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NAIROBI CITY COUNTY



Paper laid on the
Table of the
Assembly by
Hon. Khin Malepolan
on 12th April, 2023
Rev. S.C.A.
12/4/2023.

NAIROBI CITY COUNTY ASSEMBLY
THIRD ASSEMBLY – SECOND SESSION
REPORT OF THE SECTORAL
COMMITTEE ON PLANNING AND HOUSING
ON
THE PETITION BY RESIDENTS OF PATANISHO SCHEME SETTLEMENT IN
LOWER SAVANNAH WARD ON FORMALIZATION PROJECT OF COMMERCIAL
PLOTS 667-730.

CLERKS CHAMBERS
NAIROBI CITY COUNTY ASSEMBLY
CITY HALL BUILDINGS
NAIROBI

APRIL 2023

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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
2. Hon. Collins Ogenga, MCA
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, Hon. David Magoba Petitioned the County Assembly on behalf of residents of Patanisho settlement scheme in Lower Savannah Ward praying to the Assembly to intervene and ensure that patanisho residents formalization Project of Commercial Plots 667-730 is fast-tracked and actualized.

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

The Petitioners' prayers were that the County Assembly intervenes and ensures that:-

The County Executive takes the initiative of ensuring that plots no. 667-730 are indeed occupied by the rightful owners by issuing them with lease certificates as done to settlers on the other part of the scheme.

Mr. Speaker Sir,

In order to ascertain issues raised in the Petition, the Committee resolved to meet all parties mentioned in the Petition before making appropriate recommendations. The Committee identified the following as parties of interest in the Petition;

- i.) The Petitioners; and
- ii.) The County Chief Officer for **Lands**.

The Committee met the parties on Wednesday 15th March 2023 at the Assembly's precincts in Committee room 5. This report contains the Committee's findings, observations and recommendations on the Petition.

Mr. Speaker Sir,

While considering the Petition, the Committee sought to address the following:

- a) The current status of ownership of the parcels of land;
- b) Who are the rightful owners of the said land and the property and whether they were illegally allocated to the current owners; and
- c) Whether there are any remedial measures arising from the foregoing.

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 residents of Patanisho in Lower Savannah Ward on formalization project of commercial plots 667-730.

Thank You.

SIGNED



Hon. Alvin Palapala, MCA
(CHAIRPERSON)

DATE

12th / 4 / 23

2.0 INTRODUCTION

Pursuant to Standing Order No. 219, Hon. David Magoba Petitioned the County Assembly on Thursday 1st December 2022 on behalf of residents of Patanisho settlement scheme in Lower Savannah Ward, requesting the Assembly to intervene and ensure that the long overdue settlement formalization of commercial plots No. 667-730 in the said settlement scheme is fast tracked by the County Government. Pursuant to Standing Order 221, the Petition was committed to the Sectoral Committee on Planning and Housing to inquire into the issues raised and report to the Assembly.

In the Petition, the Petitioners stated;-

- i.) **THAT WHEREAS**, in 2014 the County Government issued allotment letters to Patanisho (formerly known as Kayole South) scheme settlers to Formalize allocation of plots vide Minute 13 (pg 564) of a general purposes meeting of the defunct County Council of 13th September 2012;
- ii.) **THAT WHEREAS**, the 41 ha. Plots were initially allocated to the Petitioners by the then Provincial Administration;
- iii.) **THAT WHEREAS**, the allotment letters being an offer and subject to acceptance with the period specified on the offer and also upon accepting by paying and meeting all the conditions set out. This being the payment of standard premium and ground rent;
- iv.) **THAT WHEREAS**, upon the said payment of all the prerequisite fees, the Petitioners proceeded and applied for the Survey of the land, which upon payment, they were issued with a map showing the boundaries of the plots now known as Nairobi Block 167 ;
- v.) **THAT WHEREAS**, upon the said payment of requisite Survey fees of Ksh 2.1m, the County Land Surveyor in a letter dated 22nd September 2015 made a request forwarding a Preliminary Development Plan(PDP) and a Registered index Map(RIM) to enable the County prepare leases to the allottees (herein the Petitioners);
- vi.) **THAT**, in 2016 the County Government then started issuing 99 year leases to 400 allottees having duly paid KRA Stamp Duties;

- vii.) **THAT**, The Petitioners have since been paying Land rates/KRA Land rates; and arising from a boundary dispute with Kiambu Dandora Farmers Association on Plot Nos. 667-730, the Ministry of Lands visited part of Nairobi Block 167 and drew boundaries hence ending the dispute;
- viii.) **THAT**, after the Ministry of lands conducted the Survey, a group known as Kayole Sector 'A' emerged claiming ownership of plots 667-730. The claim was contested by the Petitioners through their advocate who wrote to the County on the same. The County Government through the County Attorney and the Chief Officer Lands, after scrutinizing the documents produced by Kayole Sector 'A' group, termed them as fake documents as they cannot be traced in County Government records;
- ix.) **THAT**, this 'fake' claim by members of Kayole Sector 'A' Association has infringed on the rights of the allottees enjoying peaceful enjoyment to their property as envisaged by the Constitution.
- x.) **THAT** , efforts made to have the matter addressed by the relevant body have proven to be futile;
- xi.) **THAT**, all the matters in respect of which the petition is being raised is not pending before any court of law or constitutional body.
- 2.1 In their prayers, the Petitioners requested the County Assembly to intervene into the matter and ensure that The County Executive does take the initiative of ensuring that plots No. 667-730 are indeed occupied by the rightful owners by issuing them with lease certificates as was done to settlers on the other part of the scheme.
- 2.2 In executing the hearing of the Petition, on 15th March 2023 the Committee held a joint meeting with the Petitioners and the Ag. County Executive Committee Member (CECM) for Built Environment & Urban Planning, the Chief Officer for Lands and the Ag. Director Survey & GIS, identified as key to the Petition, gave their submissions as outlined in this report.

3.0 COMMITTEE FINDINGS

Submissions by the Petitioners

In the mentioned joint meeting held on **Wednesday 15th March 2023** the Petitioners stated as follows:-

- i.) In 2014 the County Government issued allotment letters to Patanisho (formerly known as Kayole South) scheme settlers to formalize allocation of plots vide Minute 13 (pg 564) of a general purposes meeting of the defunct County Council of 13th September 2012. The 41 ha. Plots were initially allocated to the Petitioners by the then Provincial Administration.
 - ii.) The allotment letters being an offer and subject to acceptance with the period specified on the offer and also upon accepting by paying and meeting all the conditions set out. This being the payment of standard premium and ground rent;
 - iii.) Upon the said payment of all the prerequisite fees, the Petitioners proceeded and applied for the Survey of the land, which upon payment, they were issued with a map showing the boundaries of the plots now known as Nairobi Block 167. The Petitioners tabled a letter Ref CR236/Vol.45/69 dated 23rd June 2021 from the Director of Surveys (Ministry of Lands) addressed to Government Lands Surveyor citing that Plan F/R No.501/98 representing the survey of parcels No. 667-730 as being approved for Regularization Survey.
 - iv.) After the Ministry of Lands conducted the Survey, a group known as Kayole Sector 'A' emerged claiming ownership of plots 667-730. The claim was contested by the Petitioners through their advocate who wrote to the County on the same. The County Government through the County Attorney and the Chief Officer Lands, after scrutinizing the documents produced by Kayole Sector 'A' group, termed them as fake documents as they cannot be traced in County Government records
- The Petitioners further tabled documentary evidence to support their claims.
 - In their supporting documents amongst others they provided the following:-
 - (i) Minutes 41 of 2016 on the Executive Committee Memorandum signed on 25th October 2016 by the then CECM for Urban Planning and Lands.

- According to the Minutes, in 2013 the Ministry of Lands earmarked the Settlement for issuance of Title Deeds, an exercise which was taken up with the assistance of the Chief Officer Lands and the local leadership. A joint Survey work was done by the Ministry of lands and the County Government and fresh allotment/regularization letters issued in 2015.

Submissions by the Chief Officer, Lands

The **Chief Officer, Lands** submitted as follows:

- i) Part of the settlement scheme of Patanisho falls within Kiambu Dandora scheme but the boundary dispute has since been resolved. There is need for the Patanisho scheme officials to provide the list of settlement beneficiaries to the office of the Chief Officer for Lands.
- ii) Currently the scheme settlers are holding onto ownership cards/booklets that should be replaced with allotment letters. The land which is County land was rightfully allocated to the Petitioners but the same has not been regularized.
- iii) That the survey for Patanisho resettlement scheme has been done and titling is ongoing. The particular land in question is now known as Block 173 and advised that the Director of Survey should carry out its survey and issue titles to the Petitioners.
- iv) The documents purporting that the land in question belongs to Kayole sector A were invalid as they could not be traced in the County lands records.

4.0 COMMITTEE'S OBSERVATIONS

After making an analysis of the submissions made by the Petitioners and respondents, the Committee observed as follows;

- i.) That the Petitioners were legitimately allocated land by the County Government of Nairobi;
- ii.) That the Petitioners abided by all rules and regulations pertaining to land allocation in the City Council then by paying all the required rates and fees;

- iii.) That the Chief Officer Lands, has no objection in the Regularizing of Patanisho Settlement scheme now Block 173;
- iv.) That the Executive Committee Memorandum No. 41 of 2016 provided to the Committee requires the County Government to settle the scheme settlers on the said land through issuing them with ownership documents;
- v.) That letter Ref CR236/Vol.45/69 dated 23rd June 2021 from the Director of Surveys (Ministry of Lands) addressed to Government Lands Surveyor citing that Plan F/R No.501/98 has granted approval for the Regularization Survey of Plot Nos. 667-730.

5.0 RECOMMENDATIONS

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

1. That in accordance with Section 134 of the Land Act 2012 and based on the principles of fair administrative action contained in Article 47 of the Constitution, the Committee recommends that the County Government of Nairobi commences the process of Regularizing and issuing title deeds to the Patanisho Scheme settlers contained in the Petition and who are entitled to land ownership in Block 173 or Plot Nos. 667-730.
2. That the CECM for Built Environment & Urban Planning, urgently formulates a Bill addressing procedures on Allotment, Revocation, Evictions, Resettlement and Demolition on County Public land to eliminate instances of prolonged disputes and to provide uniformity when dealing with such matters. The said Policies to be tabled before the Committee within six months of adoption of this report.

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ANNEX I: Minutes

ANNEX II: Copies of supporting documents

MINUTES OF THE 5TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY
COMMITTEE ON PLANNING AND HOUSING HELD ON TUESDAY 15TH MARCH,
2023 AT 11.00 AM AT COMMITTEE ROOM 5- CITY HALL BUILDINGS.

PRESENT

1. Hon. Alvin Palapala, MCA- Chairperson
2. Hon. Collins Ogenga, MCA –Vice Chairperson
3. Hon. Anthony Kiragu, MCA
4. Hon. Hannah Wanjiru Muriuki, MCA
5. Hon. Peter Maina, MCA
6. Hon. Francis Kimondo, MCA
7. Hon. Nasra Nanda, MCA
8. Hon. Paul Ndungu, MCA
9. Hon. Hashim Kamau, MCA
10. Hon. Nyantika Ricardo, MCA
11. Hon. Jane Wanjiru, MCA
12. Hon. Nicholas Juma, MCA
13. Hon. Tricer Jeptoo MCA
14. Hon. Martin Wairobi, MCA
15. Hon. Clement Kamaru, MCA

ABSENT

1. Hon. Paul Kados, MCA
2. Hon. Geoffrey Majiwa, MCA
3. Hon. Peter Imwatok, MCA
4. Hon. Thuo Fiunifu, MCA
5. Hon. Patrick Macharia, MCA
6. Hon. Lily Akoth Kidenda, MCA
7. Hon. Fuad Hussein, MCA
8. Hon. Waithera Chege, MCA

AGENDA

1. *Preliminaries (Prayers & adoption of the agenda)*
2. *Consideration of the Patanisho Settlement Petition on formalization of Plots No. 667-730*
3. *Matters Arising*
4. *A.O.B*
5. *Adjournment*

COMMITTEE SECRETARIAT

1. Mr. Joshua Mbila - Clerk Assistant

IN ATTENDANCE

1. Ms. Suzanne Silantoi –Ag. CECM, Built Environment & Urban Planning
2. Ms. Cecilia Koigu – Chief Officer, Lands

MINUTES OF THE 5TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY
COMMITTEE ON PLANNING AND HOUSING HELD ON TUESDAY 15TH MARCH,
2023 AT 11.00 AM AT COMMITTEE ROOM 5- CITY HALL BUILDINGS.

3. Mr. Peter Wanyoike-Ag Director, Survey & GIS
4. Mr. Paul Irungu- Chairman, Patanisho Jua Kali Association
5. Mr. Samuel Kariuki-Secretary, Patanisho Jua Kali Association
6. Mr. Francis Mbichi-Treasurer, Patanisho Jua Kali Association
7. Mr. John Kanyi-Member, Patanisho Jua Kali Association
8. Mr. Julius Maina-Member, Patanisho Jua Kali Association
9. Mr. Patrick Mugambi-Member, Patanisho Jua Kali Association

MIN.21 /P&H/MAR 2023– PRELIMINARIES

The Chair called the meeting to order at 11.20 am and proceeded to read the agenda. It was adopted as proposed by Hon. Nasra Nanda, MCA and seconded by Hon. Paul Ndung'u, MCA. Introductions ensued thereafter.

MIN.22/P&H/MAR 2023–COSIDERATION OF PATANISHO SETTLEMENT PETITION
ON FORMALIZATION OF PLOT Nos. 667-730

In commencing the Petition, the Chair gave the Petitioners an opportunity to present their case and thereafter the Ag. CECM and Chief Officer Lands proceeded to give their submissions as highlighted below;-

Submissions from Patanisho Jua Kali Association

- (i) The land in question was allocated to them by the defunct City Council, but the formalization of the same by the County government has been delayed until recently when a group known as Kayole South A emerged with fake documents purporting to be the rightful owners of the land.
- (ii) They are requesting the County Government to verify the said documents presented by Kayole South A group and to as well fast track the formalization of their settlement scheme.
- (iii) They made payments of applicable rates previously to prove that the scheme had been allocated to their association.

Submissions from Ag. CECM & Chief Officer Lands

- (i) Survey of the Patanisho residents land has been done and the titling process is ongoing and currently the scheme members are holding onto ownership booklets. They should be issued with allotment letters.
- (ii) Part of Patanisho scheme falls in block 173 which borders Kijambu Dandora estate. The County Government has no objection formalizing the said plots to the members of the scheme.

MINUTES OF THE 5TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY
COMMITTEE ON PLANNING AND HOUSING HELD ON TUESDAY 15TH MARCH,
2023 AT 11.00 AM AT COMMITTEE ROOM 5- CITY HALL BUILDINGS.

(iii) The documents produced by Kayole Sector A group are fake as they cannot be traced in the County lands record.

(iv) The Director of Survey should survey the remaining land and issue titles on Block 173 which houses plots 667-730.

Committee Resolution

The Committee has no objection to the formalization of the Patanisho Jua Kali settlement scheme. The office of the CECM & the Chief Officer lands to facilitate the process and ensure that the settlers get their allotment letters and title deeds.

MIN.23/ P&H /MAR 2023– MATTERS ARISING

There were no matters arising.

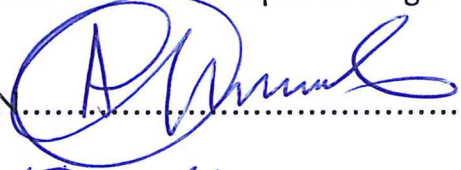
MIN.24/ P&H /MAR 2023 – ANY OTHER BUSINESS


There was no AOB.

MIN.25/ P&H /MAR 2023 – ADJOURNMENT

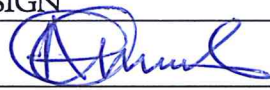
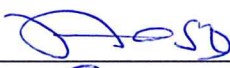
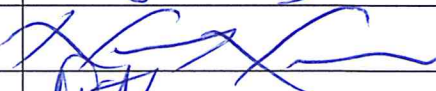


There being no other business, the Chairperson adjourned the meeting at 1.02 pm. Next meeting was scheduled to be held on Thursday 16th March 2023.

Confirmed as true record of the proceedings

CHAIRPERSON.......... DATE 16/4/23.....

SECRETARY.......... DATE 17/04/2023.....

NAIROBI CITY COUNTY ASSEMBLYCOMMITTEE ON PLANNING AND HOUSINGVENUE: ROOM 10PARTICULARS: ADOPTION LIST FOR THE REPORT AND MINUTES ON THE
FORMALIZATION OF PATANISHO OF PLOTS NO. 667-730DATE (dd/mm/yy): 12/04/2023TIME: 11:00 AM

S/NO	NAME	TIME IN	SIGN
1.	Alvin Olendo		
2.	Colins Oginga		C.O.O
3.	Paul Ngunjiri		P.N
4.	Kados Paul		Phados
5.	HASHIM KAMAU		
6.	NASRA NANDA		
7.	NANTIKA R. CARO		
8.	NICHOLAS JUMA		N. Juma.
9.	FRANCIS KIMONDO KIRAGU		F.K.K.
10.	Jane Wanjiru		
11.	Patrick M. Macharia		P.M.M
12.	HANNAH WANJIRU		H.W.
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