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REPUBLIC OF KENYA




TWELFTH PARLIAMENT – FIFTH SESSION

THE NATIONAL ASSEMBLY

SELECT COMMITTEE ON IMPLEMENTATION

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	DAY:
29/9/2021	Thursday
TABLED BY:	Hon. Muthueli Ote Kenta
CLERK-AT THE-TABLE:	James Gino

**REPORT ON
IMPLEMENTATION STATUS OF THE REPORT OF THE DEPARTMENTAL
COMMITTEE ON LANDS REGARDING LAND ISSUES IN TAITA TAVETA
COUNTY**

Tabled on 30/9/2021

J. Gino

Directorate of Audit, Appropriations and other Select Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

SEPTEMBER, 2021

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CHAIRPERSON'S FOREWORD

The Select Committee on Implementation is mandated to scrutinize the resolutions of the House, including adopted Committee reports, petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented the extent to which they have been implemented, and whether such implementation has taken place within the minimum time necessary and satisfactory explanation for the delay in full implementation provided.

The Committee pursuant to its mandate resolved to be appraised on the implementation status of the recommendations contained in the Report of the Departmental Committee on Lands regarding land issues in Taita Taveta County.

In considering the implementation status of the Report mentioned above, the Select Committee on Implementation held various meetings with relevant stakeholders, including officials of the Ministry of Lands and Physical Planning, the National Land Commission and the management of Teita Sisal Estate. The Committee also conducted an inspection visit in Taita Taveta County from 5th to April 8, 2018.

The Report entails a compilation of the responses received and their implementation status at the time of adoption of the Report.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitating it towards achieving its mandate and producing this Report.

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

Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

In line with its mandate, the Select Committee on Implementation wrote to various Ministries seeking the status of implementation of various House resolutions. This is pursuant to Standing Order 209 (2) that provides that the Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary.

The Select Committee on Implementation pursuant to its mandate resolved to apprise itself on the implementation status of the recommendations in the Departmental Committee on Land report regarding land issues in Taita Taveta County. During its Committee meetings, the Departmental Committee on Lands of the Eleventh Parliament noted the public outcry in Taita Taveta County and the rising tension in the area due to the land conflict between the owner of Teita Sisal Estate and the local community. The Committee, therefore, resolved to conduct an inquiry and tabled its Report on June 25, 2015.

In considering the implementation status of the aforementioned Report, the Select Committee on Implementation held various meetings with relevant stakeholders, including officials of the Ministry of Lands and Physical Planning, the National Land Commission and the management of Teita Sisal Estate and the squatters. The Committee also conducted an inspection visit in Taita Taveta County from 5th to April 8, 2018.

The Committee, during its various sittings, scrutinized the written submissions received from the stakeholders. The records of evidence submitted to the Committee form the basis of the Committee's Report on the implementation status as outlined in the Report.

In its deliberations, the Committee observed that Teita Sisal Estate owns 30,284 acres of land legally evident by the survey report conducted by the Ministry of Lands and Physical Planning. The Estate had not encroached into a public land as alleged. Further, Teita Sisal Estate had given up 555 acres (539 acres to the Land Settlement Fund Board of Trustees, 15.6 acres for Mwandisha Primary School). The Estate has also ensured that there is access to public utilities and roads.

The Committee also observed that, there are various land disputes between the local communities and large private land users/companies as evidenced by petitions coming to Parliament (National Assembly and the Senate).

Therefore after deliberations, the Committee recommends that: -

- (1) The Ministry of Lands and Physical Planning should complete the adjudication process of 6,000 acres excised from the Teita Sisal Estate to the squatters in Taita Taveta County within six months of the adoption of this Report;

- (2) The Ministry of Lands and Physical Planning should, within six (6) months of the adoption of this Report, submit a list of all beneficiaries of the land surrendered by the Estate;
- (3) The Ministry of Lands and Physical Planning, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence in extension and renewal of leases for Teita Sisal Estate when they expire; and
- (4) The Directorate of Criminal Investigations to investigate the activities of Mwasima Mbuwa Welfare Association for fraudulent activities targeting the squatters and members of the public and if found culpable, be subjected to due legal process within six (6) months of the adoption of this report.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Implementation is a Select Committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders.
2. The Committee is charged with scrutinizing the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary. The Committee may also propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.
3. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant Committee of the House. The mandate of the Committee is further enhanced by the provisions of Article 153 (4) (b) of the Constitution, which requires Cabinet Secretaries to provide Parliament with complete and regular reports concerning matters under their control.

1.2 Committee Membership

4. The Committee comprise the following Members-

Chairperson

Hon. Moitalel Ole Kenta, MP
Narok North Constituency

Orange Democratic Movement

Vice-Chairperson

Hon. Godfrey Osotsi, MP
Nominated

Amani National Congress

Members

Hon. Moses Kuria, MP
Gatundu South Constituency
Jubilee Party

Hon. Alois Lentoimaga, MP
Samburu North Constituency
Jubilee Party

Hon. (Dr.) James Murgor, MP
Keiyo North Constituency
Jubilee Party

Hon. Joash Nyamache Nyamoko, MP
North Mugirang'o Constituency
Jubilee Party

Hon. John Njuguna Wanjiku, MP
Kiamba Constituency
United Democratic Alliance

Hon. Paul Odalo Abuor, MP
Rongo Constituency
Orange Democratic Movement

Hon. Hassan Oda Hulufu, MP
Isiolo North Constituency
Kenya Patriots Party

Hon. Paul Simba Arati, MP
Dagoretti North Constituency
Orange Democratic Movement

Hon. Feisal Bader, MP
Msambweni Constituency
Independent

Hon. Johnson Many Naicca, MP
Mumias West Constituency
Orange Democratic Movement

Hon. John Muchiri Nyagah, MP
Manyatta Constituency
Jubilee Party

Hon. Richard Onyonka, MP
Kitutu Chache South Constituency
Ford Kenya

Hon. Benjamin Dalu Tayari, MP
Kinango Constituency
Orange Democratic Movement

Hon. Michael Thoya Kingi, MP
Magarini Constituency
Orange Democratic Movement

Hon. Nelson Koech, MP
Belgut Constituency
Jubilee Party

Hon. Joshua Mbithi Mwalyo, MP
Masinga Constituency
Wiper Democratic Movement-Kenya

Hon. Peter Kimari, MP
Mathioya Constituency
Jubilee Party

Hon. Silvanus Osoro, MP
South Mugirang'o Constituency
Kenya National Congress

Hon. Gabriel Kago Mukuha, MP
Githunguri Constituency
Jubilee Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency
Wiper Democratic Movement-Kenya

Hon. Jared Okello, MP
Nyando Constituency
Orange Democratic Movement

1.4 Committee Secretariat

4. The Secretariat facilitating the Committee comprise -

Ms Tracy Chebet Koskei
Clerk Assistant I /Team Leader

Mr Abdirahman Hassan
Clerk Assistant II

Mr Salem Lorot
Legal Counsel II

Mr Donald Manyala
Research Officer II

Ms Jane Serem
Audio Officer I

Ms Winnie Kizia
Media Relations Officer

Mr Moses Kariuki
Sergeant-at-Arms

2.0 BACKGROUND

2.1 Introduction

5. The Select Committee on Implementation commenced to apprise itself on the implementation status of House resolutions pursuant to Standing Order 209 (2) that requires the Committee to scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive.
6. During its Committee meetings, the Departmental Committee on Lands of the 11th Parliament noted the public outcry in Taita Taveta County and the rising tension in the area due to the land conflict between the owner of Teita Sisal Estate and the local community.
7. The Committee resolved to inquire on the matter by undertaking an inspection visit to get views on the ground. The Committee held various meetings with the Governor Taita Taveta County, Deputy County Commissioner for Taita Taveta, Members of Mwasima Mbuwa Welfare Association, elders in Mwatate and the County District Surveyor, Taita Taveta County.
8. The Committee identified three parties involved in the land tussle with Teita Sisal Estate; squatters who live mainly in the Singila Majengo area and Mwasima Mbuwa Welfare Association who do not reside in the County. The parties did not agree on the boundary of the community land.
9. The Committee also established that the main issue under contention was the availability of title documents and boundaries issues between the Sisal Estate and the alleged community land and the struggle to access public utilities inside the estate, including schools, dams, and roads. The Government offered to purchase 440 acres of Land from the management of the Teita Estate near Singila Majengo to resettle the squatters. However, local politics have proved an obstacle.
10. The community informed the Departmental Committee on Lands that the Land on which the railway station, Mwatate airfield and public roads are built is Government land. Further, Teita Sisal Estate security officers inspect cars on public roads; the public has been denied access to Mwatate dam and that Land on which Teita Sisal Estate allegedly occupies government institutions located in Sembe sub-location.
11. The community requested for the review of the boundaries to separate the 33,000 acres belonging to Teita Sisal Estate and the rest of the Land, which is then registered as community land and given back to the community. The petitioners also requested the recovery of the alleged grabbed Land from the estate and compensated for damage to food crops occasioned by the estate's actions.

12. The Departmental Committee on Lands made the following observations from the submissions presented:-

- a) That the boundaries had been tampered with;
- b) The damage had been caused by the management of Teita Sisal Estate in 1991 at Majengo when food crops were ploughed down without notice when no Court Order was providing for the action and therefore obstructing the community development and grabbing of Land by the Estate;
- c) The Sisal Estate management uses sisal Police Patrol as a private security institution to intimidate innocent people of Singila Majengo;
- d) There are alleged illegal activities perpetrated by land offices in Taita Taveta County and the scheme's beneficiaries. These activities need to be stopped immediately to pave the way for a thorough investigation and audit by the National Land Commission and other relevant bodies.

Recommendations of the Departmental Committee on Lands

13. The Departmental Committee on Lands investigated the matter and made the following recommendations in its Report: -

- a) The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring a proposal for legislation to ensure that investments in property benefit local communities and their economy as provided for in Article 66(2) of the Constitution;
- b) The National Cohesion and Integration Commission should intervene to avert possible Land-based ethnic clashes in the County;
- c) The National Commission on Human Rights should intervene to ascertain any breach of the Bill of Rights (Chapter four of the Constitution);
- d) The Constitutional Implementation Commission intervenes to ensure that the entire process is constitutional and that all respective Government Institutions and State agencies undertake their responsibilities accordingly;
- e) The National Land Commission should initiate an inquiry into the historical land injustices in Taita/Taveta County and seek redress as provided for by law;
- f) Title deeds should be reviewed in the entire County and Land leases examined to establish whether their terms have expired and if they were renewed without legal procedures, then the land be surrendered to the Local Community;
- g) Ministry of Interior should remove all roadblocks on public roads to allow members of the public access without conditions in Teita Sisal Estate and its neighbourhood;
- h) Through the Director of Survey, the Ministry of Lands, Housing and Urban Development should survey the land in question to ascertain the boundaries as per the records of 1992 from the Survey of Kenya to ensure that Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra Land to the Government;
- i) The Ministry of Environment should restore Tasha Hill Forest to its original state; and
- j) The National Land Commission to initiate an audit for the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.

3.0 SUBMISSION BY STAKEHOLDERS

14. This section contains evidence submitted orally and in writing by key witnesses invited to adduce evidence before the Committee.

3.1 Meeting with the Ministry of Land and Physical Planning

Appearing before the Committee on diverse dates, the Cabinet Secretary for Lands & Physical Planning, Ms Farida Karoney, OGW, the Principal Secretary for Lands Dr Nicholas Muraguri, among other Ministry officials submitted that:-

15. The Report had emanated from allegations that Teita Sisal Estate had encroached into contiguous community land. The Departmental Committee on Lands recommended that the Ministry ascertain the boundaries. The Ministry carried out a boundary confirmation survey on the Land and discovered that the community had encroached into the Sisal Estate.
16. A group of squatters claiming ownership of the Singila Majengo area differed from the Mwasima Mbuwa Welfare Association. The survey report conducted by the Ministry confirmed that Teita Sisal Estate was occupying a total of 30,284 acres as supported by L/R No. 8880/5(16,875 acres); L/R No. 11378(3,344 acres); L/R No. 6924(10,010 acres) and L/R No. 9487(55 acres).
17. The survey maps of 1929 indicated that the dam was constructed within the Teita estate land. Further, the three of the titles indicated leases for 999 years while the fourth was for 99 years. However, all land title leases were reverted to 99 years as per the Constitution.
18. The survey carried out in 1954 indicated that an airstrip was at that time located outside the Teita Sisal Estate boundary. However, once the boundary was extended, the airstrip became part of the sisal estate located in L/R 3880/5 and is accessible to private planes, Kenya Wildlife Services and the Government.
19. Teita Sisal Estate had surrendered to the Government LR No. 3880/3 in lieu of L/R No. 3880/5 measuring approximately 12,000 acres at Muda bogo. Six thousand (6,000) acres had already been adjudicated while the remaining 6,000 acres had not been officially allocated to anyone. The un-adjudicated Land had not been settled but was being claimed as part of the Mugeno reserve. Titles to the 6,000 acres that were part of L/R No. 3880/3 would be allocated to squatters in the area once a database of legitimate squatters was established.

20. The Ministry reiterated that although the Report of Departmental Committee on Lands recommended surveying to clear the actual acreage owned by Teita Sisal Estate, to discourage encroachment by both the sisal estate and the community, it did not pronounce itself on what happens to the Land on which public utilities and installations are located.
21. The Ministry carried out a boundary confirmation survey on the Land to ascertain the boundaries and discovered that the community had encroached into the Sisal Estate. The survey report recommended deducting a wayleave from the estate land in favour of the public roads, railway station & Mwandisha Primary School and the same allocated titles.
22. The re-survey of the land parcels was carried out in July 2016 led by a team from the Ministry of Lands & Physical Planning whose outputs were as follows:
- (i) Most of the boundary beacons for the four parcels of land in question were intact and the few not found in place were re-established as per the Survey Regulations. The total acreage of the land parcels is 30,284 acres as indicated on the survey maps for the four parcels. A re-computation of the acreage after the fieldwork yielded the same, which was in agreement with the records held by the Ministry.
 - (ii) Teita Sisal Estate Limited was operating within the four parcels and had not encroached onto the neighbouring community land, road and trust land around Tasha Hill and railway reserve. The sanctuary is an establishment of the Sisal Estate and was within the four plots owned by the estate. The airstrip is within the four parcels owned by the Sisal Estate and the estate has an aerodromes clearance certificate to operate it.
 - (iii) The community has encroached onto parts of the Sisal Estate including Singila Majengo, sections along the Voi – Mwatate road and the corridor leading to & part of LR No. 3880/5, near Voi River.
 - (iv) Three classified roads run through the Estate and are open for public use. There are also several private roads traversing the Land.
 - (v) There is a manned barrier at the entrance of the Estate on a road that may have been leading to the now non-operational railway station. Another manned barrier is on an unclassified road leading to Mwandisha Primary School.
 - (vi) The Voi-Taveta railway line passes through LR. No. 3880/5. The acreage of the railway reserve has been deducted from the head title of the parcel of Land. A non-operational railway station also falls within the same land parcel. Its reservation has not been deducted from the head title although Kenya Railway claims a gazetted reservation of 4.8 acres.
23. During a field visit held between 5th and 8th April 2018, conducted by the Committee and officers from the Ministry, the registered proprietor of the Estate agreed to donate 250 acres to the local community on his own volition. The CS reported that the 250 acres ceded were without costs and conditions to the Government.

24. The Ministry excised the said 250 acres and the public utilities within the Estate. The Ministry was preparing titles for the 250 acres to be handed to the Land Settlement Fund Board of Trustees.
25. Further, Cabinet Secretary reported that the owner had intimated that he was willing to surrender a further 200 acres to the local community. The Ministry advised Teita Sisal Estate to put in writing their ceding of the additional 200 acres for the Ministry to begin the process of excising and registering it.
26. The public utilities including the dam, schools, roads and railway, have been issued with individual titles. Some squatters had encroached on Teita Sisal Estate land and the proprietor of the Estate offered to surrender a portion of the land they occupied, which occasioned the excision of some part of the Land. The estate has also ceded Land, which has been deemed riparian.
27. The Ministry also reported that it had requested excise and fencing of the public utilities and installations in the Land owned by Teita Sisal Estate. The excision of Singilla Majengo village, Mwandisha primary school, public utilities like roads and railway reserves have since been carried out vide F/R 467/85 and submitted to the survey department for approval. However, the approval process has not been finalized as the County Government of Taita Taveta was yet to issue an approval in respect of the subdivision scheme plan. The matter would be resolved once the County Government grants approval and the title surrendered.
28. A local land committee comprises thirteen (13) members elected in a public baraza on February 24, 2020 to spearhead the planning, squatter verification and survey. The Ministry of Lands, in collaboration with the Taita Taveta County Government, undertook the verification. In that regard, ground verification of squatters and survey was ongoing with 1,350 squatters profiled so far.

The Ministry submitted that it had requested the owner to surrender the existing title vide a letter Ref. No. MOLPP/30533/VI/145 dated February 4, 2020. Approximately 45% of the 250 acres of land had already been beaconed and the work would be completed in due course. A total of 1368 out of the 1500 parcels have been demarcated and the ground occupants verified. Forty-five (45) ownership disputes have been resolved.

29. During a meeting held between the Committee and the Ministry on Wednesday, June 17, 2020, the Ministry provided a letter from the Ministry of Lands addressed to the advocates of Teita Sisal Estate Limited, requesting the Estate to surrender the original titles for the parcels of land that need to be surrendered. The Ministry also surveyed documents detailing the excision of Singilla Majengo village, Mwandisha primary school and public utilities like roads & railway reserves that were within the Estate.

30. The Ministry further submitted that during a meeting held on July 19, 2020, between the County Government of Taita Taveta and the Ministry of Lands & Physical Planning, the County Government agreed to facilitate preparation and approval of the subdivision scheme plan based on the survey data collected by the survey team. However, the County Government was yet to approve the same. The Ministry would engage the County Government with a view to finalizing the process as soon as possible.
31. The Chief Administrative Secretary appearing before the Committee on March 3, 2021 submitted that the excision of Singila Majengo village, Mwandisha primary school and public utilities including roads & railway reserves was undertaken vide Survey Plan No. F/R 467/87. The County Government of Taita Taveta approved the application for subdivision and change of user vide PPA 2 form dated November 14, 2019.
32. The excision resulted in the creation of Mwatate /Mwatate Block 1/ (11-13). Parcels 11 and 12 must be surrendered to the National Government while parcel 13 must be registered in the original owner's name. The owner proposed to subdivide parcel 13 further.
33. The Committee was also informed that the Director Land Administration issued subdivision scheme approval letters on January 4, 2021 as follows:

Parcel No.	Size (Ha).	Beneficiary
Mwatate/ Mwatate Block 1/ 11 (Shingila Majengo)	85.81	Land Settlement Fund Board of Trustees
Mwatate/ Mwatate Block 1/ 12 (Mwandisha Primary School)	6.34	Cabinet Secretary to the National Treasury
Mwatate/ Mwatate Block 1/ 14	1191.19	Teita Estates Limited
Mwatate/ Mwatate Block 1/ 15	4936.57	Teita Estates Limited
Mwatate/ Mwatate Block 1/ 16	406.26	Teita Estates Limited
Mwatate/ Mwatate Block 1/ 17 (Langatani)	132.54	Land Settlement Fund Board of Trustees

34. In the aforementioned meeting, the Ministry further reported that it was waiting for the mother title to facilitate registration of the scheme and issuance of titles.
35. While appearing before the Committee on Wednesday, July 29, 2021. The Cabinet Secretary for Lands and Physical Planning reported that the title had been surrendered. There were charges registered against the title in favour of Standard Chartered Bank Limited which were discharged on May 5, 2021 to facilitate registration of the subdivisions.

3.2 Meeting with the Managing Director, Teita Sisal Estate

36. **Mr Philip Kriazi, Managing Director (MD), Teita Sisal Estate, accompanied by Mr Emmanuel Mromno, Assistant General Manager** of the estate, met the Committee during a field visit on Friday April 6, 2018 and appeared before the Committee on Thursday April 12, 2018 and June 17 2020, to deliberate on the implementation status of the Report on land issues in Taita Taveta County.
37. The Managing Director informed the Committee that a survey of the sisal estate boundaries had been carried out by the Ministry of Lands & Physical Planning with representatives from relevant stakeholders. The survey confirmed that Teita Sisal Estate owned 30,284 acres (L/R No. 3880/5(16,875 acres); L/R No. 11378(3,344 acres); L/R No. 6924(10,010 acres) and L/R No. 9487(55 acres) and that the land occupied by the estate was less than what was indicated in the mother titles.
38. The allegation of encroachment by the estate on public or community land was not valid. The farm's perimeter had been moved several times during the last 50 years, which may have brought about the confusion on title documents and the Land that the sisal farm currently occupies. However, the Managing director confirmed that although the title documents may read 30, 284 acres, 2284 acres, which were Land excised from road and railway reserves had been subtracted from the mother titles.
39. The Managing director submitted that the Estate had closed no public roads. The road off the Kasigao-Kamtonga Road that leads to Mwandisha Primary School though open to the public is a private road with a roadblock manned by the estate's security personnel.
40. The Managing director reported that there is a school built by the farm to provide education for children of its employees but over time and as part of its corporate social responsibility opened to the neighbouring community. Children are allowed to access the school through a private road. Further, motorists use the road which cuts across the farm to join the Mwatate-Voi Road after passing through a security check at the entrance.

41. The Estate borders had been moved away from the road reserve and therefore, the Estate did not in any way inhibit access to public property.
42. A police post is located within the Estate, but it had never been used to harass the public as alleged in the Departmental Committee on Lands report. He clarified that the police post was built within the estate because, at the time, the workers who lived within the estate constituted the largest population size compared to the surrounding area. This was the case before Mwatate town grew to what it is today.
43. The Managing director further informed the meeting that a dam was constructed within the estate land but due to the exchange of parcel L/R 3880/3 with L/R 3880/5 by the Ministry of Lands & Physical Planning, the dam ended up half in the estate and half accessible to the public on the Mwatate side. However, due to negligence and siltation, the dam gradually divided into two with the side open to the public having shrunk so much that the dam does not hold adequate water.
44. He also pointed out that the public is also building houses and farming around the dam, leading to reducing the amount of water getting into the dam. To maintain water in the dam, the residents and the County Government of Taita Taveta agreed to prevent further encroachment on the catchment area.
45. The Committee heard that the dam needed desilting which needed to be undertaken jointly by the Sisal Estate, the National Government Constituencies Development Fund and the County Government. The residents need to be sensitized on the conservation of the catchment area and degradation of the surrounding Land from farming which has led to siltation.
46. There is also a private airstrip located within the estate land, although open for use by the Kenya Wildlife Service, private planes and the Government. The railway line wayleave was maintained through a fence and the railway station could be accessed via a gate manned by the estate security personnel.
47. The Managing director submitted that the Estate signed Memorandum of Understanding (MoU) with the Ministry of Lands & Physical Planning and the County Government of Taita Taveta to cede Land on which Mwandisha Primary School was located and the roads leading to the school. He reiterated that the road that leads to Matunga that cuts across the farm would remain private.
48. The Managing Director also informed the Committee that the squatters at Singilia Majengo could be settled in the Land they were currently occupying because it did not form part of the estate land. The Majengo area was never in contention because it is on the other side of the Kasigao –Kamtonga public road.

49. The number of squatters had grown exponentially since the court case suspended the MOU signed in 2014, making it challenging to identify the genuine squatters.
50. There were delays in implementing the MoU as it had to be endorsed by the National Government before being effected through the County Government as land matters were devolved.
51. In compensation for the loss of crops, which were ploughed in 1992, the estate had never illegally occupied the land and therefore cannot compensate the farmers for the loss of their crops.
52. The Managing director with the approval of the Ministry of Land, agreed to excise 250 acres of land and donate it to the Government of Kenya to settle Singila/Majengo squatters.
53. The Managing director further submitted that all roads passing through the Estate had been opened to the public and barriers put at a place that will not interfere with the movement of people.
54. He added that the Estate mounted a roadblock and manned the gate to the railway station to prevent vandalism of Kenya Railway property until such a time when the station was re-opened.
55. Registration of squatters is ongoing and the Ministry of Lands and Physical Planning will allocate plots once the survey and registrations are completed. The Ministry of Lands and Physical Planning handled the process; hence, the Managing director couldn't give a timeframe for its finalization.
56. During the field visit held on March 6, 2018, the Managing Director, Teita Sisal Estate, agreed to cede the Land on which Mwandisha Primary School stands to the Ministry of Education and adequately fenced.
57. In a meeting held between the Committee and the Management of Teita Sisal Estate on Wednesday June 17, 2020, the Managing director provided certified copies of title deeds and correspondences between the estate and various entities.

3.3 Meeting with Mwasima Mbuwa Welfare Association

Mr Mnjala Mwaluma, Secretary of Mwasimu Mbuwa Welfare Association; Mr James Mwanjaza, Vice-Chairperson and Mr Thomas Nduku, a Private Investigator, appeared before the Committee during its visit to Mwatate on Friday April 6, 2018.

58. The Association submitted that in 1991, a grader allegedly from Teita Sisal Estate was used to demolish gravesites and crops on Land whose ownership was in dispute which they were occupying as squatters and without any notice of demolition.
59. The Secretary of the Association informed the Committee that they were offered Land at Magaga. However, they refused because there were persons who were already occupying the said Land. They further alleged that the sisal farm had planted sisal crops up to their doorsteps which brought attacks from snakes, scorpions and spiders.
60. The public road through Singila Majengo needed repairs but the Estate had refused graders access to fix the road. The association claimed that the sisal farm had encroached on Land for which they did not have ownership title.
61. The Association submitted that the Sisal Estate through its security personnel denied the public access to public roads and footpaths. For example, the footpath through the Estate Director's residential area to the primary school, the veterinary road to Mwatate – Kasigau road and the road that cuts across the farm. The public was also denied access to the railway station.
62. The Association further alleged that police officers stationed at a police post within the farm were used by the estate management, as a private security firm, to harass and arrest the public who access the roads within the estate. They noted the need to remove all roadblocks to public roads and footpaths manned by Teita Sisal Estate security personnel removed immediately and the public allowed free access. The Association proposed that the police post be moved out of the farm.
63. The Association submitted that it were not a party to or in agreement with the contents of the MoU that was signed between the Teital Sisal Estate and the County Government of Taita Taveta.
64. The Association, in conclusion, requested that Teita Sisal Estate cedes LR 3880/5 and all Land on which public and government facilities are located to the Ministry of Lands & Physical Planning and be converted to community/public trust land. The squatters occupying the Land in Singila should be provided with title documents.

3.4 Meeting with Taita Taveta County Security Intelligence Committee

The Committee held a meeting with Ms Rhoda Onyancha, County Commissioner, Taita Taveta County, during a field visit on Friday April 6, 2018.

65. The County Commissioner submitted that the survey report by the Ministry of Lands in compliance with recommendation No. 2 on Teita Sisal Estate by the Departmental Committee on Lands dated September 6, 2017, had not been communicated to the County Commissioner's office for implementation.
66. The County Commissioner also informed the Committee that there had not convened any forums to communicate the recommendations in the Departmental Committee on Lands Report to the general public in Taita Taveta County. It was alleged that a draft survey report earlier been forwarded by the Ministry of Lands was a forgery, which unfortunately contained recommendations that the County Commissioner was being pressured to implement.
67. She assured the Committee that all roadblocks to public roads would be removed and access by the public to private roads within the sisal estate would be negotiated. The office of the County Commissioner would also ensure that the public has access to schools, railways, dams and any other public utility within the estate.

4.0 IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

68. The following is the status of implementation of the House resolutions:-

- I. The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring proposals for legislation to ensure that property investments benefit local communities and their economy as provided for in Article 66(2) of the Constitution.*

Implementation Status:

69. The Physical and Land Use Planning Act, 2019 was operationalized in 2019. Further, the House has approved various regulations on the same.

Committee Observation

70. Implementation has been done.

- II. The National Cohesion and Integration Commission Should intervene to avert possible Land-based ethnic clashes in the County.*

Implementation Status:

71. Currently, there are no tensions or clashes in the area.

- III. The National Commission on Human Rights should intervene to ascertain any breach of the Bill of Rights (Chapter four of the Constitution).*

Implementation Status:

72. The National Commission on Human rights has not forwarded a report on the matter.

- IV. The Constitutional Implementation Commission intervenes to ensure that the entire process is constitutional and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly.*

Implementation Status:

73. The Constitutional Implementation Commission ceased to exist when its term expired.

- V. Title deeds should be reviewed in the entire County and land lease examined to establish whether their terms have expired or were renewed without legal procedures. Then, the Land is surrendered to the local community.*

Implementation Status:

74. The Committee is yet to receive any submission from the relevant stakeholders.

Committee Recommendation:

75. In consultation with the Ministry of Lands and Physical Planning, the National Land Commission should carry out the review and submit a report to Parliament.

VI. *The Ministry of Interior and Coordination of National Government should immediately ensure that all roads to the primary school, dam, railway and airstrip are opened to allow members of the local community access.*

Implementation Status:

76. The Ministry of Lands and Physical Planning surveyed the Land and excised Mwandisha primary school and public utilities like roads & railway reserves.

Committee observation

77. Implementation has been done.

VII. *Through the Director of Survey, the Ministry of Lands should survey the land in question to ascertain the boundaries as per the records of 1992 from the Survey of Kenya and to ensure that Teita Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra land to the Government.*

Implementation Status:

78. A survey was done jointly with the stakeholders and a copy of the report was tabled to Parliament in September 2017. However, the survey report did confirm that Teita Sisal Estate has ownership documents of Estate LR3380/5 (3880/4/R), LR 11378, LR6924 and LR 9487 (dam) from the total acreage of 33,284 acres and that they have not encroached on public or community land.

Committee Observation

79. Implementation has been done.

VIII. *The National land Commission initiates an audit of the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.*

Implementation Status:

80. The Committee is yet to receive a report on the audit and its findings

Committee Recommendation:

81. In consultation with the Ministry of Lands and Physical Planning, the National Land Commission should carry out the review and submit a report to Parliament.

5.0 COMMITTEE OBSERVATIONS


82. The Committee made the following observations, that: -

- (1) Teita Sisal Estate owns 30,284 acres legally as per the survey report conducted by the Ministry of Lands and Physical Planning. The Estate had not encroached into a public land as alleged;
- (2) Teita Sisal Estate had given up 555 acres (539 acres to the Land Settlement Fund Board of Trustees, 15.6 acres for Mwandisha Primary School);
- (3) Teital Sisal Limited has ensured that there is access to public utilities and roads;
- (4) Teita Sisal Estate had surrendered to the Government LR 3880/3 in lieu of L/R 3880/5 measuring approximately 12,000 acres at Muda bogo. The land reference 3880/3 had been triangulated and excised from the title of the sisal estate. Six thousand (6,000) acres had already been adjudicated, while the remaining 6,000 acres had not been officially allocated to anyone. However, plans were underway by the Ministry of Lands to adjudicate the remaining 6,000 acres to squatters in the area;
- (5) Some of the associations that were purporting to be representatives of the squatters seemed to be involved in fraudulent land activities; and
- (6) There are various land disputes between the local communities and large private land users/companies as evidenced by petitions coming to Parliament (National Assembly and the Senate).

6.0 COMMITTEE RECOMMENDATIONS

83. The Committee, during its Sitting of August 28, 2021 made the following recommendations :-

- (1) The Ministry of Lands and Physical Planning should complete the adjudication process of 6,000 acres excised from the Teita Sisal Estate to the squatters in Taita Taveta County within six months of the adoption of this Report;
- (2) The Ministry of Lands and Physical Planning should, within six (6) months of the adoption of this Report, submit a list of all beneficiaries of the land surrendered by the Estate;
- (3) The Ministry of Lands and Physical Planning, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence in extension and renewal of leases for Teita Sisal Estate when they expire; and
- (4) The Directorate of Criminal Investigations to investigate the activities of Mwasima Mbuwa Welfare Association for fraudulent activities targeting the squatters and members of the public and if found culpable, be subjected to due legal process within six months of the adoption of this report.

Signed  Date 29/09/2021.
Hon. Moitalel Ole Kenta, MP
Chairperson, Committee on Implementation

APPENDICES

APPENDIX I

Adoption List

The National Assembly





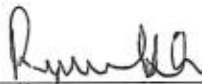

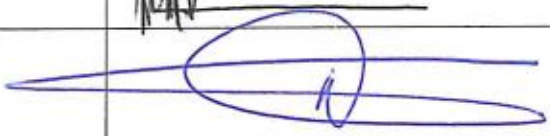
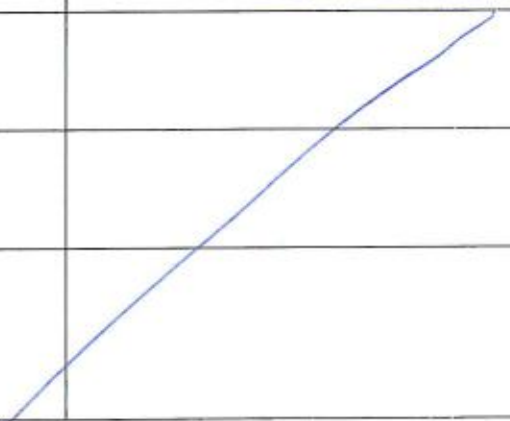
12th Parliament-5th Session-2021



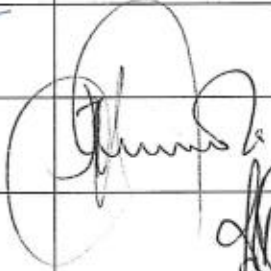

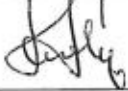


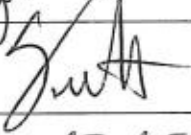

Committee on Implementation

Agenda: Adoption of the report on implementation status of the Report regarding Land issues in Taita Taveta County

Venue: Sarova Whitesands Hotel, Mombasa


Date: Saturday 28/8/21

S/NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP – Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Richard Onyonka, MP	
4.	The Hon. Alois Musa Lentoimaga, MP	
5.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
6.	The Hon. Johnson Many Naicca, MP	
7.	The Hon. Moses Kiarie Kuria, MP	
8.	The Hon. Paul Simba Arati, MP	

9.	The Hon. Charles Ngusya Nguna, MP	
10.	The Hon. Feisal Abdalla Bader, MP	
11.	The Hon. Gabriel Kago Mukuha, MP	
12.	The Hon. Hassan Oda Hulufo, MP	
13.	The Hon. Jared Okello, MP	
14.	The Hon. Joash Nyamache Nyamoko, MP	
15.	The Hon. John Muchiri Nyagah, MP	
16.	The Hon. Joshua Mwalyo Mbithi, MP	
17.	The Hon. Michael Thoya Kingi, MP	
18.	The Hon. Nelson Koech, MP	
19.	The Hon. Benjamin Dalu Tayari, MP	
20.	The Hon. Paul Abuor, MP	
21.	The Hon. Peter Kimari Kihara, MP	
22.	The Hon. Silvanus Osoro, MP	
23.	The Hon. John Njuguna Wanjiku, MP	

Committee Clerk

Name.....



(Signature)

Date.....

 23/8/21

APPENDIX II Minutes of the Committee

MINUTES OF THE 35TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON SATURDAY, 28TH AUGUST, 2021, IN THE BARAZA CONFERENCE HALL, WHITE SANDS HOTEL, MOMBASA, AT 9.30 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. Richard Onyonka, MP
5. The Hon. (Dr.) James Kipkosgei Murgor, MP
6. The Hon. Mukuha Gabriel Kago, MP
7. The Hon. John Muchiri Nyagah, M.P
8. The Hon. Joash Nyamache Nyamoko, MP
9. The Hon. Joshua Mbithi Mwalyo, MP
10. The Hon. Benjamin Dalu Tayari, MP
11. The Hon. Hassan Oda Hulufu, MP
12. The Hon. Peter Kihara, MP
13. The Hon. Silvanus Osoro, MP
14. The Hon. John Wanjiku, MP

APOLOGIES

1. The Hon. Johnson Many Naicca, MP
2. The Hon. Moses Kuria, MP
3. The Hon. Paul Simba Arati, MP
4. The Hon. Charles Ngusya Nguna, MP
5. The Hon. Feisal Bader, MP
6. The Hon. Jared Okello, MP
7. The Hon. Michael Kingi, MP
8. The Hon. Nelson Koech, MP
9. The Hon. Paul Odalo Abuor, MP

IN-ATTENDANCE

SECRETARIAT

- | | | |
|-----------------------------|---|------------------------|
| 1. Ms. Tracy Chebet Koskei | - | First Clerk Assistant |
| 2. Mr. Abdirahman G. Hassan | - | Second Clerk Assistant |
| 3. Mr. Donald Manyala | - | Research Officer II |
| 4. Ms. Jane Serem | - | Audio Officer I |
| 5. Mr. Moses Kariuki | - | Sergeant-at-arms |

MIN. NO.NA/COI/2021/162:

PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past nine o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Richard Onyonka, MP and the Hon. John Nyagah, MP, respectively.

MIN. NO.NA/COI/2021/163:

CONFIRMATION OF MINUTES

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

MIN. NO.NA/COI/2021/164:

**ADOPTION OF THE REPORT ON
IMPLEMENTATION STATUS OF THE
REPORT ON LAND ISSUES IN TAITA
TAVETA COUNTY**

The Committee having scrutinized the Report on implementation status of the report of the Departmental Committee on Lands regarding land issues in Taita Taveta County, unanimously adopted the report, after it was proposed and seconded by the Hon. Godfrey Osotsi, MP, Vice Chairperson, and the Hon. Gabriel Kago, MP, respectively. The committee made the following observations and recommendations: -

Committee Observations

- (1) Teita Sisal Estate owns total of 30,284 acres legally as per the survey report conducted by the Ministry of Lands and Physical Planning. The Estate had not encroached into a public land as alleged.
- (2) Teita Sisal Estate had given up 555 acres (539 acres to the Land Settlement Fund Board of Trustees, 15.6 acres for Mwandisha Primary School).
- (3) Teital Sisal Limited has ensured that there is access to public utilities and roads.
- (4) Teita Sisal Estate had surrendered to the Government LR 3880/3 in lieu of L/R 3880/5 measuring approximately 12,000 acres at Muda bogo. The land reference 3880/3 had been triangulated and excised from the title of the sisal estate. 6000 acres had already been adjudicated, while the remaining 6,000 acres had not been officially allocated to anyone. However, plans were underway by the Ministry of Lands to adjudicate the remaining 6,000 acres to squatters in the area.
- (5) Some of the associations that were purporting to be representatives of the squatters seemed to be involved in fraudulent land activities.

- (6) There continues to be various land disputes between the local communities and large private land users/companies as evidenced by petitions coming to Parliament (National Assembly and the Senate).

Committee Recommendations

The Committee made the following recommendations:-

- (1) The Ministry of Lands and Physical Planning should complete the adjudication process of 6,000 acres excised from the Teita Sisal Estate to the squatters in Taita Taveta County within six months of adoption of this report.
- (2) The Ministry of Lands and Physical Planning should within six (6) months of adoption of this report, submit a list of all beneficiaries of the land surrendered by the Estate.
- (3) The Ministry of Lands and Physical Planning, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence in extension and renewal of leases for Teita Sisal Estate when they expire.
- (4) Directorate of Criminal Investigations to investigate the activities of Mwasima Mbuwa Welfare Association for fraudulent activities targeting the squatters and members of the public and if found culpable be subjected to due process.

MIN. NO.NA/COI/2021/165:

ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past one (1.20 pm).

Sign.....



(Chairperson)

Date.....

29/09/2021.

MINUTES OF THE 28TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY, 29TH JULY 2021, IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS, AT 11.00 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. (Dr.) James Kipkosgei Murgor, MP
3. The Hon. Johnson Manya Naicca, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. John Muchiri Nyagah, M.P
6. The Hon. Joshua Mbithi Mwalyo, MP
7. The Hon. Michael Kingi, MP
8. The Hon. Jared Okello, MP
9. The Hon. Hassan Oda Hulufu, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - Vice Chairperson
2. The Hon. Richard Onyonka, MP
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. Joash Nyamache Nyamoko, MP
5. The Hon. Peter Kihara, MP
6. The Hon. Benjamin Dalu Tayari, MP
7. The Hon. Moses Kuria, MP
8. The Hon. Mukuha Gabriel Kago, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Paul Odalo Abuor, MP
11. The Hon. Feisal Bader, MP
12. The Hon. Silvanus Osoro, MP
13. The Hon. Charles Ngusya Nguna, MP

IN-ATTENDANCE

Hon. Waihenya Ndirangu, MP - Friend of the Committee

MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Ms. Farida Karoney, EGH - Cabinet Secretary
2. Hon. Alex Mburi Muiru - Chief Administrative Secretary
3. Ms. Jacinta Mutua - Deputy Director, Valuation
4. Ms. Carolyn Menin - Legal Counsel
5. Mr. Hilton Kamau - Assistant Director, Land Administration
6. Mr. Geoffrey Kibowen - Assistant Director of Surveys

NATIONAL LANDS COMMISSION

1. Mr. Gershom Otachi Bw'Omanwa - Chairperson
2. Mr. Reginald Okumu - Commissioner
3. Mr. Daniel Kithuku - Deputy Director

KANDARA RESIDENTS ASSOCIATION

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

COMMITTEE SECRETARIAT

1. Ms. Chebet Koskei - First Clerk Assistant
2. Mr. Abdirahman G. Hassan - Second Clerk Assistant
3. Ms. Jane Serem - Audio Officer I
4. Ms. Winnie Gatuiri - Intern

MIN. NO.NA/COI/2021/132:

PRELIMINARIES

The Chairperson called the meeting to order at eleven o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Hassan Oda Hulofo, MP and the Hon. John Muchiri Nyagah, M.P, respectively. This was followed by a round of introductions.

The Chairperson thereafter informed the meeting of the mandate of the Committee as provided for in Standing Order 209 of the National Assembly Standing Orders, which was to follow up on the implementation of House resolutions and ensure that the House does not act in vain.

MIN. NO.NA/COI/2021/133:

CONFIRMATION OF MINUTES

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

MIN. NO.NA/COI/2021/134:

MEETING WITH THE MINISTRY OF LAND AND PHYSICAL PLANNING

The Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson of the National Lands Commission and other government officials appeared before the Committee and submitted the following as status of implementation of various resolutions under their purview:

1. Report of the petition regarding delayed compensation of land owners for expansion of Sigalagala-Musoli-Bukura-Butere Road

Implementation Status

NLC gave an update of the matter that the Commission is finalizing on valuation with a view to issuing awards to the project affected persons. The Commission in liaison with KeRRA, the acquiring entity is addressing various matters that arose during enquiry to ensure that all project affected persons are compensated. The following targets have been set:

- (i) To facilitate compensation, KeRRA took inventory of all developments affected during road construction (prior to NLC inspection) and in consultation with relevant departments, mainly Agriculture and Forestry have valued them in readiness for compensation
- (ii) Subdivisions: the Authority has dispatched a team of surveyors to the ground to take stock and document changes occasioned by other subdivisions. The exercise is to be completed by Mid-August, 2021.
- (iii) The Commission to be furnished with a reviewed list of parcels to be considered for addendum, corrigendum and deletion by end of August.

Committee Resolution

The Committee directed that the Commission reports on the matter by first week of September, 2021.

2. The Report of the petition regarding the obstruction of the tarmacking of Konza-Katumani Road

The Committee during its sitting of Wednesday, 21st July, 2021 resolved to invite the Director General, Kenya Urban Roads Authority (KURA) and the Chairperson, National Lands Commission to brief the Committee on the implementation of the report.

The Managing Director for KURA, through a letter dated 28th July, 2021 requested for more time to conclude on the matter. He also submitted that the Authority, the Ministry of Lands and Physical Planning and NLC had agreed to implement the creation of right of way as recommended in the report.

Further, in the letter, the Authority also requested for a corrigendum on the Kenya Gazette Notice No. 6381 dated 25th June, 2021 to reflect the creation by NLC and not the Ministry of Transport and Public Works.

The Chairperson NLC confirmed that pending matters have been resolved and the Commission was currently processing request by KURA to amend the aforementioned Gazette Notice.

Committee Resolution

It was resolved that the Commission and KURA provides an update to the Committee on the implementation status within two (2) weeks.

3. Report on the Land issues in Taita Taveta

In its report dated 3rd March, 2021, the Ministry had submitted that the excision of Singila Majengo village, Mwandisha Primary School and the public utilities including the roads and the railway reserves was undertaken vide Survey Plan No. F/R 467/87. The County Government of Taita Taveta approved the application for subdivision and change of user vide a PPA 2 form dated 14th November, 2019. The Ministry had also submitted that it's waiting for surrender of the mother title to facilitate registration of the scheme and issuance of titles.

The Cabinet Secretary reported that the title has since been surrendered. There were charges registered against the title in favour of Standard Chartered Bank Limited which was discharged on 5th May, 2021, to facilitate registration of the subdivisions.

Committee Resolution

The Ministry to provide an update on the matter within two (2) weeks.

4. Report on 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

Implementation status

The Cabinet Secretary submitted that the Ministry had not implemented the House resolutions due to an advisory by the Hon. Attorney General vide letter Ref. AG/CIV/47/20 dated 11th August, 2020 to the National Assembly. The House had recommended that the Ministry of Land and Physical Planning in consultation with the National Land Commission and the Nairobi County does complete the titling process for L.R. 5875/2 within 180 days of tabling the report.

The meeting however noted that the Honourable Speaker of the National Assembly ruled the advisory by the Attorney General inadmissible.

The CS confirmed to the meeting that the government had paid Kshs. 3,530,500 to the family of the Mr. Samuels, through Middle East Bank. She added that there is documentation to confirm this.

Regarding who the owner of the land is, the Cabinet Secretary submitted that the land was allocated to Kasarani Mall limited.

On whether the Ministry had received money from petitioners for processing of titles, the Cabinet Secretary acknowledged that the Ministry had received money from petitioners.

Regarding allegations that the Department of Defence was a front to grab the land for individuals, the Cabinet Secretary submitted that this was untrue and she had herself engaged with the Department of Defence regarding the said land and the land indeed was to go to the Military.

Committee Resolution

The Committee noted that the National Land Commission and the County Government of Nairobi had played their roles as directed by the House. However, the Ministry had failed to implement the resolution.

The Committee resolved to table a report to the House on the same for the House to guide on how to enforce implementation of its resolution.

5. Report of the Departmental Committee on Lands on its consideration of the Petition regarding irregular renewal on leases by Del monte Kenya Limited

Implementation status

The Cabinet Secretary submitted that a resurvey of the land legally held by Del monte in Kiambu and Muranga Counties was done. However, the two counties have not given their approvals to the subdivisions and the extension/renewal of the leases.

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;

NLC Chairperson submitted that original parcels L.R. Nos. 10862, 10741, 11312, 2953, 4873 and 11146 were owned by Chui Estates Limited up to around 1973 when through a memorandum of registration of transfer of lands and at a consideration of Kshs. 2,000, 000 they were transferred to the Government of Kenya. The transfer was executed in 1973.

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) could not unearth further details that necessitated the transfer nor amalgamation of the said parcels of land.

Submission by Kandara Residents Association

Kandara Residents Association, represented by their lawyer Mr. Dancun Okatch and Mr. Jackson Ikua, submitted as follows:

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

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.


Committee Resolution

- (i) The Committee resolved that the Ministry submits a tabulated report on the reallocation of land following the resurvey for easier understanding of the submission.
- (ii) The Ministry to confirm on the surplus land following the resurvey.
- (iii) The Kandara Residents Association were asked to make a response to the Ministry's submission within three (3) days.

MIN. NO.NA/COI/2021/135:

ADJOURNMENT

There being no other business, the meeting was adjourned at half past one o'clock (1.30 pm).

Sign.......... Date.....05/08/2021.....
(Chairperson)

**MINUTES OF THE 8TH SITTING OF THE COMMITTEE ON
IMPLEMENTATION HELD ON WEDNESDAY, 3RD MARCH, 2021, IN
COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 2.30 PM**

PRESENT

- | | |
|--------------------------------------|--------------------|
| 1. The Hon. Moitalel Ole Kenta, MP | - Chairperson |
| 2. The Hon. Godfrey Osotsi, MP | - Vice Chairperson |
| 3. The Hon. Paul Simba Arati, MP | |
| 4. The Hon. Charles Ngusya Nguna, MP | |
| 5. The Hon. Mukuha Gabriel Kago, MP | |
| 6. The Hon. Hassan Oda Hulufu, MP | |
| 7. The Hon. John Muchiri Nyaga, M.P | |
| 8. The Hon. Owen Yaa Baya, MP | |
| 9. The Hon. Peter Kihara, MP | |

APOLOGIES

1. The Hon. Richard Onyonka, MP
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Johnson Many Naicca, MP
5. The Hon. Moses Kuria, MP
6. The Hon. Feisal Bader, MP
7. The Hon. Joash Nyamache Nyamoko, MP
8. The Hon. Jared Okello, MP
9. The Hon. Joshua Mbithi Mwalyo, MP
10. The Hon. Michael Kingi, MP
11. The Hon. Nelson Koech, MP
12. The Hon. Paul Odalo Abuor, MP
13. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

MINISTRY OF LANDS

- | | |
|--------------------------|---|
| 1. Hon. Alex M. Mwiru | - Chief Administrative Secretary |
| 2. Mr. Edward K. Kosgei | - Director Land Administration |
| 3. Mr. Augustine Masinde | -National Director, Physical Planning |
| 4. Mr. P.K. Mwangi | -Director, Land Adjudication & Settlement |
| 5. Mr. Maritim Weldon | - Ag. Director of Survey |
| 6. Ms. Jacinta Mutua | - Deputy Director, Land Valuation |
| 7. Mr. Chacha Maroa | -Land Registrar |

COMMITTEE SECRETARIAT

- | | |
|-----------------------------|--------------------------|
| 1. Ms. Tracy Chebet Koskei | - First Clerk Assistant |
| 2. Mr. Abdirahman G. Hassan | - Second Clerk Assistant |
| 3. Ms. Jane Serem | - Audio Officer |

MIN. NO.NA/COI/2021/34:

PRELIMINARIES

The Chairperson called the meeting to order at fifty minutes past two o'clock and said the Prayer. Introductions were made thereafter. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Owen Baya, MP and the Hon. Gabriel Kago, MP, respectively.

MIN. NO.NA/COI/2021/35:

CONFIRMATION OF MINUTES

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

MIN. NO.NA/COI/2021/36:

**MEETING WITH THE MINISTRY OF
LANDS**

The Chief Administrative Secretary for Lands, Hon. Alex Mwiru and other officials of the Ministry of Lands & Physical Planning appeared before the Committee to brief the Members the implementation status of following reports: -

1. Report on a petition regarding status of leased land meant for expansion of MOI international airport;
2. Report on petition regarding invasion and eviction of workers from their land in Roysambu Constituency by the Kenya Defence Forces;
3. Report on petition by residents of Pongwe area, Lunga Lunga Constituency on the imminent eviction from L.R No. 1083, Shimoni in Kwale County;
4. Report on petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuani Road);
5. Report regarding petition on regularization of allocation of land in the Golini Settlement Scheme; and
6. Report on petition regarding land issues in Taita Taveta County.

1) Report on a petition regarding status of leased land meant for expansion of MOI international airport

The National Assembly Departmental Committee on Lands considered a petition by residents of Changamwe Constituency regarding the status of leased land meant for expansion of Moi International Airport. In its petition, the petitioners were aggrieved that the Government acquired Plot No. 12223/VI/MN for the development of Moi International Airport but leased the same to Kenya Petroleum Refineries Limited. They claimed that the lease has since expired and therefore requested the National Land Commission to repossess the land and revert to the original owners.

The petitioners also claimed that KPA was not utilizing Plot No. 1066 sec. VI/MN in Port Reitz Ward, Changamwe Constituency, allocated the company. They therefore sought the Committee's intervention to also repossess the land and revert it to the original owners.

In its report tabled in March 2015, the Committee on Lands instructed the Ministry of Lands & Physical Planning and the National Land Commission to intervene with a view to identifying and securing land meant for public utilities in Airport and Port Reitz Ward.

Implementation Status

The County Government of Mombasa has formulated two main land use plans that are instrumental in securing land meant for public utilities within the county, including those in Airport and Port Reitz Wards. These are the Mombasa Development Master Plan 2018 and the Mombasa Integrated Strategic Urban Development Plan (ISUDP), 2015-2035.

Implementation of both plans through strategies, projects and action area plans will go along way in securing public purpose lands and opening them up for access. In light of this, the Ministry is working in collaboration with the County Government to initiate and implement action plans designating public utilities, social amenities and public purpose lands.

With proper implementation, the Master Plan and the Mombasa ISUDP offer a tangible, sustainable means of identifying and securing public utility lands within the entire county, including Airport and Port Reitz Wards.

The county and national government continue to collaborate in different initiatives to enhance access to both individual and public properties. Apart from formulation and implementation of land use plans, slum upgrading is also ongoing in a number of informal settlements in Mombasa. For instance, the Kenya Informal Settlement Project (KISIP) is working in a number of informal settlements in Mombasa. Alongside tenure security, another key area of focus for KISIP is enhanced access to public institutions like schools and hospitals in these settlements.

Matters arising

The Committee instructed the Ministry to liaise with the County Government of Mombasa on specific interventions made to enhance access to public utilities in Airport and Port Reitz Wards, and report progress within two weeks.

2) Report on petition regarding invasion and eviction of workers from their land in Roysambu Constituency by the Kenya Defence Forces

The Departmental Committee on Lands considered a petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers by the Kenya Defence Forces (KDF) from L.R No. 5875/2 located in Roysambu measuring 17.16 acres.

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 he passed away in 1974. They claimed that the deceased's family allowed them to continue staying on the land after the family was unable to pay their salaries. 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 subsequently issued letters of allotment. From the petition, the KDF evicted the petitioners from the land in April, 2019.

In its report, the Departmental Committee on Lands directed the Ministry of Lands & Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the titling process for L.R No. 5875/2.

The Committee on Lands also recommended that the Ministry of Lands & Physical Planning does secure the title relating to L.R 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R No. 5875/2.

Implementation Status

The subject land is currently before the multi sectoral ad-hoc committee established under the recommendations of the National Assembly's Departmental Committee on Defense & Foreign Relations and the Departmental Committee on Lands. The ad hoc committee is investigating land owned by the military in the country with a view of recommending necessary legal and policy interventions required to resolve these disputes.

Additionally, the Honourable Attorney General issued to the Speaker of the National Assembly an advisory opinion dated 11th August 2020 concluding that the Ministry of Defence compulsorily acquired the land.

LR No. is already titled and registered in favour of Kasarani Mall Limited. The parcel is not in contention as it is Kasarani Mall Limited that attempted to amalgamate it with L.R No. 5875/2. The parcel was secured by registration and issuance of a title.

3) Report on petition by residents of Pongwe area, Lunga Lunga Constituency on the imminent eviction from L.R No. 1083, Shimoni in Kwale County

The petitioners claimed that they were displaced from their ancestral land to pave way for construction of colonial government facilities and settlement of white settlers. In 1910, the colonial government alienated 320.12 acres of their land and granted one Mr. Charles Anduson as L.R No. 1083 on leasehold basis. The land was however not reverted to them when the lease expired.

The petitioners alleged that they were threatened with eviction by a person claiming to be acting on a power of attorney from the owner of the land holding a freehold interest. The petitioners requested the National Assembly to intervene to establish the circumstances under which the land changed from leasehold to freehold tenure. The petitioners also requested the National Assembly to compel the National Land Commission to look into the issue with a view to safeguard the land for the community.

The Committee on Lands recommended that there was no possibility of registering the indenture of 1988 since the mortgage of 1965 had not been discharged. The Committee also recommended that the land belongs to Bhovanbhai Lalji Gadhi and Maganlal

Chakubhai Pattani and if efforts to trace the legal heirs fails, provisions of Article 62(d) be applied by both the Ministry of Lands & Physical Planning and the National Land Commission to allocate the land to the squatters as individuals or community.

Implementation Status

The Ministry committed to liaise with the Ministry of Interior & Coordination of National Government in an attempt to trace the legal heirs of Bhovanbhai Lalji Gadhi and Maganlal Chakubhai Pattani. The Ministry however advised that there was need for the petitioners to apply to the courts for adverse possession of the land as an alternative.

4) Report on petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuani Road)

The Konza-Katumani murrum road has been in existence for the last 50 years and was in November 2018 taken over by the Urban Roads Authority and contractor was engaged to improve it to bitumen standard. However, before the anticipated construction began, one Harrison Kikavi Muambi, a director of a company known as Muambi Properties Limited confronted the contractor and has since obstructed the contractor from further works as he claims ownership of the affected land.

The petitioners sought to have the affected portion of land, L.R No. 7374 (stretching approximately 400 meters) acquired by the National Land Commission to create public right of way over the parcel.

The Committee on Lands recommended that the Cabinet Secretary for Lands does fast track the development of the land value index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for development of public projects.

Implementation Status

The Ministry commenced the development of the National Land Value Index in the financial year 2017/2018, before the enactment of the Land Value (Amendment) Act, 2019, to guide compensation for ongoing infrastructural projects.

Field inspection and data collection for Machakos County has been completed and value maps have been developed. The process awaits stakeholder validation. This has been put on hold due to the disruptions caused by the Covid-19 pandemic. However, the Ministry has resumed the process and has scheduled to hold the stakeholder engagement.

The Ministry received funds for the development of the National Land Value Index and will complete the process by end of May, 2021.

5) Report regarding petition on regularization of allocation of land in the Golini Settlement Scheme

The National Assembly Departmental Committee on Lands considered a petition by residents of Golini in Kwale seeking inter alia to compel the Ministry of Lands to issue the petitioners with letters of allotment based on the resurvey map prepared in the year 2007.

Golini settlement scheme was declared in 1994 on L.R 5003 with an area of approximately 377.02 Ha. It was registered in October 1999 after completion of planning, squatter verification and survey. The scheme realized 395 plots, which were registered and title deeds issued.

Complaints from locals alleging marginalization during plot allocation necessitated formation of a committee by the District Plot Allocation Committee in 2003. The scheme was abolished vide a Ministerial directive of March 2, 2007, and a re-survey done as per ground occupancy in 2007. 268 parcels were realized in the re-survey.

A legal conflict arose as there were 152 titled parcels from the initial allocation. The re-survey could only be registered upon nullification of the first allocation.

The National Land Commission recommended that the first survey map used to allocate the land be abolished because it led to erroneous allocation; the letters of offer that followed were hence null and void. The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land.

The Departmental Committee on Lands, in its report dated October 2020, advised the Ministry of Lands to implement the recommendations of the National Land Commission to ensure that the initial allocation of the scheme is revoked and cancelled to pave way for settlement of beneficiaries as per the second resurvey.

Implementation Status

Implementation of the resurvey done in 2007 as directed by the Commission would require cancellation of the titles on the basis of the first survey undertaken in 1994. On this, the courts have pronounced themselves severally on the question of cancellation of titles stating that land titles can only be cancelled through an order of the court.

Despite noting the observation that the petitioners did not have funds to enable them lodge a case in court, the Ministry advised that the only remedy available for the petitioners is for them to file the matter in court and lodge a complaint, in light of the referenced decisions of court.

The Ministry will register the restrictions of the subject titles once the court case has been filed.

6) Report on petition regarding land issues in Taita Taveta County

Implementation status

The County Government of Taita Taveta approved the application for subdivision and change of user. Subsequently, the Ministry of Lands surveyors processed the sub-division scheme resulting in the creation of new parcel numbers Mwatate/Mwatate Block 1 (11-13). Parcel 13 was further subdivided to give rise to parcel numbers Mwatate/Mwatate Block 1/(14-17). The Ministry has issued subdivision scheme approval letters dated January 2, 2021 to the beneficiaries.

A total of 1168 squatters have been enumerated after replanning of the scheme to create room for public utilities.

The Ministry wrote a letter to Teita Sisal Estate to surrender the head title for processing of the new leases, facilitation of registration of the scheme and for issuance of titles.

The Committee directed the Ministry to liaise with relevant government agencies to ensure the management of Teita Sisal Estate surrenders the original title and address the matter amicably.

MIN. NO.NA/COI/2021/37:

ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past three o'clock (3.20 pm).

Sign.......... Date.....10/03/2021.
(Chairperson)

**APPENDIX III : REPORT OF THE DEPARTMENTAL
COMMITTEE ON LANDS REGARDING LAND ISSUES IN
TAITA TAVETA COUNTY**

REPUBLIC OF KENYA



Paper Land
By Hon. Alex Mwangi
Chairperson DC on Land
On Thursday, 25.06.2015
PMW

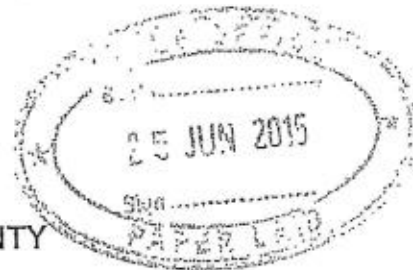
KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION - 2015

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS

ON

LAND ISSUES IN TAITA / TAVETA COUNTY



CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,

NAIROBI

JUNE, 2015

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DEPARTMENTAL COMMITTEE ON LANDS

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

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

COMMITTEE MEMBERSHIP

The Committee comprises of the following Members:

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

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

The Committee made the following observations in Teita Sisal Estate, THAT:

- ~~1. The boundary of Teita Sisal Estate had been tampered with;~~
2. Damages had been caused by the management of Teita Sisal Estate in 1991 at Majengo where food crop were ploughed down without notice or Court Order leading to obstruction of Community developments and encroachment of land by Teita Sisal Estate;
3. Teita Sisal Police Patrol is being used by the Teita Sisal Estate management as a private security firm to intimidate innocent people of Singila Majengo;
4. Public roads, dam, Railways and airstrip have been closed by Teita Sisal Estate.

The Committee recommends as follows, THAT;

A. GENERAL RECOMMENDATIONS

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

B. IN TEITA SISAL ESTATE

1. The Ministry of Interior and Coordination of Government should with immediate effect ensure that all roads to the primary school, dam, railway and airstrip are opened to allow members of the local community access.
2. The Ministry of Lands, Housing and Urban Development through the Director of survey should carry out a survey with a view to ascertaining the boundaries as per the records of 1992 from the Survey of Kenya, so as to ensure Teita Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra land to the government.
3. Ministry of Environment should restore Tasha Hill Forest to its original state.

C. IN TAVETA

1. The National Land Commission to initiate an audit for the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.

ACKNOWLEDGEMENT

Mr. Speaker Sir,

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

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

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

Thank You,

SIGNED

CHAIRPERSON

(HON. ALEX M. MWIRU, MP)

DEPARTMENTAL COMMITTEE ON LANDS

DATE

25th June 2015

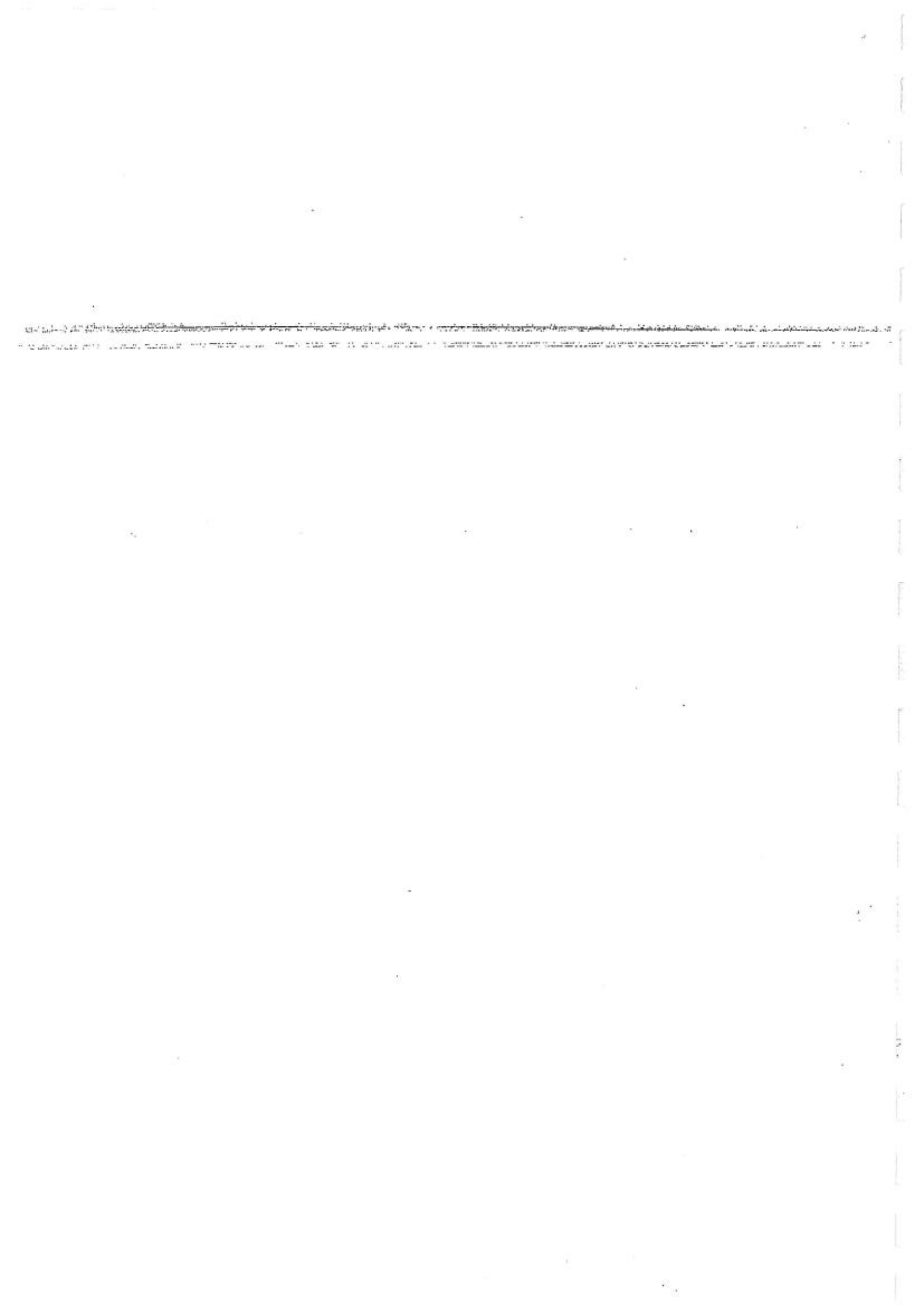
ADOPTION SCHEDULE
DEPARTMENTAL COMMITTEE ON LANDS

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

COUNTY

DATE: 25th June 2015.

O.	NAME	TITLE	SIGNATURE
	The Hon. Alex Mwiru, M.P. (Chairperson)		
	The Hon. Moses Ole Sakuda, M.P. (Vice Chairperson)		
	The Hon. Onesmas Ngunjiri, M.P.	M -	Blaini
	The Hon. Mutava Musyimi, M.P.		
	The Hon. John Kihagi, M.P. (Chairing)	Member	
	The Hon. Francis W. Nderitu, M.P.	member	
	The Hon. Francis Njenga, M.P.	Member	
	The Hon. A. Shariff, M.P.	Member	
	The Hon. Eusilah Jepkosgei, M.P.	Member	
	The Hon. Benard Bett, M.P.	member	
	The Hon. Kipruto Moi, M.P.	Member	Kipruto Moi
	The Hon. Oscar Sudi, M.P.		
	The Hon. Hellen Chepkwony, M.P.	Member	
	The Hon. Sarah Korere, M.P.		
	The Hon. Julius Ndegwa, M.P.	Member	Julius Ndegwa
	The Hon. Benson Mbai, M.P.		
	The Hon. Kanini Kega, M.P.	member	
	The Hon. Esther Murugi, M.P.	member	Esther Murugi
	The Hon. Gideon M. Mung'aro, M.P.	member	
	The Hon. Hezron Awiti Bollo, M.P.		
	The Hon. Suleiman Dori Ramadhani, M.P.		
	The Hon. George Oner Ogalo, M.P.		
	The Hon. Lekidime L. Mathew, M.P.		
	The Hon. Shakila Abdallah, M.P.		
	The Hon. Paul Otuoma, M.P.		
	The Hon. Thomas Mwachugu, M.P.		
	The Hon. Magwanga Joseph Oyugi, M.P.	Member	Magwanga Joseph Oyugi
	The Hon. Aburi Lawrence Mpuru, M.P.	Member	
	The Hon. King'ola Patrick Makau, M.P.	1	



1.0 INTRODUCTION

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

2.0 FINDINGS AND CONCERNS BY PETITIONERS

2.1 Meeting with the Governor of Teita Taveta

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

comprises of members of the elitist class within the County and they don't reside in the area whereas squatters live mainly in Singila Majengo area.

12. The main issue under contestation is the boundary issue between the estate and the estate coupled with the struggle to access public utilities inside the estate which include; schools, dams and roads.

13. The government offered to purchase 440 acres of land from the management of the estate (Teita Estate Ltd) near Singira Majengo so that they can resettle the people / squatters but local politics stopped the action.
14. A survey conducted showed that 6631 squatters belong to the Mwasima Mbuva group.

2.2 Meeting with the Deputy County Commissioner for Taveta

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

2.3 Meeting with Petitioners

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

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

22. Pursuant to Articles 1, (1) 2,(1)3 (37) and 119 of the constitution and petition to Parliament (Procedure) ACT.

23. In the matter of land procurement for the purpose of constructing the county head quarters under tender notice NO. TTCG/06/1013; Refer to the daily of 1st Nov 2013 other land disputes especially in Singila Majengo, Taveta and other areas in the Coastal region and management of natural resources including minerals.

24. All indications according to the tender requirement are that Teita Sisal Estate is likely to win this tender.

2.3.2 They intended to notify Parliament as follows; that:

25. Teita Sisal Estate Limited is alleged to currently engage in a dispute with Mwasima Mbuwa in High Court case (H.C.C.C) number 103 of 2007 consolidated with H.C.C.C number 352 of 1998;

26. Court rules are always clear about engaging in a matter that is in court;

27. The company is in custody with is charged to Standard Bank for a total of Kshs. 91,000,000. This is according to Director of land adjudication and settlement.

28. The said land is in dispute and contest by Singila Majengo people and others as a land historical injustice by the colonial masters and the oppressive willing buyer willing seller capitalist dispositive principle;

29. The fundamental question here is how can we buy our own ancestral land, In the case of willing buyer willing seller, did our people have financial and political muscle to engage in this unjustified colonial capitalist principle? Article 67(2) e of the constitution provides for a way forward in resolving these injustices;

30. Sections of the Sessional paper No. 3 of 2009 policy; 171 describes land issues requiring special attention, 172 provided for mechanisms for resolving special

land issues and 178 provides for the establishment of mechanisms to resolve historical land claims arising from 1895 thereafter;

31. Sections; 245,246,247,248,249,250,251,252,253 of TJRC Land chapter describes findings on land injustices including are happening under the alleged instructions and leadership of provincial administration under the DC and the ministry of land, while the National Land Commission is watching helplessly. During the case of our human rights and social justice work we have received massive complaints on gross violation of human rights, the rule of law and the Constitution with regards to access to land in Taveta for those considered politically incorrect.

2.3.3 The following were highlighted, THAT:

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

2.3.4 Therefore, they are requesting Parliament to:

35. Recommend against this procurement exercise in Teita Sisal Estate Limited in case the company wins the land procurement tender for the purpose of constructing the county head quarters under tender notice NO. TTCG/060/1013;
36. Recommend the immediate formation of either a task force or a committee that is inclusive to all stakeholders, including the civil society. The mandate of the task force or committee will be to engage Mwatate people in identifying land for the construction of the county head quarters. The committee or task force will also give recommendations on the process of acquisition of such land as per the

people's opinion and the Law. It is also prudent to consider the fact that the County has enough community land, which should be managed by the county government until the community land bill is enacted by parliament;

37. Investigate issues surrounding land managed by Taita Sisal Estate, Voi Taveta Sisal, Ziواني farm and all the 29 ranches and other community Lands. These issues may include but not limited to status of their ownership, certificate of titles, economic viability and access to ownership among communities in the case of ranches;

38. Parliamentary committee handling this matter, in cooperate stakeholders including civil society to ensure citizens participations, transparency and accountability;

39. Work on mechanisms to ensure that the petitioners and human rights defenders in Taveta are safe and secure. As the situation currently, these patriots are living under fear and threats from the impunity perpetrators;

40. Constantly monitor the process including identification of beneficiaries and allocation of land to ensure that there is JUSTICE and FAIRNESS;

41. Compels National Land Commission, Land ministry and other stakeholders to fulfill it's legal mandate of identification of beneficiaries and administration in settlement programs in Taita Taveta, Coast and other parts of the Country urgently. This will facilitate the long awaited access to land ownership and management by residents of Mwatate (Singila Majengo), Taveta and other parts of the country (Section 134 of the Land Act);

42. compel the National Land Commission to initiate an inquiry into land historical injustices and seek redress as provided by the law;

43. Orders the National Land Commission and the Land ministry to ensure that all community land is registered and that principles of land policy as provided in Article 60 1(a) (b) (c) (d) and (g) are applied in any land transaction in the County; and

44. Enact a legislation ensuring investments in property benefits local community and their economy as provided for in Article 66(2) the Constitution.

2.4 Meeting with Members of Mwasima Mbuwa

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

45. Mwasima Mbuwa is a registered organization in the office of the Attorney General Nairobi. The reason of having this organization was to mobilize Singila Majengo and those who wished to support and protect their rights. This was after the management of Teita Sisal Estate went to court and prosecuted 91 families among others within Singila Majengo villagers on what they called "trespass". Singila Majengo from the beginning has never been part and parcel of Teita Sisal Estate.
46. The history of Teita Sisal Estate Co. originated from the first management of Teita Conciliation Ltd. The land was given by King George Sixth of England as a reward, to Sir Major Goldman after the World War I; the land was NOT bought or given by community by consent. The time the land was given by King George of England, the colonial Government was aware that the land belonged to the community, but they did not consult the community. The land stretched from Voi to Taveta. Goldman used the land for game hunting; he later turned the land for sisal farming.
47. In 1945, when poaching exercise was banned all over the world, Goldman and Major Leyzell used the land for sisal farming. The community complained through the late Hon. Mengo Wa Woresha and other elders under the Taita Hills Association. They lodged complaints against the Colonial Government that the big land given to Sir Golden and forced community to become squatters. The District Officer (D.O), by then called Stringer used to arrest people in Modambogho, Manganga near Msau, which made Elders angry.
48. In 1952, the Colonial Government directed surveyors to resurvey the land, some parcels of the land were returned to the Government as TRUST LAND, which Modambogho, Manganga near Msau, Singila Majengo and other parcels of the land.
49. In 1972, the Management of Teita Sisal under the Greeks, Mr. Alender Kriazy through his manager Mr. Andrew (Andrea), also a Greek, and the Manager was very famous and powerful who used to extend the boundary even towards Singila and others areas.
50. In 1991, Teita Sisal Estate encroached towards Majengo village and ploughed down food crops, maize, cassava, beans, cowpeas and other food crops. The cattle were forced to be shifted to other places like Mgeno Reserve, Mwachabo, etc. The graves of the beloved ones were excavated and other graves were cut twice at the middle heartlessly. The community believes that preserving graves is part of their culture and must be respected.

51. Teita Sisal Estate continued with threats in Singila Majengo that nobody will be allowed to build permanent houses. Those who were found building or repairing Houses were taken to Court, in Wundanyi and Mombasa High Court.
52. Their rights were violated by the management of Teita Sisal Estate; use of Police, Administration and Chiefs to harass Singila Majengo residents in their Community land. The same management used Politicians to campaign against the rights of Singila Majengo people and especially the land.
53. Politicians when seeking for votes during campaign period, they humbled themselves and promise the Community that once elected they will join hands together to fight for the land and boundary be restored. But immediately they win the Election they become servants of the management, some turned around and supported the management because of their self interests.
54. In 1998, Teita Sisal Estate took, Mnjala Mwaluma the secretary of Mwasima Mbuwa to court at Mombasa for building a house of four (4) rooms at Majengo his home place since the old house was about to fall down. Mnjala Mwaluma was taken to Mombasa High Court and later the matter was dismissed by Hon Justice Sergon on 15th Nov. 2006 for Non Prosecution and Non Attendance with costs but surprisingly the matter is still pending in court.
55. They live in fear, risks from cobras and other dangerous creatures from the sisal plants which have been attacking the residents and most of the time getting into their houses.
56. Teita Sisal Estate later on went ahead and proceeded with the matter without the knowledge of the defendant (Mnjala Mwaluma) and consolidated the suit with civil Suit 103 of 2007 of the (91) families taken to court at Mombasa and the same defendant Mnjala Mwaluma was among (91) families, in Singila Majengo.
57. Teita Sisal Estate disrespects the Rule of Law by disobeying decisions made by High Court especially when Hon Justice Ojwang issued Court Orders for Joint Survey.
58. In 2011 the High court of Mombasa granted court orders ordering that joint survey be conducted by both parties and represent the survey report in court, the orders were issued by Hon Justice Jackton Ojwang' who now is in the Supreme Court of Kenya at Nairobi. It is evident that Taita Sisal Estate refused to comply with court orders, copies attached. Their surveyors Geomatics Services Co. produced a survey report which was not challenged.

59. Teita Sisal Estate relies on documents of 1926 from the time the land was donated to Sir Sidney Golden after World War 1.
60. Major Leyzell was allowed to build two residential houses temporarily one for his manager and the for himself on conditions that immediately he left or died the residential houses will remain community property as a way of demonstrating appreciation to the community. But today the current management does not recognize the good relationship between the former management and the community, yet they still live in the community land harshly. The late Major Leyzell was buried at Voi in the Mashujaa cementery.
61. Railway; the railway station belongs to the government and it is a government property. How is it then lying on same land as a private property? Does the Government invest on a private land.
62. Mwatate Airfield; Mwatate Airfield is a Government property, the Airport Authority can confirm this, the colonial government planned Air fields or Airstrips all over the country mainly for public operations.
63. Public roads; Mwatate Kasigu road across the Teita Sisal Estate, today the management puts illegal road blocks and mostly inspect vehicles using the public roads without permission contrary to Kenya Traffic rules. Traffic is the only institution allowed by law to inspect the suspected vehicles on security reasons. This picture shows that there is NO good relationship between the management and community contrary to the Social Cooperate ACT. The Majengo village cannot access good roads because the management cannot maintain community roads or provide any assistance to community as Social Cooperate Act provides.
64. Mwatate Dam; Mwatate dam was constructed in 1952 during the former management called Teita Conciliation Ltd (TCL). It is evident that Mwatate dam approximately (55) acres does NOT belong to Teita Sisal Estate, the community by then donated the land for water obstruction which they agreed with the former management that they obstruct water for domestic use and the management there was a mutual agreement and the community used to cultivate along the stream from the beginning, today Teita Sisal Estate management protect the dam as their personal property and prohibit people from using the water. Our people are being harassed and taken to Sisal police patrol base and later taken to court.
65. Administration; In Teita Sisal Estate there is Sembe sub-location which to date exists .Why is it that private farm owns Government institutions? Police patrol base and Sembe sub-location instituted in the private company, who do they serve? We are the tax payers, Sembe Assistant Chief who is always found giving relief food to employees of TEITA Sisal Estate are in the payroll when

- Government is targeting the poor and the disabled. The Government cannot give relief to people who are in payroll.
66. The National Flag; Which provision of the law supports private companies to raise national flags.
 67. The boundary should be restored as per the records of 1992 from the Survey of Kenya to separate the 33,000 acres that belongs to Teita Sisal Estate and the rest be given back to the community. The survey should be conducted under the supervision of the Director of survey and the Director of internal boundaries dispute.
 68. Damages caused by the management of Teita Sisal Estate in 1991 in Majengo when food crop were ploughed down without NOTICE when there was no court case and obstructing Community developments. All land grabbed be recovered from the Sisal Estate be compensated since they have been using it illegally for a very long time.
 69. Mwatate dam should be under the supervision of the County Government.
 70. They should be stopped from continuing with further encroachments towards the Community Land.
 71. Title deed and Deed Plan be reviewed
 72. Land lease should be reviewed whether its terms has expired or not and if was renewed without legal procedure should be revoked and the land be given back to the community.
 73. They support county headquarters as it was proposed by their leaders at the same Land, but boundary be restored.
 74. All illegal road blocks on public roads be removed and community access public roads without conditions.
 75. Railway stations and other Government institutions be separated from Teita Sisal Estate.
 76. The acreage of the land should not exceed 33,000 acres of Teita Sisal Estate.
 77. Sisal Police Patrol base be removed from the Sisal Estate because the management uses it as a private security institution to intimidate innocent people of Singila Majengo.

2.5 Meeting with elders in Mwatate

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

78. That, land distribution and allocation was completed by 2010 according to Stephen Maina Ngugi's letter to the National Water Conservation and Pipeline Corporation but land allocation continued up to late 2013. The land, according to Ngugi's letter, was supposed to benefit the poor landless people and squatters which largely is not the case.
79. The land officers took an opportunity to irregularly allocate multiple portions of land to non-squatters such as former councilors, CDF officers, Taveta Town council workers, selected civil servants and influential businessmen and their respective family members at the expenses of squatters and the poor landless.
80. That in the year 2011, the public filed a petition in the high court citing irregular and illegal distribution of land and sought conservancy orders to stop any activity by the Ministry of Land, Settlement Fund Trustees or any other interested parties until the case is heard and determined. The orders were granted and have not been overturned to date.
81. That, in 2012, the Ministry of Land, through Settlement Fund Trustees (SFT) gave out letters of offer of the same settlement scheme and has continued to issue Title deeds in the disputed land (LR 5865/2) in contempt of court ruling made by Justice Mumbi Ngugi on October, 2012.
82. That in the year 2012, November, lands officers and the administration police using unreasonable force evicted squatters around Riata area and torched (burnt) their houses living many families in the cold. Property worth millions was lost. This was done regardless to the fact that the court was yet to determine the pending public interest petition in the High Court, Nairobi.
83. That, in the year 2012 the victims of the arson perpetrated by the government went to court and filed a criminal case against individual officers behind the barbaric act.
84. That, at the same time the police arrested some of the arson victims and charged them in court on various charges on the same matter Ref. case No. 630 and 631 of 2012, Taveta.

85. That, on 5th December 2012 the High Court gave an injunction that was issued preserving the status quo prohibiting the Taveta Court from further hearing criminal case Nos. 630/2012 pending the hearing and determination of petition number 325 of 2011. The order was served to the Taveta Court but the cases continued over a period of time in the defiance of the High Court order and more people are still being prosecuted over matter related to the same petition.
86. That, the victims who are still living in the land are being harassed and intimidated through the police and the CID. Some have been arrested and charged in court for allegedly "causing disturbance" while others are constantly called for questioning in a manner tantamount to intimidation or victimization.
87. That, in the said settlement scheme, there are many people who have been Disinherited or dispossessed land to benefit the rich and influential individual. Most of the affected are poor squatters who have been using the land for between fifteen (15) to fifty (50) years. The affected villagers are Lesesia, Lotima, Msheghsheni, Malukiloriti, California, Riata and Kitobo/ Madarasani.
88. That, the land was allocated to the political correct, relatives of government officials; public officers as well as the rich and influential persons.
89. That, the land distribution committee which was not elected through public participation but selected by the District Commissioner Taveta, used dubious ways to disguise identity of beneficiaries of multiple or double allocations in the settlement scheme.
90. That, over two months since the issuance of the title deeds, beneficiaries have been busy swearing affidavits to either change identify card numbers or names to justify ownership of the title deeds with cooked names or/ and identity numbers.
91. That, the civil society have played a key role to try to come with a lasting solution amicably but the government and its agents have been very un-co-operative and in some cases threatening and even arresting some.
92. That, the Taveta community feels insecure as impunity is the order of the day, while the Judiciary seems to be ineffective in its enforcement of its judgment and orders. The citizenry is almost convinced that justice cannot be done through legal processes as the government institutions and agents are the ones perpetrating impunity and contentious activities against court decisions.
93. That, the police have either deliberately or ignorantly inclined towards government sponsored perpetrators of impunity hence ignoring the plight of the poor and the oppressed.

94. That, the police argue that they must protect sanctity of title deeds while overlooking the fact that the whole process was marred with irregularities and the so called titles issued against the court decision thus in contempt of the court.
- ~~95. That, the police argue that the beneficiaries cannot go to court to seek eviction orders until they are shown where their land is located. Concern is which comes first, survey; beaoning process is still in process several months after issuance of titles.~~
96. That, over the past one month there has been frequent stand -off between the police officers, land officers and the so called beneficiaries in the one hand and the squatters in the other hand. The situation has been intervened on and quelled by the civil society in most case.
97. That the civil society have petitioned all relevant authorities including the County Government, without much success.
98. That, having tried to get resolve from all relevant avenues with no success, we foresee the eruption of land clashes which highly as a result of impunity in the side of the Government and lack of commitment to find a lasting solution to this explosive issue.
99. That, due to intimidations, harassments, impunity and lack of respect to the judiciary, and having exhausted all relevant avenues in an effort to resolve the problem amicably; we wish to categorically state and give notice to all relevant authorities through this letter that, the land conflict in Taveta Sub-County is getting out of control.
100. That, in case of any bloodletting clashes between the government agents and the squatters; they shall hold the state responsible and the concerned officers individually or collectively.
101. Finally, it is concern that the police found it necessary to act on orders from the Taveta land office and acting to defend illegally and irregularly acquired title deeds given in contempt of a court order but find it difficult to act on high court order restraining all interested parties to stop all activities until the pending petition is heard and determined.
102. That, all activities by land officers in Taveta Sub County and the beneficiaries to the scheme be stopped forthwith to pave way for through investigation and audit by the National Land Commission and other relevant bodies.

103. That, the National Land Commission initiates an audit for the list of beneficiaries and the entire process leading to land allocation in the contagious Taveta Settlement Scheme.
104. That, the Cabinet Secretary for Land, to declare the title deeds issued in a fraudulent process and in defiance of the court orders null and void; and to further take disciplinary actions against land officers who were involved in the bungled land distribution and allocation exercise.
105. That, the Kenya Ethics and Anti Corruption Commission to institute investigation against Settlement Fund Trust (SFT), the Taveta Land's Office and the entire land allocation committee, for the purpose of unearthing corruption and fraud offences committed during the exercise.
106. That, the Inspector General to direct the County Police Commander to respect and enforce court orders and other judicial directives.
107. That, the National Cohesion and Integration Commission to intervene for the purpose of averting a possible land based ethnic clashes.
108. That, the Commission of Administrative Justice (Ombudsman) to investigate and take action against public officers (Taveta Land's Office, the CDF office, the Provincial Administration, etc) and their collaborators involved in the distribution and allocation of the Taveta Settlement Scheme Phase I and II.
109. That, the National Commission on Human Rights intervenes to ascertain the outright and blatant breach of the Bill of Rights (chapter four of the constitution).
110. That, the Constitution Implementation Commission intervenes to ensure that the entire process is constitutional, and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly.
111. The Committee was informed that there is a communal fear that if the concerns raised are not addressed urgently and the currently situation is not resolved, then the following dangers may happen:
112. Land based ethnic clashes with a possible violent clash between the existing squatters and the security personnel.
113. Ethnic disharmony amongst different communities living in Taveta Sub-county, which is a cosmopolitan area.

114. Inter-family animosity due to favoritism and political patronage in land distribution and allocation.
115. Unsolved squatter problem in Taveta Sub –county, due to continued and irregular and land distribution and allocation.
116. Lack of confidence in Government offices and institutions due to impunity and corruption perpetuated by some government officers.
117. Perpetuation of lawlessness and anarchy due to impunity and disrespect to the Judiciary.

2.6 Submissions from the District Settler Selection Committee for Taveta

The District Settler Selection Committee presented to the Committee the work progress of the scheme as follows, THAT:

118. The planning work started with taking inventory of the Squatters present in the land.
119. In Phase I – This portion of land had been sold by National Bank of Kenya to same individuals. The land had been sub-divided and allocated to various buyers. The ground verification and document verification was done and the committee will decide on those to be allocated as per the payments made and developments done in their respective plots.
120. The people given by Basil Criticos to settlers and have been picked and developed the same plots.
121. Squatters found on the Scheme, Phase I and if they are to be considered.
122. Trading area set aside to be given to the council.
123. Phase I – This portion has 2200 plots divide into Agriculture plots (3acres), residential plots (Varying from 100x50, half an acre, quarter an acre).
124. 1200 plots already have been occupied as per the ground verification, remaining 1000 plots vacant.
125. Phase II the area was not Sub-divided by National Bank but some Squatters are settled most of the land is Agricultural there are about 5550 squatters who are to benefit from 1088 residential plots available.

126. They have the following settlement villages:

- a) Njoro
- b) Mshekesheni
- c) Kangolia
- d) Njoro / Riata
- e) Lesessia
- f) Lotima

127. Agricultural plots are 1831 and 200 plots have been taken already. There are public Utility plots (School, Cemetery, Institutions, Police post, Hills), there are about 1600 Agricultural plots available and 500 residential plots available. In the PHASE II, there are various public institutions to be put on board;

- a) National cereal and produce board -2acres
- b) Kari -3 Acres
- c) JKUAT Campus -50 Acres
- d) Science and Technology Institution -20Acres
- e) Maendeleo ya wanawake -3acres
- f) Council of elders -20acres
- g) Jamii bora
- h) Catholic institute

2.7 Submission from the Ministry of Lands, Housing and Urban Development Land Adjudication and Settlement Officer - Taveta On Land Issues.

The Committee received submissions on 20/03/2014 in regards to Taveta Settlement Scheme Phase I And II Lr No. 5865/2 From Ngugi S. Maina; Mr. Maina who informed the Committee as follows;

2.7.1 Background on Taveta Settlement Scheme Phase I and II

128. The Taveta Settlement Scheme Phase I and II are part of LAND LR.NO.5865/2 bought by the Government of Kenya in 2007 from the National Bank of Kenya after the previous owners i.e. Hon. Basil Criticos defaulted on his loan repayments. The Land was bought at a cost of Kshs. 55Millions in the month of September 2007.

2.7.2 Planning / Demarcation / Survey

129. In March 2008 preliminary work was started with ground visitations, taking inventory of the infrastructure and giving notice to previous owners so that they can vacate from the Land.

130. At first there was an Application for 2000 Acres by Taveta Town Council through the Director Land Adjudication and Settlement for extension of Taveta Town

which was approved and a letter of OFFER issued on 31st March, 2008. The stakeholders in their meeting on 8th September approved the same.

131. On 8th September 2008 a full stakeholders meeting was held at Danida hall, Taveta which recommended that two Settlement Schemes be formed and therefore the formation of Taveta Settlement Scheme Phase I and II.

132. Planning, Demarcation and Survey work of the 2000 Acres commenced from the date of issuance of the letter of Offer. At the moment the work completed and allocation was done in the Month of May, 2009. The beneficiaries of plots and are waiting for the issuance of their respective Title deeds from Taveta Town Council.

133. These two schemes were registered separately as Taveta Settlement Scheme Phase I (Scheme no. 889) and Taveta Settlement Scheme Phase II (Scheme no. 890).

134. PHASE I of the Settlement Scheme comprises of an area measuring 5000 Acres that National Bank of Kenya had sold to various individuals but the sales transactions were never finalized because of a misunderstanding between the Bank and the previous owner Basil Criticos.

135. PHASE II Compromises of a portion of Land measuring 8000 Acres which had Sisal plantations and had very few Squatters.

136. There after picking of external perimeter boundary, Roads, Railway lines Hills public Utilities and Gullies was done with the Supervision of both the District Physical Planner and The District Surveyor to produce a base Map for both Planning and Surveying purposes whereby they prepared their respective planning and Survey Maps for both Phases, both the Physical planner and the District Surveyor finalized their work between 2008 and 2010. Also picking of Squatters who had illegally settled in this Land was done and a list of those squatters was made which is available for any scrutiny require.

137. In Taveta Settlement Scheme Phase I a total no of 2,337 plots were demarcated and later Surveyed while a total no. of 3188 plots were demarcated and later Surveyed at Taveta Settlement Scheme Phase II.

2.7.3 Allocations

138. Allocations was done in 2010 whereby the District Settlers plot allocation Committee was held at the DC's Boardroom on 15th March 2010 and 19th April 2010 as laid down in Settlement act. Later on the Minutes and lists of the

beneficiaries of the plots were forwarded to the Director Land Adjudication and Settlement for Issurance of letters of OFFER and Title deeds thereafter.

139. The criteria used to pick allottee included people found in the following:-

- a) The list of Squatters made when the initial picking was done
- b) List of Squatters who were registered in office of the then District Commissioner in 2006
- c) Those found in the inventory of people who had paid an initial amount of money to either the National Bank of Kenya or Basil Criticos Account.
- d) A list of those who applied to be considered as Squatters at a ratio of 60 and 40% to locals and non-residence respective fully.
- e) A list of deserving cases in Taveta from various groups, Organization and Departments.
- f) A list of selected public Utilities, Government Departments and Non-Government Organizations.

2.7.4 Letters of Offers and Title Deeds

140. The beneficiaries in the two Settlement Schemes were issued with their respective letters of OFFER between the Months of May, 2012 to 2013 by the Director Land Adjudication and Settlement.

141. There after the beneficiaries were issued with their respective Title deed in the month of September 2013 through the initiative of the Jubilee Government by his Excellency the President of the Republic of Kenya Uhuru Kenyatta.

142. The Government is currently doing plot showing to the beneficiaries of plots in two Settlement Scheme whereby allottees are simultaneously taking possession of their respective parcels of land.

143. Several challenges which were instrumental in the delay of work and problems which arose especially at the last stage of plot showing.

144. Court orders from both the previous owners and a group funded by some civil society activists headed by Muhuri, Darubini ya Haki Taveta civil activist group and Clarion.

145. An influx of invaders from Ukambani area who forcefully entered this area after the original list of Squatters was taken; these people have been interfering with our work by uprooting our beacons and sometimes threatening our officers on the ground, they have also been trying to get support from well known politicians to prevent us from executing our duties.

146. Interference by employees of previous owner of Basil Criticos and especially one Gasper Mruttu who waged strong campaigns to convince the beneficiaries that the allotments made was Fake including Title deeds issued by his Excellency the President of the Republic of Kenya. Also the previous owner Basil Criticos incited ~~those Squatters to uproot the beacons we had placed in that Land which we~~ reported to the Police a file was opened where he admitted telling his workers to uproot the beacons. Up to now there is no action which has been taken against him. This happened on 15th January, 2013.

147. Political interferences especially this being an issue involving lands which were handled at an electioneering period.

2.8 Submission on Taveta Settlement Scheme

The Committee was informed as follows, THAT:

148. The above parcel of land was acquired by the government from the National Bank of Kenya in 2007 after the previous owner Mr. Basil Criticos failed to repay a loan he had taken from the bank.

149. Prior to its acquisition by the government, the bank and Criticos had agreed to sell portions of the land to the willing buyers. However, only 18 individuals managed to pay to a special account designated by the bank. Others were given a different account by Criticos, a move that was rejected by the bank. During the process of beneficiary identification, both the groups, i.e those who paid through the designated account and those who paid through the account were considered.

150. The other group of beneficiaries came from nini villages namely; Njoro, Malkiloriti, Lessesia, Chachewa, Langata Riata, Lotima, Burandogo, and Mshekesheni. All the inhabitants of these villages were picked and identified as beneficiaries.

151. While Taveta is considered a cosmopolitan area and the squatters came from different ethnic backgrounds, Taveta's and to some extent Taitas believe they should have been the only beneficiaries.

152. The original owner of this parcel Mr. Basil Criticos is bitter and has gone to court accusing NKB of undervaluing his land and selling it to the government at a throw away price, hence denying him of his only source of livelihood. He is seeking redress from the courts. He believes if the settlement goes on smoothly then it will jeopardize his chances in court. He is therefore trying his best to stop the settlement process. He has done this through seeking court injunctions which

have not been successful and also using his former employees to scare off land managers and chief campaigner is the leading crusade against the scheme.

153. The scheme has been invaded by people especially from Ukambani who moved into the area long after the beneficiary identification exercise was over. Today these invaders are claiming to be genuine squatters.

154. ~~People seeking political positions have promised to legitimize the settlement of the invaders in exchange of votes. The politicians have promised to ensure that~~ the titles given are cancelled and the squatter identification process repeated so that it can accommodate those who moved into the area after the exercise was concluded. They have done this through the advocacy of a complacent civil society which has been inciting the invaders against the genuine beneficiaries. Unfortunately some of the activists are known employees and chief campaigners of a certain politician.

155. At some point when the allotment letters were issued members of the civil society claimed they were fake. This made a number of the beneficiaries to sell off their parcels because they were told letters were.

156. The exercise was fairly done but it has been a victim of malicious advocacy by political and human rights activists' whose agenda has nothing to do with the welfare of the squatters.

2.9 Submission from Experts on Satellite Data on Imagery Processing, Geo-Referencing and Analysis

The Experts informed the Committee as hereunder, THAT:

157. On completion of investigations, research and after securing more information from diverse sources including Local, Regional and International Organizations; having conducted thorough image processing, geo-referencing and analyses, the following issues were confirmed:

158. All pieces of land from Voi to Mwatate to Taveta used to be owned by Teita Concession Limited (TCL) with effect from 1918(see F/R 127/47 dated 1974).

159. The land was donated to Sir. Charles Sydney Goldman by King George the sixth (VI) of the United Kingdom and Sir Goldman used it for game hunting and sale of elephant tusks and later, Sir Goldman turned to sisal farming.

160. The donated land comprised two chunks of land known as; L.R Nos. 3880 (net area 36,184.0 Acres) and 3881 (net area 24,081.0 Acres) for a combined area of

60,265.0 Acres. (See the Survey Plan No.58/15, L/R Nos 3880-3&4 superimposed on Medium Resolution Satellite Imageries dated February 2014; also refer to our Reports dated May 2006 and May-July 2011).

~~161. As a follow-up to reports dated March 2006, May, July and October 2011, the~~
~~Consultant has demonstrated ongoing activities between the Teita Sisal Estate~~
Limited and neighboring owners since our last report dated October 2011 to February 2014. After detailed change detection and analysis, despite invention from diverse sources, the Teita Sisal Estate Limited has with impunity continued to expand its economic activities beyond the Sisal Estate boundary as follows:

162. Depletion of Sembe Forest Reserve (see the attached High Resolution Satellite Imageries dated February 2014 compared to other changes that appear on Survey of Kenya's 1970 and 1984 Map Editions, Scale: 1/50,000 Topographical Map based on 1954 Aerial Photography).
163. Grabbing of public Air strip and turning it into Private entity see the Survey of Kenya data (see enclosed scale: 1/50,000 topographical map(1984) based on 1954 Aerial Photography clearly showing the air strip as outside the Teita Estate Limited boundary).
164. Converting the public feeder road (linking the main Voi - Taveta road which has been in existence since 1911 when the Railway Line started to operate with the Mwatate Railway station) into private use. In addition, the link road has been used by School children, inhabitants of Singila, Majengo and other residents living on the upper portion of L/R No. 3880/3. The Sentries have since been deployed for 24 hours to block free movement especially school children and other indigenous citizens.
165. In 1952 the Mwatate Dam was constructed for purposes of joint use by inhabitants especially for watering of livestock and the Sisal Estate Limited but the management of the estate changed it for exclusive use only (see our Reports dated 2006 & 2011).
166. Based on the February 2014 High Resolution Satellite Imageries, and focusing on Singila -Majengo area, the Management of Sisal Estate has massively encroached on over 80% of the said Land despite the fact that the case filed by the Estate Limited in 1998 is still pending in court. The sisal plantations appear in the compounds; even grave yards have been replaced by the plantations.
167. Other cases of impunity are seen around the Sanctuary, Tasha Hill, Wildlife Migration routes Mwandisha Primary School

168. (Established in 1952). The above activities[(1) – (6)] have been intensified during the Court proceedings at the High Court, Mombasa since 1998 to-date and blocked especially indigenous residents from enjoying the "fruits of independence".

169. As a matter of fact, the Teita Sisal Estate Limited has occupied the land registered as L/R No. 3880/4(see the HR-Satellite Imageries enclosed) and through illegal occupation, has grabbed several portions extending to the south of the Voi -Taveta - Moshi Railway line.

2.9.1 Recommendations by the Experts

170. Having conducted successful investigations and research through change detections and analyses with assistance of satellite technology (points/position and imageries); important contributions from Elders, Opinion/Community leaders and other related data covering Teita Sisal Estate and environs; the Consultant recommended:

171. The Teita Sisal Estate should cease to encroach on all its neighbors (see findings Nos.5a to 5f; see also the Survey plans superimposed on the February 2014 Medium Resolution and geo-referenced Satellite imageries).

172. The Government of Kenya should stop the Teita Sisal Estate Limited's act of aggression against neighbors and order Teita Sisal Estate Limited to confine its economic and social activities within its parcel of land.

173. The Government should re-determine and re-establish the boundary beacons delineating the Taita Sisal Estate Land and the neighboring Trust Lands as soon as possible (see previous reports dated 2006 to 2011).

174. The Government should determine if there is any encroachment on the road, airstrip, sanctuary, Trust land around Tasha Hill and railway reserves by Teita Sisal Estate Limited.

175. The Government should also determine why the public feeder road that has always linked the Voi-Mwatate road with the Voi-Mwatate-Taveta-Moshi Railway Line (1911) near Mwatunge entrance gate was changed as private road and revert it to its original status.

176. Teita Sisal Estate Limited should compensate the neighboring indigenous citizens for economic, socio-cultural, other losses and damages for all their years of illegal occupation and the exploitation of the resources of the areas occupied illegally.

177. Teita Sisal Estate Limited should remove all buildings, assets and other constructions on the disputed land and restore the land to its original condition. The harassment and suffering meted out especially to indigenous citizens neighboring the Teita Sisal Estate land should stop forthwith until this matter is finally determined.

2.10 EVIDENCE FROM MEMBERS OF MWASIMA MBUWA GROUP

The Committee met and received evidence from Mr. Mnjala Mwaluma, Secretary, Mwasima Mbuwa Welfare Association, accompanied by the group's lawyer Mr. John Odera Were, and Messrs. John D. Obel-Licensed Surveyor, Thomas Nduku-Private Investigator, Mr. George Mwamondo, Mr. Washington B.S Weere, Mr. Joliph Harris and Mr. Ronald Mwasi appeared before the committee and gave evidence on allegations that the group is taking subscriptions of Kshs. 5, 500 from the members and selling part of Teita Sisal Estate Land. Appeared before the Committee on Tuesday 15th July 2014, The Committee was informed as follows, THAT:

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

183. Mr. Alexander Kyriazy later took over the farm and buildings owned by Mar. Rezene and there was a peaceful co-existence between the Local community and the Farm management. It is only after Kyriazy's sons took the farm that the conflicts begun and residents started being harassed by the area Chief for constructing houses on the land.
184. The Secretary for Mwasima Mbuwa was taken to Court on 25th September 1998 by Teita Sisal Estate for constructing a house on the land but later the case was dismissed over non- attendance by the prosecution on 14th November 2006. The Court ordered Teita Estate to pay the cost of the suit which has not been honored to date. The secretaries together with 90 other families were later sued for trespass by the Teita Estate Management.
185. A court order for a joint survey was issued on 11th May 2011 but the Estate management failed to bring their surveyor. Mr. Kyriazy later went to court for further orders for survey but the survey never took place.
186. Alternative land of 400 acres was identified in Maganga when Hon. Marsden Madoka was the M.P for the area so that residents of Singila Majengo could be moved but the group formally rejected the offer by the government and refused to move since Singila Majengo is their ancestral land, and because Maganga residents were also against the moving of Singila Majengo residents to their land.
187. Maganga and Teita Sisal Estate farms are not adjacent to each other.
188. The lawyer for Singila Majengo residents has never been invited nor involved in any negotiations regarding the sale of land to the government
189. The farm in Maganga is LR no.3880/4 and is 257.97 acres and was surveyed in 1951.
-
190. Taita and Taita Sisal Company Limited sold Land to Teita Estate (1972) Ltd.
191. According to a gazette notice of 9th February 1973, the acreage is as follows: LR 3380/5 16875 acres, LR 6924 which is 10010 acres, LR 94876(Dam) which is 55 acres, LR 11378 which is 3344 acres and the total being 30,284 acres;
192. Taita and Taita Sisal Company gave the same acreage for the land, now owned by Teita Sisal Estate;
193. LR No.3880/3 is not titled (is Community land) and is part of the Land that Teita Sisal Estate has encroached on.

194. A memorandum of registration of transfer of land in exchange for a new grant was issued on 14th August 1963 from Teita Sisal Estate (LR No.3880/4/1) to the Regional Assembly of the Coast region (LR.No.11378) for 3344 acres. The airstrip used by the Estate is part of the LR NO 3880/4/1 which was surrendered in 1963.

195. The management was supposed to surrender the transferred land but is still holding on both lands.

196. The acreage of the encroached land by Teita Sisal Estate is 2,997.66 acres (LR 3880/3), while the land that was supposed to be surrendered is 3,344 acres (LR 3880/4/1) bringing the total acreage under illegal occupation by Teita Sisal Estate to 6341.66

197. LR No.3380/4/2 was later renumbered to LR 3380/5 which is 16,873 acres. It is not clear how LR no. 3380/5 was created. The renumbering to 3380/5 created an extension which included Singila Majengo area.

198. The LR No. 3380/4/2 once renumbered should have ceased to exist. Investigations however also show that the Sisal Plantation has not gone up to Majengo Singila area and that the area is a reserve.

199. LR No.3380 initially was the number for the Land that belonged to Ex Major Goldman and that when /3 and /4 were excised; there was a remainder which is not accounted for.

200. Original records are required to re-establish the LR No's on the ground.

201. The local community has been denied access to the railway station since the access road which is public is within the estate gates. The dam is also within the estate and is manned by estate security denying the local residents free access.

202. Mwandisha Primary school, also within the estate (LR Nos.3880/5) was constructed by the Taita and Taita Sisal Company in 1952 but is run by the government (has government teachers). Access to the school by residents who are not employees of the sisal estate has however been limited by the Teita Sisal Estate management and the access road blocked.

203. Orders for a joint survey should be given to establish the boundaries.

204. Evidence from the Attorney General's office shows that only Mr. Alexander Kyriazy is a Kenyan Citizen and the rest of his children are not citizens.

2.11 Evidence from Mr. Phillip Andrew Kyriazy, Managing Director, Teita Sisal Estate

The Committee met and received evidence from Mr. Phillip Andrew Kyriazy, Managing Director, Teita Sisal Estate appearing on behalf of Mr. Alexander Kyriazy, accompanied by his lawyer Mr. Evans Monari, and Mr. S. W. Juma, County District Surveyor, Taita Taveta County. ~~appeared before the committee and gave evidence on Land dispute in Taita Taveta County-Teita Sisal Estate., the Committee was informed as follows, THAT:~~

205. Teita Sisal Estate is a registered parcel of land known as Land Reference number 3880, 3881, 6924, 9487 and 11378 and has a valid title deed with a total acreage of 30,000 acres and that;
206. The grant of the land was issued to Waericon Concession which later became Teita Concession in 1929.
207. The land was subsequently transferred to Taita and Taveta Company limited in 1964 and was charged to Standard Chartered bank.
208. In 1966, Mr. Alexander Kyriazy was appointed receiver manager of Taita & Taveta Company by Standard bank. In 1972 he bought the land from Taita & Taveta Company. The Property is currently charged to Standard Bank.
209. Squatters began encroaching in Teita Sisal Estate in 1998 and in 2007; several buildings were put up by squatters which are both permanent and semi-permanent the buildings are situated in Singila and majengo which borders the township and the estate.
210. In 2006, the former President Mwai Kibaki issued a directive that the squatters in the area be resettled by the government. As a result, the government approached Teita Sisal estate Ltd in 2008 and offered to purchase land to settle Squatters. Teita Estate Ltd earmarked 400 acres to be sold to the government, the government offered Ksh.14.8 Million in 1998 for the land but the squatters opposed the sale before the transaction could be commenced. The legal transactions were consequently put on hold.
211. In an attempt to reach a consensus between the Government, Squatters and the Estate a committee was formed by stakeholders. In a meeting held on 11th December 2008, and on 8th April 2009 it was pointed out that the estate had obtained orders to evict the squatters but had deferred the action to avoid conflict due to the fact that the Squatters of Singila/ Majengo needed land it was agreed

that squatters be settled on 400 acres once a consensus between the government and the Estate is agreed.

212. The government was willing to purchase the said land and later negotiate for more land from the estate had not been affected.

213. The process to purchase the land by the government was stalled because squatters and residents frustrated the process by threatening Surveyors who went on site and by removing the beacons at Singila area.

214. Teita Sisal estate is the largest Sisal estates in the country and employs about 2,100 people while about 8000 people benefit directly or indirectly from the farm and that the estate creates an important infrastructure for the whole county including schools, Houses and a hospital as a result of the direct investment from the company.

215. Government surveyors have never been declined access to survey the land by the management and that the management is willing to allow government surveyors into the farm any time.

216. Teita Sisal Estate Ltd is willing to discuss on the amount of land to sell to the government and to seek alternative methods of dispute resolutions on issues residents have highlighted. Further, that currently about 350 acres of the farm has already been encroached on by the squatters.

217. The dam in the estate lies within the boundaries of Teita Sisal Estate and was constructed by the British army Engineers in 1958. However the management has not denied residents usage and access of the dam and there is a passage-way that has been left to allow animals to access the dam for water.

218. Access to the farm is not restricted per se. The main entrance to the farm is private and since the estate is privately owned and the roads to the farm are private roads, any restrictions are security measure however there are other public roads which are open to the public and which are used by the public.

219. The Estate has not closed the public roads however it has erected an electric fence on the Kasingau Road and from Mwatate to Mugeru to prevent elephants and other wild animals from straying into the farm.

220. The school within the farm is open to the public and has over 1000 children both from employees of the farm and neighboring community, and that the management does not collect any revenue from the school.

221. The railway station based in the estate is open to the public and that the four go-downs along the railway line belong to the estate and had been constructed to store sisal which was to be delivered to Mombasa and they are situated about 300-400 meters from the Kenya Railways go-down.

222. The forest in the neighborhood of the farm is maintained by the Estate and the estate strives to keep it in its original form and occasionally when there are fires the estate helps in putting them off, the forest attracts researchers from other parts of the world as it contains some rare plant species. Further, that residents have been destroying the forest and Teita Sisal estates provides security to protect it from destruction.

223. Mr. Alexander Keriazy was attacked as a result of the dispute surrounding the farm and has been incapacitated.

224. Individuals within Taita County have established a group called Mwasima Mbuwa and are collecting monies from unsuspecting members of the public with a purporting to be selling then estate at a cost of Kshs. 5,500.00 per half an acre. The Management has since put caveats on the land cautioning the public from being conned.

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

The Committee was informed that:

225. There has never been a formal request to establish the boundaries of Teita Sisal estate and no commitment whatsoever from any party in terms of facilitation to determine the boundary. However, the boundary is well mapped on the survey plan and it is just a matter of re-establishing the boundary once the request is made survey maps depicting the land had indicated the acreage as: LR 3380/5(3880/4/R) being 16875 acres, LR 11378 being 3344 acres, LR 6924 10010 acres, LR 9487(Dam) being being 55 acres and the total Area 30284 acres;

226. That previous correspondences from the survey office indicate that residents had invaded the sisal farm at Singila;

227. That the difference of about 284 acres between the acreage provided by Mr. Kyriazy could be the land on Voi river which the company has never used and part of which had been offered for sale to the government;

228. That the boundaries to the farm are not in contention and that there are underlying currents that are driving the conflict over the land driven by two associations, (one named Mwasima Mbuwa group) run by one individual, and who are selling the land to unsuspecting residents and using the estate as a smokescreen.

3.0 OBSERVATIONS

The Committee made the following observations in Teita Sisal Estate, THAT:

1. The boundary of Teita Sisal Estate had been tampered with;
2. Damages had been caused by the management of Teita Sisal Estate in 1991 at Majengo where food crop were ploughed down without notice or Court Order leading to obstruction of Community developments and encroachment of land by Teita Sisal Estate;
3. Teita Sisal Police Patrol is being used by the Teita Sisal Estate management as a private security firm to intimidate innocent people of Singila Majengo;
4. Public roads, dam, Railways and airstrip have been closed by Teita Sisal Estate.

4.0 RECOMMENDATIONS

The Committee recommends as follows, THAT;

B. GENERAL RECOMMENDATIONS

- ✓ 1. The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring proposals for legislation to ensure that investments in property benefits local communities and their economy as provided for in Article 66(2) the Constitution;
- ✓ 2. The National Cohesion and Integration Commission should intervene for the purpose of averting possible land based ethnic clashes in the County;
- ✓ 3. The National Commission on Human Rights should intervene to ascertain any breach of the Bill of Rights (Chapter four of the Constitution);
- ✓ 4. The Constitution Implementation Commission intervenes to ensure that the entire process is constitutional, and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly;

5. The National Land Commission Should initiate an inquiry into the historical land injustices in Taita/Taveta County and seek redress as provided for by the law;
6. Title deeds should be reviewed in the entire county and Land lease reviewed to establish whether their terms have expired or not and if they were renewed without legal procedures, if so the Land be surrendered to the Local Community.

B. IN TEITA SISAL ESTATE

1. The Ministry of Interior and Coordination of Government should with immediate effect ensure that all roads to the primary school, dam, railway and airstrip are opened to allow members of the local community access.
2. The Ministry of Lands, Housing and Urban Development through the Director of survey should carry out a survey with a view to ascertaining the boundaries as per the records of 1992 from the Survey of Kenya, so as to ensure Teita Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra land to the government.
3. Ministry of Environment should restore Tasha Hill Forest to its original state.

C. IN TAVETA

1. The National Land Commission to initiate an audit for the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.

MINUTES OF THE 169TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON
LANDS HELD ON THURSDAY 25TH JUNE 2015, AT THE 2ND FLOOR BOARDROOM,
PROTECTION HOUSE AT 10.00 AM

PRESENT:

1. The Hon. John Kihagi, M.P. - Chairing
2. The Hon. Francis W. Nderitu, M.P.
3. The Hon. Francis Njenga Kigo, M.P.
4. The Hon. Patrick Makau, M.P.
5. The Hon. A. Shariff, M.P.
6. The Hon. Bernard Bett, M.P.
7. The Hon. Kipruto Moi, M.P.
8. The Hon. Julius Ndegwa, M.P.
9. The Hon. Onesmus Ngunjiri, M.P.
10. The Hon. Hellen Chepkwony, M.P.
11. The Hon. Gideon Mung'aro, M.P.
12. The Hon. Joseph Oyugi Magwanga, M.P.
13. The Hon. Thomas Mwadeghu, M.P.
14. The Hon. Eusilah Ngeny, M.P.
15. The Hon. Mpuru Aburi, M.P.
16. The Hon. Kanini Kega, M.P.
17. The Hon. Esther Murugi, M.P.

ABSENT WITH APOLOGIES:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
3. The Hon. Hezron Awiti Bollo, M.P.
4. The Hon. Suleiman Dori, M.P.
5. The Hon. Mathew L. Lempurkel, M.P.
6. The Hon. Benson Mbai, M.P.
7. The Hon. George Oner, M.P.
8. The Hon. Dr. Paul Otuoma, M.P.
9. The Hon. Mutava Musyimi, M.P.
10. The Hon. Sarah Korere, M.P.
11. The Hon. Shakila Abdallah, M.P.

ABSENT WITHOUT APOLOGY:

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

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono - Clerk Assistant I
2. Ms. Ruth Mwihiaki - Clerk Assistant III
3. Mr. Emmanuel Muyodi - Clerk Assistant III

MINUTE NO. DCK/LN/2015/ 577

PRELIMINARIES

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

MINUTE NO. DCK/LN/2015/578

CONSIDERATION AND ADOPTION OF THE
REPORT ON LAND ISSUES IN TAITA/TAVETA
COUNTY

The Committee considered the report tabled at the floor of the House on December 3, 2014 and resolved to withdraw and re-table the report with the following observations and recommendations:

The Committee makes the following observations in Teita Sisal Estate, THAT:

1. The boundary of Teita Sisal Estate had been tampered with;
2. Damages had been caused by the management of Teita Sisal Estate in 1991 at Majengo where food crop were ploughed down without notice or Court Order leading to obstruction of Community developments and encroachment of land by Teita Sisal Estate;
3. Teita Sisal Police Patrol is being used by the Teita Sisal Estate management as a private security firm to intimidate innocent people of Singila Majengo;
4. Public roads, dam, Railways and airstrip have been closed by Teita Sisal Estate.

The Committee recommends as follows, THAT;

A. General recommendations

1. The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring proposals for legislation to ensure that investments in property benefits local communities and their economy as provided for in Article 66(2) the Constitution;
2. The National Cohesion and Integration Commission should intervene for the purpose of averting possible land based ethnic clashes in the County;
3. The National Commission on Human Rights should intervene to ascertain any breach of the Bill of Rights (Chapter four of the Constitution);
4. The Constitution Implementation Commission intervenes to ensure that the entire process is constitutional, and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly;
5. The National Land Commission Should initiate an inquiry into the historical land injustices in Taita/Taveta County and seek redress as provided for by the law;

6. Title deeds should be reviewed in the entire county and Land lease reviewed to establish whether their terms have expired or not and if they were renewed without legal procedures, if so the Land be surrendered to the Local Community.

B. In Teita Sisal Estate

1. The Ministry of Interior and Coordination of Government should with immediate effect ensure that all roads to the primary school, dam, railway and airstrip are opened to allow members of the local community access.
2. The Ministry of Lands, Housing and Urban Development through the Director of survey should carry out a survey with a view to ascertaining the boundaries as per the records of 1992 from the Survey of Kenya, so as to ensure Teita Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra land to the government.
3. Ministry of Environment should restore Tasha Hill Forest to its original state.

C. In Taveta

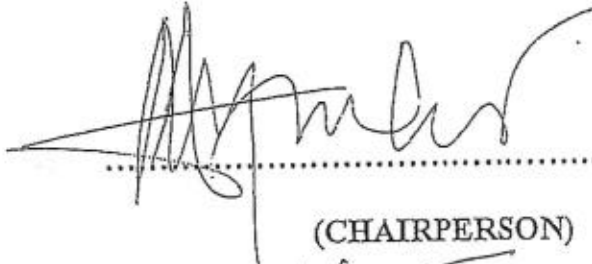
1. The National Land Commission to initiate an audit for the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.

MINUTE NO. DCK/LN/2015/579

ADJOURNMENT

And the time being thirty minutes past 11 O'clock, the Chairman adjourned the meeting.

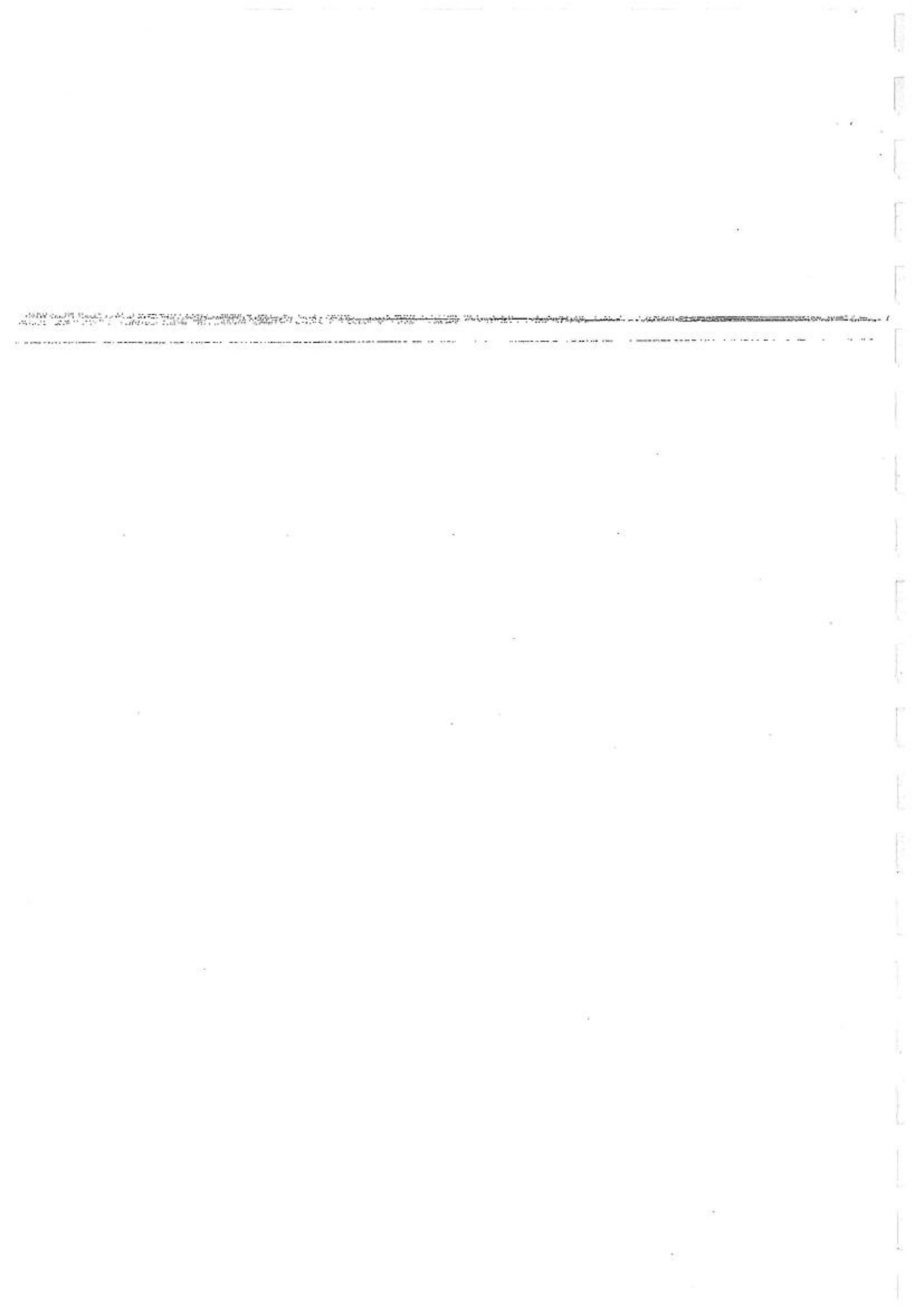
SIGNED



(CHAIRPERSON)

DATE

25th June 2015



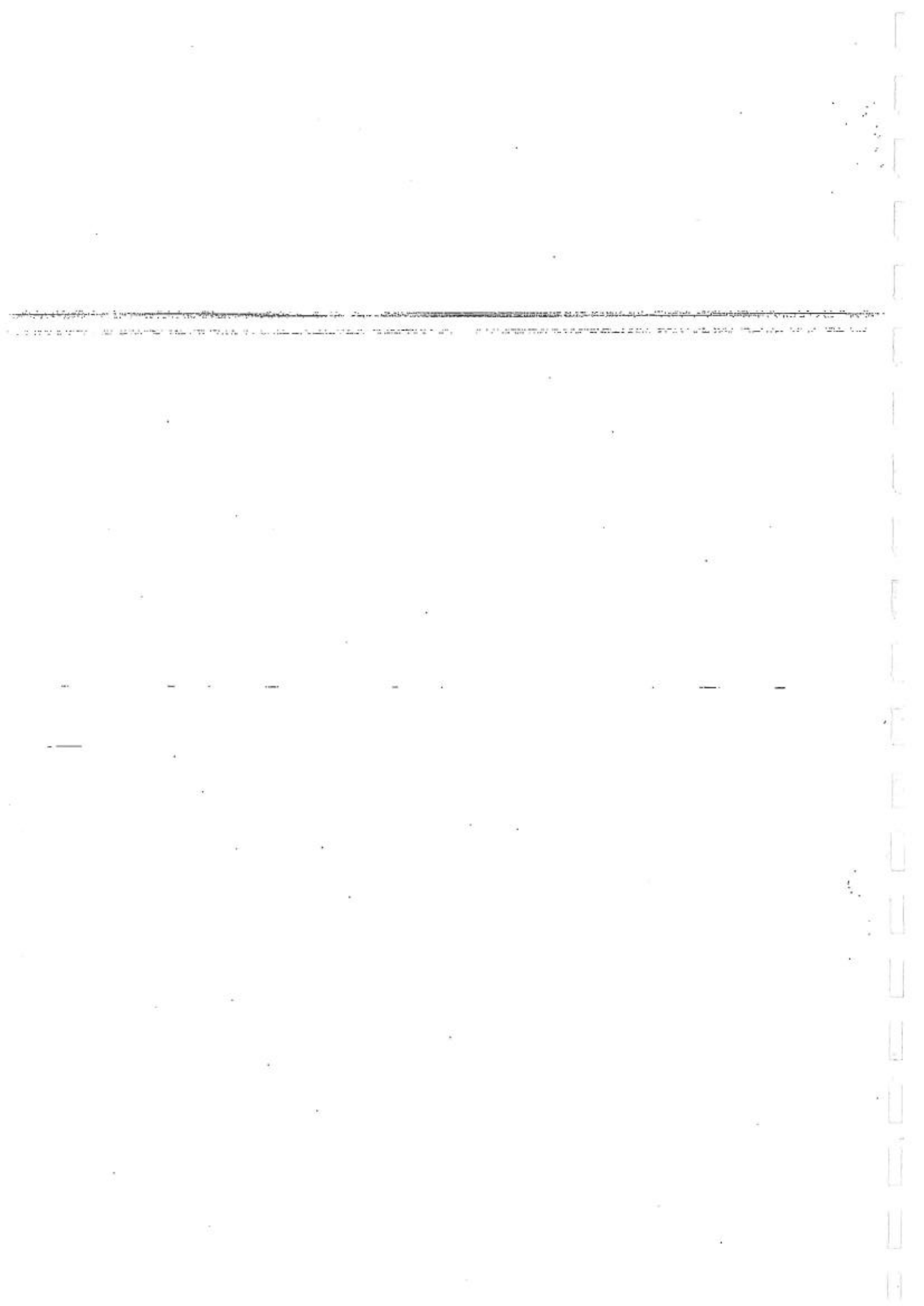
DEPARTMENTAL COMMITTEE ON LANDS

DATE: 11/11/14

VENUE: Protection House, 4th floor

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

NAME	TITLE	SIGNATURE
The Hon. Alex Mwiru, M.P. (Chairperson)		
The Hon. Moses Ole Sakuda, M.P. (Vice Chairperson) <i>(Chairing)</i>	<i>Vice Chair</i>	<i>[Signature]</i>
The Hon. Onesmas Ngunjiri, M.P.	<i>M-</i>	<i>[Signature]</i>
The Hon. Mutava Musyimi, M.P.		
The Hon. John Kihagi, M.P.	<i>Member</i>	<i>[Signature]</i>
The Hon. Francis W. Nderitu, M.P.	<i>member</i>	<i>[Signature]</i>
The Hon. Francis Njenga, M.P.		
The Hon. A. Shariff, M.P.	<i>Member</i>	<i>[Signature]</i>
The Hon. Eusilah Jepkosgei, M.P.		
The Hon. Benard Bett, M.P.	<i>member</i>	<i>[Signature]</i>
The Hon. Kipruto Moi, M.P.	<i>Member</i>	<i>Kipruto Moi</i>
The Hon. Oscar Sudi, M.P.		
The Hon. Hellen Chepkwony, M.P.	<i>Member</i>	<i>[Signature]</i>
The Hon. Sarah Korere, M.P.		
The Hon. Julius Ndegwa, M.P.	<i>Member</i>	<i>[Signature]</i>
The Hon. Benson Mbai, M.P.	<i>Member</i>	<i>[Signature]</i>
The Hon. Kanini Kega, M.P.		
The Hon. Esther Murugi, M.P.	<i>member</i>	<i>Esther Murugi</i>
The Hon. Gideon M. Mung'aro, M.P.		
The Hon. Hezron Awiti Bollo, M.P.		
The Hon. Suleiman Dori Ramadhani, M.P.	<i>"</i>	<i>[Signature]</i>
The Hon. George Oner Ogalo, M.P.		
The Hon. Lekidime Lempurkel Mathew, M.P.		
The Hon. Shakila Abdallah, M.P.		
The Hon. Paul Otuoma, M.P.	<i>M</i>	<i>[Signature]</i>
The Hon. Thomas Mwadeghu, M.P.	<i>Member</i>	<i>[Signature]</i>
The Hon. Magwanga Joseph Oyugi, M.P.	<i>member</i>	<i>Magwanga</i>
The Hon. Aburi Lawrence Mpuru, M.P.		
The Hon. King'ola Patrick Makau, M.P.		



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

PRESENT:

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

APOLOGIES

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

ABSENT

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

KENYA NATIONAL ASSEMBLY

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

MINUTE NO. DCK/LN/2014/239

PRELIMINARIES

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

MINUTE NO. DCK/LN/2014/240

ADOPTION OF THE AGENDA

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

MINUTE NO. DCK/LN/2014/241

CONFIRMATION OF MINUTES

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

proceedings and signed by the Chairman.

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

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

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

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

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

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

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

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

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

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

The Committee observed THAT:

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

The Committee makes the following recommendations, THAT:

1. The Ministry of the Interior through the Criminal Investigation Department and the Ethics and Anti Corruption Commission investigates the alleged conspiracy for the escalation and inflation of the cost of the Land in question with a view to prosecute those found to be behind the scheme.

2. The Ethics and Anti Corruption Commission to investigate the Managers in Kenya Urban Roads Authority (KURA) who committed public funds in informal meetings and casual interactions, with a view to establishing if they are fit to hold public office and instigate measures to ensure that any agreement made by KURA and other parties in future touching on public funds should be in writing.

3. In future, calculations for compensation should be integrated in the road designs to allow for costing and budgeting for the compensations.

4. The National Treasury should consider prioritizing on compensation for land on Compulsory acquisitions while allocating funds to KURA in the supplementary budget.

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

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

The Committee makes the following observations THAT:

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

The Committee makes the following recommendations. THAT:

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

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

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

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

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

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

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

The Committee makes the following recommendations. THAT:

The Committee recommends as follows, THAT;

A. GENERAL RECOMMENDATIONS

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

B. IN TEITA SISAL-ESTATE

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

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

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

C. IN MWATATE

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

D. IN TAVETA

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

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

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

The committee observed in Tharaka Nithi County that:-

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

The Committee Observed in Meru Town that:-

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

The Committee Recommends That:-

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

evictions and curfew imposition.

5) The County Administration, the National Government representatives and security agencies should form a joint peace initiative committee to include the Tharaka, Igembe and Kamba people for resettlement and peace keeping in the area.

6) The Ministry of Lands, Housing and Urban Development should implement the ~~recommendations of the Zachary Ogongo task force which directed that land on the common border be adjudicated.~~

7) That Parliament should allocate resources to the relevant Ministry and compel the Ministry of Education, Science and technology to reconstruct the destroyed and closed schools in Tharaka County namely;

- | | |
|-----------------------------|---------------------------|
| a. Karimba Primary School | Code Number 84-069-03-023 |
| b. Kabangua Primary School | Code Number 84-069-03-021 |
| c. Mpunguru Primary School | Code Number 84-069-03-024 |
| d. Machabini Primary School | Code Number 84-069-03-022 |
| e. Kanjoro Primary School | Code Number 84-069-03-027 |
| f. Riamwanki Primary School | Code Number 84-069-03-025 |
| g. Kiumbe Primary School | Code Number 84-069-03-026 |

The Committee Recommends In Meru County That:-

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

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

a. Foreign Visits

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

b. Galeria Mall Evictees

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

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

c. Lamu Report

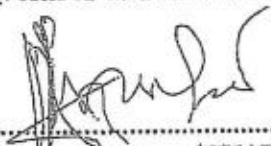
Members were informed that the Report of the National land Commission on the Lamu Land has been released.

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

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

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

SIGNED


.....
(CHAIRPERSON)

DATE

2/12/2014
.....

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

PRESENT:

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

PRESENT WITH APOLOGY

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

ATTENDANCE

NATIONAL ASSEMBLY

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

MINUTE NO. DCL/LN/2014/77

PRELIMINARIES

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

MINUTE NO. DCL/LN/2014/78

CONFIRMATION OF MINUTES

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

MINUTE NO. DCL/LN/2014/79

EVIDENCE

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

MINUTE NO. DCL/LN/2014/80

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

The Committee was informed as follows; THAT,

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

The Committee was further informed that;

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

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

- b) Government surveyors have never been declined access to survey the land by the management and that the management is willing to allow government surveyors into the farm any time.
- c) Teita Sisal Estate Ltd is willing to discuss on the amount of land to sell to the government and to seek alternative methods of dispute resolutions on issues residents have highlighted. Further, that currently about 350 acres of the farm has already been encroached on by the squatters.

~~d) The dam in the estate lies within the boundaries of Teita Sisal Estate and was constructed by the British Army Engineers in 1958. However the management has not denied residents usage and access of the dam and there is a passage-way that has been left to allow animals to access the dam for water.~~

e) Access to the farm is not restricted per se. The main entrance to the farm is private and since the estate is privately owned and the roads to the farm are private roads, any restrictions are a security measure however there are other public roads which are open to the public and which are used by the public.

f) The Estate has not closed the public roads however it has erected an electric fence on the Kasingau Road and from Mwatate to Mugero to prevent elephants and other wild animals from straying into the farm.

g) The school within the farm is open to the public and has over 1000 children both from employees of the farm and neighboring community, and that the management does not collect any revenue from the school.

h) The railway station based in the estate is open to the public and that the four go-downs along the railway line belong to the estate and had been constructed to store sisal which was to be delivered to Mombasa and they are situated about 300-400 meters from the Kenya Railways go-down.

i) The forest in the neighborhood of the farm is maintained by the Estate and the estate strives to keep it in its original form and occasionally when there are fires the estate helps in putting them off, the forest attracts researchers from other parts of the world as it contains some rare plant species, Further, that residents have been destroying the forest and Teita Sisal estates provides security to protect it from destruction.

~~j) Mr. Alexander Keriazy was attacked as a result of the dispute surrounding the farm and has been incapacitated.~~

~~k) Individuals within Taita County have established a group called Mwasima Mbuwa and are collecting monies from unsuspecting members of the public with a purporting to be selling then estate at a cost of Kshs. 5,500.00 per half an acre. The Management has since put caveats on the land cautioning the public from being conned.~~

MINUTE NO. DCL/LN/2014/81

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

the Committee was informed that:

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

LR 3380/5(3880/4/R)

16875 acres

LR 11378

3344 acres ✓

LR 6924

10010 acres ✓

→ LR 9487 (Dam) 94876

55 acres

TOTAL AREA

30284 acres

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

COMMITTEE RESOLUTIONS

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

MINUTE NO. DCL/LN/2014/83

A.O.B

The following matters arose:

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

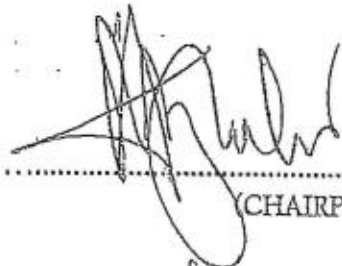
The committee was informed that the Cabinet Secretary had written to the speaker claiming that the regulations were improperly before the committee. The Committee noted that during the retreat between the Ministry and the NLC held in Mombasa between May 29th to 31st 2014, it was resolved that the NLC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

MINUTE NO. DCL/LN/2014/84

ADJOURNMENT & DATE OF THE NEXT SITTING

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

SIGNED


.....
(CHAIRPERSON)

DATE

24/6/2014
.....

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

PRESENT:

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

ABSENT WITH APOLOGY

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

ABSENT WITHOUT APOLOGY

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

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

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

MINUTE NO. DCL/LN/2014/111 PRELIMINARIES

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

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

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

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

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

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

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

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

MINUTE NO. DCL/LN/2014/115 EVIDENCE

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

The Committee was informed as follows; THAT:

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

Community.

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

The Committee was further informed that:

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

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

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

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

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

The following matters arose:

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

MINUTE NO. DCL/LN/2014/116 PROGRAM FOR THE NAROK VISIT

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

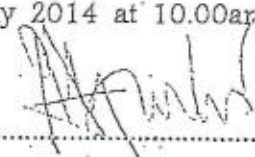
MINUTE NO. DCL/LN/2014/111 ADJOURNMENT & DATE OF THE NEXT SITTING

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

SIGNED


.....
(CHAIRPERSON)

DATE


.....
12/8/2014

APPENDIX IV : SUBMISSIONS FROM STAKEHOLDERS



MINISTRY OF LANDS AND PHYSICAL PLANNING

SUBMISSIONS TO THE NATIONAL ASSEMBLY SELECT COMMITTEE ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

Honourable Chair,

Pursuant to a letter Ref. **NA/DAASC/COI/2021/ (084)** dated June 10, 2021, the Committee requested the Cabinet Secretary, Ministry of Lands and Physical Planning to report on the implementation status of the following reports:

1. Report of the Departmental Committee on its consideration of the petition regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura- Butere Road D260
2. Report of the Departmental Committee 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. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza-Katumani Road
4. Report of the Departmental Committee on Lands on its consideration of the petition on irregular renewal of leases of land by Del Monte Kenya Limited
5. Report on the Petition regarding land issues in Taita Taveta County

Honourable Chair, I wish to respond as follows:

1. Report of the Departmental Committee on its consideration of the petition regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura- Butere Road D260

Honourable Chair,

The Departmental Committee on Lands considered a petition regarding delayed compensation for private land compulsorily acquired by Kenya Rural Road Authority (KeRRA) in 2011 for construction of the Sigalagala-Musoli-Bukura Butere Road. The Committee in its report dated November 19, 2019 recommended as follows:

- i) Pursuant to the provisions of Article 40 of the Constitution and the Land Act, 2012, the Chairperson, National Land Commission does gazette the inquiry dates for the compulsory acquisition of land for the Sigalagala – Musoli – Bukura Butere Road project within ninety days of the tabling of this report
- ii) The National Land Commission does conduct the valuation of parcels of land, crops and trees affected by the project within ninety days upon the gazette of the inquiry dates for the Sigalagala – Musoli – Bukura Butere Road
- iii) Upon the conclusion of the inquiries and remittance of compensation funds from Kenya Rural Road Authority (KeRRA), the Chairperson, National Land Commission does disburse the compensation funds to the respective project affected persons within ninety days.

Implementation Status

Honourable Chair,

Recommendations (i) (ii) and (iii) are to be actioned by the National Land Commission and Kenya Rural Road Authority KeRRA.

2. Report of the Departmental Committee 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

Honourable Chair,

The petition concerned land L.R No. 5875/2 claimed by the petitioners (Roysa Community Development Society, the Kenya Defence Forces (KDF) and Kasarani Mall Limited (a subsidiary of Uchumi Supermarket PLC).

The land was registered in the name of Mayer Jacob Samuels (who died in 1974). The Government published a notice of intention to acquire the parcel for the Kenya Defence Forces vide Kenya Gazette Notice No. 5151 and 5152 of November 22, 1985. On August 8, 1995 an award for Kshs. 4,140,000/- was issued by the Commissioner of Lands. A 'Notice of Taking Possession' by the Government was lodged and registered in volume N. 10, Folio 494/30 File 6943 on June 25, 1986. The notice required the owner to deliver the title document to the Registrar of Titles for cancellation

The award was however challenged in the High Court under Land Acquisition Appeal No. 2 of 1986. In accordance with Section 13(2) of the Land Acquisition Act, the compensation money was deposited in the High Court and a deposit receipt issued by the Registrar. The money was subsequently deposited to Middle East Bank and released to the owner of the land on October 3, 1987. The High Court enhanced the award to Kshs. 23,000,000 and the same was subsequently appealed by the Hon. Attorney General vide Civil Appeal No. 109 of 1987.

The appeal was stood over generally to pave way for an out of court settlement. The out of court settlement was not finalized owing to the fact that the family of the late Mayer Jacob Samuels relocated from Kenya to Israel.

Despite the compulsory acquisition, the land was allocated to Solio Construction Company Limited as a fresh allocation in 2001 and was later transferred to Kasarani Mall Limited on March 20, 2001. In 2019, the County Government of Nairobi and the National Land Commission also allocated the land to the petitioners who claimed to be occupying the same. Subsequently, the Ministry of Lands and Physical Planning issued the subdivision scheme approval letters.

In considering the petition, the Committee noted in its report dated December 2019 that:

- i) Whereas there exists evidence that the government intended to acquire the subject parcel of land, the acquisition process was not completed as the out of court settlement on amount of compensation to be made were never concluded
- ii) That although the Ministry of Defence submitted that the land was valued at Kshs. 3,530,500 and the sum was duly paid by the Ministry to the Commissioner of Lands, the Committee noted that the High Court under the Land Acquisition Appeal No. 2 of 1986 had enhanced the award to Kshs. 23,000,000 and the same has not been paid to date. It had not also been demonstrated that the Kshs. 3,530, 500 allegedly paid to the Commissioner of Lands was released to Mr. Jacobs
- iii) The Committee noted with concern that the KDF only occupied the land thirty-three years later and the land remains undeveloped to date.

It thus recommended that:

- i) The Ministry of Lands and Physical planning in consultation with the National Land Commission and the Nairobi County government does complete the titling process for L.R No. 5875/2 within 180 days of tabling this report
- ii) The Director for Criminal Investigation 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 the Director of Public Prosecutions does prosecute any person found culpable within 90 days of tabling this report
- iii) The Ministry of Lands and Physical Planning does secure the title relating to L.R 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R No. 5875/2.

Implementation status

Honourable Chair, in response to recommendation (i), I wish to state as follows:

The Honourable Attorney General as the Principal Legal Advisor to the Government gave an advisory to the National Assembly vide a letter Ref. AG/CIV/47/20 dated August 11, 2020 regarding implementation of the report of the Departmental Committee on Lands in this matter (**Annexure 1a**). In view of this advisory, the Ministry has not been able to implement the recommendation. We have written to the Hon. Attorney General to seek guidance on the way forward and shall report to the Committee as soon as we are guided.

Further, the Environment and Land Court in Nairobi issued a judgement in ELC Case No. 153 of 2017 (formerly 495/2011) concerning the subject parcel of land L.R 5875/2. The said judgment upheld the title held by Kasarani Mall Limited and issued a permanent injunction restraining the petitioners from trespassing on the land. A copy of the judgment is marked (**Annexure 1b**).

The Petitioners also have a subsisting court case over the subject land at the Environment and Land Court in Nairobi, Judicial Review Application No. E008 OF 2020 (Republic-versus-Director Land Administration, Ministry of Lands & Physical Planning, Chief Land Registrar and the Attorney General)

Honourable Chair, in response to recommendation (ii), I wish to state as follows:

The recommendation of the Committee is to be actioned by the Director of Criminal Investigations.

Honourable Chair, in response to recommendation (iii), I wish to state as follows:

L. R No. 23393 is registered in favour of Kasarani Mall Limited. The parcel is adjacent to L. R 5875/2 and is not in contention given that the application by Kasarani Mall Limited for amalgamation of the two properties was never finalised.

3. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuani Road)

Honourable Chair,

The National Assembly Departmental Committee on Lands considered a petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of the Konza-Katumani road over a contested 400 Meters portion of the road traversing on private land L.R No. 355/2.

In its report dated October, 2020 the Committee noted that although the 400 meters road passing through L.R No. 7374 is not a public road, the petitioners have been in

continuous use for over 50 years. Further, the road is the shortest and most convenient route joining the Mombasa Road for use by the residents of Vota and other members of the public. It thus recommended:

- i) That the National Land Commission does consider facilitating the creation of a public right of way pursuant to Section 143 of the Land Act, 2012 to ensure the convenient passage of the residents of Vota through the 400 meters road which they have been using for over fifty years within six months of the tabling of this report
- ii) The Cabinet Secretary Ministry of Lands and Physical Planning does fast track the development of the land value index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for the development of public projects within three months of the tabling of this report.

Implementation Status

Honourable Chair, in response to recommendation (i), I wish to state as follows:

The process for the creation of a public right of way is prescribed under Sections 143-148 of the Land Act, 2012 read together with Part VII of the Land Regulations, 2017.

The National Land Commission is empowered under Sections 143 to 148 of the Land Act, 2012 to create a public right of way. A public right of way created for the benefit of the National Government or County Government, a Local Authority or any corporate body to facilitate the functions of such bodies is referred to as a wayleave. Where a public right of way is created for the benefit of the public as is the case herein it is referred to as a communal right of way.

Under Section 145 of the Act and Regulation 51 (2) of the Land Regulations, 2017, a county government, an association or any group of persons may make the application to the Commission for creation of a communal right of way. The Commission may also make the application on its own motion pursuant to Section 146 of the Act. The applicant is required to obtain a survey map from the authority responsible for survey and mark the proposed position of the public (communal) right of way.

Regulation 52 (1) requires the Commission to serve a notice of the application to all persons occupying the land over which the communal right of way is sought and make an announcement of the notice in a radio station with nationwide coverage. The Commission is also supposed to publish the notice along the route of the proposed right of way.

Upon receipt of all information and where there are no objections after expiry of the period specified in the notice (90 days) the Commission shall recommend to the Cabinet Secretary to create the communal right of way (Regulation 53).

Where there are objections/representations to the application, Section 146 of the Land Act requires the Commission to consider representations and objections received pursuant to the said notices and recommend to the Cabinet Secretary whether to carry out a public inquiry into the representations/objections or refer the application for creation of a communal right of way to the county government for its opinion or to initiate and facilitate negotiations with persons who have made representations/objections on the application with a view of reaching a consensus on that application.

Honourable Chair,

Where the recommendation is for a public inquiry, the Cabinet Secretary will constitute a public inquiry panel constituting a representative of the Institution of Surveyors of Kenya, Ministry of Lands and Physical Planning, Law Society of Kenya, National Land Commission, the respective county government and Kenya Institute of Planners. The inquiry panel will then place a two weeks' notice specifying the date, time and place of inquiry to all parties to make submissions on the application for the communal right of way. At the expiry of two weeks from the date of hearing, a report of the inquiry shall be submitted to the Cabinet Secretary (Regulations 55 & 56 of the Land Regulations, 2017).

Where the Commission recommends that the matter be referred to the respective county government, the Cabinet Secretary shall within two weeks refer the matter to the county government to give their opinion. The county government shall within two weeks forward its opinion to the Cabinet Secretary in writing (Regulation 57 of the Land Regulations, 2017).

Where the Commission recommends negotiations, the Cabinet Secretary shall within two weeks initiate negotiations between the persons who made objections/ representations and the applicant.

The Cabinet Secretary will determine whether or not to create the communal right of way after considering as the case be the recommendation of the Commission, or the advice of the county government or the outcome of any negotiations that may have been reached between the applicant for the right of way and those who made representations or objections.

If the Cabinet Secretary decides to create a right of way, an Order to that effect which shall be published in the Kenya Gazette. Once the order is made, any person who had made representation or objection to the application to the creation of the right of way may appeal against the decision of the Cabinet Secretary to the Court only on a point of law.

Honourable Chair,

Section 148 (1) of the Act provides that compensation shall be payable to any person for the use of land which the person is in lawful or actual occupation with respect to the communal right of way which compensation shall be based on the value of the land as determined by a qualified valuer. Section 148 (4) of the Act places the duty to pay compensation upon the state department, public authority or corporate authority that has applied for the communal right of way.

Under Regulation 60 (1) of the Land Regulations, 2017 the Cabinet Secretary may create the public right of way upon completion of the processes outlined above.

Honourable Chair,

The Land Act, 2012 and the Land Regulations, 2017 have an elaborate procedure to be followed when one wants to create a communal right of way over private land. The Commission through a letter Ref. NLC/1/26/1 dated April 13, 2021 recommended the creation of the communal right of way on land L. R 7374/3 on the basis of the recommendation of the Departmental Committee on Lands (**Annexure 2**). However, the recommendations of the Committee are subject to the process prescribed in law. We have engaged the Commission to take the necessary steps provided in law vide our letter Ref. MOLPP/ADM/CSO/1/760 dated April 29, 2021 (**Annexure 3**). Once this is done, we shall action accordingly.

Honourable Chair, in response to recommendation (ii), I wish to state as follows:

Further to our report dated March 3, 2021 contained in **Annexure 4** (Pgs. 11-14), I wish to report that we have since prepared and undertaken stakeholder validation of Land Value Index Maps for Kakamega, Busia, Bungoma, Vihiga and Siaya counties. The main challenge remains shortage of funds to fast track the process.

The Land Value Index Maps shall be submitted by end of August, 2021 for approval by the National Assembly and the Senate in accordance with Section 107A of the Land Act, 2012.

4. Report of the Departmental Committee on Lands on its consideration of the petition on irregular renewal of leases of land by Del Monte Kenya Limited.

Honourable Chair,

The Committee considered a petition presented by Mr. Philip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases held by Del Monte Kenya Limited. The petitioners claimed that the County Government of Muranga renewed the leases to Del Monte contrary to Section 13 of the Land Act requiring public participation to determine whether the public had an interest in the land.

The Committee in considering the petition noted that the National Land Commission dealt with the matter as a historical land injustice claim and recommended, among other things, that the land held by Del Monte Kenya Limited be resurveyed to establish if the company was in possession of land that it is not registered to hold. The Committee also observed that despite there being several court cases regarding renewal of leases and implementation of the recommendations of the Commission, Del Monte Kenya Limited was not opposed the resurvey of the land in question.

It therefore made the following recommendations in its report dated November 2019:

- i) The Director of Surveys, Ministry of Lands and Physical Planning does resurvey the land held by Del Monte Kenya Limited in Murang'a and Kiambu Counties within ninety days of tabling of this report.
- ii) The National Land Commission does investigate 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 within ninety days of tabling this report.

Implementation status

Honourable Chair, in response to recommendation (i), I wish to state as follows:

In our report dated October 27, 2020 (**Annexure 5**) (Pgs. 9-11), the Ministry reported that the resurvey of the land held by Del Monte Kenya Limited in Muranga and Kiambu counties was undertaken as directed.

The County Governments of Muranga and Kiambu have not yet given their approvals to the subdivisions and the extension/renewal of the leases (Form PPA 2) to facilitate registration.

Honourable Chair, in response to recommendation (ii), I wish to state as follows:

The recommendation is directed at the National Land Commission.

5. Report on the Petition regarding land issues in Taita Taveta County

Honourable Chair,

The petition emanated from allegations that Teita Sisal Estate had encroached into a contiguous community land. The National Assembly Departmental Committee on Lands recommended that the Ministry ascertain the boundaries. A boundary confirmation survey was carried out on the land and it was discovered that the community had encroached into the Sisal Estate. Consequently, the proprietor of the Estate offered to surrender the portion of land occupied by the community.

The Committee on its consideration of the matter therefore recommended in its report dated June, 2015 the excision of 250 acres of land from Teita Sisal Estate for formalization of settlement of residents of Singila Majengo village in addition to the public utilities within the estate as agreed by the management of Teita Sisal Estate.

Implementation status

Honourable Chair,

In our report dated March 3, 2021 (**Annexure 4**) (Pgs. 16-17), the Ministry reported that the excision of Singila Majengo Village, Mwandisha Primary School and the public utilities including the roads and the railway reserves was undertaken vide Survey Plan No. F/R 467/87. The County Government of Taita Taveta approved the application for subdivision and change of user vide a PPA 2 form dated November 14, 2019.

This resulted in creation of Mwatate/Mwatate Block 1/ (11-13). Parcels 11 and 12 are to be surrendered to the National Government while parcel 13 is to be registered in the original owner's name. The owner proposed to further subdivide parcel 13.

The Director Land Administration issued subdivision scheme approval letters on January 4, 2021 as follows;

Parcel No.	Size (Ha.)	Beneficiary
Mwatate/Mwatate Block 1/11 (Shingila Majengo)	85.81	Land Settlement Fund Board of Trustees

Mwatate/Mwatate Block 1/12 (Mwandishi Primary School)	6.34	Cabinet Secretary to the National Treasury
Mwatate/Mwatate Block 1/14	1191.19	Teita Estates Limited
Mwatate/Mwatate Block 1/15	4936.57	Teita Estates Limited
Mwatate/Mwatate Block 1/16	406.26	Teita Estates Limited
Mwatate/Mwatate Block 1/17 (Langatani)	132.54	Land Settlement Fund Board of Trustees

In our last report dated March 3, 2021, the we reported that we were waiting for surrender of the mother title to facilitate registration of the scheme and issuance of titles.

Honourable Chair, I wish to report that the title has since been surrendered. There were Charges registered against the title in favour of Standard Chartered Bank Limited which were discharged on May 5, 2021 to facilitate registration of the subdivisions. **Annexure 6** is a copy of the title.

The Ministry shall process the titles in two weeks time.

Honourable Chair, I submit.



Farida Karoney, EGH
CABINET SECRETARY

July 29, 2021



MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSE TO THE SELECT COMMITTEE ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

Honourable Chair,

Pursuant to a letter Ref. NA/DAASC/COI/2021/(006) dated February 4, 2021, the Committee requested the Cabinet Secretary, Ministry of Lands and Physical Planning to report on the implementation status of the following reports-

1. Report of the Departmental Committee on Lands on its consideration of the petition regarding the status of the leased land meant for expansion of Moi International Airport
2. Report of the Departmental Committee on its consideration of the petition regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura- Butere Road D260
3. Report of the Departmental Committee 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
4. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Pongwe Area, Lunga Lunga Constituency on the imminent eviction from L.R No. 1083, Shimoni in Kwale County
5. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuani Road)
6. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Golini, Kwale County regarding regularization of allocation of land in the Golini Settlement Scheme
7. Report on the petition regarding land issues in Taita Taveta County

Acted upon
on 3/3/21 at
Parliament buildings
4/3/21

Honourable Chair, I wish to respond as follows-

1. **Report of the Departmental Committee on Lands on its consideration of the petition regarding the status of the leased land meant for expansion of Moi International Airport**

1.1 Background and Context

The National Assembly Departmental Committee on Lands considered a petition by residents of Changamwe Constituency regarding the status of the leased land meant for expansion of Moi International Airport. In this petition, the petitioners were aggrieved that the Government acquired Plot No. 12223/VI/MN for the development of Moi International Airport but leased the same Kenya Petroleum Refineries Limited. They claimed that the lease had since expired and therefore requested the National Land Commission to repossess the land and revert to the original owners.

The Petitioners also complained that Kenya Airports Authority was not utilizing Plot No. 1066 sec. VI/MN in Port Reitz Ward, Changamwe Constituency, allocated the company. They therefore sought the Committee's intervention to also repossess the land and revert it to the original owners.

The Committee in considering the petition observed that:

- i) Projects planned and budgeted for by the National Government, County Government and the CDF committee on Infrastructure and Social Amenities are unable to commence due to unavailability of land in the area
- ii) The Committee could not authenticate ownership of Plot No. 12223/VI/MN because the Ministry of Lands and Physical Planning did not avail the title
- iii) Kenya Petroleum Refineries Limited is the registered owner of Plot No. 12223/VI/MN
- iv) Individuals who have put up a container yard, have taken part of the land and have refused to share the amenities like water with the area residents
- v) Access routes to the area have been closed hence children have to travel long routes to access schools
- vi) The ward is served by only two (2) primary schools, which were built in the early post-independence years and has no secondary school, school for early childhood development, library, stadia, social hall and other social amenities.

In its report dated March 2015, the Committee therefore made the following recommendations-

- i) The Ministry of Lands and physical planning and National Lands Commission should intervene with a view to identifying and securing land meant for public utilities in Airport and Port Reitz wards.
- ii) Access routes to schools and hospitals be provided to enable school going children and members of the public seeking treatment to easily access schools and hospitals respectively.
- iii) National Land Commission to visit Port Reitz ward and confirm if the land is public or private and open up the area to provide access routes to schools and hospital.

1.2. Implementation Status

Honourable Chair,

The County Government of Mombasa has formulated two main land use plans that are instrumental in securing land meant for public utilities within the county, including those in Airport and Port Reitz Wards. These are the Mombasa Development Master Plan 2018 and the Mombasa Integrated Strategic Urban Development Plan (ISUDP), 2015-2035. (**Annexure 1**)

Implementation of both plans through strategies, projects and action area plans will go a long way in securing public purpose lands and opening them up for access. In light of this, the Ministry is working in collaboration with the county government to initiate and implement action plans designating public utilities, social amenities and public purpose lands as indicated in the ISUDP.

With proper implementation, the Master Plan and the Mombasa ISUDP offer a tangible, sustainable means of identifying and securing public utility lands within the entire county, including Airport and Port Reitz wards.

The Ministry further observes that poor access to properties, both private and public, is a common planning challenge in Mombasa. The county and national government continue to collaborate in different initiatives to enhance access to both individual and public properties. Apart from formulation and implementation of land use plans, slum upgrading is also ongoing in a number of informal settlements in Mombasa. For instance, the Kenya Informal Settlement Project (KISIP) is working in a number of informal settlements in Mombasa. Alongside tenure security, another key area of focus for KISIP is enhanced access to public institutions like schools and hospitals in these settlements.

Finally, the Ministry is aware that the county government acts on complaints of blocked access to private properties or public utilities on a case-by-case basis. In this regard, the county government is best placed to clarify the specific interventions it has made towards enhancing access to public utilities in Airport and Port Reitz wards.

On the issue regarding the status of Port Reitz ward being either public or private land, the Committee tasked the National Land Commission to provide this information.

2. Report on a petition by residents of Ikolomani Constituency regarding delayed compensation of landowners for the expansion of Sigalagala-Musoli-Bukura Butere Road D260

2.1 Background and Context

Honourable Chair,

The National Government through the Kenya Rural Roads Authority embarked on upgrading of the approximately 35 Kilometres long Sigalagala-Musoli-Bukura Butere Road in 2011. The construction encroached into private properties displacing many of the residents residing along the road. At the start of the project, the authority entered into an agreement with the landowners to allow it to enter into the affected land for the purpose of construction of the road. The Authority jointly with the landowners and an agricultural officer documented the developments for purposes of compensation.

In 2012, the authority submitted the request for compulsory land acquisition to the then Commissioner of Lands. However, the enactment of the Land Act in 2012 shifted the mandate of compulsory land acquisition to the National Land Commission. The Commission was constituted in 2013 and it took over the matter and published the intention to acquire the land vide gazette notice no. 6472 of July 7, 2017. The Commission and KeRRA carried out inspections of the properties affected by the project between March and May 2018. After the inspections, the Commission requested KeRRA to revise the land acquisition maps to reflect the actual status on the ground.

Gazettement of inquiries into claims of compensation by those affected by the project has been pending awaiting submission of the revised land acquisition maps and the appointment of the new Commissioners as it is only the Chairperson who can approve and gazette the inquiries.

In considering the petition, the Committee observed that the delay in compensating the affected residents was inordinate, not justifiable and contravened the requirement for prompt and just compensation as contained in Article 40 of the Constitution as read with the Land Act, 2012.

In its report dated November 2019, the Committee thus recommended as follows-

- i) Pursuant to the provisions of Article 40 of the Constitution and the Land Act, 2012, the Chairperson National Land Commission does gazette the inquiry dates for the compulsory acquisition of land for the Sigalagala – Musoli – Bukura Butere Road project within ninety days of the tabling of this report
- ii) The National Land Commission does conduct the valuation of parcels of land, crops and trees affected by the project within ninety days upon the gazettment of the inquiry dates for the Sigalagala – Musoli – Bukura Butere Road
- iii) Upon the conclusion of the inquiries and remittance of compensation funds from Kenya Rural Road Authority (KeRRA), the Chairperson, National Land Commission does disburse the compensation funds to the respective project affected persons within ninety days

2.2 Implementation Status

Honourable Chair,

The Ministry reiterates that the mandate of compulsory acquisition of private land under the Land Act, 2012 lies with the National Land Commission. The recommendations for implementation as advised by the Committee are to be actioned by the Commission and KeRRA.

3. **Report of the Departmental Committee 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 and Context

Honourable Chair,

The Committee considered a petition by former workers of the late Mayer Jacob Samuels regarding invasion and eviction of the workers by the Kenya Defence Forces from L.R No. 5875/2 located in Roysambu measuring 17.16 acres.

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 he passed away in 1974. They claimed that the deceased's family allowed them to continue staying on the land after the family were unable to pay their salaries. 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. From the petition, the Kenya Defence Forces (KDF) evicted the petitioners from the land in April 2019.

In our response to the petition, the Ministry submitted that L.R. No. 5875/2 arose from the subdivision of L.R. No. 1012, which measured approximately 4,443 Acres. The land was transferred to Mayer Jacob Samuels from Bau Salau under a 99-year lease with effect from November 1, 1904. The lease expired on November 1, 2003.

The Government published a notice of intention to acquire the land for the Kenya Defence Forces vide Kenya Gazette Notice No. 5151 and 5152 of November 22, 1985. The notices reflected the size to be 16.16 Acres but this was corrected vide a corrigenda in the Kenya Gazette on March 14, 1986 to read 17.16 Acres. On August 8, 1995 an award by the for Kshs. 4,140,000/- was issued by the Commissioner of Lands.

A 'Notice of Taking Possession' by the Government absolutely was lodged and registered in volume N. 10, Folio 494/30 File 6943 on June 25, 1986. The notice required the owner to deliver the title document to the Registrar of Titles for cancellation.

This position was supported by the Ministry of Defence. In their submissions to the Committee, the Ministry of Defence stated that the Commissioner of Lands valued the land at Kshs. 3,530,500 which sum was duly paid by the Commissioner. The valuation was challenged in the High Court under Land Acquisition Appeal No. 2 of 1986. In accordance with Section 13(2) of the Land Acquisition Act, the compensation money was deposited in the High Court and a deposit receipt issued by the Registrar. The money was subsequently deposited to Middle East Bank and released to the owner of the land on October 3, 1987.

The High Court enhanced the award to Kshs. 23,000,000 and the same was subsequently appealed by the Attorney General vide Civil Appeal No. 109 of 1987. The appeal was however stood over generally by consent of the parties to enable them to pursue an out of court settlement. The Ministry of Defence stated that the court negotiations were never finalized owing to the fact that the family of the late Mr. Jacobs relocated from Kenya to Israel.

An application for extension of the lease was made by the administrator of the estate of the late Mr. Jacobs on November 4, 1985. This was however declined by the Commissioner of Land since the process of compulsory acquisition was ongoing.

However, according to the National Land Commission and the Nairobi City County the land reverted to the county government upon expiry of the lease. This was the

basis for the approval of the subdivision and subsequent allocation to Roysa Community Development Society.

Despite the foregoing, the land was allocated to Solio Construction Company Limited in 2001, through an allotment letter as a fresh allocation and a title issued. The allocation according to the Ministry was fraudulent. It was later transferred to Kasarani Mall a subsidiary of Uchumi Supermarket PLC on March 20, 2001.

In considering the petition, the Committee made the following observations in its report dated December 2019:

- i) Whereas there exists evidence that the government intended to acquire the subject parcel of land, the acquisition process was not completed as the out of court settlement on amount of compensation to be made were never concluded
- ii) That although the Ministry of Defence submitted that the land was valued at Kshs. 3,530,500 and the sum was duly paid by the Ministry to the Commissioner of Lands, the Committee noted that the High Court under the Land Acquisition Appeal No. 2 of 1986 had enhanced the award to Kshs. 23,000,000 and the same has not been paid to date. It had not also been demonstrated that the Kshs. 3,530, 500 allegedly paid to the Commissioner of Lands was released to Mr. Jacobs
- iii) The Committee noted with concern that the KDF only occupied the land thirty-three years later and the land remains undeveloped to date

In the end, the Committee made the following findings-

- i) There was no evidence submitted to the Committee to indicate that the Kenya Defence Forces having allegedly acquired the land in 1986, gazette L.R No. 5875/2 as a protected area
- ii) Based on the submissions of the National Land Commission, a current search at the Land Registry indicated that no record on the land was available save for that the last registered owner of L.R. No. 5875/2 was Mr. M.J. Samuels
- iii) There was no surrender or cancellation of the original certificate of lease held by Mr. Mayer Jacob Samuels on L.R No. 5875/2
- iv) In accordance with the property rates payment request submitted by the Nairobi County Government, the property rates were still due to be paid by Mr. M. J. Samuels signifying that the records of the county still identify Mr. M. J. Samuels as the owner of the land

- v) The National Land Commission confirmed that the lease for LR. No. 5875/2 expired on November 1, 2003 and reverted back to the Nairobi County Government by virtue of Article 62 of the Constitution
- vi) The Nairobi County Government in its submissions confirmed that survey of LR. No. 5875/2 had been undertaken and completed and a subdivision scheme approved identifying each subplot including plots designated for public utilities
- vii) The Nairobi county Government had already issued allotment letters to the members of Roysa Community development society regularizing individual ownership upon payment of Kshs. 69,500.00 of which some of the members had already paid
- viii) There was collusion between officials of the Ministry of Lands and Physical Planning as evidenced by the second and third files in order to effect fraudulent transactions on L. R No. 5875/2 leading to loss of public funds
- ix) Although, the Ministry of Lands and Physical Planning submitted that it was aware that the titles for L. R No. 5875/2 and L.R 23393 had been presented to it for amalgamation, the Ministry did not submit the two titles to the Committee
- x) The Committee noted with concern that although the Ministry of Lands and Physical Planning submitted that the second and third file were fraudulent, it was still receiving transactions payments from members of Roysa Community Development Society for titling of L.R. 5875/2 to individual members
- xi) The Ministry of Lands and Physical Planning never informed the Committee that it was aware there was any sub-division scheme that was ongoing, yet the documents submitted to the Committee indicate that the Ministry was involved in the sub-division process

In the report dated December 5, 2019, the Committee made the following recommendations:

- i) The Ministry of Lands and Physical planning in consultation with the National Land Commission and the Nairobi County government does complete the titling process for L.R No. 5875/2 within 180 days of tabling this report.
- ii) The Director for Criminal Investigation 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 the Director of Public Prosecutions does prosecute any person found culpable within 90 days of tabling this report.
- iii) The Ministry of Lands and Physical Planning does secure the title relating to L.R 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by the attempt to amalgamate it with L.R No. 5875/2

3.2. Implementation status

Honourable Chair, I wish to respond as follows-

The subject land is currently before the multi sectoral ad-hoc committee established under the recommendation of the National Assembly Departmental Committees on Defense and Foreign Relations and the Departmental Committee on Lands. The ad hoc committee is investigating land owned by the military in the country with a view of recommending necessary legal and policy interventions required to resolve these disputes.

Additionally, the Honourable Attorney General issued to the Speaker of the National Assembly an advisory opinion Ref: AG/CIV/47/20 dated August 11, 2020 concluding the land was compulsorily acquired by the Ministry of Defence (Annexure 2)

Honourable Chair, L.R. No. 23393 is already titled and is registered in favour of Kasarani Mall Limited. The parcel is not in contention as it is Kasarani Mall Limited that attempted to amalgamate it with L.R. No. 5875/2. The parcel was secured by registration and issuance of a title.

4. Report of the Departmental Committee on Lands on its consideration of the Petition by residents of Pongwe Area, Lunga Lunga Constituency on the imminent eviction from L.R No. 1083, Shimoni in Kwale County

4.1 Background and context

Honourable Chair,

The Commission considered a petition by residents of Pongwe area, Lunga Lunga Constituency, in Kwale County regarding their imminent eviction from L.R No. 1083, Shimoni in Kwale.

The petitioners claimed that they were displaced from their ancestral land to pave way for construction of colonial government facilities and settlement of white

settlers. In 1910, the colonial government alienated 320.12 acres of their land and granted one Mr. Charles Anduson as L.R No. 1083 on leasehold basis. The land was however not reverted to them when the lease expired.

The petitioners alleged that were threatened with eviction by a person claiming to be acting on a power of attorney from the owner of the land holding a freehold interest. They requested the National Assembly to intervene to establish the circumstances under which the land changed from leasehold to freehold tenure. The petitioners also requested the National Assembly to compel the National Land Commission to look into the issue with a view to safeguard the land for the community.

In our submission to the Committee, the Ministry gave a chronology of ownership of the land as follows-

- i) The Commissioner of Lands, on behalf of His Majesty King George the 5th granted L.R No. 1083 (320.12 acres) to Charles Anderson under freehold tenure at a consideration of 642 rupees
- ii) In 1946, a probate dated April 17, 1956 was granted by H.M High Court of Justice at Bristol and sealed in the Supreme Court of Kenya at Mombasa on December 13, 1947 to Frederica Margarita Louie Gove as executrix of the will of Charles Anderson (deceased)
- iii) In 1947, the land was transferred to Theodore Marinus Schouten vide a conveyance dated May 4, 1947.
- iv) In 1951, the land was transferred to Bhovanbhai Lalji Gadhi and Maganlal Chakubhai Pattani both British Nationals on freehold tenure vide a conveyance dated May 4, 1951
- v) The land was later transferred to Kibigo Farm Limited. An indenture dated July 19, 1988 to Kibigo Farm Limited for Kshs. 1,000,000 was registered in Mombasa Land Office but is currently missing from the title deed file
- vi) The Land Control Board document LCR No. 15484 dated March 14, 1988 was sent by the Commissioner of Lands to Kwale Msambweni District Officer's office to facilitate the issuance of Land Control Board Consent to transfer L.R No. 1083 on freehold tenure

In considering the petition, the Committee made the following observations-

- i) That the last verifiable entry on official land documents and transactions of Plot No. 1083 is a charge of a mortgage of 1965 which was never discharged
- ii) There is no record from the Ministry of Lands and Physical Planning or the National Land Commission showing any transfer of Plot No. 1083 from the two Britons
- iii) The indenture by Kibigo Farm Limited is not supported by any document in the Ministry of Lands and Physical Planning.

- iv) All attempts by the Committee to reach out and get evidence from Kibigo Farm Limited were futile
- v) There is evidence of settlement by squatters on the land
- vi) The Plot No. 1083 is held on a freehold basis since 1910.

Based on the observations, the Committee made the following recommendations-

- i) That there was no possibility of registering the indenture of 1988 since the mortgage of 1965 had not been discharged
- ii) That the land belongs to Bhovanbhai Lalji Gadhi and Maganlal Chakubhai Pattani and if efforts to trace the legal heirs fails, provisions of Article 62(d) be applied by both the Ministry of Lands and Physical Planning and the National Land Commission to allocate the land to the squatters as individuals or community in the next six months after tabling the report

4.2 Implementation Status

Honourable Chair,

On this issue the Ministry regrets having not implemented the recommendation of tracing the legal heirs of Bhovanbhai Lalji Gadhi and Maganlal Chakubhai Pattani. We therefore commit to liaise with the Ministry of Interior and Coordination of National Government in an attempt to trace the heirs of Bhovanbhai Lalji Gadhi and Maganlal Chakubhai Pattani.

While this is ongoing, we would advise the petitioners to apply to the courts for adverse possession of the land as an alternative.

5. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of public road (Konza-Katuni Road)

5.1. Background and context

Honourable Chair,

The National Assembly Departmental Committee on Lands considered a petition by residents of Vuta, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza-Katuni road.

The Konza- Katuni murrum road has been in existence for the last 50 years was in November 2018 taken over by the Kenya Urban Roads Authority and contractor was engaged to improve it to bitumen standard. However, before the anticipated construction began, one Harrison Kikavi Muambi, a director of a company known

as Muambi Properties Limited confronted the contractor and has since obstructed the contractor from further works as he claims ownership of the affected land.

The petitioners sought to have the affected portion of land, L.R No. 7374 (stretching approximately 400 Meters) acquired by the National Land Commission to create a public right of way over the parcel.

In considering the petition, the Committee received submissions and presentations by various stakeholders and noted inter alia following-

- a) Although the petitioners indicated in the petition that the contested 400 Meters portion of the Konza-Katumani road traversed on land L.R No. 355/2, the Director General, Kenya Urban Roads Authority and the Chairperson of the National Land Commission clarified that the said portion was on land parcel L.R No. 7374/3 owned by Muambi Properties Limited
- b) Although the 400 Meters' road passing through L.R No. 7374 is not a public road, it has been in continuous use for over fifty (50) years by residents and other persons crossing from Mombasa Road to Machakos Town through Katumani
- c) A compulsory acquisition process had been initiated by the Kenya Urban Roads Authority to acquire the affected portion of land measuring approximately 0.7972 Ha.
- d) The notice of intention to acquire was published via Gazette Notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated May 17, 2018 were issued accordingly
- e) The submissions made to the Committee by the Director General, Kenya Urban Roads Authority (KURA) indicated that the compulsory acquisition award of Kshs. 52,632,588 made by the National Land Commission (NLC) in respect to subject piece of land measuring approximately 0.7972 Ha. owned by Muambi Properties Limited to facilitate the tarmacking of the Konza/Katumani Road appeared to be expensive and exaggerated in comparison to the prevailing market price for comparable land in the area
- f) KURA did not pay the said award and decided to identify an alternative alignment measuring approximately 1.55km. The National Land Commission was notified of the decision and requested to cancel the acquisition process and issue a degazettement notice thereof
- g) Sections 143(1), 145 and 146 of the Land Act, 2012 allow the National Land Commission to facilitate the creation of a communal right of way, which shall be known as a public right of way
- h) There exists a basis for the National Land Commission to create a public right of way over the 400 meter portion of the Konza-Katumani Road traversing on private land L.R. No. 7374/3 considering:

- i. The said road has been used by the residents of Vota and other members of the public for more than fifty (50) years and maintained by the government; and
 - ii. The 400-meter road is the shortest and most convenient route joining the Mombasa Road for use by the residents of Vota and other members of the public.
- i) The National Land Commission did aver that it would upon request initiate the said creation of a public right of way of the 400-meter portion of land affected by the Konza-Katamani Road in accordance with the Land Act of 2012.
 - j) In view of the foregoing, the National Land Commission may consider creating a public right of way pursuant to Section 143 of the Land Act 2012 to facilitate the convenient passage of the residents of Vota through the 400-meter private road, which they have been using for over fifty years.

In view of the foregoing, the Committee in its report dated October, 2020 made the following recommendations:

- i) National Land Commission does consider facilitating the creation of a public right of way pursuant to Section 143 of the Land Act, 2012 to ensure the convenient passage of the residents of Vota through the 400 Meters' road which they have been using for over fifty years within six months of the tabling of this report
- ii) The Cabinet Secretary Ministry of Lands and Physical Planning does fast track the development of the land value index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for the development of public projects within three months of the tabling of this report.

5.2. Implementation Status

Honourable Chair,

Recommendation No. 1 is directed at the National Land Commission. In response to recommendation No. 2, I wish to respond as follows-

The Ministry commenced the development of the National Land Value Index in the financial year 2017/2018 (before the enactment of the Land Value Amendment Act, 2019) to guide compensation for ongoing infrastructural projects.

Field inspection and data collection for Machakos county has been completed and value maps have been developed. The process awaits stakeholder validation. This had been put on hold due to the disruptions caused by the Covid-19 pandemic.

However, the Ministry has resumed the process and has scheduled to hold the Stakeholder engagements.

The development of the National Land Value Index is a technical, complex and laborious exercise. It involves field inspections, data collection, analysis of the data, creation of sub-markets, development of a provisional value maps, stakeholder engagement/ validation and finally production of the final value maps.

6. Report of the Departmental Committee on Lands on its consideration of the petition by residents of Golini, Kwale County regarding regularization of allocation of land in the Golini Settlement Scheme

6.1 Background and context

Honourable Chair,

The National Assembly Departmental Committee on Lands considered a petition by residents of Golini in Kwale seeking inter alia to compel the Ministry of Lands and Physical Planning to issue the petitioners with letters of allotment based on the resurvey map prepared in the year 2007.

Golini settlement scheme was declared in 1994 on L.R 5003 with an area of approximately 377.02 Ha. It was registered in October 1999 after completion of planning, squatter verification and survey. The scheme realized 395 plots which were registered and title deeds issued.

Complaints from locals alleging marginalization during plot allocation necessitated formation of a committee by the District Plot Allocation Committee in 2003. The scheme was abolished vide a Ministerial directive of March 2, 2007, and a re-survey done as per ground occupancy in 2007. 268 parcels were realized in the re-survey.

A legal conflict arose as there were 152 titled parcels from the initial allocation. The re-survey could only be registered upon nullification of the first allocation.

In 2017, the National Land Commission considered the matter and delivered its findings under Article 67 (2) (e) on historical land injustices and recommended that-

- i) The first survey map used to allocate the land be abolished because it led to erroneous allocation`
- ii) The letters of offer that followed were hence null and void
- iii) The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land

- iv) Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein
- v) A proper PDP be prepared to reflect the existing land use and public utilities.

In considering the petition, the National Assembly Departmental Committee on Lands observed that despite the Commission having communicated its decision to the Cabinet Secretary Ministry of Lands and Physical Planning for implementation, the Ministry has failed to ensure that the initial allocation of land in the scheme is legally cancelled to pave way for the settlement of genuine beneficiaries.

The Committee also noted that the 152 title deeds that had been issued in the initial allocation were not cancelled and this has facilitated continued transfer of the land. It noted that the petitioners were unable to raise the necessary fees to facilitate the lodging of a case in court seeking the revocation of the of the said title deeds due to the huge cost involved. The Committee also noted that the power of the Commission to review grants and dispositions under the National Land Commission Act, 2012 had since expired.

In the end, the Committee in its report dated October, 2020, advised the Ministry to implement the recommendations of the Commission to ensure that the initial allocation of the scheme is revoked and cancelled to pave pay for settlement of beneficiaries as per the second resurvey.

6.2 Implementation Status

Honourable Chair,

Implementation of the resurvey done in 2007 as directed by National Land Commission would require cancellation of the titles issued on the basis of the first survey undertaken in 1994. On this, the courts have pronounced themselves severally on the question of cancellation of titles stating that the land titles can only be cancelled through an order of the court. We annex herewith copies of the relevant judgments given in various court cases marked **Annexure 3**.

Honourable Chair, we have noted the observations of the Committee that the petitioners do not have funds to enable them lodge a case in court. However, we wish to advice that this is the only remedy available for the petitioners in light of the referenced decisions of court.

The Ministry will register the restrictions on the subject titles once the court case has been filed.

7. Report on the Petition regarding land issues in Taita Taveta County

7.1 Background and Context

Honourable Chair,

The petition emanated from allegations that Teita Sisal Estate had encroached into a contiguous community land. The National Assembly Departmental Committee on Lands recommended that the Ministry ascertain the boundaries. A boundary confirmation survey was carried out on the land and it was discovered that the community had encroached into the Sisal Estate. Consequently, the proprietor of the Estate offered to surrender the portion of land occupied by the community.

The Committee on its consideration of the matter therefore recommended the excision of 250 acres of land from Teita Sisal Estate for formalization of settlement of residents of Singila Majengo village in addition to the public utilities within the estate as agreed by the Management of Teita Sisal Estate.

This Committee invited the Cabinet Secretary to a meeting on June 17, 2020 vide a letter Ref. NA/DCS/CO1/2020/ (12) dated May 27, 2020 to provide a status report of the excision of the 250 acres from Teita Sisal Estate.

A progress report dated June 16, 2020 was submitted to the Committee. The Ministry reported that the excision of Singila Majengo Village, Mwandisha Primary School and the public utilities including the roads and the railway reserves was undertaken vide Survey Plan No. F/R 467/87. This was to be followed by an approval of the subdivision scheme plan by the County Government of Taita Taveta which had not been obtained. The Ministry requested for time to conclude the excision process and settle the genuine squatters.

7.2. Implementation Status

Further to our report of June 16, 2020, the Ministry is pleased to report that the County Government of Taita Taveta approved the application for subdivision and change of user.

Subsequently, our surveyors processed the sub-division scheme resulting in the creation of new parcel numbers Mwatate/Mwatate Block 1/ (11-13). Parcel 13 was further subdivided to give rise to parcel numbers Mwatate/Mwatate Block 1/ (14-17).

The Ministry has issued subdivision scheme approval letters dated January 4, 2021 to the beneficiaries as follows:

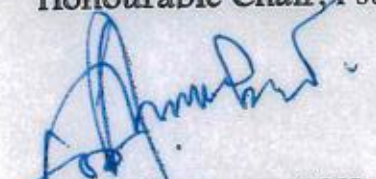
Parcel No.	Size (Ha)	Beneficiary
Mwatate/Mwatate Block 1/11	85.81	Land Settlement Fund Board of Trustees for settlement of Shingila Majengo
Mwatate/Mwatate Block 1/12	6.34	Cabinet Secretary to the National Treasury for Mwandisa Primary School
Mwatate/Mwatate Block 1/14	1191.19	Teita Estates Limited
Mwatate/Mwatate Block 1/15	4936.57	Teita Estates Limited
Mwatate/Mwatate Block 1/16	406.26	Teita Estates Limited
Mwatate/Mwatate Block 1/17	132.54	Land Settlement Fund Board of Trustees for settlement of Langatani squatters

(Annexures 4)

We await surrender of the head title for us to process the new leases. This will facilitate registration of the scheme and issuance of titles. A total of 1168 squatters have been enumerated after replanning of the scheme to create room for public utilities.

The Ministry has written a letter to the owner to surrender the title (**Annexure 5**). We have followed up on the matter via telephone calls. we therefore seek your indulgence in securing the surrender to enable the Ministry conclude this matter.

Honourable Chair, I submit.


 Farida Karoney, EGH
CABINET SECRETARY
 March 3, 2021

**REPUBLIC OF KENYA****MINISTRY OF LANDS AND PHYSICAL PLANNING****SUBMISSIONS TO THE SELECT COMMITTEE ON IMPLEMENTATION ON
IMPLEMENTATION STATUS OF REPORTS OF THE DEPARTMENTAL
COMMITTEE ON LANDS**

Honorable Chair,

Pursuant to a letter Ref. **NA/DCS/COI/2020/ (69)** dated September 30, 2020 the Committee requested the Cabinet Secretary Ministry of Lands and Physical Planning to report on the implementation status of-

1. Report of the Departmental Committee on Lands on its consideration of the petition regarding the status of the leased land meant for expansion of Moi International Airport
2. Report of the Departmental Committee on Lands on its consideration of the petition regarding irregular acquisition of land in Ndalani Ward, Yatta Constituency
3. Report of the Departmental Committee on Lands on its consideration of the petition on unlawful occupation of ancestral land by KDF School of Artillery (78 Tank Battalion)
4. The Report of the Departmental Committee on Lands on its consideration of the petition on unlawful displacement of residents, loss of property and closure of schools in Ntoroni Sub-Location in Tharaka Constituency
5. Report of the Departmental Committee on Lands on its consideration of the petition on delay in allocation of land in Mwea Settlement Scheme to legitimate beneficiaries
6. Report of the Departmental Committee on Lands on the inquiry into a complaint by Kamiti Anmer Forest Squatters Association regarding allocation of land L.R No. 8390 in Kamiti Anmer Forest

7. Report of the Departmental Committee on Lands on its consideration of a petition on irregular renewal of leases of land by Del Monte Kenya Limited
8. Report of the Departmental Committee of Lands on its consideration of the petition regarding dispossession of ancestral land in Sabaki Ward, Magarini Constituency
9. Report of the Departmental Committee on Lands on its consideration of the petition regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura- Butere Road D260
10. Report of the Departmental Committee on Lands regarding land issues in Taita Taveta County.

Honorable Chair, we wish to submit as follows-

1. **Report of the Departmental Committee on Lands on its consideration of the petition on unlawful occupation of ancestral land by KDF School of Artillery (78 Tank Battalion)**

1.1 Background

The Committee considered a petition by residents of Tigania East Constituency regarding the alleged unlawful occupation of their ancestral land by KDF School of Artillery (78 Tank Battalion). The Petitioners sought the intervention of Parliament to:

- a) Inquire into the circumstances under which the Kenya Defence Forces annexed an extra 20,000 acres of land belonging to the residents in excess of what was allocated to it by the County Councils of Isiolo, Samburu and Turkana in 1977 and the issuance thereof of an allotment letter on June 12, 2018 in respect of the 20,000 acres.
- b) Intervene through the Ministry of Lands and Physical Planning and other relevant government agencies to cause survey of the land so as to clearly demarcate the portion of land that rightfully belongs to residents and that which was allocated to the Kenya Defence Forces by the County Councils of Isiolo, Samburu and Turkana.

- c) Make any other recommendation(s) deemed fit in the circumstances.

The Committee in considering the petition observed that the 78 Tank Battalion land was declared an adjudication section on March 11, 2016 and thereafter an amendment on the sectional boundaries was done on June 29, 2018. An allotment letter was subsequently issued on July 12, 2018 to the Kenya Defence Forces (KDF), two (2) years after the adjudication.

The Committee noted that the Ministry of Lands and Physical Planning erred in the demarcation of boundaries for the adjudication of Ngare Mara Adjudication Section and inadvertently adjudicated into the KDF land. The Committee further noted that the failure by the Kenya Defence Forces to secure and demarcate their land had contributed to the residents settling on the land.

It was also observed that although there was a Gazette Notice No. 3210 of 1977 inviting persons who had claim on the land allocated to the KDF to make application for compensation, the members of the public may not have had access to the Gazette Notice. There was also no evidence presented to the Committee indicating whether any person ever lodged a claim on the land in question.

The Committee thus recommended-

- i) The National Land Commission does determine the persons who had claim on the 78 Tank Battalion land as of the date of issuance of the Gazette Notice Number 3210 of 1977 and compensate the affected persons for loss of property within three months of tabling of this report.
- ii) The Ministry of Defence does secure all land allocated to the military to prevent encroachment and ownership disputes.
- iii) Finally, the Committee recommends that the Ministry of Lands and Physical Planning does survey the 78 Tank Battalion Land to clearly demarcate the land belong to the Kenya Defence Forces and the residents.

1.2 Implementation Status

Honorable Chair, the Ministry of Lands and Physical Planning in conjunction with the Ministry of Defence is currently undertaking a Military Titling Programme. Amongst the parcels targeted by the programme is the Isiolo Barracks (78 Tank Battalion Land is part of Isiolo Barracks).

The Ministry has surveyed the original land allocated to Isiolo Barracks issued L.R. No. 27098 measuring approximately 8323 Hectares and a Certificate of Title IR 213242 registered (**Annexure 1**).

The Ministry has also surveyed the land occupied by the 78 Tank Battalion issued L.R. No. 32634. A Deed Plan is being processed to facilitate preparation of a title in favour of Kenya Defence Forces.

2. Report of the Departmental Committee on Lands on its consideration of the petition on unlawful displacement of residents, loss of property and closure of schools in Ntoroni Sub-location in Tharaka Constituency

2.1 Background

The petitioners were displaced from their homes due to politically instigated communal clashes that took place between 1995 and 1997. They lost their property in addition nine (9) schools were razed down. The Government set up a taskforce led by Mr. Zachary Ogongo to look into the issue and report on the same. The report of the taskforce was published in 2007 with the following recommendations:

S/No.	Recommendation	Actor
1.	Government should give priority to peace and security in the area and the protection of beacons and control points from vandalism	Ministry of Interior & Coordination of National Government
2.	Enforcement of the rule of law and provision of impartial services to wananchi	Judiciary, All Ministries

3.	Government to expedite land adjudication in Meru region through crash programmes	Ministry of Lands & Physical Planning
4.	Promotion of peace and reconciliation accompanied by increased socio-economic investment to improve local infrastructure and standards of living	All Ministries, Multi - Sectoral
5.	Government to urgently address the plight of squatters	Ministry of Interior & Coordination of National Government & Ministry of Lands & Physical Planning
6.	Affirmative action in appointments and placements in training institutions and respect for ethnic minority rights	Multi-Sectoral
7.	Re-training of Chiefs and their assistants to make them true grassroots government representatives	Ministry of Interior & Coordination of National Government
8.	a) The former Northern Grazing Area (NGA) land should be managed in a transparent manner so that it does not become an area of conflict	Ministry of Interior & Coordination of National Government

Our report to the Committee dated July 12, 2019 outlined the steps taken to implement the recommendations directed at the Ministry:

- i) Held consultative meetings with leaders of Meru and Tharaka Nithi Counties to enhance a participatory approach in land adjudication.
- ii) Re-established the boundary between Isiolo and Meru Counties in liason with the Ministry of Interior and Coordination of National Government.
- iii) Regularized the informal settlements of Majengo and Mjini villages in Meru town. Ninety-Six (96) titles had been prepared. Forty -six (46) had been issued.
- iv) Fast tracked land adjudication in Lower East Magutuni, Ruiru/Rwarera, Turima, Mukothima, Karocho, Mbwaa I, Mbwaa II, New Kiare, Amung'enti B, C, D & E and Kirindine B. The undeclared sections of

Thiiti, Ntoroni, Makururuni and Kathura were to be administered under the Community Land Act, 2016.

The committee in considering the petition also received submissions from the petitioners, Ministry of Interior and Coordination of National Government and Ministry of Education. In the end, the Committee in a report dated December 2019 recommended:

- i) The Ministry of Lands & Physical Planning and the Ministry of Interior and Coordination of National Government do fully implement the Zachary Ogongo task force recommendations within 90 days of tabling of the report.
- ii) The Ministry of Lands and Physical Planning does operationalize the lands office in Tharaka Sub-County by deploying officers to serve in the station to ensure that the residents of Tharaka Constituency access land related services within 90 days of tabling of the report.

2.2 Implementation Status

Honorable Chair, further to our report of July 12, 2019, we wish to report as follows-

S/No.	Adjudication Section	Status
1.	Lower East Magutuni Kirindine B Ruiru Rwarera	Adjudication has been finalized Annexure 2 a-c are copies of the certificates of finality. Number of titles prepared- 4,445 Data capture for 4,967 land parcels is in progress at the National Titling Centre and will be finalized by June 2021. Total expected titles – 9,412
2.	New Kiare	Adjudication Register was published complete on 31 st August 2020. Number of expected titles - 12,610
3.	Amungenti B, C and E	Hearing and determination

		<p>of objections to the Adjudication Register is ongoing.</p> <p>Number of pending objections-677</p> <p>Number of expected titles-7,480</p>
4.	Mbwaa II	<p>Under demarcation and Survey.</p> <p>Number of expected titles - 4,873</p>
5.	Mbwaa I	<p>Adjudication halted by Environment and Land Court case No.16 of 2016 at Meru High Court.</p>
6.	Amungenti D	<p>Adjudication halted by Constitutional Petition No. 4 of 2017 at Meru High Court.</p>
7.	<p>Kiamuri B</p> <p>Igarie</p> <p>Thangatha/Ngongoaka</p> <p>Karocho</p> <p>Turima</p> <p>Mukothima</p> <p>Karie/Kamonka/Kathanje/Kathingithu</p>	<p>Adjudication is still on hold due to the boundary dispute between Meru and Tharaka Nithi counties.</p> <p>Several meetings have been held between the Ministry of Lands and Physical Planning, Ministry of Interior and coordination of National government to resolve the Matter. A joint team toured the area between 16th and 20th of June 2020 on a fact-finding mission.</p> <p>A budget for the adjudication process has been prepared and the exercise is programmed to be undertaken in the current financial year.</p>

The undeclared areas namely Thiiti, Ntoroni, Makururuni and Kathura are administered under the Community Land Act, 2016. The Act requires the Ministry in consultation with county governments, National Land Commission and other stakeholders to create awareness on the Act. Public education and awareness has been undertaken in 24 counties with community land. Sensitization programme for the communities in Meru County was carried out between December 16-20, 2020.

Honorable Chair, under the Act, County Governments (in consultation with the Communities) are required to prepare an inventory of all unregistered land in their jurisdiction to be submitted to the Ministry. This will pave way for the publication of an adjudication programme that would lead to registration of the community land. The Ministry will embark on the adjudication process once the inventory of the unregistered land is received.

The informal settlements of Majengo and Mjini Villages in Meru Town have been regularized and titles issued. The Ministry has opened a land registry in Marimanti in Tharaka Nithi County, which is now fully operational.

3. The report of the Departmental Committee on Lands on its consideration of a petition on delay in allocation of land in Mwea Settlement Scheme to legitimate beneficiaries.

3.1 Background

Honorable Chair, Mr. Stephen Ngari Njuki petitioned Parliament regarding delay in the allocation of land in Mwea Settlement Scheme located in Embu County. The Scheme was established on LR No. 26461 (FR No. 317/30) and measures approximately 17, 830.6 Hectares. There have been conflicts regarding administration of the scheme dating back to the 1970s which relevant agencies including the courts have been trying to resolve.

Efforts to resolve the disputes through alternative dispute resolution mechanism led by the National Land Commission, the County Government of Embu and the local leadership reached a consensus on sharing of the scheme to the disputing communities (Mbeere 40%, Embu 20%, Mwea (Kamba) 30% and Kirinyaga (Kikuyu 10%).

5. Report on a petition on irregular renewal of leases of land by Del Monte Kenya Limited

5.1 Background

The Committee considered a petition presented by Mr. Philip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases held by Del Monte Kenya Limited.

The Petitioners claimed to be the original owners of land presently occupied by Del Monte Kenya Limited but were illegally displaced and the land leased to the company. They were aggrieved that the County Government of Muranga had renewed the leases for the company without first involving the public as required by Section 13 of the Land Act, 2012. They also claimed that the county government disregarded the determination of the National Land Commission rendered on February 7, 2019 in their historical injustice claim filed with the Commission.

The Commission had directed that-

- i) 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
- ii) The surplus land, if any, should be surrendered to Kandara Residents Association and the county government for public purpose in the ratio of 70:30 respectively
- iii) Where no surplus land is found, the county government of Muranga should retain adequate land for the settlement of the claimants and for public purpose upon expiry of the leases
- iv) Del Monte Kenya Limited should surrender all public utilities within the land in question to the relevant national and county government agencies whether the leases have expired or not.

In considering the report, the observed that the submissions made by the Ministry and Hon. Jude Njomo, Member of Parliament, Kiambu Constituency regarding registration of the lease held by the company in Muranga County registered as L. R No. 12158 (measuring approximately 2900 acres) differed. While the Ministry submitted that the parcel of land arose out of the amalgamation of land parcels L.R Nos. 10862, 10741, 11312, 2953, 4873 and 11146, the Hon. Member of Parliament informed the Committee that the said parcels were surrendered to the Government by two companies namely, Sassa Coffee and Rappit B Limited and were later irregularly acquired by Del Monte Company Limited.

In view of the above, the Committee recommended as follows-

- i) 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 90 days of tabling of the report
- ii) The National Land Commission does investigate 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 irregularly acquired by Del Monte Kenya Limited within ninety days of tabling of the report

5.2 Implementation Status

Honorable Chair, further to our submission vide a report dated February 3, 2020 the Ministry has surveyed the following land currently owned by Del Monte Kenya Limited both in Muranga and Kiambu counties -

- i) L.R No.12157/1 (measuring 3860 Ha) in Muranga County (as per F/R 316/67) (**Annexure 3**)
- ii) L.R No. 12157/3 (measuring 2.987 Ha) in Muranga County (as per F/R316/67)
- iii) L.R No.12158 (measuring 2963.1 Hectares) traversing Muranga and Kiambu Counties (as per F/R 127/3) (**Annexure 4**)
- iv) L.R No.12203/1 (measuring 2072 Hectares) in Kiambu County (as per F/R 315/66) (**Annexure 5**)

The Survey was guided by subdivision scheme plans prepared by a registered physical planner practicing as Real Plan Consultants Limited of P.O. Box 1555 – 00200, Nairobi. The Subdivision Scheme Plans were referenced:

- a) RPC/1170(F)/2020/016 – Proposed subdivision of LR. No 12157/1 to excise all eight (8) public use plots in Gatanga Sub-County, Muranga County (**Annexure 6**)

The parcels excised were:

- i) A – 8245.06 Acres to remain under Del Monte Kenya Ltd (Agricultural)
 - ii) B – 5.02 Acres for Public purpose (Ngati Police Station and Chief's camp)
 - iii) C – 5.16 Acres for Educational purpose (Del Monte Mixed Secondary School)
 - iv) D – 2.62 Acres for Educational purpose (Kihunguru Primary School)
 - v) E – 4.62 Acres for Recreational purpose (Public Play Ground)
 - vi) F – 2.99 Acres for Public utility purpose (Ithanga Water Supply Intake)
 - vii) G – 1187.17 Acres – Public Land
 - viii) H – 192.83 Acres – Public Land
 - ix) J – 20.00 Acres – Public Land
 - x) 66.08 Acres for road widening and access roads
- b) RPC/1170(c)/020/005 – Proposed Subdivision of L.R No 12157/3 located in Gatanga Sub-County, Muranga County in to two portions (**Annexure 7**)
 - i) A – 1.88 Ha
 - ii) B – 1.11 Ha
 - c) RPC/1169/020/017 - Proposed Subdivision of L.R No 12158 into three subplots located in Gatanga Sub-County, Muranga County in to two portions (**Annexure 8**)

- i) A – 1936.58 Ha – Agricultural (Muranga County)
 - ii) B – 1034.38 Ha – Agricultural (Kiambu County)
 - iii) D – 1.54 Ha – Education (Nginyi Primary School)
- d) RPC/1169/019/025 - Proposed Subdivision of L.R No 12158 into three subplots and change of user of subplot C from Agricultural to Educational (Ndula Primary and Secondary Schools) located in Kiambu County (**Annexure 9**)
- i) A – 1938.12 Ha – Agricultural (Muranga County)
 - ii) B – 1029.41 Ha – Agricultural (Kiambu County)
 - iii) D – 4.97 Ha – Educational (Ndula Primary and Secondary Schools)
- e) RPC/1169/019/026 – Proposed Subdivision of L.R No. 12203/1 in to five subplots in Kiambu County (**Annexure 10**)
- i) A – 1792.54Ha – Remains with Del Monte Kenya Ltd.
 - ii) B – 55.32Ha - Surrender to County Government of Kiambu
 - iii) C – 67.30Ha - Surrender to County Government of Kiambu
 - iv) D – 131.50Ha- Surrender to County Government of Kiambu
 - v) E – 25.50Ha - Surrender to County Government of Kiambu

The survey of all these parcels is complete and awaits approvals from both county governments of Muranga and Kiambu.

6. Report on a petition by residents of Sabaki Ward, Magarini Constituency regarding dispossession of ancestral land

6.1 Background

The Committee considered a petition presented by residents of Sabaki Ward, Magarini Constituency in Malindi County regarding dispossession of their ancestral land (known as ADC Kiswani Home Farm) within land registration nos. 540, M53, M3B and L.R 5061.

The residents were evicted by the colonial government from the land in 1927 to pave way for establishment of Kisima Farm owned by a foreign national. They did not receive compensation. The Government purchased the land after independence through Lands Limited and allocated it to Agricultural Development Corporation (ADC). The management of ADC subdivided the land and allocated it to individuals and companies in the 1990s without the approval of the ADC board or Lands Limited Board.

The Ethics and Anti-Corruption Commission commenced investigations into the irregular subdivisions and allocations in 2010. The matter has been pending before the Commission since then. The case was also referred to the National Land Commission in 2014 by the residents. In 2015, the Commission directed that the transactions be stopped. By this time, approximately 66% of the titles had been issued.

The Commission had not concluded the case at expiry of the prescribed period for review grants and dispositions under Section 14 of the National Land Commission Act, 2012.

In its report dated July 2019, the Committee noted with concern the inordinate delay by the Ethics and Anti-Corruption Commission and the National Land Commission to investigate the allegations of irregular allocations despite having received the complaints in 2010 and 2014 respectively. The committee was also concerned that EACC has not placed caveats to restrict further sub-divisions of the land.

It therefore made the following recommendations-

- i) Pursuant to section 15 of the National Land Commission Act, 2012, the National Land Commission investigates the historical land injustice claim of the Petitioners and where it establishes valid claims of historical land injustice consider ordering the revocation of titles issued in respect of ADC Kiswani Home Farm, comprising land registration numbers 540, M53, M3B and LR. No. 5061 in Malindi and reallocation of the land to the Petitioners
- ii) The Ethics and Anti-Corruption Commission should expedite and conclude investigating all persons who may have been involved in illegally disposing of the ADC Kiswani Home Farm, comprising land registration numbers 540, M53, M3B and LR. No. 5061 in Malindi, including issuance of titles on public land and recommend prosecution to the Director of Public Prosecutions if any person is found culpable within ninety days of tabling of this report
- iii) Pursuant to the procedure provided under section 76 of the Lands Registration Act, 2012, the Registrar of Lands does immediately place restrictions on the ADC Kiswani Home Farm, comprising land registration numbers 540, M53, M3B and LR. No. 5061 in Malindi to guard against further illegal disposal of the land upon tabling of this Report
- iv) The Ethics and Anti-Corruption Commission investigates the circumstances a person serving as an officer of a state corporation acquired a share in the said same state corporation and therefore establish the propriety under which the former managing director of ADC, Dr. Andrew Tuimur acquired one share of Lands Limited a subsidiary of the ADC.

6.2 Implementation Status

Honorable Chair, further to our report of February 20, 2020, we confirm that restrictions were placed on the said parcels Nos. 540, M53, M3B and LR. No 5061 to prohibit further dealings on the land. Copies of the current official searches are hereby attached marked **Annexure 11**.

7. Report on a petition by residents of Ikolomani Constituency regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura Butere Road D260

7.1 Background

The National Government through the Kenya Rural Roads Authority embarked on upgrading of the approximately 35 Kilometres long Sigalagala-Musoli-Bukura Butere Road in 2011. The construction encroached into private properties displacing many of the residents residing along the road.

At the start of the project, the Authority entered into an agreement with the landowners to allow it to enter into the affected land for the purpose of construction of the road. The Authority jointly with the landowners and an agricultural officer documented the developments for purposes of compensation.

In 2012, the Authority submitted the request for compulsory land acquisition to the then Commissioner of Lands. However, the enactment of the Land Act in 2012 shifted the mandate of compulsory land acquisition to the National Land Commission. The Commission was constituted in 2013 and it took over the matter and published the intention to acquire the land vide gazette notice no. 6472 of July 7, 2017. The Commission and KeRRA between March and May 2018 carried out inspections of the properties affected by the project. After the inspections, the Commission requested KeRRA to revise the land acquisition maps to reflect the actual status on the ground.

Gazettement of inquiries into claims of compensation by those affected by the project has been pending awaiting submission of the revised land acquisition maps and the appointment of the new Commissioners as it is only the Chairperson who can approve and gazette the inquiries.

In the report, the Committee observed that the delay in compensating the affected residents was inordinate, not justifiable and contravened the requirement for prompt and just compensation as contained in Article 40 of the Constitution as read with the Land Act, 2012.

The Committee thus recommended as follows-

- i) Pursuant to the provisions of Article 40 of the Constitution and the Land Act, 2012, the Chairperson National Land Commission does gazette the inquiry dates for the compulsory acquisition of land for the Sigalagala – Musoli – Bukura Butere Road project within ninety days of the tabling of this report
- ii) The National Land Commission does conduct the valuation of parcels of land, crops and trees affected by the project within ninety days upon the gazettement of the inquiry dates for the Sigalagala – Musoli – Bukura Butere Road

- iii) Upon the conclusion of the inquiries and remittance of compensation funds from Kenya Rural Road Authority (KeRRA), the Chairperson, National Land commission does disburse the compensation funds to the respective project affected persons within ninety days.

7.2 Implementation Status

The mandate to compulsory acquire private land for government projects lies with the National Land Commission. The recommendations for implementation as advised by the Committee are to be actioned by the Commission and KeRRA.

8.0 Report of the Departmental Committee on Lands regarding land issues in Taita Taveta County.

Background

The petition emanated from allegations that Teita Sisal Estate had encroached into a contiguous community land. The National Assembly Departmental Committee on Lands recommended that the Ministry ascertains the boundaries. A boundary confirmation survey was carried out on the land and it was discovered that the community had encroached into the Sisal Estate. Consequently, the proprietor of the Estate offered to surrender the portion of land occupied by the community.

The Committee on its consideration of the matter therefore recommended the excision of 250 acres of land from Teita Sisal Estate for formalization of settlement of residents of Singila Majengo village in addition to the public utilities within the estate as agreed by the Management of Teita Sisal Estate.

This Committee invited the Cabinet Secretary to a meeting on June 17, 2020 vide a letter Ref. NA/DCS/CO1/2020/ (12) dated May 27, 2020 to provide a status report of the excision of the 250 acres from Teita Sisal Estate. A report dated June 16, 2020 was submitted to the Committee (**Annexure 1**).

The Ministry reported that the excision of Singila Majengo Village, Mwandisha Primary School and the public utilities including the roads and the railway reserves was undertaken vide Survey Plan No. F/R 467/87. This was to be followed by an approval of the subdivision scheme plan by the County Government of Taita Taveta which had not been obtained. The Ministry requested for time to conclude the excision process and settle the genuine squatters.

1.2 Implementation Status

Honourable Chair, further to our report of June 15, 2020, a meeting between the County Government of Taita Taveta and the Ministry of Lands & Physical Planning was held on July 19, 2019.

It was agreed that the County Government would facilitate the preparation and approval of the subdivision scheme plan based on the survey data collected by the survey team. The County Government is yet to approve the same.

A total of 1368 out of the 1500 parcels have been demarcated and the ground occupants verified. 45 ownership disputes have been resolved.

Teita Sisal Estate has committed to surrender the original title so that the excision process can be finalized.

Honourable Chair, the Ministry is engaging the county government with a view to finalize the process as soon as possible.

Honorable Chair, I submit.



Dr. Nicholas Muraguri
Principal Secretary

October 27, 2020

CR Mike

LOCATION: - South West a Voi Township a Voi in the TAIT
From GEORGE - 0710852810

Form LRA 9

(r. 21(2), 22(1)(d), 70(1) and 71(1))

(To Be Filled In Quadruplicate)

ORIGINAL

ANNEXURE 6

Fees Paid in respect of the following:			For Official Use Only
Item	Receipt Number	Amount	
Registration Fee			RECEIVED:
Title Fee			
Total Amount			

The Conditions on the Back of this Form shall be complied with
REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017

GENERAL APPLICATION FOR REGISTRATION

I hereby apply for the registration of the under mentioned instruments in the following order of priority:

Date of Instrument	Description	Title Number	Booking Number	For Official Use only
21 st April 2021	Discharge of Charge	IR No. 2682 LR No.3380/5, IR No.3383 LR No.6924 and IR No.19682 LR No. 11378	456	
21 st April 2021	Replacement Charge	IR No. 3383 LR No. 6924		
21 st April 2021	Replacement Charge	IR No. 19682 LR No. 11378	458	
I/we apply/Do not apply for: Certificate of Title /Certificate of Lease		Application for Registration of Discharge of Charge and Replacement Charges Office File Ref: - LL/T/397/48		

The following documents are enclosed: -

Document/Instrument**	Title No	confirmed

Name in Block CapitalsCMS DALY INAMDAR ADVOCATES.....

Postal Address40034-00100, P.O. Box 40034-00100, Tel No. 0710852810.....

Email Address
NAIROBI - KENYA

B. The documents presented for registration are returned unregistered. I am unable to register because:

.....
.....
.....
.....
.....

LAND REGISTRAR

Name:.....

Signature:.....

DUPLICATE

The Conditions on the Back of this Form shall be complied with

.....

Stamp Duty - Shs. 110/-
Registration Fee... Shs. 20/-
Shs. 130/-



8669/29
R 53 E.

COLONY OF KENYA.

REGISTRY OF TITLES.

(Inland District)

Title No. I.R. 2682.

Annual Rent Shs. 3,600/- (Revisable as herein provided)

Term 999 years from 1.4.1927 to 1.4.2926.

KNOW ALL MEN BY THESE PRESENTS that I JACOB WILLIAM PARTI -----
(Knight) Commander of the Most Excellent Order of the British -----
Empire the ACTING GOVERNOR and COMMANDER-IN-CHIEF of the Colony of
Kenya on behalf of HIS MOST GRACIOUS MAJESTY KING GEORGE THE FIFTH
do hereby under and by virtue of the powers vested in me GRANT --
unto CHARLES SYDNEY GOLDSBAY of Salisbury House London England --
Gentlemen (hereinafter referred to as the Grantee which expression
shall where the context so admits include his executors -----
administrators and assigns) ALL THOSE TWO pieces of land situate
to S.W. of Voi Township in the Teita District of the said Colony -
containing together by measurement Sixty Thousand Seven Hundred --
and Eighty-Four acres more or less that is to say Land Reference -
Numbers 3980 and 3981 of Meridional Districts ^{South A. 37} 5 and -
^{South A. 37} 5 ^{U. III. b.} which said pieces of land with the dimensions -----
^{U. III. a.} abutments and boundaries thereof are bordered red and delineated on
the plans drawn on these presents and more particularly on Land --

3984
R 54

Survey Plans Numbers 23542 and 23543 deposited in the Land Survey Office at Nairobi excepting and reserving out of the Grant hereby made an area of One Hundred and Ninety-Five acres more or less in respect of the several road reserves marked respectively "Road Reserve 120' wide" together with an area of Three Hundred and Four acres more or less in respect of Railway Reserve 100' on each side from the centre line of rails in the approximate position shown on the said plans making a nett area of Sixty Thousand Two Hundred and Sixty-Five acres more or less the subject of this Grant for the term of Nine hundred and ninety-nine years from the First day of April One thousand nine hundred and twenty-seven subject to the payment therefor for the said term the respective rents --- following:

- (a) From the First day of April One thousand nine hundred and twenty-seven until the Thirty-first day of March One thousand nine hundred and thirty a rent of Shillings Ten Thousand Six Hundred in respect of the whole of that period of three years payable on or before the said first day of March One thousand nine hundred and thirty.
- (b) From the First day of April One thousand nine hundred and thirty until the Thirty-first day of December One thousand nine hundred and forty-five an annual rent of Shillings Twelve Thousand and Fifty-Three payable in advance on the First day of January in every year and so in proportion for any less period than one year the first of such payments to be made on the First day of January One thousand nine hundred and thirty-one.
- (c) From the First day of January One thousand nine hundred and forty-six until the Thirty-first day of December One thousand nine hundred and seventy-five an annual rent payable in advance as aforesaid calculated at the rate of one per centum on the unimproved value of

land hereby granted in the year One thousand nine hundred and forty-five.

(d) From the First day of January One thousand nine hundred and seventy-six until the Thirty-first day of December Two thousand and five an annual rent payable in advance as aforesaid calculated at the rate of Two per centum on the unimproved value of the land hereby granted in the year One thousand nine hundred and seventy-five.

(e) For every subsequent period of Thirty years thereafter to expire on the Thirty-first day of December in every thirtieth year following until the expiration or sooner determination of the term hereby granted an annual rent payable in advance as aforesaid calculated at the rate of Three per centum on the unimproved value of the land hereby granted in the year preceding the first year of each succeeding period of thirty years.

This Grant is subject to the provisions and conditions contained in the Crown Lands Ordinance (Chapter 140 of the Revised Edition of the Laws of Kenya) (excepting Part Eleven thereof and as is herein otherwise provided) and to the Registration of Titles Ordinance (Chapter 142 of the Revised Edition of the Laws of Kenya) and also to the Special Conditions hereunder written:-

SPECIAL CONDITIONS.

1. Commencing on the First day of April One thousand nine hundred and twenty-nine and within one year thereof the Grantee will expend the sum of not less than Shillings Sixty Thousand on improvements to the land hereby granted of the nature specified in the Schedule hereto.
2. The Grantee during the further period of nine years commencing on the First day of April One thousand nine



hundred and thirty will expend not less than the further sums of Shillings Sixty Thousand year by year on ---- improvements to the land hereby granted of the nature specified in the Schedule hereto making together a total sum of not less than Shillings Six Hundred Thousand to be expended during the aggregate period of Ten years.

3. The Grantee will at all times after the said First day of April One thousand nine hundred and twenty-nine during the continuance of the term hereby granted maintain and keep or cause to be maintained and kept the ---- improvements to be effected by virtue of the preceding conditions in that behalf. Provided that the said annual sum of Shillings Sixty Thousand shall be expended ---- personally by the Grantee and shall not include the rent hereby reserved the expenses of survey and expenses of like nature or any other sum or sums (whether spent on improvements or not) which may be spent by sub-lessees or other persons deriving title through the Grantee or held in any other manner in occupation of the said land.

4. If during the said period of ten years the amount expended as aforesaid by the Grantee at the end of any year shall not in the aggregate be the equivalent of the said sum of Shillings Sixty Thousand for each year elapsing then in respect of each sum of Shillings Sixty Thousand of the total sum of Shillings Six Hundred Thousand so unspent Six Thousand acres being portion of the said land shall be selected for surrender by the Grantee and shall be forfeited. Provided however that in such case the incidental costs shall be paid by the Grantee and that such areas of Six Thousand acres forfeited as aforesaid need not necessarily be contiguous.

5. By virtue of Section Eighty-six of the said Crown

Lands Ordinance it is inter alia an implied condition of this Grant and in order to emphasize the same it is ----- herein expressly agreed and declared that any portion of the land contained in this Grant in the actual occupation of natives at the date hereof shall so long as it is ----- actually occupied by them be deemed to be excluded from this Grant.

IN WITNESS WHEREOF I the said Acting Governor have hereunto set my hand and the seal of the Colony this *Thirteenth* day of *May* One thousand nine hundred and twenty-nine in the presence of:-

W. S. G. G.

Acting Commissioner of Lands:
By Order of the Acting Governor.

S. P. Robinson
Registrar of Titles.

SCHEDULE.

Farm buildings of all descriptions.
Fencing.
Water Furrows.
Planting trees or live hedges.
Walls.
Wells.
Draining land or reclamation of swamps.
Road making.
Bridges.
Clearing of land for agricultural purposes.

SCHEDULE (Continued)

Laying out and cultivating gardens and nurseries.
 Water boring.
 Water races.
 Sheep or cattle dips.
 Embankments or protective works of any kind.
 Planting of long lived crops.
 Water tanks.
 Irrigation works.
 Fixed machinery.
 Reservoirs.
 Dams of a permanent nature.
 Dwelling houses occupied by the Grantee or some person or persons in their permanent employ.
 Live stock.
 Agricultural implements and machinery.
 Dairy appliances.
 Provided that the same are the Property of the Grantee and are kept or used on the premises hereby granted or some part thereof.

Registered at the Registry of Titles at Nairobi
 this fourteenth day of May 1929.
 Time 11-6 A. M.
 No. I.R. 2682/1
 Presentation No. P.B. 9,669/29.

G. Robbins
 Registrar of Titles.

THE FOLLOWING DOCUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

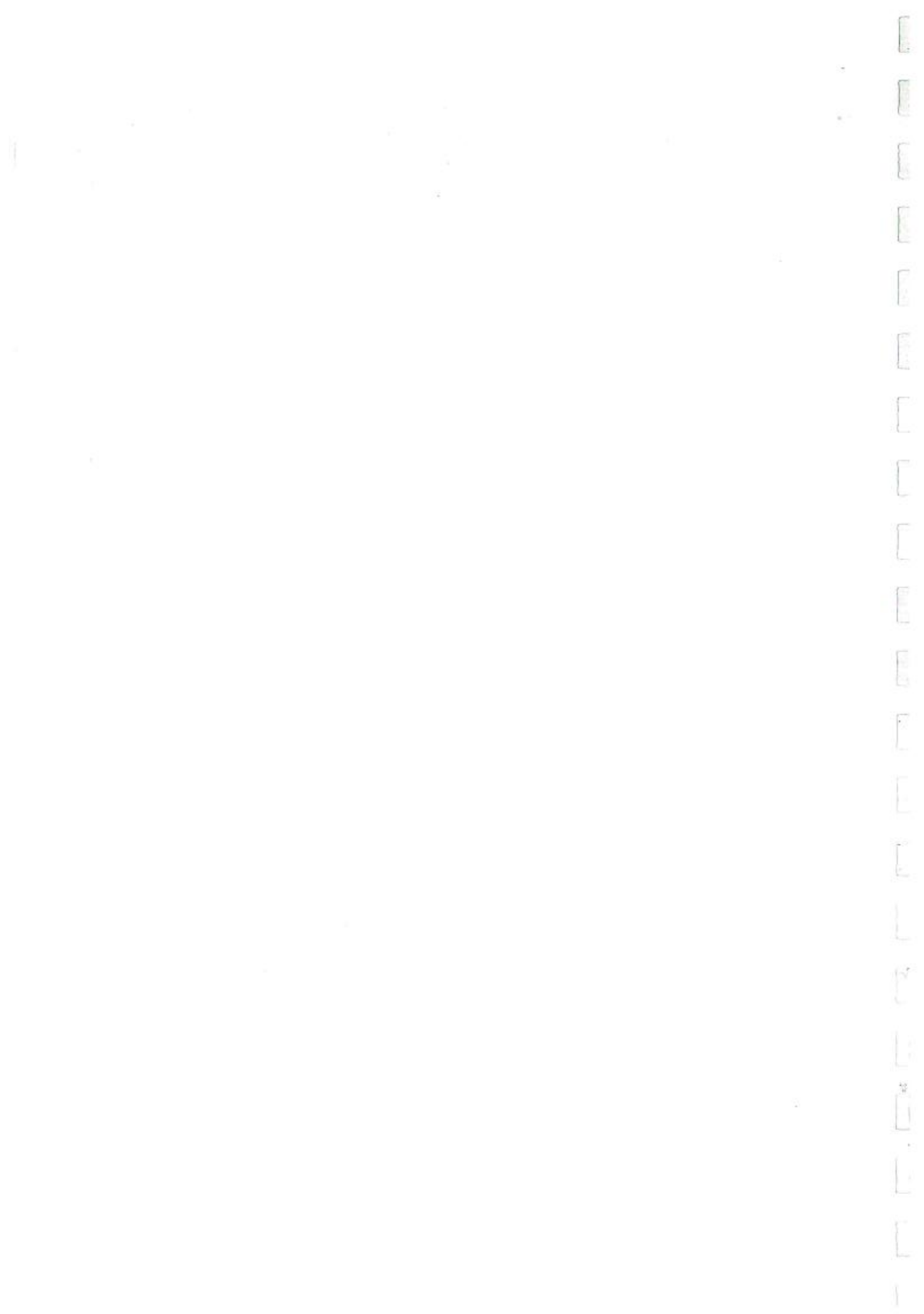
No. I.R. 2682/2 DATE OF REGISTRATION 16th May 1929

Transfer to Teila Concessions Limited

MAIROBI, THE 16th DAY OF May 1929

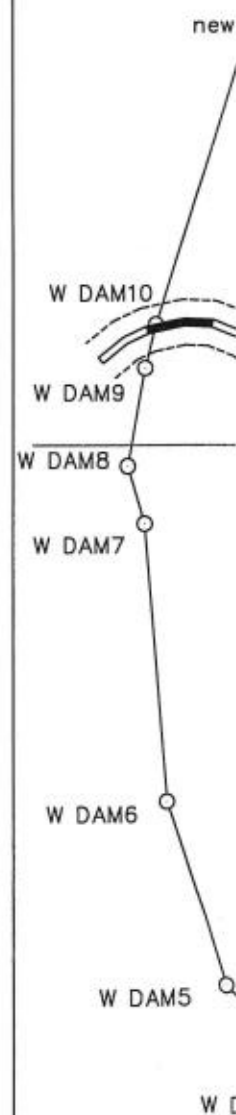
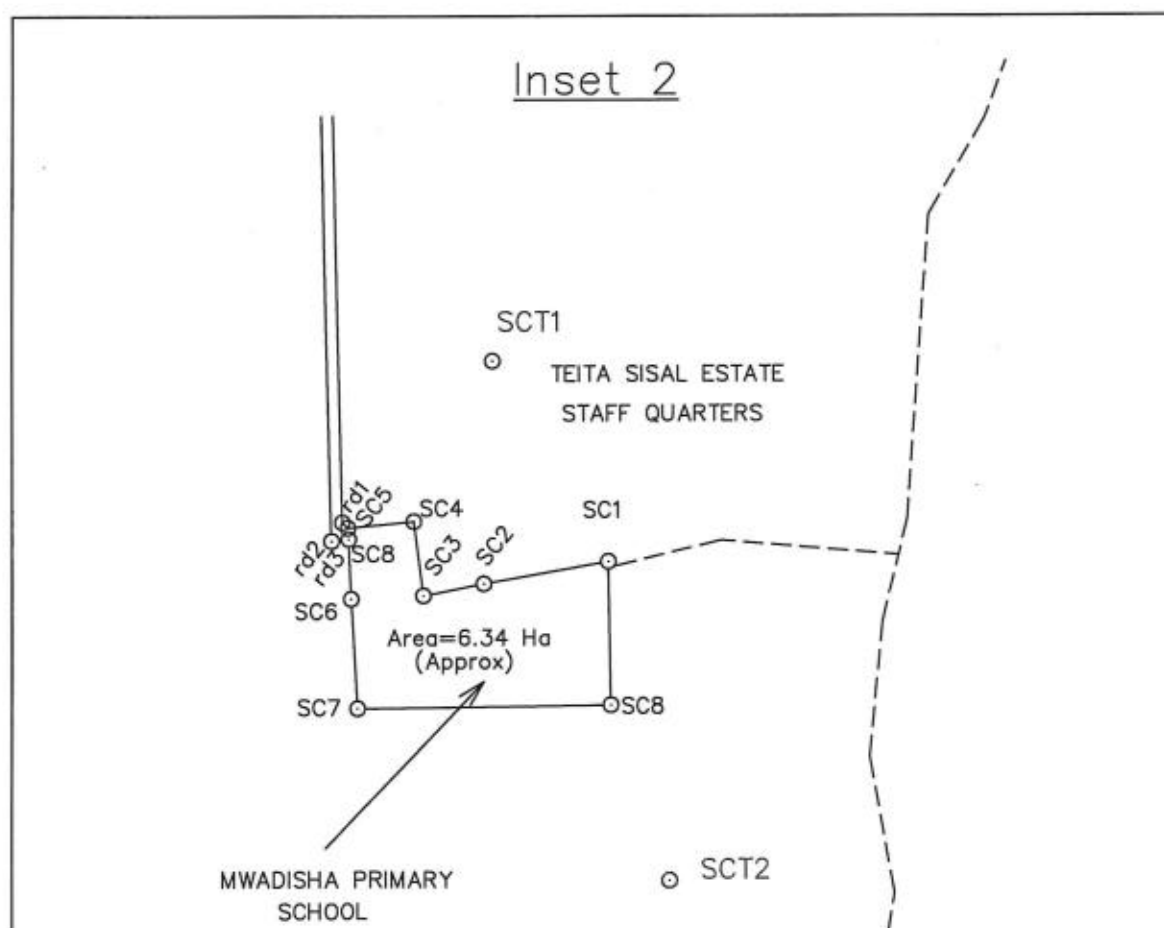
G. Robbins
 REGISTRAR OF TITLES

2.



Units.....

Station	Y(Northings)	X(Eastings)	Heights	Class of Beacon



COLONY & PROTECTORATE OF KENYA.

DISTRICT OF TEITA

Locality, to S.W. of Voi Township

Meridional District South A. 37 3
U. III. b.

Land Reference No. 3880

(Orig. No.

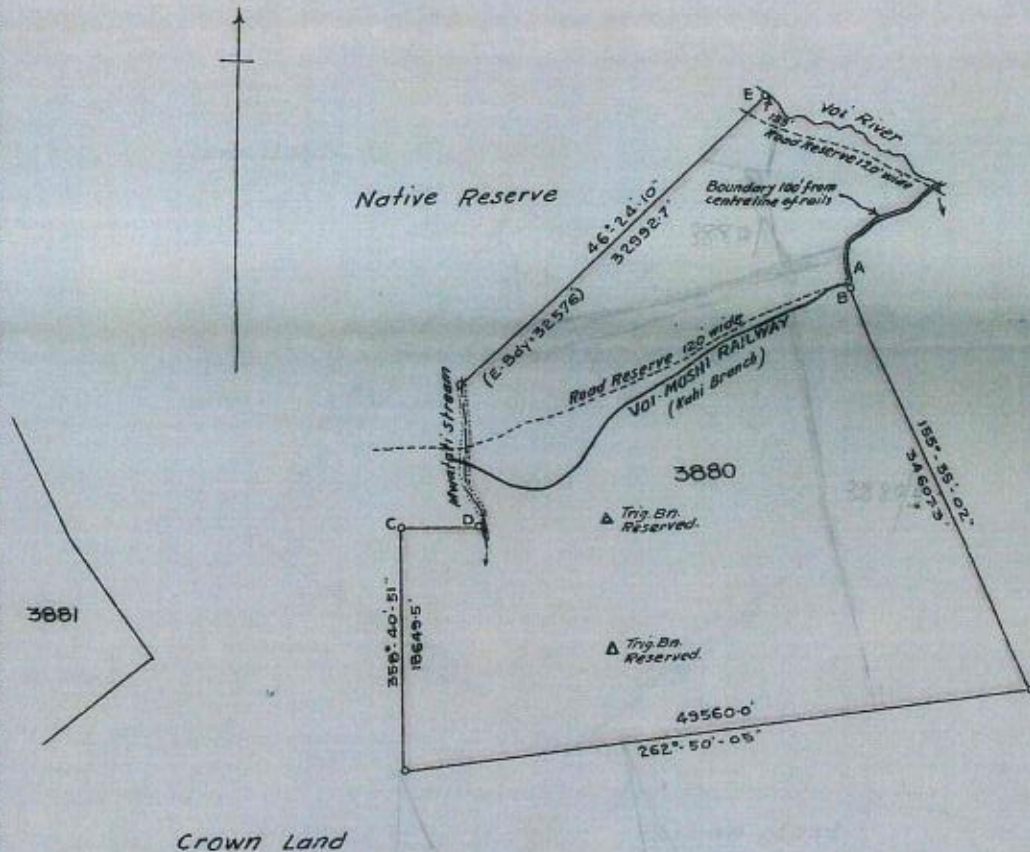
Subdivision No. (Orig. No.
of Section No.

Scale: 1 in 125000 or 10416.66 Feet to 1 Inch. Total Area - 36517.0 Acres (Approx)

Road Reserves - 136.0 "
Railway Reserve - 197.0 "

Nett Area - 36184.0 Acres (Approx)

	Bearings			Distances
	°	'	"	Feet
A-B	148	21	00	192.6
C-D	88	27	00	6188.5 (C-Bdy 6508)



Note:- Railway Reserve 100' on each side
from centre line of rails.

Surveyor General.

Nairobi 11th March 1929

Please quote this PLAN N° 23542.

COLONY & PROTECTORATE OF KENYA.

DISTRICT OF TEITA

Locality, to S.W. of Voi Township

Meridional District South A 37
U. III. a

Land Reference No. 3881

(Orig. No.)

Subdivision No. (Orig. No.)
of Section No.

Scale: 1 in. 125000 or 10416.66 Feet to 1 Inch

Total Area - 24267.0 Acres (Approx)

Road Reserve - 59.0 "

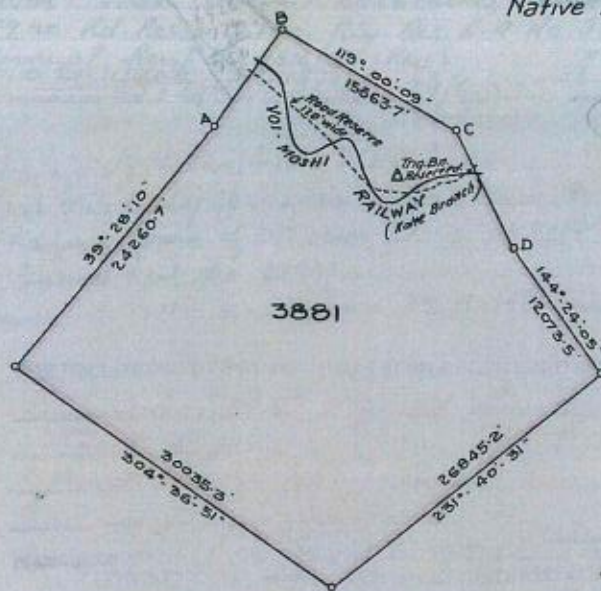
Railway Reserve - 127.0 "

Nett Area - 24081.0 Acres (Approx)

	Bearings			Distances
	B	A	"	Feet
A-B	35	24	05	3155.4
C-D	154	28	23	10242.1

Crown Land

Native Reserve



NOTE:- Railway Reserve 100' on each side
from centre line of rails.

Surveyor General.

Nairobi 11th March 1929

Please quote this PLAN No 23543.

Drawn by, Mistry.
Checked by, J.S.D.

WATERLOO & SONS LIMITED, LONDON. PRINTED BY WATKINS

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

The within written grant has been surrendered
(Vide N^o 18 2682/3)

In respect of 2000 ac. less 35 ac. R.R. L.R. No. 3880/1
2 3880/2/1.

Registration No. 2968 Date of Registration. 7. 9. 44

W. J. Ham
Registrar of Titles
7/9/44

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Surrender to Crown ——— L.R. No. 3880/3
12.045 acres less 12 acres road reserve & 33 acres Rly. reserve

Registration No. 2185 Date of Registration

15/4/53

R. H. Thae
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Transfer to NGERENYI PLANTATIONS LIMITED

(with other lands) 24267 acres less 24267 less

59 ac. Rd. Res. & 127 ac. Rly. Res. L.R. No. 3881

Annual Rent Shs 4816/80 (Rev.)

Vide Certificate of Title 149822

Registration No. 2968 Date of Registration

29/6/53

W. J. Ham
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Transfer to Yector Sisal Estates Limited

(with other lands) 20440 acres less 80 acres road reserve & 80 acres Rly. Reserve of 141 acres L.R. No. 3880/4

Annual Rent Shs 2199/-

Registration No. 711 Date of Registration

24. 4. 1961

M. J. Ham
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Surrender to The Regional Assembly of the
Coast Region

2344 acres L.R. No. 3880/4/1. Annual Rent Shs 385/-

Exchange for a new Grant L.R. No. 11578

Registration No. 515 Date of Registration 17. 8. 63

M. J. Ham
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Transfer to T. & T. Sisal Company Limited

17096 acres less road reserve of 80 acres and

less 141 acres railway reserve L.R. No. 3880/5 (Orig. No. 3880/4/2)

Annual Rent Shs 1814/- (revisable) *Ceski*

Registration No. 1081 Date of Registration 20. 5. 64

Ceski
Registrar of Titles

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE

Charge to The Standard Bank Limited

and Kalli Brothers Limited

(with other lands)

Registration No. 24 Date of Registration

1. 7. 64

Ceski
Registrar of Titles

Surveyor General.

Nairobi 11th March 1929

Please quote this PLAN N^o 23542.

10

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE
 Charge to Teita Sisal Estates Limited
 Subject to No. 9 above
 (with other lands)

Registration No. 130 Date of Registration 6-8-64

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE

Charge to The Standard Bank Limited
 and Ralli Brothers Limited
 Subject to Nos 9 & 10 above
 (with other lands)

11

Registration No. 241 Date of Registration 7-10-64

12

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE
 Caveat by General Manager of East
 African Railways + Harbours claiming
 Lessee's interest on L.R. No.
 3880/5.

Registration No. 807 Date of Registration 28.2.69

13

Withdrawal of Caveat No. 12
 above.

Registration No. 520 Date of Registration 19.4.73

14

Transfer to Teita Estate (1972)
 Limited free from encumbrances.

(TR 19682)

Registration No. 521 Date of Registration 19.4.73

15

Charge to East African Acceptances
 Limited

(TR 19682)

Registration No. 522 Date of Registration 19.4.73

TITLE, No. 2682
12

264/712

Dated the 13th day of May 1922.

HIS HONOR GEORGE DUNSTON
JUDGE GEORGE TEN FIFTH

- 10 -

CHARLES SYDNEY GOLDMAN.

G R A P T.

L. Ref. Nos. 3680 and 3681.
District: Telte.

Registry of Titles,
Hongk.

6885

1884 85/105-1972

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(16) Certificate of Change of Name of East African Acceptances Limited - - - to Standard Chartered Acceptances Limited. (With other lands).

Registration No. 1566 Date of Registration 23-12-88. Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(17) Certificate of Change of Name of Tetra Estate (1972) Limited - - - to Tetra Estate Limited. (With other lands).

Registration No. 1567 Date of Registration 23-12-88. Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(18) Discharge of No 15 Above. (With other lands).

Registration No. 1568 Date of Registration 23-12-88. Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(19) Charge to Standard Chartered Bank Kenya Limited. (With other lands).

Registration No. 1569 Date of Registration 23-12-88. Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(20) Further charge to Standard Chartered Bank Kenya Limited subject to No. 19 above. (With other lands).

Registration No. 730 Date of Registration 23-1-95. Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

(21) Second Further Charge to Standard Chartered Bank Kenya Limited (With other lands)

Ranking in pari passu

Registration No. 2343 Date of Registration 21-2-2018

Fde opened vide deed of indemnity
regd in Vol DI 28/330 Fde xxxi
vide notice no 1717 of 26 Feb 2018 and
approved by UR on 21st May 2018

Registrar
B. F. Alieno 208

22

THE FOLLOWING STATEMENT HAS BEEN REGISTERED AGAINST THE
Discharge or Charge of No 19, 20 and 21
above

(with other lands)

Presented At 456)
Registration 5-5-2001

[Signature]

S. Reg No 294



MINISTRY OF LANDS AND PHYSICAL PLANNING
Office of the Principal Secretary

Tel: +254(0)20 2718050
Fax: +254(0)20 2724470

Ardhi House
1st Ngong Avenue
P.O. Box 30450 - 00100
NAIROBI

When replying please quote

Ref: MOLPP/30533/VI/145

4th February, 2020

Daly & Inamdar Advocates
P.O. Box 40034-00100
NAIROBI

**SUBDIVISION OF LR NO.11378/2 AND 3880/6-8 (IMPLEMENTATION OF THE
RECOMMENDATIONS OF THE REPORT ON LAND ISSUES IN TAITA TAVETA
COUNTY)**

As you are aware, the registered owner of the above parcels agreed to excise 250 acres and donate it to the government for settlement of Singila/Majengo squatters.

The survey work has now been completed and the next step is to process the titles. However, before this can be done the original titles for the parcels need to be surrendered. For this reason, please liaise with the registered owner to avail the same in order for the next process to be undertaken.

To facilitate the process, kindly get in touch with our Land Registration Officer Mr. Henry Mwaure, Ministry of Lands and Physical Planning Headquarters 12th Floor.

Mr. Nicholas Muraguri
PRINCIPAL SECRETARY



28

MINISTRY OF LANDS AND PHYSICAL PLANNING

Telegrams: "MINILANDS", Nairobi
Telephone: Nairobi 2718050

ARDHI HOUSE
1st NGONG AVENUE ROAD
OFF NGONG ROAD
P.O. BOX 30089-00100
NAIROBI

When replying please quote

Ref: 30535/V11

4th January, 2021.

TEITA ESTATES LIMITED
P. O. Box 36
MWATATE

SUBDIVISION SCHEME APPROVAL

PLOT MWATATE/MWATATE BLOCK 1/16

Further to the Government approval of subdivision scheme relating to **LR NO. 3880/5**, I am pleased to inform you that the issue of the lease for the above plot (which is a resultant subplot) will be undertaken as soon as I receive your formal written acceptance of the special conditions attached and payment of the charges prescribed hereunder and subject to surrender of original title.

PLOT DETAILS

Area: **406.26 Ha.** (Approx.)
Term: **999** years from **01.04.1927**
Annual Rent: **Kshs. 21,300/=** w.e.f **01/01/2021**

LEGAL FEES AND OTHER CHARGES

Rent from 01.01.2021 to 31.12.2021	Kshs	21,300.00
Conveyancing Fees	Kshs	1,250.00
Registration Fees	Kshs.	500.00
Stamp Duty	Kshs.	460.00
Total	Kshs.	<u>23,510.00</u>


E. K. KOSGEI
Director Land Administration

This is as a result of Subdivision and change of user from Agricultural to comprehensive mixed use.
The Departmental Committee on Lands – Eleventh Parliament – second session 2014 on Land Issues on Taita Taveta County.

Director of Surveys - **Nairobi**

SPRO)
Records) All to note
Land Rent)



39

MINISTRY OF LANDS AND PHYSICAL PLANNING

Telegrams: "MINILANDS", Nairobi
Telephone: Nairobi 2718050

ARDHI HOUSE
1st NGONG AVENUE ROAD
OFF NGONG ROAD
P.O. BOX 30089-00100
NAIROBI

When replying please quote

Ref: 30535/V11

4th January, 2021.

LAND SETTLEMENT FUND BOARD OF TRUSTEES
P. O. Box 30450
NAIROBI

SUBDIVISION SCHEME APPROVAL

PLOT MWATATE/MWATATE BLOCK 1/17 - (LANGATENI)

Further to the Government approval of subdivision scheme relating to LR NO. 3880/5, I am pleased to inform you that the issue of the lease for the above plot (which is a resultant subplot) will be undertaken as soon as I receive your formal written acceptance of the special conditions attached and payment of the charges prescribed hereunder and subject to surrender of original title.

PLOT DETAILS

Area: 132.54Ha. (Approx.)
Term: **FREEHOLD**
Annual Rent: Kshs. **NIL**

LEGAL FEES AND OTHER CHARGES

Rent from 01.01.2021 to 31.12.2021	Kshs	NIL
Conveyancing Fees	Kshs	1250.00
Registration Fees	Kshs.	500.00
Stamp Duty	Kshs.	100.00
Total	Kshs.	1850.00


E. K. KOSGEI

Director Land Administration

This is as a result of Subdivision and surrender to the National Government - SFT
The Departmental Committee on Lands – Eleventh Parliament – second session 2014 on Land Issues on
Taita Taveta County.

Director of Surveys - **Nairobi**

SPRO)
Records) All to note
Land Rent)



Republic of Kenya
Ministry of Lands and Physical Planning

Survey Report on Teita Sisal Estate, Land Parcel Nos.
LR Nos. 3880/5 (3880/4/R), 11378, 6924 and 9487(Dam)

In response to directives given by

The Departmental Committee on Lands
Eleventh Parliament – Second Session 2014

on

Land Issues in Taita/Taveta County

SEPTEMBER, 2017



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ABSTRACT

The Parliamentary committee on lands, on 2nd December 2014, (among other directives), directed that, the boundaries of Teita Sisal Estate be re-established. The directives were a culmination of various complaints and petitions that the Estate had encroached onto land belonging to the community. The directive was that:-

1) The Ministry of Lands, Housing and Urban Development through the Director of Surveys should carry out a survey with a view to ascertaining the boundaries as per the records of 1992 from the Survey of Kenya, so as to separate the 33,000 acres that belongs to Teita Sisal Estate (LR Nos. LR 3880/5 (3880/4/R), LR 11378, LR 6924 and LR 9487(Dam) from the total acreage of 33,284 acres), and the neighbouring trust lands, so that the rest is given back to the community.

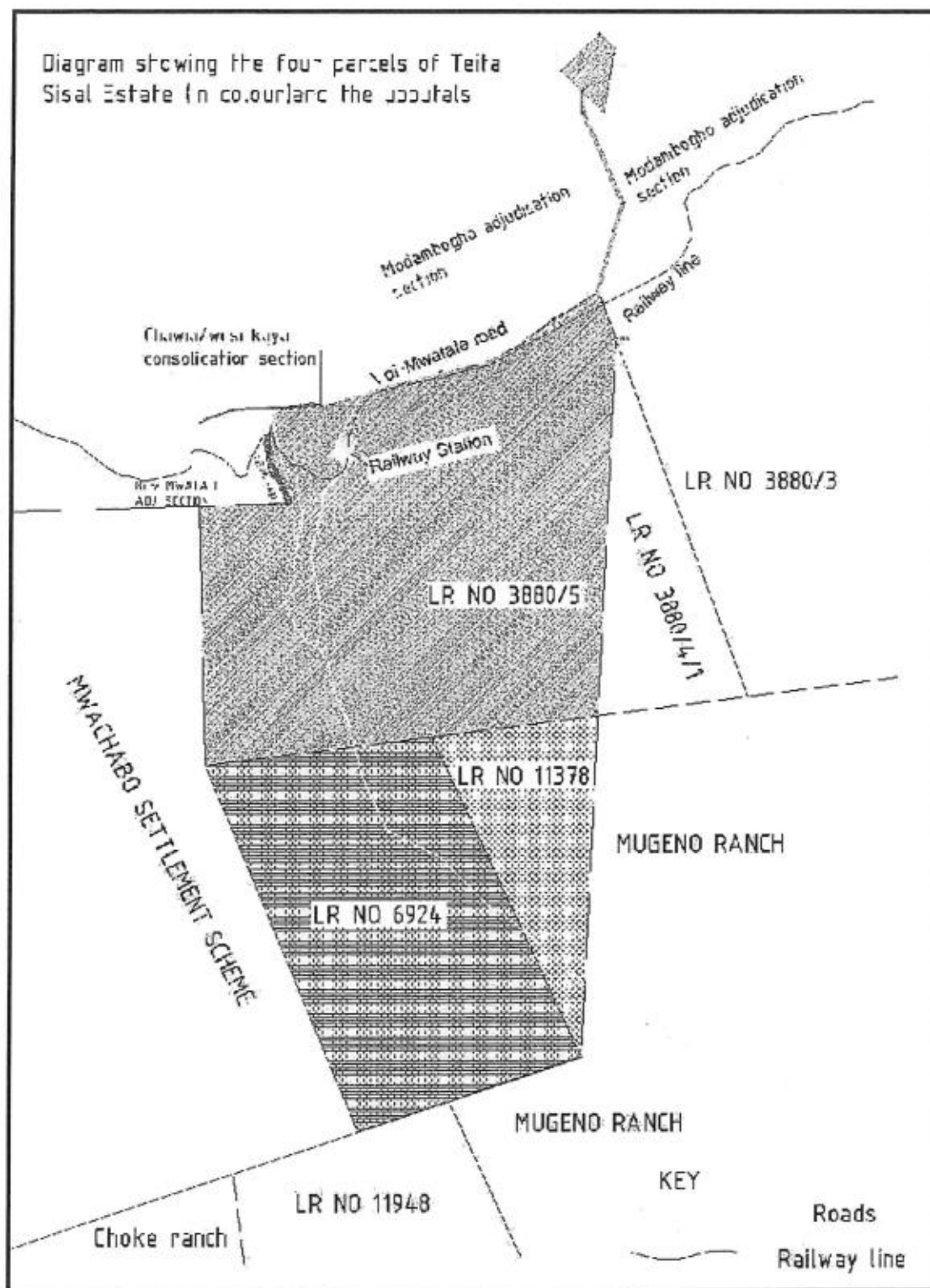
2) The Government through the Ministry of Land Housing and Urban Development and the National Lands Commission should determine if there is any encroachment on the road, airstrip, sanctuary, trust land around Tasha Hill and railway reserves by Teita Sisal Estate Limited.

3) The National Land Commission, Ministry of Lands, Housing and Urban Development and other stakeholders should fulfill their legal mandate of identification of beneficiaries and administration in settlement programs in Taita Taveta, Coast and other parts of the Country urgently. This will facilitate the long awaited access to land ownership and management by residents of Mwatate (Singila Majengo), Taveta and other parts of the country (Section 134 of the Land Act).

The re-survey of the land parcels was carried out in July 2016 by a team from the Ministry of Lands and Physical Planning led by Mr. Richard Amati. The community was represented by Mr. John. D. Obel (Phone No. +254 725 915780), a senior and reputable Licensed land surveyor, the late Mr. Washington Weere, a specialist in Remote Sensing and Geographic Information Systems (GIS) and Mr. Thomas Nduku (Phone No. +254 722 743743) an investigator. The Teita Sisal Estate was represented by Mr. Wallis Hime (Phone No. +254 204 182 386) a senior and reputable licensed surveyor. The County Government of Taita Taveta was represented by Mr. Sammy J. Wambua (+254 729 276 486) a senior land surveyor who is the designate

County surveyor. The survey work was completed within two weeks with the following outputs/outcomes

- i) All the boundary beacons for the four parcels of land in question were searched. Most of the beacons were found intact and the few not found in place were re-established as per survey regulations. The total acreage of the land parcels is 30,284 acres as indicated on the survey maps for the four parcels. A re-computation of the acreage after the field work yielded the same (see page 14 detailed report). This was in agreement with the records held by the Survey of Kenya.
- ii) The Sisal Estate was operating within the four parcels and had not encroached onto the neighbouring community land, road, trust land around Tasha Hill and railway reserves. The said sanctuary is an establishment of the Sisal Estate and was within the four plots owned by the estate. The Air strip is within the four parcels owned by the Sisal Estate and the estate has an Aerodromes Clearance certificate to operate it (see Appendix 7).
- iii) The community has encroached onto parts of the Sisal Estate including Singila Majengo, sections along the Voi – Mwatate road, the corridor leading to and part of LR NO 3880/5 near Voi River.
- iv) There are three classified roads which run through the Estate and are open for public use. There are also several private roads traversing the land.
- v) There is a manned barrier at the entrance of the Estate on a road that may have been leading to the now non-operational railway station. Another manned barrier is on an unclassified road leading to Mwandisha Primary School.
- vi) Voi-Taveta railway line passes through LR. No. 3880/5. The railway reserve has been deducted from the head title of this land parcel. A non-operational railway station falls within this land parcel. Its reservation has not been deducted from the head title though Kenya Railway claims that there is a gazetted reservation of 4.8 acres.



The team recommended the following:

- i) Land settled on by the community be legally excised from the Estate land to which the Estate does not object.
- ii) Public utility land such as school, Roads, Railway station be exercised from the land and be registered in the name of line ministries.

- iii) Community be informed of the outcome of the survey and be cautioned against further encroachment onto the Estate land.
- iv) If any further investigations are required, the same be directed to the concerned line Ministries.
- v) The local leadership and the management of Teita Sisal Estate should carry out regular de-silting of the water dam. Cultivation along the Dam should be completely discouraged. This will be for the benefit of the Community and the Sisal Estate.

Appended hereto is the full report of the survey.



Richard K. Amati
For: Director of Survey

1. INTRODUCTION

The re-establishment of boundaries for land owned by Teita Sisal Estate arose from the recommendations/directives of the Eleventh Parliament's Departmental Committee on Lands (Land Issues in Taita Taveta County) submitted on 2nd December 2014. The directives were a culmination of various complaints and or petitions from various groups regarding land in Taita Taveta County, notably Mwasima Mbuwa Welfare Association on the Teita Sisal Estate land.

The Committee had several recommendations/directives in their report (**Appendix 1**). The following issues that needed to be addressed by the Ministry of Lands were extracted from the report hence the scope of work:-

- 1) The Ministry of Lands, Housing and Urban Development through the Director of survey should carry out a survey with a view to ascertaining the boundaries as per the records of 1992 from the Survey of Kenya, so as to separate the 33,000 acres that belongs to Teita Sisal Estate (LR Nos. LR 3880/5 (3880/4/R), LR 11378, LR 6924 and LR 9487(Dam) from the total acreage of 33,284 acres), and the neighbouring trust lands, so that the rest is given back to the community.*
- 2) The Government through the Ministry of Land Housing and Urban Development and the National Lands Commission should determine if there is any encroachment on the road, airstrip, sanctuary, trust land around Tasha Hill and railway reserves by Teita Sisal Estate Limited.*
- 3) The National Land Commission, Ministry of Lands, Housing and Urban Development and other stakeholders should fulfill their legal mandate of identification of beneficiaries and administration in settlement programs in Taita Taveta, Coast and other parts of the Country urgently. This will facilitate the long awaited access to land ownership and management by residents of Mwatate (Singila Majengo), Taveta and other parts of the country (Section 134 of the Land Act).*

The ultimate goal was for the Director of Surveys to determine and delineate 30,284 Acres of Teita Sisal Estate and any land in excess be utilized for settlement of community as authorized by the National Assembly of the Republic of Kenya.

Pursuant to this, a team of landed experts was dispatched from the Ministry of Lands Headquarters (HQs) to go to Mwatate and address the various issues in respect of Teita Sisal Estate covered by the recommendations/directives.

2. APPROACH

In accordance with the Land Registration Act 2012 sections 15 through 20, positions of fixed boundaries are determined by the Director of Surveys **“(Provided that where all the boundaries are defined under section 19 (3), the determination of the position of any uncertain boundary shall be done as stipulated in the Survey Act, Cap. 299)”**. In practice however, several approaches may be employed.

1. The land owners/disputants may choose to engage their own independent surveyors to do the work with the Director of surveys to observe and give a final report.
2. The Director of surveys may determine the position of the boundaries without consulting anyone and prepare relevant reports.
3. The Director of surveys may engage the disputants to appoint technical observers to ensure that the technical interests of their clients are taken care of during the boundary determination exercise.

For the task at hand in Teita Sisal Estate, it was found prudent to involve all interested parties represented by professionals in land matters culminating in adopting approach number 3 (three) hence the report naming **“Joint Survey”**. This would ensure that the final report is acceptable to all parties. The work was done by staff from the Director of surveys under observation and active participation (including constant consultation) by highly qualified and reputable surveyors hired by Mwasima Mbuwa Welfare Association and Teita Sisal Estates.

The Mwasima Mbuwa Welfare Association was represented by **Mr. John. D. Obel (Phone No. +254 725 915780)**, a senior and reputable Licensed land surveyor, the late **Washington Weere** a specialist in Remote Sensing and Geographic Information Systems (GIS) and **Mr. Thomas Nduku (Phone No. +254 722 743743)** an investigator of profound experience and reputation. Teita Sisal Estate was represented by **Mr. Wallis Hime (Phone No. +254 204 182 386)** a senior and reputable licensed surveyor. The County Government of Taita Taveta was represented by **Mr. Sammy J. Wambua (+254 729 276 486)** a senior land surveyor who is the designate County surveyor. **Mr. Richard K. Amati (Phone No. +254 722 786 208)** a Principal Land Surveyor and a licensed Land Surveyor led the team of experts from the Ministry of Lands. All the parties were present in the field throughout the survey exercise.

On **27th June 2016**, the first stake holder meeting was held under the leadership of the Deputy Governor, Taita Taveta County who also doubles as the County Executive Committee (C.E.C) Member Lands and Mining. All interested parties (Mwasima Mbuwa Welfare Association, Teita Sisal Estate, the County Government, opinion leaders and community leaders amongst others) were represented in the meeting (minutes and attendance list (**appendices 3 and 4 respectively**) attached).

The Director of Surveys through his Representative Mr. R.K Amati highlighted the mandate of the survey team. He clarified that the role of the survey team was to re-establish the boundaries of the Sisal Estate and thereafter file a report on the finding with the National Assembly. Mr. John D. Obel noted that the actual work was to be done by the Director of surveys; other parties being observers. At the end of the meeting it was clear that the task was in the hands of the technical team. The technical team was given full blessing by all the stake holders' representatives to proceed with the assignment and file a joint report promptly.

3. TECHNICAL STRATEGIES

A technical officers meeting followed immediately after the stake holders meeting. The technical team members comprised of the following:-

1. Mr. Richard K. Amati – Surveyor - MOLPP office - Chairing
2. Mr. John D. Obel – Licensed surveyor - Mwasima Mbuwa Welfare Association.
3. Mr. Washington Weere – GIS Expert - Mwasima Mbuwa Welfare Association.
4. Mr. Anthony Singe – Surveyor - Mwasima Mbuwa Welfare Association.
5. Mr. Thomas Nduku – Investigator - Mwasima Mbuwa Welfare Association.
6. Mr. Sammy W. Juma – County Surveyor - County Government of Taita Taveta.
7. Mr. Emmanuel Mrombo – Management - representing Mr. Wallis Hime - Teita Sisal Estate.
8. Mr. Max Njuguna – Surveyor - MOLPP office - taking minutes

Before the start of the meeting, Mr. Mrombo informed members that the Sisal Estate had contracted Mr. Wallis Hime to technically represent their interests. However he could not manage to attend this meeting due to other commitments hence his apologies. He would join the team later. Mr. Obel informed members that in addition to the surveyors, Mwasima Mbuwa Welfare Association had an investigative/legal arm being led by Mr. Thomas Nduku an Investigator. Mr. Thomas Nduku was co-opted and tasked to work in liaison with the representative of the Chief Land Registrar who was part of the Ministerial team but would join later.

The agenda of the meeting was to analyze the survey data for the Teita Sisal Estate and chart the way forward on how best to tackle the task ahead. Terms and Conditions of implementations including relevant Survey plans, deed plans,

Titles, transformations of Cassini to Universal Transverse Mercator (UTM) Systems of Coordinates of existing beacons covering the areas as ruled by the National Assembly of Kenya; were discussed and agreed upon unanimously. Geodetic Control network points situated at strategic and known positions were to be determined and re-established (the concept of whole to part).

The investigative arm informed members that Gazette Supplement No.7 (Legislative Supplement No.7), Legal Notice No.16 and dated 30th day of January 1973 (**Appendix 2**) has stated clearly the extent of land owned by the Management of Teita Sisal Estate.

Further investigations, research and analysis based on information that appears on the said notice, has confirmed that the Management of Teita Sisal Estate legally own lands registered as LR. NO. 3880/5, LR. NO. 9487, LR. NO. 11378 and LR. NO. 6924. According to the same Gazette Notice the land sizes are quoted as follows:

- a) L/R No. 3880/5 - Size 16,875 Acres (6,829Hectares).
- b) L/R No. 11378 - Size 3,344 Acres (1,353.28Hectares).
- c) L/R No. 6924 - Size 10,010 Acres (4,051Hectares).
- d) L/R No. 9487 - Size 55 Acres (22.25Hctares) Dam.

Total: 30,284 Acres (12,255.53Hectares)

The information was found to agree with the existing survey records and the parliamentary directives except for the total size of the land quoted in **parliamentary directive (I)** above as **33,284 acres**.

The subdivision history of LR No 3880 and the evolution of LR NO 3880/5 from LR No 3880/4/R to LR NO. 3880/4/2 and finally to LR. NO. 3880/5 was explained by the cadastral branch as follows.

LR. No. 3880 was initially subdivided into 3880/1 and LR. NO. 3880/2. LR. NO. 3880/1 was given back to the community. This was followed by LR. NO. 3880/2 being subdivided into 3880/2/1 and 3880/2/R. 3880/2/1 was surrendered for community settlement. LR. NO. 3880/2/R was then subdivided into LR. NO. 3880/3 and LR. NO. 3880/4. LR. NO. 3880/3 was surrendered for community settlement. LR. NO. 3880/4/1 was then excised from LR. NO. 3880/4 for equal area exchange with LR. NO. 11378 Leaving a remainder of LR. NO. 3880/4/R which is now LR. NO. 3880/5.

All land surrendered to community as explained above from the mother LR No 3880 has now been adjudicated to the community under the Modambogho adjudication section except part of LR No 3880/3 (to the south of the Railway line) which still remains un-adjudicated.

It was further noted that from survey plans, the four parcels are adjacent to each other and hence formed one continuous block. The team identified several survey controls/datum points on various survey plans which would be useful for the survey. The identified control points were in two coordinate systems, some were in **Universal Transverse Mercator (UTM)** and others in **Cassini**. The team resolved that even though the boundary beacons defining the four parcels of land in question were in the Cassini system, it would be better to do the resurvey in UTM system due to many reasons including technical, user friendliness and conformity to the current world survey trends. It was also pointed out that viewing of deed plans for all the parcels of land were necessary. This would enable the team to be clear on the boundary lines especially for the beacons along the roads and the Railway line.

4. FIELD WORK

Data sourcing, collection and collating was ably conducted by Joint Experts from the Department of Survey, Ministry of Lands and physical Planning (then Ministry of Land, Housing and Urban Development) in consultation with the teams (survey and others) engaged by Mwasima Mbuwa Welfare Association and Teita Sisal Estate.

Data input including scanning, digitizing, transformation from Cassini to UTM systems of coordinates of existing beacons, screen digitizing, editing amongst other activities were carried out

All the relevant survey plans namely F/R 58/15 for L.R. No. 3880/5 and 3880/3, F/R 98/149 for LR No 11378, F/R 34/172 for LR No 6924, FR 79/86 for LR No 9487 and F/R 39/37 for Mwatate Trading Centre LR NO 3894, abutments (Mugeno and other Ranches) and other areas were captured. Note that the survey record for the above parcels of lands (survey plans) are very old dating back to colonial times. These are old survey plans, not records of the year 1992 as indicated in directive (1)

4.1 Reconnaissance Survey

A reconnaissance survey is always useful in planning for any survey work. The technical team resolved to immediately commence on the reconnaissance survey. The following two days after the meetings, **(28th and 29th June 2016)** the teams were therefore engaged in reconnaissance survey work. To enable all the surveyors take active participation in the reconnaissance survey, it was agreed that all the boundary data/coordinates be transformed from Cassini to UTM system. The matrix and results be shared to all through respective emails for checking, concurrence and feeding into their respective hand held GPS sets.

A number of old boundary beacons were found intact during the Reconnaissance survey while others had been destroyed or disturbed. Some of the beacons found

intact were: - Rd20, Rd 19, Rd3, Rd1, Res1, New, B, W and BdyW. Other beacons which were found uprooted and required re-establishment were Tasha, A, Bdy E among others. This therefore gave the technical team a general overview on the expected outcome after the final re- survey.

After the reconnaissance survey, the survey team had a short break arising from logistical issues. The full team resumed on **4th July 2016**. This time Mr. Wallis Hime (a licensed surveyor) representing Teita Sisal Estate joined the team.

4.2 Datum Points and Extension of Control points

In light of the agreement to do the re-establishment in UTM system, the team confined itself to plan and utilize existing UTM geodetic control point available within the vicinity of the work site.

On **5th July 2016**, four teams were dispatched to search for UTM control points at different location in the vicinity of Teita Sisal Estate. At the end of the day, three control points; Mkengereni 3, Matoga and RM were found and in good condition. Upon analysis, the datum points were found to be forming good geometry to the point we intended to observe and coordinate. However, point RM was considered to be far from the site of operation. Continuous use of it as a base would not be economical since it would require long observation time over the new control points. To overcome this, one boundary beacon 'W' was adopted, observed and coordinated as a new control point. Using the three datum points as the base, GPS observation to this point was made for extended period (3.5 hrs) effectively making this beacon 'W' a control point.

The established control point 'W' and old control points Matoga and Mkengereni 3 were then used as datum points and formed the basis for extension of controls. Seven new control points PT1, PT2.....PT7 were established by making observation using Geodetic GPS.

To obtain the Transformation parameters from Cassini co-ordinate system to UTM system, three existing beacons W, BdyW and B in Cassini system were observed from the control points.

Note that these points are to the extremities of the sisal estate hence providing a good coverage. The data was then processed to obtain new transformation parameters for the area. The parameters so obtained were applied to all other beacons (in Cassini) effectively transforming them to UTM co-ordinate system. The data was as usual shared to all groups through their respective email addresses.

At the close of the day on **8th July 2016**, the control network and the processing of the data was complete. The team was now ready for the re-establishment exercise.

4.3 Beacon re-establishment and pickings

This was done by use of Total Station and Real Time Kinematics (RTK) GPS using the established controls as the Datum. Because of the earlier conclusion that the four parcels of land formed one continuous block, the team resolved that there was no value addition in re-establishing two beacons (Line and INT) that were falling within the block. It was therefore resolved that only the boundary marks forming the outermost lines of the block needed to be re-established. More than 50% of these boundary beacons were found in place and healthy (meaning they were observed and found undisturbed). The missing beacons were placed and reconstructed as per the original description of each monument. The field work took about two weeks from start to completion to the satisfaction of all the technical experts representing the various groups.

It is important to note that 3 of the beacons (Rd14, Rd15, and Rd16) were found to fall on the existing Voi-Mwatate tarmac road hence no monuments were erected. This is an indication that the original alignment of the Voi-Mwatate road at the time of initial survey is different from the current alignment of the road (see diagram 1 below).

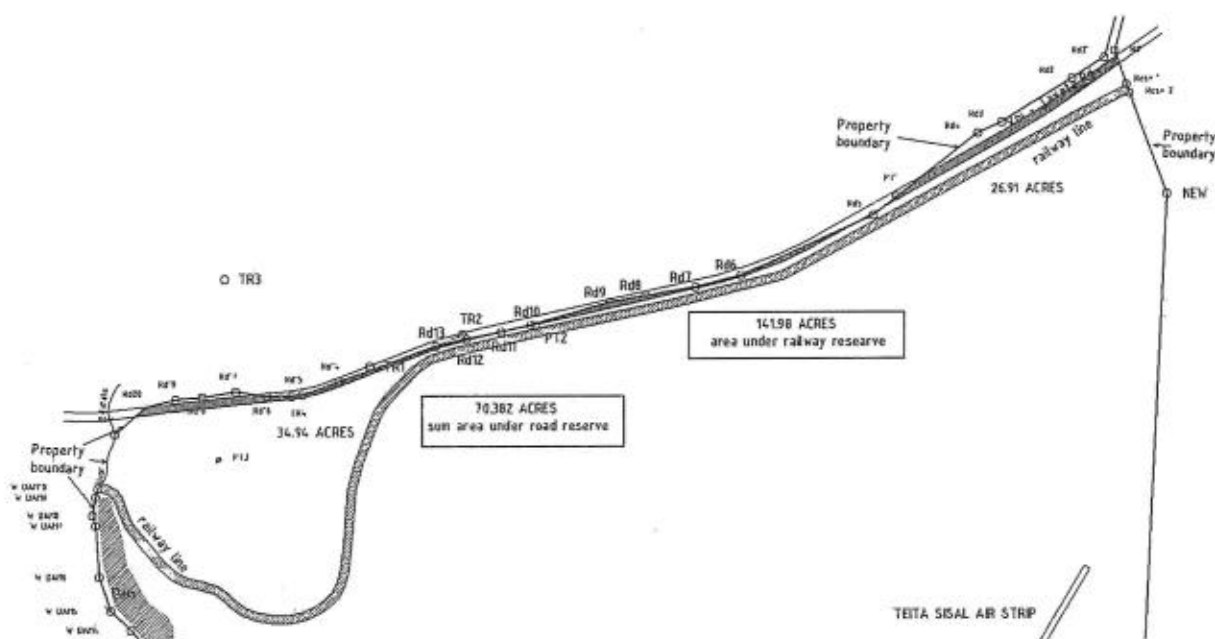


Figure 1: Showing (A 23) Voi-Taveta Rd alignment and its reserve areas in Pink colour.

The road leading to Mariwenyi through Musau trading Centre along Voi River was also picked for purposes of computing the available acreages.

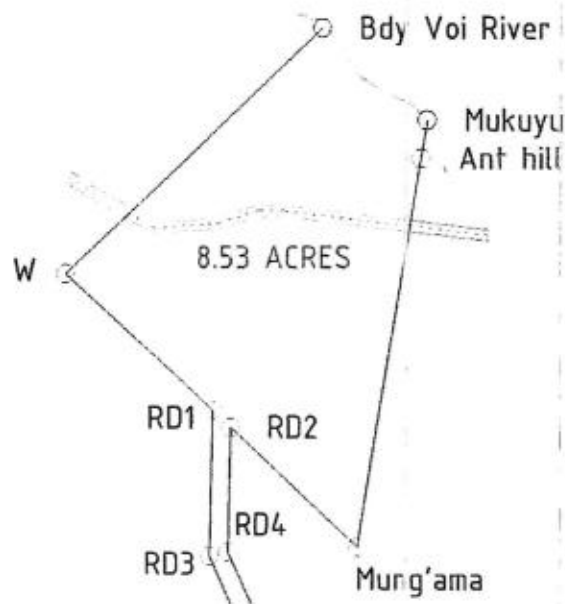


Figure 2: Showing (D538) Wundanyi-Mariwenyi road through Musau Trading Centre alignment and its reserve area in PINK

4.4 Technical meeting at the end of field work to plan and chart the way forward

In a meeting held in the County Commissioner Taita Taveta's hall after the field work completion and attended by Mr. John D. Obel and Mr. Wallis Hime, it was provisionally agreed that from the observations and measurements done, the Teita Sisal Estate was operating within their boundaries as per the existing survey records. It was also clear from the field measurements that Teita Sisal Estate does not occupy **LR NO 3880/3** and **LR NO 3880/4/1** (see diagram 3 below).

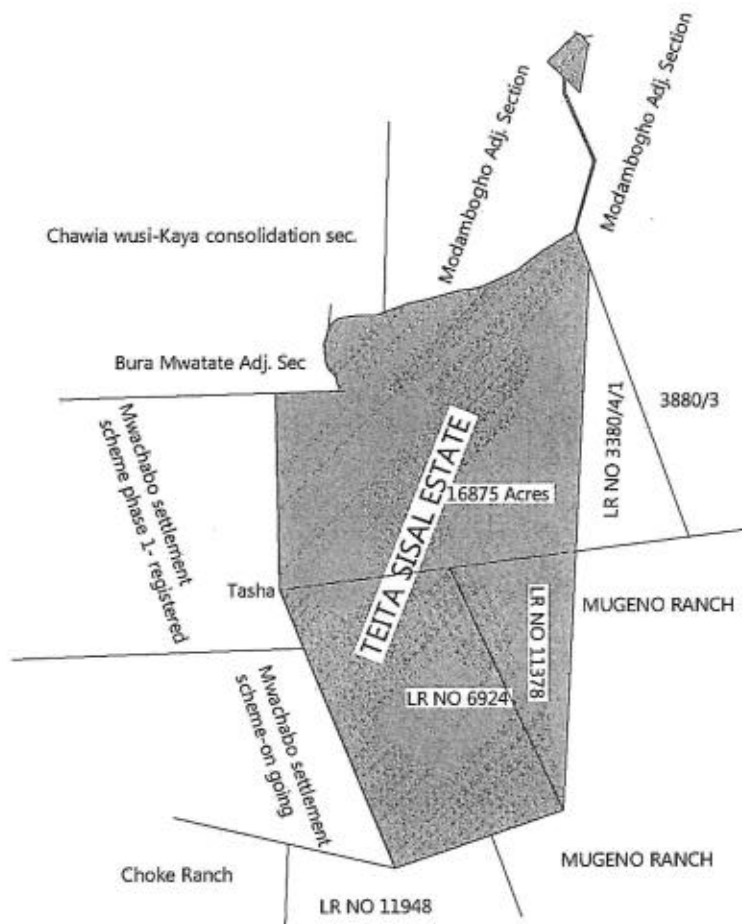


Figure 3: Showing position of Teita Sisal Estate relative to LR No's 3880/3, 3880/4/1 and other abutments

A compilation of the survey was to be done in the normal manner to produce a survey plan and computations file. This would confirm the accuracy of the field work and compute the resultant size of the land. The computations and plan may then be submitted to the Cadastral Division for quality control and authentication.

It was further agreed that a joint report should be prepared by all the surveyors together. The 1st of several meetings to discuss the joint report was scheduled to take place two weeks later on 27th July 2016 (**Appendix 8**). Each of the surveyors was to come up with a draft report from which a combined zero draft would be produced instead of going to start from scratch. The investigative/legal arm was tasked to present their report so as it may be combined with the survey report.

None of the other players presented any report hence the draft report prepared by the Ministry of Lands and Physical Planning team was discussed.

5. FINDINGS ON KEY ISSUES RAISED BY PARLIAMENTARY COMMITTEE

The following issues were extracted from the parliamentary recommendations/directives as being the focus of the re-survey and investigative exercise.

1. The actual size of land occupied by the estate Vis - avis the area as per the lease documents.

2. Encroachment into community land, road, airstrip, sanctuary, trust land around Tasha Hill and railway reserves by the sisal estate and vice versa.
3. The long awaited access to land ownership and management by residents of Mwatate (Singila Majengo).
4. Presence of Government/Public/Private institutions within the sisal estate and public access to them.
5. Closure of public roads of access passing through the estate block.

After the re-survey exercise the following observations were evident:-

5.1 The actual size of land under reference

To confirm the accuracy of the field work and compute the resultant size of the land, a compilation of the survey was done in the normal manner to produce a survey plan and computations file. The results of the compiled work revealed that the block of land under reference comprises of the following 4 parcels with their acreages as follows:-

➤ LR NO 3880/5	16,875 acres
➤ LR NO 6924	10,010 acres
➤ LR NO 11378	3,344 acres
➤ LR NO 9487 (Dam)	55 acres

Total area as per the survey plans - 30,284 acres.

This tallied with the sizes indicated on the existing survey plans at Survey of Kenya records office (see combined survey plan Fig 4 below).

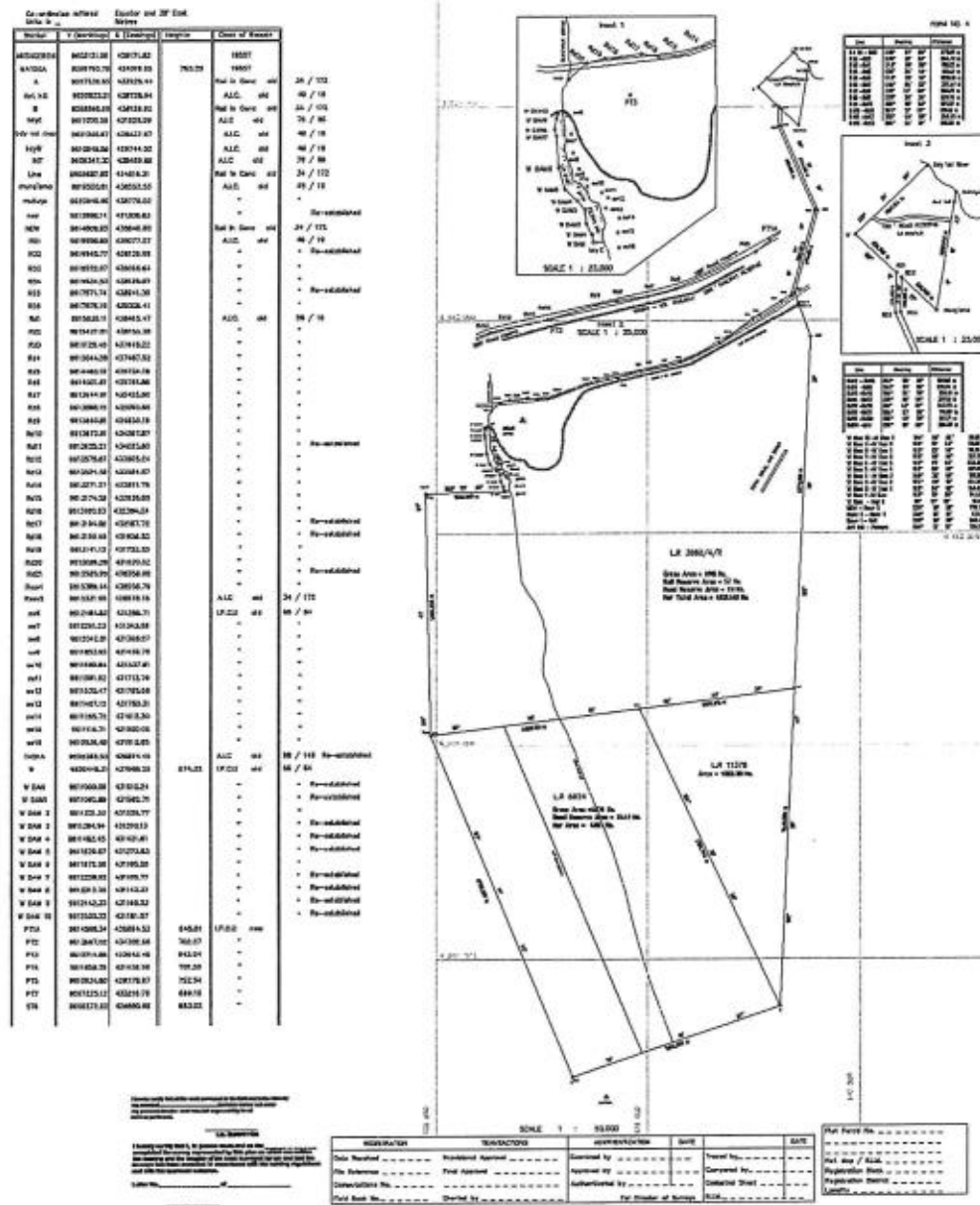


Figure 4: Showing the drawn survey plan of the Sisal Estate block of land after re-survey.

5.2 Encroachments/Settlements

Human settlement on part near Voi River and its corridor

During the adjudication process of the Modambogho adjudication section, a total of eighteen (18) individuals were found to be occupying the section of land next to Voi River being part of LR. NO. 3880/5. Those individuals were deleted from the adjudication register to avoid double registration. In addition, several individuals were found to be claiming ownership across the narrow corridor connecting from Voi-Mwatate road to the Voi River. Such claims were effectively revised respecting LR. NO. 3880/5 (see diagram below).



Figure 5: Showing part of the Sisal Estate land near Voi River and part of its access corridor.

Along the Voi – Taveta main road, there are settlements on LR No 3880/5 that lies between the sisal plantation and the existing road. This was noted to be the case all along from the start of LR. NO. 3880/5 till Mwatate town. The settlement was notably concentrated between the railway reserve and the road reserve near **Landi Trading Center** (Maili Kumi) (see diagram below).

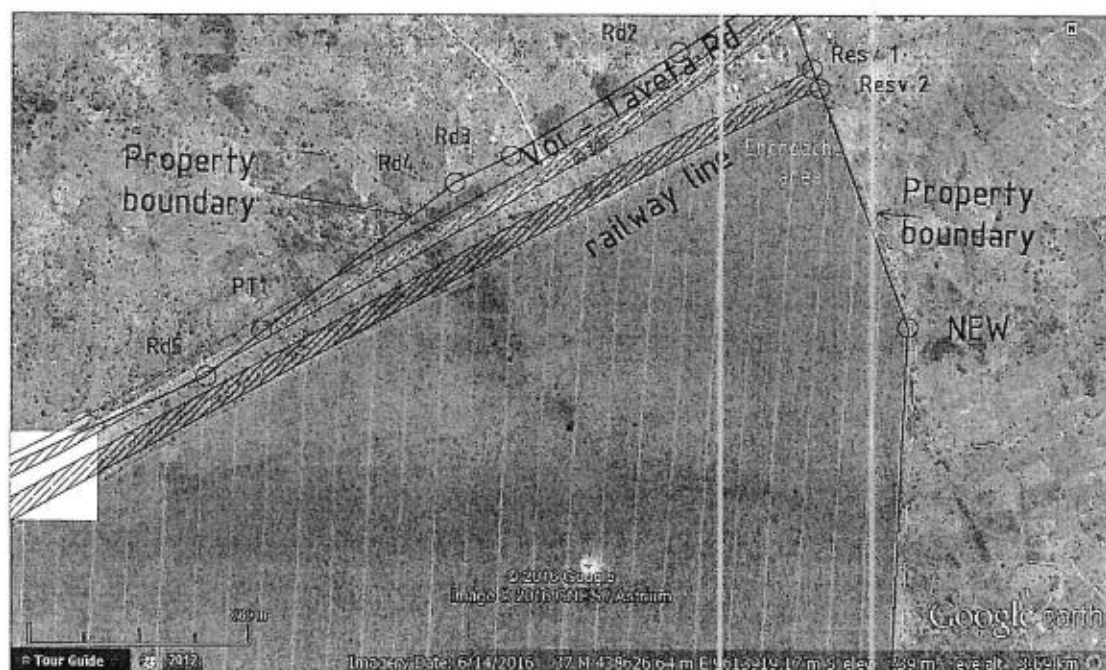


Figure 6: Showing settlements on the Sisal Estate land along Voi – Taveta road.

Along the Mwatate River, between the railway line and the water dam, cultivation by members of public is done beyond the boundary beacons of LR No 3880/5 on the western edge of the dam (see diagram below).

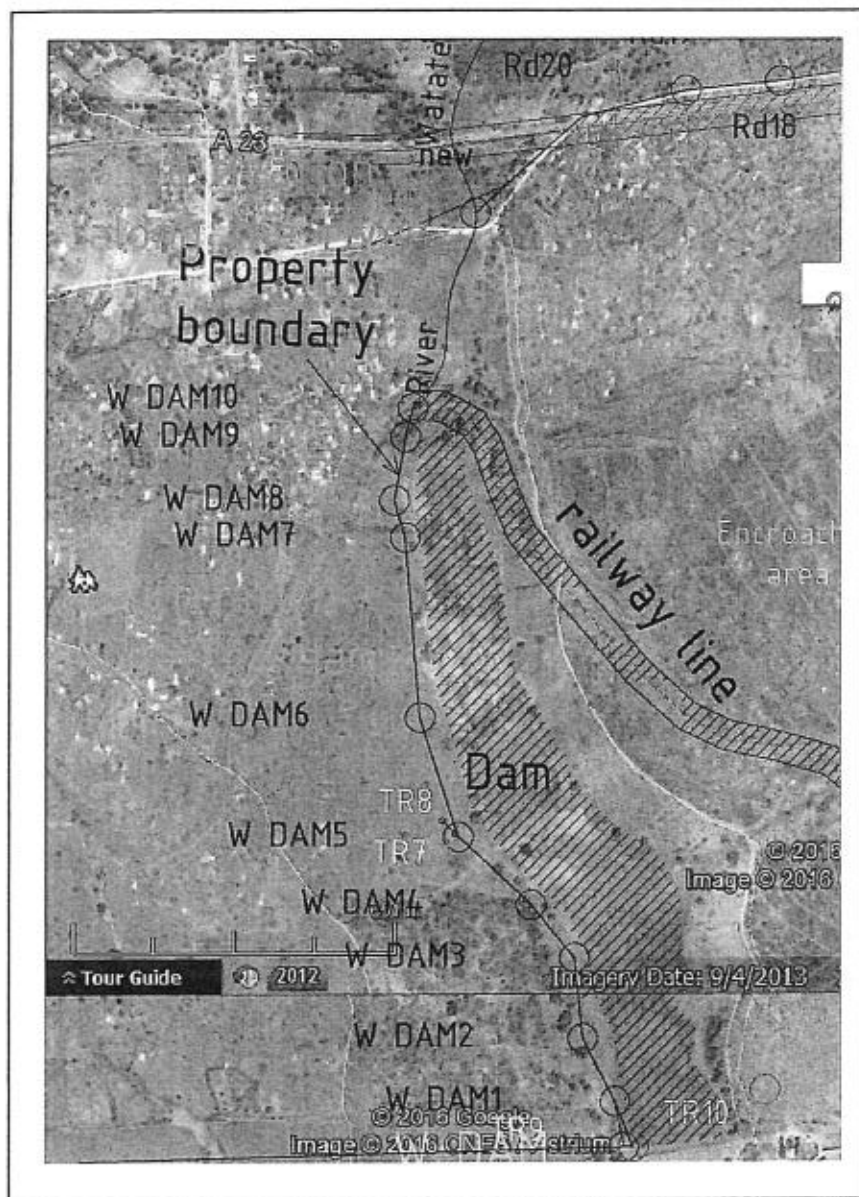


Figure 7: Shows cultivation sections along the river and dam, which are encroaching on LR No 3880/5 and LR No 9487 (shaded green).

There is a 100ft road reserve through LR NO 6924 as shown on the survey plan. This is encroached on by sisal plantation as shown on the diagram below on Goggle earth image. The road does not exist on ground but sisal plants are evident on the corridor of the road. The area of the road reserve is 63 acres as evident from the survey plan. This acreage has been deducted from the land LR No 6924. Unfortunately, this road has a dead end since there is no continuity of that road on LR NO 3880/5 which lies to the north of LR NO 6924. The net effect is that the road is of no value to the public and is not classified (see diagram below)

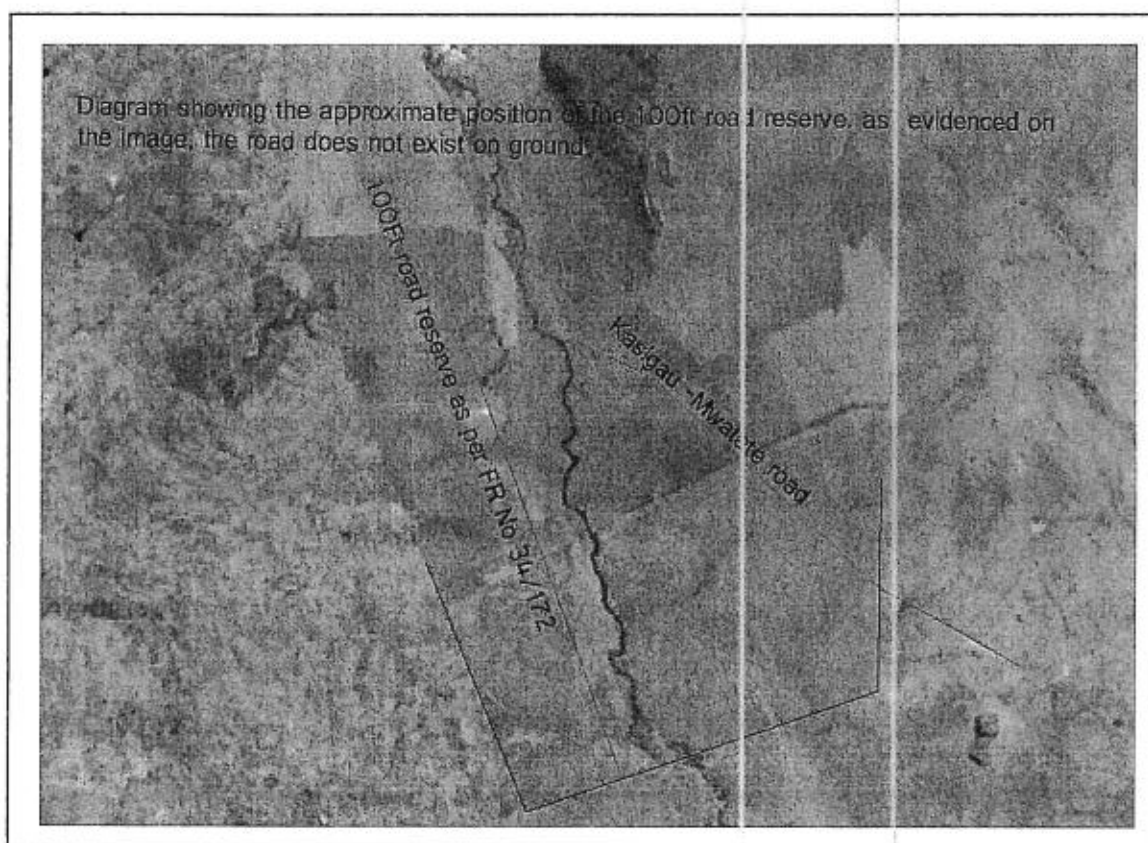


Figure 8: showing road reserve of 100ft. The road does not exist on the ground

Boundary beacon Tasha falls on the top of a hill. Part of the hill falls within LR No 3880/5 and part of it in Mwachabo settlement scheme. No encroachment was noted here.

5.3 Singila Majengo

The major human settlement was seen to the south of Voi-Taveta road, and east of the road leading to Mwandisha primary school (Singila Majengo). This has actually been the major bone of contention between the Mwasima Mbuwa Welfare Association and the Teita Sisal Estate management. Each group claims rightful ownership of this section. There was demand from the members of a community operating as Mwasima Mbuwa Welfare Association who claimed that Teita Sisal Estate had interfered with their peaceful stay in Mwatate – Singila Majengo. A report was presented by Mr. Weere on social cartography of this area. It depicted the fact that the people had settled in this area for many years and had quite a number of developments within. The report was not availed to be annexed in this report despite several appeals for the same. The team for Mwasima Mbuwa may avail it any time they are ready. Measurements however showed that the people have settled within LR. NO. 3880/5 which belongs to Teita Sisal Estate.

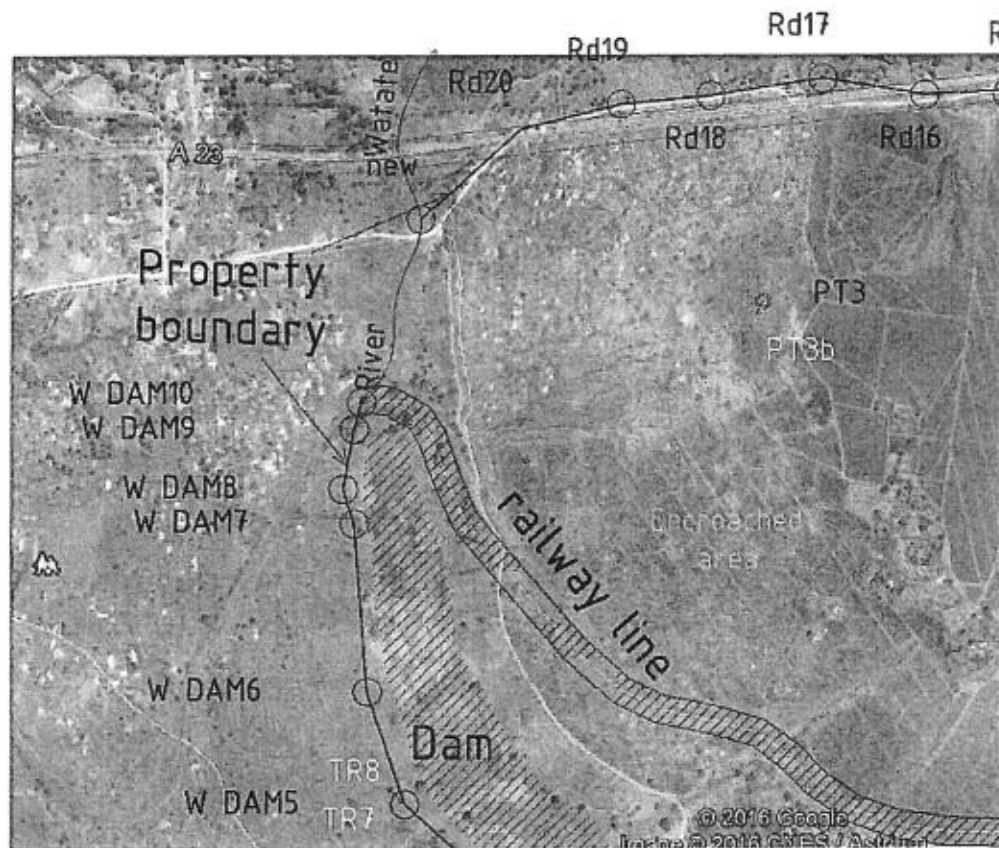


Figure 9: Showing human Settlement around Singila in light blue crosses

5.4 Utilities within LR No 3880/5.

The following utilities were noted within the boundaries of LR. NO. 3880/5.

- Railway station.
- Mwandisha primary school
- Maili Kumi Primary School
- Air strip

5.4.1 Railway Station

As per the survey plans, no land has been set aside for the railway station. It was therefore assumed that the railway station falls within the 200 feet railway line reserve. On request, the investigative team received communication in writing (**letter not availed**) from Kenya Railways (KR) that there is a station reservation of **4.8 acres** but they did not presented a Gazette Notice.

All other roads within the estate are unclassified roads but are also open for use to all except on **22nd of February** every year when the unclassified roads remain closed on notice. There are two manned barriers mounted on two of the unclassified roads (the Ministry in charge of roads to do further investigations).

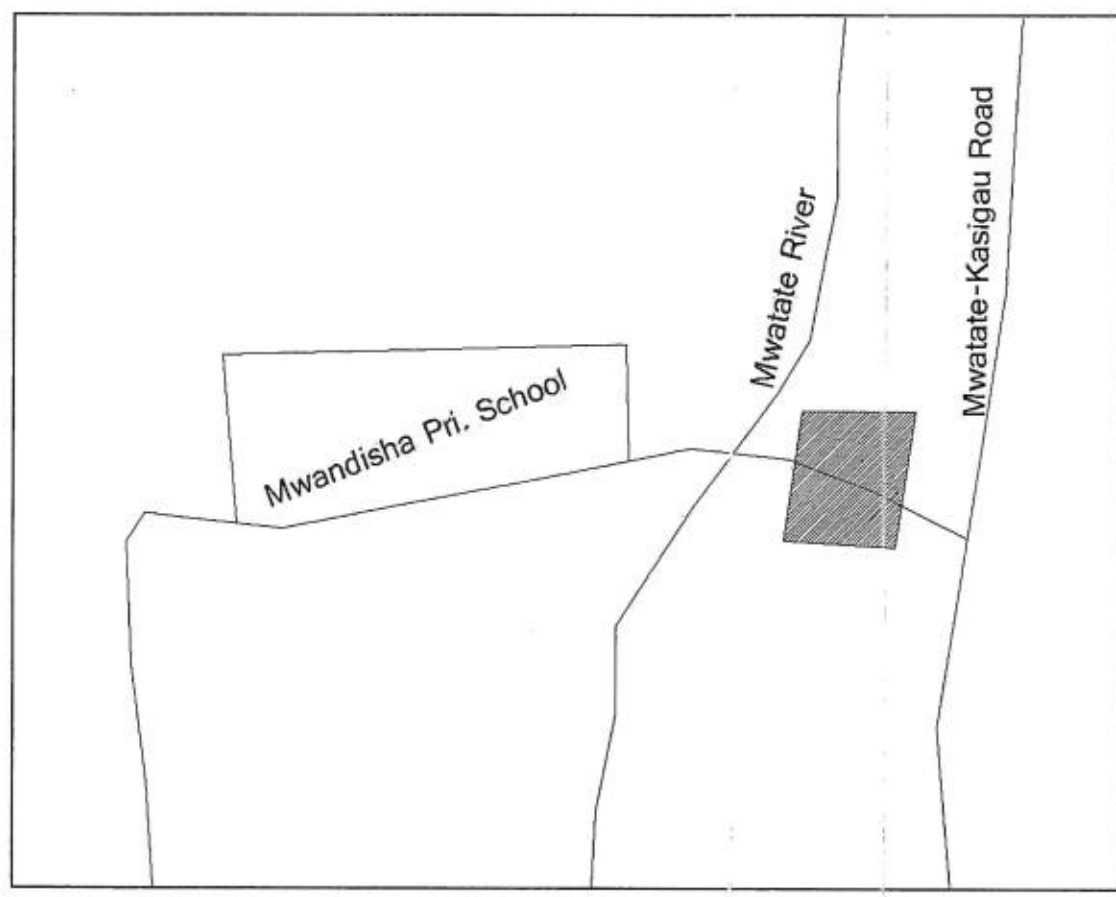


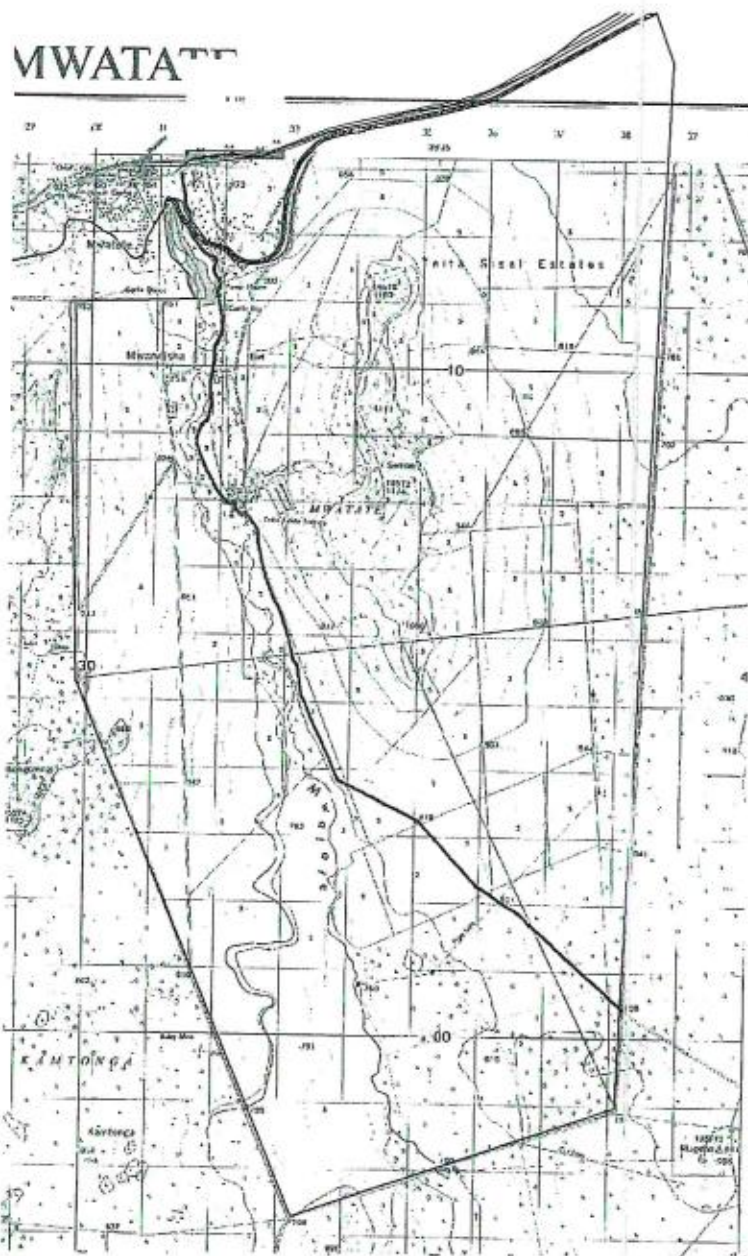
Figure 12: Shaded parts in the diagrams shows the location of road Barriers within the Teita Sisal Estate-shaded parts

The access road from the main gate of the sisal estate to the railway station (the station is not operational) is not depicted on the survey plan and therefore the access road forms part of LR No 3880/5. However, on the Topographical sheet for Mwatate (195/2) there is unclear classified road E68 (from main gate to the railway station) (Subject to confirmation from the Ministry responsible for roads). The road exists on ground but is not shown on the survey plan.

The total Length of the two roads assumed public within the Estate measure 17.8KM approximately. Assuming a road width of 40M, this translates to 175.9 acres (approx). The net effect of these classified roads if excised would be reducing the size of land under LR Nos 3880/5, 11378 and 6924 (see diagram below).



Figure 13: Showing the classified roads traversing through LR Nos 3880/5, 11378 and 6924 Shaded area shows the location of the Railway station



5.4.6 The Water Dam

As per the existing and re-established beacons of the survey plans, the entire water dam falls partly in LR Nos 3880/5, and 9487. The dam access is via the public Road Mwatate-Kasigau. The immediate inhabitants/communities have the Company's permission to abstract water from the dam for domestic purposes only, and for the watering of their livestock. There was noted a lot of siltation in the dam. This has been worsened by noted cultivation being done from the Bura Mwatate Adjudication section beyond their boundaries into LR. No. 9487 and to the banks of the dam.

6. CONCLUSION

From the ground survey done, computation results, all the surveyors representing various stake holders concluded the following:-

- ❖ That the total acreage of the four parcels of land under investigation (LR. NO. 3880/5 (3880/4/R), LR. NO. 11378, LR. NO. 6924 and LR. NO. 9487(Dam)) is 30,284 acres.
- ❖ That Teita sisal is operating within part of the four parcels under investigation. This is because the Estate is not utilizing part of LR. NO. 3880/5 that is to the north between Voi – Taveta road and Voi River. There is no encroachment by the Estate into neighbouring trust/private land found.
- ❖ That a boundary point named Tasha was effectively re-established on top of one of the hills and there was no encroachment by either the Sisal Estate or the neighbouring Mwachabo Settlement scheme noted around this hill. It was actually confirmed that the hill remained undisturbed hence forming a conservation area.
- ❖ That there are three classified roads which run through the four parcels of land. These are the Voi – Taveta, the Mwatate – Musau, and the Mwatate – Kasigau roads. They have all not been surveyed. The Mwatate – Kasigau road area has not been reduced from the total acreage of parcels affected. Their size totaled to **176 acres** Approx if a road width of 40m is assumed. These were found to be open for public use all the time.
- ❖ That the 100ft un-surveyed road reserve and whose area is deducted on LR NO 6924 leads nowhere and is nonexistent on the ground. All other roads within the four parcels except the three noted above are unclassified and hence private.
- ❖ That there is a manned barrier at the main entrance to the Estate on a road that may have been leading to the railway station. Another manned barrier was found along an unclassified road leading to Mwandisha Primary school.
- ❖ That the Voi – Taveta railway line runs through LR. NO. 3880/5, the reservation has been deducted from the gross area of the land. The Mwatate railway station (not operational) also falls within the boundaries of LR. NO. 3880/5. The management of Teita Sisal Estate confirmed that the railway line and station had a reservation (**Appendix 5**). This has not been surveyed hence not deducted from the gross area for the parcel. The Sisal estate and the community do cultivation along the reserve but no permanent developments were noted apart from the railway station buildings.
- ❖ That the sanctuary is a private venture by the Teita Sisal Estate and is within the four parcels under investigation and registered in their name. It is therefore not a public utility.

- ❖ That the settlement at Singila Majengo and other settlements mentioned under "findings" all fall within LR. NO. 3880/5 which belongs to Teita Sisal Estate. There was no encroachment whatsoever by the Sisal estate into community land noted.

7. RECOMMENDATIONS

Noting the presence of various utilities and human settlements within the legal boundaries of the Sisal Estate land and in the interest of peaceful co-existence between the Teita Sisal Estate and the community, the working group proposes adoption of the following recommendations.

1. Consider to lawfully excise part of the LR. NO. 3880/5 land already settled by the Community for the benefit of the community.
2. Complete the excision process of the land occupied by Mwandisha Primary school and its right of way and register it under the Ministry in charge of education.
3. The Ministry in charge of roads to survey and reserve all the classified roads that run through the estate land. Secondly the Ministry to consider the classification and subsequent survey of the private roads leading to Kamtonga and Manoa which traverse through the estate land. It was noted that these roads even though private are currently in undisrupted use by the public.
4. For posterity of the Dam, (to the benefit of the Community and the Sisal Estate) the local leadership and the Teita Sisal Estate should discourage and bar members of the public from farming in the area reserved for the dam.
5. The local leadership and the management of Teita Sisal Estate should carry out regular de-silting of the water dam. Cultivation along the Dam should be completely discouraged. This will be for the benefit of the Community and the Sisal Estate.
6. The Kenya Railway cooperation to excise the Mwatate railway station land and deduct its area from the gross area for LR. NO. 3880/5. The Sisal Estate security to continue safeguarding the defunct station buildings against vandalism until such a time when the station will be operational.
7. The Mwasima Mbuwa Welfare Association and the Mwatate community be informed of the outcome of the resurvey and to be cautioned to desist from any further encroachment into the sisal Estate land.
8. Consider the adjudication of the remainder of LR No 3880/3 (part to the south of the railway line) to the people resident therein. Other people may be settled on the vacant portions in this land.

I confirm that the above report was compiled and fully discussed and agreed upon by all the stake holders' technical representative named in the report.



Richard K. Amati
For Director of Surveys

APPROVED AND FORWARDED BY



Prof. Jacob T. Kaimenyi, PhD, FICD, EGH
CABINET SECRETARY

6/9/2017

APPENDIX I

*Approved by the
BATSNA
3/12/14*

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION - 2014

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS

ON

LAND ISSUES IN TAITA / TAVETA COUNTY

*Paper laid
by chair
Committee on
3/12/14
Batsna*

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

DECEMBER, 2014

8. APPENDICES

CONTENTS OF THE REPORT

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5. Findings and Concerns by the petitioners	4
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DEPARTMENTAL COMMITTEE ON LANDS

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

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

COMMITTEE MEMBERSHIP

The Committee comprises of the following Members:

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

ACKNOWLEDGEMENT

Mr. Speaker Sir,

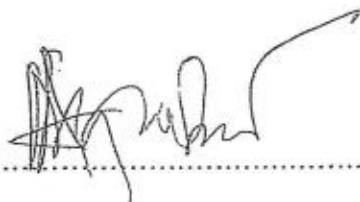
The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee and the staff, in the execution of its mandate.

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

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

Thank You,

SIGNED



CHAIRPERSON

(HON. ALEX M. MWIRU, MP)

DEPARTMENTAL COMMITTEE ON LANDS

DATE

2 / 12 / 2014

1.0 INTRODUCTION

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

2.0 FINDINGS AND CONCERNS BY PETITIONERS

2.1 Meeting with the Governor of Teita Taveta

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

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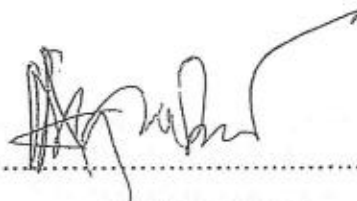
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10. In Mwatate there are three antagonistic parties involved in the tassel for Teita Sisal Estate.
11. Squatters and Mwasima Mbuva group don't agree on the boundary of the Community land and the Estate since it is believed that Mwasima Mbuva group comprises of members of the elitist class within the County and they don't reside in the area whereas squatters live mainly in Singila Majengo area.

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

2.2 Meeting with the Deputy County Commissioner for Taveta

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

2.3 Meeting with Petitioners

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

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

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

2.3.2 They intended to notify Parliament as follows; that:

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

2.3.3 The following were highlighted, THAT:

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

2.3.4 Therefore, they are requesting Parliament to:

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

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

2.4 Meeting with Members of Mwasima Mbuwa

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

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

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

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

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

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

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

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

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

2.5 Meeting With Elders In Mwatate

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

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

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

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

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

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

The Committee was informed that:-

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

3.0 OBSERVATIONS

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

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

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

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

4.0 RECOMMENDATIONS

The Committee recommends as follows, THAT;

A. GENERAL RECOMMENDATIONS

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

B. IN TEITA SISAL ESTATE

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

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

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

C. IN MWATATE

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

D. IN TAVETA

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

ATTENDANCE LIST

DEPARTMENTAL COMMITTEE ON LANDS

DATE:

11/11/14

VENUE: Protection House, 4th floor

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

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

APPENDIX 2



THE KENYA GAZETTE

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(Legislative Supplement No. 7)

LEGAL NOTICE No. 16

THE LAND CONTROL ACT

(Cap. 302)

EXEMPTION

IN EXERCISE of the powers conferred by section 24 of the Land Control Act, I, Jomo Kenyatta, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, hereby exempt the controlled transaction details of which are set out in the Schedule hereto from all the provisions of the Act.

SCHEDULE

Parties	Description of Land
Proposed sale by T & T Simal Company Limited to Teita Estate (1972) Limited, and proposed charge by Teita Estate (1972) Limited to East African Acceptance Limited.	L.R. Nos. 3880/5, 6924, 94876 and 11378 comprising 16,875 acres (6,829 hectares), 10,010 acres (4,051 hectares), 55 acres (22.25 hectares) and 3,344 acres (1,353.28 hectares), respectively of leasehold land situate in the Taita/Taveta District, Coast Province.

Dated this 30th day of January, 1973.

JOMO KENYATTA,
President.

LEGAL NOTICE No. 17

THE REGULATION OF WAGES AND CONDITIONS OF EMPLOYMENT ACT

(Cap. 229)

IN EXERCISE of the powers conferred by section 2 of the Regulation of Wages and Conditions of Employment Act, the Minister for Labour, having received wages regulation proposals, hereby makes the following Order:—

THE REGULATION OF WAGES (MOTOR ENGINEERING TRADES) ORDER, 1973

1. This Order may be cited as the Regulation of Wages (Motor Engineering Trades) Order, 1973, and shall come into effect on 1st February, 1973. Citation.

APPENDIX 3

COUNTY GOVERNMENT OF TAITA TAVETA

DEPUTY GOVERNOR/C.E.C.M. – LANDS & MINING

OFFICE OF THE COUNTY CHIEF OFFICER – LANDS AND MINING

Telephone: 0727996551/0722230036

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P.O. Box 1066-80304

WUNDANYI



MINUTES OF THE STAKEHOLDER MEETING ON THE IMPENDING SURVEY EXERCISE TO ASCERTAIN/CONFIRM ACREAGE OCCUPIED BY TAITA SISAL ESTATE UNDER SISAL VIS A VIS ACREAGE REFLECTED IN THEIR LEASE TITLES HELD AT THE GOVERNORS BOARDROOM ON MONDAY 27TH JUNE 2016 FROM 10AM.

PRESENT:

- See attendance list attached

AGENDA:

1. Opening prayer
2. Round of self introductions
3. Welcoming speech by H.E. the Deputy Governor/C.E.C.M. – Lands and Mining
4. De-briefing on the exercise by the team leader of the Survey team from Nairobi
5. Plenary discussion
6. Way forward on the Survey

MINUTE 1/27/6/2016: Opening Prayer:

The Sub County Administrator – Mwatate Ms. Margaret Riga graciously offered to open the session with a word of prayer.

MINUTE 2/27/6/2016: Round of self introductions:

The County Chief Officer – Lands and Mining set the environment by pointing out that the advance team from the Director of Surveys office was now with us and this particular session was called to specifically inform all stakeholders on how the exercise will be conducted. He then invited all present to the meeting and allowed a round of self introductions and asked that they all ensure they sign into the attendance sheet to confirm identity and clarify stakeholder interest. Before inviting H.E. the Deputy Governor/C.E.C.M. – Lands and Mining to make opening remarks, the C.C.O. – Lands told the meeting that this was a follow-up to the meeting held in the Governors boardroom immediately after the Singit stakeholders meeting. He alluded to resolutions made then including involvement by all stakeholders to the extent that they will own the exercise while allowing professionals to undertake the technical work.

He also said it was advisable for stakeholders to choose representatives with a technical background in survey to make sense of the work to be conducted and appraise them appropriately.

MINUTE 3/27/6/2016: Welcoming speech by H.E. the Deputy Governor/C.E.C.M. – Lands and Mining:

H.E. the Deputy Governor/C.E.C.M. – Lands and Mining welcomed all to the meeting, thanking them for the prompt response despite the short notice. She said the impending survey has been anxiously awaited by all stakeholders, and had come at an opportune time. He alluded to the stakeholders meeting held at Singita Chiefs Camp where the community was informed of the coming of the Director of Surveys team and subsequent queries on the exercise. Her Excellency then welcomed the team leader and the Director of Surveys team to give a brief on the impending exercise.

MINUTE 4/27/6/2016: De-briefing on the exercise by the team leader of the Survey team from Nairobi.

Mr. Richard Amati representing the Director of Surveys appreciated the turnout of stakeholders represented, and informed the meeting that he was in an advance party of the Director of Surveys team assigned the task of establishing the acreage of land held by Taita Sisal Estates as advised by the National Assembly. He reiterated that the Director of Surveys as a Government institution was best suited to objectively undertake the highly technical exercise and they had the requisite capacity. The exercise was planned to take approximately 14 days and would be undertaken by four teams of eight persons each who were finalizing arrangements to travel to Taita. The exercise has secondary data research (maps, plans, survey compilations and notes) and lots of field work to gather primary data using satellite technology and physical picking with GPS. It would start with identifying controls from where they would collate data and finally analyze and calculate measurements and make conclusions. The team would prepare a technical report and speak to the issues raised in the National Assembly request. The final report thus prepared will be a public document. Mr. Amati advised that the observers from the stakeholders be preferably experts with survey bias.

MINUTE 5/27/6/2016: Plenary Discussion:

Mr. Obel (Licensed Surveyor contracted by Wasirua Mbuwa Welfare Association) agreed in principle to the mode of operation summarized especially being a surveyor and in the knowledge of what the exercise would entail. He alluded to secondary data in the form of maps prepared in the colonial era (1920's) to be referred to as we update maps to establish boundaries. He suggested that they may need for two reports from the exercise – a technical report to the Director of Surveys to the National

Assembly and a more general report – both in a bid to answer the queries made by the National Assembly. Mr. Nduku's (Investigator contracted by Wasima Mbuwa) opinion was that the exercise was informed by a National Assembly order and therefore the report should be submitted back to the National Assembly. The team leader Mr. Amati reiterated that the more technical instruction from the Director of Surveys was to reestablish the boundaries of parcels held by Teita Sisal Estates and this would answer most of the queries raised by the National Assembly – and that this would be a public document. The Legal Officer (CGTT) Mr. Mwabili quoted a famous slogan that 'survey haidanganyi' and all reports of the National Assembly are available on the Hansard website. The important aspect would be to ensure all stakeholders have ample representation and accept the expert advice and results out of this exercise.

The stakeholders discussed the issue of representation at length. Mr. Obel the Licensed Surveyor opined the exercise would take long and involved treacherous routes, that he would personally choose to be exempted – but may be represented by others. The County Surveyor Mr. Wambua was concerned at having crowds following the survey teams, and the futility of this as the teams would not be moving together or in a predetermined direction. The Advisor to the Governor Mr. Kimonge also wondered what value spectators will add to the technical exercise and C.E.C.M. – Water Mr. Masamo asked for sobriety where the Director of Survey team must be trusted and being competent and objective were best placed to carry out the same in good faith. The Member of the County Assembly representing Mwatate Ward – Hon. Mwarabu was of a different opinion and requested that the Mwatate ward community be allowed to participate. He explained that having ascribed funds from the Ward Development Fund for this exercise, and being a representative of the people of Mwatate Ward – it was ominous that they also have representation. This was supported by the Deputy Governor/C.E.C.M. – Lands and Mining – borrowing from her vast experience in Community Affairs and as a requirement of the Constitution of Kenya 2010. The C.E.C.M. – Trade and Community Affairs also added her support for community representation, to satisfy inclusivity and curiosity – especially as it did no harm if they choose to participate. The consensus reached was that all identified stakeholders may present one or two representatives, who given the technicality of the exercise will choose to follow along throughout the exercise or not. The main reason would be participation and involvement of the community as important stakeholders. It was preferred that they seek persons with survey or related background. Teita Sisal Estate representative observed that the notice to this meeting and impending exercise was too short to summon their surveyor but they intend to have representation. The County Government would be represented by the County Surveyor and Wasima Mbuwa by the contracted professionals present. The community would communicate the two preferred representatives.

MINUTE 6/27/6/2016: Way forward on the survey:

- The technical personnel present would meet immediately after this meeting to discuss the "modus operandi" and other technical detail although TEC and the Community were not represented. Their preferred representatives will be apprised of the agreed format as soon as they join the team.
- Meanwhile the 4 teams from the Director of Surveys were expected tomorrow Tuesday 28th and will begin their work immediately after a briefing.
- The team leader would require to make a courtesy call on the County Commissioner tomorrow Tuesday 28th June 2016 to brief her on the impending exercise.
- The meeting adjourned at 11.47 am, with a word of prayer by Mr. Mwamondo.

SIGNED: _____

DEPUTY GOVERNOR C.M. - LANDS AND MINING

CHAIRPERSON

COUNTY CHIEF OFFICER - LANDS AND MINING

SECRETARY

COUNTY GOVERNMENT OF TAITA IAVEETA



MEETING ON SURVEYING EXERCISE AT MAJENGO-SINGILA IN MWATATE SUB-COUNTY

AT THE GOVERNOR'S OFFICE BOARDROOM ON 27TH JUNE 2016

ATTENDANCE LIST

	NAME	DESIGNATION	TEL. NO.	EMAIL	SIGN
1	H.E. MARY N. KIBUKA	DEPUTY GOVERNOR	0728291474	mary.kibuka@taita.go.ke	M. Kibuka
2	RUTHAID AMUTTI	BARRISTER	0722 286200	rumut@outlook.com	Ruthaid
3	MWATATA MWAIGI B1	CHIEF	0722 236136	mwaigib1@gmail.com	Mwaigib1
4	VINCENT MURRAY	CHIEF - TANDU	0722 722809	vincentmurray@gmail.com	Vincent
5	GILFORD MUKUGA	CHIEF - HEILIN	0722 617608	gilfordmukuga@gmail.com	Gilford
6	HEN. A. K. MWATATA	MCA - MWAIGI	0735 459725	mwatataa@gmail.com	H. A. K. Mwaigib1
7	FRANCIS MWAIGI	ASST. CHIEF	0712 554648	francis.mwaigib1@gmail.com	Francis
8	ELIJAH MWAIGI	CHIEF - MWAIGI	0722 205574	elijahmwaigib1@gmail.com	Elijah
9	GEORGE MWAIGI	MWAIGI	0722 694545	georgemwaigib1@gmail.com	George
10	MWATATA MWAIGI	MWAIGI	0727 666200	mwaigib1@gmail.com	Mwaigib1
11	MWATATA MWAIGI	MWAIGI	0723 517400	mwaigib1@gmail.com	Mwaigib1



MEETING ON SURVEYING EXERCISE AT MAJENGO-SINGILA IN MWATATE SUB-COUNTY

AT THE GOVERNOR'S OFFICE BOARDROOM ON 27TH JUNE 2016


ATTENDANCE LIST

NAME	DESIGNATION	TEL. NO.	EMAIL	SIGN
12. MARGARET RUTHA	SUB-COUNTY ADMINISTRATOR	0720922018	margaretrutha@gmail.com	
13. ANTHONY LEO SINDIGA	SURVEYOR	0721268994	leo.sindiga@gmail.com	
14. Simon M. Juma	COUNTY SURVEYOR	0727276486	simonsurveyor@gmail.com	
15. Agnes Juma	PROPOSED INVESTIGATOR	0725789905	agnesjuma@gmail.com	
16. HUMAN NDIKI	Licensed Surveyor	0711819774	humanndiki@gmail.com	
17. JOHN OBEL	SPICE SERVICE TECHNICIAN	0725915780	johnobel@gmail.com	
18. Washington Were	Principal Affairs	0723383155	washtn@kenya.com	
19. Geoffrey Kimbunge	CECM-CAT	0722780685	kimbungege@gmail.com	
20. PHILIP MUTHIA	CECM-CAT	07430300	philipmuthia@gmail.com	
21. Stephen Muthia	CECM-CAT	0721283855	stephenmuthia@gmail.com	
22. Emmanuel Numbo	Technical Officer	0723571100	emmanuelumbo@gmail.com	



AT THE GOVERNOR'S OFFICE BOARDROOM ON 27TH JUNE 2016

ATTENDANCE LIST

NAME	DESIGNATION	TTL NO.	EMAIL	SIGN
203 Michael Waruenga	Deputy Estate P.M.	0775533075	telemontale@gmail.com	

APPENDIX 7

REPUBLIC OF KENYA



MINISTRY OF TRANSPORT AND COMMUNICATIONS

Directorate Of Civil Aviation

THE CIVIL AIR NAVIGATION REGULATION, 1979 (As Amended)

Reference 2454/155

DCA FORM 107-C

To: TEITA ESTATE LTD.,
P.O. BOX 18488,
NAIROBI.

Thro:

AERODROME CLEARANCE CERTIFICATE

Name of Aerodrome TEITA ESTATE
Location (Coordinates) 03° 33'S 39° 30'E
District WUNDANYI Province COAST

Clearance has been granted for the aerodrome to be used for take off and landing subject to the compliance with the requirements of Air Navigation Regulations 1979 (as amended); and compliance with Annex 14 of the International Civil Aviation Organization.

Dated this 26TH day of JANUARY 1993



[Signature]



DIRECTOR OF CIVIL AVIATION

APPENDICES 5 & 6

TEITA ESTATE LIMITED

Estate Division

23rd November 2016

P.O. Box 36 - 80305
Mwatate
Kenya



Tel: 0773 864505
Email: teitamwatate@gmail.com
estate@teitaestate.co.ke

The Director of Surveys,
Ministry of Lands & Physical Planning,
Survey of Kenya,
P. O. Box 30046-00100,
NAIROBI.

Dear Sir,

RE : Teita Sisal Estate Parliamentary Directives Report

This refers to your letter dated 11th November 2016. The Company (Teita Estate Limited) responds as follows :-

1. Mwandisha Primary School was built by the Company in the late 60's or early 70's. It is owned by the Company, including the staff/labour housing and the land where the school is located. The Company merely allows the Government to run it as a public school, so as to serve the community, most of which are the Company's employees children, by posting teachers from The Teacher's Service Commission.
2. The Airstrip is owned by the Company and it's access and use is restricted to airplanes on Company business or with the Company's express prior permission to land.
3. The Water Dam is owned by the Company through L.R. Nos. 9487 and 3880/5. It's access is via the public Road Mwatate-Kasigau . The immediate inhabitants/communities have the Company's permission to abstract water from the dam for domestic purposes only , and for the watering of their livestock.
4. With regard to the Railway. It runs through the Company's land and has been reserved by Kenya Railways for that purpose.
5. There is only one (1) public road that passes through the Company's land, which is the Mwatate-Kasigau Road. All the other roads are PRIVATE and the Company allows people to use certain roads to reach Kamtonga and Mwachabo for example.
6. There are no road blocks on public roads as asserted by Mwasima Mbuwa Welfare Association. The Company only puts security check points on it's PRIVATE roads.

Yours Faithfully,
For Teita Estate Limited


Louise Collette
Farm Administrator

CC : Mr. Philip Kyriazi, Managing Director, Teita Estate Limited, Nairobi.
Mr. W. Hime, Licensed Surveyor, Nairobi.
Desmond Odhiambo, Daly & Inamdar Advocates, P. O. Box 40034, 00100, Nairobi.

APPENDIX 8

MINUTES OF MEETING FOR REPORT WRITING OF TEITA SISAL ESTATE HELD AT ARDHI HOUSE NAIROBI ON 27TH JULY 2016

Members present

- | | | | |
|----------------------|---|-----------------------------|------------------------|
| 1. Richard K. Amati | - | D of Surveys' office -Chair | - rkamaty@yahoo.com |
| 2. Mr. Wallis Hime | - | Lic. Surveyor, Teita Sisal | - winniehime@yahoo.com |
| 3. Antony Leo Mayugu | - | Surveyor, Mwasima | - leomayugu@gmail.com |
| 4. Thomas Nduku | - | Investigator, Mwasima | - twonduku@yahoo.com |
| 5. Sammy W. Juma | - | Surveyor, Taita Taveta | - jumasammy4@gmail.com |

Absent with apology

- | | | | |
|-----------------|---|------------------------|--|
| 1. John D. Obel | - | Lic. Surveyor, Mwasima | - jdobel@gmail.com |
|-----------------|---|------------------------|--|

Agenda.

1. Receive draft reports for Teita Sisal Estate
2. Discuss the draft reports and chart way forward
3. A.O.B

MIN 1/SE/2016-OPENING REMARKS

The Chairman called the meeting to order at 10:25 AM. He registered the apology of Mr. John D. Obel who could not make it to the meeting. He however noted that he had sent his representative Mr. Leo Mayugu to represent him. The chair noted that the main agenda was to discuss the draft reports as prepared

MIN 2/SE/ 2016- PRESENTATION OF DRAFT REPORTS

The chair then invited the members present to present their draft reports. Mr. Hime produced his written report which was circulated to members present. Members present concurred with the findings on his report. His report was technically precise and therefore it was not subjected to further discussion.

Mr. Antony Mayugu noted that their team's report would be presented by Mr. Nduku who had not yet arrived at the meeting. He was however being expected to arrive for the meeting any time. Mr. Nduku arrived soon after but had no report to present.

The Chair informed members that he had prepared a detailed report which could be presented for discussion. The report was presented in form of screen display presentation.

MIN 3/SE 2016-DISCUSSION OF DRAFT REPORT

The Chair introduced the discussion by bringing to the notice of members that the compilation of the final survey plans for authentication by the Director of Surveys was not complete but was at an advanced stage. A drawing was presented showing all the four Teita sisal Estate parcels combined to form one block.

The draft report had highlighted the following issues which had been raised in the parliamentary report.

- I. Encroachments
- II. Roads of access
- III. Public utilities
- IV. The acreage of land

However, on discussing the report, the following matters arose

1. Utilities:-

It was agreed that it was necessary to confirm with the relevant Government authorities as to whether the following utilities within the sisal estate were public or private

- The Railway station
- Mwandisha Primary school
- The air strip.

Mr. Nduku Confirmed that he had written to the relevant Government institutions regarding the above and that he would be receiving the feed backs by 28th July 2016.

2. The roads:

Particular emphasis was laid on the status of classified roads which traversed the sisal estate. It was pointed out that there was need to establish the status of such roads from the Ministry responsible for roads. Mr. Nduku confirmed that he had written to the Roads authorities for confirmation of the same. It was also found necessary to show the location of the road by digitizing the road as it appeared on the Topo Sheet.

3. The Dam:-

Members felt that the creation of LR NO 9487 (partly dam) was an afterthought after the construction of the water dam. It was the thinking of members that the Sisal estate had probably applied for additional land so that the entire dam would fully fall under the Sisal Estate. However, Mr. Nduku confirmed that he had done a search at the Land registry and found that the land was indeed registered under the Sisal Estate. He noted that the following conditions were imposed on the lease document which the proprietor had not complied with and which required remedy.

- a) The proprietor of the land would fence the dam.
- b) The public would not be denied access to the water.
- c) The land would not be used for any other purposes including being used as collateral in bank.

Members noted that complying with condition (a) would have a negative impact on the rights contemplated in condition (b). Nduku noted that condition (c) was flouted since the land was charged against a loan of Kshs 65million.

4. Encroachments. –

A drawing showing the location of various encroachment as depicted on Goggle earth image under-laid to the survey plans was shown to members. For more clarity, Mr. Juma was mandated by the members to re-visit the ground and pick the external boundary defining the encroachment around Singila and present the report by 1st August 2016

Minutes of meeting between Director of Surveys office and Licensed Surveyors for Teita Sisal Estate and Taita Taveta Community held at Ardhi house Nairobi on 23rd September 2016

Members present

- | | |
|---------------------------|--|
| 1. Mr. Richard Amati | - Director of Surveys Office, Chairing |
| 2. Mr. Sammy Wambua | - Government Surveyor, Taita Taveta |
| 3. Mr. Paul Ndungu | - Director of Surveys office - Secretary |
| 4. Washington B. S. Weere | - Mwasima Mbuwa |
| 5. Thomas Nduku | - Mwasima Mbuwa |
| 6. John D. Obel | - Mwasima Mbuwa |

Absent with apology

- | | |
|-------------|----------------------|
| 1. Mr. Hime | -Teita Sisal Estates |
|-------------|----------------------|

The meeting started with a word of prayer from Mr. Ndungu at 10.45 am.

It was noted that the Chairman had been away and unwell after being involved in a road accident. Members of the committee were grateful that he was now healed and able to attend to duties.

Agenda

1. Reading and confirming of previous minutes
2. Matters arising
3. Way forward

MIN 06/SE 2016-READING AND CONFIRMING OF PREVIOUS MINUTES

The minutes were read and the following points were made note of;

- That in minute 2 the report from Mr. Hime was noted for further consideration.
- The report that the Chair had presented was not in power point but in 'word'.
- The subheading in minute should have been written 'Settlements' and that were as depicted on satellite image.

MIN 07/SE 2016-MATTERS ARISING

- Mr. Juma reported that he had picked the settlement, the road and the dam as had been tasked. These pickings will be depicted on the report. The railway station had not been picked as the extent of the land Kenya Railway Corporation (KRC) owned was not known. Mr. Juma was mandate by the committee to go and pick the station as it exists.

MIN4/SE/2016-AOB

1. The historical report on sisal estate-

Mr. Nduku confirmed that he was preparing a comprehensive report on his finding as an investigator and wanted it to form part of the report. The Chair concurred with him and noted that the team had deliberately widened its scope to cover issues outside the survey profession. He was requested to ensure that the report is circulated to all members by 2nd August 2016 Via E-Mail address. Members would then decide on how to present the two reports.

2. Settlement of people encroaching on Sisal Land:

Mr Nduku made a passionate appeal to the Sisal Estate through the Estate surveyor to consider hiving out any land owned by the Sisal Estate but physically occupied by Wananchi. This he said would foster a harmonious relationship between the Sisal Estate and the Public.

5. MIN5/SE/2016:-WAY FORWARD

After discussing the draft report, it was resolved that the draft report be circulated to all members for their input. Suggestion on improvement of the draft report should be circulated to all members by 1st August 2016. The next meeting would be organized soon after the members have given their input

There being no other business, the meeting adjourned at 12:55 pm after having a cup of tea.



Chairman..... Date: **23rd September 2016**

Confirmed



Secretary.....Date: **27th July 2016.**

- Survey compilation was completed and towards the end of the meeting the committee was presented with the survey maps.
- It was noted that the survey data had not yet been circulated to the licensed surveyors, Mr. Obel and Hime.
- The committee was presented with a draft format for the report by a member. The rest will study it and recommend any adjustment. It is expected that we shall get an improved version after marrying it with a previous one which the chair had presented.
- Mr. Hime forwarded copies of the title documents for the four parcels of land Teita Sisal owns to all members. Hard copies were given to all the groups represented in the meeting.

Action: Sammy Juma, All members

MIN 08/SE 2016-WAY FORWARD

- i. The field data observed and the survey drawing in AutoCad format will be sent to the licensed surveyors for scrutiny/re-computation and rectification or concurrence. A report on their findings to be given in the next meeting or be sent to the Director of Surveys' representative for consideration if completed before the next scheduled meeting.
- ii. The legal and investigative team was tasked to draft letters to Kenya Railways Corporation (KRC), Kenya Airports Authority (KAA), Ministry of Education, Ministry of Water and Irrigation, Ministry of in charge of roads and any other organization from which he may need information to enable him complete his investigations on utilities within Teita Sisal Estate. The letters will also seek for information on the acreages of the utilities. The drafts will be given to the Chairman for adoption and be sent to the recipients officially from the Director of Surveys platform. The Central Bureau of Statistics will be asked to give statistical data showing the population trend within the settled areas.
- iii. Once the report is completed it will be forwarded to Parliament in response to the Directives that were given to Director of Surveys through the Cabinet Secretary.

Action: Thomas Nduku, Max Njuguna, Sammy Juma, Surveyor J. D. Obel, Surveyor Hime

MIN 09/SE 2016-A.O.B

It was reported that despite Teita Sisal Estate (TSE) having been asked to maintain status quo until report was finalized, the estate has continued to arrest people and impound livestock that enter into the land for watering purposes. Committee recommended that Mr. Hime be written a letter to tell TSE to stop the arrests. The legal and investigative team

was tasked to give details on the violated status to the Director of Surveys to facilitate the communication with Hime.

Action: Thomas Nduku, R. Amati

The next meeting will be held on Friday 30th September 2016 at Ardhi House, Nairobi.



Chairman.....Date: **30th September 2016**

Confirmed



Secretary.....Date: **23rd September 2016**

**MINUTES OF MEETING FOR REPORT WRITING OF TEITA SISAL ESTATE HELD
AT ARDHI HOUSE NAIROBI ON 30TH SEPTEMBER 2016**

Members present

- | | | |
|-----------------------------|---|--|
| 1. Mr. Richard K. Amati | - | Director of Surveys office, Chair |
| 2. Mr. John D. Obel | - | Lic. Surveyor, Mwasima Mbuwa |
| 3. Mr. Thomas Nduku | - | Investigator, Mwasima Mbuwa |
| 4. Mr. Washington B.S Weere | - | GIS Expert, Mwasima Mbuwa |
| 5. Mr. Sammy W. Juma | - | County Surveyor, Taita Taveta |
| 6. Mr. Max Njuguna | - | Director of Surveys office, Taking Minutes |

Absent with apology

- | | | |
|--------------------|---|-----------------------------------|
| 1. Mr. Wallis Hime | - | Lic. Surveyor, Teita Sisal Estate |
|--------------------|---|-----------------------------------|

Agenda.

1. Reading and confirmation of previous minutes
2. Matters arising
3. Way forward

MIN 10/SE/2016-READING AND CONFIRMATION OF PREVIOUS MINUTES

The Chairman called the meeting to order at 12:35 PM. The chairman welcomed all the members present. The secretary read through the previous minutes and the following correction were made

1. The second line of Min 06/SE/2016 was deleted.
2. The word 'encroachments' in the minutes should be replaced with the word 'settlements'.
3. Names in the minutes should be replaced with offices (Titles).

MIN 11/SE/ 2016- MATTERS ARISING

- The representative for Mwasima Mbuwa noted that the survey data and computations had not yet been circulated to them. To avoid further delay on this matter, the Chair gave out the data during the meeting. The chair informed members that he would scan the field notes and circulate them.
- The office of the County Surveyor Taita Taveta informed members that the location of the railway station as it existed on ground had been picked. The investigative team of the Committee informed members that the Kenya Railways had confirmed in writing that the Railway station measures 4.8 acres. Members requested the investigative team to follow-up with Kenya Railways and provide further details as regards the station; notably the LR NO of the land.

Action: Mr. Nduku

- It was observed that information from relevant offices as regards to utilities within the Estate was now being received by the investigative team.
- The office of the Director was requested to finalize the compilation of the improved fashion of the report and circulate it.

Action: Mr. Amati

MIN 12/SE/2016- WAY FORWARD

- Members tasked the investigative arm of the committee to finalize and circulate the report on their investigative work in comparison to what the Teita Sisal Estate had presented to parliament by 14th October 2016.

Action: Mr. Nduku

- The investigative arm of the committee was tasked to provide details of violations by Teita Sisal Estate to the community by 7th October 2016.

Action: Mr Nduku

- The Director of Surveys should be updated continuously on the progress being made

Action: Mr. Amati

MIN 13/SE/2016-AOB

There being no other business, the next meeting was scheduled to be held on 14th October 2016.



Chairman.....Date: 14th October 2016

Confirmed



Secretary.....Date: 30th September 2016

**MINUTES OF MEETING BETWEEN DIRECTOR OF SURVEYS OFFICE AND
LICENSED SURVEYORS FOR TEITA SISAL ESTATE AND TAITA TAVETA
COMMUNITY HELD IN ARDHI HOUSE NAIROBI ON 14TH OCTOBER 2016**

Members present

- | | |
|-------------------------|---|
| 1. Mr. Richard Amati | - Director of Surveys Office, Chairing |
| 2. Mr. Max Njuguna | - Director of Surveys office, Secretary |
| 3. Mr. Thomas Nduku | - Investigator, Mwasima Mbuwa |
| 4. Mr. Washington Weere | - GIS Expert, Mwasima Mbuwa |
| 5. Mr. Wallis Hime | - Lic. Surveyor, Teita Sisal Farm |

Absent with apology

- | | |
|---------------------|---------------------------------|
| 6. Mr. Sammy Wambua | - County Surveyor, Taita Taveta |
| 7. John D. Obel | - Lic. Surveyor, Mwasima Mbuwa |

The meeting started at 12.45 am.

Agenda

1. Reading and confirming of previous minutes
2. Matters arising
3. Emerging issues
4. Way forward

MIN 04/SE 2016-READING AND CONFIRMING OF PREVIOUS MINUTES

The minutes were read and the following points were made note of;

- Investigative team confirmed that there is a surveyed parcel of land under the railway station within the sisal estate; he was tasked to present a copy of the survey plan or documentation by 18th October 2016.
- The Chair apologized for not acting on finalization of the report due to emerging issues to be discussed in the meeting later.

MIN 05/SE 2016-MATTERS ARISING

- The leader, Investigative team reported that the Ministry of Education had confirmed that Mwandisha Primary School was built, owned and operated by the National Government. Investigative team was mandate by the committee to seek the ownership document of the school and its history and to provide this in a report. It was noted that the investigative team was taking too long to finalize their part of the work.

Action: Mr. Thomas Nduku

- The leader Investigative team asked the Chair for assistance in sending letters to Ministry of Water and irrigation, to know more of the rights and ownership of parcel L.R. No. 9487 (area under the dam) if this information was not available in the Lands registry. Another letter to Kenya Airport Authority asking for their interests in the ownership of the Teita Sisal Estate Airstrip. Finally a letter to confirm the status of ownership of the area under the police station within the Sisal estate in case there has been any excision. The letters will seek for information on the acreages of these utilities and presentation of ownership documents. The leader of the investigative team was tasked to draft the said letters and present them to the chairman for adoption and dispatch to the recipients officially from the Director of Surveys platform.

Action: Mr. Thomas Nduku, Mr. Amati

- The leader, Investigative team reported that locals (residents around Teita Sisal Estate Farm) continue to be deprived rights of way through the estate and rights to access water from the dam for their livestock consumption. He pointed out that it was against the parliamentary provisional rulings to have roads barricaded and locals experiencing police harassment over access of the Sisal Estate. The Teita Sisal Estate representative informed the meeting that indeed there were barriers set for security purposes and not to bar anyone wishing to use any of the roads. Thomas placed a call to a local, for a verbal confirmation to the committee. He was mandated by the committee to seek police reports on the cases filed by the Estate against the 'trespassers' and vice versa.

Action: Mr. Thomas Nduku

MIN 06/SE 2016-EMERGING ISSUES

The chairman informed the members that the Mwasima Mbuwa Welfare Association had written a letter of complaint about the way the team conducted the re-establishment survey. This is what had discouraged the chairman from combining the two reports as per the last minutes. Surveyors for the disputing parties confirmed that the Director of Surveys had sent a copy of the complaint letter to them and sought their reaction on the same. There was therefore a suggestion from one of the members that the letter should not be a subject in the meeting until the addressed parties give their reply. The chairman however informed the members that he was not aware of the letters to the parties' surveyors and he was expected to give a reply to the allegations and felt that it was necessary to get the committee's input before giving the reply which he had to. After some deliberations it was resolved that the letters to the surveyors may have been the Director of Surveys' way of doing independent investigation to the allegations hence the necessity to discuss the contents of the complaint letter.

The letter was then displayed and read through. It was then reviewed by the committee. The letter had been addressed to the Cabinet Secretary Ministry of Lands and Physical Planning, who then forwarded it to the Director of Survey and finally forwarded to the Chair of the committee

to give a reply. The allegations in the letter were touching on alleged professional misconduct of the survey team during the re-establishment survey of the boundary beacons defining Teita Sisal Estate Farm.

After the review, the committee noted that the complainant's allegation was as result of malice aforethought by some members of the Mwasima Mbuwa group. The meeting noted that on 27th June 2016, in a meeting held at the county headquarters Wundanyi (see attached minutes and attendance list), ground rules were laid down on the way to conduct the survey exercise. The main one was that the complainants' professional representative will be accompanying the government survey team during the re-establishment exercise. The membership of this committee was as a result of the all-inclusiveness resolution of the said meeting. The request by some members in the meeting to include other none professional members had been declined noting that this would cause confusion and delays. It had however been resolved the MCA would look for young men who had some knowledge on surveying to be deployed as casual workers so as to perform a double role as observers and part of the team.

The meeting noted that it was impolite for the Mwasima Mbuwa Welfare Association to doubt the credibility and competence the survey team while the team was still working on the report of the findings for presentation to parliament. The fact that there was no mention of the hired surveyors for the disputing parties was taken note of with concern by the meeting.

It was resolved that the chairman goes ahead to reply to the allegations as per the meeting's discussion.

MIN 06/SE 2016-WAY FORWARD

- i. Mr. Hime was tasked to notify his representative (Teita Sisal Estate Farm) that; access of public roads shouldn't be subjected to security measures as it is against the parliamentary ruling, that dam water usage by the community shouldn't be restricted and continuous arrests and harassments if any should be stopped.
- ii. The surveyors representing Mwasima Mbuwa group informed the meeting that they had been doing research on the parcels of land associated to the Teita sisal Estate and had proof that they owned more than the four title deeds that they presented to both Parliament and the surveying team. Members were at a loss as to why the surveyors had not brought up this information when the ground work was in progress. Members however gave time to the Mwasima Mbuwa surveyors to give a presentation of the research and its results. They informed the meeting that they were not ready to give a presentation at that time.

They proposed and promised to present the following in the next meeting:

- A graphical compilation including high resolution satellite imagery of scenarios to show analysis of the relationship between parcels L.R. Nos 3880, 3881, 6925, 3880/5, 11378 and 6924 which will be prove that Teita Sisal Estates may be owning more than the four title deeds they presented.

- A ten (10) years digital social mapping of household distribution since 1969, sourced from Central Bureau of Statistics authority, to give statistical data showing the population trend within the settled areas falling within the Teita Sisal Estate Land. This, even though it was not part of the parliamentary orders to the Ministry of lands, they argued that it may help Parliament when making decisions after the presentation of the final report.

MIN 07/SE 2016-A.O.B

The next meeting will be held on Friday 28th October 2016 at Ardhi House, Nairobi.



Chairman..... Date.....

Confirmed



Secretary..... Date 14TH OCTOBER 2016

**MINUTES OF MEETING BETWEEN DIRECTOR OF SURVEYS OFFICE AND
LICENSED SURVEYORS FOR TEITA SISAL ESTATE AND TAITA TAVETA
COMMUNITY HELD IN ARDHI HOUSE NAIROBI ON 14TH OCTOBER 2016**

Members present

- | | |
|-------------------------|---|
| 1. Mr. Richard Amati | - Director of Surveys Office, Chairing |
| 2. Mr. Max Njuguna | - Director of Surveys office, Secretary |
| 3. Mr. Thomas Nduku | - Investigator, Mwasima Mbuwa |
| 4. Mr. Washington Weere | - GIS Expert, Mwasima Mbuwa |
| 5. Mr. Wallis Hime | - Lic. Surveyor, Teita Sisal Farm |

Absent with apology

- | | |
|---------------------|---------------------------------|
| 6. Mr. Sammy Wambua | - County Surveyor, Taita Taveta |
| 7. John D. Obel | - Lic. Surveyor, Mwasima Mbuwa |

The meeting started at 12.45 am.

Agenda

1. Reading and confirming of previous minutes
2. Matters arising
3. Emerging issues
4. Way forward

MIN 04/SE 2016-READING AND CONFIRMING OF PREVIOUS MINUTES

The minutes were read and the following points were made note of;

- Investigative team confirmed that there is a surveyed parcel of land under the railway station within the sisal estate; he was tasked to present a copy of the survey plan or documentation by 18th October 2016.
- The Chair apologized for not acting on finalization of the report due to emerging issues to be discussed in the meeting later.

MIN 05/SE 2016-MATTERS ARISING

- The leader, Investigative team reported that the Ministry of Education had confirmed that Mwandisha Primary School was built, owned and operated by the National Government. Investigative team was mandate by the committee to seek the ownership document of the school and its history and to provide this in a report. It was noted that the investigative team was taking too long to finalize their part of the work.

Action: Mr. Thomas Nduku

- The leader Investigative team asked the Chair for assistance in sending letters to Ministry of Water and irrigation, to know more of the rights and ownership of parcel L.R. No. 9487 (area under the dam) if this information was not available in the Lands registry. Another letter to Kenya Airport Authority asking for their interests in the ownership of the Teita Sisal Estate Airstrip. Finally a letter to confirm the status of ownership of the area under the police station within the Sisal estate in case there has been any excision. The letters will seek for information on the acreages of these utilities and presentation of ownership documents. The leader of the investigative team was tasked to draft the said letters and present them to the chairman for adoption and dispatch to the recipients officially from the Director of Surveys platform.

Action: Mr. Thomas Nduku, Mr. Amati

- The leader, Investigative team reported that locals (residents around Teita Sisal Estate Farm) continue to be deprived rights of way through the estate and rights to access water from the dam for their livestock consumption. He pointed out that it was against the parliamentary provisional rulings to have roads barricaded and locals experiencing police harassment over access of the Sisal Estate. The Teita Sisal Estate representative informed the meeting that indeed there were barriers set for security purposes and not to bar anyone wishing to use any of the roads. Thomas placed a call to a local, for a verbal confirmation to the committee. He was mandate by the committee to seek police reports on the cases filed by the Estate against the 'trespassers' and vise vasa.

Action: Mr. Thomas Nduku

MIN 06/SE 2016-EMERGING ISSUES

The chairman informed the members that the Mwasima Mbuwa Welfare Association had written a letter of complaint about the way the team conducted the re-establishment survey. This is what had discouraged the chairman from combining the two reports as per the last minutes. Surveyors for the disputing parties confirmed that the Director of Surveys had sent a copy of the complaint letter to them and sought their reaction on the same. There was therefore a suggestion from one of the members that the letter should not be a subject in the meeting until the addressed parties give their reply. The chairman however informed the members that he was not aware of the letters to the parties' surveyors and he was expected to give a reply to the allegations and felt that it was necessary to get the committee's input before giving the reply which he had to. After some deliberations it was resolved that the letters to the surveyors may have been the Director of Surveys' way of doing independent investigation to the allegations hence the necessity to discuss the contents of the complaint letter.

The letter was then displayed and read through. It was then reviewed by the committee. The letter had been addressed to the Cabinet Secretary Ministry of Lands and Physical Planning, who then forwarded it to the Director of Survey and finally forwarded to the Chair of the committee

to give a reply. The allegations in the letter were touching on alleged professional misconduct of the survey team during the re-establishment survey of the boundary beacons defining Teita Sisal Estate Farm.

After the review, the committee noted that the complainant's allegation was as result of malice aforethought by some members of the Mwasima Mbuwa group. The meeting noted that on 27th June 2016, in a meeting held at the county headquarters Wundanyi (see attached minutes and attendance list), ground rules were laid down on the way to conduct the survey exercise. The main one was that the complainants' professional representative will be accompanying the government survey team during the re-establishment exercise. The membership of this committee was as a result of the all-inclusiveness resolution of the said meeting. The request by some members in the meeting to include other none professional members had been declined noting that this would cause confusion and delays. It had however been resolved the MCA would look for young men who had some knowledge on surveying to be deployed as casual workers so as to perform a double role as observers and part of the team.

The meeting noted that it was impolite for the Mwasima Mbuwa Welfare Association to doubt the credibility and competence the survey team while the team was still working on the report of the findings for presentation to parliament. The fact that there was no mention of the hired surveyors for the disputing parties was taken note of with concern by the meeting.

It was resolved that the chairman goes ahead to reply to the allegations as per the meeting's discussion.

MIN 06/SE 2016-WAY FORWARD

- i. Mr. Hime was tasked to notify his representative (Teita Sisal Estate Farm) that; access of public roads shouldn't be subjected to security measures as it is against the parliamentary ruling, that dam water usage by the community shouldn't be restricted and continuous arrests and harassments if any should be stopped.
- ii. The surveyors representing Mwasima Mbuwa group informed the meeting that they had been doing research on the parcels of land associated to the Teita sisal Estate and had proof that they owned more than the four title deeds that they presented to both Parliament and the surveying team. Members were at a loss as to why the surveyors had not brought up this information when the ground work was in progress. Members however gave time to the Mwasima Mbuwa surveyors to give a presentation of the research and its results. They informed the meeting that they were not ready to give a presentation at that time.

They proposed and promised to present the following in the next meeting:

- A graphical compilation including high resolution satellite imagery of scenarios to show analysis of the relationship between parcels L.R. Nos 3880, 3881, 6925, 3880/5, 11378 and 6924 which will be prove that Teita Sisal Estates may be owning more than the four title deeds they presented.

- A ten (10) years digital social mapping of household distribution since 1969, sourced from Central Bureau of Statistics authority, to give statistical data showing the population trend within the settled areas falling within the Teita Sisal Estate Land. This, even though it was not part of the parliamentary orders to the Ministry of lands, they argued that it may help Parliament when making decisions after the presentation of the final report.

MIN 07/SE 2016-A.O.B

The next meeting will be held on Friday 28th October 2016 at Ardhi House, Nairobi.

Signed:

Chairman..... Date.....
Confirmed

Secretary..... Date.....

**MINUTES OF MEETING FOR REPORT WRITING OF TEITA SISAL ESTATE HELD
AT ARDHI HOUSE NAIROBI ON 4TH NOVEMBER 2016**

Members present

- | | | |
|-------------------------|---|-----------------------------------|
| 1. Mr. Richard K. Amati | - | Director of Surveys office, Chair |
| 2. Mr. John D. Obel | - | Lic. Surveyor, Mwasima mbuwa |
| 3. Mr. Thomas Nduku | - | Investigator, Mwasima Mbuwa |
| 4. Mr. Wallis Hime | - | Lic. Surveyor, Teita Sisal Estate |
| 5. Mr. Sammy W. Juma | - | County Surveyor, Taita Taveta |

Absent with apology

- | | | |
|-------------------------|---|---------------------------|
| 1. Mr. Washington Weere | - | GIS Expert, Mwasima Mbuwa |
|-------------------------|---|---------------------------|

Agenda.

1. Reading and confirmation of previous minutes
2. Matters arising
3. Way forward

MIN 8/SE/2016-READING AND CONFIRMATION OF PREVIOUS MINUTES

The Chairman called the meeting to order at 12:55 PM. The chairman welcomed all the members present. The Minutes of the previous meeting were read and confirmed to be true proceedings of what was discussed.

MIN 9/SE/ 2016- MATTERS ARISING

- It was reported that Kenya Railways had confirmed in writing that the railway station in Mwatate had a reservation of land measuring 4.8 acres. This land was not surveyed but Kenya Railways were in the process of contracting out survey services of the station among other stations Country wide.
- The Ministry of Education had confirmed in writing that indeed Mwandisha Primary school was a public school with the facilities therein having been built by the Government. However, this fact was disputed by the Teita Sisal Management through the Estate Lawyer who had also written a letter stating their position.
- The investigative Team presented the draft report to the committee on their investigative work. It was noted that the report should be none bias and as general as possible only pointing out the facts and be restricted to the Parliamentary Directives. The report should not be seen to be defending any party. The report was circulated to members for their input. The investigative team was requested to prepare a separate detailed report for the benefit of their clients for presentation to parliament as a separate report if they so wished.

- It was reported that the Kenya airport Authorities had not communicated to the investigative team on the status of the Mwatate Air strip. The investigative team was still making a follow up on the matter.

MIN 10/SE/2016- WAY FORWARD

1. Due to hitches in acquiring high resolution satellite imagery, the committee advised in the use of Goggle earth image as a provisional source of information for social mapping of household distribution and also in graphical representation of the extent of sisal estate.
2. The Committee resolved that the final report be prepared as per the parliamentary directive. The report should then be circulated to members for their input and or concurrence.
3. The next meeting to be held on 18th November 2016.



Chairman.....Date: **18th November 2016**

Confirmed



Secretary.....Date: **4th November 2016**

**MINUTES OF MEETING FOR REPORT WRITING OF TEITA SISAL ESTATE
HELD AT ARDHI HOUSE NAIROBI ON 18TH NOVEMBER 2016**

Members present

- | | | |
|-------------------------|---|--|
| 1. Mr. Richard K. Amati | - | Director of Surveys office - Chairing |
| 2. Mr. John D. Obel | - | Lic. Surveyor, Mwasima Mbuwa |
| 3. Mr. Thomas Nduku | - | Investigator, Mwasima Mbuwa |
| 4. Mr. Wallis Hime | - | Lic.Surveyor, Teita Sisal Estate |
| 5. Mr. Sammy W. Juma | - | County Surveyor, Taita Taveta -Secretary |
| 6. Mr. Washington Weere | - | GIS Expert, Mwasima Mbuwa |

AGENDA

1. Presentation of reports
2. Way forward

The chairman called the Meeting to order at 10:30 AM.

MIN 11/SE/2016:- PRESENTATION OF DRAFT REPORT BY THE CHAIR.

The chairman presented the report he had prepared and the following observations were made

1. There was need to ascertain on the numbering of LR No 3880/5-follow up on the genesis from LR No 3880/4/R, 3880/4/2 to 3880/5. The ownership issue was also raised but this was adequately addressed from the fact only a portion of LR No 3880/4 was excised from the mother title of LR No 3880/4. Hence the remainder of the title remained with the original owner. The investigative team was tasked to produce a report on their findings instead of continuously disputing an entry on the presented title deed without giving the members any report on the findings.
2. There was needed to make a follow-up on how Mugeno Ranch acquired LR No 3880/4/1. This issue was noted not to be within the directives, however it was resolved that there was no harm in providing any available extra information that my help in resolving land issues in Taita Taveta County.
3. There was need to recommend on the adjudication of the remainder of LR No 3880/3 (part to the south of the railway line) to the people resident therein. Other people may be settled on the vacant portions in this land. It was resolved that this be put as part of the recommendations to Parliament even though it was outside the scope of the directives being addressed.
4. There was need to give general comments on the status of LR No 3880 and 3881. The Director of Surveys will be asked to give the surveying history while the investigative team was tasked to provide ownership history.

Action: Amati, Nduku

MIN 12/SE/2016:- PRESENTATION BY MR. WEERE

The report dwelt on analysis of various scenarios based on evidence presented by various parties in parliament. The report also covered the social (social mapping) aspect particularly on the area around Singila Majengo. From the analysis presented the following observation were made:

1. The report should only cover the parliamentary directives without dwelling much on what each party presented before parliament which makes the report bulky with no value addition on the ground findings.
2. The committee advised that the presenter should finalize with the report on social mapping by **22nd November** and share it by E-mail. This would form part of the annexure of the final report.
3. It was pointed out that the final report must firstly point out the facts with no bias. Acting on the facts, recommendation will then be made. Members were reminded that the report to Parliament had to be nothing but factual and neutral and if any team wished to make a presentation on behalf of their clients, then the Cabinet Secretary Lands may be asked to request Parliament to provide such space.

Action: Weere

The insinuations by a member that the boundary LR No 3880/5 was the Railway line as per history was discussed during the presentation. However, this was found to differ with the existing survey plans which showed that the Railway line and the Voi-Mwatate Road used to traverse or run through LR. NO. 3880 and there has never been a time when the railway line formed a boundary to any parcel. It was further clarified that during the subdivision survey that created LR No 3880/3 and 3880/4, the Voi - Taveta road was adopted as the boundary between the two parcels.

MIN 13/SE/2016 – PRESENTATION BY THE INVESTIGATIVE TEAM

The investigative Team started their presentation of the draft report to the committee on their investigative work. The report covered mainly on the utilities within the Estate. It was noted that the report was not neutral as had been agreed. A member requested that due to the length of time that the meeting had taken and him having some appointment elsewhere, the meeting should be adjourned to the following week. Members agreed hence the report was not fully discussed, however, the investigative team was tasked to polish their report reiterating that the report should be as neutral as possible only pointing out the facts. The investigative team promised to finalize their report and circulate it to members by **22nd November 2016** for their input.

Action: Nduku

WAY FORWARD:

The Technical team was in agreement that the technical aspect of the report and the findings therein as regards to the four parcels of the Teita Sisal Estate was in order. To finalize the report, the investigative team was requested to hasten in preparing the neutral report and circulate by **22nd November 2016**. Further Mr. Washington Weere was tasked to finalize his

MINUTES OF MEETING FOR REPORT WRITING OF SISAL ESTATE HELD AT ARDHI HOUSE NAIROBI ON 25TH NOVEMBER 2016

Members Present:

- | | | |
|--------------------|---|--|
| 1. Mr. R.K Amati | - | Director of Surveys office- Chairing |
| 2. Mr. Wallis Hime | - | Lic. Surveyor, Teita Sisal Estate |
| 3. Sammy. W Juma | - | County Surveyor, Taita Taveta - taking Minutes |

Absent with Apology

- | | | |
|------------------------|---|------------------------------|
| 1. Mr. John D. Obel | - | Lic. Surveyor, Mwasima Mbuwa |
| 2. Mr. Thomas Nduku | - | Investigator, Mwasima Mbuwa |
| 3. Mr Washington Weere | - | GIS Expert, Mwasima Mbuwa |

AGENDA

1. Reading and confirming previous minutes
2. Matters arising
3. Discussion of report

The Chairman called the meeting to order at 10:15 AM.

MIN 13/SE/2016: OPENING REMARKS BY THE CHAIR.

The chair started by registering the apology of Mr. J. D Obel and his team who had informed him that they would not be attending the meeting. He reported that Mr. Obel had made a request that the day's meeting be postponed to 2nd December 2016. This was to enable his team complete their reports. However, this request had come too late (6:45 PM on 24th November 2016) when other members had already travelled and were in Nairobi and hence it was impractical to call off the meeting at that late hour. As a result, the chair had informed Mr. Obel that the meeting would proceed as planned. He would later inform him on the resolution of the meeting.

MIN 14/SE/2016: READING AND CONFIRMING OF THE PREVIOUS MINUTES

The previous minutes were read and confirmed to be a true recording of the proceedings of the previous meeting.

MIN 15/SE/2016: MATTERS ARISING.

1. It was reported that the investigative team had not circulated their report to members by 22nd November 2016 as agreed in the previous meeting. A reminder text sent to Mr. Thomas Nduku by Mr. R. Amati had not been replied to by the time of the meeting.
2. The report on social mapping and analysis had not been received by 22nd November 2016 as agreed in the previous meeting. A reminder text sent to Mr. Washington Weere by Mr. R. Amati had not been replied to by the time of the meeting.

write-up/presentation on the settlements and share with other members by **22nd November 2016**. This presentation would be considered for enriching the section highlighted under Singila Majengo.

Action: Nduku, Weere


There being no time for other business the meeting was adjourned at 7.45pm.

The next meeting is scheduled for **25th November 2016** at 10am in Ardhi House. It was agreed that this would be the last meeting.



Chairman.....Date: **25th November 2016**

Confirmed



Secretary.....Date: **18th November 2016**

MINUTES OF MEETING FOR REPORT WRITING OF TEITA SISAL ESTATE HELD AT ARDHI HOUSE NAIROBI ON 2ND DECEMBER 2016

Members present

- | | | |
|-------------------------|---|---|
| 1. Mr. Richard K. Amati | - | Director of Surveys' office, Chairing |
| 2. Mr. John D. Obel | - | Lic. Surveyor, Mwasima Mbuwa |
| 3. Mr. Thomas Nduku | - | Investigator, Mwasima Mbuwa |
| 4. Mr. Wallis Hime | - | Lic. Surveyor, Teita Sisal Estate |
| 5. Mr. Sammy W. Juma | - | County Surveyor, Taita Taveta - Secretary |
| 6. Mr. Washington Weere | - | GIS Expert, Mwasima Mbuwa |

In Attendance

- | | | |
|------------------------|---|--------------------------|
| 1. Mr. Peter K. Kahuho | - | Land Secretary, observer |
|------------------------|---|--------------------------|

AGENDA

1. Comments by members
2. Discussion of report
3. Way forward

The Chairman called the meeting to order at 10:45 AM. He pointed out that this was expected to be the last meeting. He hoped that the technical experts were ready with their report as per their promise when giving apologies not to attend the last scheduled meeting. If this was the case then they would be allowed to make their presentation as the first item noting that this was what had delayed the finalization of the joint report. To start off, he invited all members to give their comments on the report development so far.

MIN 16/SE/2016: COMMENTS BY MEMBERS

1. Mr. John D. Obel:

He was concerned that matters discussed in meetings by the committee were leaked to Teita Sisal Estate, thus lacking confidentiality. This he said had made their client lose trust in his team.

He was however in agreement that the technical aspects of the report were in order and as per the ground measurements done. It was therefore acceptable.

He told members that the circulated report looked final and conclusive hence wondered how their input would be incorporated in the report. In the circumstances, he suggested that they be allowed to give a separate report.

He stated that their team had done a lot of research on the Sisal Estate dating back to pre-colonial period. He pointed out that the History cannot be wished away. This led to the request that their research outcome be part of the final report instead of just sticking to the technical aspects and the parliamentary directives.

He was of the opinion that public utilities and classified roads within the Estate land should be excised and given separate registration as per the law.

MIN 15/SE/2016: WAY FORWARD

Due to non circulation of the above reports which were to be discussed in the meeting and their non-availability at the time of the meeting, the committee resolved to allow the investigative team a further one week to finalize and provide their report for discussion.

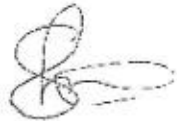
Having no other business the meeting ended at 11:05 A.M.

The next meeting will be held on 2nd December 2016 at 10.0 am in Ardhi House.



Chairman.....Date: **2nd December 2016**

Confirmed



Secretary.....Date: **25th November 2016**

He urged members of the committee to give recommendations that would make it easy for Parliament to come up with a solution to the benefit of both the Teita Sisal Estate and the public.

2. Mr. Washington B. Weere:

He was concerned that the minutes for the meeting held on 18th November 2016 had not been circulated to members.

He observed that there should be a proper format of the report agreeable to all.

He generally concurred to Mr. Obel's sentiments and comments.

3 Mr. Thomas Nduku:

He questioned/doubted the authenticity of the entry **No. 8** in the title document of LR No 3880/5.

He requested that the Teita Sisal Estate produce the Auction documents through which they claim to have acquired the Estate.

He observed that the correspondence file for Estate land had not been availed yet he felt that it was necessary for scrutiny on the transactions of the Estate land.

He requested members to give a recommendation that the settlement of people around Singila Majengo should be ratified and ownership documents be processed in their favour.

He claimed that most of the Utilities were on LR No 3880/5 and it is on this part of the Estate land which was a major source of dispute.

He requested the chair to provide information on all the LR No's originating from LR NO 3880 and what became of LR No's 3880/1 and 3880/2

4 Mr. Wallis Hime:

He observed that the re-survey was correct as per the survey plans. He noted that the recommendations had tried to solve some of the problems raised by the community. He informed a member who had been questioning the authority which he used to reestablish beacons of the estate land in the 1980s that a reestablishment exercise needs no formal/statutory authority. All that was needed was engagement by the registered proprietor.

He reiterated that the laws of the Country must be upheld in all that is done and when giving recommendations to parliament. Otherwise if people should be permitted to invade private land and get their way then the country may be plunged into anarchy.

5. Mr. Sammy J. Wambua

He had no comments to make since he had no notable issues to raise on both the July field work and the draft report.

6. Mr. Richard Amati

In response, he regretted that the team representing Mwasima Mbuwa Welfare Association did not accord him the maximum co-operation in the report writing. He observed that he had been

implored the investigative team and the GIS expert to provide their report with very little success. He said that he had observed that apart from not providing or sharing their reports all they did was to come to the meeting to look for errors or what they did not like in the draft report without any addition to improve it. He assured the members that the circulated draft report was not yet final and it was the subject of discussion in this meeting and all should be free to point out any issues they have with the draft and provide objective suggestions on how to improve the draft. He pointed out that the report was in soft format and therefore any part can be erased from it and any new factual material can be added to it to make it better.

To address a member's concerns of what came of LR. No. 3880 he promised to request the Cadastral Division of the Survey Department to provide a write-up on the subdivision history of LR No 3880 and the subsequent numberings. He asked the Investigative team to provide information on what was in the Land Register for same number. Mr. Nduku was urged to work closely with Madam Sarah Maina in order to get information from the Register. He requested the Lands Secretary (Mr. Peter Kahuho) who was in attendance to assist Mr. Thomas Nduku representing the investigative team in accessing any information pertaining to the ownership of the four parcels of land under investigation. Mr. Kahuho agreed to the request and asked Mr. Nduku to get in touch with him any time he needs any information from Lands.

He asked the members if they had any reports to present noting that their lack of disclosing whatever they had written may be the fear that it may be leaked to the Sisal Estate management. He however said that since they were at liberty to inform their clients on the progress of their investigations and the deliberations in the meeting, similarly the representative of the Teita sisal estate had the right to inform his client of the progress. He cautioned members to only give their clients necessary information that may not jeopardize the good work so far done by the committee.

On the issue of utilities, he noted that if members had cared to read the draft report objectively, all their concerns on utilities had been addressed in the report. He further requested them that they should actively participate when going through the report and point out what they think is not factual in the report. He reminded them that the report was designed to be a representation of facts and not aimed at favouring any party in the divide. The report would give recommendations for consideration by parliament.

The member who had had expressed concerns with entries in the title deed was informed that all the entries were done in the land registry and not by the title deed holders. Therefore if he had any issues with any entries, he should seek clarification from the Chief Land Registrar which was part of what he had been tasked to do as a member of the investigative team. More over the Parliamentary committee must have done due diligence on all documents presented to them before giving directives on issues that needed further investigation.

He was sorry about not circulating minutes of previous meetings on the internet. He promised to circulate the day's minutes together with other unshared minutes by 5th December, 2016.

Action R. Amati

MIN 17/SE/2016: DISCUSSION OF REPORT.

The draft report which had been prepared and circulated to members was projected on the screen. Members were informed that save for the formatting and general rearrangement, the report had not changed in content. The chair affirmed that the report basically covered the technical aspect of the assignment. The committee went through the report and made corrections to the

**MINUTES OF MEETING FOR REPORT WRITING OF TEITA SISAL ESTATE HELD
AT ARDHI HOUSE NAIROBI ON 8TH DECEMBER 2016**

Members present

- | | |
|-------------------------|---|
| 1. Mr. Richard K. Amati | - Director of Surveys office, Chair |
| 2. Mr. John D. Obel | - Lead Surveyor, Mwasima Mbuwa |
| 3. Mr. Thomas Nduku | - Investigative team, Mwasima Mbuwa |
| 4. Mr. Wallis Hime | - Teita Sisal Estate Surveyor |
| 5. Mr. Sammy W. Juma | - County Surveyor, Taita Taveta - Secretary |
| 6. Mr. Washington Weere | - Mwasima Mbuwa |

Agenda

1. Confirmation of previous minutes
2. Matters arising
3. Reports:

The Chairman called the meeting to order at 1:00 P.M. He welcomed all members for the day's meeting. He noted that since this was the last meeting, every member was expected to have his proposed conclusions and recommendations for deliberations and inclusion in the final combined report. The chair then circulated all the previous minutes to members for their scrutiny and subsequent endorsement.

1. **Min/19/se/2016:** Confirmation of previous minutes.

The previous minutes were read and confirmed to be a true recording of the proceedings of the day

2. **Min 20/se 2016:** Matters arising.

The investigative team reported that some correspondence files for Teita Sisal Land had been found. He reported that he had not scrutinized them but would get time to peruse through them.

Mr. Hime reported that Teita Sisal Estate had acquired the land through purchase .it is T&T who acquired the land through auction.

The Chair requested the investigative team to provide the committee with a write-up on the issues they wanted clarified concerning LR NO 3880/5. The Chair would then seek clarification from the Chief Land Registrar.

The chair gave an account on all the subdivisions arising from LR NO 3880. He also clarified on the issue of Numbering that affected LR No 3880/4/R which evolved to 3880/4/2 and finally to 3880/5

satisfaction of everyone in the meeting. Amongst the changes was the bid to separate the issue of ownership and the technical aspect, the committee resolved to use the **LR Nos** in question rather than the proprietor's name '**Teita Sisal Estate**' throughout the report.

The chair noted that the write-up for Majengo Singila had not yet been received from the investigative team as agreed in the meeting of 18th November 2016. This part of the report therefore remained highlighted depicting lack of completeness. It was agreed that the GIS expert and the investigative team finalize with their write-up on settlements and in particular Singila Majengo and utilities respectively and share by **6th December 2016** before the next meeting.

Action: Nduku and Weere

Members declined to discuss the part of the report on **conclusion, way forward and recommendation** citing lack of vital information gathered from their over 10 years investigation. This information was in their yet to be disclosed report that would help in objectively handling the said parts.

MIN 18/SE/2016: WAY FORWARD

To hasten in finalizing the report, the chair immediately circulated the report (with the amendments of the day) to all members for their scrutiny. He urged the members to read through the draft on their own and if they had any suggested changes they come with it for discussion in the next meeting which all agreed would be the last. The investigative team and the GIS expert were once again earnestly asked to finalize their write-up on the part of Singila Majengo and any other without further excuses. They both promised to finalize their respective parts before the next meeting.

Action: Nduku and Weere

It was agreed that each member had to come up with their version of conclusions and recommendations to be discussed in the next meeting.

Action: all members

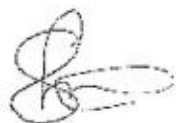
There being no other business, the meeting ended at 3:45 PM.

The next meeting will be held on 8th December 2016 at Ardhi House, Nairobi



Chairman.....Date: **8th December 2016**

Confirmed



Secretary.....Date: **2nd December 2016**

A member representing Mwasima Mbuwa group alleged that the total acreage of LR No 3880/5 was 16,719 acres (as per his computation). Mr. Obel noted that he had not done the computation to confirm the allegations. All other technical officers (surveyors) confirmed that their computation yielded to 16,875 acres. The chair implored members to carry out proper computation to ascertain the acreage of the land and be sure before making any size discrepancy allegations.

The investigative team noted that Entry No 8 on the search document talks about T&T instead of Teita Sisal Estate. After deliberations, it was resolved that the matter would be easily clarified by the Chief Land Registrar who the lead investigator had unlimited access to.

Min/21/SE/2016: Presentation of reports

1. Report by Mr. Thomas Nduku:

The report covered on the findings of the investigative team. The report dwelt on utilities and settlement within the Sisal Estate. The committee however cautioned against commenting on technical surveying matters and just dwell on the investigative work.

2. Report by Mr. Washington Weere:

The presenter provided a report in a slightly different format from what had been prepared by the Chair and discussed in every meeting. He noted that his format needed to be harmonized with the format prepared by the chair. The report basically provided an in-depth analysis of the settlement within Singila Majengo covering the historical and social aspect of the settlement. The two reports were to be presented to the chair for circulation to members who would provide their input on the reports.

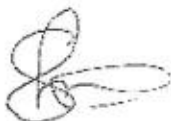
Min 22/SE/2016: Way forward

All members to study the reports and give comments/ recommendations to enable preparation of the final report.

Having no other business, the meeting ended at 6:20 PM.



Chairman.....



Secretary.....Date: 8th December 2016

