

GOVERNMENT OF NAIROBI CITY COUNTY



Tabled by Hon
Anthony Keragu, MCA
on 13/06/2024

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(THIRD SESSION)

RECEIVED
NAIROBI CITY COUNTY ASSEMBLY
P.O. Box 45844-00100, NAIROBI
21 JUN 2024
HON. SPEAKER
HON. KENNEDY KIPKORIR
13TH JUNE 2024

NCCA/TJ/PL/2024(34)

PAPER LAID

SUBJECT: REPORT OF SECTORAL COMMITTEE ON A PETITION

Pursuant to Standing Order 221(1), I beg to lay the following Paper on the Table of this Assembly, today Thursday 13th June 2024:

— THE REPORT OF SECTORAL COMMITTEE ON LANDS, PLANNING AND HOUSING ON PRESENTED BY HON. SAM KAGO, MCA ON BEHALF OF RESIDENTS OF MWIKI WARD REGARDING ALLOCATION OF PUBLIC LAND TO GAKIWAWA ENTERPRISES.

(Chairperson, Sectoral Committee on Lands, Planning and Housing)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

APPROVED
13 JUN 2024
SIGN: HON. SPEAKER

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY- THIRD SESSION

REPORT OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND
HOUSING

ON

PETITION BY HON. SAMUEL KANYI KAGO, MCA ON BEHALF OF MWIKI
RESIDENTS REGARDING ALLOCATION OF PUBLIC LAND TO GAKIWAWA
ENTERPRISES

Clerk's Chambers,

Nairobi City County Assembly

City Hall Buildings

NAIROBI.

JUNE 2024

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1.0 PREFACE

The Sectoral Committee on Planning and Housing is established under Standing Order 209, and its mandate amongst others, as outlined under Standing Order 209 (6) is to:-

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) *study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) *study and review all county legislation referred to it;*
- d) *study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its 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) *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.*

Committee Membership

The Committee comprises the following Members:-

1. Hon. Alvin Palapala, MCA - Chairperson
2. Hon. Collins Ogenga, MCA - Vice-Chairperson
3. Hon. Peter Imwatok, MCA
4. Hon. Anthony Kiragu, MCA
5. Hon. Paul Kados, MCA
6. Hon. Waithera Chege, MCA
7. Hon. Geoffrey Majiwa, MCA
8. Hon. Fuad Hussein, MCA
9. Hon. Hashim Kamau, MCA
10. Hon. Thuo Fiunifu, MCA
11. Hon. Paul Ndungu, MCA

12. Hon. Nasra Nanda, MCA
13. Hon. Hannah Wanjiru Muriuki, MCA
14. Hon. Nyantika Ricardo, MCA
15. Hon. Lily Akoth Kidenda, MCA
16. Hon. Jane Wanjiru, MCA
17. Hon. Nicholas Juma, MCA
18. Hon. Peter Maina, MCA
19. Hon. Clement Kamaru, MCA
20. Hon. Francis Kimondo, MCA
21. Hon. Patrick Macharia, MCA
22. Hon. Tricer Jeptoo, MCA
23. Hon. Martin Wairobi, MCA

The Committee exercises oversight role on the work and administration of the Built Environment and Urban Planning.

In accordance with the Third Schedule of the Standing Orders, the Planning and Housing Sectoral Committee is mandated to cover subject areas relating to:-

- (i) County planning and development;
- (ii) Statistics, land survey and mapping;
- (iii) Boundaries and fencing; and
- (iv) Housing and outdoor advertisement.

Mr. Speaker Sir,

Pursuant to Standing Order No. 219, the Hon. Samuel Kanyi Kago, MCA on Wednesday 17th April 2024 read a Petition on behalf of Mwiki residents praying to the Assembly to intervene and ensure that the Nairobi City County Executive regularizes the ownership land plot LR No. 9363/3014 under long term lease to Gakiwawa Enterprises and also permits them to proceed with the proposed projects, which are entirely focused on the good of the local community.

The Petition was committed to the Sectoral Committee on Planning and Housing to inquire into the issues raised and report to the Assembly.

Mr. Speaker Sir,

In order to address the matter raised in the Petition, the Committee requested the County Executive Committee Member responsible for Built Environment & Urban Planning and the Chief Officer Lands to submit responses and relevant information before making appropriate recommendations.

Mr. Speaker Sir,

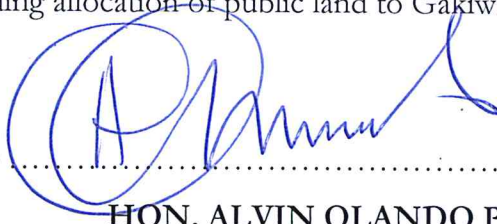
I wish to sincerely thank Members of the Committee for their hard work and dedication while inquiring into the matter. The Committee also wishes to sincerely thank the Offices of the Speaker, the Clerk of the County Assembly and the secretariat for their support.

Mr. Speaker Sir,

It is my honour and pleasure on behalf of the Committee to present this Report of the Committee on Planning and Housing on the Petition by Hon. Samuel Kanyi Kago, MCA on behalf of Mwiki residents regarding allocation of public land to Gakiwawa Enterprises.

Thank You.

SIGNED



HON. ALVIN OLANDO PALAPALA, MCA

(CHAIRPERSON – LANDS, PLANNING AND HOUSING COMMITTEE)

DATE

11th/6/2024

2.0 INTRODUCTION

~~Pursuant to Standing Order No. 219, the Hon. Samuel Kanyi Kago, MCA on Wednesday 17th~~
April 2024 read a Petition on behalf of Mwiki residents praying to the Assembly to intervene and ensure that the Nairobi City County Executive regularizes the ownership land plot LR No. 9363/3014 under long term lease to Gakiwawa Enterprises and also allow them to proceed with the proposed projects, which are entirely focused on the good of the local community.

Pursuant to Standing Order No.221, the Petition was committed to the Sectoral Committee on Planning and Housing to inquire into the matter and report to the Assembly.

In the Petition, the Petitioners stated;-

THAT, the Constitution of Kenya 2010 under Article 37 and Section 15 and 88 of the County Governments Act, 2012, provide the right for citizens to Petition authorities or County Governments on any matter;

THAT WHEREAS, Article 62 of the Constitution of Kenya 2010 provides that public land shall vest in and be held by a County Government in trust for the people resident in the county and may be administered by the National Land Commission on behalf of the County Government;

THAT, on 12th June 2014 we bought land plot LR. No.9363/3014 from Giathieko Farm Ltd measuring 8.87 ha located in Infinity Area, Mwiki Ward;

THAT, Following the complete land acquisition procedure, we were granted a lease in accordance with the Land Act's transitional provisions in sections 160 and 161, the Land Registration Act's section 108, and deed plan No. 435931. The lease dated 10th March 2022 has an annual rent of Ksh.278, 200/= w.e.f 01-02-2022;

THAT, the land was formerly an abandoned quarry with excavations reaching a depth of 100 feet; however, we backfilled it to restore its usability. We further constructed a perimeter wall and obtained approvals from the County Government to construct go downs;

THAT, we have however stalled any further development on the land after we received information that the said land was County land which had been fraudulently sold to us;

THAT WHEREAS, due to its strategic location, the said parcel of land if put to proper use by the local community can, generate revenue to the County Government, create employment and be a source of livelihood to many households residing in the area;

THAT WHEREAS, Gakiwawa is ready and willing to utilize the land, if the land is regularized, we are committing to construct an ECD centre and a primary school to serve the community as there is none within the area and the establish godowns that will create employment opportunities for the residents and boost county revenues; and

AND THAT, all the matters in respect of which the Petition is raised are not pending before any court of law or constitutional body and the Petitioners' confirm that efforts have been made to have the matter addressed through relevant bodies but to no avail.

In their prayers, the Petitioners requests the County Assembly to intervene into the matter and ensure that the Nairobi City County Executive regularizes the ownership land plot LR. No.9363/3014 under a long term lease to Gakiwawa Enterprises and the Nairobi City County Executive permits us to proceed with the proposed projects, which are entirely focused on the good of the local community.

In executing consideration of the subject matter of the Petition, the Committee held a meeting on Wednesday 29th May 2024 to dispense with the said Petition before the Committee, it was resolved that the Committee deliberates on the matter and forwards its recommendations to the County Executive. This report contains the Committee's deliberations and recommendations on the Petition.

3.0 COMMITTEE DELIBERATIONS/OBSERVATIONS

In the mentioned sitting held on **Wednesday 29th May 2024** the Committee Members made the following submissions/observations:-

1. That the said land plot LR No. 9363/3014 is a sub-plot of LR No. 9363/66;
2. That the said land plot LR No. 9363/66 was subdivided into 25 sub plots as reflected on survey plan F/R 379/10. LR No. 9363/1743 (approximate area 8.8700 Ha) was one of the sub plots of the sub-division of LR no. 9363/66;
3. That in 2014 Gakiwawa Enterprises Limited was issued with the title deed for LR. No 9363/1743;

4. That in August 2019, a Change of User Deed Plan No. 435931 was approved 9363/1743 which, consequently, changed to LR no. 9363/3014;
5. That in March 2022, a Change of User title deed for LR No. 9363/3014 was processed and registered in favor of Gakiwawa Enterprises Limited as annexed in annexure 5;
6. The land is rated, paying Ksh. 52,565 per year;
7. That there has been plenty of idle public land where members of the public are issued with leases but were unable to develop on the said lands leading to misuse of the lands as some of the spaces end up with unauthorized structures;
8. The area Ward representative confirmed that the land in question, Gakiwawa Enterprises Limited is ready and willing to utilize the land and are committing to construct an ECD centre and a primary school to serve the community as there is none within the area and the establish godowns that will create employment opportunities for the residents and
9. That Section 9 of National Land Act 2012 on Conversion of land provides that; and
 - (1) Any land may be converted from one category to another in accordance with the provisions of this Act or any other written law.
 - (2) Without prejudice to the generality of subsection (1)— (a) public land may be converted to private land by allocation; (b) subject to public needs or in the interest of defense, public safety, public order, public morality, public health, or land use planning, public land may be converted to community land.

4.0 RECOMMENDATIONS

In view of the above, the Committee makes the following recommendations;

1. That in accordance with Section 9 of the Land Act of 2012 on land Conversion, the Committee has no objection to Gakiwawa Enterprise being awarded the lease to the land mentioned in the Petitioners prayers with the condition that the land shall be put into meaningful use that will also generate revenue to the County; and
2. That within one (1) year of successful execution of this allocation of the said land, Gakiwawa Enterprises Limited to build an Early Childhood Education (ECD) Centre and a Primary School failure to which, the company to pay the County Government a sum of money equivalent to the value of the piece of land at that time.

MINUTES OF THE SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON LANDS, PLANING AND HOUSING HELD ON THURSDAY 6TH JUNE 2024 AT 11:00 A.M IN COMMITTEE ROOM FIVE (5).

PRESENT

1. Hon. Alvin Olando Palapala, MCA - Chairperson
2. Hon. Collins Omondi Ogenga, MCA - Vice-Chairperson
3. Hon. Anthony Kiragu Karanja, MCA
4. Hon. Peter Maina Mwangi, MCA
5. Hon. Hannah Wanjiru Muriuki, MCA
6. Hon. Lily Akoth Kidenda, MCA
7. Hon. Jane Wanjiru, MCA
8. Hon. Nasra Shehan Nanda, MCA
9. Hon. Geophfrey Odhiambo Majiwa, MCA
10. Hon. Paul Ndung'u Irungu, MCA
11. Hon. Patrick Mwangi Macharia, MCA
12. Hon. Hashim Athman Kamau, MCA
13. Hon. Billy Ricardo Nyantika, MCA
14. Hon. Nicholas Juma Okwacho, MCA

ABSENT

1. Hon. Esther Waithera Chege, MCA
2. Hon. Fuad Hussein Mohammed, MCA
3. Hon. Paul Kiguathi Kados, MCA
4. Hon. Clement Nganga Kamaru, MCA
5. Hon. Peter Imwatok Jateso, MCA
6. Hon. Tricer Jeptoo Ayabei, MCA
7. Hon. Martin Waithaka Wairobi, MCA
8. Hon. Francis Kimondo Kiragu, MCA
9. Hon. Kamau Thuo Fiunifiu, MCA

SECRETARIAT

1. Mr. Austine Inyundele - Senior Clerk Assistant
2. Mr. Benedict Ochieng' - Clerk Assistant

AGENDA

1. Preliminaries (prayers & adoption of the Agenda)
2. Consideration and adoption of the Committee's report on Petition presented by Hon. Sam Kago on behalf of residents of Mwiki Ward on allocation of public land to Gakiwawa Enterprises Ltd
3. Any other business
4. Adjournment

MIN.082/LPH /JUNE/2024: PRELIMINARIES

The Chairperson called the meeting to order at 11.10 a.m. and opened the meeting with a word of prayer. The Chairperson read the agenda of the meeting and was proposed by Hon. Hannah Wanjiru, MCA and seconded by Hon. Geophrey Majiwa, MCA.

MIN.083/LPH/JUNE/2024: CONSIDERATION AND ADOPTION OF THE COMMITTEE'S REPORT ON PETITION PRESENTED BY HON. SAM KAGO ON BEHALF OF RESIDENTS OF MWIKI WARD ON ALLOCATION OF PUBLIC LAND TO GAKIWAWA ENTERPRISES LTD

The Committee was informed that Hon. Sam Kago, MCA presented a Petition on behalf of residents of Mwiki Ward regarding allocation of Public land (LR No. 9363/3014). In the Petition, the Member prayed that the County Assembly intervenes and ensures that:

- (a) Nairobi City County Executive regularizes the ownership land plot LR No. 9363/3014 under long term lease to Gakiwawa Enterprises; and
- (b) The Nairobi City County Executive permits allow them to proceed with the proposed projects, which are entirely focused on the good of the local community.

In this regard, the Committee deliberated on the Petition and resolved to seek a response the matter from the County Executive Committee Member for Built Environment and Urban Planning on the prayers sought. Having considered the submissions by the County Executive Committee Member, the Committee made the following observations:

1. That the said land plot LR No. 9363/3014 is a sub-plot of LR No. 9363/66;
2. That the said land plot LR No. 9363/66 was subdivided into 25 sub plots as reflected on survey plan F/R 379/10. LR No. 9363/1743 (approximate area 8.8700 Ha) was one of the sub plots of the sub-division of LR no. 9363/66;
3. That in 2014 Gakiwawa Enterprises Limited was issued with the title deed for LR. No 9363/1743;
4. That in August 2019, a Change of User Deed Plan No. 435931 was approved 9363/1743 which, consequently, changed to LR no. 9363/3014;
5. That in March 2022, a Change of User title deed for LR No. 9363/3014 was processed and registered in favor of Gakiwawa Enterprises Limited as annexed in annexure 5;
6. The land is rated, paying Ksh. 52,565 per year;
7. That there has been plenty of idle public land where members of the public are issued with leases but were unable to develop on the said lands leading to misuse of the lands as some of the spaces end up with unauthorized structures;
8. The area Ward representative confirmed that the land in question, Gakiwawa Enterprises Limited is ready and willing to utilize the land and are committing to construct an ECD centre and a primary school to serve the community as there is none within the area and the establish go downs that will create employment opportunities for the residents and boost county revenues; and

~~9. That Section 9 of National Land Act 2012 on Conversion of land provides that;~~

- i) Any land may be converted from one category to another in accordance with the provisions of this Act or any other written law.
- ii) Without prejudice to the generality of subsection (1)— (a) public land may be converted to private land by allocation; (b) subject to public needs or in the interest of defense, public safety, public order, public morality, public health, or land use planning, public land may be converted to community land.

In view of the foregoing observations, the Committee resolved as follows;

1. That in accordance with Section 9 of the Land Act of 2012 on land Conversion, the Committee has no objection to Gakiwawa Enterprise being awarded the lease to the land mentioned in the Petitioners prayers with the condition that the land shall be put into meaningful use that will also generate revenue to the County; and
2. That within one (1) year of successful execution of this allocation of the said land, Gakiwawa Enterprises Limited to build an Early Childhood Education (ECD) Centre and a Primary School failure to which, the company to pay the County Government a sum of money equivalent to the value of the piece of land at that time.

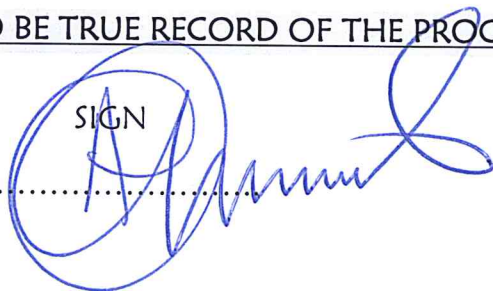
MIN.084/LPH/JUNE/2024: ADJOURNMENT

There being no other business to consider, the Chairperson adjourned the meeting at 12.11 p.m. The date of the next meeting would be communicated by notice.

CONFIRMED TO BE TRUE RECORD OF THE PROCEEDINGS

CHAIRPERSON

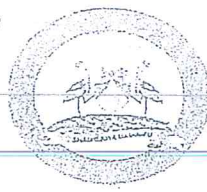
SIGN



DATE

12th / 6 / 2024

*Reference
17 of 2024
Committed to Committee on plants and
Housing*



APPROVED
* 16 APR 2024 *
SIGNATURE
MON. SPEAKER

NAIROBI CITY COUNTY ASSEMBLY
(THIRD ASSEMBLY- THIRD SESSION)

[PUBLIC PETITION PURSUANT TO STANDING ORDER 213]

BY RESIDENTS OF MWIKI (GAKIWAWA) ON ALLOCATION OF PUBLIC LAND IN
INFINITY AREA, MWIKI WARD.

WE, THE UNDERSIGNED citizens of Kenya who are residents of Mwiki and members of Gakiwawa enterprises, a local business community within Nairobi City County.

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

Aware that the Constitution of Kenya 2010 under Article 37 and Section 15 and 88 of the County Governments Act, 2012, provide the right for citizens to Petition authorities or County Governments on any matter;

THAT WHEREAS, Article 62 of the Constitution of Kenya 2010 provides that public land shall vest in and be held by a County Government in trust for the people resident in the county and may be administered by the National Land Commission on behalf of the County Government;

THAT, on 12th June 2014 we bought land plot LR. No.9363/3014 from Giathieko Farm Ltd measuring 8.87 ha located in Infinity Area, Mwiki Ward;

THAT, Following the complete land acquisition procedure, we were granted a lease in accordance with the Land Act's transitional provisions in sections 160 and 161, the Land Registration Act's section 108, and deed plan No. 435931. The lease dated 10th March 2022 has an annual rent of Ksh.278, 200/= w.e.f 01-02-2022;

THAT, the land was formerly an abandoned quarry with excavations reaching a depth of 100 feet; however, we backfilled it to restore its usability. We further constructed a perimeter wall and obtained approvals from the County Government to construct godowns;



... we have however stated any further development on the land after we received information that the said land was County land which had been fraudulently sold to us;

THAT WHEREAS, due to its strategic location, the said parcel of land if put to proper use by the local community can, generate revenue to the County Government, create employment and be a source of livelihood to many households residing in the area;

THAT WHEREAS, Gakiwawa is ready and willing to utilize the land, if the land is regularized, we are committing to construct an ECD centre and a primary school to serve the community as there is none within the area and the establish godowns that will create employment opportunities for the residents and boost county revenues;

AND THAT, all the matters in respect of which the Petition is raised are not pending before any court of law or constitutional body and the Petitioners' confirm that efforts have been made to have the matter addressed through relevant bodies but to no avail;

NOW THEREFORE your humble Petitioners PRAY the Nairobi City County Assembly intervenes to ensure that: -

- (i) The Nairobi City County Executive regularizes the ownership land plot LR. No.9363/3014 of under a long term lease to Gakiwawa Enterprises; and
- (ii) The Nairobi City County Executive permits us to proceed with the proposed projects, which are entirely focused on the good of the local community.

And your Petitioners will forever pray.

Presented by;

Hon. Samuel Kanyi Kago, MCA

On behalf of;

- The Residents of Mwiki Ward

And by extension;

- All residents of Nairobi County.



OFFICE OF THE GOVERNOR

County Secretary and Head of County Public Service

Ref: LANDS/977/PW/iwm

15th May 2024

Edward O. Gichana
Clerk - Nairobi City County Assembly
City Hall Building
P O BOX 45844-00100
NAIROBI



AG Dept
Kandh receive
response go
and advise
committee
D/S
15/5

RE: REQUEST FOR RESPONSE TO PETITION

Reference is made to your letter ref NCCA/LPH/2024/016 dated 25th April 2024 regarding L.R No. 9363/3014.

Our response is as follows:

- 1) LR No. 9363/3014 is a sub-plot of LR No. 9363/66
- 2) LR No. 9363/66 was subdivided into 25 sub plots as reflected on survey plan F/R 379/10. LR No. 9363/1743 (approximate area = 8.8700 Ha) was one of the sub plots of the sub-division of LR no. 9363/66.
- 3) In 2014 Gakiwawa Enterprises Limited were issued with the title deed for LR No. 9363/1743.
- 4) In August 2019, a Change of User Deed Plan No. 435931 was approved for LR No. 9363/1743 which, consequently, changed to LR no. 9363/3014
- 5) In March 2022, a Change of User title deed for LR No. 9363/3014 was processed and registered in favour of Gakiwawa Enterprises Limited.
- 6) The land is rated, paying Ksh. 52,563 per year.

Planning
by (LS)
16/5/24

D/S
Vandy de
MO

Cecilia W. Koigu 15.05.2024
CECILIA W. KOIGU - LS (K)
FOR. COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE

CC: CECM - Built Environment & Urban Planning

LET'S MAKE NAIROBI WORK

