for several years farming, grazing and doing quarry activities until we were unlawfully evicted despite the court giving us orders to stay in (***KANDARA MC.ELC 26 OF 2019 -Mishack Kibe Muiruri, Patrick Kibe Kiguru,Kevin Kamau Wanjiru and Joseph Njoroge Ndungu (Suing As The Representatives Of Gatanga Quarry Owners Sacco -Vs- County Government Of Murang'a and Delmonte Kenya Limited).***
4. The lease over the land expired on 30th April 2022.
5. The said lease has not been renewed and if it has been renewed, it was done irregularly minus public participation and following due process. **(Attached and marked K-1 is a copy of letter to National Land Commission through our Advocates).**

6. The parcel of land we claim is idle and has never been in use by Delmonte **(Attached and marked K-2 is a Geo Spatial Survey Map)** the land we claim measures approximately 1304 Acres.
7. There is an ongoing judicial process.

For these among other grounds we filed a petition at the Environment and Land Court at Murang'a being ***Constitutional Petition No. E003 OF 2022-Cyrus Njoroge Muthoni and 130 Others-Vs – National Land Commission & 4 Others*** which is now subject of litigation at the Court of Appeal Nyeri being ***Civil Appeal Number E085 of 2023 - Cyrus Njoroge Muthoni and 130 Others-Vs – National Land Commission & 4 Others.*** **(Attached and marked K-3 is a copy of the petition).**

We now seek your intervention to demand for us our lawful birth right. We appreciate that upon giving us a hearing, you can advise the National Land Commission to issue a lease in our favor over the portion of roughly 1,000 Acres which we claim.

We trust in your ability to fight historical land injustices and for the interest of the downtrodden.

Your early positive response will be appreciated.

Yours faithfully,

KELVIN KAMAU WANJIRU
CHAIRPERSON

CC:

THE NATIONAL LAND COMMISSION,
ARDHI HOUSE, 4TH FLOOR, WING C,
1ST NGONG AVENUE,
NAIROBI.

ISHMAEL & CO. ASSOCIATES,
TABBY HOUSE 3RD FLOOR,
COMMERCIAL STREET,
P.O BOX 446-01000,
THIKA.

ADVOCATES

ISHMAEL & CO. ASSOCIATES

Ishmael Nguring'a LLB Hons (Moi), Dip . Law (K.S.L.)
Moses Tumu K. LLB Hons (Makerere), Dip . Law (K.S.L.), Dip . Law (I.P)Inoorero)
Daisy Wanjiru N. LLB Hons (C.U.E.A.), Dip . Law (K.S.L), Certified Professional Mediator (CPM) (CAM)
TABBY HOUSE 3RD FLOOR RM R7B COMMERCIAL STREET P O BOX 446-01000 Thika
TEL: (020)8007629 / CELL:0721783146 ishmaeladv@gmail.com | www.ishmaelassociates.co.ke

OUR REF: IC/DD/456/22 YOUR REF: DATE:6TH JULY 2023

THE CHAIRPERSON,
NATIONAL LAND COMMISSION,

NAIROBI.

NATIONAL LAND COMMISSION
RECEIVED
10 JUL 2023
CHAIRMAN
P. O. Box 44417 - 00100 NAIROBI

Dear Sir/Madam,

RE: LR NO 12157 AND LR NO 13169(DELMONTE LAND) WITHIN GATANGA SUBCOUNTY MURANGA COUNTY

The above refers,

We have strict instructions from our clients in *Civil Appeal Number E085 of 2023 - Cyrus Njoroge Muthoni and 130 Others-Vs – National Land Commission & 4 Others (Court of Appeal Nyeri)* and further a sizeable population residing in Gatanga Sub County to the effect that the leases that lapsed on 30th April 2022 should not be renewed until the said clients are involved and there is a due process.

Kindly also let us have the status of the renewal process and any further detail that is in your possession, in regard to the said parcel or others owned by Delmonte Limited but falling within Gatanga Sub County.

Our clients' interest is all that land along Thika River which has natural vegetation and is not in use for pineapple farming.

We anticipate your response.

Yours faithfully,

FOR ISHMAEL & CO ASSOCIATES

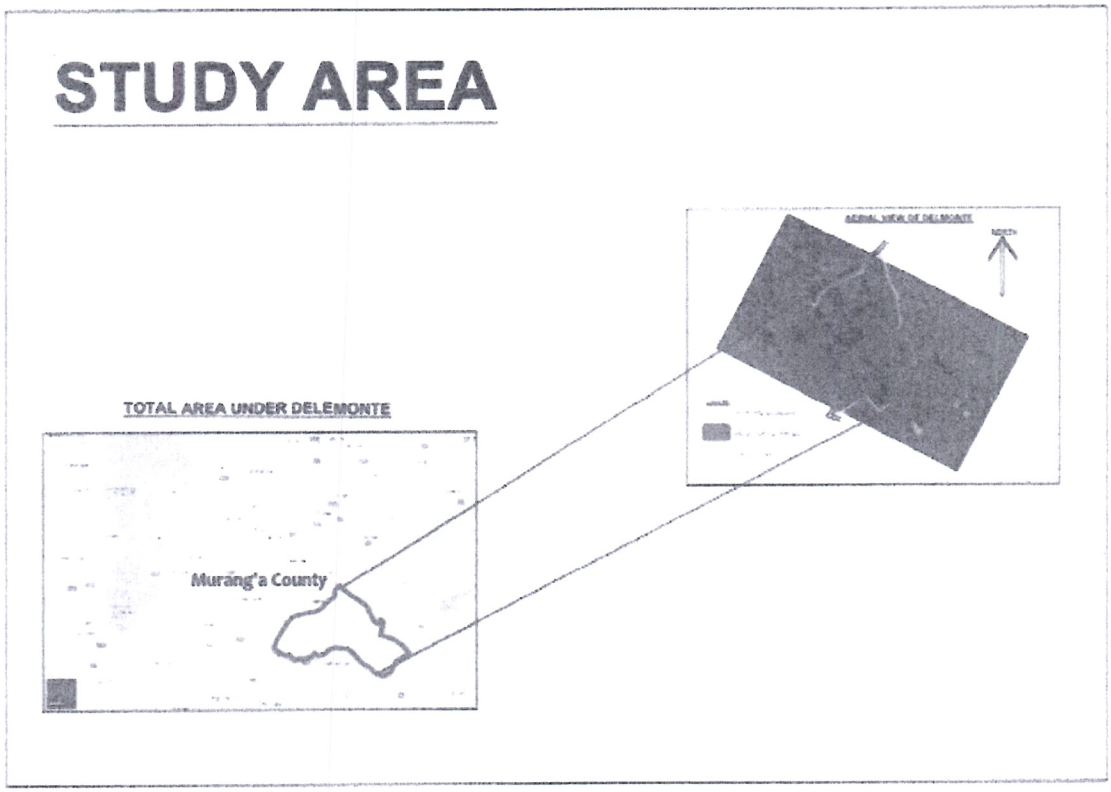
CC:Client

When replying, please quote our reference no. and when calling on us carry this letter

SURVEY REPORT FOR DELMONTE.

INTRODUCTION

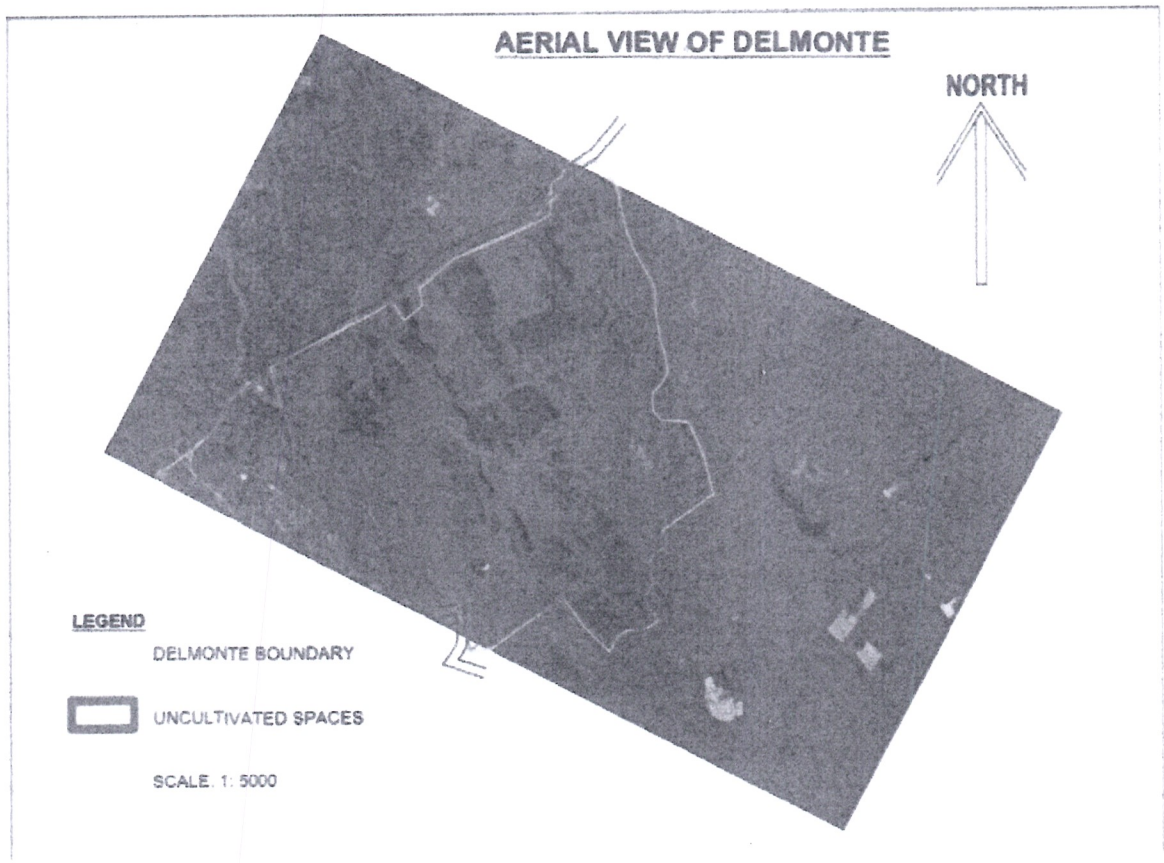
Delmonte is located in Muranga county Gatanga constituency .The purpose of this survey report is to present the results of a web mapping survey conducted using Google Earth Pro to digitize parcels in three phases. The objective of this survey was to determine the acreage of each phase, which includes Phase 1 which is along Chania River all the way past BAT with an approximate length of 7 km. The phase has a total acreage of 1000 acres(407Ha). Phase 2 with 304acres (124Ha).



METHODOLOGY:

The survey began with the collection of data on the three phases of the parcel. The data was collected using Google Earth Pro, which is a web mapping application that provides high-resolution satellite imagery, 3D terrain, and street-level imagery. The data was then digitized and imported into a Geographic Information System (GIS) software for analysis.

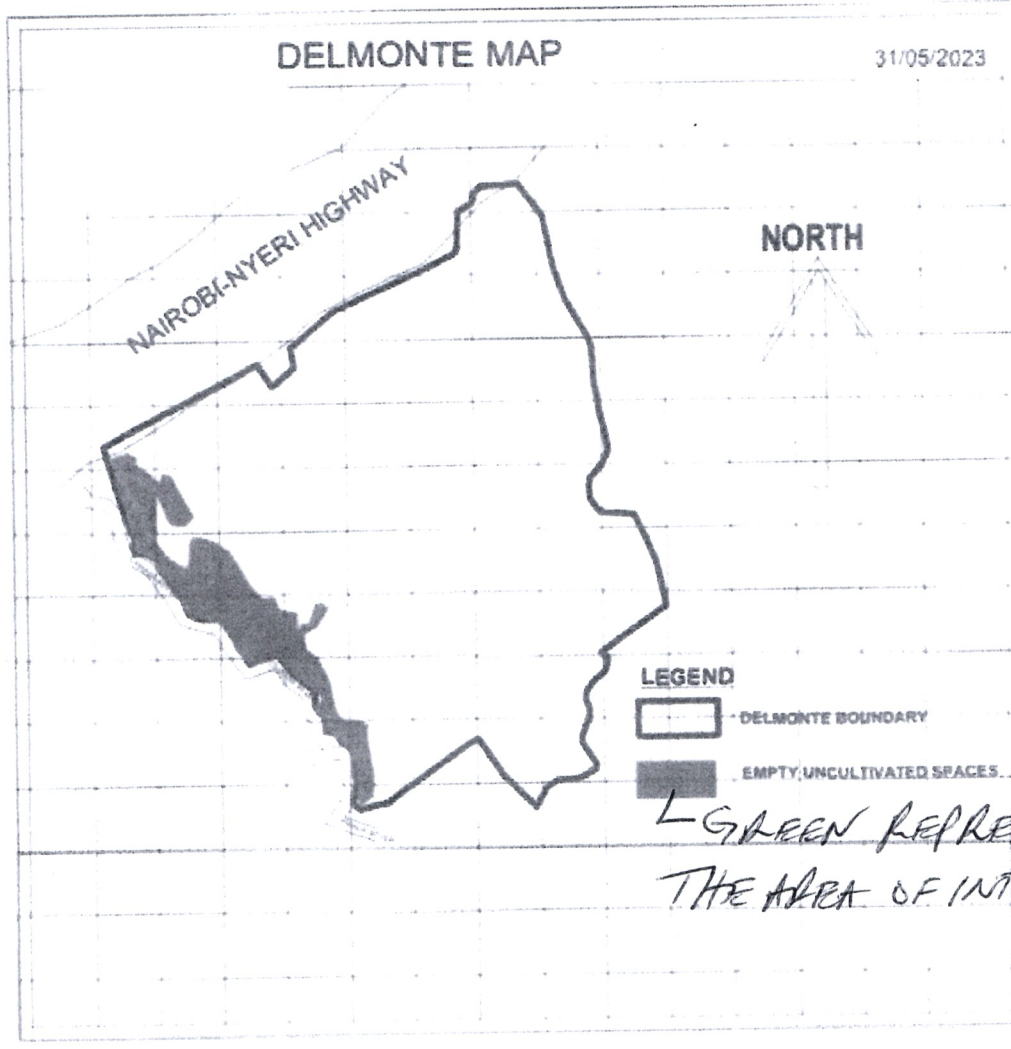
In the GIS software, the digitized data was measured using the polygon tool to determine the area of each phase. The areas were then calculated and recorded using the appropriate units of measurement, in this case, acres.



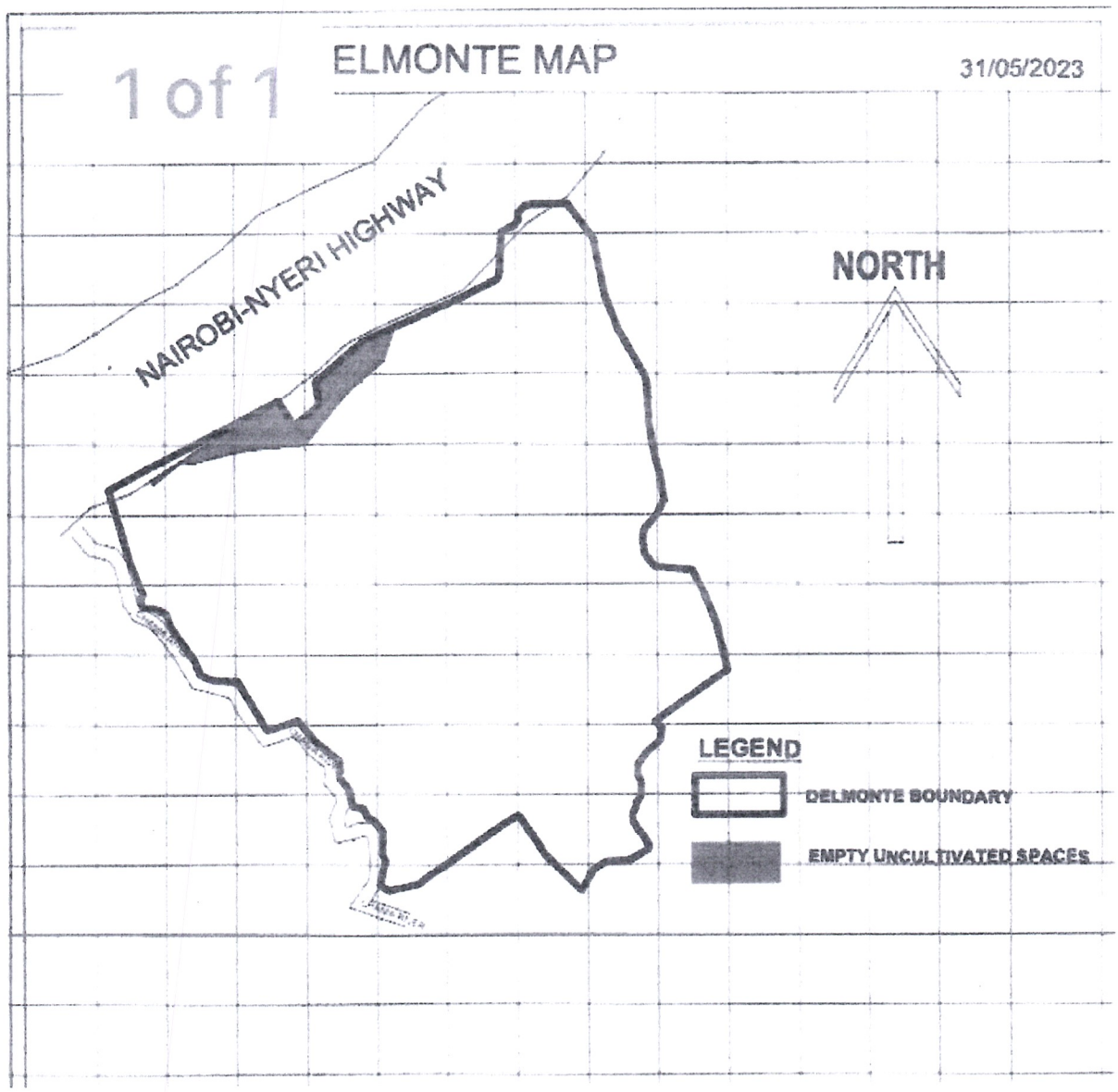
FINDINGS

Results:

i. The results of the survey indicate that Phase 1 has a total acreage of 1000 acres, Phase 2 has 304 acres, using GIS software. The accuracy of the results is dependent on the quality of the satellite imagery and the precision of the digitization process. Phase 1; this is the total average along chania river from Thika falls to BAT road in makongeni.



ii. Phase 2; opposite delview from Delmonte shop on the left up to kandara overpass.



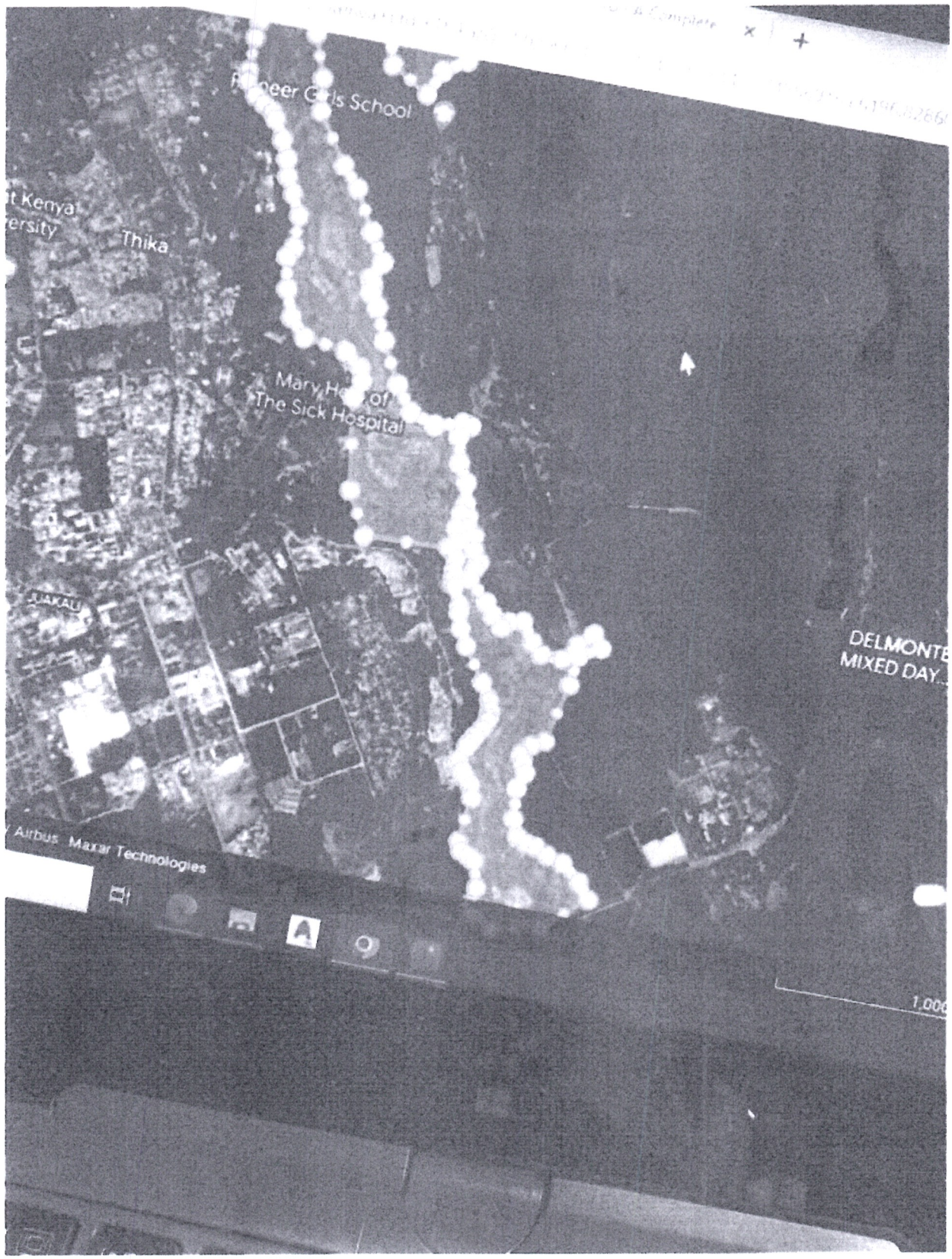
RECCOMEDATION

-kindly help us get the resources we need to do accurate web mapping.with your facilitations we will able to obtain neccesary shapefiles,labour ,open streets maps ,topo sheet for elevations ,software such as google pro and arc gis .with this i will be able to have precise survey and accuracy and precisions will be enhanced.

CONCLUSION:

In conclusion, the web mapping survey conducted using Google Earth Pro has provided accurate and reliable results on the acreage of the three phases of the parcel. The use of GIS software has ensured the accuracy of the calculations and the precision of the results. The findings of this survey will be presented in court as evidence to support legal proceedings.

IMAGES PHASE 1


Pioneer Girls School
Thika
Mary Help of
The Sick Hospital
DELMONTE
MIXED DAY
Airbus Maxar Technologies

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MURANG'A

CONSTITUTIONAL PETITION NO. E003 OF 2022

IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010

AND

ENVIRONMENT AND LAND COURT
MURANG'A
27 MAY 2022
RECEIVED

IN THE MATTER OF ENFORCEMENT OF FUNDAMENTAL RIGHTS AND FREEDOMS

AND

IN THE MATTER OF THE PRINCIPLES OF HUMAN DIGNITY, PARTICIPATION OF THE PEOPLE, EQUITY, SUSTAINABLE DEVELOPMENT, SOCIAL JUSTICE, EQUALITY, NATURAL JUSTICE, OPENNESS AND FAIR HEARING

AND

IN THE MATTER OF THE NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

AND

IN THE MATTER OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 19, 20,21, 22, 23, 27,28, 35, 40, 43, 47, 50,60,61,63,65,68, 159, 162, 258 & 259 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF THE CONTRAVENTION AND THREATENED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 19, 20,27,28, 35, 40,43, 47, 50,60, 63, 65 AND 68 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF GRANT NO. 27031 OVER LAND REFERENCE NUMBERS 12157 AND 13169

CYRUS NJOROGE MUTHONI.....1ST PETITIONER

SAMUEL NJENGA NG'ANG'A.....2ND PETITIONE

PATRICK KIBE KIGURU.....3RD PETITIONER

KELVIN KAMAU WANJIRU.....4TH PETITIONER

JOSEPH NJOROGE NDUNG'U.....5TH PETITIONER

JANE RUGURU KIAMA.....6TH PETITIONER

JANE MUTHONI MUIRURI.....7TH PETITIONER

RUTH MUKOBE KAMAU.....8TH PETITIONER

LUCY MURUGI MUIRURI.....9TH PETITIONER

HANNAH NJERI GICHERU.....10TH PETITIONER

LUCY NYAMBURA GICHERU.....11TH PETITIONER

DAVID MAINA WAITHAKA.....12TH PETITIONER

DAVID GUCHU NJOROGE.....13TH PETITIONER

JEREMANO NJOROGE.....14TH PETITIONER

ISAAC MUNGAI NDUNG'U.....15TH PETITIONER

PAUL WANJOGU GITITI.....16TH PETITIONER

JOSHUA MURIGI NJOGU.....17TH PETITIONER

PETER KANYORO KIARIE.....18TH PETITIONER

PAUL NGUGI NJOGU.....19TH PETITIONER

DAVID THIONGO MWANGI.....20TH PETITIONER

DANIEL KINUTH1A GUCHU.....21ST PETITIONER

PETER KARIUKI MUTHOGA.....22ND PETITIONER

KAMANDE KINYANJUI.....23RD PETITIONER

JAMES NG'ANG'A KARANJA.....24TH PETITIONER

EDWARD WAWERU KINYANJUI.....25TH PETITIONER

LYDIA WANJA MWANGI.....26TH PETITIONER

MARY ANN NDUTA NJERI.....27TH PETITIONER

MICHEAL NJOROGE NJUGUNA.....28TH PETITIONER

FAITH WANGUI NJERI.....29TH PETITIONER

JOSPHAT MWANGI MWAURA.....30TH PETITIONER

JOSEPH KINYANJUI MUNDE.....31ST PETITIONER

ISAAC CHEGE NJUGUNA.....32ND PETITIONER

HANNAH NDURU MUNDE .....33RD PETITIONER

KENNEDY GICHURE KIGUTA.....34TH PETITIONER

TERESIAH WAIRIMU MACHARIA.....35TH PETITIONER

PETER KIMANI MUTHONI.....36TH PETITIONER

ANTONY KARANJA MWANGI.....37TH PETITIONER

SUSAN WAITHIRA NJUGUNA.....38TH PETITIONER

DAVID MWANGI KARANJA.....39TH PETITIONER

JOSEPH NG'ANG'A MWAURA.....40TH PETITIONER

JAMES MUIRURI NDUNG'U.....41ST PETITIONER

JOHN NG'ANG'A KIBUGI.....42ND PETITIONER

SIMON WACIRA WANYOIKE.....43RD PETITIONER

PAUL MAINA MWENDA.....44TH PETITIONER

PETER WANYOIKE MURUGI.....45TH PETITIONER

KENNEDY NJOROGE WANGARI.....46TH PETITIONER

EUNICE WAMBUI MIRUGI.....47TH PETITIONER

SIMON MURANDI.....48TH PETITIONER

JOHN MWAURA NG'ANG'A.....49TH PETITIONER

GACIHI KIARIE.....50TH PETITIONER

DANIEL MBITHI KIMEU.....51ST PETITIONER

PATRICK MWENDA.....52ND PETITIONER

EZEKIEL NJAGA IRUNGU.....53RD PETITIONER

PATRICK GITHINJI IRUNGU.....54TH PETITIONER

STANLEY MBURU KARIU.....55TH PETITIONER

GEOFFREY NGOCI CHEGE.....56TH PETITIONER

PAUL NYUTU MBURU.....57TH PETITIONER

JAMES MURIGI KAMAU.....58TH PETITIONER

REBBECA WANJIRU NJOROGE.....59TH PETITIONER

FRANCIS MWAURA NGARUIYA.....60TH PETITIONER

BENARD KURIA MWANGI.....61ST PETITIONER

DAVID MWANGI KINYUA.....62ND PETITIONER

STEPHEN GATHUUKI MBUGUA.....63RD PETITIONER

MOSES NDUNG'U KAMAU.....64TH PETITIONER

SAMUEL MUIRURI KAMAU.....65TH PETITIONER

DANIEL MATHENGE RUTHI.....66TH PETITIONER

BONIFACE MUTIE MUTISO.....67TH PETITIONER

THOMAS MUTHAMA MUNYAO.....68TH PETITIONER

PETER NGUGI MURIRA.....69TH PETITIONER

ELIJAH KAMAU NDIGA.....70TH PETITIONER

JOHN NJOROGE MBURU.....71ST PETITIONER

DANIEL MACHARIA KIBE.....72ND PETITIONER

JAMES KARANJA KIHOI.....73RD PETITIONER

JOHN MUHIA NJOROGE.....74TH PETITIONER

SAMUEL KURIA WAMBUI.....75TH PETITIONER

JAMES KARIUKI MUIRURI.....76TH PETITIONER

SAMUEL KARIUKI WANJIKU.....77TH PETITIONER

SAMUEL KARIUKI MATHENGE.....78TH PETITIONER

PETER MBURU KIMANI.....79TH PETITIONER

RUTH WAMUKORE KIMANI.....80TH PETITIONER

PATRICK MWANGI KOORI.....81ST PETITIONER

CATHERINE MABUTI WARUI.....82ND PETITIONER

KELVIN NDUNDA KIOKO.....83RD PETITIONER

HEZEKIA KIWARA MUTUGI.....84TH PETITIONER

FRANCIS NJOROGE NJENGA.....85TH PETITIONER

GILBERT MUGAMBI SAMUEL.....86TH PETITIONER

JOSEPH MUCHINA MUIGA.....87TH PETITIONER

DANIEL MBITHI KIMEU.....88TH PETITIONER

SAMSON KIITI SIMON.....89TH PETITIONER

JOSEPH MUTUKU KUO.....90TH PETITIONER

PETER NDUNG'U MUTURI.....91ST PETITIONER

JAMES KIOKO MUTINDA.....92ND PETITIONER

MOSES NDUNG'U KAMAU.....93RD PETITIONER

DORIS MUTHONI NGARI.....94TH PETITIONER

BONIFACE MWITE MUTISO.....95TH PETITIONER

WILSON KAMANDE WAIRIMU.....96TH PETITIONER

PETER KARIUKI GUCHU.....97TH PETITIONER

LUKE MACHARIA KAMAU.....98TH PETITIONER

ZAKAYO MUTUNYE GITITI.....99TH PETITIONER

PETER M. SHIPITI.....100TH PETITIONER

SIMON KANG'ETHE KIMANI.....101ST PETITIONER

PETER MWAURA MWEMAI.....102ND PETITIONER

JOSEPH KIHIA W.....103RD PETITIONER

WILSON KAMANDE M.....104TH PETITIONER

PETER MUINDE MAIGA.....105TH PETITIONER

BONFACE MUSEMBI MUTUA.....106TH PETITIONER

WILSON KIMANI MURIRA.....107TH PETITIONER

JOHN NDICHU KARANJA.....108TH PETITIONER

PATRICK MWANIKI KARANJA.....109TH PETITIONER

PAUL MUIA GATHEE.....110TH PETITIONER

PAUL NJOGU.....111TH PETITIONER

LUKAS WAMIRO KAMAU.....112TH PETITIONER

RACHAEL WAMBUI.....113TH PETITIONER

FRANCIS MWAURA KABATA.....114TH PETITIONER

JOHN KIMANI MUCHIRI.....115TH PETITIONER

SARAH WAMBUI MUGI.....116TH PETITIONER

RUTH MUTHONI MUCHIRI.....117TH PETITIONER

JOSEPHINE NDIKO NG'ANG'A.....118TH PETITIONER

DAVID KAMAU MWANGI.....119TH PETITIONER

GRACE WANJIRU.....120TH PETITIONER

MARY NGINA MWAURA.....121ST PETITIONER

ELIJAH NJUGUNA WAINAINA.....122ND PETITIONER

PETER NDUNG'U MUCHIRI.....123RD PETITIONER

RUTH NJERI KIMANI.....124TH PETITIONER

CYRUS NGUGI MUCHIRI.....125TH PETITIONER

CYRUS CHIIRA KARIMI.....126TH PETITIONER

ESTHER NJERI MUCHIRI.....127TH PETITIONER

JOSEPH MAHUGU WAITITU.....128TH PETITIONER

PAUL MUNGAI MUCHIRI.....129TH PETITIONER

ANN WANGUI NENE.....130TH PETITIONER

ANNAH WANGARI MUCHIRI .....131ST PETITIONER

OFFICE OF THE ATTORNEY GENERAL & DEPARTMENT OF JUSTICE P.O. BOX 40112 - 00100, NAIROBI
03 JUN 2022
CIVIL LITIGATION REGISTRY
RECEIVED
OFFICER

VERSUS

THE NATIONAL LAND COMMISSION ..... 1ST RESPONDENT

THE ATTORNEY GENERAL ..... 2ND RESPONDENT

THE COUNTY GOVERNMENT OF MURANG'A ..... 3RD RESPONDENT

THE CHIEF LAND REGISTRAR ..... 4TH RESPONDENT

ENVIRONMENT AND LAND COURT
27 MAY 2022
RECEIVED

AND

DEL MONTE CORPORATION..... INTERESTED PARTY

PETITION

TO:

THE ENVIRONMENT AND LAND COURT AT MURANG'A

THE HUMBLE PETITION OF YOUR PETITIONERS WHOSE ADDRESS OF SERVICE FOR THE PURPOSE OF THIS PETITION IS CARE OF ISHMAEL & COMPANY ASSOCIATES, TABBY HOUSE 3RD FLOOR, COMMERCIAL STREET, P.O. BOX 446-01000, THIKA IS AS FOLLOWS:

THE PARTIES

1. Your humble Three Hundred and Three Petitioners are adult men and women, some youthful and others elderly all hailing from Kandara and Gatanga localities within Murang'a County. They are all of Gikuyu ethnic extraction and trace their origin to Mukurwe wa Nyagathanga, the cradle of the Agikuyu people, situate not so far from the land that is subject of the Petition herein.

2. Your humble Petitioners bring this Petition on their own behalf, that of thousands of Gatanga and Kandara residents who have for over six score years endured

Petitioners fear risk being subjected to the same subjugation that an ent generation has had to bear unless the intervention of this Court is sou particularly at this point in our history as a nation.

3. The 1st, 2nd and 3rd Respondents are Constitutional entities to whose functions issues and grievances raised in the Petition herein are central. The Respondent is a creature of statute charged with the functions of, among oth making entries in the Land Register.

4. The Interested Party has held the Grant subject hereof, one which was m some Forty-Nine (49) years ago and expired a few days' ago, which grant served as the sword by which the Petitioners have been warded off the land is subject of the Petition herein. Fortunately for the Petitioners, many sad sun later, that sword has grown old rusty and weak and has lost its sting to the sc of time. **That Grant lapsed on 30th April, 2022.**

Indeed, the Petitioners have a great difficulty in describing the Interested Part since while she may be registered in Kenya, one would have to climb man mountains and cross a few oceans in an effort to trace her ancestry. Not eve her name would lend her some pretense of ties to the local community, she is c alien in form as it is in substance. The Interested Party however occupies Lan Reference Numbers 12157 AND 13169.

FACTUAL BACKGROUND

5. Many years ago, long before the calendar itself was a measure of time, there the Agikuyu people. These people pre-date the descriptions of time, periods places as we know them today. They pre-date countries, governments and rec as known to us now.

6. These people measured time by the position and length of the shadow in rel to the sun and described periods in relation to harvests, droughts or plagues. marked boundaries by a plant known as '*Mukungugu*' and not concrete and beacons. Their ancestry is traced to *Mukurwe wa Nyagathanga* wherefrom

Petitioners' fore-fathers came and occupied, tilled, grazed and dwelled upon th suit land many eons ago. They lived in harmony, embracing the very Africa 'ubuntu' way of life and sharing natural resources, including land, communally.

7. Then entered colonization and with it came the most violent disruption and intrusi of the natives' way of life. The native's way of life, in which they plante 'Mukungugu' to mark boundaries and shared natural resources communally a equitably was termed as uncivilized and barbaric by the intruder. The 'barbar 'Mukungugu' was replaced with the modern steel and mortar beacon and wh the locals knew as *Metumi* was christened Fort Hall. The land regime was not spar either.

8. The colonialist came with deeds, agreements and a general land administrat regime unknown to the natives and one by which they appropriated that lc bequeathed to the Petitioners by their God unto themselves. By these instrume that the colonialist brought, they created land registries and registered the ara and fertile land as his own and then termed the natives living thereon, Petitioners' parents and grandparents, as trespassers whom he forcibly evic therefrom into the higher, colder and less productive villages of Ndaka-ini, Kando Wanyaga and others where he (the colonialist) had no interest. The commun owned land once demarcated by the Mukungugu and referenced by a Mugu tree, a Mukuyu tree, a hill and a river was now demarcated by beacons c referenced by deed plans and cadastral maps – concepts completely strange the Petitioners' forefathers. This also came with a completely new, and inde imposed, system of government enforced by chiefs and home-guards.

9. In the meantime, the colonialist appreciated the need for labour on the land t he had now alienated from the natives. So he introduced a Hut Tax in the villa 'icagi' that formed in the higher, colder and less productive areas to which Petitioners' parents and grandparents relocated. This tax was enforced by the lc chiefs and home-guards, whose enforcement was brutal, depraved and utt cruel. So as to have some money (another commodity and concept imposed the natives by the colonialist), the Petitioners' parents and grandparents hac

work for the colonialist on the land that was their ancestral land for cents ar pennies which the chiefs and home-guards would later come and collect in th name of tax. Indeed, there was nothing else one would do with the cents ar pennies except pay the Hut Tax as the local traditional medium of exchange w goats and grain.

10. The Petitioners' forefathers - though not students of any constitutional or legislativ texts - knew that there was everything unjust, unfair, oppressive and out-right wrong with this way of life that had been imposed on them. They took oaths an took up arms, some as rudimentary as catapults, sticks and even their bare limb and retreated into the surrounding forests to wage war on the colonialist and t reclaim their ancestral land and freedom – *'wiyaathi na githaka'*.

11. This precipitated yet another phase of brutalization of the natives. Detention camp and prisons mushroomed throughout the land. The air was dense with the smell o death. Murders and bloodshed became the new of life, one that few dared criticiz as the villages were engulfed in fear. Some of those that took up arms died in th forests, their bones never to be found. Others were rounded up and held i detention camps, the most notorious being Manyani, where they were tortured an maimed. Many were sent to prisons which were being put up by the day. At the same time, the colonialist was 'regularizing' his wanton theft of the People' ancestral land in the name of land adjudication. Land was adjudicated in the 1950 at a time when many of the Petitioner's forefathers were either in detention camps prisons or otherwise forced into hiding for fear of their lives.

12. What is the Petitioners' ancestral land became Government Land, under the Commissioner of Lands, one James Aloysius O'Loughein. To-date few of the natives can pronounce that name; even fewer have ever heard of that name – the name of the man by whose pen they were rendered landless for almost half a Century.

13. Somehow, through a process to which the Petitioners and their forefathers were neither party nor privy, the Interested Party was granted by the said Commissioner of Lands large tracts of land lying between Thika River and Sagana River

approximately 4500 acres of which is arable land and all of which is the Petitioners' ancestral land. This was done vide Grant No. 27031 Which was meant to be force for Forty-Nine (49) Years with effect from 1st May, 1973.

14. The said Grant bore many unconscionable provisions, poignant among them being: *During the currency of this lease and any extension thereof the grantee shall from time to time have the option to purchase the freehold reversion of a portion or portions of the said premises not exceeding five thousand acres in the aggregate (and so that the total area so purchased in pursuance of this or any other options granted by the Main Agreement shall not exceed five thousand acres).* In essence the Grant made it possible for the Interested Party, a foreign company, to acquire freehold interest in the land contrary to the express provisions of Article 65 (1) and (2) of the Constitution, 2010.

15. In all this neither the Petitioners' nor their forefathers were consulted or compensated. In other words while the 20th Century brought innovation development and hope in most of the world, it cast a dark cloud of tears and pain upon the Petitioners. It has been a long dark night punctuated by murder, theft and fear. Your humble Petitioners, their fathers and forefathers have endured it all.

16. With time, the situation has grown from bad to worse over the years. The population has grown more than five-fold between 1969 and 2019 as per the recently concluded 2019 census. The Petitioners, remain in the villages designated to them and their forefathers in the 1940s and 1950s despite their numbers which have now grown ten-fold. Households have abandoned their tiny pieces of land as those pieces are of no economic or subsistence value. They have now designated them as family grave-sites as that is often the only use they can be put to. The less unfortunate ones are peasant subsistence farmers on the very small patches of land, now subdivided times without number over the years and which yield little to nothing owing to the very cruel climatic conditions in the villages, while the Interested Party - a corporate of foreign directorship - continues to hold on to the Petitioners' ancestral land wherein it grows pineapples for processing and mostly for

export markets. The Petitioners need food for themselves and their children, the Interested Party needs profits.

17. This dire situation compelled some other members of the community surrounding the suit parcels of land to complain to the National Land Commission over Land Reference Numbers 12157, 12157/2, 12157/3,12157/4,12157/5, and 13289 all held by the Interested Party. The lease/Grant in issue herein has also been the subject of litigation in numerous matters including *Murang'a ELC Petition No. 3 of 2020, Murang'a ELC No. 53 of 2018, Murang'a ELC No. 86 of 2018 and Nairobi High Court Constitutional Petition No. 398 of 2015*. This points to the overarching public interest in the matter and also the fact that the oppression and injustice occasioned by the lease herein has sunk its fangs deep in the community.

18. A time has come and the final hour of the oppressive Grant is past, and the Petitioners herein petition this Honourable seeking that that which was taken from them and has been kept from them for many years now be restored to them. The Petitioners pray that all that land known as Land Reference Numbers 12157 and 13169 be restored to and allocated to them.

19. The Petitioners have written to the Respondents seeking information as to whether the Interested Party has expressed interest in having the Grant to LR NO. 12157 and 13169 renewed. The Respondents have not as much as extended to your humble Petitioners the basic courtesy of a response. As such, the Petitioners are apprehensive that there will be a repeat of the injustice that they have laboriously borne for many years. Hence they seek refuge from this Honourable Court.

THE CONSTITUTIONAL BASIS OF THE PETITION

20. The Grant subject hereof provides for renewal of the Grant for a further term of Forty-Five (45) Years. The Petitioners have made all effort to access information as to whether there is intention by the Respondents and/or the Interested Party herein to have the impugned Grant renewed. None has been forthcoming. This constitutes a direct affront to the Petitioners' rights under Article 35 and the principles of national governance under Article 10 of the Constitution.

21. The possibility of renewal of the impugned Grant constitutes a chilling threat to the Petitioners' right to their ancestral property under Article 40 of the Constitution.

22. Further, the possibility that the Petitioners' views and sentiments over the fate of the impugned Grant, a matter that greatly affects them, will not be taken or considered will certainly occasion a violation of the Petitioners' rights under Articles 47 and 50 of the Constitution.

23. Further, a renewal of Grant No. 27031 to the Interested Party herein would constitute an administrative action to be abhorred by the Constitution as it would be unsustainable and discriminative to renew a Grant over more than 4500 acres of land to a foreign entity while millions of people who are the ancestral owners of that very land remain landless.

24. At Article 68, the Constitution acknowledges the need for the review of all grants to establish their legality and propriety. The Petitioner asserts that any steps towards renewal of Grant No. 27031 is both illegal and improper for, among others, want of review under Article 68 of the Constitution. The same is also the unsustainable result of a historical injustice that has midwifed gross social injustice particularly against the Petitioners.

25. Grant No. 27031 contains an unconstitutional provision, *to wit; During the currency of this lease and any extension thereof the grantee shall from time to time have the option to purchase the freehold reversion of a portion or portions of the said premises not exceeding five thousand acres in the aggregate (and so that the total area so purchased in pursuance of this or any other options granted by the Main Agreement shall not exceed five thousand acres).* In essence, the Grant made it possible for the Interested Party, a foreign company to acquire freehold interest in the land contrary to the express provisions of Article 65 (1) and (2) of the Constitution, 2010. As such, this clause constituting an inseparable component of the Grant, the entire Grant is unconstitutional.

26. Moreover, Article 68 of the Constitution of Kenya, 2010 birthed a legitimate expectation amidst the people deprived of their ancestral lands by grants and other instruments that such instruments and grants, such as Grant No. 27031, would be reviewed to establish their propriety and legality. As such, renewing a Grant whose legality and propriety is not only unestablished but also questioned and challenged would be tantamount to renewing a probable illegality, unconstitutionality and impropriety.

27. It is in the interests of fairness, justice and enforcement of the Constitution that this Petition be allowed.

YOUR HUMBLE PETITIONERS THEREFORE HUMBLY PRAY THAT THIS HONOURABLE COURT BE PLEASED TO MAKE THE FOLLOWING ORDERS:

a) A declaration be and is hereby made that all that land comprising of LR. No. 12157 and LR. No. 13169 belong to the people of Murang'a County to be held by the County Government of Murang'a in trust for them.

b) A declaration be and is hereby made that any other resultant parcel, sub-division, amalgamation of LR. No. 12157 and/or LR. No. 13169 is hereby declared null and void.

c) That LR. No. 12157 and LR. No. 13169 be redistributed to the Petitioners and the County Government of Murang'a in the ratio of 70:30 respectively.

d) Any other orders that the Honourable Court may deem fit and just to grant.

e) The Costs of this Petition be awarded to the Petitioners.

DATED at **THIKA** this 26TH day of MAY 2022

ISHMAEL & COMPANY

ADVOCATES for the PETITIONERS/ APPLICANTS

DRAWN & FILED BY:

ISHMAEL & COMPANY ASSOCIATES,

TABBY HOUSE 3RD FLOOR,

COMMERCIAL STREET,

P.O. BOX 446-01000,

THIKA.

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MURANG'A

CONSTITUTIONAL PETITION NO. OF 2022

IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF ENFORCEMENT OF FUNDAMENTAL RIGHTS AND FREEDOMS

ENVIRONMENT AND LAND COURT
MURANG'A
27 MAY 2022
RECEIVED

AND

IN THE MATTER OF THE PRINCIPLES OF HUMAN DIGNITY, PARTICIPATION OF THE PEOPLE, EQUITY, SUSTAINABLE DEVELOPMENT, SOCIAL JUSTICE, EQUALITY, NATURAL JUSTICE, OPENNESS AND FAIR HEARING

AND

IN THE MATTER OF THE NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

AND

IN THE MATTER OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 19, 20,21, 22, 23, 27,28, 35, 40, 43, 47 50,60,61,63,65,68, 159, 162, 258 & 259 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF THE CONTRAVENTION AND THREATENED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 19, 20,27,28, 35, 40,43, 47, 50,60, 63, 65 AND 68 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF GRANT NO. 27031 OVER LAND REFERENCE NUMBERS 12157 AND 13169

CYRUS NJOROGE MUTHONI.....1ST PETITIONER

SAMUEL NJENGA NG'ANG'A.....2ND PETITIONE

PATRICK KIBE KIGURU.....3RD PETITIONER

KELVIN KAMAU WANJIRU.....4TH PETITIONER

JOSEPH NJOROGE NDUNG'U.....5TH PETITIONER

JANE RUGURU KIAMA.....6TH PETITIONER

JANE MUTHONI MUIRURI.....7TH PETITIONER

RUTH MUKOBE KAMAU.....8TH PETITIONER

LUCY MURUGI MUIRURI.....9TH PETITIONER

HANNAH NJERI GICHERU.....10TH PETITIONER

LUCY NYAMBURA GICHERU.....11TH PETITIONER

DAVID MAINA WAITHAKA.....12TH PETITIONER

DAVID GUCHU NJOROGE.....13TH PETITIONER

JEREMANO NJOROGE.....14TH PETITIONER

ISAAC MUNGAI NDUNG'U.....15TH PETITIONER

PAUL WANJOGU GITITI.....16TH PETITIONER

JOSHUA MURIGI NJOGU.....17TH PETITIONER

PETER KANYORO KIARIE.....18TH PETITIONER

PAUL NGUGI NJOGU.....19TH PETITIONER

DAVID THIONGO MWANGI.....20TH PETITIONER

DANIEL KINUTH1A GUCHU.....21ST PETITIONER

PETER KARIUKI MUTHOGA.....22ND PETITIONER

KAMANDE KINYANJUI.....23RD PETITIONER

JAMES NG'ANG'A KARANJA.....24TH PETITIONER

EDWARD WAWERU KINYANJUI.....25TH PETITIONER

LYDIA WANJA MWANGI.....26TH PETITIONER

MARY ANN NDUTA NJERI.....27TH PETITIONER

MICHEAL NJOROGE NJUGUNA.....28TH PETITIONER

FAITH WANGUI NJERI.....29TH PETITIONER

JOSPHAT MWANGI MWAURA.....30TH PETITIONER

JOSEPH KINYANJUI MUNDE.....31ST PETITIONER

ISAAC CHEGE NJUGUNA.....32ND PETITIONER

HANNAH NDURU MUNDE .....33RD PETITIONER

KENNEDY GICHURE KIGUTA.....34TH PETITIONER

TERESIAH WAIRIMU MACHARIA.....35TH PETITIONER

PETER KIMANI MUTHONI.....36TH PETITIONER

ANTONY KARANJA MWANGI.....37TH PETITIONER

SUSAN WAITHIRA NJUGUNA.....38TH PETITIONER

DAVID MWANGI KARANJA.....39TH PETITIONER

JOSEPH NG'ANG'A MWAURA.....40TH PETITIONER

JAMES MUIRURI NDUNG'U.....41ST PETITIONER

JOHN NG'ANG'A KIBUGI.....42ND PETITIONER

SIMON WACIRA WANYOIKE.....43RD PETITIONER

PAUL MAINA MWENDA.....44TH PETITIONER

PETER WANYOIKE MURUGI.....45TH PETITIONER

KENNEDY NJOROGE WANGARI.....46TH PETITIONER

EUNICE WAMBUI MIRUGI.....47TH PETITIONER

SIMON MURANDI.....48TH PETITIONER

JOHN MWAURA NG'ANG'A.....49TH PETITIONER

GACIHI KIARIE.....50TH PETITIONER

DANIEL MBITHI KIMEU.....51ST PETITIONER

PATRICK MWENDA.....52ND PETITIONER

EZEKIEL NJAGA IRUNGU.....53RD PETITIONER

PATRICK GITHINJI IRUNGU.....54TH PETITIONER

STANLEY MBURU KARIU.....55TH PETITIONER

GEOFFREY NGOCI CHEGE.....56TH PETITIONER

PAUL NYUTU MBURU.....57TH PETITIONER

JAMES MURIGI KAMAU.....58TH PETITIONER

REBBECA WANJIRU NJOROGE.....59TH PETITIONER

FRANCIS MWAURA NGARUIYA.....60TH PETI

BENARD KURIA MWANGI.....61ST

DAVID MWANGI KINYUA.....62ND PETITIONER

STEPHEN GATHUUKI MBUGUA.....63RD PETITIONER

MOSES NDUNG'U KAMAU.....64TH PETITIONER

SAMUEL MUIRURI KAMAU.....65TH PETITIONER

DANIEL MATHENGE RUTHI.....66TH PETITIONER

BONIFACE MUTIE MUTISO.....67TH PETITIONER

THOMAS MUTHAMA MUNYAO.....68TH PETITIONER

PETER NGUGI MURIRA.....69TH PETITIONER

ELIJAH KAMAU NDIGA.....70TH PETITIONER

JOHN NJOROGE MBURU.....71ST PETITIONER

DANIEL MACHARIA KIBE.....72ND PETITIONER

JAMES KARANJA KIHOI.....73RD PETITIONER

JOHN MUHIA NJOROGE.....74TH PETITIONER

SAMUEL KURIA WAMBUI.....75TH PETITIONER

JAMES KARIUKI MUIRURI.....76TH PETITIONER

SAMUEL KARIUKI WANJIKU.....77TH PETITIONER

SAMUEL KARIUKI MATHENGE.....78TH PETITIONER

PETER MBURU KIMANI.....79TH PETITIONER

RUTH WAMUKORE KIMANI.....80TH PETITIONER

PATRICK MWANGI KOORI.....81ST PETITIONER

CATHERINE MABUTI WARUI.....82ND PETITIONER

KELVIN NDUNDA KIOKO.....83RD PETITIONER

HEZEKIA KIWARA MUTUGI.....84TH PETITIONER

FRANCIS NJOROGE NJENGA.....85TH PETITIONER

GILBERT MUGAMBI SAMUEL.....86TH PETITIONER

JOSEPH MUCHINA MUIGA.....87TH PETITIONER

DANIEL MBITHI KIMEU.....88TH PETITIONER

SAMSON KIITI SIMON.....89TH PETITIONER

JOSEPH MUTUKU KUO.....90TH PETITIONER

PETER NDUNG'U MUTURI.....91ST PETITIONER

JAMES KIOKO MUTINDA.....92ND PETITIONER

MOSES NDUNG'U KAMAU.....93RD PETITIONER

DORIS MUTHONI NGARI.....94TH PETITIONER

BONIFACE MWITE MUTISO.....95TH PETITIONER

WILSON KAMANDE WAIRIMU.....96TH PETITIONER

PETER KARIUKI GUCHU.....97TH PETITIONER

LUKE MACHARIA KAMAU.....98TH PETITIONER

ZAKAYO MUTUNYE GITITI.....99TH PETITIONER

PETER M. SHIPITI.....100TH PETITIONER

SIMON KANG'ETHE KIMANI.....101ST PETITIONER

PETER MWAURA MWEMAI.....102ND PETITIONER

JOSEPH KIHIA W.....103RD PETITIONER

WILSON KAMANDE M.....104TH PETITIONER

PETER MUINDE MAIGA.....105TH PETITIONER

BONFACE MUSEMBI MUTUA.....106TH PETITIONER

WILSON KIMANI MURIRA.....107TH PETITIONER

JOHN NDICHU KARANJA.....108TH PETITIONER

PATRICK MWANIKI KARANJA.....109TH PETITIONER

PAUL MUIA GATHEE.....110TH PETITIONER

PAUL NJOGU.....111TH PETITIONER

LUKAS WAMIRO KAMAU.....112TH PETITIONER

RACHAEL WAMBUI.....113TH PETITIONER

FRANCIS MWAURA KABATA.....114TH PETITIONER

JOHN KIMANI MUCHIRI.....115TH PETITIONER

SARAH WAMBUI MUGI.....116TH PETITIONER

RUTH MUTHONI MUCHIRI.....117TH PETITIONER

JOSEPHINE NDIKO NG'ANG'A.....118TH PETITIONER

DAVID KAMAU MWANGI.....119TH PETITIONER

GRACE WANJIRU.....120TH PETITIONER

MARY NGINA MWAURA.....121ST PETITIONER

ELIJAH NJUGUNA WAINAINA.....122ND PETITIONER

PETER NDUNG'U MUCHIRI.....123RD PETITIONER

RUTH NJERI KIMANI.....124TH PETITIONER

CYRUS NGUGI MUCHIRI.....125TH PETITIONER

CYRUS CHIIRA KARIMI.....126TH PETITIONER

ESTHER NJERI MUCHIRI.....127TH PETITIONER

JOSEPH MAHUGU WAITITU.....128TH PETITIONER

PAUL MUNGAI MUCHIRI.....129TH PETITIONER

ANN WANGUI NENE.....130TH PETITIONER

ANNAH WANGARI MUCHIRI .....131ST PETITIONER

-VERSUS-

THE NATIONAL LAND COMMISSION .....1ST RESPONDENT

THE ATTORNEY GENERAL .....2ND RESPONDENT

THE COUNTY GOVERNMENT OF MURANG'A .....3RD RESPONDENT

THE CHIEF LAND REGISTRAR .....4TH RESPONDENT

AND

DEL MONTE CORPORATION.....INTERESTED PARTY

ENVIRONMENT AND LAND COURT
MURANG'A
27 MAY 2022
RECEIVED

SUPPORTING AFFIDAVIT

I, **KELVIN KAMAU WANJIRU**, a resident of Kandara, Muranga County within the Republ Kenya do hereby make oath and state as follows:-

1. **THAT** I am one of the petitioners/applicants herein with the authority of the ot petitioners/applicants herein hence competent to swear this affidavit on own behalf and on behalf of the other petitioners/applicants. ***(Annexed her and marked KKW 1 is the letter of authority)***

2. **That** I am well conversant with matters in the petition and this applica hence competent to swear this supporting affidavit.

3. **THAT** the petitioners/applicants *(hereinafter referred to as applicants)* residents of Kandara in Murang'a County.

4. **THAT** some of the applicants were persons whose parcels of land w expropriated by the Government of Kenya during the colonial period leased to the Interested Party without compensation resulting in displacem while others are descendants of those displaced, the parcels being L.R N 12157 and 13169. ***(Annexed hereto and marked KKW 2 is a copy of the grai***

5. That the applicants have variously and in different fora lodged historic injustices complaints before the respondents seeking among other reparations for historical injustices visited upon them by the colonic administration in systematically displacing them and expropriating the parcels of land.

6. That upon engaging the various governmental agencies including all th respondents herein, the 2nd respondent, the National Land Commissic gazzetted its views that would be factored in when application for renewal c the leases issued to the Interested Party would come up for consideration t wit;-

e. *That a resurvey should be undertaken by the Director of Survey to establish there is any variance between land leased by Delmonte Kenya Limited and th land that it actually occupies;*

f. *That any residue land from such a resurvey should be surrendered and or give to the Kandara Residents (the petitioners herein) for resettlement of its memeb and the County Governments for Public purposes in the ratio of 70:3 respectively;*

g. *If there is no public land occupied by DelMonte Kenya Limited, enough lar should be set aside for resettlement of the petitioners.*
(Annexed hereto and marked KKW 3 is a copy of the Gazette notice)

7. That even after a lot of engagements, the respondents have given th applicants a wide berth who have now got credible information that the leas granted to the Interested Party are on the verge of being renewed and reissued without factoring in the input of the applicants herein nor ceding ar part thereof to address the historical debauchery of the land initially occupie by the applicants and their ancestors.

2nd respondent which had made succinct recommendations and directions in their constitutional mandate to address issues of historical injustices.

9. That further, the renewal of the said leases held by the Interested Party are subject of consideration and directives from the national Assembly specifically meant to preserve the space of the applicants as the people that suffered loss of ancestral land to the Interested Party and the hurried renewal/reissue of the leases is meant to frustrate and or defeat any redress of the historical land injustices suffered by the applicants over time.

10. That there is credible information on steps taken by the Ministry of Lands and Physical Planning which steps side-step any role of the applicants in the renewal process and in facts specifically excludes any consideration of the grievances raised variously by the applicants since independence.

11. That it is the applicants' belief that the 2nd respondent's gazette notice of 2019 is still valid, has never been revoked and which gazette notice presents legitimate expectation on the part of the applicants on their entitlement to a share of land leased by the Interested Party and any bid to side step their demands should be nipped in the bud by this honourable court.

12. The applicants are therefore apprehensive that unless this court intervenes and enjoins all the respondents from carrying on with the renewal and or reissue of leases to the Interested Party, the applicants' chance to right the historical injustices meted on them during colonial period will be rendered an academic exercise.

13. That it is therefore essential that this honourable court does preserve the suit properties until the petition herein is heard and determined in the interest of all the parties.

14. That the clandestine actions of the respondents are extremely prejudicial to the outcome of this suit and are aimed at rendering whichever judgment that may arise from the suit nugatory.

15. That this Honourable Court has inherent powers to grant the orders sought as it will lead to a fair determination of the suit when all the issue between the applicants and the respondents are addressed fully in the hearings.

16. **THAT** what is deponed herein above is true to the best of my knowledge, Information and belief.

SWORN AT THIKA BY THE SAID
GEORGE KELVIN KAMAU WANJIRU
THIS....24th.....DAY OF.....May.....2022

DEPONENT

BEFORE ME

COMMISSIONER FOR OATHS

DRAWN & FILED BY:
ISHMAEL & COMPANY ASSOCIATES,
TABBY HOUSE 3RD FLOOR,
COMMERCIAL STREET,
P.O. BOX 446-01000,
THIKA.

KANDARA
INTERCITY

30th March, 2023

Our Ref: KRA/CCM/03/2023

Your Ref: TBA

The Implementation Committee
NLC Gazette Notice No 1995 of 1st March 2019
Historical Land Injustice Petition NLC/HLI/004/2017

Dear Sir,

RE: REQUEST FOR OUICK AND TIMELY NLC AND NATIONAL ASSEMBLY DIR ECTIVES IMPLEMENTATION IN THE KANDARA RESIDENTS ASSOCIATION HISTORICAL LAND INJUSTICE PETITION TO NLC AGAINST DEL MONTE KENYA LIMITED.

The above subject matter refers,

Kandara Residents Association comprises members within Muranga and Kiambu Counties, who are the victims of Historical Land Injustice and atrocities committed by Del Monte

Kenya Limited. We filed a complaint of Historical Land Injustice at the National Land

Commission in the year 2017 under section 15 of the National Land Commission Act vide

NLC/HLI/004/2017 as the claimants against Del Monte Kenya Limited as the respondents and the County Governments of Muranga and Kiambu as interested parties. The NLC made a determination on 7th February 2019 which was gazzetted vide gazette notice 1995 of 1st March 2019 in which Kandara Residents Association's claim was allowed with the following recommendations:

a) A resurvey should be undertaken by the Director of Survey in conjunction with County Governments of Muranga and Kiambu to establish if there is any variance between land leased and land the company occupies. Any residue should be given/surrendered to the claimants for Resettlement and the County Government for public purpose in the ratio of 70:30 respectively.

b) Should it be found that there is no residue, then on expiry of the lease a suitable amount of Land should be set aside and held in trust by the County Governments for purposes of resettlement and Public utilities.

c) The respondent to surrender all public utility within the land to the relevant National and County Government agencies whether the leases have expired or not.

Due to lengthy delay and non-implementation of the National Land Commission recommendations, Kandara Residents Association petitioned the National Assembly which through its Departmental Committee on Lands made recommendations which later on the National Assembly's Select Committee on Implementation made the following recommendations which were approved for tabling in the National Assembly on 22nd December 2022 and adopted on 26th May 2022:

1. The Lease for L.R No 12158, which resulted from the amalgamation of L.R No 10741, 10862, 11146, 11312 and 2953 should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement, within sixty (60) days of the adoption of the report failure to which the committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

2. In consultation with the National Land Commission, the Ministry of Lands and Physical Planning should allocate excised land from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ration of 70:30 respectively as per the National Land Commission's Gazette Notice 1995 of 2019, within sixty (60) days of the adoption of the report failure to which the committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

Summary of the land occupied by Del Monte Kenya Limited in both Muranga and Kiambu counties

Land occupied by Del Monte Kenya Limited in Muranga County

LR 12157 : 9730 acres

LR 12157/2 : 100.98 acres

LR 12157/3 : 7.3 acres

LR 12157/4 : 7.7 acres

LR 12157/5 : 9.07 acres

LR 13289 : 56 acres

LR 10862 : 1372 acres

LR 10741 : 2260 acres

LR 11146 : 1211 acres

Total: 14,754.14 acres

Surrendered/ Land to be reverted to the Government in Muranga

LR 10862 : 1372 acres

LR 10741 : 2260 acres

LR 11146 : 1211 acres

Total: 4,843 acres

Land occupied by Del Monte Kenya Limited in Kiambu County

LR 12203/1 : 5191 acres

LR 12203/2. : 139 acres

LR 11312. : 1606 acres

LR 2953. : 1000 acres

LR 13169. : 60 acres

Total : 7890 acres
Surrendered/ Land reverted back to the Government in Kiambu County
LR 11312 : 1606 acres
LR 2953. : 1000 acres
Total : 2606 acres
Kandara Residents Association is entitled to 70% while the County Governments 30 % of all public land.

Challenges

a) Justice delayed is justice denied. The delay to implement the NLC determination and National Assembly's directives continues to affect the victims of Historical Land Injustice negatively. Many have died because of old age and their children failed to attain good education since majority of them live in Thika slums, Kihiu Mwiri in Gatanga, Makeji and Kabati areas in Kandara exposing them to pineapple stealing. Therefore we seek for quick intervention to reverse the vice by implementing NLC and National Assembly's directives.
b) Majority of victims of Historical Land Injustice live in slums, thus leaving them vulnerable to join illegal groups. To avoid the History of Kihiu Mwiri in fighting, we urge the Government to intervene and order a quick implementation of NLC and National Assembly's directives to the satisfaction of all parties.
c) There is great confusion as it seems the County Governments of Muranga and Kiambu are already moving in haste to take over the allocated parcels to them or even negotiate by themselves thus leaving a great possibility of the main victims of the historical land injustices to just be bystanders, such a feeling if unchecked may lead to possible strife, protests or even chaos.

Prayers

1. NLC to give recommendation to the Ministry or allotment of 70% of 4843 acres which is the reverted land back in Muranga and 70% of 2606 acres which is the reverted/surrendered Land in Kiambu County.
2. The Ministry of Lands and Settlement through the departments of Land adjudication and settlement to allocate Kandara Residents Association 70% of reverted back/surrendered Land as per the NLC recommendations.
3. In case of difficulty in implementation of the NLC recommendations, the Ministry of Lands, Public Works and Urban Development together with the NLC to use Alternative Dispute Resolution to settle the more than 3000 acres of unused land within Del Monte Kenya Ltd in both Muranga and Kiambu Counties or compensate the victms or relocate them to another place for settlement.

We look forward to reeivig your response.

(We have enclosed all the referenced documents herewith).

Yours sincerely,

Karira Kimara.	Chairman.	0715 380135.	.....
Geoffry Gichobe Kairu	General Secretary.	0722 873847	.....
Florence Njeri Mwaura	Organizing Secretary	0722916355	.....



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

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Vol. CXXI—No. 27 NAIROBI, 1st March, 2019 Price Sh. 60

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S/No.	Case No. and County	Parties	Recommendation
	Nairobi County		not available for allocation. The land lies within a riparian reserve and the County Government of Nairobi should clear the land of any human settlement.
8.	NLC/HLI/070/2017 Kiambu County	Kamiti Forest Squatters, Kamiti Anmer Development Association, Muungano wa Kamiti Society (Claimants) and Kenya Forest Services (KFS) (Respondent)	The claim is allowed. The allotment letters issued to the members of the 2nd Claimant (Kamiti Anmer Development Association) are found to be valid and therefore the rightful occupants of the subject land. The allottees and the squatters should adopt Alternative Dispute Resolution (A.D.R) with a view that the land held by the allottees be partly redistributed to the squatters. Kenya Forest Service is hereby directed to degazette the Kamiti Anmer Forest.
9.	NLC/HLI/004/2017 NLC/HLI/064/2017 Kiambu and Muranga County	Kandara Residents Association (Claimant) and Del monte Kenya Limited (Respondent) County Government of Muranga (Interested)	The claim is allowed. A resurvey should be undertaken by the Director of Survey in conjunction with County Governments of Murang'a and Kiambu to establish if there is any variance between land leased and land the company occupies. Any residue should given/surrendered to the Claimants for resettlement and the County Government for public purpose in the ratio of 70:30 respectively. Should it be found that there is no residue, then on expiry of the lease a suitable amount of land should be set aside and held in trust by the County Governments for purposes of resettlement and public utilities. The respondent to surrender all public utility within the land to the relevant National and County Government agencies whether the leases have expired or not.
10.	NLC/HLI/003/2017 Muranga County	Stanley Muigai Kiama and Jeremy Kiama	The claim is allowed. The Commission recommends monetary compensation by the National Government to the claimants over the loss of their ancestral land. The family should get recognition and an apology from the Government for their loss.
11.	HLI/506/507/508/2018 Kiambu County	Kirathimo land, Limuru	The claim is allowed. The commission recommends that the land L.R 25484/2-22, L.R. 13121 and L.R. 15473 revert to County Government of Kiambu, title be issued in the name of the County Government as trustees. The Commission directs that the Land is not available for any allocation now or in future.
12.	NLC/HLI/519/2018 Kiambu County	Uplands – Kiambu	The claim is allowed. The commission recommends that the land L.R. No. 7593/1 and 7593/2 revert to County Government of Kiambu, title be issued in the name of the County Government as a trustees. The Commission directs that the Land is not available for any allocation now or in future.
13.	NLC/HLI/55O/2018 Kiambu County	Flourspar Land-(Diatomite)	The claim is allowed. The commission recommends that the land L.R. Nguirubi/Thigio/1882, 1534, 1698 and 1699 reverts to County Government of Kiambu. Title be issued in the name of the County Government as a trustee. The Land is not available for any allocation now or in future. The Commission directs that any titles by private developers on the land be revoked.
14.	NLC/HLI/537/2018 Kiambu County	Mangu Block 19 and 20 Residents CBO	The claim is allowed. The Commisssion adopts the report by Thika District Land officer on public utilities within Thika Municipality block 19 Mang'u and block 20 Ngoingwa company limited. REF: LND/TKA/ADM/29/VOL.111 dated 12th September, 2018. The following plots are recovered for public utility and reverted to the National and County Government as appropriate. PLOT/Nos.1213,1990,1993, 1995, 1999, 2004, 255, 1992, 2058, 1142, 2260, 1995, 1999,142 and 1998. Similarly the Commission recovers the following plots from Block 20 for public utilities as follows: Plot No/Nos 533, 584, 202, 255, 340, 342, 1035 and 995, 457 and 335, 330, 341, 340, 2368 and 247. The Commission upholds titles to the following plots; Block 19/199, Block 19/2035, Block 20/2159, Block 20/1092, Block 20/ 2894, Block 20/ 338 & Block 20/994. If there are any other public lands parcel under ownership of private entities and/or individuals be surrendered and such titles be cancelled.
15.	NLC/HLI/215/2018	Mau Mau Jamhuri ya Kenya Umbrela Body	The claim is allowed.

PARLIAMENT OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-SIXTH SESSION

SELECT COMMITTEE ON IMPLEMENTATION

REPORT ON THE IMPLEMENTATION STATUS OF

1. THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED; AND

2. THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON ITS CONSIDERATION OF THE PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING THE INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES;

AS AMENDED AND ADOPTED BY THE HOUSE ON THURSDAY, 26TH MAY, 2022

Directorate of Audit, Appropriations & Other Select Committees
Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI

JUNE, 2022

4.0 COMMITTEE RECOMMENDATIONS

The Committee, having reviewed the implementation status of the two reports and considered the evidence received, finally recommends that: -

69. The lease for L.R No. 12158, which resulted from the amalgamation of L.R No. 10741, L.R. 10862, LR No. 11146. LR No. 11312 and LR No. 2953 should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

70. In consultation with the National Land Commission, the Ministry of Lands and Physical Planning should allocate the Land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively as per the National Land Commission's Gazette Notice 1995 of 2019, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

71. The Inspector General of Police should ensure that the Directorate of Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2, and submits a report to the National Assembly within sixty (60) days of the adoption of this report.

SIGNED..... DATE 2ND JUNE, 2022.

HON. MOITALEL OLE KENTA, MP

CHAIRPERSON, COMMITTEE ON IMPLEMENTATION

PRESENTED IN THE 23 JUL 1962 NAIROBI LAND TITLES REGISTRY

677

COLONY AND PROTECTORATE OF KENYA

THE REGISTRATION OF TITLES ORDINANCE

(Chapter 160)

GRANT NO. I.R. 18982

ANNUAL RENT Shs. 369/- (Rupees)

TERM 99½ years from 1.6.1962

KNOW ALL MEN BY THESE PRESENTS that in pursuance of two Surrenders registered in the Crown Lands Registry at Nairobi in Volume H.2 Folio 299/20 and Volume H.16 Folio 203/18 respectively

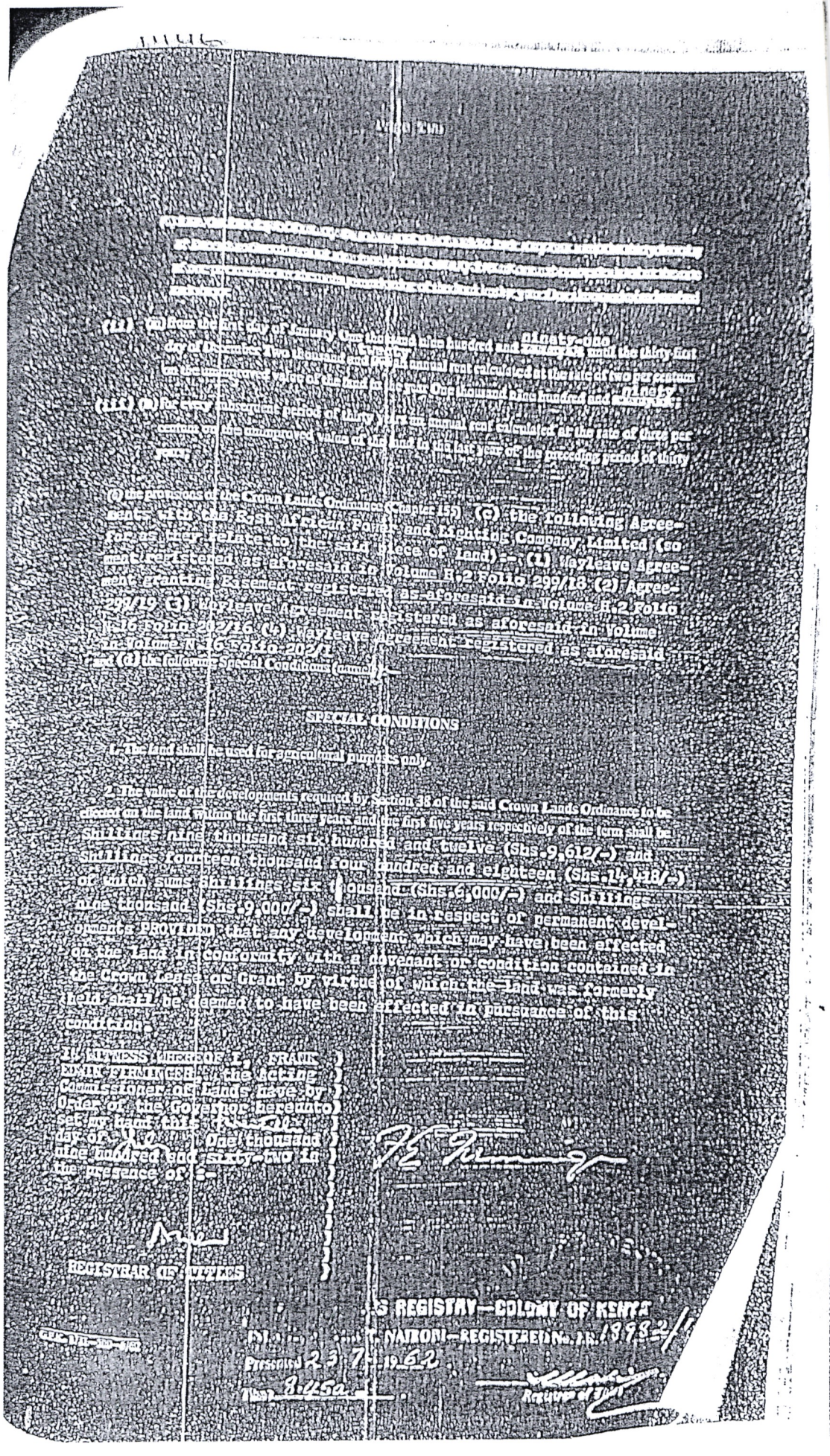
the GOVERNOR AND COMMANDER-IN-CHIEF OF THE COLONY AND PROTECTORATE OF KENYA on behalf of HER MOST GRACIOUS MAJESTY QUEEN ELIZABETH THE SECOND under and by virtue of the powers vested in him hereby GRANTS unto CHUI ESTATES LIMITED having its registered office at Nairobi (Post Office Box Number 30178) in the said Colony

(hereinafter called "the Grantee") All that piece of land situate East of Thika Township in the Thika

District of the said Colony containing by measurement One thousand two hundred and eleven acres (less road reserve of eight acres) (1203) acres or thereabouts that is to say Land Reference Number 11146 (Original Nos. 4873 and 4874) which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 79168 deposited in the Survey Records Office at Nairobi To HOLD for the term of nine hundred and forty-four years

from the first day of June One thousand nine hundred and sixty-two Subject to (a) the payment in advance on the first day of January in each year of the rents hereinafter prescribed (namely):—

(i) from the first day of June One thousand nine hundred and sixty-two until the thirty-first day of December One thousand nine hundred and sixty an annual rent of Shillings three hundred and sixty-nine;



[illegible]

(ii) (a) From the first day of January One thousand nine hundred and ninety-one until the thirty-first day of December Two thousand and ninety-one annual rent calculated at the rate of two per centum on the unimproved value of the land in the year One thousand nine hundred and ninety-one;

(iii) (a) For every subsequent period of thirty years an annual rent calculated at the rate of three per centum on the unimproved value of the land in the last year of the preceding period of thirty years.

(b) the provisions of the Crown Lands Ordinance (Chapter 155) (c) the following Agreements with the East African Power and Lighting Company Limited (so far as they relate to the said piece of land):- (1) Wayleave Agreement registered as aforesaid in Volume R.2 Folio 299/18 (2) Agreement granting Easement registered as aforesaid in Volume R.2 Folio 299/19 (3) Wayleave Agreement registered as aforesaid in Volume R.16 Folio 202/16 (4) Wayleave Agreement registered as aforesaid in Volume R.16 Folio 202/1 and (d) the following Special Conditions (namely):-

SPECIAL CONDITIONS

1. The land shall be used for agricultural purposes only.

2. The value of the developments required by Section 38 of the said Crown Lands Ordinance to be effected on the land within the first three years and the first five years respectively of the term shall be Shillings nine thousand six hundred and twelve (Shs.9,612/-) and Shillings fourteen thousand four hundred and eighteen (Shs.14,418/-) of which sums Shillings six thousand (Shs.6,000/-) and Shillings nine thousand (Shs.9,000/-) shall be in respect of permanent developments PROVIDED that any development which may have been effected on the land in conformity with a covenant or condition contained in the Crown Lease or Grant by virtue of which the land was formerly held shall be deemed to have been effected in pursuance of this condition.

IN WITNESS WHEREOF I, FRANK EDWIN FIRMINGER, the Acting Commissioner of Lands have by Order of the Governor hereunto set my hand this [illegible] day of [illegible] One thousand nine hundred and sixty-two in the presence of:-

REGISTRAR OF TITLES

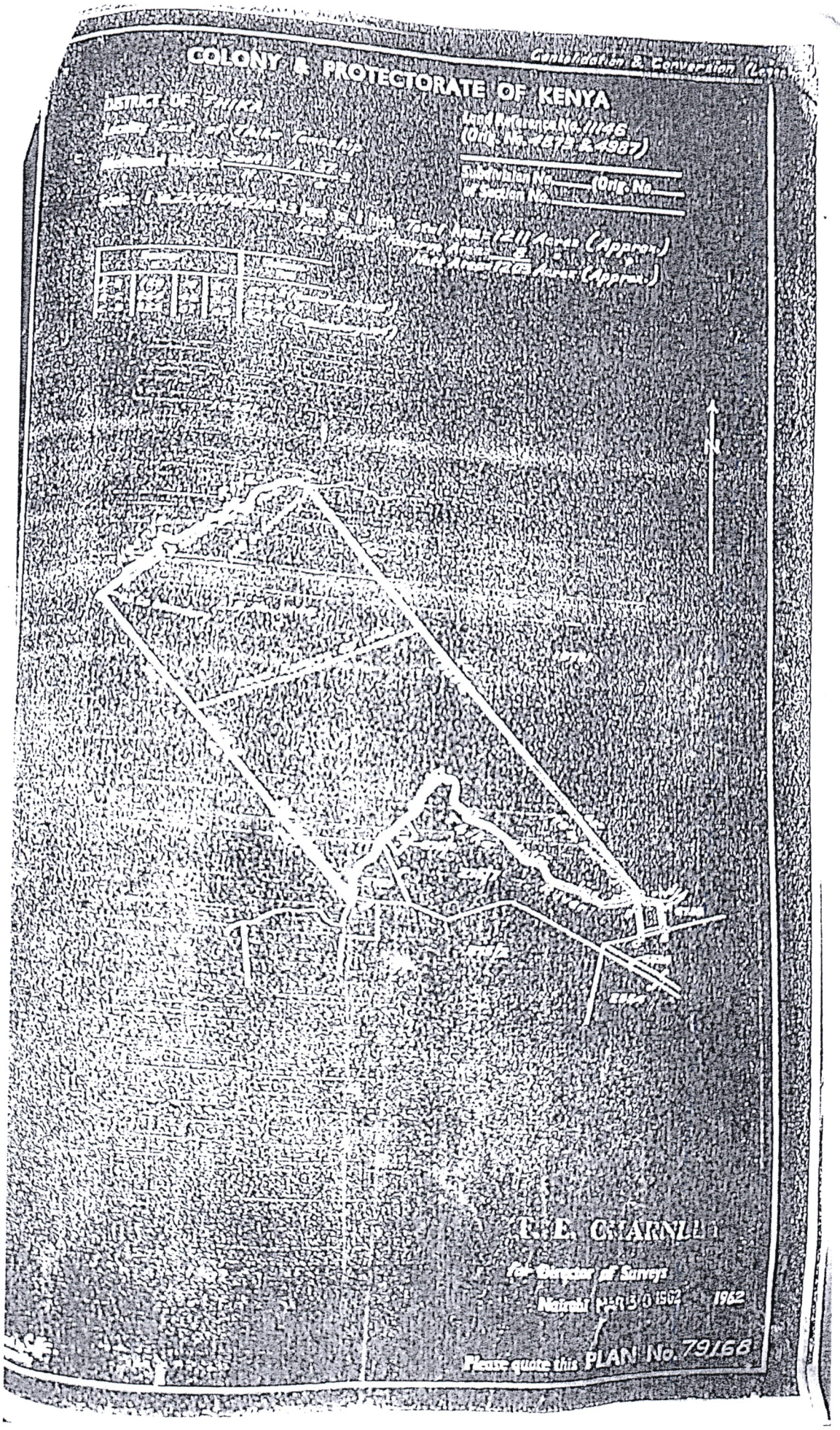
[illegible] REGISTRY—COLONY OF KENYA

[illegible] NAIROBI—REGISTERED No. [illegible] 18982/1

Presented 23 7 1962

Time 8.45a

Registrar of Titles


COLONY & PROTECTORATE OF KENYA
Consolidation & Conversion (Leases)
DISTRICT OF TAITA
Land Reference No. 11146
(Orig. No. 4875 & 4987)
Subdivision No. (Orig. No.
of Section No.
Total Area - 1211 Acres (Approx.)
Net Area - 1203 Acres (Approx.)
N
R. E. CHARNLEY
for Director of Surveys
Nairobi 1962
Please quote this PLAN No. 79168

2

Surrender to The Government of the Republic of Kenya

59

5.1.1973 Ishal

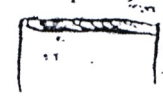
I hereby certify this to be a true copy of the Original

Stamp duty Sh 500=

Copying A/c Sh 20=

Sh 520=

Date 10th April 2019



O. J. Callaright 3/2

THE REPUBLIC OF KENYA

LAND REGISTRATION ACT
REGISTRATION OF TITLES ACT (REPEALED)

OFFICIAL SEARCH CERTIFICATE

PROPERTY SECTION

IR IRN/CR/CRN:	18982
LR NUMBER:	11146
APARTMENT NUMBER:	NIL
DEED PLAN NUMBER:	79168
AREA SIZE	1203 ACRES
TENURE	LEASEHOLD
TERM	944 YEARS LEASE FROM: 1962-06-01
RENT	KSHS 369/= (REV)

PROPRIETOR SECTION

1	1962-07-23	CHUI ESTATE LIMITED P.O BOX 30158 THIKA
2	1973-01-05	SURRENDER TO THE GOVERNMENT OF THE REPUBLIC OF KENYA

CUMBRANCE SECTION (NIL)

AG. CHIEF LAND REGISTRAR

CLAIMER: THIS CERTIFICATE IS SYSTEM GENERATED AND VALID.YOU MAY CONFIRM VALIDITY OF THIS CERTIFICATE ON THE ECITIZEN PORTAL BY VISITING WWW.ECITIZEN.GO.KE

2ND AUGUST 2022 13:02:40

CamScanner

62-1/2

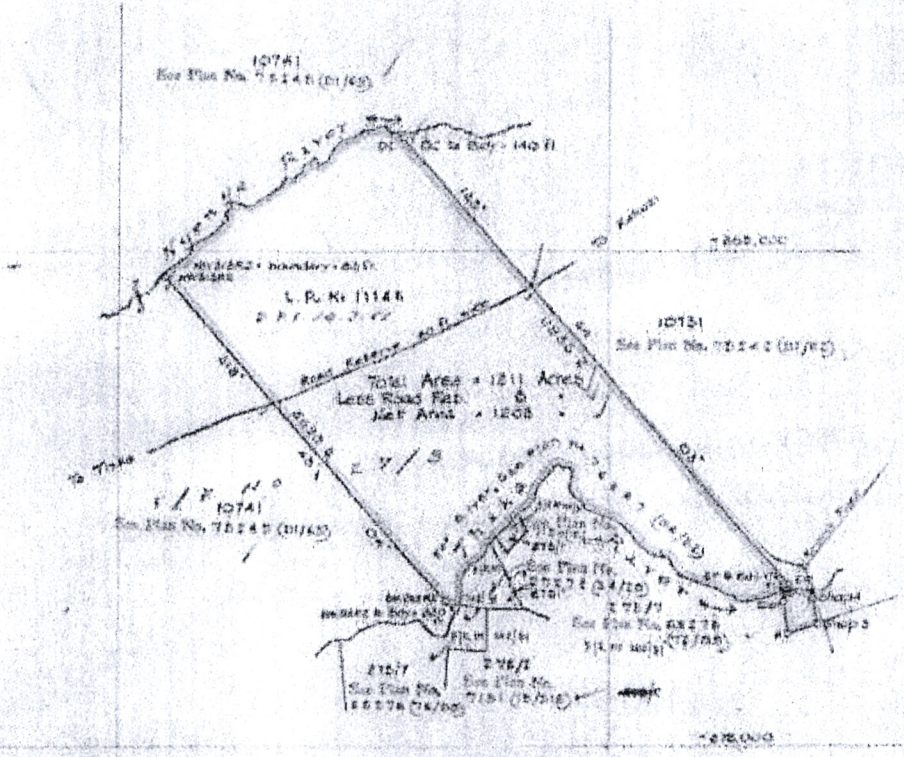
Form No. 7

Subdiv. of Equatorial & Local 31° E Co-Ordinates

Station	Y	X
Plan	372076.6	88587.5
DC	368716.7	89006.0
EP	371748.2	88654.5
H	372116.4	88677.2
NW3/8R2	369519.2	75943.6
SW3/8R3	372004.2	81673.1
Shop5	372351.2	89264.4
Shop4	372020.4	85184.2

Cairn & Beacon	
Iron Rod in concrete	Plan No 65678 (11/58)
A.I. Old concreted in	" 78245 (5/65)
A.I.C. Old	" "
" "	" 65678 (14/58)
" "	" 78245 (5/65)
A.I. Old concreted in	" "
Iron Pipe near Rail	Ray valved
Rail Old	" "

Line	Bearing			Distance
Part Boundary				104
Shop4 - "				100'
DAD - H	172°	04'	08"	646.1
H - Shop 3	134°	46'	35"	629.5
Shop5 - Shop4	345°	18'	57"	5402



Consolidation & Conversion
Leasehold
62/1/2

Compiled by
S.E. Cairn-Gham
Surveyor
28 IX 1961

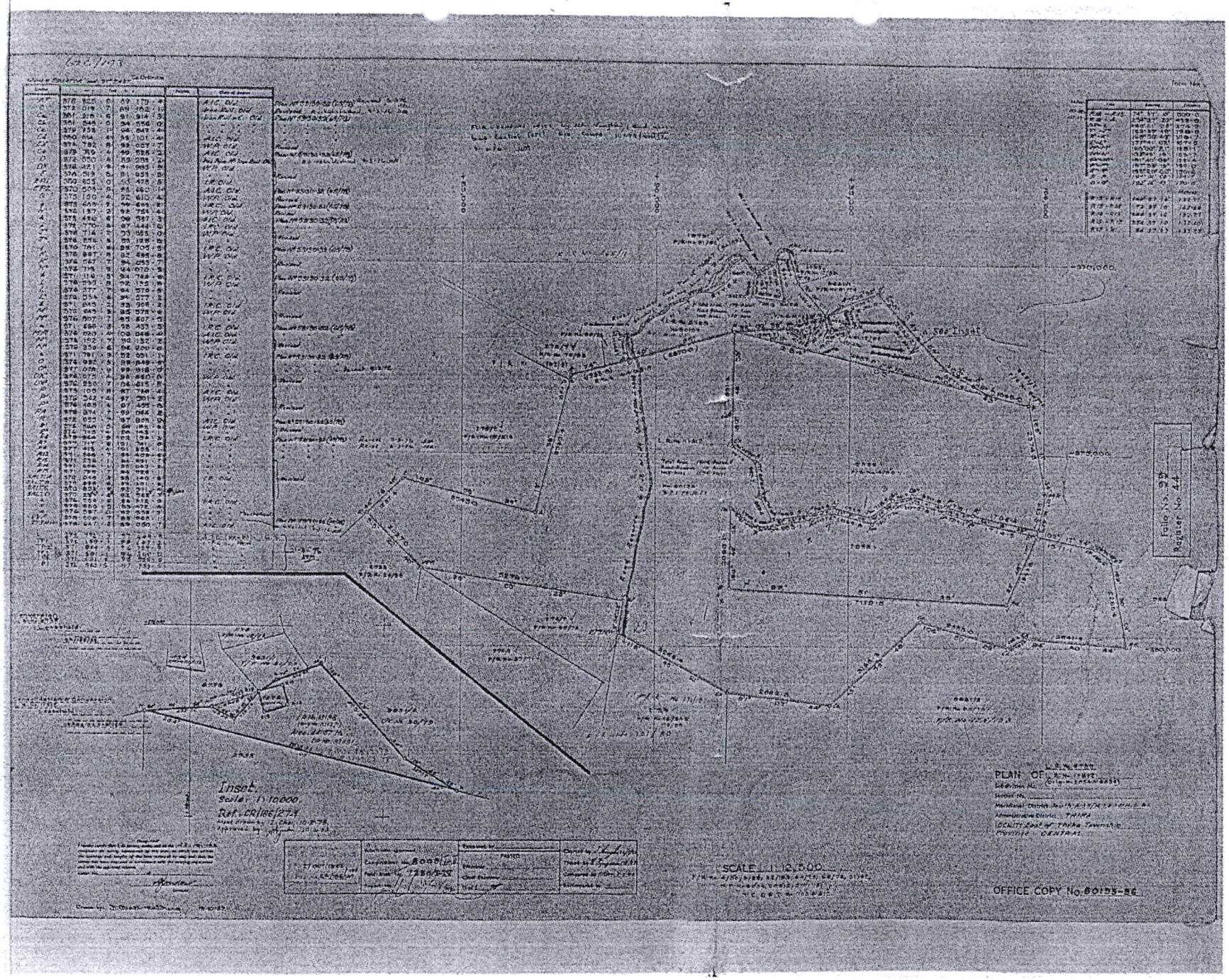
SCALE :- 1:25,000

See Plan No. 77782 (12/62), 78084 (23/62), 65678 (14/58), 78245 (5/65), 78242 (21/62), D.P. No. 17782, 25084 T.C. 6/8, T. No. 1143, 615

SURVEY RECORDS OFFICE	Subdivision approved	Examined by	Cleared by
1962	Computation No. 10675/A-2211	PASSED	Traced by
Plan 62/1/2	Field Book No. "	Examiner	Compared by
	Report No. 12902/2	Chief Examiner	Recompared by
		Date of Conveyance 25/1/62	

PLAN OF L.R. No. 11146
(Orig. No 4872 & 4957)
Subdivision No.
Section No.
Meridional District South A 27/11 1 A.S.
Administrative District T.N.I.K.A.
LOCALITY East of Tiska Township
Province Central

OFFICE COPY No. 79168
Folio No. 98
Register No. 28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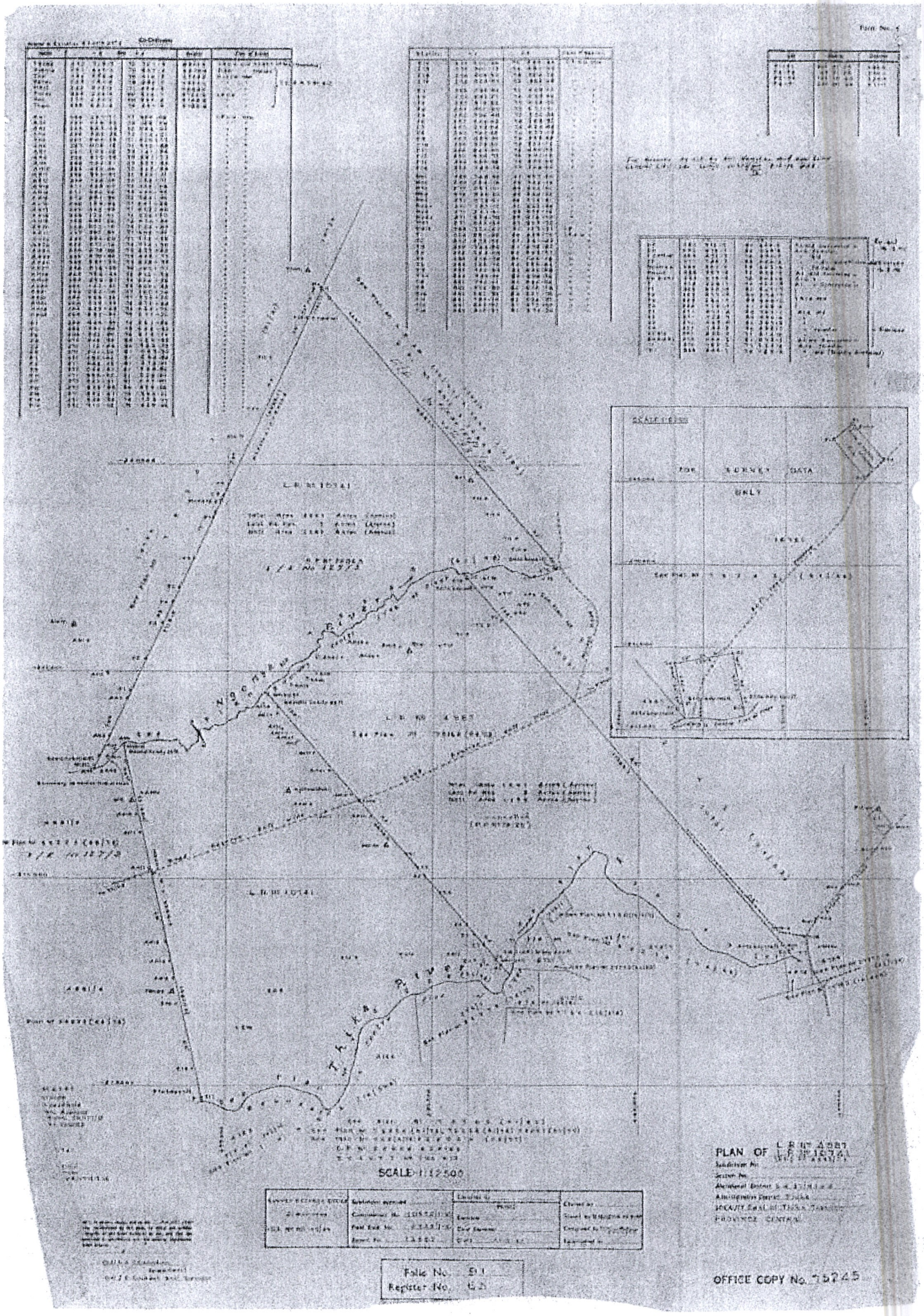
PLAN OF
OFFICE COPY No. 80195-86
Folio No. 99
Register No. 44

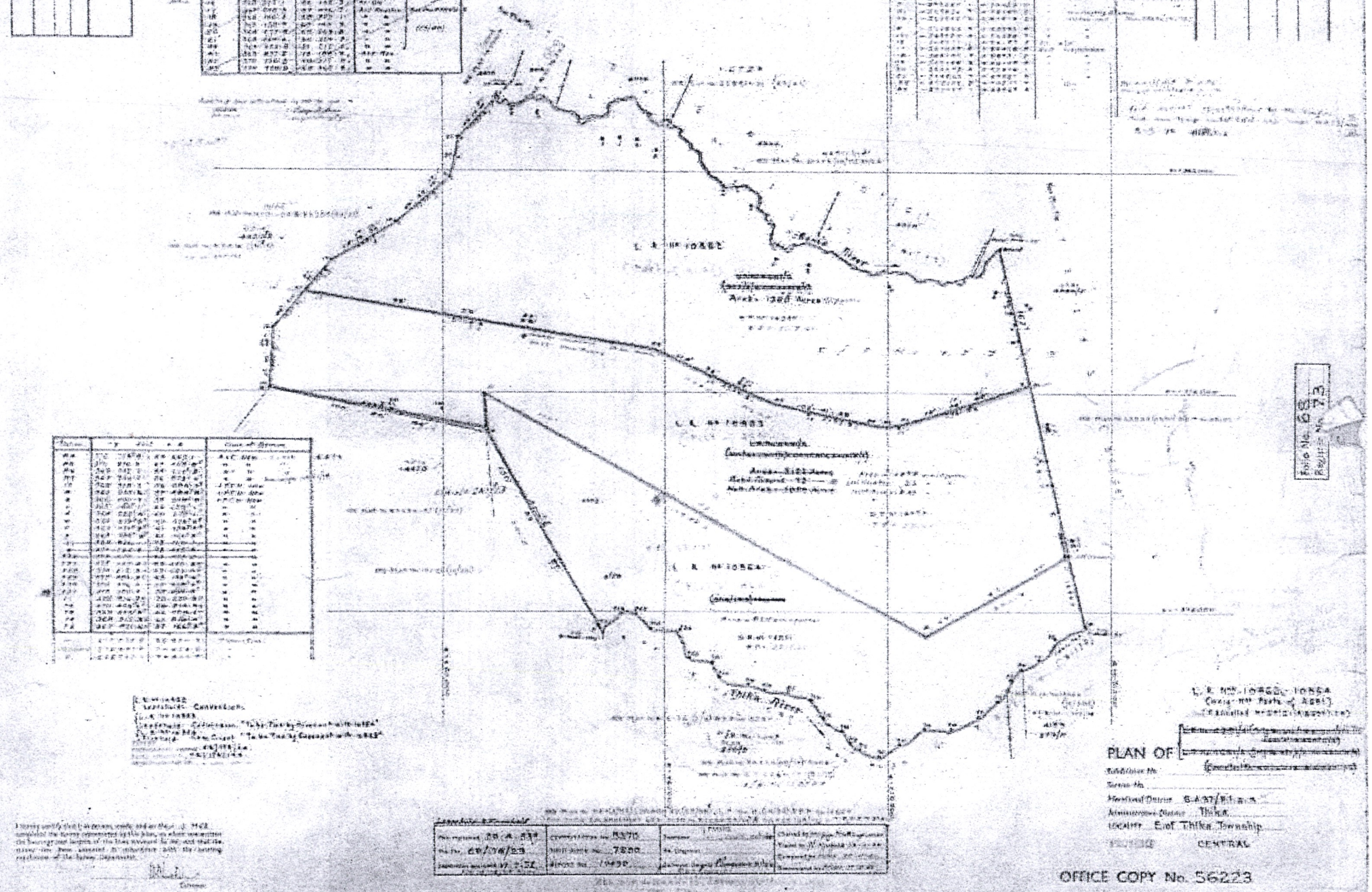
98



SCALE 1:12500
FOR SURVEY DATA ONLY
PLAN OF
PROVINCE CENTRAL
Folio No. 91
Register No. 65
OFFICE COPY No. 75245

Co-ordinates

Scale: 1:12500



PLAN OF

Locality E of Thika Township

CENTRAL

OFFICE COPY No. 56223

Okatch & Partners
Advocates
Commissioners for Oaths, Notaries Public & Patent Agents

Lowerhill Duplex Apartments,
2nd Floor, Suite 18, Upperhill road
P.O. Box 38480 - 00100 Nairobi
Cell: +254 703 699 333
Telefax: +254 020 201 6297
Email: info@okpadvocates.co.ke
Web: www.okpadvocates.co.ke

RECEIVED
08 SEP 2023
DEPUTY CLERK
J.W.N
P.O. Box 41842 - 00100, NAIROBI

OUR REF: O&P/1284/2023 **YOUR REF: TBA** **DATE: 6th SEPTEMBER, 2023**

THE CLERK
NATIONAL ASSEMBLY OF KENYA
P.O BOX 41812-00100
PARLIAMENT BUILDINGS
NAIROBI.

Joshua Ondari to facilitate DDC-Attorney 8/9/23 8/9/23

NATIONAL ASSEMBLY
RECEIVED
07 SEP 2023
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

Attn: The Chairman, Departmental Committee on Lands, National Assembly.

Dear Sir,

RE: **IMPLEMENTATION OF THE 12th NATIONAL ASSEMBLY'S RECOMMENDATION ON DEL MONTE LAND AS PER NATIONAL LAND COURT DETERMINATION.**

The above matter refers.

We act for Kandara Residents Association (***hereinafter referred to as "our clients")*** under whose instructions we address you as hereunder.

Our clients petitioned the National Assembly on the **25th day of February, 2021** pursuant to which the Select Committee on Implementation took up the matter and made the following recommendations in a report dated the **26th day of May 2022**:

1. ***The Lease for L.R No 12158, which resulted from the amalgamation of L.R No 10741, 10862, 11146, 11312 and 2953 should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement, within sixty (60) days of the adoption of the report failure to which the committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.***

2. ***In consultation with the National Land Commission, the Ministry of Lands and Physical Planning should allocate excised land from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ration of 70:30 respectively as per the National Land Commission's Gazette Notice 1995 of 2019, within sixty (60) days of the adoption of the report failure to which the committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.***

In acknowledging the Departmental Committee's mandate which includes ***inter alia*** to investigate, inquire into and report on all matters relating to the mandate, management activities, administration, operations and estimates of assigned Ministries and Departments in accordance with ***The National Assembly Standing Order, 216,*** our clients request that in coming up with your report and finding:

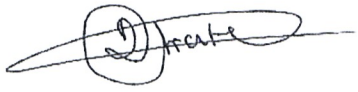
Mr. Duncan Okatch - Senior Partner
Ms. Diamond Amutavy - Senior Associate
Ms. Molly Anjiko - Advocate
Ms. Lorine Olwe - Advocate

DIRECTOR
RECEIVED
08 SEP 2023

a. ***You adopt the report made by the Twelfth Parliament*** and ***The Presidential Directive on the Del Monte Land;***
b. ***You recommend to the Ministry of Lands and the National Land Committee the full implementation of the National Assembly and the National Land Committee; and***
c. ***You consider recommending Cabinet approval of your report to avert the possibilty of political interference on the same.***

We thank you in advance.

Yours faithfully,



DUNCAN OKATCH
info@okpadvocates.co.ke

CC- Client

Okatch & Partners
Advocates
Commissioners for Oaths, Notaries Public
& Patent Agents

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2nd Floor, Suite 18, Upperhill road
P.O. Box 34651-00100 Nairobi
Cell: +254 703 699 333
Telefax: +254 020 201 6297
Email: info@okpadvocates.co.ke
Web: www.okpadvocates.co.ke

OUR REF:O&P/611/2018 **YOUR REF:TBA** **DATE: 21st JUNE, 2023**

THE CHAIRMAN
LANDS COMMITTEE
KENYA NATIONAL ASSEMBLY
P.O. BOX 41842 – 00100
NAIROBI.

RE: INVESTIGATIONS INTO THE FRADULENT DEALINGS IN RESPECT OF KANDARA RESIDENTS VERSUS DEL MONTE KENYA LIMITED BY THE MINISTRY OF LANDS AND PHYSICAL PLANNING.

Mr. Chairman Sir,

The above dispute is a historical injustice case dating back to around 1920 then, Agro French which was later Kenya Canners and present day Del Monte Kenya Limited evicted the original owners of the disputant land parcels during the forceful acquisition by the colonial government in the colonial period.

Mr. Chairman Sir, upon the promulgation of the new Constitution, under *Article 67(2)* of the *Constitution of Kenya (2010)* and under *section 15 of the National Land Commission Act* touching on historical land injustices, the 1920 victims in the areas around Kiambu and Muranga formed an Association, Kandara Residents Association in 2014 which was later registered in 2017.

Mr. Chairman Sir, with the above developments and upon consultation amongst themselves and other stake holders, the Association through the late Philip Njuguna in 2017, filed a complaint against Del Monte Kenya Limited at the National Land Commission, in the matter of historical land injustice Reference: NLC/HLI/004/2017.

Mr. Chairman Sir, upon review of the above Petition, the National Lands Commission made a determination on 7th February, 2019 vide gazette Notice No. 1995 of 1st March, 2019 allowing the claim in favor of the Kandara Residents Association in the following terms:

i) A resurvey to be undertaken by the Director of Survey in conjunction with the County Governments of Muranga and Kiambu to establish if there is any variance between the leased land and the land that the company occupies.
Any residue should be given/surrendered to the claimants for resettlement and the respective County Governments for public purposes in the ratio of 70:30 respectively.

ii) Should it be found that there is no residue, then on expiry of the lease, a stable amount of land should be set aside and held in trust by the County Governments of Kiambu and Muranga for purposes of resettlement and public utilities.

iii) The respondents (Del Monte Kenya Limited) to surrender all public utility land to the relevant National and county Government agencies whether the leases have expired or not.

Mr. Chairman Sir, there was an intentional and unexplained delay as to the implementation of the above recommendations by the National Land Commission. As a result, a Petition to parliament was drafted and reported to the Speaker Hon Justin Muturi (as he was) on behalf of the Kandara Residents Association on the 11th June, 2019.

Mr. Chairman Sir, the Departmental Committee on land chaired by Dr. Hon. Rachel Nyamai (as she was) heard submissions by the petitioner (Kandara Residents Association), the National Land Commission, Chief Administrative Secretary of Land and Physical Planning, and Hon Jude Njomo, MP Kiambu (as he was) and the committee made the following recommendations:

i) **A resurvey on the land held by Del Monte Kenya Limited be made and a report made within 90 days.**

ii) **The National Land Commission investigates how Del Monte Kenya Limited acquired land parcel LR 10862, 10741, 11312, 11146 that had been surrendered to the Government of Kenya by Sassa Coffee and Rapport B Limited.**

Mr. Chairman Sir, in acting on the above recommendations, on 22nd April, 2021 Ms Farida Karoney the then Cabinet Secretary, Ministry Of Lands and Physical Planning, responded to recommendation Number 2 of the Departmental committee on land on the investigations on the circumstances under which Land Register Numbers 10862, 10741, 11312 and 11146 that were said to have been surrendered to the government by companies, Sassa Coffee and Rapport B Limited were said to have been subsequently leased to Del Monte Kenya Limited.

Mr. Chairman Sir, further on 2nd August, 2021, the Ministry Of Lands and Physical Planning tabled a report of the resurvey of land parcels held by Del Monte Kenya Limited in Kiambu and Muranga counties which held that Del Monte Kenya Limited did not hold excess land.

Mr. Chairman Sir, following the tabling of the aforementioned reports, the selected committee on the implementation on the report on the implementation status the issue under Minute Number 2, the committee observed that the recommendation by the National Land Commission was yet to be implemented and that the committee was not satisfied with the Ministry Of Lands and Physical Planning's submission that Del Monte Kenya Limited does not hold excess land.

Mr. Chairman Sir, further, under Minute 3.0, the committee stated that it was not clear how the company (Del Monte Kenya Limited) acquired the disputant land and that there were no sufficient records on how the transfer of the land to Del Monte Kenya Limited in 1973 were carried out and noted that the land ought to be public land.

Mr. Chairman Sir, attached herewith are the documents by Real Plan Consultants showing that all the Parcels of the Land claimed and occupied by the Delmonte Kenya Limited have been approved for this renewal; this is disregard of the National Assembly's select committee on the implementation that no Lease should be renewed until the matter has been conclusively discussed and settled by the Committee.

Mr. Chairman Sir, a statement by His Excellency Kimani Wa Matangi, the Governor of Kiambu County by the Standard Newspaper November, 2022 that the Land has already been ceded from LR NO.12203 by Delmonte Kenya Limited to the County Government, a clear that the National Assembly's caution against this renewal until the matter has been inclusively discussed and settled by the committee was disregarded. See the attached document.

Mr. Chairman Sir, we request for expedited investigations into the following:

i) The resurvey of land parcels

Land occupied by Del Monte Limited in Muranga County

i) LR 12157 : 9730 acres
ii) LR 12157/2 : 100.98 acres
iii) LR 12157/3 : 7.3 acres
iv) LR 12157/4 : 7.7 acres
v) LR 12157/5 : 9.07 acres
vi) LR 13289 : 56 acres
vii) LR 10862 : 1372 acres
viii) LR 10741 : 2260 acres
ix) LR 11146 : 1211 acres
Total: 14,754.14 acres

Surrendered/Land to be reverted to the Government in Muranga

x) LR 10862: 1372 acres
xi) LR 10741 2260 acres
xii) LR 11146: 1211 acres
Total: 4,843 acres

Land occupied by Del Monte Kenya Limited in Kiambu County

xiii) LR 12203/1: 5191 acres
xiv) LR 12203/2.: 139 acres
xv) LR 11312. 1606 acres
xvi) LR 2953. 1000 acres
xvii) LR 13169.60 acres
Total: 7890 acres

Land to be reverted back to the Government in Kiambu

xviii) LR 11312: 1606 acres
xix) LR 2953. 1000 acres
Total: 2606 acres

ii) **Fraudulent dealings by the Ministry of Lands and Physical Planning when the members of National Assembly were proceeding to campaign season including but not limited to the renewal of the leases for some of the aforementioned land parcels despite the recommendations by National Land Commission and Parliament.**

iii) **Non-compliance with the National Land Commission and Parliamentary recommendations by Ministry of Lands and Physical Planning.**

iv) **Investigations into the conduct of the government and non-government officials involved into the intentional delay of the non-implementation by the afore-mentioned bodies.**

Conclusion

Mr. Chairman Sir, this matter has been subjected in parliamentary processes and has been concluded. It is only fair that justice be served to the members of Kandara Residents association by way of immediate surrender of the land parcels belonging to them presently being occupied by Del Monte Kenya Limited.

Mr. Chairman Sir, your guidance on this matter is highly appreciated.

Attached herewith are the annexures.

Yours faithfully,

DUNCAN OKATCH
ADVOCATE

ANNEXURES

1. NLC Determination dated 7th February 2019 and the Gazette notice 1995 of 1st March 2019
2. National Assembly's Land Committee recommendations on 21st November 2019
3. NLC Chairman's report to the National Assembly on 5th May 2020
4. National Assembly's Select Committee on Implementation recommendations approved on 21st December 2021 and adopted by the full house on 26th May 2022.
5. Submission of survey for LR 12158 on 22nd December 2022 which was approved
6. Notification of approval for lease renewal by Muranga County Government on 4th October 2021
7. Real Plan Consultants submission and approval documents
8. Invitation for public participation meeting by Muranga County Government on 17th February 2023
9. Muranga County Government Caveat on Ceded land by Del Monte from in November 2022 via Nation Newspaper
10. Facebook update from Kiambu County Government plan for the land from Del Monte Kenya Ltd on Thika Town today page.
11. Proposed plan by the Muranga County Government which was exhibited on 15th June 2023 during the civic engagement event
12. Governor Kimani Wamatangi report in Standard Newspaper on 1st November 2022.

ANNEXURE 1

NLC Determination dated
7th February 2019 and the Gazette
notice 1995 of 1st March 2019

S/No.	Case No. and County	Parties	Recommendation
	Nairobi County		not available for allocation. The land lies within a riparian reserve and the County Government of Nairobi should clear the land of any human settlement.
8.	NLC/HLI/070/2017 Kiambu County	Kamiti Forest Squatters, Kamiti Anmer Development Association, Muungano wa Kamiti Society (Claimants) and Kenya Forest Services (KFS) (Respondent)	The claim is allowed. The allotment letters issued to the members of the 2nd Claimant (Kamiti Anmer Development Association) are found to be valid and therefore the rightful occupants of the subject land. The allottees and the squatters should adopt Alternative Dispute Resolution (A.D.R) with a view that the land held by the allottees be partly redistributed to the squatters. Kenya Forest Service is hereby directed to degazette the Kamiti Anmer Forest.
9.	NLC/HLI/004/2017 NLC/HLI/064/2017 Kiambu and Muranga County	Kandara Residents Association (Claimant) and Del monte Kenya Limited (Respondent) County Government of Muranga (Interested)	The claim is allowed. A resurvey should be undertaken by the Director of Survey in conjunction with County Governments of Murang'a and Kiambu to establish if there is any variance between land leased and land the company occupies. Any residue should given/surrendered to the Claimants for resettlement and the County Government for public purpose in the ratio of 70:30 respectively. Should it be found that there is no residue, then on expiry of the lease a suitable amount of land should be set aside and held in trust by the County Governments for purposes of resettlement and public utilities. The respondent to surrender all public utility within the land to the relevant National and County Government agencies whether the leases have expired or not.
10.	NLC/HLI/003/2017 Muranga County	Stanley Muigai Kiama and Jeremy Kiama	The claim is allowed. The Commission recommends monetary compensation by the National Government to the claimants over the loss of their ancestral land. The family should get recognition and an apology from the Government for their loss.
11.	HLI/506/507/508/2018 Kiambu County	Kirathimo land, Limuru	The claim is allowed. The commission recommends that the land L.R 25484/2-22, L.R. 13121 and L.R. 15473 revert to County Government of Kiambu, title be issued in the name of the County Government as trustees. The Commission directs that the Land is not available for any allocation now or in future.
12.	NLC/HLI/519/2018 Kiambu County	Uplands – Kiambu	The claim is allowed. The commission recommends that the land L.R. No. 7593/1 and 7593/2 revert to County Government of Kiambu, title be issued in the name of the County Government as a trustees. The Commission directs that the Land is not available for any allocation now or in future.
13.	NLC/HLI/550/2018 Kiambu County	Flourspar Land-(Diatomite)	The claim is allowed. The commission recommends that the land L.R. Nguirubi/Thigio/1882, 1534, 1698 and 1699 reverts to County Government of Kiambu. Title be issued in the name of the County Government as a trustee. The Land is not available for any allocation now or in future. The Commission directs that any titles by private developers on the land be revoked.
14.	NLC/HLI/537/2018 Kiambu County	Mangu Block 19 and 20 Residents CBO	The claim is allowed. The Commisssion adopts the report by Thika District Land officer on public utilities within Thika Municipality block 19 Mang'u and block 20 Ngoingwa company limited. REF: LND/TKA/ADM/29/VOL.111 dated 12th September, 2018. The following plots are recovered for public utility and reverted to the National and County Government as appropriate. PLOT/Nos.1213,1990,1993, 1995, 1999, 2004, 255, 1992, 2058, 1142, 2260, 1995, 1999,142 and 1998. Similarly the Commission recovers the following plots from Block 20 for public utilities as follows: Plot No/Nos 533, 584, 202, 255, 340, 342, 1035 and 995, 457 and 335, 330, 341, 340, 2368 and 247. The Commission upholds titles to the following plots; Block 19/199, Block 19/2035, Block 20/2159, Block 20/1092, Block 20, 2894, Block 20/ 338 & Block 20/994. If there are any other public lands parcel under ownership of private entities and/or individuals be surrendered and such titles be cancelled
15	NLC/HLI/215/2018	Mau Mau Jamburi ya Kenya Umbrela body	The claim is allowed.

ANNEXURE 2

National Assembly's Land Committee recommendations on 21st November 2019

Approved for tabling

SNA
21/11/19

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY MR. PHILIP NJUGUNA ON BEHALF OF KANDARA RESIDENTS ASSOCIATION REGARDING IRREGULAR RENEWAL OF LEASES OF LAND LEASED BY DELMONTE KENYA LIMITED

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 21 NOV 2019 DAY: THURSDAY
TABLED BY: Hon. Rachael Nyarai Chair, Lands Committee
CLERK'S TO ENTABLE: Lemure Moss!

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER 2019

CHAIRPERSON'S FOREWORD

The Petition by Mr. Philip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases of land leased by Del Monte Kenya Limited was reported to the House by the Honorable Speaker on behalf of the Petitioner on 11th June 2019.

In considering the Petition, the Committee held meetings with the Petitioners, the Ag. Chief Executive Officer, National Land Commission, the Chief Administrative Secretary, Ministry of Lands & Physical Planning and the Managing Director Del Monte Kenya Limited

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioner, representatives of Kandara Residents Association, the Ag. Chief Executive Officer, National Land Commission, the Chief Administrative Secretary, Ministry of Lands & Physical Planning and the Managing Director Del Monte Kenya Limited for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by Mr. Philip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases of land leased by Del Monte Kenya.

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

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EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in a Petition by Mr. Philip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases of land leased by Del Monte Kenya Limited. The Petitioner's prayers are that the National Assembly through the Departmental Committee on Lands does;

a) Consider , investigate and inquire into all the matters raised in the petition with a view to ensuring that the process of renewing the lease of the land held by Del Monte Kenya Limited is conducted within the law and in a transparent and participatory process that takes into account the rights and interests of the members of Kandara Residents Association over the said land are safeguarded ;and
b) Makes relevant recommendations thereof.

The Committee observed the National Land Commission had received a historical injustice claim from Kandara Residents Association against Del Monte Kenya Limited and determined the matter on 7th February 2019 and the same was gazetted vide Gazette Notice No. 1995 dated 1st March 2019.

The Committee also observed that the Commission recommended, among other things, that the land held by Del Monte Kenya Limited should be resurveyed to establish if the company was in possession of land that it is not registered to hold.

The Committee however observed that there are several cases regarding the renewal of leases and the recommendations of the Commission.

The Committee further noted that the petition limited its focus to renewal of leases for land owned by Del Monte Kenya Limited by Muranga County. However, the Committee observed that the role of the County government was limited to making recommendations on the renewal of the leases and could not undertake the actual renewal as this is the mandate of the National Land Commission.

The Committee observed that on the question regarding the implementation of a recommendation made by the National Land Commission regarding resurveying of the land owned by Del Monte to establish if the company held land that it is not registered to hold, the Ministry indicated that it would require three weeks to complete the exercise.

The Committee further observed that the Managing Director, Del Monte Kenya Limited was not opposed to the recommendation made by the National Land Commission for resurvey of the land as demonstrated by the letters to the Director of Survey in the Ministry of Lands and Physical Planning seeking the fast tracking of the exercise.

The Committee observed that the National Land Commission in its submission averred that three court cases had been filed in the High Court in Nairobi and Muranga touching on matters contained in the Petition. The cases included the following:

a) ELC No. 53 of 2018 at Muranga: Kandara Residents Association and Others Vs Del Monte Kenya Limited.;

b) High Court Constitutional Petition No. 48 of 2019 at Nairobi: Del Monte Kenya Limited Vs National Land Commission and Attorney General; and
c) ELC Judicial Review No. 1 of 2019 at Muranga: Kandara Residents Association and Others Vs National Land Commission, Director of Survey and the Attorney General.

The Committee observed that the Managing Director, Del Monte Kenya Limited in his submissions averred that three court cases in which Kandara Residents Association is a party had been filed in court touching on matters contained in the Petition. The cases included the following:

a) ELC No. 53 of 2018 at Muranga: Kandara Residents Association and Others Vs Del Monte Kenya Limited.
b) High Court Constitutional Petition No. 48 of 2019 at Nairobi: Del Monte Kenya Limited Vs National Land Commission and Attorney General.
c) ELC Judicial Review No. 1 of 2019 at Muranga: Kandara Residents Association and Others Vs National Land Commission, Director of Survey and the Attorney General.

The Committee observed that the submissions made by the Ministry of Lands & Physical Planning indicated that LR. No. 12158 measuring 2900 acres in Muranga County that is registered in the name of Del Monte Kenya Limited is an amalgamation of LR. Nos 10862,10741,11312 and 11146. However, the Hon. Jude Njomo, MP informed the Committee that the said parcels of land were surrendered to the government by two companies namely Sassa Coffee and Rappit B Limited and were later acquired by Del Monte Kenya Limited.

In view of the foregoing, the Committee observed that although there may be matters pending in court, Standing Order 89(5) allows a Committee to refer to matters that may be active in court. The Committee further observed that the reference to the matters are also not likely to prejudice the fair determination of the cases because both the Petitioners and the Del Monte Company Limited are not opposed to the issue of resurveying of the land in question.

In response to the prayers by the Petitioners, the Committee recommends that the Director of Survey, Ministry of Lands and Physical Planning does resurvey the land held by Del Monte Kenya Limited in Muranga and Kiambu Counties within ninety days of tabling of this report.

The Committee also recommended that the National Land Commission does investigate the circumstances under which LR. Nos 10862,10741,11312 and 11146 that were said to have been surrendered to the government by two companies namely Sassa Coffee and Rappit B Limited were later acquired by Del Monte Kenya Limited.

- **ELC No. 53 of 2018 at Muranga: Kandara Residents Association and Others Vs Del Monte Kenya Limited.** The suit seeks to restrain the National Land Commission from renewing leases in favour of Del Monte Kenya Limited.

- **High Court Constitutional Petition No. 48 of 2019 at Nairobi: Del Monte Kenya Limited Vs National Land Commission and Attorney General:** The suit seeks to quash the determination of the National land Commission Historical Injustice Committee dated 7th February 2019 in complaint No. NLC/HLI/004/2017/ It also seeks to expel the Gazette Notice No. 1995 dated 18th February 2019 and published on 1st March 2019 on parcels of land registered under Del Monte Kenya Limited.

- **ELC Judicial Review No. 1 of 2019 at Muranga: Kandara Residents Association and Others Vs National land Commission , Director of Survey and the Attorney General :** The suit seeks to compel the Director of Survey to implement the National land Commission's Historical Land Injustice Committee dated 7th February 2019 in complaint No. NLC/HLI/004/2017.

27. He further observed that the petitioners were required by the National Assembly Standing Orders to indicate that the matters raised in the petition were pending before court. He noted that the Petitioners did not make the said disclosure.

28. In view of the above, the Managing Director urged the Committee to put the consideration of the petition on hold as the matters pending in court mainly dealt on the issue of renewal of leases for land owned by Del Monte Kenya Limited and the same matters were also the key subject of the petition.

29. The Managing Director further informed the Committee that the Company was not opposed to the recommendation made by the National Land Commission in a historical land injustice claim lodged by Kandara Residents Association against Del Monte Kenya Limited that the land held by Del Monte Kenya Limited should be resurveyed to establish if the company was in possession of land that it is not registered against. He added that the company had severally written to the Director of Survey in the Ministry of Lands and Physical Planning seeking the fast tracking of the exercise but had not received a reply from the said office.

3.5 Submissions by Hon. Jude Njomo, MP

30. The Committee received submissions from Hon. Jude Njomo, MP on 7th November 2019. He informed the Committee that;

31. The ownership documents held by Del Monte Kenya Limited are not title deeds but agreements between the government and the company that were drawn on 19th February 1973. The agreements grant the company use of 20,000 acres of land. He noted that contravention to the said agreements, the company is currently in possession of 22,000 acres.

32. He also stated that part of the land granted to the company has been idle since the agreement were reached. He added that the company in their brochure admitted to utilizing only 6000 Ha out of the 9000 Ha allocated to the company for 50 years hence depriving the residents the use of 3000 Ha of idle land.

i. He further informed the Committee that Land parcels Nos. LR.10740, LR 10741, LR 11146, LR 10862, LR 2955 and LR.11312 comprising 7,400 acres that were surrendered to the government by two companies namely Sassa Coffee and Rappit B Limited after subdivision, were irregularly being used by Del Monte Kenya Limited. He also stated that the owners of SASSA coffee passed on in Europe and the land held by the company was occupied by residents who were later evicted by Del Monte Kenya Limited from the land.

ii. Contrary to the agreement between the government and the company on 19th February 1973, Del Monte Kenya Limited had carved off a portion of LR. No. 13169 and allocated it to ANNANAS Holding where a mall has been constructed.

iii. He urged the Committee to recommend that the land held by Del Monte Kenya Limited be resurveyed to establish the actual acreage of land occupied by the company.

4.0 OBSERVATIONS

The Committee made the following observations:

1. The Committee observed the National Land Commission had received a historical injustice claim from Kandara Residents Association against Del Monte Kenya Limited and determined the matter on 7th February 2019 and the same was gazetted vide Gazette Notice No. 1995 dated 1st March 2019.

2. The Committee observed that the Commission recommended, among other things, that the land held by Del Monte Kenya Limited should be resurveyed to establish if the company was in possession of land that it is not registered to hold.

3. The Committee however observed that there are several cases regarding the renewal of leases and the recommendations of the Commission.

4. The Committee noted that the petition limited its focus to renewal of leases for land owned by Del Monte Kenya Limited by Muranga County. However, the Committee observed that the role of the County government was limited to making recommendations on the renewal of the leases and could not undertake the actual renewal as this is the mandate of the National Land Commission.

5. The Committee observed that on the question regarding the implementation of a recommendation made by the National Land Commission regarding resurveying of the land owned by Del Monte to establish if the company held land that it is not registered to hold, the Ministry indicated that it would require three weeks to complete the exercise.

6. The Committee further observed that the Managing Director, Del Monte Kenya Limited was not opposed to the recommendation made by the National Land Commission for resurvey of the land as demonstrated by the letters to the Director of Survey in the Ministry of Lands and Physical Planning seeking the fast tracking of the exercise.

7. The Committee observed that the National Land Commission in its submission averred that three court cases had been filed in the High Court in Nairobi and Muranga touching on matters contained in the Petition. The cases included the following:

d) ELC No. 53 of 2018 at Muranga: Kandara Residents Association and Others Vs Del Monte Kenya Limited.;
e) High Court Constitutional Petition No. 48 of 2019 at Nairobi: Del Monte Kenya Limited Vs National Land Commission and Attorney General; and
f) ELC Judicial Review No. 1 of 2019 at Muranga: Kandara Residents Association and Others Vs National Land Commission, Director of Survey and the Attorney General.

8. The Committee observed that the Managing Director, Del Monte Kenya Limited in his submissions averred that three court cases in which Kandara Residents Association is a

party had been filed in court touching on matters contained in the Petition. The cases included the following:

d) ELC No. 53 of 2018 at Muranga: Kandara Residents Association and Others Vs Del Monte Kenya Limited.
e) High Court Constitutional Petition No. 48 of 2019 at Nairobi: Del Monte Kenya Limited Vs National Land Commission and Attorney General.
f) ELC Judicial Review No. 1 of 2019 at Muranga: Kandara Residents Association and Others Vs National Land Commission, Director of Survey and the Attorney General.

9. The Committee observed that the submissions made by the Ministry of Lands & Physical Planning indicated that LR. No. 12158 measuring 2900 acres in Muranga County that is registered in the name of Del Monte Kenya Limited is an amalgamation of LR. Nos 10862,10741,11312 and 11146. However, the Hon. Jude Njomo, MP informed the Committee that the said parcels of land were surrendered to the government by two companies namely Sassa Coffee and Rappit B Limited and were later acquired by Del Monte Kenya Limited.

10. In view of the foregoing, the Committee observed that although there may be matters pending in court, Standing Order 89(5) allows a Committee to refer to matters that may be active in court. The Committee further observed that the reference to the matters are also not likely to prejudice the fair determination of the cases in particular because both the Petitioners and the Del Monte Company Limited are not opposed to the issue of resurveying of the land in question.

5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the Petitioners, the Committee recommends that;

1. The Director of Survey, Ministry of Lands and Physical Planning does resurvey the land held by Del Monte Kenya Limited in Muranga and Kiambu Counties within ninety days of tabling of this report.

2. The National Land Commission does investigate the circumstances under which LR. Nos 10862,10741,11312 and 11146 that were said to have been surrendered to the government by two companies namely Sassa Coffee and Rappit B Limited were later acquired by Del Monte Kenya Limited within ninety days of tabling of this report.

Signed.....Date 19-11-2019

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

ANNEXURE 3

NLC Chairman's report to the National Assembly on 5th May 2020

NATIONAL LAND COMMISSION

RESPONSE TO STATEMENT REQUEST BY THE DEPARTMENTAL COMMITTEE ON LAND

GERSHOM OTACHI BW' OMANWA

CHAIRMAN

5TH MAY, 2020

Hon. Chair

We received a letter dated 30th April from the Clerk of the National Assembly requesting for a statement on the status of application for renewal of leases for land held by Delmonte Kenya Limited. We wish to state as follows:

Section 13 of the National Land Commission Act and the Land (Extension and Renewal of Leases) Rules 2017mandates the National Land Commission to renew and extend leases upon application by a property owner whose lease has expired or is about to expire.

The Commission has not received any formal application for renewal or extension of lease from Delmonte Kenya Limited and has not received any recommendations for approval of the same from either Kiambu and Muranga County Governments.

The survey details on the Delmonte land to establish the total size of land leased has not been submitted to the Commission despite a gazzeted recommendation done by the Commission on 1st March 2019.

Additional Information

Hon Chair,

In 2017, The Commission received a historical injustice claim by Kandara Residents Association under article 67 of the constitution and section 15 of the National Land Commission Act 2012. The above-mentioned group alleged historical injustice occasioned against them by Del Monte Kenya Limited together with the colonial soldiers who returned from first and second world wars.

GERSHOM OTACHI BW'OMANWA
CHAIRMAN

ANNEXURE 4

National Assembly's Select
Committee on Implementation recommendations
approved on 21st December 2021
and adopted by the full house
on 26th May 2022.

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 22 DEC 2021
DAY: WED
TABLED BY: HON. MOITALEL OLE KENTA - CHAIR
CLERK-AT THE-TABLE: F. MURIUKI

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

Approved for tabling
21/12/21

TWELFTH PARLIAMENT-FIFTH SESSION

SELECT COMMITTEE ON IMPLEMENTATION

REPORT ON IMPLEMENTATION STATUS OF

1. **THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED; AND**

2. **THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON ITS CONSIDERATION OF THE PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING THE INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES**

Directorate of Audit, Appropriations & Other Select Committees
Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI

DECEMBER, 2021

PARLIAMENT OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-SIXTH SESSION

SELECT COMMITTEE ON IMPLEMENTATION

REPORT ON THE IMPLEMENTATION STATUS OF

1. **THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED; AND**

2. **THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON ITS CONSIDERATION OF THE PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING THE INVASION AND EVICTION OF THE WORKERS FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES;**

AS AMENDED AND ADOPTED BY THE HOUSE ON THURSDAY, 26TH MAY, 2022

Directorate of Audit, Appropriations & Other Select Committees
Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI

JUNE, 2022

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MINUTES OF THE 25TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON WEDNESDAY, 21ST JULY 2021, IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, AT 11.30 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Johnson Manya Naicca, MP
5. The Hon. Paul Simba Arati, MP
6. The Hon. Joash Nyamache Nyamoko, MP
7. The Hon. Peter Kihara, MP
8. The Hon. Joshua Mbithi Mwalyo, MP
9. The Hon. Charles Ngusya Nguna, MP
10. The Hon. Hassan Oda Hulufo, MP
11. The Hon. Michael Kingi, MP
12. The Hon. Jared Okello, MP

APOLOGIES

1. The Hon. Richard Onyonka, MP
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Benjamin Dalu Tayari, MP
4. The Hon. Moses Kuria, MP
5. The Hon. John Muchiri Nyagah, M.P
6. The Hon. Mukuha Gabriel Kago, MP
7. The Hon. Nelson Koech, MP
8. The Hon. Paul Odalo Abuor, MP
9. The Hon. Feisal Bader, MP
10. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

Hon. Waihenya Ndirangu, MP - Friend of the Committee

NATIONAL LANDS COMMISSION

1. Mr. Gershom Otachi Bw'Omanwa – Chairperson
2. Mr. Reginald Okumu - Commissioner
3. Mr. Brian Ogot - Director
4. Ms. Nancy Nyamwea - Director Legal Affairs

KANDARA RESIDENTS ASSOCIATION

1.	Mr. Joseph Kibiru Njuguna	-	Patron
2.	Mr. Karira Kimara	-	Chairman
3.	Mr. Geoffry Kairu	-	Secretary General
4.	Ms. Florence Mwaura	-	Organizing Secretary
5.	Mr. Duncan Okatch	-	Advocate
6.	Mr. Jackson Ikua	-	Advocate

COMMITTEE SECRETARIAT

1.	Mr. Abdirahman G. Hassan	-	Second Clerk Assistant
2.	Ms. Jane Serem	-	Audio Officer
3.	Ms. Zeinab Wario	-	Serjeant-at-arms

MIN. NO.NA/COI/2021/115: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past eleven o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Joash Nyamoko, MP, and the Hon. Charles Nguna, MP, respectively.

MIN. NO.NA/COI/2021/116: CONFIRMATION OF MINUTES

Confirmations of the Minutes of the previous sitting were deferred to the next sitting.

MIN. NO.NA/COI/2021/117: MEETING WITH THE MINISTRY OF LAND AND PHYSICAL PLANNING

The Committee was scheduled to meet the Cabinet Secretary for the Ministry of Lands and Physical Planning, to consider implementation status of various House resolutions on land matters. However, the Committee received correspondence from the Ministry requesting for reschedule of the meeting to a later date. In the letter, the Principal Secretary for Lands indicated that the meeting coincided with a presidential function that the Cabinet Secretary, the Chief Administrative Secretary and the Principal Secretary would be attending.

The Committee however noted with concern the failure by the Cabinet Secretary, Ministry of Land and Physical Planning, to attend its sittings and the inordinate delay in implementation of some House resolutions.

The Committee, following deliberations resolved to accord the Cabinet Secretary another opportunity to appear on Thursday, 29th July 2021, failure to which the Committee will issue summons as contemplated under Standing Order 191 of the National Assembly Standing Orders.

EXECUTIVE SUMMARY

The Select Committee on Implementation scrutinizes resolutions of the House *(including adopted Committee Reports),* Petitions and the undertakings given by the National Executive. It examines whether such decisions and undertakings have been implemented within sixty (60) days as provided for in the National Assembly Standing Orders and whether such implementation has taken place within the minimum time necessary.

The report of the Departmental Committee on Lands regarding irregular renewal of leases of Land by Del Monte Kenya Limited was tabled in the House on 21st November, 2019, while the report of the Departmental Committee on Lands regarding the Petition on its consideration of the Petition by Former Workers of the Late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their Land in Roysambu Constituency by the Kenya Defence Forces was tabled before the House on 5th December, 2019.

The Select Committee on Implementation sought to follow up on the implementation status of the aforementioned reports. Subsequently, it held meetings with the Ministry of Lands and Physical Planning officials, the National Land Commission, and the petitioners.

As regards the report of the Departmental Committee on Lands regarding irregular renewal of leases of Land by Del Monte Kenya Limited, the Committee observed that the Ministry of Lands and Physical Planning surveyed the Land currently owned by Del Monte Kenya Limited both in Muranga and Kiambu counties as guided by subdivision scheme plans prepared by a registered physical planner practising as Real Plan Consultants Limited. The survey of all the parcels is complete and awaits approvals from both County Governments of Muranga and Kiambu.

The Committee noted that the recommendation that required survey of the Land owned by Del Monte Kenya Limited in Muranga and Kiambu counties was implemented, while the recommendation that instructed NLC to investigate how Del Monte Kenya Limited later acquired some parcels of Land that have been surrendered to the Government was not implemented. This has not been done due to lack of sufficient records on how the Land transfer to Del Monte Kenya Limited was carried out in 1973, The National Land Commission submitted that it had not been able to unearth how the Company acquired the Land.

Therefore, the Committee recommends that the lease for L.R No. 12158 be reverted to the Government and declared as public land. Further, The Ministry of Lands and Physical Planning in consultation with the National Land Commission, should allocate the Land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively, as per the National Land Commission's Gazette Notice 1995 of 2019, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

CHAIRPERSON'S FOREWORD

The Select Committee on Implementation scrutinizes resolutions of the House *(including adopted Committee Reports),* petitions and the undertakings given by the National Executive. It examines whether such decisions and undertakings have been implemented within sixty (60) days as provided for in the National Assembly Standing Orders and whether such implementation has taken place within the minimum time necessary.

The report of the Departmental Committee on Lands regarding the Petition on irregular renewal of leases of Land by Del Monte Kenya Limited was tabled before the House on 21st November, 2019; while the report of the Departmental Committee on Lands regarding the Petition on its consideration of the Petition by Former Workers of the Late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their Land in Roysambu Constituency by the Kenya Defence Forces was tabled before the House on 5th December, 2019.

The Select Committee on Implementation sought to follow up on the implementation status of the aforementioned reports. Subsequently, it held meetings with the Ministry of Lands and Physical Planning officials, the National Land Commission, and the petitioners.

The Committee registers its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for facilitation and support in producing this report.

Pursuant to Standing Order 199(6), it is, therefore, my pleasant duty and privilege, on behalf of the Committee on Implementation, to lay this report on the Table of the House.

Hon. Moitalel Ole Kenta, MP

NLC/VAL.1555/16 dated 22nd June 2021. In their letter ref: KURA/URPD/SUR/3 (30) dated 2nd July 2021, KURA responded and requested for termination of the process citing the fact that the road had been re-aligned.

A subsequent letter dated 9th July 2021 from KURA affirmed its inability to execute the matter as envisioned by the Lands Committee.

The Commission is unable to process this matter further without assurance of availability of budgetary support to meet administrative costs as well as compensation, if any, for the land affected.

The Commission sought for guidance from the Committee on the overall way forward as well as clarity on Government Agency that is to be vested with the public right of way once created, taking into consideration that the identified agency will be responsible for the administrative costs as well as compensation, if any.

The Committee urged the Commission to provide its legal opinion on the matter and challenges faced in implementation of the resolution.

The Committee after deliberations resolved to invite the Director General, KURA and the Chairperson, National Lands Commission, for a joint meeting on Thursday 29th July 2021, to apprise the Committee on implementation status of the aforementioned report.

Conclusion

Regarding the report on the petition on irregular renewal of leases of land by Del Monte Kenya Limited, the lawyer representing Kandara Residents Association, Mr. Duncan Okatch asked the Committee to intervene as the Ministry was planning to proceed to renew the lease in favour of Del Monte Ltd.

The Committee cautioned the National Lands Commission against renewal of the lease of land in question until the matter is conclusively discussed and addressed between the Committee and the Ministry of Lands and Physical Planning.

MIN. NO.NA/COI/2021/119: ADJOURNMENT

There being no other business, the meeting was adjourned at quarter past one o'clock (1.15 pm).

Sign..... Date 28/07/2021.

(Chairperson)

The Ministry also submitted that the Land is proposed to be subdivided into three portions and change of User of subplot C from Agricultural to Educational (Ndula Primary and Secondary Schools) as follows:

(i) Portion 'A' measuring approximately 1938.12 Ha for agricultural purposes(situated in Murang'a County, to remain in the Company's name;

(ii) Portion "B' measuring approximately 1029.41 Ha for agricultural purposes (situated in Kimabu County, to remain in the Company's name)

(iii) Portion 'C' measuring approximately 4.97 Ha for public purposes (Ndula Primary and Secondary Schools situated in Kiambu County- to be surrendered

(iv) Portion 'D' measuring approximately 1.54 Ha for public purposes (Nginyi Primary School situated in Murang'a County- to be surrendered

(v) Approximately 17.90 Ha have been set aside for roads (to be surrendered)

21. In conclusion, the Cabinet Secretary submitted that the Ministry had established during the resurvey that Beacons for all the parcels were intact and that Del Monte was within its boundaries. She added that the Company does not hold excess Land.

2.4 Submission by the Chairperson National Land Commission

22. **The NLC Chairperson, Mr Gershom Otachi, appearing before the Committee on 29th July, 2021** submitted that original parcels L.R. Nos. Chui Estates Limited owned 10862, 10741, 11312, 2953, 4873 and 11146 up to around 1973 when through a memorandum of registration of transfer of lands and at a consideration of Kshs. Two million were transferred to the Government of Kenya. The transfer was executed on 1st May, 1973.

23. The Commission took note of passage in time and parties involved in the transaction (unidentified directors of Chui Estates Limited and one James Aloisius O'loughlif as Commissioner of Lands). It could not unearth further details that necessitated the transfer nor amalgamation of the said parcels of Land.

2.5 Submission by Kandara Residents Association

Kandara Residents Association, represented by their lawyers; Mr Duncan Okatch and Mr Jackson Ikua, during a meeting held on 14th April, 2021; 29th July, 2021 and 30th September, 2021 submitted as follows:

24. From the resurvey of the Land, it showed that 1,400 acres was set aside as public Land, however they raised concern how much of the Land would go to the petitioners.

25. They also raised concern with the submission by the Chairperson NLC, regarding the parcels of Land owned by Chui estates, that the Commission could not unearth details that necessitated

transfer of the Land to Del Monte. The petitioners noted that the Land should have reverted back to the public and not Del Monte.

26. The Petitioners made the following prayers to the Committee

i. In the report by the Cabinet Secretary for the Ministry of Lands and Physical Planning tabled before the Committee, there was an indication that there were plans by Del Monte Kenya Limited to excise Land for public use prior to the renewal of leases and that the excised Land will be surrendered to the County Governments of Kiambu and Muranga. The petitioners noted that that went against the directive of NLC, further the County Governments had not asked for Land. The petitioners therefore prayed that any land to be allocated in settlement of the claims be surrendered to them directly and not County Governments.

ii. Del Monte Kenya Limited is occupying public Land that is L.R. 12158 which was amalgamated from L.R Nos. 10741, 10862, 11146, 11312 and 2953. The Land should therefore be declared as public Land and used for resettlement of the Petitioners.

iii. That all property known as Sassa Coffee L.R. 9213/1 measuring 511 acres be declared public Land as the same never belonged to Del Monte Kenya but existed as a separate entity. The Land should then be used to resettle the Petitioners.

iv. That no renewal of leases for Del Monte Kenya should take place until resettlement of the Petitioners is done.

The petitioners also raised the following issues pertaining the submission by the Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson National Lands Commission;

The Chairperson, NLC indicated that they could not find any records on amalgamation of L.R No. 10741, L.R. 10862, L.R. No. 11146. LR No. 11312, LR No. 2953, whose previous owners were legal entities that have since been wound up. Prior to the winding up their operations, they had surrendered the said properties to the Government of Kenya.

Available records at the Ministry of Land show the last entry and /or dealing with regards to the above parcels were the surrender to the Government of Kenya and to this end, these parcels constitute public Land.

The Petitioners also submitted that records at the Directorate of Survey show that due process was not followed when the amalgamation of the aforementioned land parcels was done.

2.6 Implementation status of House Resolutions

The Departmental Committee on Land in its report tabled on 21st November, 2019, recommended that the Director of Survey, Ministry of Lands & Physical Planning does resurvey the Land held by Del Monte Kenya Limited in Muranga and Kiambu Counties

27. The Ministry of Lands and Physical Planning has surveyed the Land currently owned by Del Monte Kenya Limited both in Muranga and Kiambu counties; L.R No. 12157/1 measuring 3860 Hectares in Muranga County, L.R No. 12157/3 measuring 2.987 Hectares in Muranga County, L.R No. 12158 measuring 2963.1 Hectares traversing Muranga & Kiambu Counties and L.R No. 12203/1 measuring 2072 Hectares in Kiambu County.

28. The survey was guided by subdivision scheme plans prepared by a registered physical planner practicing as Real Plan Consultants Limited. The survey of all the parcels is complete and awaits approvals from both county governments of Muranga and Kiambu.

Committee observation

29. This recommendation has been implemented. However, the Committee was not satisfied with the Ministry of Land and Physical Planning's submission that Del Monte Kenya Limited does not hold excess Land.

On the recommendation that the NLC investigates the circumstances under which L.R. Nos. 10862, 10741, 11312, 2953, 4873 and 11146 that were said to have been surrendered to the Government by two companies namely Sassa Coffee and Rappit B. Limited were later irregularly acquired by Del Monte Kenya Limited

Implementation status

30. This has not been done as the Ministry of Lands and NLC submitted that due to passage of time it had not been able to unearth how the Company acquired the Land.

Committee observation

31. There were no sufficient records on how the transfer of the Land to Del Monte Kenya Limited in 1973 was carried out. The Committee therefore notes that this Land ought to be public Land.

2.7 Committee Recommendations

32. The lease for L.R No. 12158, which resulted from the amalgamation of L.R No. 10741, L.R. 10862, LR No. 11146. LR No. 11312 and LR No. 2953 should be reverted to the Government of Kenya and declared as public Land. Further, the Land should be allocated to Kandara Residents Association for their settlement; and

33. The Ministry of Lands and Physical Planning in consultation with the National Land Commission should allocate the Land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively, as per the National Land Commission's Gazette Notice 1995 of 2019.

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

3.1 Background

34. The Petition by former workers of the Late Mayer Jacob Samuels regarding invasion and eviction from their Land by the Kenya Defence Forces was presented to the House by the Hon. Speaker on 27th June, 2019.

35. The petitioners claimed that they were former workers of the late Mayer Jacob Samuels employed in his sisal processing farm and workshop industry on L.R. No. 5875/2 before his death in 1974. They claimed that the deceased's family allowed them to continue staying on the Land after they could not pay their salaries.

36. The petitioners registered Roysa Community Development Society to safeguard the Land from grabbers and later requested the Nairobi City County Government to allocate the Land to them. The County Government of Nairobi and the National Land Commission approved the subdivision of the Land and the Ministry of Lands and Physical Planning subsequently issued letters of allotment.

37. According to the Ministry of Defence, LR No. 5875/2, the Land in dispute was compulsorily acquired by the Commissioner of Lands vide Gazette Notices N. 5151 and 5152 of 1985 pursuant to a request by the then Permanent Secretary in charge of the Department of Defence in the Office of the President.

38. The Land was valued at Kshs. 3,530,500 by the Commissioner of Lands and the compensation award was duly paid by the Department of Defence to the Commissioner of Lands. The beneficial owner of the Land, Mr. Meshunor Jacob Samuels was dissatisfied with the compensation award and commenced proceedings to challenge the valuation in the High Court under Land Acquisition Appeal No. 2 of 1986.

39. In accordance with section 13(2) of the Land Acquisition Act, the compensation award was deposited in the High Court by the Commissioner of Lands and a deposit receipt issued by the High Court Registrar and subsequently released to Mr. Jacobs on 3rd of October, 1987.This was confirmed by the Attorney General's letter and M/s Robson Harris & Co Advocates confirming that the Kshs. 3,530,500 was received by them on behalf of their client, Mr. Jacobs.

4.0 COMMITTEE RECOMMENDATIONS

The Committee, having reviewed the implementation status of the two reports and considered the evidence received, finally recommends that: -

69. The lease for L.R No. 12158, which resulted from the amalgamation of L.R No. 10741, L.R. 10862, LR No. 11146. LR No. 11312 and LR No. 2953 should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

70. In consultation with the National Land Commission, the Ministry of Lands and Physical Planning should allocate the Land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Muranga and Kiambu in the ratio of 70:30 respectively as per the National Land Commission's Gazette Notice 1995 of 2019, within Sixty (60) days of the adoption of the report failure, to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly Standing Orders.

71. The Inspector General of Police should ensure that the Directorate of Criminal Investigations does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to L.R. No. 5875/2, and submits a report to the National Assembly within sixty (60) days of the adoption of this report.

SIGNED..... **DATE** 2ND JUNE, 2022.

HON. MOITALEL OLE KENTA, MP

CHAIRPERSON, COMMITTEE ON IMPLEMENTATION

Enclosed herewith, please find a copy of the Report of the *Select Committee on Implementation* on the *Implementation Status of the Reports of the Departmental Committee on Lands on a Public Petition on irregular renewal of leases of land by Del Monte Kenya Limited*; and *a Public Petition by former workers of the Late Mayer Jacob Samuels on invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces* as **adopted with amendments** by the National Assembly on Thursday, May 26, 2022, for your necessary action.

Yours

SERAH M. KIOKO, MBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

//:Encl.

Copies to: -

Ms. Farida Karoney, EGH
Cabinet Secretary
Ministry of Lands and Physical Planning
Ardhi House
NAIROBI

Dr. Joseph Kinyua, EGH
Head of Public Service
Harambee House
NAIROBI

Mr. Philip Njuguna
Kandara Residents Association
MURANG'A

Ms. Sarah Masaki
The County Executive Committee Member
In charge of Land, Housing and Physical Planning
Murang'a County Government
P.O. Box 52 10200
MURANG'A

Ms. Eunice Macharia
County Executive Committee Member
In charge of Land, Housing, Physical Planning, Municipal Administration and Urban Development
Kiambu County Government
P.O. Box 2344 00900
KIAMBU

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk@parliament.go.ke
When replying please quote



National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842 –00100
NAIROBI, Kenya

NA/DLP/TBO/RES.05/2022

June 7, 2022

Dr. Eng. Karanja Kibicho, CBS
Principal Secretary
State Department of Interior
Ministry of Interior & Coordination of National Government
Harambee House
NAIROBI

Dr. Nicholas Muraguri
Principal Secretary
Ministry of Lands and Physical Planning
Ardhi House
NAIROBI

Mr. Gershom Otachi Bw'Omanwa
Chairman
National Lands Commission
P.O Box 44417 00100
NAIROBI

Mr. Hilary Nzioki Mutyambai, MGH, nsc (AU).
Inspector General of Police
Kenya Police Service Commission
Police Headquarters
P.O. Box 44249 00100
NAIROBI

Mr. George Kinoti, CBS
Director General
Directorate of Criminal Investigations
CID Headquarters
NAIROBI

Dear

RE: ADOPTION OF THE REPORT ON IMPLEMENTATION STATUS OF THE REPORT ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED AND REPORT ON A PETITION ON INVASION AND EVICTION OF THE WORKERS OF THE LATE MAYER JACOB FROM THEIR LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES

ANNEXURE 5

Submission of survey

for LR 12158

on 22nd December 2022

which was approved

CR 186/6/21

REPUBLIC OF KENYA
MINISTRY OF LAND AND PHYSICAL PLANNING
SURVEY OF KENYA

DIRECTOR OF SURVEY RECEIVED 08 JAN 2021 NAIROBI

SURVEY FIELD H/O P.O. BOX 30046 RECEIVED 06 JAN 2021 INWARD REG NO. 130 RUARAKA - NAIROBI

Correspondence
to be addressed to:-
Director of Surveys

Surveys
Office Ardhi House
Phone 2718050
2717553
email@gs.co.ke

Headquarters, Ruaraka
Phone 8562902/8562968

Survey of Kenya,
P.O. Box 30046,
00100 - NAIROBI.

Date: 22nd December, 2020

Ref CR 186/Vol.6/3

18/31/1/22

Director of Surveys
P. O. Box 30046
NAIROBI

RE: SUBMISSION OF SURVEY OF L.R NO.12158 – DELMONTE FARM

Enclosed please find the following survey data regarding the above survey for checking and approval.

1. Field Note Cover ..... 1 Page
2. Survey Computation Sheets..... 10 Pages
3. Letter of Approval DLA letter Ref. 72739/433 of 25/11/2021
4. Approved Development Plan Ref RPC/1169/020/017 of Feb. 2020
5. Survey Plans drawn on Form 3..... 1 Copy

Yours Faithfully

Sign .....

Name ....Geoffrey Kibowen....

(5) HSRO
(4) now addressed T.N.A 27.01.2022

(1) NB To await approval and approved plan 11/01/21

(3) DOS. Relevant approvals now availed and attached 22/12/2021

(4) SAD-cad No endorsement by the owners on the scheme plan. The surveyor to ensure that the pending issue is addressed then you diligently deal. 27.1.2022

(6) oic/Reg TNA 2/2/22

(2) Lucy Mbun Have requested for relevant approvals 11/01/21

ANNEXURE 6

Notification of approval
for lease renewal
by Muranga County Government
on 4th October 2021

MURANG'A COUNTY GOVERNMENT

P.O. BOX 52 -10200, MURANG'A

NOTIFICATION OF APPROVAL/REFUSAL/ DEFERMENT OF DEVELOPMENT PERMISSION.

(Form P.P.A.2)

16

Sn. No. 0611

Registered Number of Application LR. 12158

To: DEL MONTE KENYA LTD
THROUGH REAL PLAN CONSULTANTS LTD

Your application number as above, submitted on 24TH OCT 2021

for permission to EXTENSION OF LEASE SUBPLOT A SUB-DIVISION INTO THREE(3) SUB PLOTS

on L.R. a Parcel No. 12158 suite in GATANGA SUB-COUNTY

road GATANGA has been APPROVED

on (date) 17TH NOV 2021 by the

for the following rasons/subject to the following conditions:

(a) 1. Surrender subplot A of approx 1.54 hectares for educational purposes (Nginyi Primary School) free of cost.

(b) 2. Subplot A of approx 1938.12 hectares to be used for Agricultural purposes

(b) 3. Surrender area of approx 17.90 hectares for Roads.

(c) 4. Payment of revised rates as will be determined by the County Director of Land valuation.

(d) 5. Subject to land not constituting part of the disputed public/ private utility Land allocations.

(e) 6. Construction of any building or boundary wall/hedge shall not encroach on to road reserve.

Date 17/11/2021 Signed

MURANG'A COUNTY GOVERNMENT
For: Murang'a County Government
17 NOV 2021
APPROVED
P.O. Box 52-10200, MURANG'A

c.c.

ANNEXURE 7

Real Plan Consultants
submission and
approval documents

CR185/18/165

Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 16TH FLR 4TH NGONG AVENUE P.O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500, NAIROBI
Email: info@realplan.co.ke

DIRECTOR OF SURVEYS RECEIVED 21 FEB 2022 P. O. Box 30046, NAIROBI

Ref: RPC/1170(C)/58/lwh

S93/28/21/27

17th February 2022

SURVEY FIELD H/Q Box 30046 P.O. RECEIVED 21 FEB 2022 705 704 INWARD Reg. No..... RUARAKA - NAIROBI

Director of Surveys,
Ministry of Lands and Physical Planning,
P. O. Box 30046
Nairobi.

RE: L.R NO 12157/3 EXTENSION OF LEASE RESURVEY

We refer to your letter ref no **CR 185/VOL.18/143** dated 8th February 2022 regarding the above and our earlier payment of Kshs 13700 vide cheque no 418888 submitted through our letter ref RPC/1170(C) /55dc of 16th February 2022.

Enclosed please find a banker's cheque No. 418892, for payment of the outstanding KShs 22,300 checking fees as requested.

We await the release of the new deed plans to enable us finalize the outstanding process.

Yours Sincerely,

SAD-cad Deal

21.2.22

Plan. Henry M. Mwau

For Real Plan Consultants Ltd

SURVEY OF KENYA
RECEIVED KSHS. 22,300 CASH/CHQ
No. 270691 TRADE RECEIPT
No ..... OF .....
SIGN BY CASHIER .....
APPROVED .....
FOR DIRECTOR OF SURVEYS

Striving towards planned and sustainable environments

CR 185/18/151

DIRECTOR OF SURVEYS RPC 08 FEB 2022 P. O. Box 30046, NAIROBI

Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 4TH FLOOR 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 FAX: (020) 2215537 NAIROBI
Email: info@realplan.co.ke

Ref: RPC/1170 (E)/034/asm.
351/16/2/22

SURVEY FIELD P. O. Box 30046 RECEIVED 08 FEB 2022 INWARD No. 266

7th January, 2022.

Director of Surveys,
Ministry of Lands and Physical Planning
P. O. Box 30046
Nairobi.

RE: LR NO. 12157/4, EXTENSION OF LEASE RESURVEY.

We refer to your letter ref: No. CR185/VOL.18/140, dated 26th December, 22 regarding the above.

Enclosed please find cheque No.003228, for payment of checking fees as requested.

We await the release of the New Deed Plans to enable us finalize the outstanding process.

Yours Sincerely,

SAD-cad
Reject
9.2.2022

Plan Henry. M. Mwau.
For Real Plan Consultants Ltd.

CR 185/18/150

DIRECTOR OF SURVEY
RECEIVED
08 FEB 2022
P. O. Box 30046, NAIROBI

Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWER 6TH FLR, 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 FAX: (020) 2215537 NAIROBI
Email: info@realplan.co.ke

30/16/2/22

Ref: RPC/1170 (D)/040/asm.

SURVEY FIELD H/Q
P.O. Box 30046
RECEIVED
08 FEB 2022
INWARD Reg. No. 267
RUARAKA - NAIROBI

7th January, 2022.

Director of Surveys,
Ministry of Lands and Physical Planning
P. O. Box 30046
Nairobi.

RE: LR NO. 12157/5, EXTENSION OF LEASE RESURVEY.

We refer to your letter ref: No. CR185/VOL.18/139, dated 26th December, 22 regarding the above.

Enclosed please find cheque No.003227, for payment of checking fees as requested.

Looking forward to your release of the New Deed Plans

Yours Sincerely,

Plan Henry. M. Mwau.
For Real Plan Consultants Ltd.

SAD-Cad
Reject
9-2-22

CR 185/18/148

DIRECTOR OF SURVEY
RECEIVED
08 FEB 2022

Real Plan Consultants Ltd

348/16/2/22

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 16TH FLR, 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 FAX: (020) 2215537 NAIROBI
Email: info@realplan.co.ke

SURVEY FIELD H/Q
P. O. Box 30046
RECEIVED
08 FEB 2022
INWARD Reg. No 264
RUARAKA - NAIROBI

Ref: RPC/1170 (G)/041/asm.

7th January, 2022.

Director of Surveys,
Ministry of Lands and Physical Planning
P. O. Box 30046
Nairobi.

RE: LR NO. 12157/2, EXTENSION OF LEASE RESURVEY.

We refer to your letter ref: No. CR185/VOL.18/138, dated 26th December, 22 regarding the above.

Enclosed please find cheque No.003229, for payment of checking fees as requested.

Your earliest release of the New Deed Plans will be appreciated.

Yours Sincerely,

Plan Henry. M. Mwau.
For Real Plan Consultants Ltd.

SAD-cad
study records
then deal. Reject
9-2-2022

CR 185-/18/161

DIRECTOR OF SURVEYS
RECEIVED
17 FEB 2022
P. O. Box 30046, NAIROBI

Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 16TH FLR, 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 FAX: (020) 2215537 NAIROBI
Email: info@realplan.co.ke

Ref: RPC/1170(C)/55/dc

16th February, 2022

SURVEY FIELD H/Q
P. O. Box 30046
RECEIVED
17 FEB 2022
INWARD Reg. No. 609
RUARAKA - NAIROBI

Director of Surveys,
Ministry of Lands and Physical Planning
P.O Box 30046
Nairobi.

479/22/2/22

RE: L.R NO.12157/3 EXTENSION OF LEASE RESURVEY.

We refer to your letter ref no. **CR 185/VOL.18/143** dated 8th February 2022 regarding the above.

Enclosed please find a banker's cheque No. 418888, for payment of KShs 13,700 checking fees as requested.

We await the release of the new deed plans to enable us finalize the outstanding process.

Sincerely,

FOR Henry. M. Mwau.
For Real Plan Consultants Ltd.

SAS-cad
A planner has done and submitted surveys? Investigate and revert
18.2.2022

CT/85/18/166

Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 16TH FLR, 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 NAIROBI
Email: info@realplan.co.ke

DIRECTOR OF SURVEY RECEIVED 17 FEB 2022 P. O. Box 30046, NAIROBI

S94/28/2/22

16/February/2022

Ref: RPC/1170(b)/048/lwn

Director of Surveys,
Ministry of Lands and Physical Planning
P.O Box 30046
Nairobi.

SURVEY FIELD H/Q P. O Box 30046 RECEIVED 17 FEB 2022 INWARD Reg. No. 611 RUARAKA - NAIROBI

RE: L.R NO. 12158, EXTENSION OF LEASE RESURVEY.

We refer to your letter ref no. CT 186/VOL.57/49 dated 10th February 2022 regarding the above.

Enclosed please find cheque No 418889 for payment of Kshs. 794,400, of checking fees as requested.

We await the release of the new deed plans to enable us finalize the outstanding process.

SAD-Cud
study then deal.
18.2.2022

Sincerely,

Plan. Henry. M. Mwau
For Real Plan Consultants Ltd.

SURVEY OF KENYA
794,400 CASH/CHQ
No. 2706777 VIDE RECEIPT
SIGN BY CASHIER
APPROVED
FOR DIRECTOR OF SURVEYS

CR 185/18/149

RPC Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 16TH FLR, 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 FAX: (020) 2215537 NAIROBI
Email: info@realplan.co.ke

DIRECTOR OF SURVEY
RECEIVED
08 FEB 2022
P. O. Box 30046, NAIROBI

Ref: RPC/1170 (A)/079/asm.

349/16/2/22

Director of Surveys,
Ministry of Lands and Physical Planning
P. O. Box 30046
Nairobi.

SURVEY FIELD H/Q
P. O. Box 30046
RECEIVED
08 FEB 2022
INWARD Reg. No. 265
RUARAKA - NAIROBI

7th January, 2022.

RE: LR NO. 13289, EXTENSION OF LEASE RESURVEY.

We refer to your letter ref: No. CR185/VOL.18/137, regarding the above.

Enclosed please find cheque No.003230 for payment of checking fees as requested.

Looking forward to your release of the New Deed Plans

Yours Sincerely,

Plan Henry. M. Mwau.
For Real Plan Consultants Ltd.

SAD-Card
Study records then deal. If the request is for Nairobi-ensure compliance with ~~[illegible]~~ conditions
9-2-2022

AR 185/18/162

DIRECTOR OF SURVEY RECEIVED RPC 2022 P. O. Box 30046, NAIROBI

Real Plan Consultants Ltd

Physical Planning and Environment Consultants

4TH AVENUE TOWERS 16TH FLR, 4TH NGONG AVENUE P. O. BOX 1555 – 00200, Tel: (020) 2214116, 0722477500 NAIROBI
Email: info@realplan.co.ke

480/22/2/22

Ref: RPC/1170(b)/048/dc

16th February/2022

SURVEY FIELD H/Q P. O. Box 30046 RECEIVED 17 FEB 2022 INWARD Reg. No. 610 RUARAKA - NAIROBI

Director of Surveys,
Ministry of Lands and Physical Planning
P.O Box 30046
Nairobi.

RE: L.R NO. 12157, EXTENSION OF LEASE RESURVEY.

We refer to your letter ref no. CR185/VOL.18/144 dated 8th February 2022 regarding the above.

Enclosed please find cheque No. 418890, for payment of KShs 957,300 checking fees as requested.

We await the release of the new deed plans to enable us finalize the outstanding process.

Sincerely,

For Plan. Henry. M. Mwau
For Real Plan Consultants Ltd.

SAD - cad
Study have deal.
18-2-2022

NB. Can a Planner submit Survey records ???
Investigate.

SURVEY KENYA RECEIVED KSHS. 957,300/= CASH/CHQ No. 270677 OFFICIAL RECEIPT SIGN BY CASHIER APPROVED FOR DIRECTOR OF SURVEYS

ANNEXURE 8

Invitation for
public participation meeting
by Muranga County Government
on 17th February 2023

MURANG'A COUNTY GOVERNMENT

DEPARTMENT OF LANDS, PHYSICAL PLANNING & URBAN DEV.

MURANGA COUNTY
P.O Box 52 – 10200,
Murang'a,
Kenya
Telephone 060-2030271

E-mail: ccclands@muranga.go.ke
Web: muranga.go.ke

Our Ref: MCG/LHP/PP 223

17th February 2023

Hon. Mary Wamaua, MP Maragua Constituency
Hon. Wakili Edward Muriu, MP Gatanga Constituency
Hon. Elizabeth Mwangi, MCA Kimorori Ward
Hon. Steve Muigai, MCA Kakuzi Mitubiri Ward
Hon. Mukora, MCA Kagunduini Ward
Hon. Members, County Assembly Lands, Housing, Planning Committee

REF: PUBLIC PARTICIPATION MEETING ON MCG LAND DELMONTE AREA & KENOL DECONGESTION

Refer to the above subject. Murang'a County Government my department is in the process of planning the 1400 acres of land situated in Makenzie area and partly in Methi.

We have prepared draft Master Plan and have inputted views collected during the 1st meeting held in December 2022. In consultation with leadership, we have also resolved that there is need to decongest Kenol so as to spur growth and attract investors in our County.

As such, we have certain proposals which we would like to share with the public with a view to building consensus on the same. The department intends to hold a public participation meeting on **Wednesday 22nd February 10.AM at ACK Kariguini Church Hall starting at 10.AM.**

We will be greatly honoured to have you join us in this meeting as we deliberate on the two issues. We look forward to seeing you then.

MURANG'A COUNTY GOVERNMENT
17 FEB 2023
P.O. Box 52 - 10200, MURANG'A
DEPT. FOR LANDS PHYSICAL PLANNING & URBAN DEVELOPMENT

Dr. Winnie Mwangi, F.I.S.K.
CECM, Lands, Physical Planning & Urban Dev.
MURANG'A

CC: HE, The Governor
County Secretary
National Lands Commission Coordinator – Kindly Plan to attend
The County Commissioner
The County Commandant- Kindly allocate us 2 Security officers
The Deputy County Commissioner, Kenol

ANNEXURE 9

Muranga County Government Caveat
on Ceded land
by Del Monte from
in November 2022
via Nation Newspaper

asking him to halt the ongoing

nance as well as boosting its operating efficiencies.

MURANG'A COUNTY GOVERNMENT

PUBLIC NOTICE

CAVEAT EMPTOR (BUYER BEWARE)

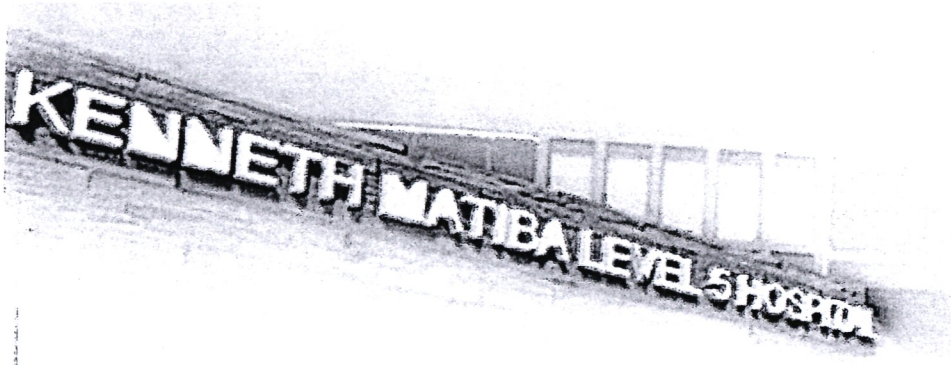
In the matter of public land belonging to Murang'a County Government abutting Delmonte farm near Makenji.

It has come to the notice of the Murang'a County Government that there are persons encroaching on the said land, purporting to subdivide and sell plots to the members of public. **This land is reserved for upcoming Kenol Level 5 Hospital.** Notice is hereby issued to the public that Murang'a County Government is not subdividing or selling plots from the said land or any of its land parcels elsewhere. Murang'a County Government has not instructed anyone to deal with such land on the County's behalf. Anyone selling such land is acting illegally while anyone buying such land risks losing their money without any recourse to the county Government.

BE INFORMED

CECM
Lands, Physical Planning & Urban Development

ABC CERTIFIED
Member of the
Audit Bureau of Circulation



MURANG'A COUNTY GOVERNMENT

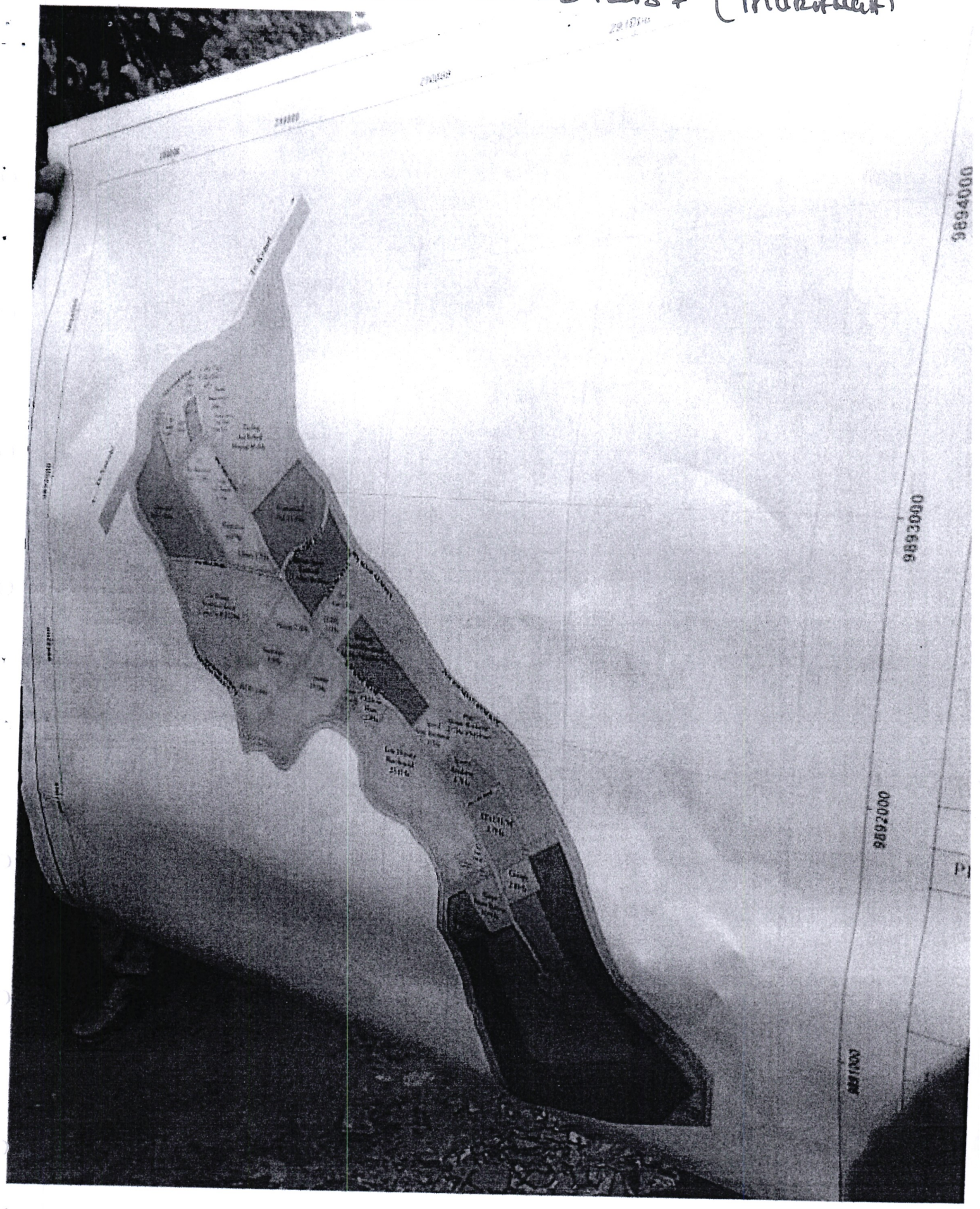
Murang'a residents are invited for a civic engagement to air their views on the upcoming construction of Kenol Kenneth Matiba Level 5 Hospital.

DATE: THURSDAY 15TH JUNE,2023
TIME: FROM - 9:00AM
VENUE: MAKENJI LAND(DELMONTE)

ANNEXURE 11

Proposed plan by
the Muranga County Government
which was exhibited
on 15th June 2023
during the civic engagement event

PLANNED LAND ON LR 12157 (MURANGA)



PLANNED LAND ON 12157 (MURANGA)

292000

9894000

9893000

9892000

9891000

MURANG'A COUNTY GOVERNMENT
MINISTRY OF LANDS, PLANNING AND URBAN DEVELOPMENT

PROPOSED MASTER PLAN FOR
PARCEL LR. NO. 12157/1
1183 Acres (Approximately)

Legend

Type

- Agricultural - Horticulture
- RIPARIAN
- GREEN SPACE
- INDUSTRIAL - LIGHT
- COMMERCIAL
- EDUCATIONAL
- INDUSTRIAL
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- HIGH DENSITY RESIDENTIAL
- PUBLIC UTILITY
- TRANSPORTATION

PLAN NO. C21/21/11/22/2

N

SCALE : 1:10,000

DATE: 2/ 08 /23

Drawn By:.....

Prepared By:.....

APPROVED BY:

.....
Chief Officer Lands, Physical Planning & Urban Development

.....
Date

ANNEXURE 12

Governor Kimani Wamatangi
report in Standard Newspaper
on 1st November 2022.

The Standard
SINCE 1902

Refresh

www.standardmedia.co.ke/central/article/2001459623/kiambu-to-build-affordable-houses-on-del-monte-land is currently offline. Cloudflare's Always Online™ shows a snapshot of this web page from the Internet Archive's Wayback Machine. To check for the live version, click **Refresh**.

Kiambu to build affordable houses on Del Monte land

By Fidelis Kabunyi | 5mos ago

Kiambu Governor Kimani Wamatangi.
[David Njaaga, Standard]

Kiambu County has committed to use 697 acres of land donated by Del Monte Kenya Ltd for an affordable housing project. This is in collaboration with the national government.

Following the official acquisition of the land documents, Governor Kimani Wamatangi said public participation by locals will be held to determine how the land will be used.

"Because the land now officially belongs to the county, it could be used to build schools, hospitals, sports facilities, decongest Thika, and meet other social and infrastructural needs," he said.



Wamatangi added that the land is divided into four parcels, each of which is located in a different location, necessitating careful planning.

"This is an opportunity that, if well capitalised on, has the potential to turn around the region's economy. We will have the best arrangement with the locals and all parties to benefit the people of Kiambu and transform Thika," he said.

Keep Reading



'Bado Maandamano': It's return to demos as Raila heeds NGOs call



The pros and cons of State subsidised housing project



Advantages of living in a gated community

The governor added that the county government is collaborating with the national government to implement infrastructure projects in Thika to elevate it to city status.

"Such projects are required for Thika to become a city, and we are working around the clock to ensure all requirements for cityhood are met," Wamatangi said.

President William Ruto has made affordable housing a priority, and the government has committed to increasing the number of mortgages from 30,000 to one million by allowing low-cost mortgages of Sh10,000 or less.

"Everyone's dream in town is to one day own a home. So, we're talking about houses (costing) between Sh3 million and Sh5 million, which you can pay for with a 20-year mortgage of between Sh10,000 and Sh30,000, which is equivalent to what people pay

Enter your email

SIGN UP

Related Topics

Affordable housing | Kimani Wamatangi | Kiambua County

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Trending Now

- Correct soil acidity to get high crop yields, expert
- Eleven fellowship winners to help shape agri policies
- When rains turn into a curse for livestock
- Banks resume selling dollar at Sh140 despite CBK intervention
- More pain as price of salt goes up

Popular this week

- Religious cult in Kilifi leaves four people dead, 11 hospitalised

ANNEXURE 10

Facebook update from
Kiambu County Government
plan for the land from
Del Monte Kenya Ltd
on Thika Town today page.

Thika Town Today - 3T is on Facebook. To connect with Thika Town Today - 3T, log in to Facebook.

Log in

or

Join

Thika Town Today - 3T
27 October 2022 at 16:59 ·

Kiambu Governor Kimani Wamatangi is proposing to use the 697 acres of land surrendered by Del Monte to establish part of the 50,000 affordable housing units, build schools, hospitals, sports facilities, decongest Thika, and meet other social and infrastructural needs.



9 shares

View previous comments...

Damiatah Kerry
Agriculture was the backbone of our economy.
I guess it has change to infrastructure, housing and decongestion.
That's why we are losing investors

8 mths **Report**

Alex Njoroge
How can arable land be turned into a concrete jungle ?

8 mths **Report**

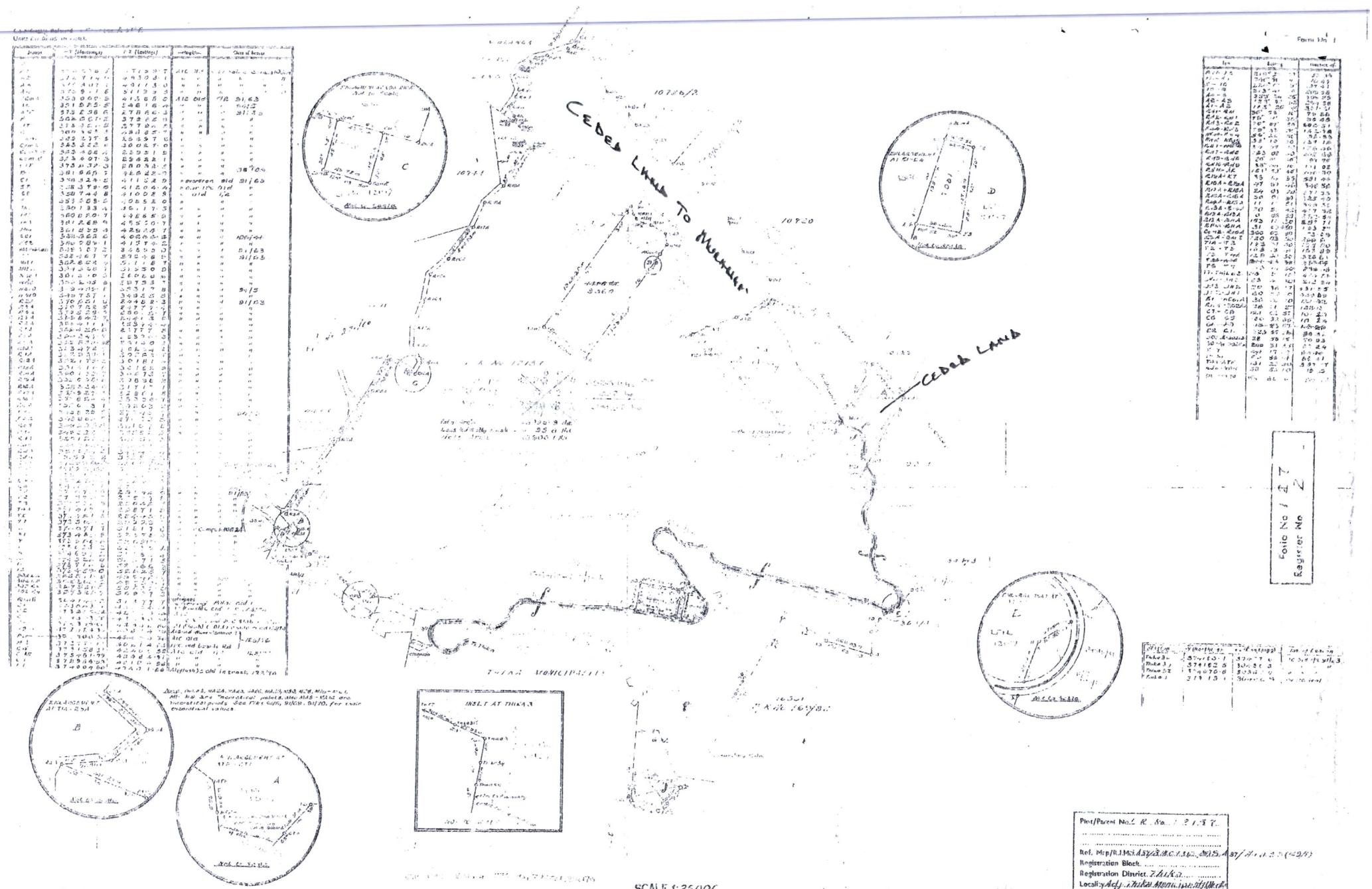
Stephen Kageche
Someone to share his contacts i can also propose for him another thing to add onto his plan

8 mths **Report**

Zakayo Nganga
Historical injustice.was for kandara residence not for kiambu county.

8 mths **Report**

Form No. 1



Folio No 1 2 7
Register No 2

Plot/Parcel No. L.R. No. 1 2 1 5 7
Ref. Map/R.I.M.S. A 37/3 M.C.1.3.2, M.R.S. A 37/4 1.2.3 (49/1)
Registration Block
Registration District Thika
Locality Adj. Thika Municipality Mech.

Compiled Plan

SCALE 1:25,000

Registration	Transactions	Authentication	Date	Records	Date
Date Received 6 May 1974	Provisional Approval C.A.	Examined by		Traced by	
File Reference	Final Approval	Approved by		Compared by	
Computations File		Authenticated by		Contract Sheet	
Field Book No.	Checked by	for Director of Surveys			

GOOGLE MAP

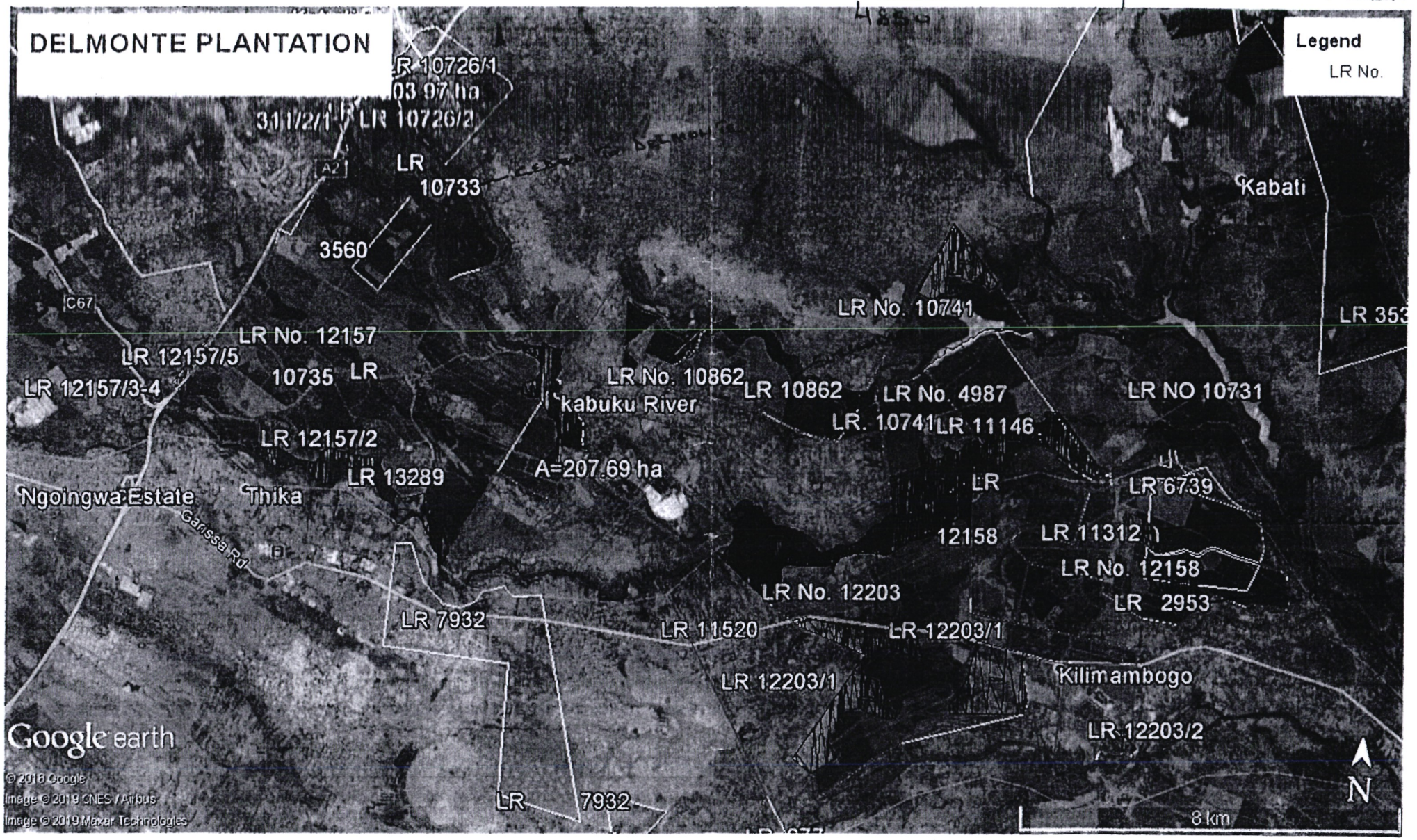
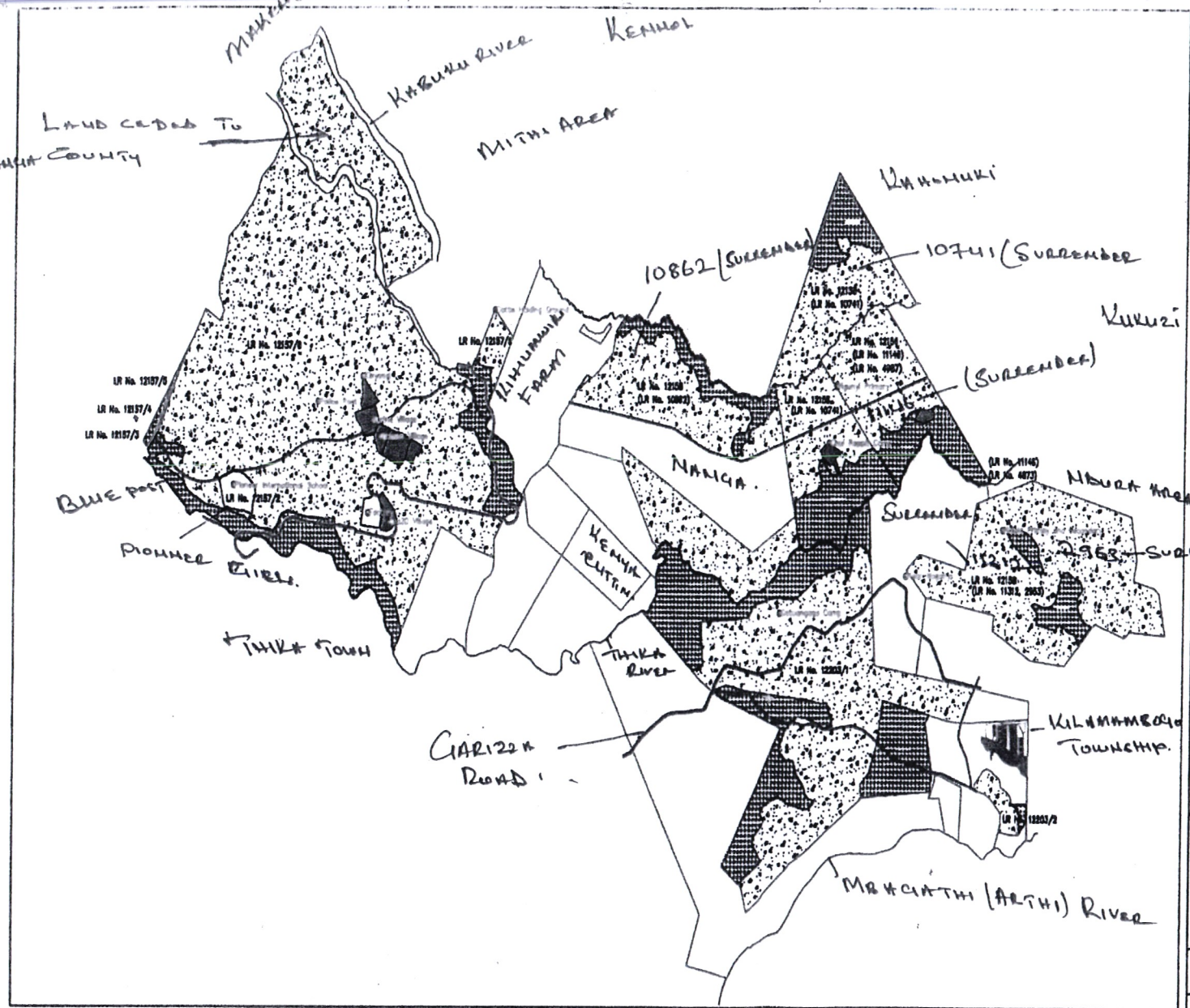


Figure 2

PLOTTED MAP



Source :

PROJECTION : UTM WGS84

Legend

- Boundary Line
- River
- Road
- Railway
- Bush and Shrub
- Residntial
- Pineapple Plantation

THIKA

North

DATE 30/12/2019

SCALE 1:500

DRAWN BY:

DRWAWING REF NO.

APPROVED _____ DATE _____

BY: _____

BOUNDARY MAP

12157/2 12157/4.

