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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY PAPERS LA	
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TABLED BY:	Chairperson Lands Committee
CLERK AT THE TABLE:	Moch Lemmo



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

FOURTH SESSION – 2020

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY RESIDENTS OF VOTA,  
MUA WARD IN MACHAKOS TOWN CONSTITUENCY REGARDING THE  
OBSTRUCTION OF THE TARMACKING OF KONZA – KATUMANI ROAD

DIRECTORATE OF COMMITTEE SERVICES  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

OCTOBER, 2020



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## **CHAIRPERSON'S FOREWORD**

The Petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani Road was conveyed to the House by the Hon. Speaker on behalf of the petitioners on Thursday 2<sup>nd</sup> July 2020.

In considering the Petition, the Committee held a meeting with the petitioners on Thursday, 18<sup>th</sup> August 2020. The Committee also met the Director General, Kenya Urban Roads Authority and the Chairperson, National Land Commission on Thursday 3<sup>rd</sup> September 2020. Written submissions from the Secretary, Ministry of Lands and Physical Planning were also considered.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. We thank the Petitioners, the Director General, Kenya Urban Roads Authority, the Chairperson, National Land Commission, the Cabinet Secretary, Ministry of Lands and Physical Planning for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order 227, it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani Road.



**Hon. Dr. Rachael Kaki Nyamai, CBS, MP**  
**Chairperson, Departmental Committee on Lands**

## EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made by petitioners in a Petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani Road.

The Konza- Katumani murrum road that has been in existence for the last 50 years was in November, 2018 taken over by the Kenya Urban Roads Authority and a contractor was engaged to improve it to bitumen standard. However, before the anticipated construction began, one Harrison Kikavi Muambi, a director of a company known as Muambi Properties Limited confronted the contractor and has since obstructed the contractor from further works as he claims ownership of the affected land which stretches approximately 400 Meters.

This petition was therefore, premised on the grounds that the road has been in existence for the last 50 years under the management and maintenance of various government agencies. The petitioners prayed for acquisition of the affected portion of land by the National Land Commission to create a public right over the parcel of land known as LR. No. 7374/3.

The petitioners prayed that The Petitioners prayed that the National Assembly through the Departmental Committee on Lands invokes the provisions of Article 37, 95 (1) 119(1) of the Constitution of Kenya and section 143 of the Land Act, 2012, to:

- i) Declare a portion of land LR, No. 355/2 ordinarily utilized as a road connecting Katumani and Mombasa Road through Vota be declared public land for public purpose and for public interest in accordance to Articles 40 (3)(a) and 60 (1) (h), section 141 & 143 of the Land Act 2012;
- ii) Recommend that there is an easement on the land known as LR, No. 335/2 petitioned by members on the public and that the National Land Commission creates an easement on the land over LR No. 355/2 for purposes of public utility; and
- iii) Make any other recommendations as it deems fit in the circumstances of the petition.

The Committee received submissions and presentations by various stakeholders and noted the following:

- a) Although the Petitioners indicated in the petition that the contested 400 meters portion of the Konza – Katumani Road traversed on land LR, No. 355/2, the Director General, Kenya Urban Roads Authority and the Chairperson National Land Commission clarified that the said portion was on land parcel LR No. 7374/3 owned by Muambi Proprieties Limited.

- b) The land parcel LR No. 7374/3 owned by Muambi Proprieties Limited and for purposes of Article 40 of the Constitution an acquisition of any interest in the land would require prompt payment in full of just compensation to the lawful owner.
- c) The land in question LR. No. 7374/3 owned by Muambi properties had not been subdivided and consequently no portion had been surrendered by the owner for public utility.
- d) Although the 400 meters road passing through the ranch LR. No. 7374/3 and joining Mombasa Road at Konza is not a public road, it has been in continuous use for over fifty (50) years by residents and other persons crossing from Mombasa Road to Machakos Town through Katumani.
- e) The members of the public use the said 400 meters road, which is a shorter and convenient route to access Mombasa Road.
- f) A compulsory land acquisition process had been initiated by the Kenya Urban Roads Authority to acquire the affected portion of land measuring approximately 0.7972Ha located off Mombasa road.
- g) The notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17<sup>th</sup> May, 2018 were issued accordingly.
- h) The submissions made to the Committee by the Director General, Kenya Urban Roads Authority (KURA) indicated that the compulsory acquisition award of Ksh. 52, 632, 588, made by the National Land Commission (NLC) in respect to subject piece of land measuring approximately 0.7972 Ha, owned by Muambi Properties Ltd, to facilitate the tarmacking of the Konza /Kutumani Road appeared to be expensive and exaggerated in comparison to the prevailing market price for comparable land in the area.
- i) KURA did not pay the said award and decided to identify an alternative alignment, measuring approximately 1.55km. The National Land Commission was notified of the decision and requested to cancel the acquisition process and issue a degazettement notice thereof.
- j) Sections 143(1), 145, and 146 of the Land Act, 2012 allow the National Land Commission to facilitate the creation of a communal right of way which shall be known as a public right of way.
- k) There exists a basis for the National Land Commission to create a public right of way over the 400 meters portion of the Konza – Katumani Road traversing on private land LR No. 7374/3, considering-
  - i) the said road has been used by the residents of Vota and other members of the public for more than fifty (50) years and maintained by the government; and
  - ii) The 400 meters road is the shortest and most convenient route joining the Mombasa road for use by the residents of Vota and other members of the public.

- l) The NLC did aver that it would upon request initiate the said creation of a public right of way of the 400 meters portion of land affected by the Konza – Katumani Road in accordance with the Lands Act, 2012.
- m) In view of the foregoing, the National Land Commission may consider creating a public right of way pursuant to section 143 of the Land Act, 2012 to facilitate the convenient passage of the residents of Vota through the 400 meters private road which they have been using for over fifty years.

In response to the Petitioners' prayers, the Committee recommends that the National Land Commission does consider facilitating the creation of a public right of way pursuant to section 143 of the Land Act, 2012 to ensure the convenient passage of the residents of Vota through the 400 meters road which they have been using for over fifty years within six months of the tabling of this Report.

The Committee also recommends that the Cabinet Secretary Ministry of Lands and Physical Planning does fast track the development of the land Value Index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for the development of public projects within three months of the tabling of this Report.

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

1. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
  - i. Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - ii. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - iii. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - iv. Study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - v. Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and
  - vi. Study and review all legislation referred to it.

### **1.2 Committee subjects**

2. The Committee is mandated to consider the following subjects;
  - i. Lands
  - ii. Settlement

### **1.3 Committee oversight**

3. The Committee oversights:
  - i. The Ministry of Lands and Physical Planning; and
  - ii. The National Land Commission.

## 1.4 Committee membership

4. The Committee membership comprises: -

### **Chairperson**

Hon. Dr. Rachael Nyamai, CBS, MP

**MP for Kitui South Constituency**

**Jubilee Party**

### **Vice Chairperson**

Hon. Khatib Mwashetani, MP

**MP for Lunga Lunga Constituency**

**Jubilee Party**

Hon. Benjamin Washiali, CBS, MP

Member for Mumias East Constituency

**Jubilee Party**

Hon Joshua Kutuny Serem, MP

Member for Cherangany Constituency

**Jubilee Party**

Hon. Mishi Mboko, MP

Member for Likoni Constituency

**Orange Democratic Movement (ODM)**

Hon. Omar Mwinyi, MP

Member for Chagamwe Constituency

**Orange Democratic Movement (ODM)**

Hon. Ahmed Kolosh, MP

Member for Wajir West Constituency

**Jubilee Party**

Hon. Ali Mbogo, MP

Member for Kisauni Constituency

**Wiper Democratic Movement (WDM)**

Hon. Babu Owino, MP

Member for Embakasi East Constituency

**Orange Democratic Movement (ODM)**

Hon. Caleb Kipkemei Kositany, MP  
Member for Soy Constituency

**Jubilee Party**

Hon George Aladwa, MP  
Member for Makadara Constituency

**Orange Democratic Movement (ODM)**

Hon George Risa Sunkuyia, MP  
Member for Kajiado West Constituency

**Jubilee Party**

Hon. John Muchiri Nyaga, MP  
Member for Manyatta Constituency

**Jubilee Party**

Hon. Josphat Gichunge Kabeabea, MP  
Member for Tigania East Constituency

**Party of National Unity (PNU)**

Hon. Lilian Tomitom, MP  
Member for West Pokot County

**Jubilee Party**

Hon. Owen Yaa Baya, MP  
Member for Kilifi North Constituency

**Orange Democratic Movement (ODM)**

Hon. Patrick Munene Ntwiga, MP  
Member for Chuka/Igambangombe  
Constituency

**Jubilee Party**

Hon. Samuel Kinuthia Gachobe, MP  
Member for Subukia Constituency

**Jubilee Party**

Hon. Teddy Mwambire, MP  
Member for Ganze Constituency

**Orange Democratic Movement (ODM)**

## 1.5 Committee secretariat

5. The Committee secretariat comprises:

**Lead Clerk**

Mr. Leonard Machira  
**Senior Clerk Assistant**

Mr. Ahmad Guliye  
**Clerk Assistant III**

Mr. Adan Abdi  
**Fiscal Analyst III**

Dr. Kefa Omoti  
**Principal Researcher Officer**

Ms. Winnie Kizia  
**Media Relations Officer III**

Ms. Jemimah Waigwa  
**Legal Counsel I**

Mr. Dennis Mawira  
**Audio Officer**

Ms. Peris Kaburi  
**Serjeant-At-Arms**

## 2.0 INTRODUCTION

6. The Petition by residents of Vota, Mua Ward in Machakos Town Constituency regarding the obstruction of the tarmacking of Konza – Katumani Road was conveyed to the House by the Hon. Speaker on behalf of petitioners on Thursday 2<sup>nd</sup> July 2020.
7. The Petitioners wished to draw the attention of the House to the following, that:
  - i) The road between Konza - Katumani Road has been used for over fifty (50) years by residents and other persons crossing from Mombasa Road to Machakos Town through Katumani;
  - ii) The road has been maintained and funded by Kenya Rural Roads Authority and /or the relevant department of the National Government for decades, with public transport vehicles, pedestrians and private motor vehicles frequently using the same road;
  - iii) The Kenya Roads Board has listed the said road as one that is approved for classification and allocation of a reference number;
  - iv) In November, 2018 the road was taken over by the Kenya Urban Roads Authority and a contractor was engaged to improve it from marram to tarmac;
  - v) No sooner had the contractor gone to the site, than one Harrison Kikavi Muambi, a director of a company known as Muambi Properties Limited confronted the contractor and had since obstructed the contractor from further works as he claims ownership of the land;
  - vi) It has been since been established from a survey map that the road comprised a portion of parcel of land known as LR, No. 355/2 in the name of Muambi Proprieties Limited;
  - vii) The land aforesaid was created whilst the road existed in the original title, LR. No. 1161;
  - viii) The land allegedly owned by Mr. Harrison Kikavi Muambi is approximately 400 meters;
  - ix) The necessity of the use of the access road to Mombasa Road from Katumani along Wote Road has been continuous and indefinite;

- x) The Kenya Urban Roads Authority has been unable to tarmac the said road which serves hundreds of families and has been helpful to people accessing Mombasa Road from Katumani and Vota in Machakos Town Constituency;
  - xi) The Kenya Urban Roads Authority wishes to tarmac the road to ease means of transportation;
8. None of the issues raised in the petition are pending in any court of law, Constitutional body or legal body.
9. The petition is premised on the following grounds:
- a. The registered owner of the land in question has obstructed the Kenya Urban Authority from tarmacking the road.
  - b. The road having been used by members of the public and maintained by the government for more than thirty (30) years, there is a basis for the National Land Commission to create a public right over the parcel of land known as LR. No. 353/ 2 situated in Mua within Machakos Town Constituency.
  - c. The right of way having been enjoyed by the public for decades and maintained by the Government without interruption or objection from the registered owner, there is justification for the portion of the land utilized as a road to be declared a public road devoid of any provision for compensation to the registered owner.
  - d. There is no convenient alternative road and unless the National Assembly intervenes the residents of Vota and other members of the public are likely to be highly prejudiced and inconvenienced as the road project is likely to be withdrawn and the funds utilized elsewhere.
10. The Petitioners prayed that the National Assembly through the Departmental Committee on Lands invokes the provisions of Article 37, 95 (1) 119(1) of the Constitution of Kenya and section 143 of the Land Act, 2012, to:
- iv) Declare a portion of land LR, No. 355/2 ordinarily utilized as a road connecting Katumani and Mombasa Road through Vota be declared public land for public purpose and for public interest in accordance to Articles 40 (3)(a) and 60 (1) (h), section 141 & 143 of the Land Act 2012;

- v) Recommend that there is an easement on the land known as LR, No. 335/2 petitioned by members on the public and that the National Land Commission creates an easement on the land over LR No. 355/2 for purposes of public utility; and
- vi) Make any other recommendations as it deems fit in the circumstances of the petition.

### **3.0 SUBMISSIONS**

#### **3.1 Submissions by the petitioners**

11. The Committee held a virtual meeting with the representatives of the petitioners led by their advocate, Mr. Wilfred Nyamu on Thursday 18<sup>th</sup> August 2020. During the meeting, the petitioners informed the Committee as follows:
12. The road in question linking Wote Road to Mombasa Road through Katumani and has been used by the public for over fifty (50) years.
13. There is no other convenient road that would link Katumani road to Mombasa road as the alternative route was 1.5 km long, while the section of the road passing through Mr. Harrison Muambi's land was only 400 meters to Mombasa road.
14. The road in question was previously maintained by government agencies, such as the Kenya Rural Roads Authority. However, in November 2018, the road was taken by Kenya Urban Roads Authority (KURA) and a contractor was engaged to upgrade it from marram to bitumen standard. However, the contractor was obstructed by one Mr. Harrison Muambi on the basis that he owns the land in question, LR No. 355/2 and that the land is registered in the name of Muambi Properties Limited.
15. The road initially existed under LR No. 1161 before LR No. 355/2, owned by Mr. Harrison Muambi was registered.
16. To date the Kenya Urban Roads Authority had been unable to tarmac the road preventing hundreds of members of the public from easily accessing Mombasa Road from Katumani, Vota and Katoloni areas of Machakos Town Constituency.
17. The Petitioners requested that the petition be amended in paragraph (i) of the prayers to read Article 62 1 (h) instead of article 60 1 (h).
18. The Petitioners prayed that the National Assembly through the Departmental Committee on Lands:
  - i. Declare portion of land of the road connecting Katumani and Mombasa Road through Vota as a public land for public utility purposes.
  - ii. The National Land Commission creates an easement on the land over LR No. 355/2 for purposes of public utility.
  - iii. Make any other recommendations as it deems fit in the circumstances of the petition.

### **3.2 Submissions by Mr. Harrison Kikuvi Muambi (an Interested Party)**

19. During a meeting with the Committee held on Thursday 18<sup>th</sup> August, 2020, Mr. Harrison Kikuvi Muambi, an interested party in the Petition, assisted by Mr. S. Kivuva, an advocate, informed the Committee as follows:
20. Mr. Harrison Kikuvi Muambi, owns the parcel of land LR. No 7374/3 located in Vota between Konza and Kutamani in Machackos Town Constituency. The land in question is a private ranch registered in the name of Muambi & Muambi Associates.
21. The petitioners referenced the said land as LR No. 355/2 instead of LR. No 7374/3 which indicated that the petitioners had not undertaken due diligence in drafting the Petition.
22. There is no public road within the ranch owned by Muambi & Muambi Associates. However, a 400 meters private road passes through the ranch and joins Mombasa Road at Konza. Members of the public use the private road, which is shorter route, with the permission of the owner, to access Mombasa Road. However, a public road that is 1.5 km long, runs parallel to the private ranch also connects Kutumani to Mombasa Road.
23. He acquired the land in question thirty-three (32) years ago before the petitioners settled in the area in 1995. He added that the land, comprising 8000 acres in total, was acquired whole from the initial owner and had not been subdivided. Therefore, no land within the said parcel had been surrendered for public utility.
24. The National Land Commission through a Gazette notice No. 5264 dated 31<sup>st</sup> May 2018 made a request to compulsorily acquire 0.7972 Ha of the land to facilitate the tarmacking of the 400-meter private road passing through Mr. Harrison Muambi's land in order to make it a public road.
25. The National Land Commission initiated the acquisition process by conducting public participation and made an offer to the owner. He rejected the initial offer and presented a counter offer of Ksh.78 million shillings. The Commission gave a further offer of Ksh. 52 million which was accepted on 14<sup>th</sup> August, 2018.
26. Mr. Harrison Kikuvi Muambi was not opposed to the acquisition of the land in question and had been waiting for the agreed compensation to be made on the terms offered by the National Land Commission.

### 3.3 Submissions by the Director General, Kenya Urban Roads Authority

27. The Committee held a virtual meeting with the Director General, Kenya Urban Roads Authority on Thursday 3rd September, 2020. During the meeting the Director General informed the Committee that:
28. **Background;** The Katumani- Vota -Konza road is approximately 9 Km and is located in Mua ward, Machakos Town Constituency in Machakos County. The road serves as a link road between Mombasa road and Wote road.
29. **Classification:** The road was previously under the jurisdiction of Kenya Rural Roads Authority (KeRRA). However, the road was vested to Kenya Urban Roads Authority (KURA) in the FY 2015/2016 upon reclassification of roads to align the roads to the requirements of the new constitution of Kenya, 2010.
30. **Maintenance History:** KeRRA had maintained the road since 2010 through grading, gravelling and minor drainage works under Road Maintenance Levy Funds (RMLF) provided by Kenya Roads Board (KRB). Upon taking over the road, KURA continued the same maintenance activities until FY 2017/2018, when funds were allocated through the authority's Annual Road Work Programme (ARWP) for stage construction of the road to bitumen standards.
31. **Planned Funding:** The construction of the road was to be achieved in phases over four (4) financial years commencing in FY 2017-2018. The planned and approved funding is as tabulated below:

S/No.	Financial Years	Amount Allocated (Ksh.)	Planned Length (Km)
1	2017/2018	90,000,142.80	3
2	2018/2019	52,362,817.60	2
3	2019/2020	60,316,805.36	2
4	2020/2021	45,355,628.80	2
	<b>Total</b>	<b>248,035,394.56</b>	<b>9</b>

32. **Implementation Status:** Contracts have been awarded spanning the FY 2017/2018 to 2019/2020 covering a length of approximately 6.5 Km.

33. **Implementation Constraints:** During implementation of the first phase of the project the owner of land Parcel No.7374/3 claimed that the road illegally traverses through his land, where there is no provision for a road reserve. Upon receiving the complaint, KURA sought to establish the authenticity of the claim in order to chart a way forward.

34. The Authority took the following measures to the address the complaint made by owner of land parcel LR. No. 7374/3 upon establishing that the project road transverses private land:

- i. A compulsory land acquisition process was initiated to acquire the affected portion of land measuring approximately 0.7972Ha between chainage 0+000 and 0+400 off Mombasa road.
- ii. Notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17th May, 2018 were issued accordingly.
- iii. Valuation was also done and an award of Kshs.52, 632,588 was forwarded to Authority for payment.
- iv. The figure was extremely high and not available within the budget and a decision was made to identify an alternative alignment, measuring approximately 1.55km.
- v. National Land Commission was notified and requested to cancel the acquisition process that was initiated and issue a degazettement notice.
- vi. Due to the time constraints on the awarded contracts, a decision was made to skip the 400m section under contention and continue with the works as time was taken to resolve the missing link back to Mombasa road. To date, little progress had been made in resolving the challenge.

### **3.4 Submissions by the Chairperson, National Land Commission**

35. The Committee held a virtual meeting with the Chairperson National Land Commission on Thursday 3<sup>rd</sup> September, 2020. During the meeting the informed the Committee that:

36. The Commission was requested by the Kenya Urban Roads Authority (KURA) to compulsorily acquire a portion of land parcel LR, 7374/3 to facilitate the tarmacking of the Konza – Katumani Road and not LR No. 355/2 as indicated in the petition.

37. The Commission initiated the process of compulsory acquisition of the affected portion of land measuring approximately 0.7972 Ha was initiated in 2018. Having established that about 400 meters of the planned road project traversed private land LR. No 7374/3.
38. A notice of intention to acquire the land in question was published via gazette notice No, 3215 dated 29<sup>th</sup> March, 2018 and Gazette notice of inquiry No. 5264 dated 17<sup>th</sup> May, 2018 was also issued.
39. The valuation of the said portion of land was undertaken by the commission and signed by the Director of valuation and Taxation. Subsequently an award of Ksh. 52, 632, 588, in favour of Muambi Properties Ltd, was forwarded to KURA for funding.
40. However, KURA was of the view that the award was beyond the project budget and declined to pay the landowner. Thereafter, the Authority decided to identify an alternative alignment to link the road to Mombasa Road.
41. The Commission upon receipt of a request by KURA cancelled the acquisition of LR. No. 7374/3 and issued a degazettment notice of the said acquisition.
42. On the prayer made by the petitioners that a public right of way be created of a portion of land owned by Muambi Properties Ltd to facilitate the tarmacking of the Konza /Kutumani Road, the Chairperson stated that section 143 (1), 145, and 146 of the Land Act, 2012 make provision for the Commission to facilitate the creation of a right of way which shall be known as public right of way. He added that the Commission would upon request initiate the said creation of a public right of way of the 400 meters portion of land affected by the Konza – Katumani Road. However, he noted that section 148 of the Act provides for prompt compensation to any person for the use of land of which the person is the lawful owner or is in actual occupation.
43. The land in question LR. No. 7374/3, owned by Muambi Properties Ltd had not been subdivided and consequently no portion had been surrendered by the owner for public utility.

#### 4.0 OBSERVATIONS

The Committee made the following observations:

- a. Although the Petitioners indicated in the Petition that the contested 400 meters portion of the Konza – Katumani Road traversed on land LR, No. 355/2, the Director General, Kenya Urban Roads Authority and the Chairperson National Land Commission clarified that the said portion was on land parcel LR No. 7374/3 owned by Muambi Proprieties Limited.
- b. The land parcel LR No. 7374/3 owned by Muambi Proprieties Limited and for purposes of Article 40 of the Constitution an acquisition of any interest in the land would require prompt payment in full of just compensation to the lawful owner.
- c. The land in question LR. No. 7374/3 owned by Muambi properties had not been subdivided and consequently no portion had been surrendered by the owner for public utility.
- d. Although the 400 meters road passing through the ranch LR. No. 7374/3 and joining Mombasa Road at Konza is not a public road, it has been in continuous use for over fifty (50) years by residents and other persons crossing from Mombasa Road to Machakos Town through Katumani.
- e. The members of the public use the said 400 meters road, which is a shorter and convenient route to access Mombasa Road.
- f. A compulsory land acquisition process had been initiated by the Kenya Urban Roads Authority to acquire the affected 0.7972Ha from LR. No. 7374/2 measuring approximately 880 acres located off Mombasa road.
- g. The notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17<sup>th</sup> May, 2018 were issued accordingly.
- h. The submissions made to the Committee by the Director General, Kenya Urban Roads Authority indicated that the compulsory acquisition award of Ksh. 52, 632,

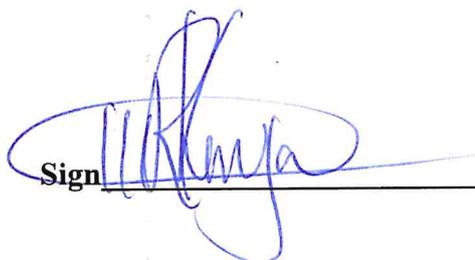
588, made by the National Land Commission in respect to subject piece of land measuring approximately 0.7972 Ha, owned by Muambi Properties Ltd, to facilitate the tarmacking of the Konza /Kutumani Road appeared to be expensive and exaggerated in comparison to the prevailing market price for comparable land in the area.

- i. KURA did not pay the said award and decided to identify an alternative alignment, measuring approximately 1.55km. The National Land Commission was notified of the decision and requested to cancel the acquisition process and issue a degazettement notice thereof.
- j. Sections 143(1), 145, and 146 of the Land Act, 2012 allows the National Land Commission to facilitate the creation of a communal right of way which shall be known as a public right of way.
- k. There exists a basis for the National Land Commission to create a public right of way over the 400 meters portion of the Konza – Katumani Road traversing on private land LR No. 7374/3, considering-
  - i. the said road has been used by the residents of Vota and other members of the public for more than fifty (50) years; and maintained by the government; and
  - ii. The 400 meters road is the shortest and most convenient route joining the Mombasa road for use by the residents of Vota and other members of the public.
- l. The NLC did aver that it would upon request initiate the said creation of a public right of way of the 400 meters portion of land affected by the Konza – Katumani Road in accordance with the Lands Act, 2012.
- m. In view of the foregoing, the National Land Commission may consider creating a public right of way pursuant to section 143 of the Land Act, 2012 to facilitate the convenient passage of the residents of Vota through the 400 meters private road which they have been using for over fifty years.

## 5.0 RECOMMENDATIONS

In response to the Petitioners' prayers, the Committee recommends that-

1. **The National Land Commission does consider facilitating the creation of a public right of way pursuant to section 143 of the Land Act, 2012 to ensure convenient passage of the residents of Vota through the 400 meters road which they have been using for over fifty years within six months of the tabling of this Report.**
2. **The Cabinet Secretary Ministry of Lands and Physical Planning does fast track the development of the land Value Index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for the development of public projects within three months of the tabling of this Report.**

Sign  Date 13/10/2020

**Hon. Dr. Rachael Kaki Nyamai, CBS, MP**  
**Chairperson, Departmental Committee on Lands**



## DEPARTMENTAL COMMITTEE ON LANDS

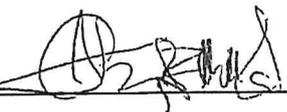
## MEMBERS' ATTENDANCE

Date: 06/10/2020 Time: 10.00 a.m. Start Time: 10.27 End Time: 11.55 am Venue: 5<sup>th</sup> floor, Continental House

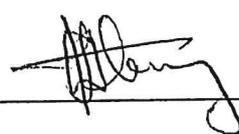
Agenda: Adoption of reports on Petitions

	NAMES	SIGNATURE
1.	Hon. Dr. Rachael Nyamai, CBS, MP - <b>Chairperson</b>	
2.	Hon. Khatib Mwashetani, MP <b>V/Chairperson</b>	
3.	Hon. Benjamin Washiali, CBS MP	
4.	Hon. Joshua Kutuny Serem, MP	
5.	Hon. Mishi Mboko, MP	
6.	Hon. Omar Mwinyi Shimbwa, MP	
7.	Hon. Ahmed Kolosh, MP	
8.	Hon. Ali Mbogo, MP	
9.	Hon. Babu Owino, MP	
10.	Hon. Caleb Kipkemei Kositany, MP	
11.	Hon. George Aladwa, MP	
12.	Hon. George Risa Sunkuyia, MP	
13.	Hon. John Muchiri Nyaga, MP	
14.	Hon. Josphat Gichunge Kababea, MP	
15.	Hon. Lilian Tomitom, MP	
16.	Hon. Owen Yaa Baya, MP	
17.	Hon. Patrick Munene Ntwiga, MP	
18.	Hon. Samuel Kinuthia Gachobe, MP	
19.	Hon. Teddy Mwambire, MP	

Prepared By: Ahmad Guliyev  
(Clerk Assistant)

Sign: 

Countersigned: Director, Committee Services

Sign:   
06/10/2020

**MINUTES OF THE 38<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LANDS HELD ON TUESDAY 6<sup>TH</sup> OCTOBER, 2020 IN THE COMMITTEE ROOM 5<sup>TH</sup>  
FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Joshua Kutuny, MP
3. Hon. Mishi Mboko, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Ahmed Kolosh, MP
6. Hon. Babu Owino, MP
7. Hon. George Aladwa, M.P
8. Hon. John Muchiri Nyaga, MP
9. Hon. Josphat Gichunge Kabeabea, M.P
10. Hon. Teddy Mwambire, M.P

**APOLOGIES**

1. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
2. Hon. Benjamin Washiali, CBS, MP
3. Hon. Ali Mbogo, M.P
4. Hon. Caleb Kositany, M.P
5. Hon. George Risa Sunkuyia, M.P
6. Hon. Owen Yaa Baya, M.P
7. Hon. Patrick Munene Ntwiga, MP
8. Hon. Samuel Kinuthia Gachobe, M.P
9. Hon. Lilian Tomitom, MP

**IN ATTENDANCE**

**THE NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Third Clerk Assistant
3. Ms. Peris Kaburi - Serjeant-At-Arms
4. Mr. Dennis Mawira - Audio Recording Officer

**MIN. NO. NA/DCS/LANDS/2020/147: PRELIMINARIES**

The meeting was called to order at twenty-seven minutes past ten o'clock and prayers were said.

area.

- i. KURA did not pay the said award and decided to identify an alternative alignment, measuring approximately 1.55km. The National Land Commission was notified of the decision and requested to cancel the acquisition process and issue a degazettement notice thereof.
- j. Sections 143(1), 145, and 146 of the Land Act, 2012 allows the National Land Commission to facilitate the creation of a communal right of way which shall be known as a public right of way.
- k. There exists a basis for the National Land Commission to create a public right of way over the 400 meters portion of the Konza – Katumani Road traversing on private land LR No. 7374/3, considering-
  - i) the said road has been used by the residents of Vota and other members of the public for more than fifty (50) years; and maintained by the government; and
  - i) The 400 meters road is the shortest and most convenient route joining the Mombasa road for use by the residents of Vota and other members of the public.
- l. The NLC did aver that it would upon request initiate the said creation of a public right of way of the 400 meters portion of land affected by the Konza – Katumani Road in accordance with the Lands Act, 2012.
- m. In view of the foregoing, the National Land Commission may consider creating a public right of way pursuant to section 143 of the Land Act, 2012 to facilitate the convenient passage of the residents of Vota through the 400 meters private road which they have been using for over fifty years.

### **Recommendations**

1. The National Land Commission does consider facilitating the creation of a public right of way pursuant to section 143 of the Land Act, 2012 to ensure the convenient passage of the residents of Vota through the 400 meters road which they have been using for over fifty years within six months of the tabling of this Report.
2. The Cabinet Secretary Ministry of Lands and Physical Planning does fast track the development of the land Value Index as contained in the Land Value (Amendment) Act 2019 to address the challenge of over-valuation of land identified for the development of public projects within three months of the tabling of this Report.

### **III. Petition by residents of Golini, Kwale County regarding regularization of allocation of land in Golini settlement scheme**

- IV.** The Committee adopted the report on the Petition by residents of Golini, Kwale County regarding regularization of allocation of land in Golini settlement scheme with the

following observations and recommendations after it was proposed and seconded by Hon. Teddy Mwambire, MP and Hon. Mishi Mboko, MP respectively.

### Observations

- a. The Golini settlement scheme L.R 5003 covering an area of 377.02 Ha. was established in 1994. The scheme was subsequently registered, and 152 titles deeds were issued.
- b. Thereafter complains from locals alleging marginalization during plot allocation necessitated the formation of a Task force in 2003 which produced the Golini Task Force Report.
- c. The scheme was subsequently abolished through a ministerial a directive issued on 2<sup>nd</sup> March 2007.
- d. Consequently, the scheme was resurveyed as per ground occupancy, realizing 268 plots as was recommended by the task force.
- e. The Committee noted with concern that the first survey and allocation were not nullified after the second re- survey and the latter had already been registered.
- f. In January 2017, the National Land Commission (NLC) considered the matter and delivered its findings under Article 67(2)(e) on historical land injustices and recommended, that:
  - The first survey map used to allocate the land be abolished because it led to erroneous allocation.
  - The letters of offer that followed were hence null and void.
  - The second survey map that was done with the consent and involvement of Golini people be upheld and used as a basis of allocation of the subject land.
  - Fresh letters of offer be issued in conformity with this map subject to resolving boundary and inheritance matters therein.
  - A proper PDP be prepared to reflect the existing land use and public utilities.
  - New titles reflecting the actual scenario on the ground be issued and registered thereafter.
- g. Despite the NLC having communicated its decision to the Cabinet Secretary, Ministry of Lands and Physical planning and the Governor Kwale County for implementation on 25<sup>th</sup> January, 2017, the Ministry has to date failed to ensure that the initial allocation of land in the scheme is legally cancelled to pave way for the settlement of genuine beneficiaries.
- h. Although the residents of Golini were issued with fresh allotment letters following the re- survey of the land in Golini Settlement Scheme, in 2007, the 152 title deeds that had been issued in the initial allocation were not cancelled and this has facilitated the continued transfer of the land to third parties.

- i. The Petitioners' were unable to raise the necessary fees to facilitate the lodging of a case in court seeking the revocation of the said title deeds due to the huge cost involved, including serving the 152 allottees.
- j. The Committee also took cognizant of the fact that the power of the National Land Commission to revoke the grant of review all grants or dispositions of public land to establish their propriety or legality had since expired under the National Land Commission Act.
- k. There is need for the Ministry to forthwith implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of beneficiaries as per the second re- survey.

**Recommendations**

- 1. Pursuant to section 76 of the Lands Registration Act, 2012, the Registrar of Lands does immediately place restrictions on Golini Settlement Scheme, L.R No. 5003 to guard against further sub-division and continued transfer of the land to third parties upon tabling of this Report.
- 2. The Cabinet Secretary, Ministry of Lands and Physical Planning does implement the recommendations of the NLC and ensure that the initial allocation of land in the scheme is revoked and cancelled to pave way for the settlement of the beneficiaries as per the second re- survey within six months of tabling of this Report.

**MIN. NO. NA/DCS/LANDS/2020/150: ADJOURNMENT**

There being no other business to discuss, the meeting was adjourned at five minutes to twelve o'clock. The next meeting would be held on notice.

Signature .....

**HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.**

**(Chairperson)**

Date.....

13/10/2020

**MINUTES OF THE 28<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LANDS HELD VIRTUALLY ON TUESDAY 18<sup>TH</sup> AUGUST 2020 AT 10:00 A.M**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, MP - **Vice Chairperson**
3. Hon. Mishi Mboko, M.P
4. Hon. Omar Mwinyi Shimbwa, MP
5. Hon. Babu Owino, MP
6. Hon. Caleb Kositany, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Owen Yaa Baya, M.P
10. Hon. Patrick Munene Ntwiga, MP
11. Hon. Teddy Mwambire, M.P

**APOLOGIES**

1. Hon. Benjamin Washiali, MP
2. Hon. Joshua Kutuny, MP
3. Hon. Ahmed Kolosh, MP
4. Hon. Ali Mbogo, M.P
5. Hon. George Aladwa, M.P
6. Hon. John Muchiri Nyaga, MP
7. Hon. Lilian Tomitom, MP
8. Hon. Samuel Kinuthia Gachobe, M.P

**IN ATTENDANCE**

**PETITIONERS**

1. Mr. Wilfred Nyamu - Advocate for the Petitioners
2. Mr. Bernard Mutisya - Petitioner
3. Mr. Kalii Daniel - Petitioner
4. Mr. Joshua Mbithi - Petitioner
5. Mr. Muema Makau - Petitioner
6. Mr. Patrick Kiio - Petitioner

**INTERESTED PARTY**

1. Mr. Harrison Kikuvi Muambi - Interested Party
2. Mr. S. Kivuva - Advocate for the interested Party

## THE NATIONAL ASSEMBLY SECRETARIAT

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1. Mr. Leonard Machira | - | Senior Clerk Assistant  |
| 2. Mr. Ahmad Guliye    | - | Third Clerk Assistant   |
| 3. Ms. Jemimah Waigwa  | - | Legal Counsel I         |
| 4. Ms. Peris Kaburi    | - | Serjeant-At-Arms        |
| 5. Mr. Denis Mawira    | - | Audio Recording Officer |

### MIN. NO. NA/DCS/LANDS/2020/104: PRELIMINARIES

The meeting was called to order at seventeen minutes past ten o'clock and prayers were said.

### MIN. NO. NA/DCS/LANDS/2020/105: MEETING WITH THE PETITIONERS ON A PETITION REGARDING OBSTRUCTION OF THE TARMACKING OF KONZA – KATUMANI ROAD

Mr. Wilfred Nyamu representing the petitioners submitted the following before the Committee on the above-mentioned petition, that:

- i) The road in question had been used by the public for over fifty (50) years;
- ii) The said road links Konza on Mombasa Road to Katumani through Vota. There was no other convenient road that would link Katumani to Mombasa road as the alternative route was 1.5 km long, while the section of the road passing through Mr. Harrison Muambi's land was only 400 meters to Mombasa road.
- iii) The road was previously maintained by government agencies, such as the Kenya Rural Roads Authority. However, in November 2018, the road was taken by Kenya Urban Roads Authority (KURA) and a contractor engaged to upgrade it from marram to bitumen standard. The contractor was obstructed by one Mr. Harrison Muambi on the basis that he owns the land, LR No. 355/2 registered in the name of Muambi Properties Limited.
- iv) The road initially existed under LR No. 1161 before LR No. 355/2, owned by Mr. Harrison Muambi was registered;
- v) To date the Kenya Urban Roads Authority had been unable to tarmac the road preventing hundreds of members of the public from easily accessing Mombasa Road from Katumani, Vota and Katoloni areas of Machakos Town;
- vi) The Petitioners requested that the petition be amended in paragraph ( i ) of the prayers to read Article 62 1 (h) instead of article 60 1 (h).

The Petitioners prayed that the National Assembly through the Departmental Committee on Lands;

- a. Declare portion of land of the road connecting Katumani and Mombasa Road through Vota as a public land for public utility purposes.
- b. The National Land Commission creates an easement on the land over LR No. 355/2 for purposes of public utility.
- c. Make any other recommendations as it deems fit in the circumstances of the petition.

**Submissions Mr. Harrison Kikuvi Muambi (an Interested Party)**

Mr. Harrison Kikuvi Muambi, an interest in the parcel of land in question, assisted by Mr. Kivuva, an advocate, informed the Committee as follows:

- i) He owns a parcel of land LR. No 7374 located in Vota between Konza and Kutamani in Machakos Town Constituency. The land in question is a private ranch registered in the name of Muambi & Muambi Associates;
- ii) The petition had referenced the said land as LR No. 355/2 instead of LR. No 7374 which indicated that the petitioners had not undertaken due diligence in drafting the petition;
- iii) There was no public road within the ranch owned by Muambi & Muambi Associates. However, a 400 meters private road passes through the ranch and joins Mombasa Road at Konza. Members of the public use the private road, which is shorter route, with the permission of the owner, to access Mombasa Road. However, a public road that is 1.5 km long, running parallel to the private ranch also connects Kutumani to Mombasa Road.
- iv) He acquired the land in question thirty-three (32) years ago before the petitioners settled in the area in 1995. He added that the land, comprising 8000 acres in total, was acquired whole from the initial owner and had not been subdivided. Therefore, no land within the said parcel was surrendered for public utility;
- v) The National Land Commission through a Gazette notice No. 5264 dated 31<sup>st</sup> May 2018 made a request to compulsorily acquire 0.7972 Ha of the land to facilitate the tarmacking of the 400-meter private road passing through Mr. Harrison Muambi's land in order to make it a public road;
- vi) The National Land Commission initiated the acquisition process by conducting public participation and made an offer to the owner. He rejected the initial offer and presented

a counter offer of Ksh.78 million shillings. The Commission gave a further offer of Ksh. 52 million which was accepted on 14<sup>th</sup> August, 2018; and

- vii) He was not opposed to the acquisition of the land in question and had been waiting for the agreed compensation to be made on the terms offered by the National Land Commission.

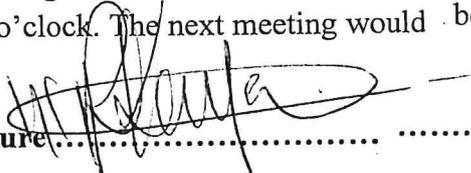
**Committee resolutions**

The Committee made the following resolutions:

- i) The Committee noted the submissions made by the two parties and directed that Mr. Harrison Kikuvi Muambi to submit written submissions and other supporting documents to the Committee within seven days. Mr. Wilfred Nyamu was also asked to forward any additional written submissions to the Committee within the same period; and
- ii) The Committee resolved to hold meetings with the Director General Kenya Urban Roads Authority, Chairperson, National Land Commission and also seek submissions from the Ministry of Lands & Physical Planning in respect of the petition.

**MIN. NO. NA/DCS/LANDS/2020/106: ADJOURNMENT**

There being no other business to discuss, the meeting was adjourned at seventeen minutes past twelve o'clock. The next meeting would be held on Thursday, 20<sup>th</sup> August 2020 at 10.00 a.m.

Signature  .....

**HON. DR. RACHAEL F. AKAI NYAMAI, CBS, M.P.**

**(Chairperson)**

Date..... 27-08-2020 .....

**MINUTES OF THE 32<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
LANDS HELD VIRTUALLY ON THURSDAY 3<sup>RD</sup> SEPTEMBER, 2020 AT 10:00 A.M**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Mishu Mboko, M.P
4. Hon. Babu Owino, MP
5. Hon. Caleb Kositany, M.P
6. Hon. George Risa Sunkuyia, M.P
7. Hon. Owen Yaa Baya, M.P
8. Hon. Patrick Munene Ntwiga, MP
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Teddy Mwambire, M.P

**APOLOGIES**

1. Hon. Benjamin Washiali, CBS, MP
2. Hon. Joshua Kutuny, MP
3. Hon. Omar Mwinyi Shimbwa, MP
4. Hon. Ahmed Kolosh, MP
5. Hon. Ali Mbogo, M.P
6. Hon. George Aladwa, M.P
7. Hon. John Muchiri Nyaga, MP
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Lilian Tomitom, MP

**IN ATTENDANCE**

**THE NATIONAL LAND COMMISSION (NLC)**

1. Mr. Gershom O'ttachi - Chairperson
2. Mr. Reginald Okumu - Commissioner
3. Prof. James Tuitoek - Commissioner
4. Mr. Francis Bor - Ag. Deputy Chief Executive Officer

**KENYA URBAN ROADS AUTHORITY (KURA)**

1. Eng. S. Kinoti - Director General

2. Eng. Wilson Tobiko

#### **THE NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                            |
|------------------------|---|----------------------------|
| 1. Mr. Leonard Machira | - | Senior Clerk Assistant     |
| 2. Mr. Ahmad Guliye    | - | Third Clerk Assistant      |
| 3. Dr. Kefa Omti       | - | Principal Research Officer |
| 4. Ms. Jemimah Waigwah | - | Legal Counsel 1            |
| 5. Ms. Peris Kaburi    | - | Serjeant-At-Arms           |
| 6. Mr. Dennis Mawira   | - | Audio Recording Officer    |

#### **MIN. NO. NA/DCS/LANDS/2020/120: PRELIMINARIES**

The meeting was called to order at nine minutes past ten o'clock and prayers were said.

#### **MIN. NO. NA/DCS/LANDS/2020/121: CONFIRMATION OF MINUTES**

This agenda item was differed to the next sitting.

#### **MIN. NO. NA/DCS/LANDS/2020/122: MEETING WITH THE CHAIRPERSON NATIONAL LAND COMMISSION AND THE DIRECTOR GENERAL, KENYA URBAN ROADS AUTHORITY (KURA) ON A PETITION BY RESIDENTS OF VUTA, MUA WARD, MACHAKOS TOWN CONSTITUENCY REGARDING OBSTRUCTION OF TARMACKING OF THE KONZA – KATUMANI ROAD**

#### **Submissions by the Director General, Kenya Urban Authority (KURA Roads)**

The Director General, Kenya Urban Authority (KURA Roads) informed the Committee that:

- i) **Background;** The Katumani-Vota-Konza road is approximately 9 Km and is located in Mua ward, Machakos Town Constituency in Machakos County. The road serves as a link road between Mombasa road and Wote road.;
- ii) **Classification:** The road was previously under the jurisdiction of Kenya Rural Roads Authority (KeRRA) . However, the road was vested to Kenya Urban Roads Authority (KURA) in the FY 2015/2016 upon reclassification of roads to align the roads to the requirements of the new constitution of Kenya, 2010;

- iii) **Maintenance History:** KeRRA has been maintaining the road since 2010 through grading, gravelling and minor drainage works under Road Maintenance Levy Funds (RMLF) provided by Kenya Roads Board (KRB). Upon taking over the road, KURA continued the same maintenance activities until FY 2017/2018 where funds were allocated through the authority's Annual Road Work Programme (ARWP) for stage construction of the road to bitumen standards;
- iv) **Planned Funding:** The construction of the road was to be achieved in phases over 4 financial years commencing in FY 2017-2018 at a cumulative cost of Kshs **248,035,394.56**;
- v) **Implementation Status:** Contracts have been awarded spanning the FY 2017/2018 to 2019/2010 covering a length of approximately 6.5 Km.;
- vi) **Implementation Constraints:** During the implementation of the first phase of the project in the FY 2017/2018 covering the first 3 Km from Mombasa road. The owner of land Parcel No.7374/3 claimed that the road illegally traverses through his land where there is no provision for a road reserve. Upon receiving the complaint, the regional office, Lower Eastern who are the project supervisors on behalf of KURA sought the intervention of the Authority management through the survey department to establish the authenticity of the claim in order to chart the way forward;
- vii) The Authority took the following measures to the address the complaint made by owner of land parcel LR. No. 7374/3 that the 400-meter section of the road traversed his private land:
- Upon establishing that the project road transverses private land LR No. 7374/3, a compulsory land acquisition process was initiated to acquire the affected portion of land measuring approximately 0.7972Ha between chainage 0+000 and 0+400 off Mombasa road.
  - Notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17th May, 2018 were issued accordingly.
  - Valuation was also done and an award of Kshs.52,632,588 was forwarded to Authority for payment.
  - The figure was extremely high and not available within the budget and a decision was made to identify an alternative alignment, measuring approximately 1.55km.
  - National Land Commission was notified and requested to cancel the acquisition process that was initiated and issue a degazettement notice.

- viii) **Current Status:** The Authority decided to skip the 400m section under contention and continue with the works as time was taken to resolve the missing link back to Mombasa road. To date, little progress has been made in resolving this challenge.

### **Submissions by the Chairperson, National Land Commission**

The Chairperson, National Land Commission informed the Committee that:

- i) The Commission was requested by the Kenya Urban Roads Authority (KURA) to compulsorily acquire a portion of land parcel LR, 7334/3 to facilitate the tarmacking of the Konza – Katumani Road and not LR No. 355/2 as indicated in the petition. Therefore, the parcel of land referred to in the petition was erroneous;
- ii) The Commission initiated the process of compulsory acquisition of the affected portion of land measuring approximately 0.7972 Ha was initiated in 2018. Having established that about 400 meters of the planned road project traversed private land LR. No 7374/3;
- iii) A notice of intention to acquire the land in question was published via gazette notice No, 3215 dated 29<sup>th</sup> March, 2018 and Gazette notice of inquiry No. 5264 dated 17<sup>th</sup> May, 2018 was also issued;
- iv) The valuation of the said portion of land was undertaken by the commission and signed by the Director of valuation and Taxation. Subsequently an award of Ksh. 52, 632, 588, in favour of Muambi Properties Ltd, was forwarded to KURA for funding;
- v) However, KURA was of the view that the award was beyond the project budget and declined to pay the landowner. Thereafter, the Authority decided to identify an alternative alignment to link the road to Mombasa Road;
- vi) The Commission upon receipt of a request by KURA cancelled the acquisition of LR. No. 7374/3 and issued a degazettement notice of the said acquisition;
- vii) On the prayer made by the petition that a public right of way be created of a portion of land owned by Muambi Properties Ltd to facilitate the tarmacking of the Konza /Kutumani Road, the Chairperson stated that section 143 (1), 145, and 146 of the Land Act, 2012 make provision for the Commission to facilitate the creation of a right of way which shall be known as public right of way. He added that the Commission would upon request initiate the said creation of a public right of way of the 400 meters portion of land affected by the Konza – Katumani Road. However, he noted that section

148 of the Act provides for prompt compensation to any person for the use of land of which the person is the lawful owner or is in actual occupation.

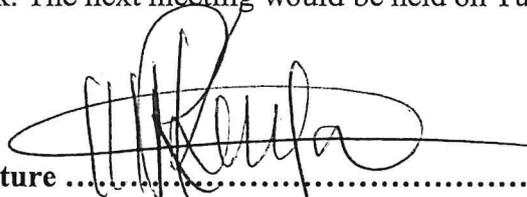
- ix) The land in question LR. No. 7374/3 owned by Muambi properties had not been subdivided and consequently no portion had been surrendered by the owner for public utility.

### **Committee Observations**

- i) The compulsory acquisition award of Ksh. 52, 632, 588 made by the National Land Commission in respect to a portion of land owned by Muambi Properties Ltd to facilitate the tarmacking of the Konza /Kutumani Road appeared to be expensive and exaggerated in comparison to the prevailing market price for land in the area. Consequently, the development of the land Value Index pursuant to the Land Value (Amendment) Act 2019 would address the challenge of exaggeration of the value of land identified for the development of public projects;
- ii) There is a basis for the National Land Commission to create a public right over the 400 meters portion of the Konza – Katumani Road traversing on private land LR No. 7374/3, considering that the said road has been used by members of the public and maintained by the government for more than thirty (30) years;
- iii) Although the petitioners have been enjoying the right of way on the 400 meters portion of the Konza – Katumani Road traversing on LR No. 7374/3, with the consent of the registered owner. The said portion on the road would only be declared a public right of way upon payment of compensation to the registered owner pursuant to the provisions of section 148 of the Land Act 2012; and
- iv) It was economical for the Kenya Urban Roads Authority (KURA) to proceed with tarmacking of the alternative alignment comprising 1.55 km of the Konza /Katumani Road linking the Wote Road to Mombasa Road instead of acquiring 0.7972 Ha at a cost of Ksh. 52 million to facilitate the tarmacking of a 400 meters portion of the road traversing through LR. No. 7374/3; and
- v) The continued maintenance of the contested 400-meter section of the road traversing through LR. No. 7374/3 by KURA may not be justifiable since it was on private property.

**MIN. NO. NA/DCS/LANDS/2020/123: ADJOURNMENT**

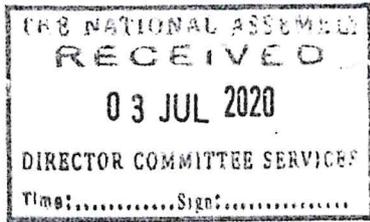
There being no other business to discuss, the meeting was adjourned at four minutes past twelve o'clock. The next meeting would be held on Tuesday, 8<sup>th</sup> September 2020 at 10.00 a.m.

Signature ..... 

**HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.**

**(Chairperson)**

Date..... 08/09/2020



**REPUBLIC OF KENYA**



**THE NATIONAL ASSEMBLY (THIRD SESSION)**

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**CONVEYANCE OF PUBLIC PETITION**

*(No. 17 of 2020)*

**REGARDING THE OBSTRUCTION OF TARMACKING OF THE  
KONZA- KATUMANI ROAD**

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**Honourable Members,** Standing Order 225(2) (b) requires the Speaker to report to the House any petition, other than those presented by a Member. I therefore wish to report to the House that my office has received a petition submitted by Mr. Bernard Kioko Mutisya and five others on behalf of the residents of Vota, Mua Ward in Machakos Town Constituency.

**Honourable Members,** the Petitioners wish to draw the attention of the House to the obstruction of a road upgrade project undertaken by the Kenya Urban Roads Authority between Konza and Katumani by the registered owner of L.R No. 353/2. The Petitioners aver that the continued use of the road by the public and the fact that the road has been maintained by the Government for over 30 years forms the basis for the National Land Commission to create a public right over the parcel of land.

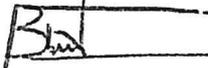
The Petitioners are apprehensive that the delay in the commencement of the upgrading of the road occasioned by the actions of the owner of the parcel is inhibiting the construction of

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the road despite more funds having been allocated by the Government for the project.

**Honourable Members**, the Petitioners therefore pray that the National Assembly through the Departmental Committee on Lands, intervenes to ensure that the portion of the land L.R No. 353/2 ordinarily utilised as a road be converted to create a public right of way in accordance with Article 40 (3)(a) and Section 143 of the Lands Act.

I thank you!

  
**THE HON. JUSTIN B.N. MUTURI, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Thursday, July 2, 2020

REPUBLIC OF KENYA

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National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

*When replying, please quote:*

NA/DLPS/PRJO/PET/2020/(011)

11<sup>th</sup> March, 2020

Nyamu & Nyamu Company Advocates  
Mayfair Centre  
First Floor  
Ralph Buche Rd./Argwings Kodhek Rd,  
P.O. Box 75928-00200  
Nairobi

Attn. Wilfred Nyamu

Dear

**RE: PUBLIC PETITION BY RESIDENTS OF VOTA IN MAUA WARD,  
MACHAKOS TOWN CONSTITUENCY REGARDING TARMARCKING  
OF THE KONZA-VOTA-KATUMANI ROAD**

---

We acknowledge receipt of your letter, dated 2<sup>nd</sup> March 2020 on the above-mentioned matter.

We wish to inform you that the Petition has met the requirements set it in the Petitions to Parliament (Procedure Act) and provisions of the National Assembly Standing Orders relating to Public Petitions. The Petition is being processed for conveyance to the House, upon which it will stand committed to the relevant Committee for consideration. You will receive further communication from the Committee regarding subsequent steps that will be taken, including hearing the Petitioners.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'S. Njoroge', with a stylized flourish at the end.

S. NJOROGE  
For: CLERK OF THE NATIONAL ASSEMBLY



**Nyamu & Nyamu**  
Company Advocates  
NOTARY PUBLIC AND COMMISSIONERS FOR OATHS

DLPS

Please deal  
with  
05/03/2020

Wilfred Nyamu Muri LLB (Hons) Dip Law K.S.L / CPS(K),  
Juliet I. Khamasi Nyamu LLB (Hons) Dip Law K.S.L / CPS(K)

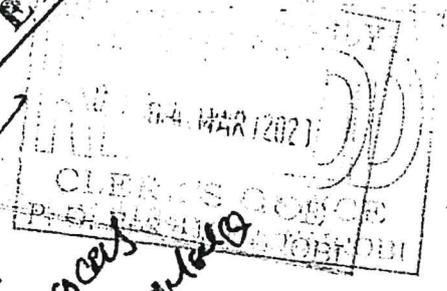
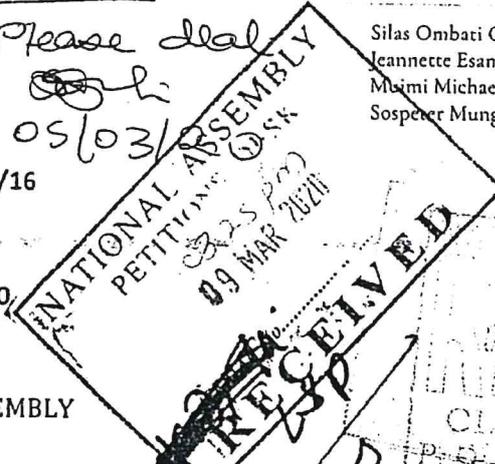
Silas Ombati Ombongi LLB (Hons.) Dip Law K.S.L  
Jeannette Esami LLB (Hons.) Dip Law K.S.L  
Mwimi Michael Kioko LLB (Hons.) Dip Law K.S.L,  
Sospeter Mungai Kamande LLB (Hons.) Dip Law K.S.L

OUR REF: NN/1661/16

YOUR REF:

DATE: 2<sup>ND</sup> MARCH, 2020

TO: THE SPEAKER  
NATIONAL ASSEMBLY  
Through  
THE CLERK,  
NATIONAL ASSEMBLY  
PARLIAMENT BUILDING  
P.O BOX 41842-00100,  
NAIROBI



2010-12  
This seems to be a receipt  
in order to process and acknowledge receipt  
09/13/20

Dear Sir,

RE: PUBLIC PETITION TO THE NATIONAL ASSEMBLY BY RESIDENTS OF VOTA IN MUA WARD, MACHAKOS TOWN CONSTITUENCY

Duly instructed by the Petitioners herein, we do forward herewith a Public Petition to your esteemed house seeking your intervention to salvage a project on the improvement of road meant to serve the Residents of Vota in Mua ward of Machakos Town Constituency to tarmac:

We do request your office to kindly be obliged to admit the same.

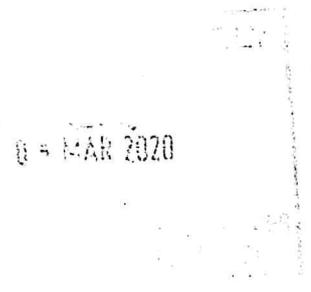
We are also instructed to request that all correspondence to our clients be channeled through us.

Should you require any further information and/or clarification, kindly do not hesitate to contact us?

Yours faithfully,

FOR: NYAMU & NYAMU CO. ADVOCATES

wn/pm  
  
WILFRED NYAMU



CLIENTS

V.A.T No. 0126844T

When replying Please Quote Ref No.

PIN No. F051148568M

**REPUBLIC OF KENYA**  
**TWELFTH PARLIAMENT**  
**THE NATIONAL ASSEMBLY**  
**PUBLIC PETITION**

**NATIONAL ASSEMBLY**  
**PETITIONS DESK**  
**09 MAR 2020**  
**RECEIVED**  
SERIAL No.....  
**KENYA URBAN ROADS AUTHORITY**

**REGARDING THE OBSTRUCTION OF TARMACKING OF THE KONZA -KATUMANI,  
A PROJECT UNDERTAKEN BY KENYA URBAN ROADS AUTHORITY**

We the undersigned residents of Vota of Mua ward in Machakos Town Constituency;

**DRAW** the attention of this House on the following:-

1. **THAT**, the road between Konza from Mombasa road to Katumani through Vota has been in use for over fifty (50) years by all residents and other persons crossing from Mombasa Road to Machakos Town through Katumani.
2. **THAT** the road has and at all material times for decades been maintained and funded by Kenya Rural Roads Authority and/or the relevant department of the National Government for decades, with Public Transport vehicles, pedestrians and private motor vehicles frequently use the same.
3. The Kenya Roads Board has already listed the above road as one that is approved for classification and allocation of reference number.
4. **THAT** sometime in November, 2018, the road was taken over by Kenya Urban Roads Authority, and a contractor was engaged to approve the road from marram to tarmac.
5. **THAT** no sooner had the contractor gone to the site, than one Harrison Kikavi Muambi, a director of a company known as Muambi Properties Limited confronted the contractor and has since obstructed the contractor from any further works as he claims ownership of the land.
6. **THAT** it has been established from a survey map that the road comprised in the parcel of land known as LR NO. 355/2 registered in the name of Muambi Properties Limited.
7. **THAT** the land aforesaid was created whilst the road existed as mother title being L.R NO 1161
8. **THAT** the land allegedly owned by the said Harrison Kikavi Muambi is approximately 400 meters.
9. **THAT** the necessity of the use of access to Mombasa Road from Katumani along Wote Road is continuous and the period of time is indefinite.
10. **THAT** the Kenya Urban Roads Authority has been unable to tarmac the said road which serves hundreds of families and has been very helpful to people accessing Mombasa from Katumani ,Vota and katoloni areas of Machakos, Town Constituency.

11. **THAT** Kenya Urban Roads Authority wishes tarmac the said road to ease means of transportation.

12. **THAT** none of the issues raised in this petition are pending in any Court of law, Constitutional or legal body.

**LEGAL FOUNDATIONS OF THE PETITION**

1. Article 37 of the Constitution of Kenya 2010, provides that every person has the right to present petitions to public authorities.
2. Article 95 (1) of the Constitution of Kenya 2010 provides that the National Assembly represents the people of the constituencies and special interests in the National assembly.
3. Article 95 (2) of the constitution of Kenya 2010 provides that the National Assembly deliberates on and resolves issues of concern to the people.
4. Article 119 of the constitution of Kenya 2010, provides that every person has a right to petition parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.
5. Section 141(1) of the land act states that the benefit of an easement, and analogous right granted under this part shall, during the term of its existence, be enjoyed by the owner of the dominant land and that owners' successors in title and by-  
  
(a) any lessee of the dominant land, or so far as the nature of the easement ,or analogous right permit ,and part of it and  
  
Article 141(2) any person referred to in subsection 1(a) and (b) who is entitled to the benefit of an easement or analogous right may take in the person's own name any proceedings necessary to enforce that easement or those analogous rights.
6. Section 143 of the Lands Act gives powers to the National Land Commission to create public right of way for the benefit of the public.

**GROUND UPON WHICH THE PETITION IS PREMISED**

1. The registered owner of the Land has obstructed the Kenya Urban Roads Authority from tarmacking the road between Konza and Katumani.
2. The road having been used by members of the public and maintained by the Government for more than Thirty (30) years there is basis for the National Land Commission to create a public right over the parcel of land known as L.R No. 353/2 situated in Mua within Machakos Town Constituency.
3. The right of way having been enjoyed by the public for decades and maintained by the Government without any interruption or objection from the registered

owner, there is justification for the portion of land utilized as a road be declared a public road devoid of any provision for compensation to the registered owner.

4. There is no convenient alternative road and unless this August House intervenes, the residents of Vota and other members of the public are likely to be highly prejudiced and inconvenienced as the road project is likely to be withdrawn and the funds utilized elsewhere.

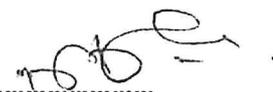
**THEREFORE**, your humble Petitioner prays that the National Assembly invokes Article 37, 95(i) and (ii) and Article 119 (i) of the Constitution of Kenya, Section 143 of the Land Act, 2012 and allows this petition for prayers as hereunder:-

- i) Portion of the land known L.R no. 355/2 ordinary utilized as road connecting Katumani and Mombasa road through Vota be declared public land for public purpose and for public interest in accordance to Article 40(3)(a) Article 60 (1) (h) and Section 141 & 143 of the Land Act, 2012 of the Constitution of Kenya, 2010.
- ii) Recommendation that there is an easement on the land known as L.R No. 355/2as petitioned by members of the public and that the National Lands Commission creates an easement over L.R No. 355/2 for purposes of Public road.
- iii) This house be pleased to make any other recommendations as it deems fit in the circumstances of this matter.

And your PETITIONER so prays.

**PRESENTED BY:**

1. BERNARD KIOKO MUTISYA I/D NO. 7259507

  
.....  
SIGN

2. KALII DANIEL I/D NO.22497671

  
.....  
SIGN

3. JOSHUA MULINGE MBITHI I/D NO. 25597653

  
.....  
SIGN

4. MUEMA MAKAU I/D NO. 10514718

  
.....  
SIGN

5. PATRICK KIMUYU KIRO I/D NO. 12536225

  
.....  
SIGN

DATED at NAIROBI this 2nd Day of March 2020.

**DRAWN & FILED BY:-**  
NYAMU & NYAMU CO.  
ADVOCATES  
MAYFAIR CENTRE  
1ST FLOOR WING A  
RALPH BUNCHE ROAD  
P.O. BOX 75928-00200  
**NAIROBI**

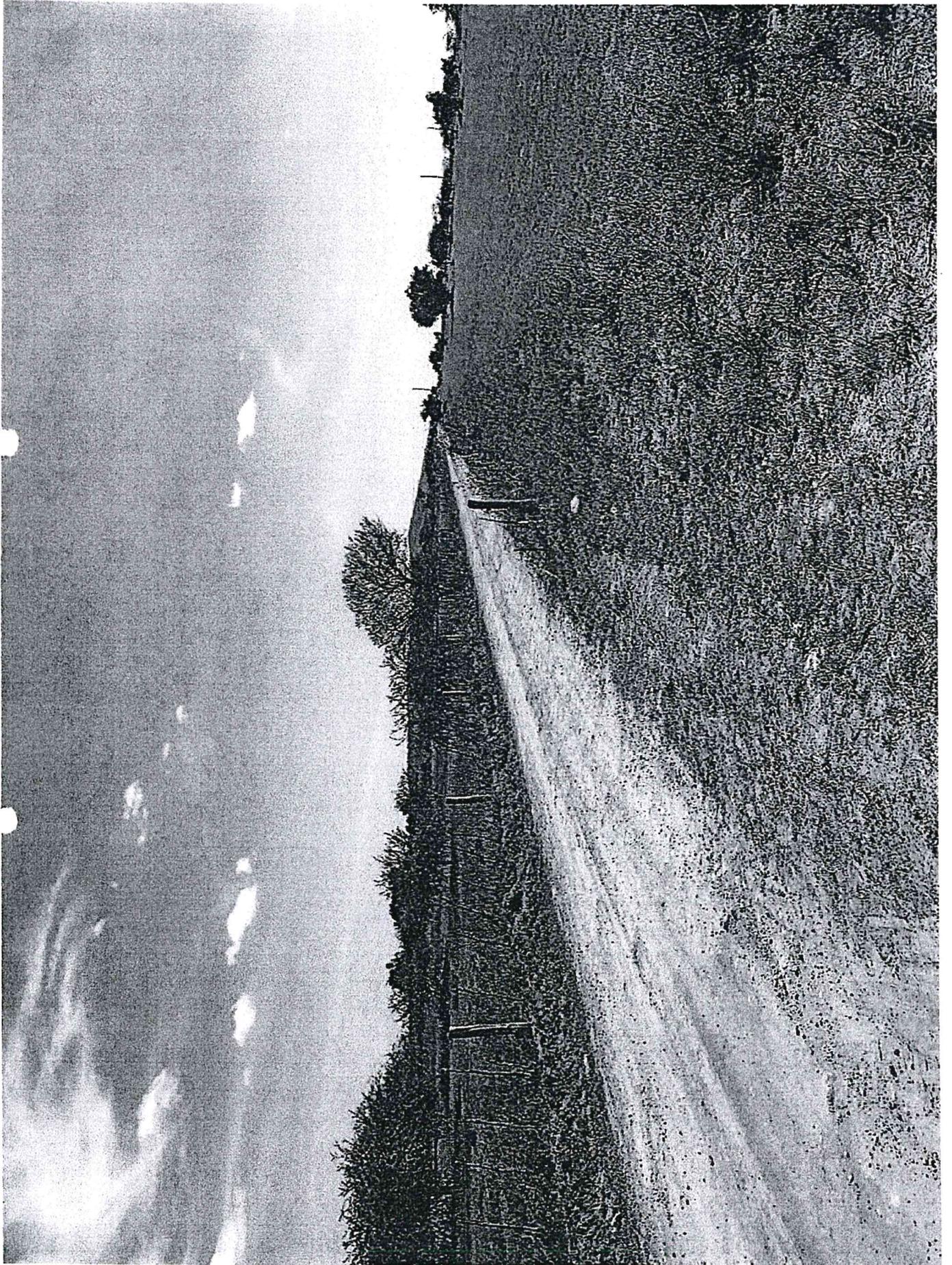


Mombasa A 109

Katumani

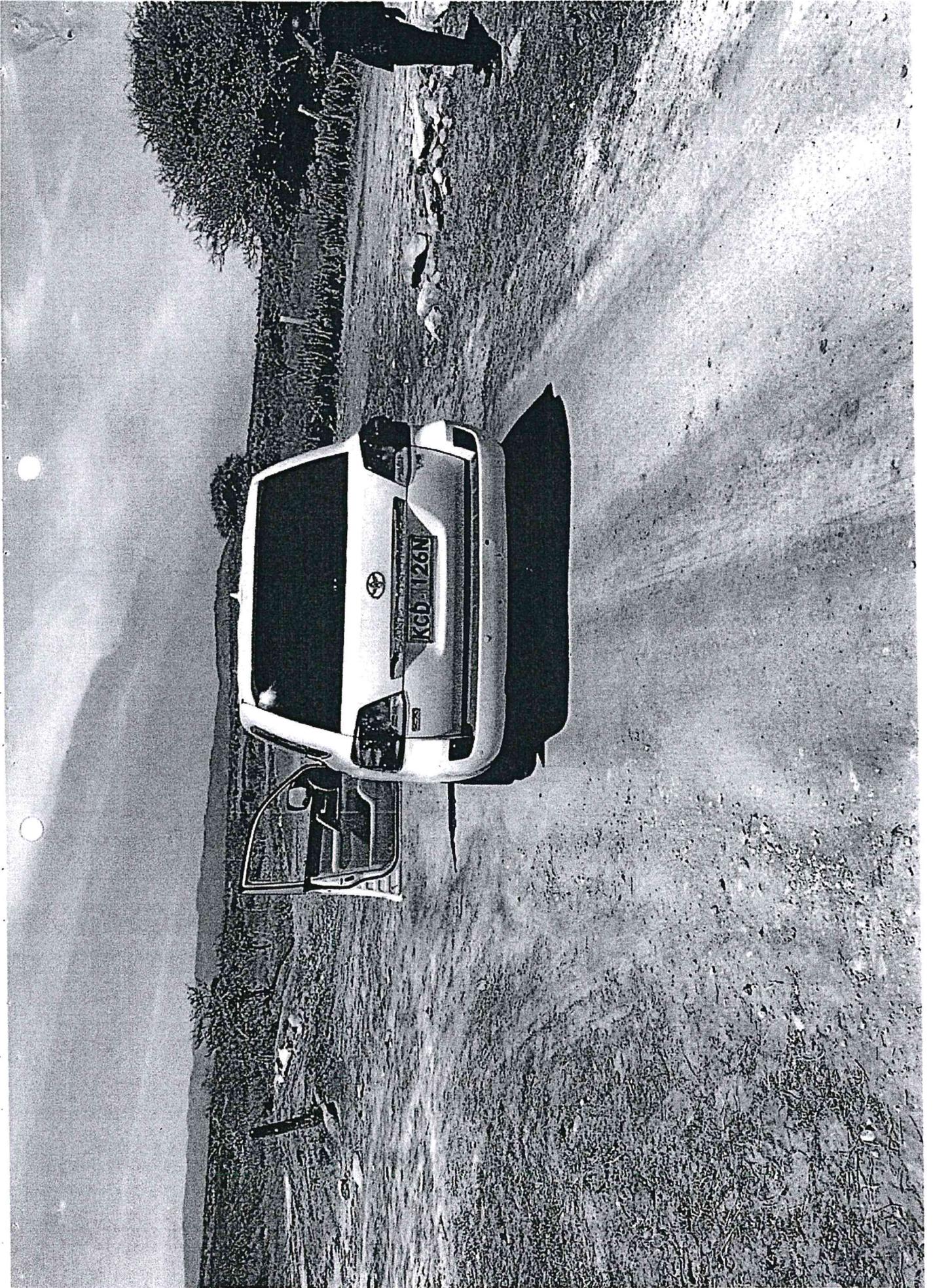
Kapiti Plains  
Estate













**NATIONAL LAND COMMISSION**

**RESPONSE TO PETITIONS REFERRED TO THE DEPARTMENTAL  
COMMITTEE ON LAND OF THE NATIONAL ASSEMBLY**

**BY**

**GERSHOM OTACHI BW' OMANWA**

**CHAIRMAN**

**3<sup>RD</sup> SEPTEMBER, 2020**

## RESPONSE TO PETITIONS

**Hon Chair,**

We received a letter dated 10<sup>th</sup> August, 2020, from the Clerk of the National Assembly inviting the chairman of the National Land Commission to respond to two petitions that were being considered by Departmental Committee on Land. Hon Chair we request to respond to one petition – ***petition by residents of Vota Mua Ward*** - during this session and respond to the ***petition by residents of Karare ward in Marsabit*** in our next engagement or as advised.

We wish to respond as follows:

### **PETITION BY RESIDENTS OF VUTA, MUA WARD MACHAKOS TOWN CONSTITUENCY REGARDING OBSTRUCTION OF THE TARMACKING OF THE KONZA – KATUMANI ROAD**

#### **Introduction**

On 2<sup>nd</sup> March, 2020 the residents of Vota in Mua ward, Machakos County petitioned the National Assembly to intervene to salvage the road improvement (upgrading) project on Katumani-Vota-Konza road since the registered owner of LR No. 353/2 blocked the project from passing through his land until he is compensated.

*It is important to note that the Commission was never asked to acquire LR No. 353/2. (referred to in Speaker's conveyance) or LR No. 355/2 (referred to by petitioners).*

**Hon Chair,**

Upon the above clarification, we shall now focus on the land the Commission was requested to acquire by KURA - LR No. 7374/3

## **Chronology of Events**

In 2018, upon establishing that about 400 metres of the planned road project traverses private land LR No. 7374/3, the process of compulsory acquisition of the affected portion of land measuring approximately 0.7972Ha was commenced:

- As per practice Notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17th May, 2018 were issued.
- Valuation was also done and an award of kshs.52, 000,000.00 was forwarded to KURA for funding.
- However KURA, was of the view that the award was beyond their budget and therefore made a decision to identify an alternative alignment.
- The Commission was notified and requested by KURA to cancel the acquisition of LR NO 7374/5 and issued a degazettement notice.

## **Prayer On Right Of Way And The Way Forward**

The land Act, 2012 section 143(1) provides that subject to and in accordance with this section and section 146, the Commission may, create a right of way which shall be known as public right of way. Further, section 145 states that a county government, an association, or any group of persons may make an application to the commission for a communal right of way. Section 146 provides the determination of public right of way, process and procedure the Commission shall use to create a public right of over private land. The section further provides that it is the cabinet secretary responsible for lands who makes an order through a gazette notice upon recommendation by the Commission.

Once the Cabinet Secretary has made an order to create a public right of way the Commission shall cause all the necessary documents, plans,

demarcations and surveys to be delivered to the Registrar to enable the registrar to exercise the powers under this section.

Section 148 states that compensation is payable to any person for the use of land, of which the person is in lawful or actual occupation, as a public/communal right of way based on the value of the land as determined by a qualified valuer.

***Hon Chair, the Commission shall play its role in creating a public right of way upon request and within the above stated legal framework***

Thank you



**GERSHOM OTACHI BW'OMANWA  
CHAIRMAN**

GAZETTE NOTICE NO. 3215

THE LAND ACT (*NO. 6 OF 2012*)  
CONSTRUCTION OF KATHEKAKAI—MACHAKOS ROAD  
INTENTION TO ACQUIRE

IN PURSUANCE of sections 112 and 162 (2) of the Land Act, 2012, the National Land Commission on behalf of Kenya Urban Roads Authority (KURA) gives notice that the National Government intends to acquire the following parcel of land for the construction of Kathekakai—Machakos Road in Machakos County.

<i>Plot</i>	<i>Registered</i>	<i>Affected</i>
<i>No.</i>	<i>Owner</i>	<i>Area</i>
		<i>(Ha)</i>
L.R. No. 7374/3		0.7972

Plans of the affected land may be inspected during office hours at the office of the National Land Commission, Ardhi House, 3rd Floor, Room No. 305, 1st Ngong Road, Nairobi.

Notice of inquiry will be published in the *Kenya Gazette* as per section 112 (1) of the Land Act.

Dated the 29th March, 2018.

MUHAMMAD A. SWAZURI,  
MR/4183382

*Commission.*

*Chairman, National Land*



D. Ag. Director  
Val and Tax  
Mwambaga -  
16/10/2018



**KENYA URBAN ROADS AUTHORITY**

*Efficient and safe urban roads*

IKM PLACE, Bishops Road, Tel: 254-020-8013844

Email: info@kura.go.ke Web: www.kura.go.ke

P.O. Box 41727-00100. GPO, NAIROBI

Ref: KURA/D&C/SUR/3Vol.3/(30)

Date: 11<sup>th</sup> Oct 2018

Ag. Chairperson  
National Land Commission  
Ardhi House, 1<sup>st</sup> Ngong Avenue, Off Ngong Road  
P.O Box 44417  
NAIROBI



Dear Madam,

RE: **LAND ACQUISITION FOR KATHEKAI – MACHAKOS ROAD PROJECT-  
PLOT NO. LR 7374/3**

Reference is made to your letter Ref. NLC/VAL.1444 (5) dated 15<sup>th</sup> August, 2018 on the above subject matter.

We have perused through the award schedule and wish to inform you that the amount awarded is far above our budget line for the project. The Authority is in the process of identifying alternative road alignment.

We therefore request you to cancel the compulsory acquisition of property L.R. No.7374/3 and degazettement of the same done.

Yours faithfully,

Eng. S. M. Kinoti  
Ag. DIRECTOR GENERAL





NLC/VAL.1555

Mr./Mrs./Ms. MUAMBI PROPERTIES LIMITED

THE LAND ACT, 2012 (PART VIII)

PROJECT NAME: KATHEKAKAI - MACHAKOS ROAD PROJECT

GAZETTE NOTICE NO: 3215 OF 6<sup>TH</sup> APRIL 2018 AND 5264 OF 31<sup>ST</sup> MAY 2018

Parcel No. LR. NO. 7374/3 (PART/WHOLE)

**AWARD**

IN PURSUANCE OF SECTION 113 (1) of The Land Act, 2012, having concluded the inquiry relating to the acquisition of the land described in Kenya Gazette Notices above, THE COMMISSION HEREBY AWARDS you the sum of Kshs.

52,632,588 F (Words Kenya Shilling fifty two Million six hundred thirty two thousand five hundred and eighty eight only) in respect of your interest in the land and improvements acquired for the above project

The Commission hereby gives the following particulars relating to the acquisition:-

- a) The area of land to be acquired is 0.7972 Ha approximately
- b) The total value of land in my opinion is Ksh 45,307,268 F
- c) The total value of improvements in my opinion is Ksh 460,200 F
- d) The total compensation payable for land and improvements inclusive of 15% disturbance allowance and any other applicable statutory additions (if any) is Ksh 45,767,468 F
- e) The compensation HEREBY AWARDED is payable to the following persons interested in the land:

Pay Muambi Properties Limited  
Kshs. 52,632,588 F

Please complete the Indemnity Clause overleaf, attached Statement and Electronic Funds Transfer Forms and submit to the Commission within 14 days of receipt.

DATED this 14<sup>th</sup> day of August 2018

**JOASH OINDO**  
**DIRECTORATE OF VALUATION & TAXATION**  
**FOR: CHAIRMAN, NATIONAL LAND COMMISSION**

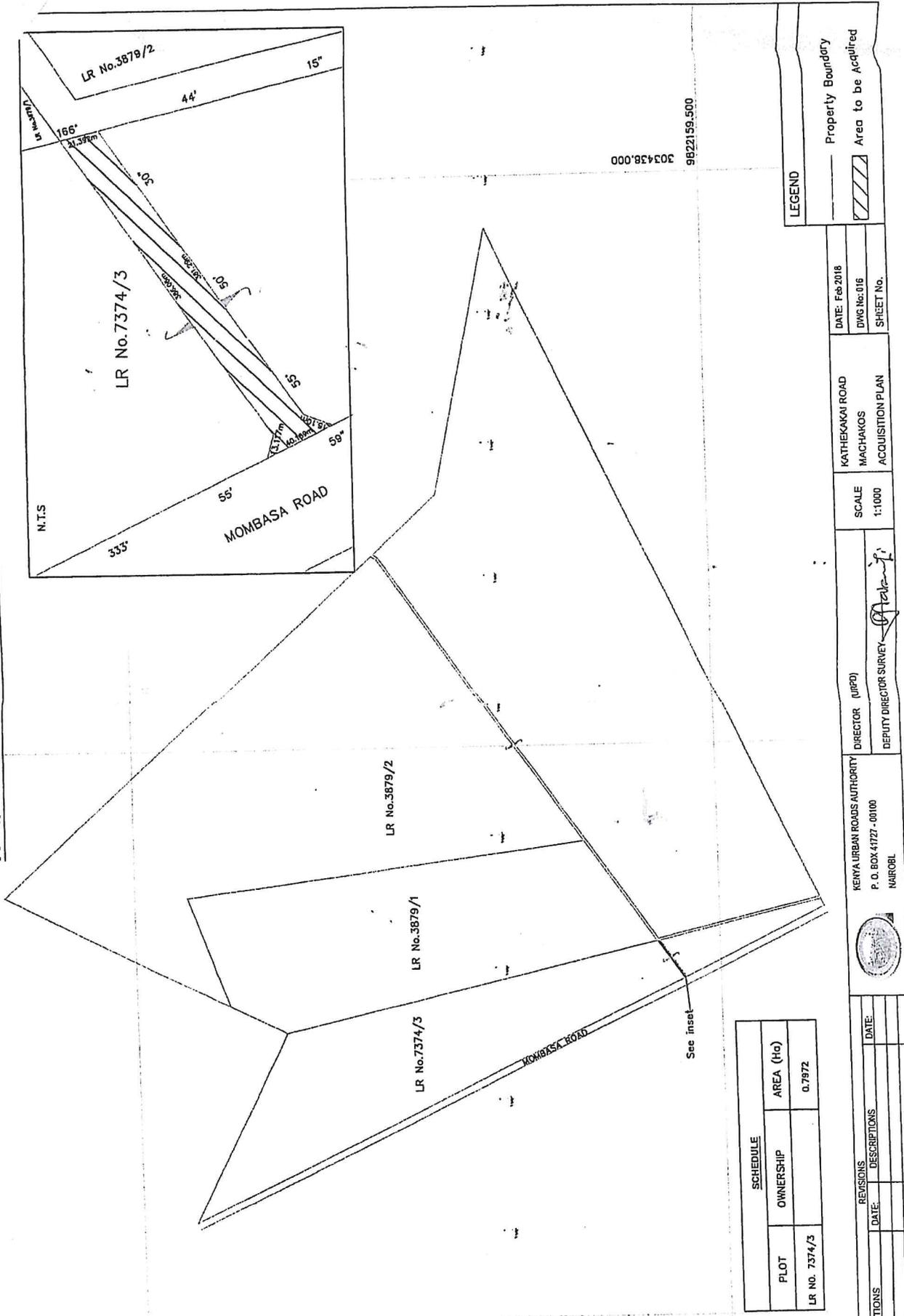
Received by: H.K. Mwan

ID: 7812969

Tel: 0722511891



**ACQUISITION PLAN L.R.NO. 7374/3**



303438.000  
9822159.500

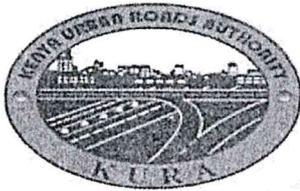
SCHEDULE	
PLOT	AREA (Ha)
LR NO. 7374/3	0.7872

LEGEND	Property Boundary
	Area to be Acquired

DATE: Feb 2018	KATHEKAKAI ROAD	SCALE	DIRECTOR (UPD)	KENYA URBAN ROADS AUTHORITY
DWG No: 016	MACHAKOS	1:1000	DEPUTY DIRECTOR SURVEY	P. O. BOX 41727 - 00100
SHEET No.	ACQUISITION PLAN		<i>[Signature]</i>	NAIROBI
REVISIONS	DATE:	DESCRIPTIONS	DATE:	







**KENYA URBAN ROADS AUTHORITY**  
*Efficient and safe urban roads*

IKM PLACE, Bishops Road, Tel: 254-020-8013844  
Email: info@kura.go.ke Web: www.kura.go.ke  
P.O. Box 41727-00100, GPO, NAIROBI

**BRIEF ON ROUTINE MAINTENANCE OF LOT 17**

**(KATUMANI-VOTA-KONZA ROAD.)**

While doing maintenance works on Katumani-Vota-Konza Road we established that the road transverses private land LR No. 7374/3. Upon realizing that, a Compulsory land acquisition process was initiated to acquire the affected portion of land measuring approximately 0.7972Ha between chainage 0+000 and 0+400 off Mombasa road (Appendix I).

Notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17<sup>th</sup> May, 2018 were issued accordingly (appendix II).

Valuation was done by National Land Commission and a compensation award of kshs. 52,632,588 (Kenya shillings fifty two million six hundred and thirty two thousand, five hundred and eighty eight only) was forwarded to KURA for payment (Appendix III).

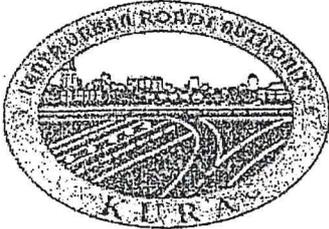
The award amount was found to be extremely high and not available within the available project budget. Decision was made to maintain the existing planned road alignment measuring approximately 1.55 km (Appendix IV)

National Land Commission was notified and requested to cancel the compulsory land acquisition process and de-gazettement process was initiated (Appendix V)

Thank you







**KENYA URBAN ROADS AUTHORITY**  
*Efficient and safe urban roads*

IKM PLACE, Bishops Road, Tel: 254-020-8013844  
Email: info@kura.go.ke Web: www.kura.go.ke  
P.O. Box 41727-00100, GPO, NAIROBI

Ref: KURA/D&C/SUR/3 Vol 2(71)

Date: 16<sup>th</sup> February, 2018

The Chairman  
National Land Commission  
Ardhi House, 1<sup>st</sup> Ngong Avenue, Off Ngong Road  
P.O Box 44417  
NAIROBI

Dear Sir,

RE: SUBMISSION OF ACQUISITION PLAN  
CONSTRUCTION OF KATHEKAKAI ROAD IN MACHAKOS

Kenya Urban Road Authority (KURA) is undertaking Construction of above stated road in Machakos County.

In the process of design and staking out, a property LR No. 7374/3 is affected as shown in the acquisition plan attached.

We hereby submit six (6) copies of acquisition plans and acquisition schedule to initiate compulsory acquisition process.

Yours faithfully,

Eng. S. M. Kinoti  
Ag. DIRECTOR GENERAL



# KENYA URBAN ROADS AUTHORITY

*Efficient and safe urban roads*

P.O. BOX 2605 - 90100 MACHAKOS

Email: [lowereastern@kura.go.ke](mailto:lowereastern@kura.go.ke) Web: [www.kura.go.ke](http://www.kura.go.ke)

Mobile No. +254770074818

## REGIONAL OFFICE – LOWER EASTERN

When replying please quote

Ref No. KURA/LE/AMSL/LE/225/17-18/059

and date 8/12/2018

The Director General,  
Kenya Urban Roads Authority,  
P. O. Box 41727-00100,  
NAIROBI.

Dear Sir,

RE: ROUTINE MAINTENANCE ON KATUMANI-VOTA-KONZA ROAD  
CONTRACT NO. KURA/RMLF/LE/225/2017-2018  
ROAD ALIGNMENT ON PRIVATE LAND

We recently started maintenance works on the above road which is a classified KURA road but it has come to our attention that part of the road transverses private land LR/No. 737/1/3 between Chainage 0+000 and 0+100 off Mombasa Road.

I contacted the owner of the land Mr. Mwaambi on the matter and he indicated that he has no objection on the road being constructed on the land provided that he is suitably compensated.

Mine is to request that the compensation process be initiated appropriately.

Yours faithfully,

  
Eng. Michael Mugo  
Deputy Director, Urban Roads Coordinator

Cc: Ag. Director, Roads Asset & Corridor Management (KURA)  
Deputy Director, Survey (Mr. Abdulkadir I. Jafari) (KURA)

# Appendix II

---

registration the land title deed issued earlier to the said Paul Gitahi Mwaura, shall be deemed to be cancelled and of no effect.

Dated the 6th April, 2018.

S. W. MUCHEMI,

MR/4183024

*Land Registrar, Naivasha District.*

GAZETTE NOTICE NO. 3213

THE LAND REGISTRATION ACT

(No. 3 of 2012)

REGISTRATION OF INSTRUMENT

WHEREAS Paul Gitahi Mwaura (ID/12441310), of P.O. Box 216, Nakuru in the Republic of Kenya, is registered as proprietor of all that piece of land containing 0.7956 hectare or thereabouts, known as Gilgil/Gilgil Block 1/3843, situate in the district of Naivasha, and whereas the High Court at Nakuru in civil suit No. 489 of 2016, has issued a decree, and whereas all efforts made to compel the registered proprietor to surrender the land title deed issued in respect of the said piece of land to the land registrar for cancellation have failed, notice is given that after the expiration of thirty (30) days from the date hereof, provide no valid objection has been received within that period, I intend to dispense with the production of the said land title deed and proceed with registration of the said instrument of transfer and issue a land title deed to Joseph Kimani Gitau, and upon such registration the land title deed issued earlier to the said Paul Gitahi Mwaura, shall be deemed to be cancelled and of no effect.

Dated the 6th April, 2018.

S. W. MUCHEMI,

MR/4183024

*Land Registrar, Naivasha District.*

GAZETTE NOTICE NO. 3214

THE LAND REGISTRATION ACT

(No. 3 of 2012)

REGISTRATION OF INSTRUMENTS

WHEREAS (1) Rhodah Kwamboka Ogaro (ID/5793250) and (2) Douglas Oroko Nyaribo (ID/22774413), are registered as proprietors of all those piece of land known as Ngong/Ngong/92379 and Ngong/Ngong/92378, situate in the district of Kajiado, and whereas the adjudication records show that the said pieces of land belong to Phineas Ashfor Miriti (ID/4719441), and whereas the land title deeds where fraudulently acquired, and whereas all efforts made to compel the registered proprietor to surrender the land title deeds issued in respect of the said pieces of land to the land registrar for cancellation have failed, notice is given that after the expiration of thirty (30) days from the date hereof, provide no valid objection has been received within that period, I intend to dispense with the production of the said land title deeds and proceed with registration of the said instruments of transfer and issue land title deeds to the said Phineas Ashfor Miriti, and upon such registration the land title deed issued earlier to the said (1) Rhodah Kwamboka Ogaro and (2) Douglas Oroko Nyaribo, shall be deemed to be cancelled and of no effect.

Dated the 6th April, 2018.

M. I. BILLOW,

MR/4183142

*Land Registrar, Kajiado North District.*

GAZETTE NOTICE NO. 3215

THE LAND ACT

(No. 6 of 2012)

CONSTRUCTION OF KATHEKAKAI—MACHAKOS ROAD

INTENTION TO ACQUIRE

IN PURSUANCE of sections 112 and 162 (2) of the Land Act, 2012, the National Land Commission on behalf of Kenya Urban Roads Authority (KURA) gives notice that the National Government intends to acquire the following parcel of land for the construction of Kathekakai—Machakos Road in Machakos County.

Plot No.	Registered Owner	Affected Area (Ha)
L.R. No. 7374/3		0.7972

Plans of the affected land may be inspected during office hours at the office of the National Land Commission, Ardhi House, 3rd Floor, Room No. 305, 1st Ngong Road, Nairobi.

Notice of inquiry will be published in the *Kenya Gazette* as per section 112 (1) of the Land Act.

Dated the 29th March, 2018.

MR/4183382

MUHAMMAD A. SWAZURI,  
*Chairman, National Land Commission.*

GAZETTE NOTICE NO. 3216

THE CONSTITUTION OF KENYA

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT

(No. 9 of 2011)

THE ELECTIONS ACT

(No. 24 of 2011)

THE ELECTIONS (GENERAL) REGULATIONS

(L.N. 128/2012 and L.N. 72/2012)

THE ELECTIONS (PARTY PRIMARIES AND PARTY LISTS) REGULATIONS, 2017

(L.N. 69)

AND

IN PURSUANCE TO THE COURT ORDER IN THE CHIEF MAGISTRATE COURT AT KISII, ELECTION PETITION NO. 8 OF 2017

NOMINATED MEMBERS OF THE COUNTY ASSEMBLY

CORRIGENDA

IN Gazette Notice No. 8380 of 2017, Vol. CXIX No. 124 published on 28th August, 2017, *delete* as specified below:

GAZETTE NOTICE No. 5263

## THE LAND ACT

(No. 6 of 2012)

## IMPROVEMENT TO BITUMEN STANDARD OF NAROMORU-MUNYU-KARISHEN ROAD PROJECT

IN PURSUANCE of section 162 (2) of the Land Act and section 6 (2) of the Land Acquisition Act (Cap. 295 Repealed) and further to Gazette Notice No. 6471 of 2017, the National Land Commission gives notice that the Government intends to *delete, correct* and *add* the following parcels of land listed below.

Deletion		
Plot No.	Registered Owner	Acquired Area (Ha.)
Nyeri/Naromoru/3363	Leah Wangeci Mubiya	0.0728
Nyeri/Naromoru/2698		0.0626
Corrigenda		
Plot No.	Registered Owner	Acquired Area (Ha.)
Nyeri/Naromoru/1901	John Karugia Mageria	0.068
Nyeri/Naromoru/1902	Peter Maina Muchiri	0.041
Addendum		
Plot No.	Registered Owner	Acquired Area (Ha.)
Nyeri/Naromoru/4591	Charles Muthec Gathanga	0.068

Plans of the affected land may be inspected during office hours at the office of the National Land Commission, Ardhi House, 3rd Floor, Room No. 305, 1st Ngong Road and Nyeri County Land Co-ordinator's Offices.

Dated the 20th April, 2018.

MUHAMMAD A. SWAZURI,  
Chairman, National Land Commission.

GAZETTE NOTICE No. 5264

## THE LAND ACT

(No. 6 of 2012)

CONSTRUCTION OF KATHEKAKAI-MACHAKOS ROAD PROJECT  
INQUIRY

IN PURSUANCE of the Land Act, 2012, part VII and further to Gazette Notice No. 3215 of 2018, the National Land Commission intends to hear claims to compensation by people interested in the land to be acquired to be held at Ardhi House, Board Room, 26th June, 2018 at 9.30 a.m.

Plot No.	Registered Owner	Affected Area (Ha.)
L.R. No. 7374/3	Muambi Properties Limited	0.7972

Every person interested in the affected land is required to deliver to the National Land Commission on or before the day of the inquiry, a

written claim to compensation, a copy of identity card (ID), personal identification number (PIN), land ownership documents and bank account details. Commission offices are in Ardhi House, 1st Ngong Avenue, 3rd Floor, Room 305.

Dated the 17th May, 2018.

MUHAMMAD A. SWAZURI,  
Chairman, National Land Commission.

GAZETTE NOTICE No. 5265

## THE LAND ACT

(No. 6 of 2012)

## KARIMENU II DAM WATER SUPPLY PROJECT

## INTENTION TO ACQUIRE LAND

IN PURSUANCE of sections 107 and 112 of the Land Act and further to Gazette Notice No. 3970 of 2018, the Government intends to make the following changes:

## Addendum Schedule

Plot No.	Registered Owner/s	Area Acquired (Ha.)
Chania/Kanyoni/2537	Njeri Kimemia	0.212
Chania/Kanyoni/3206	Samuel Muiruri Mungai	0.101
Chania/Kanyoni/2772	Peter Ndegwa Mwangi	0.101
Chania/Kanyoni/2733	St. John Catholic Church	0.101
Chania/Kanyoni/2958	John Githeru Mwangi	0.86
Chania/Kanyoni/2957	Patrick Githeru	0.86
Chania/Kanyoni/2726	Joseph Ndungu Mutugu and Pius Ndungu Mutugu	0.101
Chania/Kanyoni/731	Jacinta Wanjiku Njaruba	0.42
Chania/Kanyoni/967	Jacinta Wanjiku Njaruba	0.2428
Chania/Kanyoni/2539	Njeri Kimemia	0.212
Chania/Ngorongo/3872	Simeon Watari Kanya	1.174
Chania/Ngorongo/1216	Dominic Macharia Kariuki	1.19
Chania/Ngorongo/737	Munene Gicheha	4.492
Chania/Ngorongo/1239	Teresia Wambui/Jacinta Njeri Kinuthia/Dominic Ndungu Nganga/ Stephen Kiama Nganga/ John Njoroge Nganga	1.96

## Corrigendum Affected Area

Plot No.	Registered Owners	Area Acquired (Ha)
Chania/Kanyoni/729	Wambui Kariuki	2.4

Plans of the affected land may be inspected during office hours at the office of the National Land Commission, Ardhi House, 3rd Floor, Room No. 305, 1st Ngong Avenue, Nairobi and Athi Water Services Board office at Upper Hill, Africa-Re Centre, 3rd Floor along Hospital Road, Nairobi.

Dated the 28th May, 2018.

MUHAMMAD A. SWAZURI,  
Chairman, National Land Commission.

GAZETTE NOTICE No. 5266

## THE LAND ACT

(No. 6 of 2012)

## DUALLING OF MOMBASA-MARIAKANI (A109) ROAD PROJECT

## INQUIRY

IN PURSUANCE of section 162 (2) of the Land Act, 2012, and further to Gazette Notices No. 9343 of 2015, 1388, 1389 of 2017, and 176 of 2018. The National Land Commission intends to acquire additional parcels of land on behalf of Kenya National Highways Authority for the dualling of Mombasa-Mariakani (A109) Road (A109). Inquiries for hearing of claims to compensation by people interested in the land to be acquired shall be held on the dates and places shown here below.

## SCHEDULE

## Delete

Plot No.	Registered Owner	Area to Acquire (Ha)
MN/V/3623	—	0.2177
Mombasa Island Parcel No. 139	Aipa Makande Cathedral Church	0.0432

# APPENDIX III



**OFFICE OF THE VICE CHAIR**

Telegrams: "MINILANDS", Nairobi  
Telephone: Nairobi 2718050  
When replying please quote

ARDHI HOUSE  
NGONG ROAD  
P.O. Box 44417  
**NAIROBI**

*DD Survey  
pls deal.*

*Jan  
17/8/18*

Ref: NLC/VAL 1444(5)



15<sup>th</sup> August 2018

*Est  
Pls Deal  
AR 21/8/18*

**Director General**  
Kenya Urban Roads Authority  
P.O. Box 41727-00100  
**NAIROBI**

**LAND ACQUISITION FOR KATHEKAI-MACHAKOS ROAD PROJECT -  
PLOT NO. L.R. 7374/3**

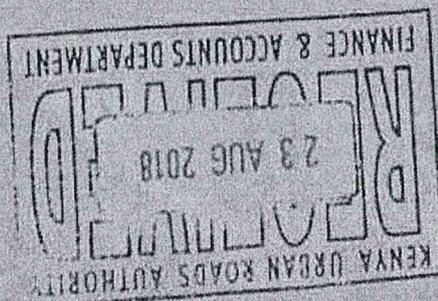
The Commission carried out inspections vide Gazette Notice No. 3215 of 6<sup>th</sup> April 2018 and Inquiries vide Gazette Notice No. 5264 of 31<sup>st</sup> May 2018 for compulsory land acquisition upon parcel No. 7374/3. Find attached herewith the compensation tabulation of the affected portion of land.

Kindly make arrangements to deposit **Kshs.52,632,588/=** to enable us pay the affected persons identified in the compensation schedule to the National Land Commission bank account whose details are as hereunder:

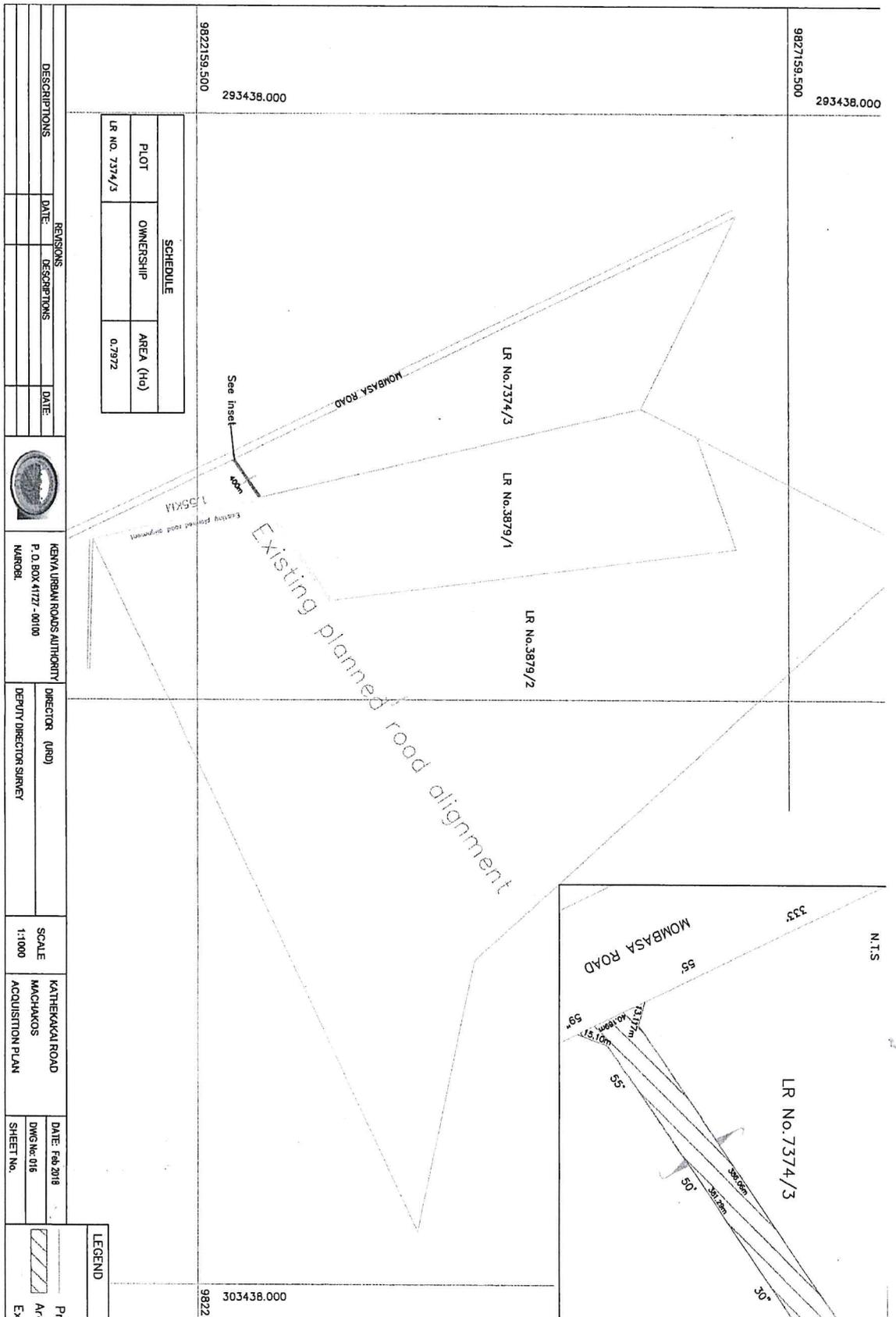
Account Name	:	National Land Commission
Bank	:	National Bank
Branch	:	Upper Hill
Account Number	:	01001032980000
Bank Code	:	12004

Your prompt action will enable the Commission to disburse the payments on time in accordance with the constitutional provision on promptness of just compensation.

**Abigael Mbagaya-Mukolwe (Mrs.)**  
**VICE CHAIR**  
**FOR: CHAIRMAN**



# APPENDIX IV



9822159.500

293438.000

9822159.500

293438.000

SCHEDULE		
PLOT	OWNERSHIP	AREA (Ha)
LR No. 7374/3		0.27972

REVISIONS		
DESCRIPTIONS	DATE	DATE



KENYA URBAN ROADS AUTHORITY  
P. O. BOX 41727 - 00100  
NAIROBI.

DIRECTOR (URB)  
DEPUTY DIRECTOR SURVEY

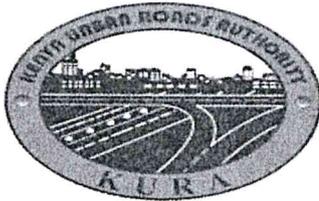
SCALE 1:1000  
KATHERAKAL ROAD  
MACHAKOS  
ACQUISITION PLAN

DATE: Feb 2018  
DWG No: 016  
SHEET No.

LEGEND	
	Pr
	Ar
	Ex

9822

303438.000



**KENYA URBAN ROADS AUTHORITY**  
*Efficient and safe urban roads*

IKM PLACE, Bishops Road, Tel: 254-020-8013844  
Email: [info@kura.go.ke](mailto:info@kura.go.ke) Web: [www.kura.go.ke](http://www.kura.go.ke)  
P.O. Box 41727-00100, GPO, NAIROBI

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REF: KURA/URPD/SUR/2VOL.2 (56)

Date: 17<sup>th</sup> February, 2020

Deputy Director, Urban Roads Coordinator  
Regional Office - Lower Eastern  
P.O Box 2605 - 90100  
MACHAKOS

Dear Sir,

**RE: ROUTINE MAINTENANCE OF LOT 17 (KATUMANI-VOTA-KONZA ROAD.)**

Reference is made to your letter ref: KURA/LE/ADMN/1/Vol. III (1) dated 31<sup>st</sup> January, 2020

Upon establishing that the project road transverses private land LR No. 7374/3, a Compulsory land acquisition process was initiated to acquire the affected portion of land measuring approximately 0.7972Ha between chainage 0+000 and 0+400 off Mombasa road (**Appendix I**).

Notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17<sup>th</sup> May, 2018 were issued accordingly (**appendix II**).

This is therefore to advise you to work on the available space as we look on the way forward.

Yours faithfully,

Eng. S. M. Kinoti  
**Ag. DIRECTOR GENERAL**

CC: DIRECTOR - RACM

PKG-(SLS)

DD (S)

D (URP&D)

15



KENYA URBAN ROADS AUTHORITY

Efficient and safe urban roads

FINANCE AND ACCOUNTS DEPARTMENT

MEMORANDUM

To : Director (URD)  
From : Ag. Director -Corporate Services  
Date : 27<sup>th</sup> August, 2018  
Ref : KURA/F&A/FIN/4/VOL. 3/74

① DD - Survey  
pls deal.

Jan 28/8/18

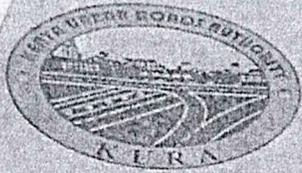
RE: LAND ACQUISITION FOR KATHEKAKAI-MACHAKOS ROAD PROJECT - PLOT NO. LR. 7374/3

Reference is made to memo Ref. KURA/D&C/SURV/3VOL.3 (22) dated 23<sup>rd</sup> August, 2018 on the above subject.

This is to inform you that the above referred project has not been in any of our project lists for either RMLF projects or development projects including the planned projects under the three (3) year rolling Medium Term Expenditure Framework (MTEF). Towards this end kindly provide further details on the land acquisition, approval and source of funding towards payment for the acquisition.

② Kithle  
Plse liaise with eng. Mugo and respond  
28/8/18

Reuben Mayienda  
Ag. DIRECTOR - CORPORATE SERVICES



**KENYA URBAN ROADS AUTHORITY**  
*Efficient and safe urban roads*  
**DESIGN AND CONSTRUCTION**

UP

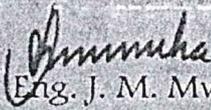
MEMORANDUM

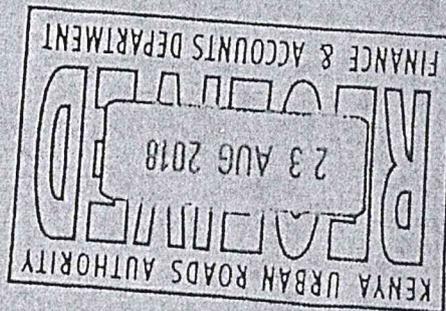
TO : Director (CS)  
FROM : Director (URD)  
DATE : 23<sup>rd</sup> August, 2018  
REF : KURA/D&C/SURV/3 Vol. 3(22)

RE: LAND ACQUISITION FOR KATHEKAKAI-MACHAKOS ROAD PROJECT- PLOT NO. LR.  
7374/3

Refer to the letter from National Land Commission Ref: NLC/VAL 1446(5) of 15th August, 2018 on above subject.

Forwarded herewith please find Compensation schedule amounting to Ksh.52,632,588.00 (Kenya Shillings Fifty two million six hundred and thirty two thousand, five hundred and eighty eight only) for Kathekakai-Machakos road project for your necessary action.

  
Eng. J. M. Mwatu, OGW  
DIRECTOR (URD)



# APPENDIX V



## KENYA URBAN ROADS AUTHORITY

*Efficient and safe urban roads*

IKM PLACE, Bishops Road, Tel: 254-020-8013844

Email: [info@kura.go.ke](mailto:info@kura.go.ke) Web: [www.kura.go.ke](http://www.kura.go.ke)

P.O. Box 41727-00100, GPO, NAIROBI

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Ref: KURA/D&C/SUR/3 Vol 3(30)

Date: 5<sup>th</sup> October, 2018

The Chairman  
National Land Commission  
Ardhi House, 1<sup>st</sup> Ngong Avenue, Off Ngong Road  
P.O Box 44417  
**NAIROBI**

Dear Sir

**RE: LAND ACQUISITION FOR KATHEKAI – MACHAKOS ROAD PROJECT-  
PLOT NO. LR 7374/3**

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Reference is made to your letter Ref: NLC/VAL1444 (5) dated 15<sup>th</sup> August, 2018 on the above subject matter.

We have perused through the award schedule and wish to inform you that the amount award is far above our budget line for the project. The authority is in the process of identifying alternative road alignment.

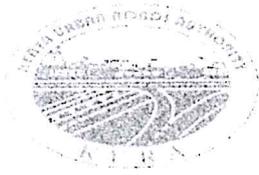
We therefore request you to cancel the compulsory acquisition of property LR. No. 7374/3 and degazettement of the same done.

Yours faithfully,

Eng. S.M. Kinoti  
**Ag. DIRECTOR GENERAL**

PKG- SLS

D (URPD)



**KENYA URBAN ROADS AUTHORITY**

*Efficient and safe urban roads*

URBAN ROADS DEVELOPMENT DEPARTMENT

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TO : Director - Corporate Services  
FROM : Director – Urban Road Development  
DATE : 6<sup>th</sup> December, 2018  
REF : KURA/URPD/SUR/3/ (14)

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**LAND ACT NO. OF 2012**

**KATHEKAKAI – MACHAKOS ROAD PROJECT –LAND ACQUISITION PROPERTY LR  
NO. 7374/3 - MACHAKOS**

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The above property was gazetted for compulsory acquisitions vide gazette notice no. 5264 of 31<sup>st</sup> May, 2018 by National Land Commission. Valuation was also done and an award of Kshs.52,000,000.00 was forwarded to Authority for payment. This figure was extremely high and not available within the current budget and a decision was made to identify an alternative alignment.

National Land Commission was notified and requested to issue degazettement vide our letter Ref: KURA/D&C/SUR/3Vol3.(30) (Copy attached). To facilitate the degazettement, the Commission forwards a Proforma Invoice No. FTG No. 0001063 18-19 amounting to Ksh.3,480.00 (Kenya Shillings Three Thousand Four Hundred and Eighty Only).

This is therefore to request you to avail the money for the commission to issue notice of degazettement.

Eng. J. M. Mwatu, OGW

**DIRECTOR (URBAN ROADS DEVELOPMENT)**



## **KENYA URBAN ROADS AUTHORITY**

*Efficient and safe urban transport*



## **BRIEF ON KATUMANI-VOTA-KONZA ROAD**

**AUGUST, 2020**

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1.5. Implementation Status.....3  
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1.7. Implementation Constraints .....4  
1.8. Current Status.....5

### 1.1. Background

Katumani-Vota-Konza road which is approximately 9 Km is located in Mua ward, in the outskirts of Machakos town, Machakos Town Constituency in Machakos County. The road serves as a key link road between Mombasa road and Wote road while also providing access to residential properties along the entire stretch of the road.

### 1.2. Classification

The road has been under the jurisdiction of Kenya Rural Roads Authority (KeRRA) for a number of years since the inception of the road agencies under the Roads Act of 2007. However, the road was vested to Kenya Urban Roads Authority (KURA) in the FY 2015/2016 upon reclassification of roads to align roads to the requirements of the new constitution of Kenya, 2010.

### 1.3. Maintenance History

KeRRA has been maintaining the road since 2010 through grading, gravelling and minor drainage works under Road Maintenance Levy Funds (RMLF) provided by Kenya Roads Board (KRB). Upon taking over the road, KURA continued the same maintenance activities until FY 2017/2018 where funds were allocated through the authority's Annual Road Work Programme (ARWP) for stage construction of the road to bitumen standards.

### 1.4. Planned Funding

The construction of the road was to be achieved in phases over 4 financial years commencing in FY 2017-2018. The planned and approved funding is as tabulated below;

S/No.	Financial Years	Amount Allocated (Ksh.)	Planned Length (Km)
1	2017/2018	90,000,142.80	3
2	2018/2019	52,362,817.60	2
3	2019/2020	60,316,805.36	2
4	2020/2021	45,355,628.80	2
	<b>Total</b>	<b>248,035,394.56</b>	

### 1.5. Implementation Status

Contracts have since been awarded spanning the FY 2017/2018 to 2019/2020 covering a length of approximately 6.5 Km. a summary of the awarded works are as tabulated below;

S/ No.	Financial Years	Budget (Ksh.)	Contract Sum (Ksh.)	Contractor	Status
1	2017/2018	90,000,142.80	80,702,360.00	Percom Enterprises Ltd	Complete
2	2018/2019	52,362,817.60	41,691,560.00	Bymet Building Company Limited	85%
3	2019/2020	60,316,805.36	48,725,362.68	Barckdo Enterprises Ltd	80%
4	2020/2021	45,355,628.80	N/A		Under procurement
	<b>Total</b>	<b>248,035,394.56</b>			

### 1.6. Scope of the Works

The works to be executed under the 3 contracts comprise mainly of but not limited to the following:

- Facilitation of the supervision staff
- Site clearance
- Carriageway grading and spot gravelling
- Earthworks to formation levels including reprocessing existing road and topping up to achieve formation level using natural gravel or suitable fill
- Construction of the pavement structure along the existing alignment as follows:
  - a) Laying of 150mm sub base natural gravel
  - b) Laying of 150mm cement improved base gravel layer.
  - c) Laying double seal surface dressing on prepared surfaces
- Construction of pipe culverts and other drainage works.
- Protection works using stone pitching and gabions as necessary.
- Provision and installation of road furniture including road marking.
- Maintenance of the works during construction and 3 months Defect Liability Period.

### 1.7. Implementation Constraints

During implementation of the first phase in the FY 2017/2018 covering the first 3 Km from Mombasa road, corridor challenges arose for the section from the junction with Mombasa road to Km 0+400. The owner of land Parcel No.7374/3 claimed that the road illegally traverses through his land where there is no provision for a road reserve. Upon receiving the complaint, the regional office, Lower Eastern who are the project supervisors on behalf of KURA sought the intervention of the Authority management through the survey department to establish the authenticity of the claim in order to chart the way forward. The following were the findings and actions of the survey department;

- Upon establishing that the project road transverses private land LR No. 7374/3, a Compulsory land acquisition process was initiated to acquire the affected portion of land measuring approximately 0.7972Ha between chainage 0+000 and 0+400 off Mombasa road. See **Appendix I**.
- Notice of intention to acquire was published via gazette notice No. 3215 dated March 29, 2018 and Gazette Notice of inquiry No. 5264 dated 17th May, 2018 were issued accordingly. See **Appendix II**.

- Valuation was also done and an award of Kshs.52,632,588 was forwarded to Authority for payment. See **Appendix III**.
- The figure was extremely high and not available within the budget and a decision was made to identify an alternative alignment, measuring approximately 1.55km. See **Appendix IV**.
- National Land Commission was notified and requested to cancel the acquisition process that was initiated and issue a degazettement notice. See **Appendix V**.

### **1.8. Current Status**

Due to the time constraints on the awarded contracts, a decision was made to skip the 400m section under contention and continue with the works as time was taken to resolve the missing link back to Mombasa road. To date, little progress has been made in resolving this challenge.

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**Appendix 1: Acquisition Plan**

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