



**NAIROBI CITY COUNTY ASSEMBLY
FIRST ASSEMBLY – SECOND SESSION**

**SPECIAL REPORT OF THE COMMITTEE ON PLANNING AND
HOUSING
ON**

**ENQUIRY INTO THE CONTESTED OWNERSHIP OF THE
BOWLING GREEN RESTAURANT**

FEBRUARY, 2014

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1.0 PREFACE

Mr. Speaker Sir,

The County Assembly Sectoral Committee on Planning and Housing is established under the provisions of Standing Order No. 191. Its mandate pursuant to Standing Order No.191 (10) is to:-

- a. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned department;
- b. Study the programme and policy objectives of departments and the effectiveness of the implementation;
- c. Study and review all county legislation attached to it;
- d. Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f. To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments) ; and
- g. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

The Committee is also mandated to deal with matters related to, management, activities, administration, operations and estimates of the assigned departments.

1.1 COMMITTEE MEMBERSHIP

The Committee on Planning and Housing comprises the following members:

1. Hon. Jairo Atenya Asitiba, MCA (Chairman)
2. Hon. Maxwell Ochieng Ochar, MCA (Vice Chairman)
3. Hon. Mike Obonyo Guoro, MCA

4. Hon. Alvin Olanda Palapala, MCA
5. Hon. Nelson Masiga, MCA
6. Hon. Elias Otieno Okumu, MCA
7. Hon. Stephen Kambi, MCA
8. Hon. David Njoroge Kairu, MCA
9. Hon. James Kinuthia, MCA
10. Hon. Daniel Mari Mbugua, MCA
11. Hon. Njuguna Mwangi, MCA
12. Hon. Joyce Bocha, MCA
13. Hon. Caroline Muga, MCA
14. Hon. Beatrice Kwamboka, MCA
15. Hon. Rachael Kamweru, MCA
16. Hon. Leah Mumo Mate, MCA
17. Hon. Abdi Ibrahim, MCA

1.2 COMMITTEE MANDATE

The Committee on Planning and Housing is one of the Sectoral Committees established under Standing Order No. 191. Its mandate pursuant to Standing order 191 (10) is to:-

1. Investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned department.
2. Study the programme and policy objective of department and the effectiveness of the implementation
3. Study, assess and analyze the relative success of the department as measured by the results obtained as compared with their stated objectives;
4. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to

them by the County Assembly;

5. To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointment); and
6. Make reports and recommendations to the County Assembly as often as possible, including recommendations of proposal legislation.

1.3 ACKNOWLEDGEMENT

Mr. Speaker Sir, The Sectoral Committee on Planning and Housing wishes to thank the offices of the Speaker and the Clerk of the Nairobi City County Assembly for the support extended to it in the execution of its mandate.

Mr. Speaker Sir, The committee wishes to acknowledge and express its appreciation to the Members of Planning and Housing Committee who participated in the process and gave the Committee invaluable support and advice.

Mr. Speaker Sir, allow me to thank the all members of the Public who gave their input at the Safari Bowling Green Club.

Hon. Members,

It is therefore my pleasant duty and privilege, on behalf of the Sectoral Committee on Planning and Housing, to table this Report on the Committee's investigations into the Bowling Green Restaurant, Nairobi and recommend it to the Assembly for adoption pursuant to standing Order *188*.

Signed..... Date.....

Hon. Jairo Atinya Asitiba, MCA
(Chairman)

2.0 BACKGROUND

❖ Mr. Speaker, on 28th January, 2014 through a statement pursuant to Standing Order No.188 the Hon. Member for Nyayo Highrise Hon. Akuk Maurice Omondi, MCA

requested for a statement on Bowling Green Restaurant with regard to how the facility changed hands between the County Government of Nairobi and the present occupiers.

- ❖ Pursuant to the Hon. Members statement on 28th January, 2014, the Speaker ruled that the Chairperson of the Planning and Housing investigate the matter and give a response on the floor of the Assembly as soon as possible.

3.0 OBJECTIVE

- ❖ The Bowling Green Restaurant is located in Parklands within the Nairobi City County. The facility is a property of the Nairobi County Government and is presently being occupied by the Safari Social Club.
- ❖ The objective of the inquiry was to establish the ownership status of the, Bowling Green Restaurant which is a public facility and thereafter give appropriate informed recommendations on how the controversy surrounding the facility can be resolved amicably.

3.1 INTRODUCTION

There is a contested ownership of the Bowling Green Restaurant which is a property of the Nairobi County Government. The Committee on Planning and Housing was delegated the responsibility by the County Assembly of Nairobi to look into the matter and report back to the Assembly on its findings and recommendations.

3.2 COMMITTEE MEETINGS

The Committee held three (3) sittings during which the Executive officers and the present proprietors occupying the contested facility appeared before the Committee and made both oral and written submissions.

The Committee also visited the Bowling Green Facility situated within City Park on 21st February, 2014 at 10.00 a.m.

3.3 SUBMISSIONS BY WITNESSES

MR.TOM P. ODONGO – C.E.C MEMBER FOR LANDS PLANNING AND HOUSING

Mr .Tom P. Odongo while before the Committee on 6th February, 2014 stated to the Committee that he had no input in the leasing process of the Bowling Green Restaurant

facility and that he learnt about the transactions between the present occupants of Bowling Green Restaurant facility- Safari Social Club and the County Government much later after the process had been purportedly finalized.

MR. ISSACK NYOIKE – CHIEF VALUER.

Mr. Isaack Nyoike appeared before the Committee on 21st February, 2014 when the Committee had visited the Bowling Green Restaurant and stated to the Committee that he did not participate at any given level of the leasing process of the facility. The Committee also wanted to know from the Chief Valuer what the rental value of the facility would be if it were to be valued at that present moment and the Chief Valuer said that he could not out rightly tell what the value of the said facility is and requested to be given time to consult the Finance Bill.

MR.ROBINSON CHEGE – CHAIRMAN, SAFARI SOCIAL CLUB

The Committee met Mr. Chege, the Chairman of the Safari Social Club on 21st February, 2014. He told the Committee that they moved in to occupy the Bowling Green Restaurant facility in July of 2013 after learning that the said facility was vacant.

Mr. Chege went ahead to tell the Committee that after applying to the County Government through the office of the Governor to be allowed to use the said facility, they received a response from the office of the County Secretary acknowledging that her office had received the application and accepted it and further detailed out the attendant conditions which they accepted to abide by.

Mr. Chege said that they had been allowed to put up their business venture and that they would be required to pay a monthly rent of Ksh.70, 000. They made a deposit of Ksh. 420, 000 which was equivalent to a three (3) months' rent and a three (3) months deposit.

Mr. Chege also informed the Committee that they later made another application addressed to the office of the City Engineer requesting to be allowed to renovate parts of the facility and that the request was granted.

Asked by the Committee whether they had signed any lease agreement with the County Government, Mr. Chege said they had not entered into any formal lease agreement with the County Government. However, they were waiting for the County Executive to prepare the necessary lease agreements.

3.4 DOCUMENTS TABLED BY WITNESSES

Mr. Robinson Chege, the Chairman of the Safari Social Club, tabled the following documents/correspondences:

1. Document referenced **Lease of Business –“Bowling Green” – City Park** with a reference number **ICS/LWN/279/sa/013** was presented to show the acknowledgement of the application by the Safari Social Club to use the said facility.
2. Document referenced **Renovation at Bowling Green (City Park)** was presented to show the application by the Safari Social Club to the office of the City Engineer requesting for permission to renovate parts of the facility.
3. Letter referenced **Lease of Bowling Green – “Bowling Green” – City Park** was presented to show the Executives intention to lease the facility Safari Social Club at a monthly rent of Ksh.70, 000 and that the facility would be available for them to start operations with effect from 1st August 2013.
4. Document referenced **Authority for Repair of Gate, Fixing Counters and Shelves, Toilets Repair on Plot L.R. NO. 209/6559 City Park**. This was a letter dated 4th October, 2013 from the office of the Director of City Planning to the Safari Social Club.
5. A receipt dated 3rd October, 2013 showing the payment made to facilitate the renovation of the aforementioned parts of the facility. The money was payable to the defunct City Council of Nairobi.
6. A receipt dated 5th August, 2013 indicating the upfront payment of a sum total of Ksh. 420, 000 for the three months’ rent and three months deposit for the facility in question. The amount was payable to the defunct City Council of Nairobi.

3.5 COMMITTEE OBSERVATIONS

1. The Committee observed that the County Government did not carry out a competitive tender process in order not to lock out any interested bidders and get fair value for the Bowling Green Restaurant as required by the Public Procurement and Disposal Act (2005) as required of all Public Organizations.

2. The Bowling Green Restaurant facility was leased without the input of the following offices;
 - a.) Office of the County Executive Committee Member for Lands, Planning and Housing
 - b.) Office of the Chief Valuer
 - c.) Office of the Director of Survey
 - d.) Office for the Director for Legal Affairs
 - e.) Office for the Director of Supply Chain Management
3. Due procurement process was not followed as provided for in law.

3.6 COMMITTEE RECOMMENDATIONS

The Committee recommends that this Assembly resolves that:

1. Any ongoing contractual process between the Nairobi County Executive and the Safari Social Club should be stopped with immediate effect until the inquiry into the contested ownership status of the club is concluded.
2. Any property of the County Government must be subjected to competitive bidding before it is leased out as provided for by the Public Procurement and Disposal Act (2005). Therefore, the concerned officers who participated in these negotiations should be sternly warned in writing.
3. The relevant offices in the County Government **MUST** be consulted for technical input whenever a County Government property is being leased. This must be done in writing and proper records of the same maintained.
4. The Planning Department should furnish this Committee with the prevailing market rates for the Bowling Green Restaurant facility.
5. The re-advertisement of the Bowling Green Restaurant facility should be stopped with immediate effect until the investigations currently underway are concluded.