

NAIROBI CITY COUNTY ASSEMBLY



SECOND ASSEMBLY

(THIRD SESSION)

[PUBLIC PETITION PURSUANT TO STANDING ORDER 208]

BY RESIDENTS OF IMARA DAIMA ON LAND GRABBING AND ENCROACHMENT
ON THE ROAD RESERVE AND WALK WAYS WITHIN IMARA DAIMA AREA IN
NAIROBI CITY COUNTY.

WE THE UNDERSIGNED Citizens of Kenya who are residents and owners within Imara Daima Sub-County, Nairobi County and living in the Estates namely Muimara Estates, Villa Frank, Amara Park, Imara Daima Estate, Daima Estate, Sunrise, Oak Park, Mastermind Estate, Riara Springs Academy, International Christian Centre (ICC).

DRAW the attention of the County Assembly of Nairobi to the following: -

AWARE THAT, Article 185 of the Constitution of Kenya, 2010 vests the legislative authority and oversight of the County governments in the County Assembly;

THAT WHEREAS, Article 62 of the Constitution mandates the county government to hold in trust public land on behalf of county residents;

THAT WHEREAS, Article 40 of the Constitution, 2010 provides that the State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation (a) results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or (b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament;

THAT WHEREAS, Article 42 of the Constitution further provides that every person has the right to a clean and healthy environment, which includes the right; -

- a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- b) to have obligations relating to the environment fulfilled under Article 70.

BY RESIDENTS OF IMARA DAIMA ON LAND GRABBING AND ENCROACHMENT ON THE ROAD
RESERVE AND WALK WAYS WITHIN IMARA DAIMA AREA IN NAIROBI CITY COUNTY.

THAT WHEREAS, Article 28 of the constitution states that every person has inherent dignity and the right to have that dignity respected and protected;

THAT, for the last one and half years' residents have been battling land grabbers and encroachers on the road reserve within the Imara Daima area who have placed Kiosks/Containers on the walkways putting the lives of the pedestrians at risk as they walk on the road;

THAT, among the road reserve and walk ways encroachers are car wash business that has broken the main water pipeline to illegally connected pipe for washing cars. This same water pipeline supplies water to home owners/residents in the area thus putting them at risk of consuming contamination water and other environmental hazards including noise pollution (from cars washed as they play loud music);

THAT, illegal developers have erected Food Kiosks (*Vibandas*) and roadside bars (Wines and Spirit) on the perimeter walls. For example, right at the turnoff to the newly constructed Cosmas Ndeti road to Imara Daima Railway Station (on Tekla Lorupe Road junction), the travellers and other customers park on both sides of the road causing untold headache to passing motorists;

THAT, the illegal Food *Vibandas* on the road side and walkways dispose their waste on the drainage channels risking flooding within the surrounding estates during the rainy season;

THAT, the bars operating as close as 5 meters from the gates (For example at Muimara Estate) are open till very late at night and are likely to be hide out for criminals which compromises the residents' security and also these illegal structures have turned out to be dens for idlers and drug peddlers targeting our children;

THAT, the bars (Wines and Spirits) should not operate within 300 meters of a residential estate. This is contrary to laws governing regulation of alcoholic establishments, particularly section 11(1) (a) & (b) of the Nairobi City County Alcoholic Drinks Control Act 2014;

THAT, the value of resident's properties is greatly affected by mushrooming of illegal structures around the estates thereby turning away who would be investors and new home buyers/tenants as the surrounding environment now looks dangerous;

THAT, it is the belief of the petitioners that their constitutional rights have been violated and infringed as the Nairobi County Regulatory departments of Planning and Development and Disaster Management and Coordination has violated the residents' right to equal protection of the law failure by granting licenses for the illegal businesses of bars, container kiosks and cars wash on walkways contrary to Chapter 6 of the Constitution;

THAT, the Estates' leaders (Chairmen of the Estates' Residents/Home owners) have tried to engage the County Administrator, DCC, the area MCA but the problem has never been resolved and the residents remain deprived of their rights;

THAT, the Container kiosks placed on the walkways are branded in '**Nairobi County colours**' to give the impression that it has the approval of the county government yet the area MCA who admitted to the estates' chairmen that he is the one putting up the Container kiosks, did not seek the opinion of the affected Residents/Home Owners thereby breaching the constitutional principle of public participation;

THAT WHEREAS, petitioners, confirm that efforts have been made to have the matter addressed by the relevant body, it failed to give a satisfactory response;

AND THAT, all the matters in respect of which the petition is raised is not pending before any court of law or constitutional body.

HEREFORE, your humble Petitioners **PRAY** that the County Assembly of Nairobi County intervenes and ensure that; -

- a) the road reserve and walkways which are public utility land on which personal business or cartels are profiteering is reclaimed;
- b) there is immediate order to remove all structures on the said public utility space and walkways or better still demolish the said structures;
- c) there is a permanent warning signage erected to forestall future encroachment on the said public spaces; and
- d) any other action that the Assembly may consider necessary to protect public property and the constitutional rights of the Estates' Home owners and residents be taken.

And your Petitioners will forever pray.

Presented by;
Hon. Speaker,
On behalf of;

- The Residents of Imara Daima

And by extension;

- All residents of Nairobi County.