

~~Whistleblower~~
~~Letter~~
~~12/09/2023~~

Petition tabled by
Hon. Mark Mugambi
on 26/9/2023

AWARE THAT, Article 185 of the Constitution of Kenya 2010 vests the legislative authority and oversight of the County governments in the county assembly;

AWARE THAT, Article 40 (3) of the Constitution, 2010 provides that the state shall not deprive a person of property of any description, unless the deprivation (a) results from an acquisition of land or an interest in land, or title to land, in accordance with Chapter Five, or (b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and Act of Parliament that:

- THAT WHEREAS**, Article 42 of the Constitution of Kenya, 2010 further provides that every person has a right to a clean and healthy environment, which include the rights:

- BY RESIDENTS OF UMOJA 1 TENA ESTATE RESIDENTS ASSOCIATION
WITHIN NAIROBI CITY COUNTY**

Committed to Social Committee on planning and Housing.

THAT, for the last 26 years (from 3rd December 1997), the property developers and residents of Umoja 1 and Tena Estes have protested developments on a public space, the buffer zone between the two Estates tangent to Outer Ring Road, at Stella from Jeska on Moi Drive;

THAT WHEREAS, the space remained open until 1997 when one Charles Kaniaru, a former employee of the Survey Department of the defunct Nairobi

City Council took advantage of his position in office and illegally acquired it in the name of his wife, Mrs. Veronica Njeri Mwangi, to whom was issued a title described as NAIROBI/ BLOCK891/889 measuring approximately 0.2848 Ha;

THAT, immediately the duo began to put up structures outright in defiance of the then City Planning by-laws and which steadily increased with time despite incessant protest by the residents within the neighborhood;

THAT, the increased cluster of wooden and iron sheet open and enclosed structures mushroomed and attracted unprecedented occupiers carrying out various informal businesses ranging from food kiosks, furniture workshops, hardware shops, wines and spirits *outlets et cetera*;

THAT, the many structures put up by the duo have led to myriad of lithesome experiences by the residents such as:

- a) **INSECURITY**: since the occupiers of the structures are largely strangers to the neighborhood, there have been incidents of thugs and robbers jumping over the walls of unnoticed pretending to be working in the structures;
- b) **FLOODING**; since there is no drainage channels planned for the area, the many roofs collect their rainwater only to channel then towards our homes thus causing abnormal flooding on the neighboring homes. This is also a danger to the foundations of our homes;
- c) **DISCOMFORT**: coming from the variety of activities from the said plot is smoke from food kiosks, smell from improper public health observance , thus careless disposal of waste, denied privacy and exit from our backyards and longer hours of human activity adjacent to our houses, just to mention a few.

THAT, the development in this space has subjected the neighborhood to life threatening fire outbreaks which have caused massive destruction of property and untold loss of investments as indicated below:

- a) On 10th April 2010, a fire outbreak emanating from one of the structures consumed three of the adjacent permanent buildings belonging to property owners on the Tena Estate side;

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- b) On 29th January 2011, a fire broke out from almost the same previous spot within the same area but luckily, was put out before destroying five permanent houses on the Tena Estate side;
- c) On 26th March 2021, an inferno swept across the structures destroying everything in its way. When the fire was finally extinguished, a total of fifteen houses, eight on the Tena side and seven on Umoja side were destroyed including Jam Rescue Bar and Restaurant in Tena;

THAT, we have never tired in pursuing the cause of justice vide several letters of complaint and petitions to all relevant authorities from the County Government to the Kenya Anti-Corruption Commission, the Ndung'u Commission, the then Ministry of Local Governments, the Ministry of Lands and Settlement and the defunct Nairobi City Commission but with no success;

THAT, all our complaints have returned favorable determinations which have never been implemented to correct the wrong visited upon us by Mr. and Mrs, Kaniaru. A Nairobi City Council internal memo in our possession conveyed by the then Town Clerk's order to the director for Enforcement Department to stop the progress of the constructions. However, it was not acted upon. Further, the Ndung'u Commission of Inquiry Report, page 81 recommended for revocation of the said title held by the couple;

THAT, the value of the residents' investments is greatly affected by the developments on this space;

THAT WHEREAS, we, 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, our humble PRAYER; is that the County Assembly of Nairobi County intervenes and ensure that; -

- a) There is immediate order to remove all structures on the said public space including perimeter fences; and
- b) Nairobi County repossesses and plans for the space to create a public clinic with a road connecting to Moi Drive with Outer ring through the said space;

And we will forever pray.


Hon. Mark Mugambi, MCA

On behalf of: The residents of Umoja 1 Tena Estate Residents Association in Umoja 1 Ward, Nairobi City County All residents of Nairobi County by extension.

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