

NAIROBI CITY COUNTY ASSEMBLY



SECOND ASSEMBLY

(THIRD SESSION)

[PUBLIC PETITION PURSUANT TO STANDING ORDER 208]

BY RESIDENTS OF UTAWALA IN UTAWALA WARD ON REPOSSESSION
OF PUBLIC LAND LR:NO 1645/16/19,1645/16/20,1645/16/21 AND
1645/16/22 WITHIN NAIROBI CITY COUNTY

WE THE UNDERSIGNED Citizens of Kenya who are residents of Utawala ward, Embakasi East Sub-County in Nairobi County;

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

AWARE THAT, Article 185 of the constitution 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 for 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;

BY RESIDENTS OF UTAWALA IN UTAWALA WARD ON REPOSSESSION OF PUBLIC LAND LR:NO 1645/16/19,1645/16/20,1645/16/21 AND 1645/16/22 WITHIN NAIROBI CITY COUNTY.

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 designated area of jurisdiction and Section 117 (1) (a) 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 WHEREAS, Githunguri Njiru Farm Ltd (1966) owned L.R Nos. 6845/9 and 16, prior to 1983, the company was desirous of sub-dividing these parcels of land so as to allocate the resulting sub plots to its shareholders and/or sell the same to members of the public. In consultation with the then city council of Nairobi, the company drew a sub division plan which was placed before the then City Council/commission in charge of the Nairobi City approval and it was and still **MANDATORY** that a sub division plan be submitted to the local/county government within whose jurisdiction the land falls for approval.

THAT WHEREAS, in the meeting of the then Nairobi City Commission held on 1st July 1983, the sub-division plan of the company was approved with thirteen (13) conditions and these conditions are contained in the then Nairobi City Commission's letter to the Commissioner of lands dated 21st July 1983. The said letter is the basis of this petition as condition twelve (xii) stated as reproduced hereunder;

“xii. The land colored red on the deposited plan to be reserved for the public purposes and to be surrendered to the government free of cost.”

THAT WHEREAS, the Company (Githunguri Njiru Farm 1966 Ltd) went through the conditions as set out in the letter and agreed to adhere caused the intended subdivision to proceed.

THAT WHEREAS, the company (Githunguri Njiru Farm 1966 Ltd) allocated, the plots arising from the sub-division, original titles to its members who in turn either wholly or partly sold the same to the petitioners hereunder. And as a result several buildings and

major developments have come up in the area. The petitioners are also registered voters and residents of the said area.

THAT WHEREAS, plots L. R Nos.6845/16/19, 6845/16/20, 6845/16/21 and 6845/16/22 are the plots which were specifically mentioned in conditions No. xii. These plots (*the subject of this petition*) were to be surrendered to the local government specifically to enable the construction of:

- a. Educational institutions
- b. Health centers/dispensaries
- c. Markets
- d. Security related facilities etc.

for the use and/or enjoyment of the petitioners and the general public.

THAT WHEREAS; the Company complied with the conditions mentioned by setting aside the plots, however, plots are now in the hands of land grabbers; these land grabbers have put up illegal structures on these plots; the structures are illegal as they lack the appropriate approvals and all these is despite the plots being vested in the County government as the trustee for public land.

THAT WHEREAS the petitioners who are legally entitled to the use of the plots are now unable to: Access these plots; and although budgetary allocations by the Nairobi City County for the construction of public schools, health centers etc., have been made it is impossible to put up these facilities. Further as residents of the area and on account of wanton and/or rampant insecurity in the area, we came together as a community and raised enough funds to enable the setting up of a police post. This community based initiative has come to nought because the plots that could have been used for the purpose and which form the basis of this petition have been grabbed.

THAT WHEREAS, the petitioners appreciate that the solutions offered in this petition are not exhaustive to totally take care of the situation in the area, in our humble opinion these are the immediate measures that the county needs to start with;

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 company (Githunguri Njiru Farm 1966 ltd) fully complies with the conditional sub-division and approval;
- b. The company (Githunguri Njiru Farm 1966 ltd) do cause to be surrendered to the government and/or the Nairobi City County the appropriate deed plans in respect to the public utility plots in issue herein;
- c. If it is necessary, the company execute all the appropriate papers to ensure that the said plots are in the name of the Nairobi City County;
- d. The Nairobi City County Government in conjunction with the relevant organs and ourselves bring down the illegal structure being on the said plots and put the rightful owner into physical possession; and
- e. The Nairobi City County Government secure the said plots and hold it in trust on behalf of the residents.

And your Petitioners will forever pray.

Presented by;

Hon. Patrick Karani, MCA

On behalf of;

- The Residents of Utawala

And by extension;

- All residents of Nairobi County.