



NAIROBI CITY COUNTY ASSEMBLY

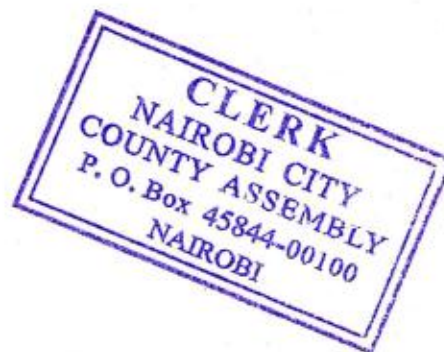
THE TWELFTH REPORT OF THE COMMITTEE ON WATER AND SANITATION

ON

THE INVESTIGATIONS INTO ALLEGED ENCROACHMENT

ON A PIECE OF LAND BELONGING TO NAIROBI CITY

WATER AND SEWERAGE COMPANY IN LORESHO WARD



**CLERK'S CHAMBERS,
CITY HALL,
NAIROBI.**

JULY, 2014

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1.0 PREFACE

1.1 MANDATE OF THE COMMITTEE AND BACKGROUND INFORMATION

1.1.1 Mandate of the Committee

The Sectoral Committee on Water and Sanitation is established under Standing Order 191. Its mandate pursuant to Standing Order 191 are to:

1. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
2. Study the programme and policy objectives of departments and the effectiveness of the implementation;
3. Study and review all county legislation referred to it;
4. Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
5. Investigate and inquire into all matters relating to the assigned department as they may deem necessary, and as may be referred to them by the County Assembly;
6. 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
7. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Under the Second Schedule the Committee is mandated to consider all matters related to water and sanitation services, distribution, regulation, marketing and sewerage services.

The Committee exercises oversight role on the work and administration of the County Department on Water, Energy and Natural Resources and the Nairobi City Water and Sewerage Company.

1.1.2 Acknowledgement

The Committee on Water and Sanitation 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.

Much gratitude to the County Executive Committee Member for Lands, Planning and Housing, the County Executive Committee Member together with the Chief Officer responsible for Water, Energy and Natural Resources, the Managing and the Technical Directors for Nairobi City Water and Sewerage Company and the County Director for Planning, Compliance and Enforcement for their valued cooperation and input during the investigations.

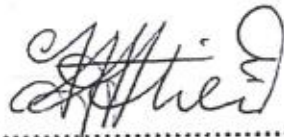
Finally, I wish to thank the entire Committee for their dedicated participation and input in every activity that led to the success of the inquiry and eventual compilation of this report.

Hon. Speaker,

On behalf of the Sectoral Committee on Water and Sanitation, it is my pleasant duty and privilege, to present the report of the Committee on the investigation into alleged encroachment on land belonging to Nairobi Water and Sewerage Company in Loresho Ward by a private developer.

CHAIRMAN

HON. ALEX OTIENO



DATE 20/8/14

1.1.3 Background

Hon. Speaker, on 14th July 2014, the Ward Representative for Loresho Ward attended a meeting of the Committee and reported that a piece of land within which is located a reservoir belonging to Nairobi City Water and Sewerage Company had been encroached on by a private developer and requested the Committee to intervene. The Committee therefore resolved to conduct a visit to the piece of Land.

The piece of land in question is shown as parcel number 229 in the demarked plans as Loresho reservoir in the attached Old Survey Plan. The Parcel is divided into blocks including: Blocks 90/584, 90/585, 90/586, 90/596, 90/592, 90/593, 90/594, 90/595 and 90/501

On 16th July 2014, the Committee went on a site visit to the Nairobi Water and Sewerage Company reservoir in Loresho Ward. The Committee was accompanied by the County Chief Officer responsible for Water, Energy and Natural Resources, Eng. Michel Ngari, the Technical Director, Nairobi Water and Sewerage Company, Eng. N. Muguna and the Assistant Director, City Planning Department, Mr. Jastus Kethenge. The Committee was informed that the blocks 90/584, 90/585 and 90/586 and blocks 90/592, 90/593, 90/594, 90/595 and 90/501 were the ones in dispute.

2.0 COMMITTEE FINDINGS

2.1 Findings of the Committee during the visit

Hon. Speaker, on arrival at the site, the Committee was not allowed entry into the plot that was hived off the main land and surrounded by a masonry perimeter wall around blocks 90/592, 90/593, 90/594, 90/595 and 90/501. The Committee observed that construction work on a residential building was ongoing in plot number LR 90/501.

Resulting from lack of access to the plot, the Committee took a view of the plot atop the reservoir located in the main land of Nairobi City Water and Sewerage Company. The Committee was able to verify that the plot had been enclosed by a perimeter wall and that construction was ongoing on plot number LR 90/501.

The Committee was informed that Nairobi Water and Sewerage Company had begun the work of constructing a wall around the land and that demolition was in plan. The

Assistant Director stated that demolition was to be done by the County Government once its machine which was in the garage for repair, was released.

The Assistant Director, City Planning informed the Committee that they had not been able to access the ownership documents of the private developer but the information available was that the plots in question belong to Nairobi City Water and Sewerage Company. The County Chief Officer responsible for Water, Energy and Natural Resources produced a copy of a letter, reference number NCWSC/TEC/ENG/90/Vol.1/38/WNG/ak directed to the Department of Water, Energy and Natural Resources from Nairobi City water and Sewerage Company seeking intervention on the matter, stating that private developers had begun bringing in construction materials to develop blocks 90/584, 90/585 and 90/586 and that the Company had intervened and stopped works from taking place.

While on site, the area OCS arrived with Police Officers to help the Committee Members gain access into the plot. Eventually, the team was allowed entry into the compound.

The OCS requested to know the owner of the building but he was informed by the construction supervisor that the developer was not on site. The Committee requested for the ownership and construction approval documents to be submitted to officers from the City Planning Department and the Nairobi Water and Sewerage Company for verification but they were informed that the documents were not available at the time as they were in the custody of the developer. The OCS then instructed that the construction works be put on halt until the documents are availed to the County for verification.

2.2 Submission by the County Executive

On 25th July 2014, the Committee wrote to the County Executive Committee Member for Lands, Planning and Housing requesting to be furnished with ownership documents of the land in question and a statement on whether the ongoing construction on the land was approved by the Planning Department. The Department furnished the Committee with the maps of the piece of land in question. However, the Committee found the response unsatisfactory and therefore proposed a meeting with relevant County Executive officials.

Therefore, at its meeting held on 4th August 2014, the Committee resolved to invite the County Executive Committee Members for Water, Energy and Natural Resources and

that for Lands, Planning and Housing, the County Chief Valuer and the Managing Director, Nairobi City Water and Sewerage Company to attend a meeting of the Committee to be held on 11th August 2014.

Hon. Speaker, the Committee held a consultative meeting on 11th August 2014 with the County Executive Committee Member for Lands, Planning and Housing. He informed the Committee as follows:

- i. The piece of land in question is public property and that because lease certificates are products of processes which includes survey drawings, the legality of the certificates of lease depend on whether a legal process was followed and whether the land in question was available for allocation in the first place.
- ii. The developer presented approval documents which on verification, were for another plot in Tassia and this amounted to fraud and the County Government is pursuing the matter with a view to charging the developer with criminal offence of forgery.
- iii. He had made representations to the National Land Commission to consider revocation of the lease certificates touching on the land in question. He said that the Commission had promised that even with their busy schedule of handling Lamu issues, the Commission would attend to these representations expeditiously.
- iv. On action that would be taken on the construction on the disputed site, the Committee was informed that according to the Physical Planning Act, upon expiry of a notice, the County Government is at liberty to move in and demolish the construction. In pursuit of this, he told the Committee that the County machine that will be used for demolition was in the garage and that he would liaise with the Chief Officer Water, Energy and Natural Resources the Managing Director, Nairobi Water and Sewerage Company to ensure that a backhoe is availed to demolish the construction on the piece of plot by Monday of the week ending 23rd August 2014.

The Committee agreed that the recommendation made was sufficient and that there was need for it to be enforced expeditiously to secure property.

3.0 CONCLUSION

Pursuant the mandate of the Sectoral Committee on Water and Sanitation under Standing Order 191(5) (a) to investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimate of the assigned departments. Having the knowledge that the land had been hived off by a private developer with intent to acquire it fraudulently, the Committee took up the matter and conducted investigations.

Nairobi City County still has a deficit of water supply to the residents and it is the objective of the County Government to improve water accessibility. The land in question has been identified for the construction of another reservoir that will increase the water supply to residents of the region.

4.0 RECOMMENDATIONS

Following the inquiry into the alleged encroachment on the land belonging to Nairobi Water and Sewerage Company in Loresho, the Committee on Water and Sanitation urges this Assembly to adopt the recommendations of the Committee as follows:

1. The County Government to immediately demolish the premise being constructed on the public land, LR 90/501, using the laid down regulations.
2. The County Government to take criminal action against the private developer for intention to acquire public land through fraudulent means.
3. The Nairobi County Government and by extension, Nairobi Water and Sewerage Company should fence off and put up signboards indicating ownership of the parcels of land and that they are not up for sale.

APPENDICES

Appendix 1: Original un-subdivided Nairobi Water and Sewerage Company Loresho Reservoir land

Appendix2: Reviewed and subdivided Nairobi Water and Sewerage Company Loresho Reservoir land

Appendix3: Letter from the Assembly requesting for ownership documents of the land from the County Executive

Appendix 4: Invitation letter to the Managing director, Nairobi Water and Sewerage Company to a meeting of the Committee

Appendix 5: invitation letter to the County Executive Members responsible for Lands, Housing and Planning, Water, Energy and Natural Resources and the County Chief Valuer to a meeting of the Committee

Appendix6: Letter from Nairobi Water and Sewerage Company to County Executive seeking intervention on further encroachment to the reservoir land

Appendix7: letter from the County Executive to the National Land Commission seeking intervention on the illegal subdivision of the Loresho Reservoir land.

Appendix 8: Internal Memo from the Chief Officer, Water and Natural Resources to the Development Control Office requesting investigation in the authenticity of approval of the apportioning of the land.

Appendix 9: Minutes

