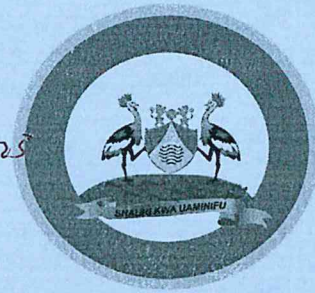


GOVERNMENT OF NAIROBI CITY COUNTY



Paper laid by  
Hon. Nicholas Juma  
on Tuesday 5th December 2023  
5/12/2023

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(SECOND SESSION)

NCCA/TJ/PL/2023(87)

30<sup>TH</sup> NOVEMBER 2023

PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant to Standing Order 196 and 221, I beg to lay the following Paper on the Table of this Assembly, today ~~Thursday 30<sup>th</sup> November 2023~~ *Tuesday, 5<sup>th</sup> Dec, 2023*

- THE REPORT OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND HOUSING ON A PETITION REGARDING GRABBING OF PUBLIC LAND LR. NO 209/12621 BY A PRIVATE DEVELOPER IN SOUTH B SHOPPING CENTER IN NAIROBI CITY COUNTY.

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

Copies to:

The Speaker

The Clerk

Hansard Editor

Hansard Reporters

The Press





Paper 1410 67

Hon. Nicholas Juma  
on Tuesday 5<sup>th</sup> December 2023

5/12/2023

NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY  
THIRD ASSEMBLY – SECOND SESSION

REPORT OF THE SECTORAL  
COMMITTEE ON PLANNING AND HOUSING  
ON

THE PETITION BY NAIROBI SOUTH RESIDENTS ON THE GRABBING OF PUBLIC  
LAND LR.NO 209/12621 BY A PRIVATE DEVELOPER IN SOUTH B SHOPPING CENTER  
IN NAIROBI CITY COUNTY

CLERKS' CHAMBERS  
NAIROBI CITY COUNTY ASSEMBLY  
CITY HALL BUILDINGS  
NAIROBI

NOVEMBER 2023

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ANNEX I: Committee Minutes

ANNEX II: Copy of the Petition

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## 1.0 PREFACE

### 1.1. Establishment and Mandate of the Committee

01. The Sectoral Committee on Planning and Housing is established pursuant to 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.*

02. 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.



## 1.2. Committee Membership

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

## 1.3. Presentation and Committal of the Petition

Hon. Speaker,

04.Pursuant to Standing Order No. 219, the Hon. Waithera Chege on **Thursday 10<sup>th</sup> August 2023** presented to the House a Petition on Nairobi South residents on the grabbing of public land LR. No 209/12621 by a private developer in South B shopping center in Nairobi City County. The Nairobi South residents made the following prayers that the Nairobi City County Assembly intervenes to ensure that;-

- a) The National Land Commission and all the relevant bodies furnishes the Nairobi City County with the deed plans of the land LR. No 209/12621;
- b) The Nairobi City County Government in conjunction with the relevant organs brings down the illegal structure being developed on the said land;
- c) The said land be surrendered to the Nairobi City County Government and appropriate deed plans be issued in respect to the said land; and
- d) The Nairobi City County Government to secure the Land and hold it in trust of the traders and Nairobians at large.

**Hon. Speaker,**

05.The Petitioners' prayers are based on the fact that Article 62 of the constitution mandates the County Government to hold in trust public land on behalf of county residents.

06.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.

**Hon. Speaker,**

07.The Committee observed that the matter touches on the rights to basic services stipulated in County Governments Act, 2012 Section 117 (1) (a) which provides that the County Government shall give priority to basic needs of the public to ensure that all members of the public have access to basic services. The Committee therefore resolved to consider the Petition on its own merit by comparing the facts as presented by the Petitioners against the relevant provisions of the law.

**Hon. Speaker,**

08.The Committee having reviewed the Petition, the facts presented therein and the law, resolved to have a meeting with Petitioners and the County Executive on Wednesday 11<sup>th</sup> October 2023 where the Petition was discussed and satisfactorily concluded in favour of the Petitioners.

**Hon. Speaker,**

09.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.

10. It is my honor and pleasure on behalf of the Committee to present this Petition by Nairobi South residents on the grabbing of public land LR. No 209/12621 by a private developer in South B shopping center in Nairobi City County.

Thank You.

SIGNED ..... 

Hon. Alvin Palapala, MCA

(CHAIRPERSON)

DATE. 28<sup>th</sup> / 11 / 2023



## 2.0 INTRODUCTION

11. Pursuant to Standing Order No. 219, the Hon. Speaker on **Thursday 10<sup>th</sup> August 2023** presented to the House a Petition on behalf of Nairobi South residents regarding the grabbing of public land LR. No 209/12621 by a private developer in South B shopping center in Nairobi City County.
12. 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.
13. In the Petition, the Petitioners averred as follows:-

**THAT**, Article 62 of the constitution mandates the County Government to hold in trust public land on behalf of county residents;

**THAT**, the Kenya National Land Use Policy 2017 recognizes the need for social development that takes cognizance of provision of basic infrastructure and services;

**THAT WHEREAS**, Section 5(e) of The National Land Commission Act, 2012 requires the Commission to initiate investigations into present or historical land injustices and recommend appropriate redress; Section 116 of the County Governments Act, 2012 imposes an obligation on the County Government and its agencies to deliver services within its designated area of jurisdiction and Section 117 (1) (a) of the Act provides that the County Government shall give priority to basic needs of the public to ensure that all members of the public have access to basic services;

**THAT**, the Land LR. No. 209/12612 located in South B shopping centre, Makuti area is a public Land where the Government had initially allocated for the Construction of a modern market;

**THAT**, a private developer has allegedly invaded and grabbed the said public land that was meant for the construction of a modern market that would benefit the Nairobi South residents and Nairobians at large to better their lives;

**THAT**, the grabbed modern market would benefit the locals mostly by increasing employment opportunities, increasing quality of production, creating an environment for healthy competition and increasing consumer status;

**THAT WHEREAS**, they have made efforts to have the matter addressed by the relevant body, they have never received a satisfactory intervention from the relevant authorities;

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

### **3.0 CONSIDERATION OF THE PETITION**

14. The Committee held its meeting with the County Executive, the Petitioners and the Member of County Assembly representing Nairobi South Ward on **Wednesday 11<sup>th</sup> October 2023** where the Petition was deliberated upon.

#### **3.2 Submissions from CECM Built Environment & Urban Planning and Chief Officer Lands**

15. In their submissions regarding the subject matter of the Petition, the **CECM Built Environment & Urban Planning** and the **Chief Officer Lands** responded as follows:-

- (i) The land in South B measures approximately 0.2886Ha or 0.7131acres and was an open space that had been set aside by the defunct County Council for public commercial use i.e for a market and shops;
- (ii) On 3<sup>rd</sup> September 1979 a Temporary Occupation Licence was issued by the defunct City Council of Nairobi to J. W. Macua of P.O. Box 45339 Nairobi to use the land as a storage for building materials;
- (iii) On 14<sup>th</sup> September 1992 the space was allocated by the defunct City Council of Nairobi vide two allotment letters. Allotment letter CP&ARCH/002532 dated 14<sup>th</sup> September 1992 allocated 0.17 Ha of the land to Mago Investment Ltd of P.O. Box 45339 while allotment letter ref. CP&ARCH/0006449 dated 14<sup>th</sup> September 1992 allocated 0.11 hectares to Waithaka Macua. Thereafter the two parcels of land were surveyed together to form L.R. No. 209/12621 vide deed plan No. 203595 issued in March 1996;
- (iv) On 8<sup>th</sup> November 2013 a title was issued to the City Council for Nairobi upon payment of Kshs.760, 000/- as Stand Premium for a term of 99 years with effect from 1<sup>st</sup> May 1995 and subject to payment of Kshs.152, 000/- as annual rent;
- (v) On 4<sup>th</sup> December 2018 the title was transferred to John Macua Waithaka; and
- (vi) Currently the County has not issued any approvals for construction to take place on the land and have further issued an enforcement notice for any ongoing constructions on the site to stop forthwith.

16. During the submissions ,the **CECM Built Environment & Urban Planning** and the **Chief Officer Lands** tabled the following documents:-

- (i) Temporary Occupation Licence ref. CV.948/VB. 295 dated 3<sup>rd</sup> September 1979;
- (i) Allotment letter ref. CP&ARCH/002532 dated 14<sup>th</sup> September 1992 for 0.17 Ha to Mago Investments Ltd;



- (ii) Allotment letter ref. CP&ARCH/006449 dated 14<sup>th</sup> September 1992 for 0.11 Ha to Waithaka Macua;
- (iii) Letter of allotment to Nairobi City Council Ref 93103/III/30 dated 13<sup>th</sup> May 1999;
- (iv) Agreement for lease dated 3<sup>rd</sup> November 1992 between Josephat Waithaka Macua and City Council of Nairobi;
- (v) Instrument of transfer dated 9<sup>th</sup> June 2014 between City Council of Nairobi and John Macua Waithaka; and
- (vi) Copy of title L.R. No. 209/12621.

17. The **Nairobi South Ward Member of County Assembly** who petitioned on behalf of Nairobi South residents gave the following submissions;-

- (i) That a sitting Member of Parliament from Kiambu County whose spouse is a County Executive Committee Member of Nairobi County purport to have the ownership of the land in question;
- (ii) The land had been earmarked and set aside for the construction of a market by the defunct City Council; and
- (iii) That the land grabbers were constructing at night in order to hasten the grabbing process which is illegal according to the County by laws and should be condemned and the County Government should quickly react to repossess the land.

#### 4.0 COMMITTEE OBSERVATIONS

18. The Committee observed that the documents presented by the County Executive Committee Member for Built Environment & Urban Planning and the Chief Officer for Housing had some glaring discrepancies as hereby highlighted;-

- (i) An instrument of transfer signed between the City Council of Nairobi and one Mr. John Machua Waithaka of ID No.10331678 dated 9<sup>th</sup> June 2014 for a consideration of Ksh. 1,000,000 (one million) by way of stand premium. The instrument bears the seal of the City Council signed by the Mayor.

— *It is well known that there was no city council in 2014, but rather a County Government that was established in 2013 following the implementation of the devolved system of governance. As a result, the Committee classified the document as a forgery.*



- (ii) There are two letters of allotment dated 14<sup>th</sup> September 1992 Ref; CP6ARCH/006449 (allocating a Mr. Waithaka Macua) & CP6ARCH/002532 (allocating Mago Investments Ltd).

— *The allotment of the land to two different entities on the same date seems suspicious and therefore the allotment letters may not be authentic. A further disparity noticed is between the Reference numbers of the above mentioned allotment letters done on the same day.*

## 5.0 RECOMMENDATIONS

19. In view of the above findings, the Committee recommends that the County Assembly resolves as follows:-

- i) The County Executive to revoke any title deeds/leases held by private individuals immediately repossess the grabbed land meant for a market in South B plot LR. No 209/12621 and begin processing the paperwork to ensure that the land is registered as public property; and
- ii) The County Government to protect public land and maintain a register of all lands meant for public utilities including surrender lands and such a list be made public. The County Government should ensure that title deeds relating to the said lands are generated and kept in safe custody.

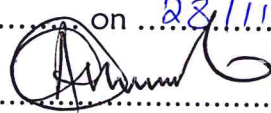
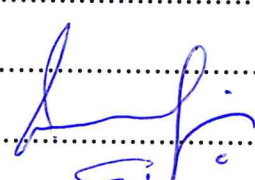


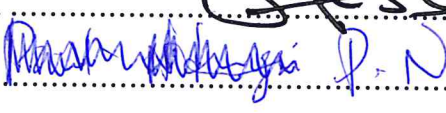


.....END.....

# NAIROBI CITY COUNTY ASSEMBLY

## COMMITTEE ON PLANNING AND HOUSING ATTENDANCE

Adoption of the Report on the Petition by South B residents on the grabbing of public land LR. No. Nairobi South residents on the grabbing of public land LR. No 209/12621 by a private developer in South B shopping center in Nairobi City County

Meeting held at Room 5 on 28/11/2023 Time 11:00AM

1. Hon. Alvin Palapala, MCA.....
2. Hon. Collins Ogenga, MCA.....C.O.O
3. Hon. Peter Imwatok, MCA.....
4. Hon. Anthony Kiragu, MCA.....AKK
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. Paul Ndungu, MCA.....
11. Hon. Nasra Nanda, MCA .....
12. Hon. Hannah Wanjiru Muriuki, MCA.....H.W
13. Hon. Nyantika Ricardo, MCA .....
14. Hon. Lily Akoth Kidenda, MCA.....
15. Hon. Jane Wanjiru, MCA.....J.W
16. Hon. Nicholas Juma, MCA .....
17. Hon. Peter Maina, MCA.....PM
18. Hon. Clement Kamaru, MCA .....
19. Hon. Francis Kimondo, MCA .....
20. Hon. Patrick Macharia, MCA.....P.M.M
21. Hon. Tricer Jeptoo, MCA.....Tricer
22. Hon. Martin Wairobi, MCA.....









NAIROBI CITY COUNTY

www.nairobi.go.ke

## OFFICE OF THE GOVERNOR

County Secretary and Head of County Public Service

Ref: VAL.441/S/61/1/NNI/jsk

6<sup>th</sup> October, 2023

The Clerk  
Nairobi County Assembly  
NAIROBI

RE: REPORT ON L.R. NO. 209/12621 – SOUTH B

Your letter ref. NCCA/P&H/CORR/2023/PET 01 dated 27<sup>th</sup> September 2023 on the above referenced matter refers.

Herein please find a report on the subject land

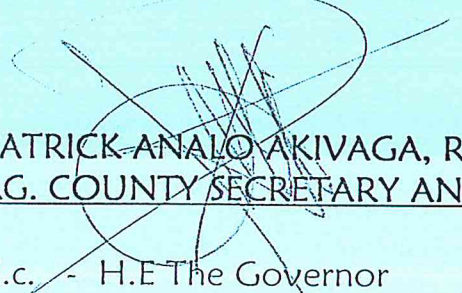
- The land measures approximately 0.2886Ha or 0.7131acres.
- On 3<sup>rd</sup> September 1979 a Temporary Occupation Licence was issued by the then City Council of Nairobi to J. W. Macua of P.O. Box 45339 Nairobi to use the land as a storage for building materials.
- On 14<sup>th</sup> September 1992 the space was allocated by the former City Council of Nairobi vide two allotment letters. Allotment letter CP&ARCH/002532 dated 14<sup>th</sup> September 1992 allocated 0.17 Ha of the land to Mago Investment Ltd of P.O. Box 45339 while allotment letter ref. CP&ARCH/0006449 dated 14<sup>th</sup> September 1992 allocated 0.11hectares to Waithaka Macua. Thereafter the two parcels of land were surveyed together to form L.R. No. 209/12621 vide deed plan No. 203595 issued in March 1996.
- On 8<sup>th</sup> November 2013 a title was issued to the City Council for Nairobi upon payment of Kshs.760,000/- as Stand Premium for a



term of 99 years with effect from 1<sup>st</sup> May 1995 and subject to payment of Kshs.152,000/- as annual rent.

- On 4<sup>th</sup> December 2018 the title was transferred to John Macua Waithaka.
- Attached please find the following documents: -

- (i) Temporary Occupation Licence ref. CV/348/VD. 255 dated 5 September 1979.
- (ii) Allotment letter ref. CP&ARCH/002532 dated 14<sup>th</sup> September 1992 for 0.17 Ha to Mago Investments Ltd.
- (iii) Allotment letter ref. CP&ARCH/006449 dated 14<sup>th</sup> September 1992 for 0.11 Ha to Waithaka Macua.
- (iv) Letter of allotment to Nairobi City Council ref 93103/III/30 dated 13<sup>th</sup> May 1999.
- (v) Agreement for lease dated 3<sup>rd</sup> November 1992 between Josephat Waithaka Macua and City Council of Nairobi
- (vi) Instrument of transfer dated 9<sup>th</sup> June 2014 between City Council of Nairobi and John Macua Waithaka.
- (vii) Copy of title L.R. No. 209/12621.

  
**PATRICK ANALO AKIVAGA, Regd. Physical Planner**  
**AG. COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE**

C.c. - H.E The Governor  
Nairobi City County ✓

- CECM – Built Environment & Urban Planning
- Chief Officer Lands

LET'S MAKE **NAIROBI** WORK

THE COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY  
(THIRD ASSEMBLY – SECOND SESSION)

INTERNAL MEMO

TO : Ag. PCA (C)  
FROM: : PCA (L&P)  
DATE : 6<sup>TH</sup> SEPTEMBER, 2023


RE: FORWARDING OF PETITION

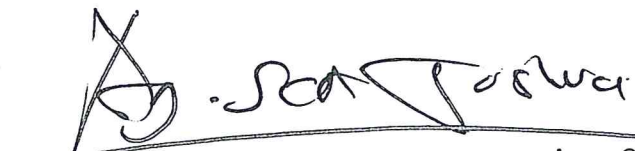

The above matter refers.

At the Assembly sitting held on Thursday 10<sup>th</sup> August, 2023, the following Petition was read by Hon. Waithera Chege, MCA on behalf of residents of Nairobi South Ward and Committed to the Sectoral Committee on Lands, Planning and Housing:

- PETITION BY NAIROBI SOUTH WARD RESIDENTS ON STOPPAGE OF PUBLIC LAND LR. NO 209/12621 BY A PRIVATE DEVELOPER IN SOUTH B SHOPPING CENTRE IN NAIROBI CITY COUNTY.

This is therefore to forward you a copy of the said Petition for your further action.

  
MONICAH MUTHAMI  
PCA (L&P)

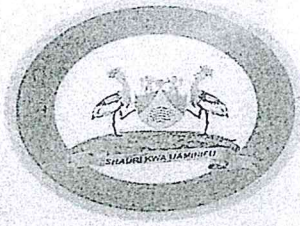
  
Please Table before  
Committee  
 for Ag. PCA (C)  
6/9/2023

Received on 6/09/2023  
L&P





by Hon. Walter Chege  
COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY

(SECOND SESSION)

[PUBLIC PETITION PURSUANT TO STANDING ORDER 213]

BY NAIROBI SOUTH RESIDENTS ON STOPPAGE OF PUBLIC LAND  
LR.NO 209/12621 GRABBING BY A PRIVATE DEVELOPER IN SOUTH B  
SHOPPING CENTER IN NAIROBI CITY COUNTY.

WE THE UNDERSIGNED Citizens of Kenya who are residents of Nairobi South within Nairobi City County.

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, Article 62 of the constitution mandates the County Government to hold in trust public land on behalf of county residents;

THAT, the Kenya National Land Use Policy 2017 recognizes the need for social development that takes cognizance of provision of basic infrastructure and services;

THAT WHEREAS, Section 5(e) of The National Land Commission Act, 2012 requires the Commission to initiate investigations into present or historical land injustices and recommend appropriate redress;

THAT WHEREAS, Section 116 of the County Governments Act, 2012 imposes an obligation on the County Government and its agencies to deliver services within its

BY NAIROBI SOUTH RESIDENTS ON STOPPAGE OF PUBLIC LAND LR.NO  
209/12621 GRABBING BY A PRIVATE DEVELOPER IN SOUTH B SHOPPING CENTER  
IN NAIROBI CITY COUNTY



designated area of jurisdiction and Section 117 (1) (a) of the Act provides that the County Government shall give priority to basic needs of the public to ensure that all members of the public have access to basic services;

THAT, the Land LR.NO209/12612 located in South B shopping centre, Makuti area is a public Land where the Government had initially allocated for the Construction of a modern market;

THAT, the modern market would benefit the locals mostly by increasing employment opportunities, increasing quality of production, creating an environment for healthy competition and increasing consumer status;

THAT, Private developer has allegedly invaded and grabbed the said public land that was meant for the construction of the said modern market that would benefit the Nairobi South residents and Nairobians at large to better their lives;

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 National Land Commission and all the relevant bodies furnishes the Nairobi City County with the deed plans to facilitate and solve the dispute herein;
- b) The Nairobi City County Government in conjunction with the relevant organs to bring down the illegal structure being developed on the said land;
- c) The said land be surrendered back to the Nairobi City County Government and give appropriate deed plans in respect to the public utility land in issue herein; and
- d) The Nairobi City County Government to secure the said Land and hold it in trust on behalf of the traders and Nairobians at large.

---

BY NAIROBI SOUTH RESIDENTS ON STOPPAGE OF PUBLIC LAND LR.NO  
209/12621 GRABBING BY A PRIVATE DEVELOPER IN SOUTH B SHOPPING CENTER  
IN NAIROBI CITY COUNTY



And your Petitioners will forever pray.

Presented by;

Hon. Waithera Chege, MCA-Minority Whip

*On behalf of;*

- The Residents of Nairobi South

*And by extension;*

- All residents of Nairobi County.

---

BY NAIROBI SOUTH RESIDENTS ON STOPPAGE OF PUBLIC LAND LR.NO  
209/12621 GRABBING BY A PRIVATE DEVELOPER IN SOUTH B SHOPPING CENTER  
IN NAIROBI CITY COUNTY

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