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THE SENATE

TWELFTH PARLIAMENT – SIXTH SESSION

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Recommended for approval for tabling

Ep 03/02/22

Rt. Hon. Speaker
You may approve for tabling.

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04/02/22

Approved
8/2/2022

STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

REPORT ON A PETITION CONCERNING THE ALLEGED MURDER OF AN ENVIRONMENTALIST AND CONSERVATIONIST MS. JOANNAH STUTCHBURY

NO.	DATE	BY	DATE	BY
	10/02/2022	CHAIRPERSON		
		National Security		
		Getwale.		

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI

February 2022

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PREFACE

Mr. Speaker, Sir

1. The Standing Committee on National Security, Defence and Foreign Relations was constituted in December, 2017 during the First Session of the Twelfth (12th) Parliament pursuant to the provisions of the Senate Standing Order No. 187.

The Committee is mandated to consider all matters relating to: *national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration and international relations.*

2. In executing its mandate, the Committee oversees the Ministries of;

- (i). Interior and Coordination of National Government;
- (ii). Defence; and
- (iii). Foreign Affairs.

3. The Committee comprises of the following Members-

(i).	Sen. Fred Outa, CBS, MP	Ag. Chairperson
(ii).	Sen. Moses Wetang'ula, EGH, MP	Member
(iii).	Sen. Fatuma Dullo, CBS, MP	Member
(iv).	Sen. Gideon Moi, MP	Member
(v).	Sen. Judith Pareno, MP	Member
(vi).	Sen. Beatrice Kwamboka, CBS, MP	Member
(vii).	Sen. Mithika Linturi, MP	Member
(viii).	Sen. (Eng.) Mohamed M. Mohamud, CBS, MP	Member
(ix).	Sen. Wario Golich Juma, MP	Member

Mr. Speaker Sir,

The Petition regarding the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury and a protector of environment and natural resources was brought to the Senate by Sen. Halakhe Abshiro, MP on 4th August, 2021 and consequently stood committed to the Standing Committee on National Security, Defence and Foreign Relations.

Mr. Speaker Sir,

The Petitioners Prayers to the Senate were to be assisted by the Senate through-

- (i). an investigation on the circumstances leading to the alleged murder of Joannah Stutchbury and other environmentalists and conservationist in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). a call to the Ministry of Environment and Forestry and Kenya Forest Service to revoke grabbed parcels of the Kiambu Forest Reserve;
- (iii). appropriate recommendations for the protection of the lives of environmentalists and conservationists in Kenya; and
- (iv). reviewal relevant policies and existing legislations with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

Mr. Speaker Sir,

In order to address the prayers of the Petitioners, the Committee met with various stakeholders in relations to the petition who included the Petitioners (Conservation Alliance of Kenya), Cabinet Secretary for Environment and Forestry, Director of Kenya Forest Service, Kiambu Governor, County Commissioner of Kiambu, Ministry of Land officials, residents residing in the already developed parts of Kiambu Forest Reserve, National Land Commission officials, Inspector General of Police, Director of Criminal Investigation and undertook a fact-finding visit to Kiambu Forest Reserve.

Mr. Speaker Sir,

During the Committee investigation into the matter the Committee established that on 15th July, 2021, an Environmentalist and Conservationist Ms. Joannah Stutchbury was shot dead outside her home in what appeared to be outright murder. It is of importance to note that after meeting the Petitioners they were requested to furnish the Committee with a list of other conservationists who had ever been threatened, but, was not forthcoming. That Ms. Joannah Stutchbury lived in a land which borders Kiambu Central Forest Block known as LR No.21179 F/R No.284/108 which was gazetted as a Forest Reserve vide Proclamation No.44 of 1932. That on 5th February,

2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land which borders wetland and single-handedly confronted the developers who were constructing an illegal road. That preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Joannah Stutchbury might have been murdered due to her strong position and passion for preservation of environment at Kiambu Forest area against the will of illegal developers who wanted to construct a road to gain access to their illegally acquired properties.

Mr. Speaker Sir,

Documents from government agencies presented to the Committee indicate that some portions of the formerly Kiambu forest had been allocated to private individuals by former government regimes. Mr. Speaker, some of the residents currently residing in those parcels of land are either 2nd or 3rd buyers and have documents which indicate they followed the laid down lawful process to acquire ownership of those parcels of land including a letter from Kenya Forest Service indicating the forest had been delianated. The Committee, further, was informed that Marg. Ridge Estate Ltd was the initial owner of L.R. No. 21179, lying within and adjoining the western boundary of Kiambu Township in Kiambu District of an area of approximately 25 Hectares through documents produced before it, contrary to presentations by Cabinet Secretary Ministry of Environment and Forestry to the Committee. The Committee further established that some parcels of the forest has remained forested for instance I,R.84876 L.R. No.25009 measuring 6.795 Ha ostensibly owned by Agropack Limited, I,R.84876 L.R. No.25008 measuring 2.037 Ha, I.R.84876 L.R. No.25007 measuring 2.024 Ha and I.R.84876 L.R. No.25006 measuring 2.024 Ha which is swampy and forested. Arising from findings, the Committee has made several recommendations with far reaching implications for implementation by various government agencies regarding the Petition on the death of Ms. Joannah Stutchbury.

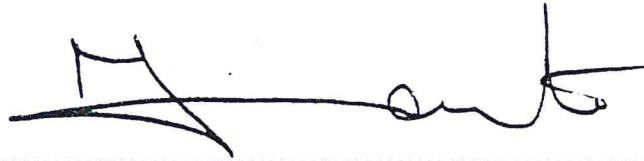
Mr. Speaker Sir,

I wish to express my gratitude to the Members of the Committee for their thoughtful inputs and contributions during the Committee's deliberations on the matter. The Committee is further indebted to the Offices of the Speaker and the Clerk of the Senate for facilitating efforts that led

to the production of this report. The Committee also wishes to recognize the commitment and dedication of the Committee secretariat who worked diligently and ensured this report is produced timeously.

Mr. Speaker Sir,

It is now my distinguished pleasure and duty, to table the report of the Standing Committee on National Security, Defence and Foreign Relations in regard to the Petition on the alleged murder of Environmentalist and Conservationist Ms. Joanna Stutchbury.



SIGNATURE.....

**SEN. FRED OUTA, CBS, MP
ACTING CHAIRPERSON**

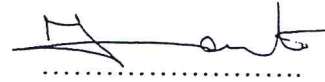
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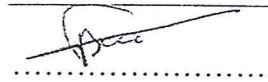
ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS.

We the undersigned Members of the Senate Standing Committee on National Security, Defense and Foreign Relations of the Senate, do hereby append our signatures to adopt the Report-

1) Sen. Fred Outa, CBS, MP - **Ag. Chairperson**



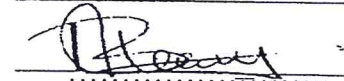
2) Sen. Fatuma Dullo, CBS, MP



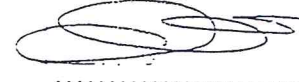
3) Sen. Judith Pareno, MP



4) Sen. Beatrice Kwamboka, CBS, MP



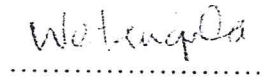
5) Sen Mithika Linturi, MP



6) Sen. (Eng.) Mohammed M. Mohamud, CBS, MP



7) Sen. Moses Wetang'ula, EGH, MP



8) Sen. Wario Golicha Juma, MP



9) Sen. Gideon Moi, MP



CHAPTER ONE

SUBMISSIONS BY THE PETITIONERS ON THE PETITION REGARDING THE ALLEGED MURDER OF CONSERVATIONALIST AND ENVIRONMENTALIST MS. JOANNAH STUTCHBURY.

The petitioners briefed the Committee that on 15th July, 2021, environmentalist and conservationist Joanna Stutchbury was shot dead outside her home in what appeared to be outright murder. She was a fierce environmental defender and conservationist who was well known for her efforts to conserve the environment and that she was a resident of Kiambu County, living around the vicinity of Kiambu Forest reserve. That on several occasions, she was successful in protecting Kiambu Forest Reserve from alleged encroachment and land grabbing by private developers. That she was an outspoken person who fearlessly challenged acts of forest degradation and destruction in the country, and instrumental in supporting Kenya Forest Service in combating illegal activities within Kiambu Forest and other forest reserves. That Kenya's forests, animal sanctuaries/reserves, wildlife and marine ecosystems are at risk of being grabbed and encroached by unscrupulous individuals for development which may lead devastating consequences arising from climate change. That other Environmentalists have been threatened with dire consequences if they do not stop their protectionist of forests or ecosystems.

The Petitioners briefed the Committee that their prayers to the Senate were-

- (i). Investigation to the circumstances leading to the alleged murder of Joanna Stutchbury and other environmentalists and conservationists in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). To call upon the Ministry of Environment and Forestry and the Kenya Forest Service to revoke grabbed parcels of Kiambu Forest Reserve. The Kiambu County Government has no function in a gazetted forest hence stop excision and further development in the forest;
- (iii). Make appropriate recommendation for the protection of the lives of environmentalists and conservationist in Kenya; and

- (iv). Review relevant policies and existing legislation with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

SUBMISSIONS BY THE DIRECTOR OF CRIMINAL INVESTIGATIONS REGARDING THE PETITION ON THE ALLEGED MURDER OF JOANNAH STUTCHBURY

Despite several invitations for a meeting, the Inspector of Police was not able to attend a meeting of the Committee, but, through the Director of Criminal Investigation submitted written submissions which stated as follows-

That the deceased was a Kenyan Citizen of British origin aged 64 years. She was a farmer and an Environmentalist who lived in her late parent's residence situated at Mushroom Estate, Kivulini Farm within Kiambu County on L.R.No.12892/4. Kivulini Farm borders Kiambu Central Forest Block LR No.21179 F/R No.284/108, which was gazetted as a Forest Reserve vide Proclamation No.44 of 1932 and legal Notice No.174 of 20th May, 1964 for an area of 133.95 Ha. That on 5th February, 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land L.R. No.12892/4 which borders wetland. She single-handedly confronted the developers constructing an illegal road, who momentarily stopped the construction and she thereon, reported the matter to Kenya Forest Services Headquarters, Karura. This led to the arrests and arraignment of two persons at Kiambu Law Court vide Criminal Case No.257 of 2018 for the offence of constructing a road in the Forest without authority contrary to Section 64(1)(i) as read with Section 64(2) of the Forest Act No.34 of 2016. The case was heard and the 1st accused acquitted under Section 210 of the Criminal Procedure Code while the 2nd accused person was discharged unconditionally. On 15th July, 2021 at 1655 hrs, one Mr. Ndambu Mutemi a watchman to Joanna Wendy Stutchbury residence vide OB No.03/15/07/2021 reported to Kugeria Police Base that the deceased was attacked and shot dead by unknown gunmen at around 1635 hrs while driving her motor vehicle Reg.No.KBS 710A, a Mitsubishi Mini Pajero on the drive way to her home. The crime scene was examined and analysed by Police forensic experts and the relevant exhibits were collected for further analysis. At the scene the investigators noted that the deceased had several gunshot wounds, while nothing was stolen from her belongings. Personal belongings including her shopping, wallet, phone among others were found intact inside her car, thus, robbery with

violence was ruled out. The Director of Criminal Investigations (DCI) constituted a team of specialist drawn from Crime Research and Intelligence Bureau, Homicide Department, Cyber Forensics Experts, Crime Support Services, Firearm Ballistics Experts and the Local Sub County Criminal Investigation team which was tasked to establish the motive of the criminals behind the murder of Ms. Joannah. The submission outlined that preliminary investigations had revealed that the deceased resistance to the encroachment and illegal construction of a road on LR.211 F/R No.284/108 coupled with her strong position and passion for perservation of environment at Kiambu Forest area against the will of illegal developers might have been the possible cause behind the murder.

The Committee was informed that DCI detectives have been able establish that Kiambu Central Forest boundaries and beacons are intact, however, a total of 131.38 had been allocated to individuals and companies and that only 2.57 Ha of the forest remain as Kiambu Forest Reserve. That investigations into the murder of Ms. Joannah was ongoing and by that time, several persons of interest had been interviewed and their statements recorded.

SUBMISSIONS BY THE CABINET SECRETARY IN THE MINISTRY OF ENVIRONMENT AND FORESRY

The Cabinet Secretary (CS), Ministry of Environment and Forestry appeared before the Committee on Wednesday, 13th October 2021, and requested the Committee to grant him additional time to carry out thorough and in-depth investigation into the matter. The Committee granted him two (2) weeks.

On 26th October, 2021 the Cabinet Secretary appeared for the Committee and briefed the Committee as follows-

That, Kiambu Forest covers approximately 133.95 Ha and was originally gazetted as a forest reserve *vide* Proclamation No. 44 of 1932 and later declared a Central Forest *vide* Legal Notice No. 174 of 20th May, 1964. Kiambu Forest was delineated in Boundary Plan No. 75/7. The area was demarcated into five (5) blocks over time. Kiambu Forest Reserve is a protected public forest therefore was not available for alienation. Any land reserved for public use and protected lands cannot be legally allocated to an individual or company without following the laid down

procedure in the Forest Act, Cap 385. Kiambu Forest Reserve among other forest lands is protected under the Forest Conservation and Management Act No. 34 of 2016 and for it to be legally allocated to individuals or companies for other purposes, such land would have to be degazetted before it can be legally allocated for any other use.

This forest is one of the green spaces acting as the lungs of Kiambu Town and its environs. The intention was to conserve the wetlands which act as catchment of two rivers namely **Riara** and **Gatharaini** and a swamp. Its proximity to Kiambu town makes it ideal for recreational activities. Previously it was an indigenous forest whose dominant species was *Brachlyeana huilensis* (Muhugu) and a host of other biodiversity.

The details of the parcels of land illegally allocated within Kiambu Forest Reserve were as follows: -

Table 1: Current development Status of Kiambu Forest Reserve

NO	I.R.	L.R. NO.	OWNER	AREA (Ha)	BP NO.	Current Status
1.	74148	13642	Kiambaa(Nyakinyu a) Women Group	39.82	175/291	The area is fully developed.
2.	80630	21350	Hon. Kuria Kanyingi (Tugirane Project)	24.00	none	The area is divided into two portions and partially developed.
3.	52307	15153	Pelican Engineering Company	29.68	175/352	The area is fully developed currently called Riverview estate.
4.	219594	21179	Wibeso Investments (Bedan Mbugua)	25.00	175/371	The area is not developed and is under cultivation.
5.	84876	25009	Agropack Limited	6.795	none	Forested and not developed
6.	84876	25008	No detail	2.037	none	Forested and not developed
7.	84876	25007	No detail	2.024	none	Forested and not developed
8.	84876	25006	No detail	2.024	none	Forest/Swampy area not developed

The illegal excision of the forest began way back in 1988, the first being 39.82 Ha which were irregularly hived off in favour of Kiambaa (Nyakinyua) Women Group with title deeds issued. This was followed by 29.68 Ha being allocated and a title deed issued un-procedurally to Pelican Engineering and Construction Limited; Another portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha; in 1999, a further illegal excision of 15.0 Ha. was done and allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited; The remaining 14.5 Ha was claimed by Hon. Onesmus Kimani Ngunjiri. However, this area is forested with indigenous trees. This portion was subsequently subdivided into four parcels as shown in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited; The current ground situation is that the areas under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure. The records available at the Ministry and at KFS did not have information disclosing the names of the Directors of the companies. This prompted the Ministry to conduct an official search at the office of the Registrar of Companies and that of the Registrar of Lands.

KFS, in an effort to protect the Kiambu Forest Reserve issued an Eviction Notice giving notice to all illegal occupants of the forest to vacate the area, failure to which they shall be forcefully evicted. The beneficiaries of the illegal land allocation went to court and filed a suit: High Court at Nairobi Misc. Civil Application No.382 of 2004 between Kama Agencies Limited Vs the Republic of Kenya and Kenya Forest Service challenging the Eviction Notice.

The suit was filed by the Hon. Kuria Kanyingi who swore an Affidavit filed in the matter and averred that he filed the suit in his capacity as a Director of Kama Agencies Limited. Hon. Kuria Kanyingi claimed that he and the 144 others were the rightful owners of parcel No. L.R. NO.21350. He claimed that they purchased the subject matter land in 1999 from Togineres Project Limited. The Company subdivided the land into L.R. NO.21350/1 and L.R. NO.21350/2. The suit was filed following an Eviction Notice issued by KFS over the area wherein the company obtained an Interim Order stopping KFS from interfering with their occupation. The matter however did not proceed to full hearing as the Applicant made an application to withdraw

the suit under Order 25 of the Civil Procedure Rules, which the Court granted. The KFS in an effort to prevent further grabbing and subdivision of the Kiambu Forest, issued a Public Notice (Caveat Emptor) published in the Daily Newspapers on 1st August 2008 over LR NO.13642. This led to filing of a suit High Court at Nairobi Misc. Judicial Review Case. No. 21 of 2009: Republic Vs KFS Exparte Wariara Njenga Karume & 144 Others, which was instituted by the Applicant, together with 144 others in response to the Caveat Emptor issued on 1st August 2008 over LR.NO.13642 as Trustees of Kiambaa Divisional (141) Women Groups, whom they claim were the registered proprietor of LR.NO.13642 measuring 39.82 Hectares. The list of group names, Trustees of the land and the respective L.R Nos. The Applicants sought the Court to quash the decision contained in the Caveat Emptor Notice declaring LR.NO.13642 a portion of the protected Kiambu Forest Reserve and warning the general public against any purchase thereof. The Applicants also sought an Order of Prohibition to restrain the Respondent from placing caveats against the Applicants' properties or harassing, intimidating or arresting or prosecuting the Applicants over the ownership of their properties derived from LR.NO.13642. In a Ruling delivered by Justice Musinga on 7th June 2011, the Court ruled that if Applicants contend that they were the lawful owners and desire to assert their right of proprietorship, they ought to file an appropriate civil suit. The matter was dismissed with costs to the Respondent. The Director of KFS on 4th June 2009 wrote to the Commissioner of Lands vide Ref: FOR 68/3/VOL. II/227 requesting that a Government Caveat be placed on L.R.NO.21350/1 which was being subdivided into 54 plots. In addition, The Director of KFS on 8th June, 2009 wrote to the Chief Land Registrar vide Ref: KFS/LS/018/09 requesting that a Government Caveat be placed on Grant No. 80630; L.R.NO.21350/1. The Commissioner of Lands through the Director of Surveys replied vide letter Ref No. AC/CAD/8VOL.III/75 dated 30th June 2009 to KFS confirming that the survey L.R.NO.21350/1 had been put on hold and deed plan numbers 295780 to 295836 resulting from the subdivision of suit parcel had been cancelled. The Commissioner of Lands through the Chief Land Registrar replied to the KFS letter vide letter Ref. I.R. 80630 dated 16th July 2009 confirming that the requested caveat had been placed against the title.

The Ministry wrote a letter to the Commissioner of Lands Ref: MFW/8/2/1 VOL. III/30 dated 14th July 2011 to place a Government Caveat on Grant Number IR.84876 in Kiambu Forest and a Public Notice (Caveat Emptor) in the Newspapers in respect of L.R. No. 25009, 25008, 25007 and 25006 prohibiting any form of transactions thereof.

The KFS continued to carry out regular patrols in the area to enforce protection of the forest. This was met with resistance and in the instance of Agropack Limited, which filed a suit in 2011 Nairobi High Court Petition 87 of 2011 (Judicial Review & Constitutional Division) Agropack Limited Vs Republic of Kenya and Kenya Forest Service. In the suit, the Applicant alleged that they were the registered owners of Parcel LR.NO.250009 situated in Kiambu Municipality. A statement sworn by Stephen Kingara Ndung'u, who claimed to be a Director of Agropack Limited on 11th October 2011 stated that on 8th June 2011, forest rangers on instruction from the Director of Forests entered the said land and claimed ownership. He further stated that his workers were also arrested and locked up in Police cells in Kiambu. KFS in response *vide* a Replying Affidavit sworn by the then Director, David Mbugua stated that the area is a public forest part of Kiambu Forest Reserve, and reiterated that KFS had full possession of the subject matter land and that forest guards are on patrol to ensure no further destruction is occasioned to the forest area. The Applicant failed to show any interest in prosecuting the matter. KFS successfully applied for dismissal of the Petition. An Order was issued on 27th June 2012. KFS through a letter Ref No: MAP/2/KFS VOL.VIII dated 8th March 2016 requested the NLC to review grants believed to have been irregularly issued in Kiambu Forest. The KFS participated in the public hearing for review of grants over the area. The NLC *vide* letter Ref No. NLC/1/26/12/2/3 dated 30th November 2017 to KFS informed that they had received numerous inquiries by land owners whose plots they had determined to be part of Kiambu forest. The NLC further stated that they had resolved to carry out an inquiry under section 6 of the NLC Act to gather information on the allocation within the forest and instructed KFS to forward a list of the plots in the forest to enable them issue the requisite notice and prepare for the inquiry. The Ministry and KFS have separately requested for the findings to be shared in order to inform the next course of action respectively. The NLC, in their letter under Ref No.NLC/1/26/12 and dated 22nd October, 2021 responded and confirmed that indeed they had received claims related to various parcels of land falling within Kiambu Forest in 2018 for purposes of determining their propriety or legality as provided under Section 14 of the National Land Commission Act. The NLC informed the Ministry that the claims were however not fully heard and finalized by the inaugural Commission and therefore no determinations were made. The NLC was also not able to conclude due to the fact that there was a time frame for the exercise of jurisdiction under the Review of Grants under Section 14 of the Act. The Act set out a time limit of 5 years.

It is true that Joannah Stutchbury was a fierce environmental defender and conservationist and was a resident of an area that borders Kiambu Forest Block. Although most of the land had been grabbed and developed, she earnestly guarded what had been left especially the remaining 14.5 Ha which is still under indigenous tree cover and swamp. Many are times she would alert KFS through telephone calls and social media platforms when she noticed any form of incursion into the forest. A case in point in 2018 is when she saw an excavator attempting to construct an access road towards the indigenous forest area ostensibly working for Hon. Onesmus Kimani Ngunjiri, Director of a company known as Agropack Limited. This activity was halted when KFS intervened and arrested the culprits the said machinery. That as a result of the foregoing, Agropack Limited instituted a case in which Joannah and KFS were co-defendants in the Chief Magistrates Court at Kiambu, Environment and Land Court Case No.9 Of 2018: Agropack Limited Vs Kenya Forest Service And Joan Stutchbury. The Court had issued a temporary injunction ordering stopping, prohibiting and forbidding KFS and Joannah from interfering in any matter with the area known as LR.NO.20009 pending the hearing and determination of the application. Subsequently, KFS Advocate on record advised that the matter was dismissed for want of prosecution by the Plaintiff in the year 2018.

The murder of Joannah was a big blow to KFS given her efforts in the protection of Kiambu forest. It was shocking to KFS fraternity. KFS remains indebted to, and recognise the prolific work of Joannah who has been not only a compatriot, but a hero and a front-liner in the fight to save our forests and green spaces in Kiambu County. KFS is aware that the murder of Joannah is a case under investigation by Directorate of Criminal Investigation and will continue to collaborate with DCI and other arms of Government in the investigations. This includes availing KFS officers for interviews, recording statements and availing relevant requested documents. In conclusion the Cabinet Secretary recommended that the expired mandate of the National Land Commission (NLC) to review grants of the illegally acquired public land be renewed through appropriate legislative amendment by parliament (submissions are attached as Annex 2).

PRESENTATION BY THE GOVERNOR FOR KIAMBU

The Governor for Kiambu made his presentation to the Committee as follows-

That the brief by the Cabinet Secretary has elaborate enough to cover how the situation is in regard to Kiambu Forest Reserve. That the County Government was taken aback by the murder of Ms. Joannah Stutchbury an ardent environmentalist and protectionist of Kiambu Forest Reserve. That the County Government has no role in the Kiambu Forest Reserve as it was owned and managed by KFS.

That the two (2) pieces of land that is owned by Nyakinyua and Pelican are fully developed. Nyakinyua had subdivided their piece into 962 pieces and the county government had approved their development and Kenya Forest Service lost a court case regarding the parcel of the land. After sub-division the only documents required by County Government for development is a search from the Ministry of Lands to prove ownership, survey of the map and an architectural plan of how the plots were to be developed, all of which they present to the County Government as proof of validity of ownership. That on the remaining pieces of grabbed forests. the County Government was willing to collaborate with KFS to forestall their development including their repossession back into forests. The Governor sought guidance on how titles if any that will be presented to the County Government for approval for development will treated and hence recommended that caveats be put in place on those titles.

COMMITTEE'S VISIT TO KIAMBU FOREST RESERVE

(a). Brief by the County Commissioner of Kiambu County

The County Commissioner welcomed the Committee to Kiambu County and briefed them that the Kiambu Forest Reserve had not been properly degazetted, however, the forest had been allocated to individuals. That the forest had further been subdivided and sold to 2nd or 4th owners who may not be privy to the authenticity of ownership documents they possess. He further informed the Committee that a tussle between developing the land by owners and conserving the meagre remaining forest may have been the cause of the death of Ms. Joannah Stutchbury who was a forest conservationist. The Commissioner informed the Committee that Kiambu has many like cases, including at Kinari Settlement Scheme, where forest had been subdivided and

issued to individuals, while their ownership remains with the forest department, which need to be addressed.

(b). Brief by the Chief Administrative Secretary for Ministry of Environment and Forestry

He informed the Committee that when the Cabinet Secretary appeared before the Committee, he had requested the Committee to undertake a fact-finding visit to the Forest. He informed the Committee that the Cabinet Secretary could not have been able to accompany the Committee for the visit, as he was attending the Global Climate Summit (COP26) in Glasgow, Scotland. He reiterated the importance of the preserving the Kenya's remaining forests specifically the Kiambu Forest which could be done through placing of caveats.

(c). Brief by the National Land Commission

The Committee was briefed that the mandate of the National Land Commission to review land Grants expired in 2017 as was in the Constitution. That by that time, Kiambu Forest Reserve was before the Commission, but, owing to the expiration of its mandate, the Commission was not able to conclude and make appropriate recommendation on time. The Committee was requested to assist through renewal of the mandate legislatively to facilitate in conclusion of the process more so for Kiambu Forest Reserve among others. The Committee was further briefed that Kenya currently has 5% forest cover contrary to Constitutional target of 10% cover as provided under Article 69 (1) (b) hence, the need to gazette more forests and the ones gazetted should not be degazetted.

(d). Brief by the Deputy Governor of Kiambu

The Deputy Governor requested the Committee to assist in the process of issuance of caveats to the gazetted areas to facilitate preservation of forests which are very essential for ecosystem. The Committee was informed that the County Government is charged with the responsibility of approving and issuing development plans to everyone holding a valid title, only for the County Government to realize later that the land is gazetted as forests later, hence, caveats could assist in resolving such incidences. That issues of grabbed parcels of forests are many in Kiambu County

including Kinari Settlement Scheme among others, all of which need to be addressed. In conclusion, she welcomed the Committee to Kiambu County for the fact-finding visit to witness the menace which seem to have occurred during former regimes.

(e). Tour of Kiambu Forest Reserve

Thereafter, the Committee undertook a guided tour in the Kiambu Forest Reserve and witnessed on first-hand basis the existing allocations of the Kiambu Forest Reserve where some are parcels are fully developed with existing infrastructure. During the tour the Committee met with some residents residing in the fully developed parcels of land and assured them that the Committee will avail them an opportunity to present their submissions to it during its subsequent meetings in Parliament Buildings.

SUBMISSION BY MANAGEMENT OF PELICAN ENGINEERING COMPANY ON I.R. 52307, L.R. NO. 15153, , AREA (HA) 29.68, BP NO. 175/352, CURRENT STATUS THE AREA IS FULLY DEVELOPED CURRENTLY CALLED RIVERVIEW ESTATE.

The management of Pelican Engineering submitted to the Committee that on or about 1991, the company made an application to be allotted a plot in Kiambu. Its application was approved and a letter of allotment dated 9th April, 1991 was issued to the Company. Thereon, the company made payment in respect of the stand premium, stamp duty and annual rent totalling to Kshs.2,185,800/= pursuant to Special Condition 2 in the said letter of allotment and a receipt No.C010805 dated 10th April, 1991 was issued. That, the Ministry of Lands vide a letter dated 10th April, 1991 instructed the Director of surveys to undertake survey of residential plot No. B Kiambu municipality. it was worth noting that the company took possession of the plot 30 years ago. Vide gazette notice No.1091 of 1995, the then Minister of Environment and Natural Resources Hon. J.K. Sambu published a legal notice dated 1st February, 1995 expressing the Government's intention to alter the boundaries of Kiambu Forest to exclude 29.68 hectares. This was in excise of powers conferred to him by Section 4(1) and 4(2) of the Forest Act Cap 385 (now repealed) which provided that-

4(1) the Minister may, from time to time, by notice of Gazette-

(a) Declare any unalienated Government land to be a forest area;

(b) Declare the boundaries of a forest and from time to time alter those boundaries;

(c) Declare that a forest area shall cease to be a forest area

(2) Before declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.

Thereafter, the property was degatted as forest land through Legal Notice No.260 dated 11th July, 1995 by the aforementioned Minister. In 2009/2010 the company embarked on subdividing the property into 116 half acre residential plots for sale, save for 2 plots which were set aside for a nursery school and recreational area, a condition imposed by the then Municipal Council of Kiambu which plots were surrendered to the then Municipal Council of Kiambu. Prior to subdivision the Company sought and obtained approval in all respects from various Government agencies as per the law including from Survey of Kenya, Ministry of Lands, Municipal Council of Kiambu, the District Physical Planning Office Kiambu, District Survey Office, National Environment Management Authority, Ministry of Water and Irrigation, Ministry of Roads and District Land Administration Office, department of Lands. A Survey Plan dated 14th December, 2010 approved on 15th December, 2010 for the property was drawn and the same was registered under Folio No.367 and register no.67 and 68 thereon deed plans for 116 plots half acre each were booked for registration at the Lands office Nairobi on 11th February, 2011. Thereafter, Certificates of Titles were issued by the Registrar of Titles in respect to Land Reference 15153/4 up to 151/119 save for L.R. Numbers 15153/118 and 15153/119 set aside for a nursery school and recreational area respectively. Thereon, on obtaining the Titles for subdivision in 2011, the company marketed the plots for sale through estate agent Tysons Limited through which 106 plots were sold some of which to date have been resold off to 3rd parties. Its noteworthy that prior to purchasing the current owners undertook the due diligence to search for authenticity of the plots being purchased. In particular proprietors of 2 plots that is 15153/11 and 151/29 wrote to the National Land Commission through their legal counsel Mamicha and Company Advocates vide several correspondences and sought clarification as to whether the subdivisions were free from encumbrances to which the National Land Commission vide a letter dated 15th July, 2014 did confirm that the property was available for allocation to provide individuals (submissions are attached as Annex 3).

SUBMISSIONS BY THE CHAIRPERSON OF WATERSIDE RIVERVIEW AND RESIDENTS' ASSOCIATION CURRENT OWNERS AND RESIDENTS OF PELICAN ENGINEERING AND CONSTRUCTION COMPANY PARCEL OF LAND

The Chairperson of the Residents Association Mr. Anthony Chege informed the Committee that Riverview Estate was developed out of the original consolidated land parcel LR NO.15153 which was previously a flower firm operated as Valentine Growers Co. Ltd. The initial owner, Pelican Engineering and Construction Company Limited, subsequently, subdivided L.R. 15153 into more than 116 plots and appointed Tysons Limited, property management company, to advertise for sale at market value in the mainstream media. The residents wrote to National Land Commission through the firm of Mumicha and Co. Advocates on 23rd October, 2013 to clarify whether the property was clear for sale. The National Land Commission wrote to Kenya Forest Service to seek the same clarification and on 15th July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 21st July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385. In particular the National Land Commission concluded in the letter that according to KFS (NLC letter Ref.No.NLC/ADM.IVOL.II/33 dated 15th July, 2014 and KFS letter Ref.No.MAP/2/KFS/VOL.IV dated 8th May, 2014) the land was legally degazetted and the land was available for allocation to private individuals. It is on this basis that the residents had unequivocal assurance to proceed and conclude sale purchases and invest heavily in the parcels of land including construction of dwelling houses on owner occupier bases and development of infrastructure at personal costs. (Submissions are attached as Annex 4).

SUBMISSIONS BY KIAMBAA (NYAKINYUA) WOMEN GROUP IR.74148, L.R. NO. 13642 B.P. NO. 175/291 AREA (HA) 39.82

Mr. David Muriuki Thiong'o, appointed agent of Kiambaa Divisional (141) Women Groups briefed the Committee that Kiambaa Divisional (141) Women Groups was registered in 1983 comprising various women groups who had come together for the purposes of economic development. The group could sometimes be engaged during official duties of the late President Daniel Arap Moi. In 1983 he gifted them with unsurveyed parcel of land excised from Kiambu Forest. This could be attested by two (2) letters of allotment for unsurveyed plots A and B each

measuring approximately 50.73 Acres. The survey and excision process were initiated in June 1987. The Director of survey approved the Survey Plan on 24th June, 1987 as per the survey plan F/R No.170/55 and L.R. number 13642 was issued. Thereon, they applied for change of user from industrial to residential while simultaneously undertaking the subdivision and on 8th June, 1984 approvals were acquired for change of user. All the 6000 individuals were each awarded a parcel of plot within plots A and B which approvals were acquired from Government departments within the Ministry of Lands and Housing. The Groups were also issued with Grant I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years, from 1st December, 1984 by the then Commissioner of Lands. The Committee was informed that the Report by Commission of Inquiry for Irregular Allocation of Public Land, commonly referred to as Ndung'u Report in page 231, Annexes of Volume I, outlines that the property was authorized for excision to Kiambaa Women Groups based on a letter by the Conservator of Forest letter Ref.No.FOR.68/7/(62) dated 12th July, 1984 (annexed) - the letter authorised the group to go ahead and draw up plans on the parcel of land. Ndung'u report noted that the area, however, had not been degazetted despite being cleared for allocation and subdivision. That National Land Commission (NLC) on 21st January, 2019 made recommendation that the gazettelement of the excision be completed. That to date the plots have been sold and resold to second and third parties, who, have always followed laid down processes to ascertain authenticity of documents presented during purchase which have never proved otherwise (submissions are attached as Annex 5).

SUBMISSION FOR I.R. 80630, L.R. NO. 21350, AREA (HA) 24.00, BP NO. (HAS NONE), THE AREA IS DIVIDED INTO TWO PORTIONS AND PARTIALLY DEVELOPED

The Chairperson of the Valley View Garden Association Mr. John Mwaura Mbugua informed the Committee that Kama Agencies Company Limited was a real estate business Company that owned L.R. No.21350/1 gifted to the company in 1995 and allotted the parcel of land vide Grant No.IR. 80630 for the land which had been excised from Kiambu Forest for a period of 99 years commencing on 1st April, 1995. That on 11th July 1995 the then Minister of Environment and Natural Resources Hon. J.K. Sambu declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest. That, the surveying and excision process for the unsurveyed forest land was initiated with the concurrence of the Kenya Forest Department, the predecessor of Kenya Forest Service, which on 3rd July, 1996 confirmed the allotment of the property to

Kama Agencies to develop. Thereon, Kama agencies subdivided the land in reference and transferred part of it to the general public. 59 residents have since acquired the land formerly known as LR No.21350/1. All the approvals for subdivision were acquired from the relevant government agencies. That, the current occupiers of the sub divided L.R. No.21350/1 contend that the allotment of the subject property, the excision thereof, the issuance of the mother title and resultant subdivision was initiated and implemented by relevant government agencies, including the then President, Kenya Forest Department and Physical Planning Office implying that the process followed the relevant laid down procedures as pursuant to the law, including sale and transfer of titles from Kama Agencies to the current occupiers of the parcels of land. In his submission the Chairperson did produce a copy of certificate of Title for L.R. No.21350/1; a copy of Gazette Notice dated 11th July, 1995; a copy of letter from the Forest Department dated 3rd July, 1996; copies of Certificate of Titles among others (submissions are attached as Annex 6).

SUBMISSIONS FOR I.R.219594, L.R. NO. 21179, (HA) 25.00, BP NO. 175/371 MRS. MARGARET W. MAGUGU

The Committee was informed that the afore-mentioned parcel of land, ostensibly owned by Wibeso Investment, is actually owned by M/s Marg Ridge Estate Ltd of P.O. Box 57958 00100, Nairobi with its Director being Mrs. Margaret W. Magugu wife to the Late Hon. A.K. Magugu. Mrs. Magugu produced before the Committee copies of a letter to the former Head of State H.E. Hon. D.T. Arap Moi applying for allocation of a plot adjacent to the 39 Hectares which had been allocated to Kiambaa Women Group, to develop light industries and low cost houses for workers and Kiambu Township residents; a copy of a letter of allotment from Department of Lands dated 5th March, 1990 for a plot in Kiambu Town with prescribed area of approximately 22.0 hectares; a copy Certificate of Title for Title No.IR.219594 for a term of 99 years from 1st December, 1990 with an annual Rent of Kenya Shillings one hundred forty thousand for a piece of land situated in the South of Kiambu Municipality in Kiambu District with measurement of two five decimal nought Hectares (25.00 Hectares) and that the Land in Reference Number 21179 as delineated on Land Survey Plan Number 198490, is registered against the title transfer to Marg. Ridge Estate Ltd.; a copy of Gazette Notice No.5846 for the intention by the then Minister for Natural Resources Hon. F.P.L Lotodo to alter boundaries of Kiambu Forest for an area of approximately 25 Hectares known as L.R. No. 21179, lying within and adjoining the western boundary of

Kiambu Township in Kiambu District; a copy of Legal Notice No.56 according to the Forests Act (Cap 385) for alteration of boundaries of Kiambu Forest in exercise of powers then conferred by Section 4(1) of the Forest Act by the then Minister for Natural Resources Hon. F.P.L. Lotodo for an area of approximately 25 hectares known as L.R. No.21179 lying within and adjoining the western boundary of Kiambu Forest; a copy of Lease for registered in Nairobi for a parcel L.R. No.21179 for Margaret Wairimu Magugu for an area of measurement approximately 25.00 Hectares or thereabout for the term of 99 years from 1st December, 1990; a copy of reference map for land reference No.21179 for a deed plan No.98490 from Director of Surveys; and a copy of a letter from Ministry of Lands and Physical Planning for L.R. No.21179-I.R. 219594 in Kiambu County, to the Survey of Kenya indicating that the alleged grant I.R. 67273 issued to Webeso Investment Limited for a term of 99 years from 1st April, 1991 was irregularly obtained as the parcel was still gazetted as government land and was not available for allocation and that the Title held by Marg Ridge Estate Limited was genuine (submissions are attached as Annex 7).

CHAPTER TWO

COMMITTEE FINDINGS AND OBSERVATIONS

The Committee made the following findings and observation after submissions by various stakeholders on the matter of alleged murder of the Environmentalist and Conservationist Ms. Joannah Stutchbury-

- (a). That on 15th July, 2021, the environmentalist and conservationist Ms. Joannah Stutchbury was shot dead outside her home in what appeared to be murder.
- (b). That by the time of writing this report the Petitioners had not furnished the Committee with the names of other conservationists who had ever received death threats;
- (c). That Ms. Joannah Stutchbury lived in a land bordering Kiambu Forest Block LR No.21179 F/R No.284/108, gazetted as a Forest Reserve vide Proclamation No.44 of 1932.
- (d). That on 5th February, 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land which borders wetland and she single-handedly confronted the developers constructing an illegal road.
- (e). That preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Joannah Stutchbury might have been murdered due to her strong position on preservation for Kiambu Forest against the will of a private developer who wanted to construct a road in the wetland to gain access to their illegally acquired properties.
- (f). The illegal excision of the forest began way back in 1988, first being 39.82 Ha, which were hived off in favour of Kiambaa (Nyakinyua) Women Group.
- (g). That 29.68 Ha were allocated and a title deed issued to Pelican Engineering and Construction Limited;
- (h). That a portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha; in 1999, to which documents were produced indicating it was issued before then to Mrs. Margaret Magugu;
- (i). That 15.0 Ha. Were allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited;

- (j). That 14.5 Ha claimed by Hon. Onesmus Kimani Ngunjiri, remains forested with indigenous trees and had subsequently been subdivided into four parcels as in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited;
- (k). That currently parcels under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure including roads.
- (l). That National Land Commission mandate to review grants of the illegally acquired public land which was 5 years in the Constitution expired in 2017 and that there is need for an appropriate legislative amendment by parliament to renew the mandate.
- (m). That the Kiambu Forest Reserve was before the National Land Commission, but owing to expiration of its mandate to review the Grants, the Commission was not able to conclude and make recommendations on Kiambu Forest Reserve.
- (n). That Kenya currently has 5% forest cover contrary to Constitutional target of 10% tree cover of the national land area as provided under Article 69 (1) (b).
- (o). That through the Kenya Gazette Notice No.1091 dated 10th March, 1995 an area of land approximately 29.68 hectares, known as L.R. No.15153, lying and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres southern of Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, on the boundary plan No.175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga. That parcels of land under I.R. 52307, L.R. NO. 15153, , measuring 29.68 Hectares was degatted as forest land through Legal Notice No.260 dated 11th July, 1995 and that the National Land Commission had written to Kenya Forest Service to seek clarification and on 15th July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 11th July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385.
- (p). That Kiambaa Women Groups were also issued with Grant for I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years from 1st December, 1984 by the then Commissioner of Lands and further National Land Commission had recommended for the degazetted of the parcel of land be commenced.

- (q). That on 11th July 1995 the then Minister of Environment and Natural Resources declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest.
- ~~(r). That a piece of land Reference Number 21179 was delineated on Land Survey Plan~~
Number 198490 is registered through title transfer of Marg. Ridge Estate Ltd which through a Kenya Gazette Notice No.5846 was issued by the then Minister for Natural Resources who altered boundaries of Kiambu Forest for an area of approximately 25 Hectares to L.R. No. 21179 and the schedule outlined that an area lying within and adjoining the western boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of Kiambu Township, Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary Plan No.175/371 which was signed and sealed with the seal of the survey of Kenya and deposited at the Survey Records Office, Survey of Kenya , Nairobi, and a copy of which may be inspected at the Office of the District Forest Officer, Forest Department, Muguga and further through Legal Notice No.56 on alteration of boundaries of Kiambu Forest and that the title being held by Mrs. Margaret Magugu was a genuine one.
- (s). That I.R.84876 L.R. No.25009 measuring 6.795 Ha, ostensibly owned by Agropack Limited, I.R.84876 L.R. No.25008 measuring 2.037 Ha, I.R.84876 L.R. No.25007 measuring 2.024 Ha and I.R.84876 L.R. No.25006 measuring 2.024 Ha which is swampy and forested parcels of land remains as such to date.

COMMITTEE RECOMMENDATIONS

The Committee makes the following recommendations arising from its findings and observations on the matter of the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury-

- (a). Pursuant to the Committee findings, Ms. Joannah Stutchbury death could have been caused as a result of construction of a road through a riparian (swampy) land by an individual who had acquired some portions of Forest illegally to gain access to the property. The Committee recommends that the Inspector General of Police and the Director of Criminal Investigations investigates the said individual with a view of arrest and prosecution for the death of Ms. Joannah Stutchbury and a report be provided to Senate within three (3) months after tabling of this report.
- (b). Pursuant to findings, I.R.84876 for L.R. No.25009 measuring 6.795 Ha ostensibly owned by Agropack Limited; I.R.84876 for L.R. No.25008 measuring 2.037 Ha with no details of ownership; I.R.84876 for L.R. No.25007 measuring 2.024 Ha with no details of ownership and I.R.84876 L.R. No.25006 measuring 2.024 Ha with no details of ownership; have all remained forested with indigenous trees and some swampy to date. The Committee recommends that Kenya Forest Service and Ministry of Environment and Forestry revokes excision if any of these parcels and acquire titles for them to be fenced appropriately to remain as forest and part of Kiambu Forest Reserve and that the Directorate of Criminal Investigations commences investigations with a view of prosecution into how individuals came to own land in swampy forested areas and a report be forwarded to Senate in six (6) months after laying of this report in the Senate.
- (c). Pursuant to Committee findings, current owners of parcels of land under I.R. 52307 for L.R. NO. 15153 measuring 29.68 Hectares issued to Pelican Engineering Company; I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women Groups; I.R. No.80630 for L.R. NO.21350 for an area of 24.00 (Ha) for Hon. Kuria Kanyingi (Tugirane Project) and I.R.No.219594 for L.R. No.21179 for an 25 Ha, registered for Marg. Ridge Estate; all of them hold documents from various Government agencies as a proof on how they acquired the parcels of land lawfully. Arising from these documents, the Committee recommends that the Ministry of Environment and Forestry,

and the Kenya Forest Service should desist from issuing eviction threats to the owners of those parcels of land. The Ministry of Lands, National Land Commission, Survey of Kenya, Kiambu County Government, Ministry of Environment and Forestry and Kenya Forest Service should facilitate the afore-mentioned owners to acquire title deeds and the degazettement of I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women Groups should be commenced. A report on the same should be forwarded to the Senate within five (5) months after tabling of this report on the Table of the Senate.

- (d). Pursuant to Committee findings, the mandate of the National Land Commission to review land grants expired in 2017 as was in the Constitution during which time the matter of Kiambu Forest Reserve was before it. The Committee recommends that the National Land Commission formulates a legislative proposal and forward it to the Senate, which will facilitate renewing legislatively the Commission's mandate on Grants.

ANNEXTURES

- 1) Minutes
- 2) Submissions by the Cabinet Secretary Ministry of Environment and Forestry
- 3) Submission by Management of Pelican Engineering Company on I.R. 52307, L.R. No. 15153, Area (Ha) 29.68, Bp No. 175/352, Current Status the Area Is Fully Developed Currently Called Riverview Estate.
- 4) Submissions by the Chairperson of Waterside Riverview and Residents' Association Current Owners and Residents of Pelican Engineering and Construction Company Parcel of Land
- 5) Submissions by Kiambaa (Nyakinyua) Women Group Ir.74148, L.R. No. 13642 B.P. No. 175/291 Area (Ha) 39.82
- 6) Submission for I.R. 80630, L.R. No. 21350, Area (Ha) 24.00, Bp No. (Has None), The Area -Is Divided into Two Portions and Partially Developed
- 7) Submissions by Mrs. Margaret W. Magugu for I.R.219594, L.R. No. 21179, (Ha) 25.00, Bp No. 175/371
- 8) Submissions by the National Police Service through the office of the Director of Criminal Investigations

ANNEX 1

MINUTES OF THE 51st SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE ON WEDNESDAY, 1st SEPTEMBER, 2021 AT 11.00 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. Fred Outa, MP | -Ag. Chairperson |
| 2. Sen. Fatuma Dullo, CBS, MP | - Member |
| 3. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |
| 4. Sen. Beatrice Kwamboka, MP | -Member |
| 5. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 6. Sen. Judith Pareno, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------|----------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen Mithika Linturi, MP | - Member |

IN ATTENDANCE

CONSERVATION ALLIANCE OF KENYA

- | | |
|------------------------|-------------|
| 1. Ms. Lucy Waruingi | Chairperson |
| 2. Ms. Raabia Hawa | |
| 3. Ms. Paula Kahumbu | |
| 4. Mr. Irungu Houghton | |
| 5. Nkamunu Patita | |

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | |
|------------------------|------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari | Legal Counsel |
| 3. Mr. William Omondi | Audio Services Intern |

MIN NO.276/2020

-

PRELIMINARIES

The meeting was called to order at 11.07 a.m. and proceedings were opened by a word of prayer led by the Ag. Chairperson followed by introductions of members, committee secretariat and guests present in the meeting.

MIN. NO. 277/2020

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Judith Pareno, MP as follows: -

1. Prayer.
2. Adoption of the Agenda
3. Introductions

4. Confirmation of Previous Meeting Minutes.
5. Matters Arising
6. Deliberations with the Petitioners on the Petition regarding the alleged murder of Conservationalist and Environmentalist Ms. Joannah Stutchbury.
7. Any Other Business.
8. Adjournment and Date of the Next Meeting.

MIN. NO. 278/2020

**CONFIRMATION OF THE PREVIOUS MEETINGS
MINUTES**

The confirmation of the previous meeting minutes was deferred until the next meeting.

MIN. NO. 279/2020

MATTERS ARISING.

There were no matters arising.

MIN. NO. 280/2020

**DELIBERATIONS WITH THE PETITIONERS ON
THE PETITION REGARDING THE ALLEGED
MURDER OF CONSERVATIONALIST AND
ENVIRONMENTALIST MS. JOANNAH
STUTCHBURY.**

The petitioners informed the Committee as follows-

That on 15th July, 2021, environmentatlist and conservationist Joannah Stutchbury was shot deat outside her home in what appeared to be outright murder. She was a fierce environmental defender and conservationist who was well known for her efforts to conserve the environment and that she was a resident of Kiambu County, living around the vicinity of Kiambu Forest reserve. That on several occasions, whe was successful in protecting Kiambu Forest Reserve from alleged encroachment and land grabbing by private developers. That wh was an outspoken person who fearlessly challenged act of forest degradation and destruction in the country, and was instrumental in supporting the role of the Kenya Forest Service in combating illegal activities occuring within Kiambu Forest and other forest reserves. That her efforts and hard work in environment conservation in Kenya ought to be applauded. That Kenya's environmental expecially forests, animal sanctuaries/reserves, wildlife and marine ecosystems are at great risk of being grabbed and encroached on by unscrupulous individuals and developers if no steps are taken to stop this.

The Petitioners informed the Committee they had made prayers to the Senate as follows-

- (i). To investigate the circumstances leading to the alleged murder of Joannah Stutchbury and other environmentalists and conservationists in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). To call upon the Ministry of Environment and Forestry and the Kenya Forest Service to revoke grabbed parcels of Kiambu Forest Reserve. The Kiambu County Government has no function in a gazetted forest hence stop excision and further development in the forest;
- (iii). Make appropriate recommendation for the protection of the lives of environmentalists and conservationist in Kenya; and
- (iv). Review relevant policies and existing legislation with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

Deliberations ensued and the committee advised the petitioners to provide a list of all the environmentalist murdered so far while making clarification if its all of them should be considered or the for the Ms. Joannah Stutchbury, hence in the prayers they may need to isolate the issues they need the Committee to deal with. Further the Committee resolved to invite the relevant bodies/stakeholders for them to clarify on various issues, but, initially start with the Inspector of Police, Director of Public Prosecution and Director of Criminal Investigations and then to be following by the Ministry of Environment, Kenya Forest Service and the Governor of Kiambu County.

MIN. NO. 281/2020

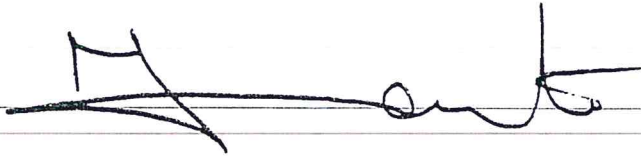
ANY OTHER BUSINESS.

There was no other business.

MIN. NO. 282/2020

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business the meeting was adjourned at 12.25 noon.

A handwritten signature in black ink, appearing to be 'H. G. ...', written over a horizontal line.

SIGNED:

(CHAIRPERSON)

22ND SEPTEMBER, 2021

DATE:

MINUTES OF THE 54th SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE WEDNESDAY, 13th OCTOBER, 2021 AT 11.00 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. Fred Outa, MP | -Ag. Chairperson |
| 2. Sen. Fatuma Dullo, CBS, MP | - Member |
| 3. Sen. Judith Pareno, MP | - Member |
| 4. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 5. Sen Mithika Linturi, MP | - Member |
| 6. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------|---------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen. Beatrice Kwamboka, MP | -Member |

IN ATTENDANCE

MINISTRY OF ENVIRONMENT

- | | |
|-------------------------------|-------------------|
| 1. Mr. Keriako Tobiko, C.B.S. | Cabinet Secretary |
|-------------------------------|-------------------|

IN ATTENDANCE

KIAMBU COUNTY GOVERNMENT

- | | |
|---------------------|----------|
| 1. Gov. James Nyoro | Governor |
|---------------------|----------|

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | |
|------------------------|------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari | Legal Counsel |
| 3. Mr. William Omondi | Audio Services Intern |

MIN NO.292/2020

-

PRELIMINARIES

The meeting was called to order at 11.09 a.m. followed by a word of prayer led by the Ag. Chairperson.

MIN. NO. 293/2020

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Fatuma Dullo, CBS, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as follows-

1. Prayer.
2. Adoption of the Agenda
3. Introductions
4. Brief from the Cabinet Secretary, Ministry of Environment and Forestry and the Governor for Kiambu on Petition of the alleged murder of Conservationalist and Environmentalist Ms. Joannah Stutchbury.

5. Any Other Business.
6. Adjournment and Date of the Next Meeting.

MIN. NO. 294/2020

BRIEF FROM THE CABINET SECRETARY,
MINISTRY OF ENVIRONMENT AND FORESTRY
AND THE GOVERNOR FOR KIAMBU ON
PETITION REGARDING THE ALLEGED MURDER
OF CONSERVATIONALIST AND
ENVIRONMENTALIST MS. JOANNAH
STUTCHBURY.

After the introduction the Cabinet Secretary Ministry of Environment expressed his disappointed in the manner the Environmentalist Ms. Joanna Stutchbury was murdered and urged the security apparatus to speed up investigation to apprehend the culprits of the murder. The Cabinet Secretary assured the committee of his commitment to repossess all forest land which had been grabbed by corrupt individuals which can be manifested by how he handled the Mau issue. He assured the committee that he was closely working with Kenya Forest Service to identify those who had grabbed portions of Kiambu forest and that he was compiling a comprehensive list of those who had grabbed the forest. He requested the Committee to postpone the meeting for a period of two weeks to facilitate him come up with a full dossier to be presented to the Committee which will include his action on the perpetrators.

The Governor for Kiambu requested the Committee for a period of two weeks when he can appear before the Committee to make presentations.

The Committee agreed with the request and postponed the meeting for two weeks.

MIN. NO. 295/2020

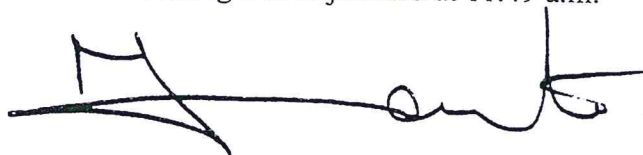
ANY OTHER BUSINESS.

There was no any other business.

MIN. NO. 296/2020

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business the meeting was adjourned at 11.49 a.m.



SIGNED:
(CHAIRPERSON)

DATE:
21st OCTOBER, 2021

MINUTES OF THE 56th SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE TUESDAY, 26TH OCTOBER, 2021 AT 10.00 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. Fred Outa, MP | -Ag. Chairperson |
| 2. Sen. Beatrice Kwamboka, MP | -Member |
| 3. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |
| 4. Sen Mithika Linturi, MP | - Member |
| 5. Sen. Moses Wetang'ula, EGH, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------|----------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen. Fatuma Dullo, CBS, MP | - Member |
| 3. Sen. Judith Pareno, MP | - Member |

IN ATTENDANCE

MINISTRY OF ENVIRONMENT AND FORESTRY

- | | |
|--------------------------------|--|
| 1. Mr. Keriako Tobiko, CBS, SC | Cabinet Secretary |
| 2. Mr. Julius Kamau | Chief Conservator of Forest |
| 3. Dr. Chumo Kiprotich | Environment Obudsman |
| 4. Ms. Dorah Ayego | |
| 5. Mr. Rodney Omari | Senior Assistant Secretary/Head Parliamentary Liaison Unit |

IN ATTENDANCE

KAIMBU COUNTRY GOVERNMENT

- | | |
|--|-----------|
| 1. Gov. James Nyoro | Governor, |
| 2. CECM for Land and Physical Planning | |

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | |
|------------------------|-------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari | Legal Counsel |
| 3. Ms. Njeri Manga | Media Relations Officer |
| 4. Mr. William Omondi | Audio Services Intern |

MIN NO.304/2020 - PRELIMINARIES

The meeting was called to order at 10.15 a.m. followed by a word of prayer led by the Ag. Chairperson.

MIN. NO. 305/2020

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mithika Linturi, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as follows-

1. Prayer.
2. Adoption of the Agenda
3. Introductions
4. Brief from the Cabinet Secretary, Ministry of Environment and Forestry and the Governor for Kiambu on Petition of the alleged murder of Conservationist and Environmentalist Ms. Joanna Stutchbury specifically revoking documentations issued for the grabbed parcels of Kiambu Forest Reserve and that Kiambu has no functions in the gazetted forest hence should stop excision and further development in the Forest.
5. Any Other Business.
6. Adjournment and Date of the Next Meeting.

MIN. NO. 306/2020

**BRIEF FROM THE CABINET SECRETARY,
MINISTRY OF ENVIRONMENT AND FORESTRY
AND THE GOVERNOR FOR KIAMBU ON
PETITION OF THE ALLEGED MURDER OF
CONSERVATIONALIST AND
ENVIRONMENTALIST MS. JOANNAH
STUTCHBURY SPECIFICALLY REVOKING
DOCUMENTATIONS ISSUED FOR THE GRABBED
PARCELS OF KIAMBU FOREST RESERVE AND
THAT KIAMBU HAS NO FUNCTIONS IN THE
GAZETTED FOREST HENCE SHOULD STOP
EXCISION AND FURTHER DEVELOPMENT IN
THE FOREST.**

The Cabinet Secretary Ministry for Environment and Forestry was invited by the Chairperson brief the Committee on the afore-mentioned subject, who informed as follows-

That as earlier agreed to during a meeting held on Wednesday, 13th October, 2021 for the Ministry would like to undertake an in-depth investigation on the matter and present to the committee after two weeks and that the Cabinet Secretary through should deploy KFS rangers be deployed to ensure 24 hour security within Kiambu Forest and ensure that any construction within the said forest is immediately stopped and no new construction is allowed to be undertaken, which the CS did through a letter Ref.No.MEF/CS/021/2018 dated 13th October, 2021.

The Cabinet Secretary informed the Committee that-

1. Kiambu Forest covers approximately 133.95 Ha and was originally gazetted as a forest reserve vide Proclamation No.44 of 1932 and later declared a Central Forest vide Legal Notice No.174 of 20th May, 1964;
2. Kiambu was delineated in Boundary Plan No.75/7. The area was demarcated into five (5) blocks over time.

3. Kiambu Forest is a protected public forest, therefore, was not available for alienation. Any land reserved for public use and protected lands cannot be legally allocated to an individual or company without following the laid down procedure in the Forest Act, Cap.385;
4. Kiambu Forest Reserve among other forest lands is protected under the Forest Conservation and Management Act No.34 of 2016 and for it to be legally allocated to individuals or companies for other purposes, such land would have to be degazetted before it can be legally allocated for any other use;
5. The forest is one of the green spaces acting as the lungs of Kiambu Town and its environs. The intention was to conserve the wetlands which act as catchment of two rivers, namely Riara and Gatharaini and a swamp. Its proximity to Kiambu town makes it ideal for recreational activities. Previously it was an indigenous forest whose dominant species was *Brachyeana huilensis* (*Muhugu*) and a host of other biodiversity. That current development status of Kiambu Forest Reserve as follows-

No	I.R	L.R. No.	Owner	Are (Ha)	BP No.	Current Status
1	74148	13642	Kiambaa (Nyakinyua) Women Group	39.82	175/291	The area is fully developed
2	80630	21350	Hon. Kuria Kanyingi (Tugirane Project)	24.00	None	The area is divided into two portions and partially developed
3	52307	15153	Pelican Engineering Company	29.68	175/352	The area is fully developed currently called Riverview Estate
4	219594	21179	Wibeso Investments (Bedan Mbugua)	25.00	175/371	The area is not developed and is under cultivation
5	84876	25009	Agropack Limited	6.795	None	Forest and not developed
6	84876	25008	No detail	2.037	None	Forest and not developed
7	84876	25007	No detail	2.024	None	Forest and not developed
8	84876	25006	No detail	2.024	None	Forest/Swampy and not developed

6. That the illegal excision of the forest began in 1988, the first being 39.82 Ha which were irregularly hived off in favour of Kiambaa (Nyakinyua) Women Group with title deeds issued.
7. It was followed by 29.68 Ha being allocated and a title deed issued unprocedurally to Pelican Engineering and Construction Limited;
8. Another portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha;
9. In 1999, a further illegal excision of 15.0 Ha. Was done and allocated to Mr. Kuria Kanyingi and a title issued under Kama Agencies Limited;

10. The remaining 14.5 Ha was claimed by Hon. Onesmus Kimani Ngunjiri. However, this area is forested with indigenous trees. This portion was subsequently subdivided into four parcels under Grant I.R. 84876 and title deed issued under Agropack Limited;
- ~~11. The current ground situation is that the areas under M/S Pelican Engineering and Construction limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure;~~
12. That records available at the Ministry and at KFS did not have information disclosing the names of the Directors of the companies. This prompted the Ministry to conduct an official search at the office of the Registrar of Companies and that of the Registrar of Lands through a letter Ref.No.ME&F/CS/246/2021 dated 13th October, 2021 and the Registrar through a letter Ref.No. CR13GENERAL dated 14th October, 2021 confirmed that-
 - (a). **Pelican Engineering and Construction Company** was registered as a private Limited Company at the Companies Registry as C.23550 on 13th August, 1983 and that its Director is Mike Maina Kamau with one hundred thousand (100,000) shares, and Nguru Muregi Wachira is the security with zero (0) shares;
 - (b). **Wibeso Investments Limited** is registered at the Companies Registry as C.65310 and was incorporated on 9th June, 1995. The Directors are listed as Bedan Mbugua Gikebe, Anthony Muchiri Gikebe and Philomena Wangari Gikebe owing 1 share each;
 - (c). **Agropack Limited** was registered as a private limited company on 3rd January, 1990 as C.42095. The Directors are Onesmus Kimani Ngunjiri, Samuel Kugega Ndegwa and Ruth Muthoni Kimani each holding one (1) share; and
 - (d). That according to the search, the Registrar of Companies advised that Kama Agencies does not exist in the database of the registered companies/businesss.
13. A request was also made to the Chief Land Registrar concerning the ownership of the parcels of land, but by the time of the meeting details of ownership had not been availed;
14. That the areas developed within Kiambu Forest Reserve remain as public forests since they have never been degazetted and were therefore not available for alienation;
15. That the KFS has made efforts to secure Kiambu Forest Reserve as follow-
 - (a). Issuance of Eviction Notice to all illegal occupants of the forest to vacate the area, failure to which they shall be forcefully evicted;
 - (b). The beneficiaries of the illegal land allocation went to court and filled a suit: HIGH COURT AT NAIROBI MISC. CIVIL APPLICATION NO.382 OF 2004 BETWEEN KAMA AGENCIES LIMITED VS THE REPUBLIC OF KENYA AND KENYA FOREST SERVICE challenging the Eviction Notice.
 - (c). The suit was filed by the Hon. Kuria Kanyingi who swore an affidavit filed in the matter and averred that he filed the suit in his capacity as a Director of Kama Agencies Limited. Hon. Kuria Kanyingi claimed that he and the 144 others were the rightful owners of parcels No.L.R. No.21350. He claimed that they purchased the subject land in 1999 from Togineres Project Limited. The Company subdivided the land into L.R. No.21350/1 and L.R.No.21350/2. The suit was filed following an Eviction Notice issued by KFS over the area wherein the company obtained an Interim Order stopping KFS from interfering with their occupation;
 - (d). The matter however did not proceed to full hearing as the Applicant made an application to withdraw the suit under Order 25 of the Civil Procedure Rules, which the Court granted;

- (e). The KFS in an effort to prevent further grabbing and subdivision of the Kiambu Forest, issued a Public Notice (Caveat Emptor) public in the Daily Newspaper on 1st August, 2008 over L.R. No.13642; this led to filing of suit HIGH COURT AT NAIROBI MISC.JUDICIAL REVIEW CASE NO.21 OF 2009; REPUBLIC VS KFS EXPARTE WARIARA NJENGA KARUME AND 144 OTHERS which instituted by the applicant in response to the Caveat Emptor over LR No.13642 as Trustees of Kiambaa Divisional (141) Women Groups. Whom they claimed were the registered proprietor of LR.No.13642 measuring 39.82 Ha.
 - (f). The applicants sought the Court to quash the decision contained in the Caveat Emptor Notice declaring LR.No.13642 a portion of the protected Kiambu Forest Reserve and warning the general public against purchase thereof.
 - (g). The applications also sought an Order of Prohibition to restrain the Respondent from placing caveats against the applicants' properties or harassing, intimidating or arresting or prosecuting the Applicants over the ownership of their properties derived from LR. No.13642;
 - (h). In a ruling delivered by Justice Musinga on 7th June, 2011 the court ruled that if applicant contend that they were the lawful owners and desire to assert their right of proprietorship, they ought to file an appropriate civil suit. The matter was dismissed with costs to the respondent
 - (i). The Director of KFS on 4th June, 2009 wrote to the Commissioner of Lands vide Ref.FOR 68/3/VOL.II/227 requesting that the Government Caveat be place on LR. No.21350/1 which was being subdivided into 54 plots, further through letter Ref.No.KFS/LS/018 dated 8th June, 2009 KFS wrote to the Chief Land Registrar requesting that Government Caveat be placed on Grant No.80630 and L.R.No.21550/1;
 - (j). The Commissioners of Lands through the Director of Surveys replied vide letter Ref.No.AC/CAD/8VOL.III/75 dated 30th June, 2009 to KFS confirming that the survey on L.R.No.21350/1 had been put on hold and deed plan numbers 295780 to 295836 resulting from the subdivisions of suit parcel had been cancelled.
 - (k). The Commissioner of Lands through the Chief Land Registrar replied on the issue of LR.No.80630 confirming that the requested caveat had been placed against the title.
 - (l). The Ministry wrote a letter to the Commissioner of Lands Ref.MFW/8/2/1 VOLIII/30 dated 14th July, 2011 to place a Government Caveat on Grant Number LR.No.84876 in Kiambu Forest and a Public Notice (Caveat Emptor) in the newspapers in respect of LR.25009, 25007 and 25006 prohibiting any form of transactions thereof;
16. The KFS continued to carryout regular patrols in the area to enforce protection of the forest. This was met with resistance and in the instance of Agropack Limited, which filed a suit in 2011 NAIROBI HIGH COURT PETITION 87 OF 2011 (JUDICIAL REVIEW & CONSTITUTIONAL DIVISION) AGROPACT LIMITED VS REPUBLIC OF KENYA AND KENYA FOREST SERVICE.
 17. In the suit, the applicant alleged that they were the registered owners of Parcels L.R.No.250009 situated in Kiambu Municipality. A statement was sworn in by Stephen Kingara Ndung'u who claimed to be a Director of Agropack Limited on 11th October, 2011 stated that on 8th June, 2011, forest rangers on instruction from the Director of Forests entered the said land and claimed ownership. He further stated that his workers were also being arrested and locked up in Police cells in Kiambu;
 18. KFS in response vide a replying affidavit sworn by the then Director, David Mbugua stated that the area is a public forest part of Kiambu Forest Reserve, and reiterated that KFS had

- full possession of the subject matter land and that forest guards are on patrol to ensure no further destruction is occasioned to the forest area.
19. KFS successfully applied for dismissal of the Petition. An Order was issued on 27th June, 2012.
 20. KFS through a letter Ref.No.MAP/2/KFS VOL.VIII dated 8th March, 2016 requested the NLC to review grants believed to have been irregularly issued in Kiambu Forest, KFS participated in the public hearing for review of grants over the area;
 21. The NLC vide letter Ref.No.NLC/1/26/2/3 dated 30th November, 2017 to KFS informed that they had received numerous inquiries by land owners whose plots they had determined to be part of Kiambu Forest. The NLC further stated that they had resolved to carryout an inquiry under section 6 of the NLC Act to gather information on the allocation within the forest and instructed KFS to forward a list of the plots in the forest to enable them issue the requisite notice and prepare for the inquiry;
 22. The NLC later informed the Ministry that the claims were however not fully heard and finalized by the inaugural Commission and therefore no determinations were made. The NLC was also not able to conclude due to the fact there was a time frame for the exercise of jurisdiction under the Review of Grants under Section 14 of the Act. The Act set out a time limit of 5 years.
 23. That it is true that Ms. Joannah Stutchbury was a fierce environmental defender and Conservationalist and was a resident of an area that borders Kiambu Forest Block;
 24. Although most of the land had been grabbed and developed, she earnestly guarded what had been left especially the remaining 14.5 Ha which is still under indigenous tree cover and swamp. Many are time she would alert KFS through telephone calls and social media platforms when she noticed any form of incursion into the forest. A case in point is 2018 when she saw an escavator attempting to construct an access road towards the indigenous forest area ostensibly working for Hon. Onesmus Kimani Ngunjiri, a Director of the company know as Agropact Limited. This activity was halted when KFS intervned and arrested the culprits and the said machinery;
 25. As a result of this Agropack Limited instituted a case in which Joannah and KFS were co-defendants in the CHIEF MAGISTRATES COURT OF KIAMBU, ENVIRONMENT AND LAND COURT CASE NO.9 OF 2018: AGROPACK LIMITED VS KENYA FOREST SERVICE AND JOAN SKUKBERY. The Court had issued a temporary injunction ordering stopping, prohibiting and forbidding KFS and Joannah from interfering in any matter with the area known as LR.No.20009 pending the hearing and determination of the application. Subsequently, KFS advocate on record advised that the matter was dismissed for want of prosecution by the Plaintiff in year 2018.
 26. That the murder of Joannah was a big blow to KFS given her efforts in the protection of Kiambu Forest and KFS remains indebted to her and recognize the prolific work of Joannah as a compatriot and a hero and front-liner in the fight to save forests and green spaces in Kiambu County and that the case is under investigation by Directorate of Criminal Investigation and KFS will collaborate with DCI and all other Government investigations agencies including availing KFS officers for interviews, recording statements and availing relevant documents as will be requested.
 27. That the Ministry makes the following recommendations and observations-
 - (i). That Kiambu Forest Reserve remains gazetted public forest and KFS is committed to protecting it for prosperity;

- (ii). That Security Committee jointly with Committee on Lands, Environment and Natural Resources should consider making a visit to the area to appreciate the extent of grabbing of the Kiambu Forest Reserve;
- (iii). ~~KFS is continuously working closely with other Government agencies under multi-agency approach to reclaim and restore grabbed and illegally allocated public forests~~
- (iv). KFS recommends that Parliament considers categorisation of illegal and/or irregular acquisition of public gazetted forests an economic crime;
- (v). KFS recommends that the NLC, Ministry of Lands and the Ethics and Anti-Corruption Commission supports the National efforts of repossessing illegally and irregular acquired portions of Kiambu Forest and other public forests in Kenya;

After the Cabinet Secretary completed his presentation, the Chairperson invited the Governor for Kiambu to make his presentation who briefed the Committee as follows-

That the brief by the Cabinet Secretary has elaborate enough to cover how the situation is at the ground. The County Government was taken aback by the murder of Joannah Stutchbury an ardent environmentalist and protectionist of Kiambu Forest Reserve. That the County Government has no role in the Kiambu Forest Reserve as it was owned by KFS to preserve and manage.

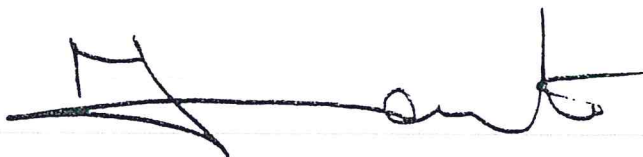
That the two (2) pieces of land that is owned by Nyakinyua and Pelican is fully developed. Nyakinyua has subdivided their piece into 962 pieces and county approved their development and KFS lost the case on them. After sub-division the only documents require for development is a search from the Ministry of Lands of title deeds to prove ownership, survey of the map and an architectural plan of how the plots were to be developed, all of which they presented to the County Government as proof of validity of ownership. All the other pieces of grabbed forests the County Government is prepared to collaborate with KFS to forestall their development including their repossession back into forests. The Governor sought guidance on how titles if any will be presented to the County Government for approval for development will treated and hence recommended that caveats be place on those titles.

Thereon the Committee resolved that the National Land Commission, Ministry of Lands and the EACC be invited for a meeting to shed more light in regard to grabbed pieces of Kiambu Forest Reserve including issuance of Caveat on the pieces of forest which had been issued with title deeds. Further, that the Committee will undertake a fact-finding visit to the alleged grabbed pieces of Kiambu Forest. Further, the security agencies including the DCI, IG, DPP and the Cabinet Secretary, Ministry of Interior and Coordination of National Government be once again invited for a meeting to present their submissions regarding the murder of Ms. Joannah Stutchbury.

MIN. NO. 307/2020

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business the meeting was adjourned at 11.55 a.m.



SIGNED:
(CHAIRPERSON)

DATE:
2ND FEBRUARY, 2022

MINUTES OF THE 57th SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD IN KIAMBU COUNTY COMMISSIONER'S BOARDROOM ON TUESDAY, 2ND NOVEMBER, 2021 AT 10.45 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. Fred Outa, MP | -Ag. Chairperson |
| 2. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |
| 3. Sen Mithika Linturi, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-----------------------------------|----------|
| 1. Sen. Beatrice Kwamboka, MP | -Member |
| 2. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 3. Sen. Wario Golich Juma, MP | -Member |
| 4. Sen. Fatuma Dullo, CBS, MP | - Member |
| 5. Sen. Judith Pareno, MP | - Member |

IN ATTENDANCE

MINISTRY OF ENVIRONMENT AND FORESTRY

- | | |
|------------------------|--------------------------------|
| 1. Hon. Mohamed Eluli | Chief Administrative Secretary |
| 2. Mr. Rodney Omari | Senior Assistant Secretary |
| 3. Ms. Jacinta Nabwile | Assistant Secretary |
| 4. Mr. Alfred N. Gichu | |

IN ATTENDANCE

MINISTRY OF LANDS

- | | |
|------------------------------|--|
| 1. Mr. Edmund Njihia Njoroge | Chief Officer Lands, Physical Planning |
| 2. Mr. J.H.M. Kamau | |

IN ATTENDANCE

NATIONAL LANDS COMMISSION

- | | |
|-----------------------|----------------------------|
| 1. Mr. Molu Halake | County Coordinator |
| 2. Mr. Edmond Gichuru | Ag. Director Legal Affairs |
| 3. Mr. Reginald Okumu | |
| 4. Mr. Ben Opa | |

IN ATTENDANCE

MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

- | | |
|-------------------------------|----------------------------|
| 1. Mr. Wilson O. Wanyanga MBS | County Commissioner |
| 2. Mr. T.M. Macharia | Deputy County Commissioner |
| 3. Mr. Doreen G. Gitonga | CIPU/APS – County |
| 4. Mr. Samson Kiptum | CCIO Kiambu County |
| 5. Mr. Lazarus Wambua | D/CPC Kiambu County |

IN ATTENDANCE

KENYA FOREST SERVICE

- | | |
|------------------------|-----------------------|
| 1. Mr. Julius Kamau | Chief Conservator |
| 2. Mr. Alex Lemarkoko | Commandant |
| 3. Mr. Paul N. Karanja | Ecosystem Conservator |
| 4. Mr. Evans K. Aluda | H. Survey & Mapping |

IN ATTENDANCE

SURVEY OF KENYA

- | | |
|-------------------------|----------------|
| 1. Mr. Michael Muikiria | Asst. Director |
|-------------------------|----------------|

IN ATTENDANCE

COUNTY GOVERNMENT OF KIAMBU

- | | |
|------------------------|---------------------------------|
| 1. Dr. Joyce Ngugi | Deputy Governor |
| 2. Mr. David K. Kuria | CECM |
| 3. Ms. Eunice Macharia | CECM (Lands, Physical Planning) |

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | |
|------------------------|-------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari | Legal Counsel |
| 3. Ms. Njeri Manga | Media Relations Officer |
| 4. Mr. William Omondi | Audio Services Intern |
| 5. Mr. Alex Mutuku | Serjeant-At-Arms |
| 6. Mr. Abdalla Mbore | Serjeant-At-Arms |

MIN NO.308/2020 - **PRELIMINARIES**

The meeting was called to order at 10.50 a.m. followed by word of prayers by the Chairperson.

MIN. NO. 309/2020

**BRIEF BY THE COUNTY COMMISSIONER OF
KIAMBU COUNTY**

The County Commissioner welcomed the Committee to Kiambu County and briefed them that the Kiambu Forest Reserve has not been degazetted, however, the forest has been allocated to individuals while Forest Department has its ownership. That the forest has further been subdivided and allocated to 2nd or 4th owners who may not be privy to the authenticity of ownership documents they possess for the land. He further informed the Committee that a tussle between developing the land by owners and conserving the meagre remaining forest may have been the cause of the death of Ms. Joannah Stutchbury who was a forest conservationist. The Commissioner informed the Committee that Kiambu has many like cases, including in Kinari Settlement Scheme, where forest had been subdivided and issued to unaware individuals, while their ownership remains with the forest department, which may need to be addressed.

MIN. NO. 310/2020

BRIEF BY THE CHIEF ADMINISTRATIVE
SECRETARY FOR MINISTRY OF ENVIRONMENT
AND FORESTRY

He informed the Committee that when the Cabinet Secretary appeared before the Committee, he had requested the Committee to undertake a fact-finding visit to the Forest. He informed the Committee that the Cabinet Secretary could not accompany the Committee for the visit, owing to that he was attending the Global Climate Summit (COP26) in Glasgow, Scotland. He reiterated the importance of the preserving the Kenya's remaining forests specifically the Kiambu Forest and this could be done through placing of caveats on the forest.

MIN. NO. 311/2020

BRIEF BY THE NATIONAL LAND COMMISSION

The Committee was briefed that the power of the National Land Commission to review land grants expired in 2017 as was in the Constitution. That the Kiambu Forest Reserve was before the Commission, but, owing to the expiration of the afore-mentioned power, the Commission was not able to conclude and make appropriate recommendation on time regarding Kiambu Forest Reserve. The Committee was requested to assist in legislatively renewing the Commission's mandate on grants to facilitate in conclusion of the process more so for Kiambu Forest Reserve, and on any other forests which has been encroached by private individuals. The Committee was further briefed that Kenya currently has 5% forest cover contrary to Constitutional target of 10% tree cover of the national land area as provided under Article 69 (1) (b) hence, the need to gazette more forests and the ones gazetted should not be degazetted.

MIN. NO. 312/2020

BRIEF BY THE DEPUTY GOVERNOR OF KIAMBU

The Deputy Governor requested the Committee to assist in the process of issuance of caveats to the gazetted areas to facilitate preservation of forests which are very essential for ecosystem. The Committee was informed that the County Government is charged with the responsibility of approving and issuing development plans to everyone holding a valid title, only for the County Government to realize later that the land is gazetted as forests hence, caveats could assist in resolving such incidences. That issues of grabbed parcels of forests are many in Kiambu County to name but a few like include Kinari Settlement Scheme among others, all of which need to be

addressed. In conclusion, she welcomed the Committee to Kiambu County for the fact-finding visit in Kiambu Forest Reserve to witness the menace which seemed to have occurred during former regimes.

After deliberations the Committee was concerned that the Kiambu Forest Reserve issue has taken quite some time to resolve which may be causing anxiety to the individuals already developing their alleged pieces of land in the forest. That the whole matter looks like it was fraudulent which need to be addressed fully in a win-win situation as the current land owners in the forest are 2nd or 3rd owners who may have been conned. Later the Committee was invited to tour the forest reserve to witness the developments made in the forests and probable meet the current land owners.

MIN. NO. 313/2020

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business the meeting was adjourned at 11.25 a.m.



SIGNED:

(CHAIRPERSON)

2ND FEBRUARY, 2022

DATE:

MINUTES OF THE 59th SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD IN RED CROSS BUILDINGS IN PARLIAMENT BUILDINGS ON WEDNESDAY, 1ST DECEMBER, 2021 AT 9.30 A.M.

PRESENT

- | | |
|-----------------------------------|------------------|
| 1. Sen. Fred Outa, MP | -Ag. Chairperson |
| 2. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 3. Sen Mithika Linturi, MP | - Member |
| 4. Sen. Judith Pareno, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |
| 3. Sen. Beatrice Kwamboka, MP | -Member |
| 4. Sen. Fatuma Dullo, CBS, MP | - Member |
| 5. Sen. Gideon Moi, MP | -Member |

IN ATTENDANCE

PELICAN ENGINEERING

- | | |
|----------------------|-------------------|
| 1. Mr. Chumba Ntuli | Sichale Advocates |
| 2. Mr. Anthony Chege | Riverview Estate |
| 3. Mr. Maina Njonjo | Riverview Estate |
| 4. Manu Ngumbi | Sichale Advocates |

IN ATTENDANCE

MARG. RIDGE ESTATE LIMITED

- | | |
|----------------------------|-------------------------|
| 1. Mrs. Margaret W. Magugu | Director/Wife to Magugu |
| 2. Mr. Faiz Gitau Maina | Son of the Director |
| 3. Mr. Abdul S. Bahangu | Manager |
| 4. Ms. Rukia Salim | Personnal Assistant |

IN ATTENDANCE

KIAMBAA WOMEN GROUP

- | | |
|-----------------------------|----------------------|
| 1. Mr. James Muriuki | Golden Palm Resident |
| 2. Mr. Paul Kihara Gachukia | Golden Palm Resident |
| 3. Mr. David Muriuki | Golden Palm Resident |
| 4. Ms. Cosnas Chahenza | HKM Associates |

IN ATTENDANCE

KAMA AGENTS COMPANY

- | | |
|-----------------------|------------|
| 1. Mr. Kimani Wakinaa | Valleyview |
| 2. Mr. John Mbugua | Valleyview |
| 3. Ms. Caroline Burer | Valleyview |
| 4. Ms. Elizaphan Kibe | Valleyview |

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | |
|------------------------|------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari | Legal Counsel |
| 3. Mr. William Omondi | Audio Services Intern |
| 4. Mr. Alex Mutuku | Serjeant-At-Arms |
| 5. Mr. Abdalla Mbore | Serjeant-At-Arms |

MIN NO.314/2020 - **PRELIMINARIES**

The meeting was called to order at 9.45 a.m. followed by prayers led by the Chairperson.

MIN NO.315/2020 - **ADOPTION OF AGENDA**

The agenda of the meeting was proposed by Sen. Moses Wetang'ula, MP and seconded by Sen. Fatuma Dullo, MP as follows-

1. Prayer.
2. Adoption of the Agenda
3. Introductions
4. Brief by the alleged Land Owners in the Kiambu Forest Reserve.
5. Any Other Business.
6. Adjournment and Date of the Next Meeting.

MIN. NO. 316/2020

SUBMISSION BY MANAGEMENT OF PELICAN ENGINEERING COMPANY ON I.R. 52307, L.R. NO. 15153, , AREA (HA) 29.68, BP NO. 175/352, CURRENT STATUS THE AREA IS FULLY DEVELOPED CURRENTLY CALLED RIVERVIEW ESTATE.

The management of Pelican Engineering submitted to the Committee that on or about 1991, the company made an application to be allotted a plot in Kiambu. Its application was approved and a letter of allotment dated 9th April, 1991 was issued to the Company. Thereon, the company made payment in respect of the stand premium, stamp duty and annual rent totalling to Kshs.2,185,800/= pursuant to Special Condition 2 in the said letter of allotment and a receipt No.C010805 dated 10th April, 1991 was issued. That, the Ministry of Lands vide a letter dated 10th April, 1991 instructed the Director of surveys to undertake survey of residential plot No. B

Kiambu municipality, it was worth noting that the company took possession of the plot 30 years ago. Vide gazette notice No.1091 of 1995, the then Minister of Environment and Natural Resources Hon. J.K. Sambu published a legal notice dated 1st February, 1995 expressing the Government's intention to alter the boundaries of Kiambu Forest to exclude 29.68 hectares. This was in exercise of powers conferred to him by Section 4(1) and 4(2) of the Forest Act Cap 385 (now repealed) which provided that-

4(1) the Minister may, from time to time, by notice of Gazette-

(d) Declare any unalienated Government land to be a forest area;

(e) Declare the boundaries of a forest and from time to time alter those boundaries;

(f) Declare that a forest area shall cease to be a forest area

(2) Before declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.

Thereafter, the property was degatted as forest land through Legal Notice No.260 dated 11th July, 1995 by the aforementioned Minister. In 2009/2010 the company embarked on subdividing the property into 116 half acre residential plots for sale save for 2 plots which were set aside for a nursery school and recreational area, which was a condition imposed by the then Municipal Council of Kiambu which plots were surrendered to the then Municipal Council of Kiambu. Prior to subdivision the Company sought and obtained approval in all respects from various Government agencies as per the law including from Survey of Kenya, Ministry of Lands, Municipal Council of Kiambu, the District Physical Planning Office Kiambu, District Survey Office, National Environment Management Authority, Ministry of Water and Irrigation, Ministry of Roads and District Land Administration Office, department of Lands. A Survey Plan dated 14th December, 2010 approved on 15th December, 2010 for the property was drawn and the same was registered under Folio No.367 and register no.67 and 68 thereon deed plans for 116 plots half acre each were booked for registration at the Lands office Nairobi on 11th February, 2011. Thereafter Certificates of Titles were issued by the Registrar of Titles in respect to Land Reference 15153/4 up to 151/119 save for L.R. Numbers 15153/118 and 15153/119 set aside for a nursery school and recreational area respectively. Thereon, on obtaining the Titles for

subdivision in 2011, the company marketed the plots for sale through estate agent Tysons Limited through which 106 plots were sold some of which to date have been resold off to 3rd parties. Its noteworthy that prior to purchasing the current owners undertook the due diligence to search for authenticity of the plots being purchased. In particular proprietors of 2 plots that is 15153/11 and 151/29 wrote to the National Land Commission through their legal counsel Mamicha and Company Advocates vide several correspondences and sought clarification as to whether the subdivision was free from encumbrances to which the National Land Commission vide a letter dated 15th July, 2014 did confirm that the property was available for allocation to provide individuals.

MIN. NO. 317/2020

**SUBMISSIONS BY THE CHAIRPERSON OF
WATERSIDE RIVERVIEW AND RESIDENTS'
ASSOCIATION CURRENT OWNERS AND
RESIDENTS OF PELICAN ENGINEERING AND
CONSTRUCTION COMPANY PARCEL OF LAND**

The Chairperson of the Residents Association Mr. Anthony Chege informed the Committee that Riverview Estate was developed out of the original consolidated land parcel LR NO.15153 which was previously a flower firm operated as Valentine Growers Co. Ltd. The initial owner, Pelican Engineering and Construction Company Limited, subsequently, subdivided L.R. 15153 into more than 116 plots and appointed Tysons Limited, property management company, to advertise for sale at market value in the mainstream media. The residents wrote to National Land Commission through the firm of Mumicha and Co. Advocates on 23rd October, 2013 to clarify whether the property was clear for sale. The National Land Commission wrote to Kenya Forest Service to seek the same clarification and on 15th July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 21st July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385. In particular the National Land Commission concluded in the letter that according to KFS the land was legally degazetted and the land was available for allocation to private individuals. It is on this basis that the residents had unequivocal assurance to proceed and conclude sale purchases and invest heavily in the parcels of land including construction of dwelling houses on owner occupier bases and development of infrastructure at personal costs.

Mr. David Muriuki Thiong'o, appointed agent of Kiambaa Divisional (141) Women Groups briefed the Committee that Kiambaa Divisional (141) Women Groups was registered in 1983 comprising various women groups who had come together for the purposes of economic development. The group could sometimes be engaged during official duties of the late President Daniel Arap Moi. In 1983 he gifted them with unsurveyed parcel of land excised from Kiambu Forest. This could be attested by two (2) letters of allotment for unsurveyed plots A and B each measuring approximately 50.73 Acres. The survey and excision process were initiated in June 1987. The Director of survey approved the Survey Plan on 24th June, 1987 as per the survey plan F/R No.170/55 and L.R. number 13642 was issued. Thereon, they applied for change of user from industrial to residential while simultaneously undertaking the subdivision and on 8th June, 1984 approvals were acquired for change of user. All the 6000 individuals were each awarded a parcel of plot within plots A and B which approvals were acquired from Government departments within the Ministry of Lands and Housing. The Groups were also issued with Grant I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years, from 1st December, 1984 by the then Commissioner of Lands. The Committee was informed that the Report by Commission of Inquiry for Irregular Allocation of Public Land, commonly referred to as Ndung'u Report in page 231, Annexes of Volume I, outlines that the property was authorized for excision to Kiambaa Women Groups based on a letter by the Conservator of Forest letter Ref.No.FOR.68/7/(62) dated 12th July, 1984 (annexed) - the letter authorised the group to go ahead and draw up plans on the parcel of land. Ndung'u report noted that the area, however, had not been degazetted despite being cleared for allocation and subdivision. That National Land Commission (NLC) on 21st January, 2019 made recommendation that the gazettment of the excision be completed. That to date the plots have been sold and resold to second and third parties, who, have always followed laid down processes to ascertain authenticity of documents presented during purchase which have never proved otherwise.

The Chairperson of the Valley View Garden Association Mr. John Mwaura Mbugua informed the Committee that Kama Agencies Company Limited was a real estate business Company that owned L.R. No.21350/1 gifted to the company in 1995 and allotted the parcel of land vide Grant No.IR. 80630 for the land which had been excised from Kiambu Forest for a period of 99 years commencing on 1st April, 1995. That on 11th July 1995 the then Minister of Environment and Natural Resources Hon. J.K. Sambu declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest. That, the surveying and excision process for the unsurveyed forest land was initiated with the concurrence of the Kenya Forest Department, the predecessor of Kenya Forest Service, which on 3rd July, 1996 confirmed the allotment of the property to Kama Agencies to develop. Thereon, Kama agencies subdivided the land in reference and transferred part of it to the general public. 59 residents have since acquired the land formerly known as LR No.21350/1. All the approvals for subdivision were acquired from the relevant government agencies. That, the current occupiers of the sub divided L.R. No.21350/1 contend that the allotment of the subject property, the excision thereof, the issuance of the mother title and resultant subdivision was initiated and implemented by relevant government agencies, including the then President, Kenya Forest Department and Physical Planning Office implying that the process followed the relevant laid down procedures as pursuant to the law, including sale and transfer of titles from Kama Agencies to the current occupiers of the parcels of land. In his submission the Chairperson did produce a copy of certificate of Title for L.R. No.21350/1; a copy of Gazette Notice dated 11th July, 1995; a copy of letter from the Forest Department dated 3rd July, 1996; copies of Certificate of Titles among others.

MIN. NO. 320/2020

**SUBMISSIONS FOR I.R.219594, L.R. NO. 21179,
(HA) 25.00, BP NO. 175/371 MRS. MARGARET W.
MAGUGU**

The Committee was informed that the afore-mentioned parcel of land, ostensibly owned by Wibeso Investment, is actually owned by M/s Marg Ridge Estate Ltd of P.O. Box 57958 00100, Nairobi with its Director being Mrs. Margaret W. Magugu wife to the Late Hon. A.K. Magugu. Mrs. Magugu produced before the Committee copies of a letter to the former Head of State H.E. Hon. D.T. Arap Moi applying for allocation of a plot adjacent to the 39 Hectares which had been allocated to Kiambaa Women Group, to develop light industries and low cost houses for workers and Kiambu Township residents; a copy of a letter of allotment from Department of Lands dated

5th March, 1990 for a plot in Kiambu Town with prescribed area of approximately 22.0 hectares; a copy Certificate of Title for Title No.IR.219594 for a term of 99 years from 1st December, 1990 with an annual Rent of Kenya Shillings one hundred forty thousand for a piece of land situated in the South of Kiambu Municipality in Kiambu District with measurement of two five decimal nought Hectares (25.00 Hectares) and that the Land in Reference Number 21179 as delineated on Land Survey Plan Number 198490, is registered against the title transfer to Marg. Ridge Estate Ltd.; a copy of Gazette Notice No.5846 for the intention by the then Minister for Natural Resources Hon. F.P.L Lotodo to alter boundaries of Kiambu Forest for an area of approximately 25 Hectares known as L.R. No. 21179, lying within and adjoining the western boundary of Kiambu Township in Kiambu District; a copy of Legal Notice No.56 according to the Forests Act (Cap 385) for alteration of boundaries of Kiambu Forest in exercise of powers then conferred by Section 4(1) of the Forest Act by the then Minister for Natural Resources Hon. F.P.L. Lotodo for an area of approximately 25 hectares known as L.R. No.21179 lying within and adjoining the western boundary of Kiambu Forest; a copy of Lease for registered in Nairobi for a parcel L.R. No.21179 for Margaret Wairimu Magugu for an area of measurement approximately 25.00 Hectares or thereabout for the term of 99 years from 1st December, 1990; a copy of reference map for land reference No.21179 for a deed plan No.98490 from Director of Surveys; and a copy of a letter from Ministry of Lands and Physical Planning for L.R. No.21179-I.R. 219594 in Kiambu County, to the Survey of Kenya indicating that the alleged grant I.R. 67273 issued to Webeso Investment Limited for a term of 99 years from 1st April, 1991 was irregularly obtained as the parcel was still gazetted as government land and was not available for allocation and that the Title held by Marg Ridge Estate Limited was genuine.

After presentations the Committee informed the stakeholders that the Committee will formulate a report and make recommendations based on their submissions to the Committee while thanking them for their attendance to the meeting.

MIN. NO. 321/2020

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business the meeting was adjourned at 1.25 p.m.

A handwritten signature in black ink, appearing to be 'Margaret Wairimu Magugu', written in a cursive style.

SIGNED:

(CHAIRPERSON)

2ND FEBRUARY, 2022

DATE:

MINUTES OF THE 61st SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE ON WEDNESDAY, 4th FEBRUARY 2022 AT 11.00 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. Fred Outa, CBS, MP | -Ag. Chairperson |
| 2. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 3. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |
| 4. Sen. Beatrice Kwamboka, CBS, MP | -Member |
| 5. Sen Mithika Linturi, MP | - Member |
| 6. Sen. Judith Pareno, MP | - Member |
| 7. Sen. Fatuma Dullo, CBS, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------|---------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen. Gideon Moi, MP | -Member |

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | |
|------------------------|----------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Peter Adika | Principal Research Officer |
| 3. Mr. Jeremy Chabari | Legal Counsel |

MIN NO.326/2020 - PRELIMINARIES

The meeting was called to order at 11.12 a.m. followed by prayers led by the Chairperson.

MIN NO.327/2020 - ADOPTION OF AGENDA

The agenda of the meeting was proposed by Sen. Moses Wetang'ula, EGH, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as follows-

1. Prayer.
2. Adoption of the Agenda.
3. Consideration of the last meeting minutes.
4. Matters arising.
5. Consideration and approval of the Draft Report on the Petition Concerning circumstances leading to the Death of Conservationist and Environmentalist Ms. Joannah Stutchbury.
6. Any Other Business.
7. Adjournment and Date of the Next Meeting.

MIN. NO. 328/2020

CONSIDERATION OF THE LAST MEETINGS MINUTES

The Committee confirmed the minutes of the previous meetings as follows-

- (i). The Committee confirmed the Minutes of the 55th Sitting held online on Wednesday, 21st October, 2021, and were confirmed after being proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Beatrice Kwamboka, CBS, MP as a true record of the proceedings of the meeting.
- (ii). The Committee confirmed the Minutes of the 56th Sitting held online on Tuesday, 26th October, 2021, and were confirmed after being proposed by Sen. Moses Wetang'ula, EGH, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as a true record of the proceedings of the meeting.
- (iii). The Committee confirmed the Minutes of the 57th Sitting held on Tuesday, 2nd November, 2021, and were confirmed after being proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Mithika Linturi, MP as a true record of the proceedings of the meeting.
- (iv). The Committee confirmed the Minutes of the 58th Sitting held on Tuesday, 30th November, 2021, and were confirmed after being proposed by Sen. Moses Wetang'ula, EGH, MP and seconded by Sen. Fred Outa, CBS, MP as a true record of the proceedings of the meeting.
- (v). The Committee confirmed the Minutes of the 59th Sitting held on Wednesday, 1st December, 2021, and were confirmed after being proposed by Sen. Mithika Linturi, MP and seconded by Sen. Moses Wetang'ula, EGH, MP as a true record of the proceedings of the meeting.
- (vi). The Committee confirmed the Minutes of the 60th Sitting held online on Wednesday, 8th December, 2021, and were confirmed after being proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Mithika Linturi, MP as a true record of the proceedings of the meeting.

MIN. NO. 329/2020

MATTERS ARISING

There were no matters arising.

MIN. NO. 330/2020

**CONSIDERATION AND APPROVAL OF THE
DRAFT REPORT ON THE PETITION
CONCERNING CIRCUMSTANCES LEADING TO
THE DEATH OF CONSERVATIONIST AND
ENVIRONMENTALIST MS. JOANNAH
STUTCHBURY.**

The Committee was presented the draft report as follows-

That the Petition regarding the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury and a protector of environment and natural resources was brought to the

Senate by Sen. Halakhe Abshiro, MP on 4th August, 2021 and consequently stood committed to the Standing Committee on National Security, Defence and Foreign Relations.

The Petitioners Prayers to the Senate were to be assisted by the Senate through-

- (i). an investigation on the circumstances leading to the alleged murder of Joannah Stutchbury and other environmentalists and conservationist in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). a call to the Ministry of Environment and Forestry and Kenya Forest Service to revoke grabbed parcels of the Kiambu Forest Reserve;
- (iii). appropriate recommendations for the protection of the lives of environmentalists and conservationists in Kenya; and
- (iv). reviewal relevant policies and existing legislations with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

That in order to address the prayers of the Petitioners, the Committee met with various stakeholders in relations to the petition who included the Petitioners (Conservation Alliance of Kenya), Cabinet Secretary for Environment and Forestry, Director of Kenya Forest Service, Kiambu Governor, County Commissioner of Kiambu, Ministry of Land officials, residents residing in the already developed parts of Kiambu Forest Reserve, National Land Commission officials, Inspector General of Police, Director of Criminal Investigation and undertook a fact-finding visit to Kiambu Forest Reserve.

After meeting the stakeholders, the following could be adduced as the Committee's findings and observations-

- (a). That on 15th July, 2021, the environmentatlist and conservationist Ms. Joannah Stutchbury was shot dead outside her home in what appeared to be murder.
- (b). That by the time of writing this report the Petitioners had not furnished the Committee with the names of other conservationists who had ever received death threats;

- (c). That Ms. Joannah Stutchbury lived in a land bordering Kiambu Forest Block LR No.21179 F/R No.284/108, gazetted as a Forest Reserve vide Proclamation No.44 of 1932.
- (d). That on 5th February, 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land which borders wetland and she single-handedly confronted the developers constructing an illegal road.
- (e). That preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Joannah Stutchbury might have been murdered due to her strong position on preservation for Kiambu Forest against the will of a private developer who wanted to construct a road in the wetland to gain access to their illegally acquired properties.
- (f). The illegal excision of the forest began way back in 1988, first being 39.82 Ha, which were hived off in favour of Kiambaa (Nyakinyua) Women Group.
- (g). That 29.68 Ha were allocated and a title deed issued to Pelican Engineering and Construction Limited;
- (h). That a portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha; in 1999, to which documents were produced indicating it was issued before then to Mrs. Margaret Magugu;
- (i). That 15.0 Ha. Were allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited;
- (j). That 14.5 Ha claimed by Hon. Onesmus Kimani Ngunjiri, remains forested with indigenous trees and had subsequently been subdivided into four parcels as in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited;
- (k). That currently parcels under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure including roads.
- (l). That National Land Commission mandate to review grants of the illegally acquired public land which was 5 years in the Constitution expired in 2017 and that there is need for an appropriate legislative amendment by parliament to renew the mandate.
- (m). That the Kiambu Forest Reserve was before the National Land Commission, but owing to expiration of its mandate to review the Grants, the Commission was not able to conclude and make recommendations on Kiambu Forest Reserve.

- (n). That Kenya currently has 5% forest cover contrary to Constitutional target of 10% tree cover of the national land area as provided under Article 69 (1) (b).
- ~~(o). That through the Kenya Gazette Notice No.1091 dated 10th March, 1995 an area of land approximately 29.68 hectares, known as L.R. No.15153, lying and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres southern of Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, on the boundary plan No.175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga. That parcels of land under I.R. 52307, L.R. NO. 15153, , measuring 29.68 Hectares was degatted as forest land through Legal Notice No.260 dated 11th July, 1995 and that the National Land Commission had written to Kenya Forest Service to seek clarification and on 15th July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 11th July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385.~~
- (p). That Kiambaa Women Groups were also issued with Grant for I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years from 1st December, 1984 by the then Commissioner of Lands and further National Land Commission had recommended for the degazetted of the parcel of land be commenced.
- (q). That on 11th July 1995 the then Minister of Environment and Natural Resources declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest.
- (r). That a piece of land Reference Number 21179 was delineated on Land Survey Plan Number 198490 is registered through title transfer of Marg. Ridge Estate Ltd which through a Kenya Gazette Notice No.5846 was issued by the then Minister for Natural Resources who altered boundaries of Kiambu Forest for an area of approximately 25 Hectares to L.R. No. 21179 and the schedule outlined that an area lying within and adjoining the western boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of Kiambu Township, Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary Plan No.175/371 which was signed and sealed with the seal of the survey of Kenya and deposited at the Survey Records Office, Survey of Kenya , Nairobi, and a copy of which may be inspected

at the Office of the District Forest Officer, Forest Department, Muguga and further through Legal Notice No.56 on alteration of boundaries of Kiambu Forest and that the title being held by Mrs. Margaret Magugu was a genuine one.

- (s). That I.R.84876 L.R. No.25009 measuring 6.795 Ha, ostensibly owned by Agropack Limited, I.R.84876 L.R. No.25008 measuring 2.037 Ha, I.R.84876 L.R. No.25007 measuring 2.024 Ha and I.R.84876 L.R. No.25006 measuring 2.024 Ha which is swampy and forested parcels of land remains as such to date.

And that after the findings the Committee could adopt the following as recommendations on the Petition-

- (a). Pursuant to the Committee findings, Ms. Joannah Stutchbury death could have been caused as a result of construction of a road through a riparian (swampy) land by an individual who had acquired some portions of Forest illegally to gain access to the property. The Committee recommends that the Inspector General of Police and the Director of Criminal Investigations investigates the said individual with a view of arrest and prosecution for the death of Ms. Joannah Stutchbury and a report be provided to Senate within three (3) months after tabling of this report.
- (b). Pursuant to findings, I.R.84876 for L.R. No.25009 measuring 6.795 Ha ostensibly owned by Agropack Limited; I.R.84876 for L.R. No.25008 measuring 2.037 Ha with no details of ownership; I.R.84876 for L.R. No.25007 measuring 2.024 Ha with no details of ownership and I.R.84876 L.R. No.25006 measuring 2.024 Ha with no details of ownership; have all remained forested with indigenous trees and some swampy to date. The Committee recommends that Kenya Forest Service and Ministry of Environment and Forestry revokes excision if any of these parcels and acquire titles for them to be fenced appropriately to remain as forest and part of Kiambu Forest Reserve and that the Directorate of Criminal Investigations commences investigations with a view of prosecution into how individuals came to own land in swampy forested areas and a report be forwarded to Senate in six (6) months after laying of this report in the Senate.
- (c). Pursuant to Committee findings, current owners of parcels of land under I.R. 52307 for L.R. NO. 15153 measuring 29.68 Hectares issued to Pelican Engineering Company; I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women

Groups; I.R. No.80630 for L.R. NO.21350 for an area of 24.00 (Ha) for Hon. Kuria Kanyingi (Tugirane Project) and I.R.No.219594 for L.R. No.21179 for an 25 Ha, registered for Marg. Ridge Estate; all of them hold documents from various Government agencies as a proof on how they acquired the parcels of land lawfully. Arising from these documents, the Committee recommends that the Ministry of Environment and Forestry, and the Kenya Forest Service should desist from issuing eviction threats to the owners of those parcels of land. The Ministry of Lands, National Land Commission, Survey of Kenya, Kiambu County Government, Ministry of Environment and Forestry and Kenya Forest Service should facilitate the afore-mentioned owners to acquire title deeds and the degazettement of I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women Groups should be commenced. A report on the same should be forwarded to the Senate within five (5) months after tabling of this report on the Table of the Senate.

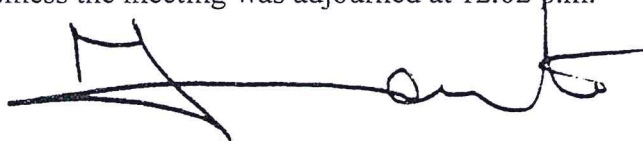
- (d). Pursuant to Committee findings, the mandate of the National Land Commission to review land grants expired in 2017 as was in the Constitution during which time the matter of Kiambu Forest Reserve was before it. The Committee recommends that the National Land Commission formulates a legislative proposal and forward it to the Senate, which will facilitate renewing legislatively the Commission's mandate on Grants.

Deliberations ensued and the draft report was adopted by the Committee as its report on the matter regarding the alleged murder of Conservationist Ms. Joannah Stutchbury for laying on the Table of the Senate.

MIN. NO. 331/2020

ADJOURNMENT OF THE NEXT MEETING

There being no other business the meeting was adjourned at 12.02 p.m.



SIGNED:

(CHAIRPERSON)

2ND FEBRUARY, 2022

DATE:

ANNEX 2



MINISTRY OF ENVIRONMENT AND FORESTRY

MINISTERIAL RESPONSE BY THE CABINET SECRETARY FOR ENVIRONMENT AND FORESTRY TO A PETITION BY MEMBERS OF THE CONSERVATION ALLIANCE OF KENYA ON THE MURDER OF Ms. JOANNAH STUTCHBURY TO THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

PART 1: INTRODUCTION

1. The Senate Standing Committee on National Security, Defence and Foreign Relations (“The Committee”) through letter ref. SEN/DCS/NSFR/CORR/2020/(106) dated 23rd September, 2021 by the Clerk of the Senate invited the Cabinet Secretary, Ministry of Environment and Forestry (“The Ministry”) to a virtual meeting to respond to a Petition regarding the murder of environmentalist and conservationist Ms. Joannah Stutchbury and circumstances that led to parcels of Kiambu Forest Reserve being grabbed and the mechanisms being put in place to revoke documentation, if any, issued on the grabbed parts of the Forest Reserve.
2. The Cabinet Secretary (“CS”), Ministry of Environment and Forestry appeared before the Committee on Wednesday, 13th October 2021, and requested the Committee to grant him additional time to carry out thorough and in-depth investigation into the matter. The Committee granted him two (2) weeks.
3. The Cabinet Secretary thereafter wrote to the Kenya Forest Service (“KFS”) vide Letter Reference MEF/CS/021/2018 dated 13th October 2021 requiring additional details regarding the matters raised in this Petition. Further, the CS directed KFS to deploy Forest Rangers to Kiambu Forest and ensure 24-hour security and surveillance of the forest and ensure that any ongoing construction within the said forest is immediately stopped and no new construction is allowed to be undertaken (Annex 1). [pg. 1 – 2]

4. KFS responded to the letter confirming receipt and implementation of the directives *vide* Ref. No. CONF/PAL/1/KFS/VOL.V.4 dated 19th October 2021, (Annex 2). [pg. 3 – 4]
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PART 2: BACKGROUND INFORMATION ON KIAMBU FOREST RESERVE PETITION

5. Kiambu Forest covers approximately 133.95 Ha and was originally gazetted as a forest reserve *vide* Proclamation No. 44 of 1932 (Annex 3a) [pg. 5 – 6] and later declared a Central Forest *vide* Legal Notice No. 174 of 20th May, 1964(Annex 3b) [pg. 7 – 8].
6. Kiambu Forest was delineated in Boundary Plan No. 75/7, (Annex 4) [pg. 9]. The area was demarcated into five (5) blocks over time as shown in the map attached (Annex 5) [pg. 10].
7. An aerial map showing the status of the Kiambu Forest and its environs is as shown in (Annex 6) [pg. 11].
8. Kiambu Forest Reserve is a protected public forest therefore was not available for alienation. Any land reserved for public use and protected lands cannot be legally allocated to an individual or company without following the laid down procedure in the Forest Act, Cap 385, (Extract Annex 7) [pg. 12 – 14].
9. Kiambu Forest Reserve among other forest lands is protected under the Forest Conservation and Management Act No. 34 of 2016 (Extract Annex 8) [pg. 15 – 17] and for it to be legally allocated to individuals or companies for other purposes, such land would have to be degazetted before it can be legally allocated for any other use.

PART 3: ECOLOGICAL IMPORTANCE OF KIAMBU FOREST

10. This forest is one of the green spaces acting as the lungs of Kiambu Town and its environs. The intention was to conserve the wetlands which act as catchment of two rivers namely Riara and Gatharaini and a swamp. Its proximity to Kiambu town makes it ideal for recreational activities. Previously it was an indigenous forest whose dominant species was *Brachlyeana huilensis* (Muhugu) and a host of other biodiversity.

PART 4: ILLEGAL ALLOCATIONS OF KIAMBU FOREST RESERVE - OWNERSHIP

11. The details of the parcels of land illegally allocated within Kiambu Forest Reserve are as follows: -

Table 1: Current development Status of Kiambu Forest Reserve

N O.	I.R.	L.R. NO.	OWNER	AREA (Ha)	BP NO.	Current Status
1.	74148	13642	Kiambaa(Nyakinyua) Women Group	39.82	175/291	The area is fully developed.
2.	80630	21350	Hon. Kuria Kanyingi (Tugirane Project)	24.00	none	The area is divided into two portions and partially developed.
3.	52307	15153	Pelican Engineering Company	29.68	175/352	The area is fully developed currently called Riverview estate.
4.	219594	21179	Wibeso Investments (Bedan Mbugua)	25.00	175/371	The area is not developed and is under cultivation.
5.	84876	25009	Agropack Limited	6.795	none	Forested and not developed
6.	84876	25008	No detail	2.037	none	Forested and not developed
7.	84876	25007	No detail	2.024	none	Forested and not developed
8.	84876	25006	No detail	2.024	none	Forest/Swampy area not developed

12. The current development status within the Kiambu Forest Reserve is as shown in the aerial map (Annex 6) [pg. 11];

13. The illegal excision of the forest began way back in 1988, the first being 39.82 Ha which were irregularly hived off in favour of Kiambaa (Nyakinyua) Women Group with title deeds issued. Copies of some title deeds attached, (Annex 9) [pg. 18 – 54];
14. This was followed by 29.68 Ha being allocated and a title deed issued un-procedurally to Pelican Engineering and Construction Limited; (Annex 10) [pg. 55 – 56];
15. Another portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha;
16. In 1999, a further illegal excision of 15.0 Ha. was done and allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited (Annex 11) [pg. 57 – 64];
17. The remaining 14.5 Ha was claimed by Hon. Onesmus Kimani Ngunjiri. However, this area is forested with indigenous trees. This portion was subsequently subdivided into four parcels as shown in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited (Annex 12) [pg. 65 – 67];
18. The current ground situation is that the areas under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure, (Annex 6) [pg. 11].
19. The records available at the Ministry and at KFS did not have information disclosing the names of the Directors of the companies. This prompted the Ministry to conduct an official search at the office of the Registrar of Companies and that of the Registrar of Lands.
20. A request was made to the Companies Registry to establish the Directors of the beneficiary Companies vide letter Ref: ME&F/CS/246/2021 dated 13th October, 2021 (Annex 13 a) [pg. 68]
21. The Registrar of Companies confirmed vide letter Ref no. CR13GENERAL dated 14th October 2021 (Annex 13b) [pg. 69 – 72] the following:
 - i. Pelican Engineering & Construction Company Limited was registered as a private limited company at the Companies Registry as C.23550 on 13th August 1983. According to the search, the Director is Mike Maina Kamau

with one hundred thousand (100,000) shares, and Nguru Muregi Wachira is the Secretary with zero (0) shares;

- ii. ~~Wibeso Investments Limited~~ is registered at the Companies Registry as C.65310 and was incorporated on 9th June 1995. The Directors are listed as Bedan Mbugua Gikebe, Antony Muchiri Gikebe and Philomena Wangari Gikebe owning 1 share each;
- iii. Agropack Limited was registered as a private limited company on 3rd January 1990 as No. C.42095. The Directors are Onesmus Kimani Ngunjiri, Samuel Kugega Ndegwa and Ruth Muthoni Kimani each holding one (1) share;
- iv. According to the search, the Registrar of Companies advised that Kama Agencies does not exist in the database of the registered companies/businesses.

22. A request was also made to the Chief Land Registrar concerning the ownership of the parcels of the land, (Annex 14) [pg. 73].

23. However, as at the time of filing this report, the details of the current ownership had not been availed.

24. It should be noted however that, the areas developed within the Kiambu Forest Reserve remain as public forests since they have never been degazetted and were therefore not available for alienation.

PART 5: EFFORTS MADE BY KFS TO PROTECT AND SECURE KIAMBU FOREST RESERVE

25. The Government has put in place efforts to have the land revert back to the intended public forestry land use. These include;

a) Issuance of Eviction Notice

26. KFS, in an effort to protect the Kiambu Forest Reserve issued an Eviction Notice giving notice to all illegal occupants of the forest to vacate the area, failure to which they shall be forcefully evicted, (Annex 15) [pg. 74];

27. The beneficiaries of the illegal land allocation went to court and filed a suit: HIGH COURT AT NAIROBI MISC.CIVIL APPLICATION NO.382 OF 2004 BETWEEN ~~KAMA AGENCIES LIMITED VS THE REPUBLIC OF KENYA AND KENYA FOREST SERVICE~~ challenging the Eviction Notice, (the Pleadings of the Case, Annex 16) [pg. 75 – 174];
28. The suit was filed by the Hon. Kuria Kanyingi who swore an Affidavit filed in the matter and averred that he filed the suit in his capacity as a Director of Kama Agencies Limited. Hon. Kuria Kanyingi claimed that he and the 144 others were the rightful owners of parcel No. L.R. NO.21350. He claimed that they purchased the subject matter land in 1999 from Togineres Project Limited. The Company subdivided the land into L.R. NO.21350/1 and L.R. NO.21350/2. The suit was filed following an Eviction Notice issued by KFS over the area wherein the company obtained an Interim Order stopping KFS from interfering with their occupation.
29. The matter however did not proceed to full hearing as the Applicant made an application to withdraw the suit under Order 25 of the Civil Procedure Rules, which the Court granted (Pg.170).

b) Lodging Public Notice in The Newspaper

30. The KFS in an effort to prevent further grabbing and subdivision of the Kiambu Forest, issued a Public Notice (Caveat Emptor) published in the Daily Newspapers on 1st August 2008 over LR NO.13642, (Annex 17) [pg. 175].
31. This led to filing of a suit HIGH COURT AT NAIROBI MISC.JUDICIAL REVIEW CASE. NO. 21 OF 2009: REPUBLIC vs KFS EXPARTE WARIARA NJENGA KARUME & 144 OTHERS, (Annex 18) [pg. 176 – 400] which was instituted by the Applicant, together with 144 others in response to the Caveat Emptor issued on 1st August 2008 over LR.NO.13642 as Trustees of Kiambaa Divisional (141) Women Groups [Pg.267], whom they claim were the registered proprietor of LR.NO.13642 measuring 39.82 Hectares. The list of group names, Trustees of the land and the respective L.R Nos. are enumerated in the pleadings on [pages 257-264].

32. The Applicants sought the Court to quash the decision contained in the Caveat Emptor Notice declaring LR.NO.13642 a portion of the protected Kiambu Forest Reserve and warning the general public against any purchase thereof [Pg.278];

33. The Applicants also sought an Order of Prohibition to restrain the Respondent from placing caveats against the Applicants' properties or harassing, intimidating or arresting or prosecuting the Applicants over the ownership of their properties derived from LR.NO.13642;

34. In a Ruling delivered by Justice Musinga on 7th June 2011 [Pg. 216], the Court ruled that if Applicants contend that they were the lawful owners and desire to assert their right of proprietorship, they ought to file an appropriate civil suit. The matter was dismissed with costs to the Respondent, [Pg.176-400].

c) Lodging Government Caveat

35. The Director of KFS on 4th June 2009 wrote to the Commissioner of Lands vide Ref: FOR 68/3/VOL. II/227 requesting that a Government Caveat be placed on L.R.NO.21350/1 which was being subdivided into 54 plots (Annex 19a) [Pg.401-402].

36. In addition, The Director of KFS on 8th June, 2009 wrote to the Chief Land Registrar vide Ref: KFS/LS/018/09 requesting that a Government Caveat be placed on Grant No. 80630; L.R.NO.21350/1 (Annex 19b) [Pg.403].

37. The Commissioner of Lands through the Director of Surveys replied vide letter Ref No. AC/CAD/8VOL.III/75 dated 30th June 2009 to KFS confirming that the survey L.R.NO.21350/1 had been put on hold and deed plan numbers 295780 to 295836 resulting from the subdivision of suit parcel had been cancelled (Annex 20a) [Pg.404].

38. The Commissioner of Lands through the Chief Land Registrar replied to the KFS letter vide letter Ref. I.R. 80630 dated 16th July 2009 confirming that the requested caveat had been placed against the title, (Annex 20b) [Pg.405].

39. The Ministry wrote a letter to the Commissioner of Lands Ref: MFW/8/2/1 VOL. III/30 dated 14th July 2011 (Annex 21) [Pg.406-407]. to place a Government Caveat on Grant Number IR.84876 in Kiambu Forest and a Public Notice (Caveat Emptor) in the Newspapers in respect of L.R. No. 25009, 25008, 25007 and 25006 prohibiting any form of transactions thereof, (Annex 22) [Pg.408].

d) Carrying Out Surveillance and Regular Patrols to Secure the Forest

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40. The KFS continued to carry out regular patrols in the area to enforce protection of the forest. This was met with resistance and in the instance of Agropack Limited, which filed a suit in 2011 NAIROBI HIGH COURT PETITION 87 OF 2011 (JUDICIAL REVIEW & CONSTITUTIONAL DIVISION) AGROPACK LIMITED VS REPUBLIC OF KENYA AND KENYA FOREST SERVICE (Annex 23) [Pg.409-434].
41. In the suit, the Applicant alleged that they were the registered owners of Parcel LR.NO.250009 situated in Kiambu Municipality. A statement sworn by Stephen Kingara Ndung'u, who claimed to be a Director of Agropack Limited on 11th October 2011 stated that on 8th June 2011, forest rangers on instruction from the Director of Forests entered the said land and claimed ownership. He further stated that his workers were also arrested and locked up in Police cells in Kiambu.
42. KFS in response *vide* a Replying Affidavit sworn by the then Director, David Mbugua stated that the area is a public forest part of Kiambu Forest Reserve, and reiterated that KFS had full possession of the subject matter land and that forest guards are on patrol to ensure no further destruction is occasioned to the forest area.
43. The Applicant failed to show any interest in prosecuting the matter. KFS successfully applied for dismissal of the Petition. An Order was issued on 27th June 2012, (Annex 24) [Pg.435-436].

e) Requests to The National Land Commission ("NLC")

44. KFS through a letter Ref No: MAP/2/KFS VOL.VIII dated 8th March 2016 requested the NLC to review grants believed to have been irregularly issued in Kiambu Forest, (Annex 25). [Pg.437]. The KFS participated in the public hearing for review of grants over the area.
45. The NLC *vide* letter Ref No. NLC/1/26/12/2/3 dated 30th November 2017 to KFS informed that they had received numerous inquiries by land owners whose plots they had determined to be part of Kiambu forest. The NLC further stated that they had resolved to carry out an inquiry under section 6 of the NLC Act to gather information on the allocation within the forest and instructed KFS to forward a list of the plots in

the forest to enable them issue the requisite notice and prepare for the inquiry. (Annex 26) [Pg.438].

46. The Ministry and KFS have separately requested for the findings to be shared in order to inform the next course of action, (Annex 27a, [Pg.439-440].& 27b,[Pg.441].) respectively.

47. The NLC, in their letter under Ref No.NLC/1/26/12 and dated 22nd October, 2021 responded and confirmed that indeed they had received claims related to various parcels of land falling within Kiambu Forest in 2018 for purposes of determining their propriety or legality as provided under Section 14 of the National Land Commission Act. The NLC informed the Ministry that the claims were however not fully heard and finalized by the inaugural Commission and therefore no determinations were made. The NLC was also not able to conclude due to the fact that there was a time frame for the exercise of jurisdiction under the Review of Grants under Section 14 of the Act. The Act set out a time limit of 5 years. (Annex 27c) [Pg.442-445].

PART 6: ISSUES RAISED BY THE SENATE PETITION

48. It is true that Joannah Stutchbury was a fierce environmental defender and conservationist and was a resident of an area that borders Kiambu Forest Block;

49. Although most of the land had been grabbed and developed, she earnestly guarded what had been left especially the remaining 14.5 Ha which is still under indigenous tree cover and swamp. Many are times she would alert KFS through telephone calls and social media platforms when she noticed any form of incursion into the forest. A case in point in 2018 is when she saw an excavator attempting to construct an access road towards the indigenous forest area ostensibly working for Hon. Onesmus Kimani Ngunjiri, a Director of a company known as Agropack Limited. This activity was halted when KFS intervened and arrested the culprits the said machinery;

50. That as a result of the foregoing, Agropack Limited instituted a case in which Joannah and KFS were co-defendants in the CHIEF MAGISTRATES COURT AT KIAMBU, ENVIRONMENT AND LAND COURT CASE NO.9 OF 2018: AGROPACK LIMITED VS KENYA FOREST SERVICE AND JOAN SKUKBERRY (sic). (Annex 28 a) [Pg.446-

4472]. The Court had issued a temporary injunction ordering stopping, prohibiting and forbidding KFS and Joanna from interfering in any matter with the area known as ~~LR.NO.20009 pending the hearing and determination of the application.~~ Subsequently, KFS Advocate on record advised that the matter was dismissed for want of prosecution by the Plaintiff in the year 2018, (Annex 28 b) [Pg.473].

PART 7: MURDER OF THE LATE JOANNAH STUTCHBURY, CONSERVATIONIST AND ENVIRONMENTALIST

51. The murder of Joanna was a big blow to KFS given her efforts in the protection of Kiambu forest. It was shocking to KFS fraternity. KFS remains indebted to, and recognise the prolific work of Joanna who has been not only a compatriot, but a hero and a front-liner in the fight to save our forests and green spaces in Kiambu County;
52. KFS is aware that the murder of Joanna is a case under investigation by Directorate of Criminal Investigation and will continue to collaborate with DCI and other arms of Government in the investigations. This includes availing KFS officers for interviews, recording statements and availing relevant requested documents, (Annex 29 a, [Pg.474] & 29 b, [Pg.475]).

PART 8: RECOMMENDATIONS

53. Kiambu Forest Reserve remains a gazetted public forest and KFS is committed to protecting it for posterity.
54. This Committee jointly with the senate committee on lands, Environment and Natural Resources should consider making a visit to the area to appreciate the extent of grabbing of the Kiambu Forest Reserve.
55. KFS is continuously working closely with other Government agencies under the multi-agency approach to reclaim and restore grabbed and illegally allocated public forests
56. KFS will continue to monitor and share information within its knowledge on threats to forest conservation, including specific threats to environmentalists and partners.

57.KFS recommends that Parliament considers categorisation of illegal and/or irregular acquisition of public gazetted forests an economic crime.

~~58.KFS recommends that the NLC, Ministry of Lands and the Ethics and Anti-Corruption Commission supports the National efforts of repossessing illegally and irregularly acquired portions of Kiambu Forest and other public forests in Kenya.~~

59.To this end, we recommend that the expired mandate of the NLC to review grants of the illegally acquired public land be renewed through appropriate legislative amendment by parliament.

Signed.....

Date.....

Keriako Tobiko, CBS, SC
Cabinet Secretary

Annex 3 *

REPUBLIC OF KENYA

LAND REFERENCE NUMBER 15153, KIAMBU & SUBDIVISIONS (L.R.

NO.S 15153/4 - 15153/119)

WRITTEN REPRESENTATION BEFORE THE SENATE STANDING
COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN
RELATIONS.

Honourable Members,

1. Introduction

1.1.1 I write in reference to your letter dated 23rd November 2021 and wish to submit on the circumstances that led to ownership of the then L.R Number 15153 (hereinafter referred to as the "property").

2. History of the Property.

- 2.1 On or about 1991, Pelican Engineering & Construction Company Limited (hereinafter the Company) made an application to be allotted a plot in Kiambu. Its application was approved, and a letter of allotment dated 9th April 1991 was issued to the Company. Attached herewith and marked PECCL 1 is a copy of the letter of allotment.
- 2.2 The Company made payments in respect to the stand premium, stamp duty and annual rent totalling Kshs. 2,185,800/= pursuant to Special Condition 2 of the letter of allotment. Attached herewith and marked PECCL 2 is a receipt no. C010805 dated 10th April 1991 evidencing payment.
- 2.3 The Ministry of Lands vide a letter dated 10th April 1991 instructed the Director of Surveys to undertake Survey of Uns. Residential Plot No B Kiambu Municipality. Attached herewith and marked PECCL 3 is a copy of this letter.
- 2.4 The Company took immediate possession upon allotment in 1991, which is over 30 years ago.
- 2.5 Vide gazette notice no 1091 of 1995, the then Minister for Environment and Natural Resources, Hon. J.K Sambu published a legal notice dated 1st February 1995 expressing the Government's intention to alter the boundaries of Kiambu

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Forest to exclude 29.68 hectares or thereabouts. This was in exercise of powers conferred to him by Section 4(1) and 4(2) of the Forest Act Cap 385 (now repealed), which provided as follows:

- 4.(1) *The Minister may, from time to time, by notice in the Gazette -*
- (a) declare any unalienated Government land to be a forest area;*
 - (b) declare the boundaries of a forest and from time to time alter those boundaries;*
 - (c) declare that a forest area shall cease to be a forest area.*
- (2) Before a declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.*

Attached herewith and marked PECCL 4 is a copy of the intention to alter the boundaries of Kiambu Forest; pursuant to section 4 (2) of the Forest Act Cap 385 (now repealed).

- 2.6 Thereafter the property was subsequently degazetted as forest land through Legal Notice no 260 dated 11th July 1995 by the aforementioned Minister. This was pursuant to Section 4 (c) of the Forest Act reproduced above. Attached herewith and marked PECCL 5 is a copy of the gazette notice. This gazette notice still stands to date.
- 2.7 The Company paid all land rent and rates from the date of allotment in compliance with land ownership laws in Kenya and as demanded by the Ministry of Lands and the then Municipal Council of Kiambu until on or about 2009 when it embarked on subdivision of the property.
- 2.8 In the year 2009/2010, the Company embarked on subdividing the Property into 116 half acre residential plots for sale save for 2 plots that were set aside for a nursery school and a recreational area, which was a condition imposed by the then Municipal Council of Kiambu; which plots were surrendered to the then Municipal Council of Kiambu.



2.9 Prior to carrying out the subdivision, the Company sought and obtained approvals in all respects from various Government agencies as was required under the various land laws in Kenya and in particular from:-

- a) Survey of Kenya vide a letter dated 16th December 2010
- b) Ministry of Lands vide their letters dated 7th and 13th October 2010 and 1st November 2010.
- c) Municipal Council of Kiambu vide their letter dated 14th September 2010.
- d) The District Physical Planning Office Kiambu vide their letter dated 9th September 2010.
- e) District Survey Office vide their letter dated 8th September 2010.
- f) National Environment Management Authority vide their letter dated 8th September 2010.
- g) Ministry of Water & Irrigation vide their letter dated 2nd September 2010.
- h) Ministry of Roads vide a letter dated 3rd September 2009.
- i) District Land Administration Office, Department of Lands vide their letter dated 20th July 2010.

Attached herewith and marked EXHIBIT "PECCL 6a to 6l are copies of Letters approving the subdivisions.

- 2.10 A survey Plan for the property was drawn and the same was registered under Folio no. 367 and register no. 67 & 68. Attached herewith and marked PECCL 7a to 7b are copies of the registered survey plan dated 14th December 2010 and approved on 15th December 2010.
- 2.11 Upon obtaining all approvals and making the requisite payments thereof, deed plans for 116 half acre plots were prepared which were subsequently booked for registration at the Lands Office, Nairobi on 11th February 2011.
- 2.12 Thereafter, Certificate of Titles were issued by the Registrar of Titles in respect to Land Reference Number 15153/4 up to 15153/119 save for L.R. Numbers 15153/118 and 15153/119 which were set aside as a nursery school and recreational area respectively.
- 2.13 Upon obtaining the Certificate of Titles for the subdivisions in 2011, the Company marketed the plots for Sale through a real estate agent Tysons Limited.

- 2.14 Various individuals/entities expressed interest in the purchase of the plots and as a result of fruitful negotiations and carrying out the necessary due diligence in the respective government departments, 106 plots were sold; some of which have subsequently been sold off to 3rd parties. Attached herewith and marked "PECCL 8a to 8d is a list of the properties sold and the registered proprietors as at July 2018.
- 2.15 It is noteworthy to point out that prior to purchasing the subdivisions, the current owners of the plots undertook the necessary due diligence as stated above. In particular, the proprietors of 2 plots that is Land Reference Number 15153/11 and Land Reference Number 15153/29 wrote to the National Land Commission through their legal counsel Mamicha & Company Advocates vide several correspondences dated 23.10.2013, 7.4.2014 and 5.6.2014 and sought clarification as to whether the subdivisions were free from encumbrances. Attached herewith and marked PECCL 9a to 9c are copies of the letters dated 23.10.2013, 7.4.2014, 5.6.2014
- 2.16 On 15th July 2014, The National Land Commission vide a letter dated 15th July 2014 did confirm that "the Property was available for allocation to private individuals". I reproduce herewith the contents of the said letter which is herewith marked as PECCL 10";

15th July 2014

Ref: NLC/ADM.1/VOL.II/33

*Mr. M.M. Mugi
Macharia & Co. Advocates
Pan Africa House, 3rd floor
NAIROBI*

Dear Mr. Mugi

RE: LAND REFERENCE NUMBER 15153

"We refer to your letter Ref. No.75-25-13 dated 7th April 2014 and regret the delay in responding to you. We attach a letter dated 8th May 2014 from Kenya Forest Service showing the status of the above mentioned parcel of land.

Accordingly KFS, the land was legally degazetted. The Commission is thus of the view that it was subsequently available for allocation to private individuals".

Yours Faithfully,

*Emma Njogu
COMMISSIONER.*

- 2.17 It is on the strength of this clear and unequivocal assurance from the National Land Commission (in addition to all other positive results of the due diligence) that the current plot owners proceeded to purchase their respective plots from the Company.
- 2.18 On 8th November 2012, the Company wrote a letter to Kenya Forest Service whose mandate is to conserve, protect and manage forests and whose jurisdiction covers Kiambu Forest, to confirm whether according to their records the then L.R No. 15153 had been degazetted which letter is attached herewith and marked PECCL 11.
- 2.19 It is instructive to note that on 22nd November 2012, Kenya Forest Service confirmed through a letter to the Company that the property was degazetted. I reproduce herewith the contents of the said letter, attached herewith and marked PECCL 12.

Ref.KFS/LS/018/09.

Managing Director

Pelican Engineering & Construction Co. Limited

P.O Box 18755-00500

NAIROBI

KENYA

Dear Sir.

RE: DEGAZZETMENT OF L.R NO 15153-KIAMBU FOREST.

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"I refer to your letter reference number PEG/KFS/001/2012 dated 8th November 2012. I would like to confirm that from our records, Land Reference number 15153 of approximately 29.68 hectares lying within and adjoining the Eastern Boundary of Kiambu forest in Kiambu District more particularly delineated on boundary plan 175/352 which is signed and sealed by Survey of Kenya was altered through Gazette Notice Number 1091 dated 1st February 1995. This was subsequently degazetted as forest land through Legal Notice No. 260 of 11th July 1995".

Yours Sincerely,
D.K MBUGUA
DIRECTOR.

- 2.18. The above was further reiterated vide Kenya Forest Service letter dated 8th May 2014 to the Chairman, National Land Commission. I reproduce herewith the contents of the said letter which is attached herewith and marked PECCL 13;

Ref No. MAP/2/KFS/VOL.IV
Your Ref: NLC/ADM.I/VOL.II/33
8th May 2014
The Chairman
National Land Commission
Ardhi House, 12th Floor
P.O. BOX 44417
NAIROBI.

Attn: Emma Njogu

Dear Madam,

RE: LAND REFERENCE NUMBER 15153:
PELICAN ENGINEERING & CONSTRUCTION
COMPANY LIMITED

We acknowledge receipt of your letter dated 3rd April, 2014 and the attached documents from Sichale & Co. Advocates.

6

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As indicated in the letter of dated 22nd November, 2012 from the Director, Kenya Forest Service, land reference number 15153 of approximately 29.68 Ha was altered through the Gazette Notice Number 1091 dated 1st February, 1995.

The parcel of land was subsequently degazetted as forest land through Legal Notice No. 260 of 11th July 1995.

Yours faithfully,

*Esther Keige
Corporation Secretary/Head of Legal Service'*

We submit that Kenya Forest Service has in the past made representations recognizing the gazette notice Legal Notice Number 260 dated 11th July 1995, and it being a body corporate with perpetual succession, it is bound by its representations made vide the aforementioned letters.

- 2.19 The purchasers of the various plots have extensively invested in their respective parcels and have developed residential homes where they reside with their children.

3. CONCLUSION.

- 3.1 The issuance of title for the then Land Reference Number 15153 and all subsequent subdivisions were obtained legally. Due process was followed in obtaining the titles, as the titles were issued by the relevant Government Officials acting on behalf of the Government of the Republic of Kenya. The degazetment procedure was followed pursuant to the Forest Act (Cap 385) and all the titles were validly issued.

DATED at NAIROBI this.....6TH.....day of.....DECEMBER.....2021

MIKE MAINA
FOR: PELICAN ENGINEERING & CONSTRUCTION CO. LTD

8

PE CCL 1

REPUBLIC OF KENYA

Telegrams: "Lands", Nairobi
Telephone: Nairobi 728000
M/S. Pelican Engineering and Construction,
P.O. Box 18755, Nairobi.

DEPARTMENT OF LANDS
P.O. BOX 30089
NAIROBI

Ref. No.41680/VII/56

9th April, 19 91

REGISTERED

SIR(S)/MADAM,

REF: UNS. RESIDENTIAL PLOT NO. 'B' - KLAMBU MUNICIPALITY

LETTER OF ALLOTMENT

I have the honour to inform you that the Government hereby offers you a grant of
the above plot shown edged red on the attached plan
No. 41680/VII/54b subject to your formal written acceptance of the following
conditions and to the payment of the charges as prescribed hereunder:—

AREA: 2.9 hectares or acres (approximately)
TERM: 99 years from the 1-4, 1991
STAND PREMIUM: Sh. 1,800,000/= } Subject to adjustment on survey.
ANNUAL RENT: Sh. 360,000/= }

GENERAL: This Letter of Allotment is subject to, and the grant will be made under the
provisions of the Government Lands Act, (Cap. 280 of the Revised Edition
the Laws of Kenya) and title will be issued under the Registration of Titles
Act, (Cap. 281).

SPECIAL CONDITIONS: See attached.

2. I should be glad to receive your acceptance of the attached conditions together with
your cheque for the amount as set out below:—

		Sh.
Stand Premium	.....	1,800,000/=
Rent from 1-4-91	..... to 31-12-91	270,000/=
Conveyancing Fees	.....	500/=
Registration Fees	.....	100/=
Rates, proportion of (provisional)	..... on demand	.....
Stamp Duty	.....	115,200/=
Survey Fees	..... on demand	.....
Road and Road Drains)
Sewers } on demand
Receipt No.	Less Deposit
	TOTAL	Sh. 2,185,800/=

(P.T.O.)

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If acceptance and payment respectively are not received within ... 30 ... days from the date hereof the offer herein contained will be considered to have lapsed.

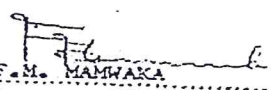
If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

The issue of the Government Grant will be undertaken as soon as circumstances permit.

Your full name(s) in BLOCK LETTERS should be given for the purpose of the draft grant which will be submitted later for your acceptance. sent to you after registration.

Authority- Government
File No. 41680/VII/49

I have the honour to be,
Sir/Si/Madam.
Your obedient servant.


F.M. MAMWAKA
for Commissioner of Lands

ENCL.

Copy to:—

P/S Ministry of Lands and Housing, Nairobi.

- The Director of Surveys, Nairobi.
- The Town Clerk, Kiambu.
- ~~The District Commissioner, Nairobi.~~
- The District Commissioner, P.O. Box 32, Kiambu.
- ~~The Town Planning Officer, Nairobi.~~
- The D.L.O P.O. Box 291, Kiambu.
- ~~The City Engineer, City of Nairobi.~~
- The Director of Physical Planning, Kiambu.
- O/C Land Rents.)
- Rates Assistant)
- The Accountant.)
- O/C Records.)
- Senior Plan Record Officer.)
- Plot File.)

All to note.

GPK(L)

CORRIGENDUM

IN Gazette Notice No. 791 of 1995, in Cause No. 30 of 1995, to amend the first name of the petitioner to read John Instead of John.

3/12/95
for Government

GAZETTE NOTICE No. 1095

THE OATHS AND STATUTES OF THE HIGH COURT

(Cap. 17)

A COMMISSIONER

To All To Whom These Presents Shall Come BE IT KNOWN that on 8th February 1995

PETER M. MURPHY

an advocate of the High Court of Kenya, do hereby swear to be a commissioner for oaths under the provisions of the Statutes of Kenya for as long as he continues to hold office and this commission is not revoked.

Given under my hand and seal of office on 8th February, 1995.

GAZETTE NOTICE No. 1091

THE FORESTS ACT (Cap. 385)

INTENTION TO ALTER BOUNDARIES—KIAMBU FOREST

IN ACCORDANCE with the provisions of section 4 (2) of the Forests Act, the Minister for Environment and Natural Resources, gives twenty-eight (28) days' notice, with effect from the date of the publication of this notice, of his intention to declare that the boundaries of the Kiambu Forest will be altered so as to exclude the area described in the schedule hereto.

SCHEDULE

An area of land of approximately 29.68 hectares, known as L.R. No. 15153, lying within and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of the Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary plan No. 175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga.

Dated the 1st February, 1995.

J. K. SAMBU, Minister for Environment and Natural Resources.

GAZETTE NOTICE No. 1092

THE LAW OF SUCCESSION ACT (Cap. 160)

APPOINTMENTS

IN EXERCISE of the powers conferred by section 47 of the Law of Succession Act, the Chief Justice appoints—

Gilbert Mutembei Chabari, senior resident magistrate, Margaret Karimi Rintari, resident magistrate,

to represent the High Court for the purposes of that section.

Dated the 28th February, 1995.

A. M. COCKAR, Chief Justice.

GAZETTE NOTICE No. 1093

THE MAGISTRATES' COURTS ACT (Cap. 10)

INCREASE OF LIMIT OF JURISDICTION

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrates' Courts Act, the Chief Justice increases the limit of jurisdiction of—

NORAH OWINO

senior resident magistrate, to Kenya shillings three hundred thousand (KSh. 300,000), with effect from 1st March, 1995.

A. M. COCKAR, Chief Justice.

GAZETTE NOTICE No. 1094

THE MAGISTRATES' COURTS ACT (Cap. 10)

INCREASE OF LIMIT OF JURISDICTION

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrates' Courts Act, the Chief Justice increases the limit of jurisdiction of—

ANTHONY KIMANI KANIARU

resident magistrate, to Kenya shillings three hundred thousand (KSh. 300,000), with effect from 1st March, 1995.

A. M. COCKAR, Chief Justice.

GAZETTE NOTICE No. 1096

THE OATHS AND STATUTES OF THE HIGH COURT

(Cap. 17)

A COMMISSIONER

To All To Whom These Presents Shall Come BE IT KNOWN that on 14th February 1995

JASON ORINA

an advocate of the High Court of Kenya, do hereby swear to be a commissioner for oaths under the provisions of the Statutes of Kenya for as long as he continues to hold office and this commission is not revoked.

Given under my hand and seal of office on 14th February, 1995.

GAZETTE NOTICE No. 1097

THE OATHS AND STATUTES OF THE HIGH COURT

(Cap. 17)

A COMMISSIONER

To All To Whom These Presents Shall Come BE IT KNOWN that on 14th February 1995

JOSEPH RABO

an advocate of the High Court of Kenya, do hereby swear to be a commissioner for oaths under the provisions of the Statutes of Kenya for as long as he continues to hold office and this commission is not revoked.

Given under my hand and seal of office on 14th February, 1995.

GAZETTE NOTICE No. 1098

THE OATHS AND STATUTES OF THE HIGH COURT

(Cap. 17)

A COMMISSIONER

To All To Whom These Presents Shall Come BE IT KNOWN that on 14th February 1995

RUTH KARIUKI

an advocate of the High Court of Kenya, do hereby swear to be a commissioner for oaths under the provisions of the Statutes of Kenya for as long as she continues to hold office and this commission is not revoked.

Given under my hand and seal of office on 14th February, 1995.

16 PECC L 5

CERTIFIED COPY OF THE ORIGINAL
3/12/21 ~~735~~
for Government Printer
21st July, 1995

Notice No. 260
Gazette Supplement No. 49

(Legislative Supplement No. 34)

THE FORESTS ACT
(Cap. 385)

ALTERATION OF BOUNDARIES—KIAMBU FOREST

IN EXERCISE of the powers conferred by section 4 (1) of the Forests Act, the Minister for Environment and Natural Resources declares that the boundaries of Kiambu Forest shall be altered so as to exclude the area described in the Schedule

SCHEDULE

An area of land of approximately 29.68 hectares, known as L.R. No. 15153, lying within and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of the Kiambu Township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary plan No. 352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the Office of the District Forest Officer, Forest Department, Nairobi.

Dated the 11th July, 1995.

J. K. SAMBU,
Minister for Environment and Natural Resources.

Notice No. 261

THE STAMP DUTY ACT
(Cap. 480)

EXEMPTION

IN EXERCISE of the powers conferred by section 106 of the Stamp Duty Act, the Minister for Finance directs that the instruments executed in respect of purchase and transfer of Plot No. 33408/111/208, situated in Langata, Nairobi, from Awawanga Enterprises Limited, of P.O. Box 22876, Nairobi to Langata Islamic Welfare Organization, of P.O. Box 31038, Nairobi, shall be exempt from the provisions of the Act.

Dated the 14th July, 1995:

MUSALIA MUDA VADI,
Minister for Finance.

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Annex 4

SENATE
Residents of pelican.



Waterside Riverview Estate PLC

P.O Box 102998-GPO 00101

Nairobi, Kenya

Email: riverviewestate.plc@gmail.com

Njathaini Road, off Kiambu Road.

Our ref: RVSC1

1st December, 2021

Your ref: TBA
Chairman,
Senate standing Committee on,
National Security Defence &
Foreign Relation.
NAIROBI.

Dear Chairman,

**RE: LAND REFERENCE NUMBER. 15153: CONCERNS BY
WATERSIDE RIVERVIEW ESTATE RESIDENTS ASSOCIATION**

We write this memorandum regarding the above-mentioned property which has now been subdivided into 116 parcels now transferred to and registered in our clients' names. Two of the parcels are public utilities. The undersigned owns one of the subdivisions and is a member of the above mentioned Residents Association (incorporated as Waterside Riverview Estate Plc), and is the Chairman of the association.

Riverview Estate was developed out of the original consolidated land parcel, L.R. 15153, which was previously a flower firm operated as Valentine Growers Co. Limited. The initial owner, Pelican Engineering & Construction Company Limited, subsequently subdivided L.R. 15153 into more than 116 plots, and appointed Tysons Limited, a property management company, to advertise them for sale at market value. The advertisements were carried in the mainstream press.

Spencer
1/12/21

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We would like to bring to your attention that residents did write to National Land Commission through the firm of Mamicha & Co. Advocates on the 23-10-2013 seeking clarification as to whether the property in issue was clear for sale.

Further communication was held with National Land Commission through calls and in writing by Mamicha Advocates, who acted for some part in the purchase of the subdivision(s).

In a letter dated 7-4-2014, it was indicated to National Land Commission that L.R No. 15153 was listed in the 'Ndungu Report as being an illegal forest excision' and a request was made for our purchasing parties to be advised if the property was clear for sale. We have since realized that the land was not listed in the Ndungu report but a complaint had been filed with the commission.

On 5-6-2014, Mamicha Advocates further wrote to National Land Commission regarding the subject property having noted that vide National Land Commission Daily Nation notice of 14-4-2014, title L.R No. 15153 was not among those listed as under review and on this basis purchasing parties requested for clarifications and clearances to proceed and close various transactions that were pending awaiting National Land Commission word.

The purchasing parties now residents herein received a letter from National Land Commission dated 3-4-2014 written to the Director of Kenya Forest Services and copied to Mamicha Advocates, for our clients then, which letter requested for the Director's opinion on the validity of the excision of Land Reference No. 15153.

On 15-7-2014, National Land Commission wrote to Mamicha Advocates responding to the letter dated 7-4-2014 and enclosing a copy of letter dated 8-5-2014 from the Director of Kenya Forest Services and a copy of the Kenya Gazette dated 21-7-1995 which clearly showed property Land Reference No. 15153 was delineated from the forest as required under the Forest Act, Cap 385 Laws of Kenya.

Of particular note in the letter of 15-7-2014 letter is the conclusion by the National Land Commission that;

elkamt
1/12/21

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“According to KFS, the land was legally degazetted. The Commission is thus of the view that it was subsequently available for allocation to private individuals.”

On the basis of this clear and unequivocal assurance from National Land Commission, our clients did proceed to conclude various sale agreements and invest heavily in purchasing parcels in the ensuing subdivision. The residents have made, and continue to make, subsequent further significant investments in developing dwelling houses on an owner-occupier basis, as well as putting in place the appropriate developmental infrastructure at great personal cost.

Vide a Notice by National Land Commission (NLC) appearing in the press on 12-6-2018, titled **Enquiries & Investigations on Public Land National Land Commission** listed property number L.R 15153 as reserved for forest use and requested for presentations during hearings touching on the same. The presentation was never done as the NLC said they had no issue with this land.

In this regard, the current happenings, which we are responding to has created great anxiety and concern to us, who relied on the clear and express clarifications from the Kenya Forest Service and the National Lands Commission to conclude that the property was indeed available for allocation to private individuals at the time of purchase of the subdivisions by us.

We therefore seek clarification as to why our properties, bought after the express clearance by the Kenya Forest Service and National Lands Commission, should become the subject of a further hearing.

We trust that the Senate committee will after this hearing put this issue to rest once and for all, and that it will direct all other Government agencies to allow the peaceful enjoyment of our above-mentioned property.

We enclose copies of the following correspondences:

- a. Extract of brochure by Tysons Limited on the sale of the land. (Pelican R1)
- b. Letter dated 23rd October, 2013 from Mamicha Advocates to the Chairman National Land Commission. (Pelican R2)

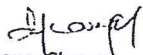
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- c. Letter dated 7th April, 2014 from Mamicha Advocates to the Chairman National Land Commission. (Pelican R3)
- d. Letter dated 5th June, 2014 from Mamicha Advocates to the Chairman National Land Commission. (Pelican R4)
- e. Letter dated 3rd April, 2014 from National Land Commission to the Director Kenya Forest Service. (Pelican R5)
- f. Letter dated 8th May, 2014 from Kenya Forest Service to the National Land Commission (Pelican R6)
- g. A letter from the Director, Kenya Forest Services dated 22vember 2012 to Pelican Engineering & Construction Co Ltd. (Pelican R7)
- h. Letter dated 15th July, 2014 from National Land Commission to Mamicha Advocates. (Pelican R8)
- i. Gazette Notice No 1091 dated 21st July 1995. (Pelican R9)
- j. Legal Notice 260 of 1995. (Pelican R10)
- k. A survey map of the area (Pelican R11)

Thank you,

Yours faithfully,



Anthony Chege
Chairman
Waterside Riverview Residents Association Plc
anthonychege1@gmail.com



OVERVIEW ESTATE - OFF Kiambu Road

1/2 plots for sale situated in a serene leafy neighborhood just off Kiambu Road and only 5km from Muthaiga Golf Club.

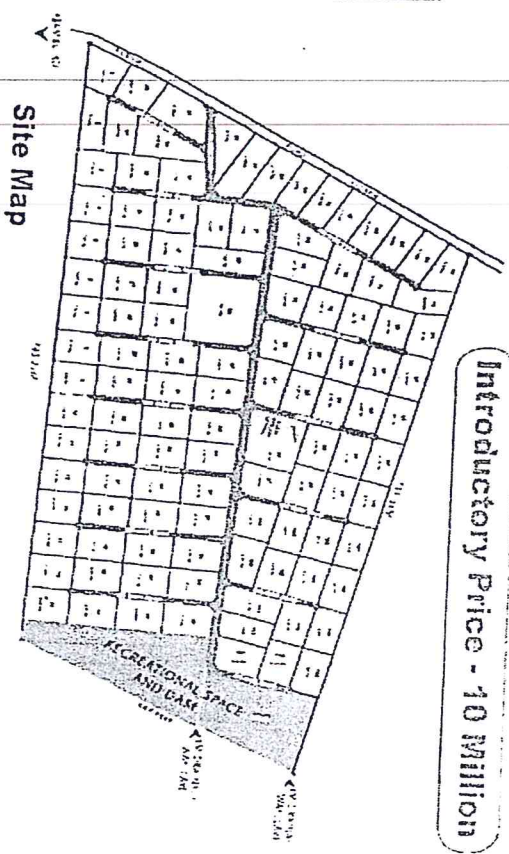
The plots are fully serviced:-

Water and electricity already connected to it with Security lights on all roads. The entire parcel is fenced off in a gated community. Roads inside the property are well compacted murrum with drainage culverts. Dam site is a reserved recreational nature trail for exclusive use by plot owners, their families & visitors.

Social Amenities

This property is within easy reach to schools, colleges, universities, hotels, clubs and health facilities. As for security the land is sandwiched between Njalahini Police post and Galot AP post.

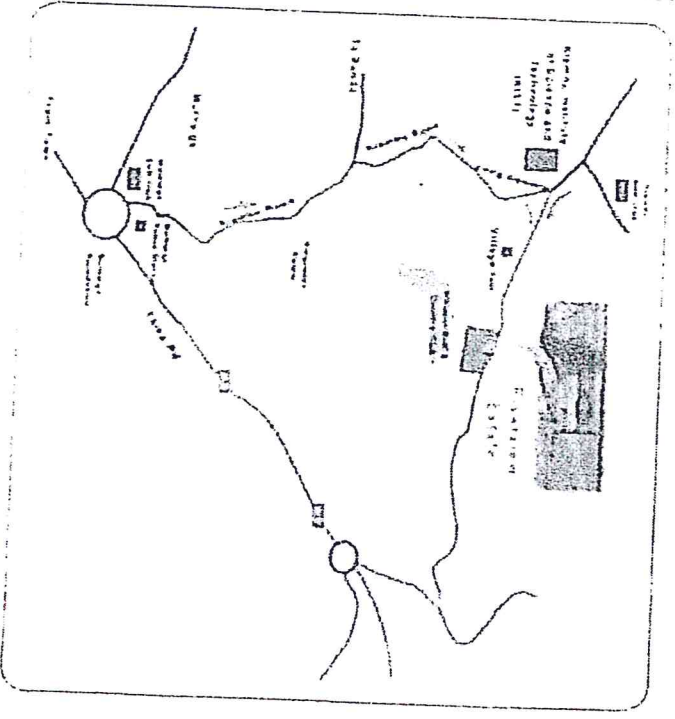
Introductory Price - 10 million



Site Map



Registered Valuers, Estate and Managing Agents
FIRST FLOORS, JUBILEE INSURANCE HOUSE, WABERA STREET
 P.O. Box 40228-00100 GPO, Nairobi, Kenya
 TEL: 2222011, 310549, 310650, Mobile Phone: 0722207403, 0734222002, FAX: 2212389
 E-MAIL: info@wysons.co.ke, Website: <http://www.wysons.co.ke>



GRAND OFFER
 Estate available for sale
 For more information contact
 Mr. J. J. Mwangi

WYSONS REAL ESTATE AGENTS

Pelican R1



Petition R2

MAMICHA

ADVOCATES • NOTARIES PUBLIC • PATENT AGENTS

Our Ref: 75-25-13

Your Ref: T.B.A.

Date: 23rd October 2013

The Chairman
National Land Commission
Ardhi House
1st Ngong Avenue
Nairobi

Attn: Dr. Muhammed A. Swazuri, PhD, OGW

Dear Sir,

Re: Land Reference Number 15153 ("the property")

We refer to the above matter wherein we act for two purchasers who are in the process of purchasing two parcels of land being Land Reference Numbers 15153/11 and 15153/29 respectively which are both subdivisions from the captioned property.

The property initially fell under Kiambu forest reserve and was later degazetted as such vide Kenya Gazette Supplement No. 49 of 21st July 1995.

Kindly confirm whether the property is now clear for purchase by our clients.

Yours faithfully,
Mamicha & Company

John Muiruri
muiruri@mamicha.com

COPY

c. Director of Operations
Kenya Women Finance Trust
Head Office, Kiambere Road
Upper Hill
Nairobi

Attention: Anthony Chege ("Private & Confidential")

Anthony
1/10/13

Mamicha & Company
law@mamicha.com
www.mamicha.com

Printed on 23/10/2013 at 10:00 AM
MAMICHA & COMPANY
1st FLOOR, ARDHI HOUSE
1st NGONG AVENUE, NAIROBI

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Pelican R3

MAMICHA
ADVOCATES • NOTARIES PUBLIC • PATENT AGENTS

Our Ref: 75-25-13

Your Ref: T.B.A.

Date: 7th April 2014

National Land Commission
Ardhi House, 4th Floor, Room 405
1st Ngong Avenue
Nairobi

Attention: Emma Njogu

Re: Land Reference Number 15153 ("the property")

We refer to the above matter and your telecomm on even date with the writer.

We act for two purchasers who are in the process of purchasing two parcels of land being Land Reference Numbers 15153/11 and 15153/29 respectively which are both sub-divisions from the captioned property.

The property initially fell under Kiambu forest reserve and was later degazetted as such vide Kenya Gazette Supplement No. 49 of 21st July 1995. We note however that the property is listed in the Ndungu Report as being an illegal forest excision.

In the premise, we would be obliged to hear from you as to whether the property is now clear for purchase by our clients.

Yours faithfully,
Mamicha & Company


M. M. Mugi
law@mamicha.com

COPY

✓ General Manager- Strategy & PA to MD
Kenya Women Microfinance Bank Ltd
Head Office, Kiambere Road, Upper Hill
Nairobi

Attention: Isabella Kiragu ("Private & Confidential")

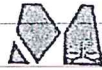
c. Director of Operations
Kenya Women Microfinance Bank Ltd
Head Office, Kiambere Road, Upper Hill
Nairobi

Attention: Anthony Chege ("Private & Confidential")

Mamicha & Company
law@mamicha.com

Anthony
1/2/2/

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Pelican R 4

MAMICHA
ADVOCATES • NOTARIES PUBLIC • PATENT AGENTS

Our Ref: 75-25-13

Your Ref: NCL/ADM/EN/805

Date: 5th June 2014

National Land Commission
Ardhi House, 12th Floor
1st Ngong Avenue
Nairobi

Attention: Emma Njogu

Re: Land Reference Number 15153

We refer to past correspondence in respect of this matter resting with yours of 3rd April 2014 addressed Kenya Forest Service and copied to ourselves.

We further note the public notice put forth by the National Land Commission in the Daily Nation of 1st April 2014 (Page 34 thereof) enlisting a number of grants under review by the NLC.

Under Serial Numbers 24 and 25 of the notice (Karuta Forest), Title Number 15153 is not amongst the listed.

Our clients are anxious to decide, and so are their financiers, whether to proceed with the purchase subdivisions thereof.

We would be most glad if the NLC gave us the green light as soon as practically possible since agreements and mortgage documents are being held in abeyance.

Yours faithfully,
Mamicha & Company

M. M. Mutgi
law@mamicha.com

COPY

✓ General Manager- Strategy & PA to MD
Kenya Women Finance Trust
Nairobi

c. Director of Operations
Kenya Women Finance Trust
Nairobi

Attention: Isabella Kiragu ("Private & Confidential")

Attention: Anthony Chege ("Private & Confidential")

Mamicha & Company
law@mamicha.com

Handwritten signature/initials

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Pelican 25



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

ARDHI HOUSE
1st NGONG AVENUE
OFF NGONG ROAD
P.O. BOX 44417
NAIROBI

Ref: NLC/ADM/EN/805

3rd April 2014

Director,
Kenya Forest Service,
Karura, Off Kiambu Road,
P. O. Box 30513-00100,
NAIROBI.

Attention: Corporation Secretary,

LAND REFERENCE NUMBER 15153

We forward herewith a letter Ref. 75-25-13 dated 7th April 2014 from Mamicha Advocates.

Kindly let us have your opinion on the validity of title to the above parcel of land.

Emma Njogu
COMMISSIONER
For: CHAIRMAN

Encl.

Copy to: Mamicha Advocates,
P. O. Box 59304-00200,
NAIROBI.

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1/12/14

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KENYA
Forest Service

Pelican RB

Kenya Forest Service
Karura, Off Kiambu F
P.O. Box 30513-00100
Nairobi, Kenya

MAP/2/KFS/VOL.IV
Ref: No.
Your Ref: NLC/ADM.I/VOL.II/33

8th May 2014
Date:

The Chairman
National Land Commission
Ardhi House, 12th Floor
P.O BOX 44417
NAIROBI

Attn: Emma Njogu

Dear Madam,

RE: LAND REFERENCE NUMBER 15153:
PELICAN ENGINEERING & CONSTRUCTION COMPANY LIMITED

We acknowledge receipt of your letter dated 3rd April, 2014 and the attached documents from Sichale & Co. Advocates.

As indicated in the letter dated 22nd November, 2012 from the Director, Kenya Forest Service, land reference number 15153 of approximately 29.68Ha was altered through the Gazette Notice Number 1091 dated 1st February, 1995.

The parcel of land was subsequently degazetted as forest land through Legal Notice No. 260 of 11th July 1995:

Yours faithfully,

E. Kenge
Esther Kenge
Corporate Secretary/Head of Legal Service

off copy
1/12/14

Trees for better lives

Tel: (254) 020-3754904/5/6, (254) 020-2014663, (254) 020-2020285, Fax: (254) 020-2385374
Email: info@kenyaforestservice.org, Website: www.kenyaforestservice.org

Scanned with CamScanner

Pelican R7



Kenya Forest Service
Karura, Off. Kiambu Rd
P.O. Box 30513-00100
Nairobi, Kenya

Ref. No. REF: KFS/LS/018/09

22nd November 2012
Date:

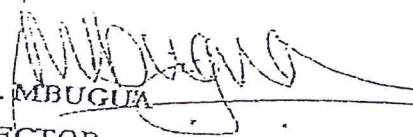
Managing Director
Pelican Engineering & Construction Co.
Limited
P.O. Box 18757 - 00500
NAIROBI
KENYA

RE: DEGAZZETMENT OF L.R. NO. 15153 - KIAMBU FOREST.

Re: your letter reference number PEC/KFS/001/2012 dated 8th November 2012.

I would like to confirm that from our records, Land Reference Number 15153 of approximately 29.68 hectares lying within and adjoining the Eastern boundary of Kiambu Forest in Kiambu District more particularly delineated on boundary plan 175/352 which is signed and sealed by Survey of Kenya was altered through Gazette Notice Number 1591 dated 1st February 1995. This was subsequently degazetted as forest land through Legal Notice No. 260 of 11th July 1995.

Yours sincerely,


D. K. MBUGUA
DIRECTOR

Handwritten initials and date:
Handwritten initials
1/12/12

Traced for 1
Scanned with CamScanner

PELCON RB



NATIONAL LAND COMMISSION

Telephone: 3311122/3311123
Telex: 2011122
When replying please quote

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 30150-00100
NAIROBI, KENYA

15th July, 2014

Ref: NLC/ADM.1/VOL.11/33

Mr. M.M. Mugi
Macharia & Co. Advocates
Pan Aprica House, 3rd Floor
NAIROBI

Dear Mr. Mugi,

RE: LAND REFERENCE NUMBER 15153

We refer to your letter Ref. No 75-25-13 dated 7th April, 2014 and regret the delay in responding to you

We attach a letter dated 8th May, 2014 from Kenya Forest Service showing the status of the above mentioned parcel of land.

According to KFS, the land was legally degazetted. The Commission is thus of the view that it was subsequently available for allocation to private individuals.

Yours faithfully,

Emma Njogu
COMMISSIONER

off copy
1/DP/1

Scanned with CamScanner

CORRIGENDUM

IN Gazette Notice No. 791 of 1995, in Cause No. 30 of 1995, amend the first name of the petitioner to read Joan instead of John.

GAZETTE NOTICE No. 1091

THE FORESTS ACT
(Cap. 385)

INTENTION TO ALTER BOUNDARIES—KIAMBU FOREST

IN ACCORDANCE with the provisions of section 4 (2) of the Forests Act, the Minister for Environment and Natural Resources, gives twenty-eight (28) days' notice, with effect from the date of the publication of this notice, of his intention to declare that the boundaries of the Kiambu Forest will be altered so as to exclude the area described in the schedule hereto.

SCHEDULE

An area of land of approximately 29.68 hectares, known as L.R. No. 15153, lying within and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of the Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary plan No. 175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga.

Dated the 1st February, 1995.

J. K. SAMBU,
Minister for Environment and Natural Resources.

GAZETTE NOTICE No. 1092

THE LAW OF SUCCESSION ACT
(Cap. 160)

APPOINTMENTS

IN EXERCISE of the powers conferred by section 47 of the Law of Succession Act, the Chief Justice appoints—
Gilbert Mutembei Chabari, senior resident magistrate,
Margaret Karimi Rintari, resident magistrate,
to represent the High Court for the purposes of that section.

Dated the 28th February, 1995.

A. M. COCKAR,
Chief Justice.

GAZETTE NOTICE No. 1093

THE MAGISTRATES' COURTS ACT
(Cap. 10)

INCREASE OF LIMIT OF JURISDICTION

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrates' Courts Act, the Chief Justice increases the limit of jurisdiction of—

NORAH OWINO

senior resident magistrate, to Kenya shillings three hundred thousand (KSh. 300,000), with effect from 1st March, 1995.

A. M. COCKAR,
Chief Justice.

GAZETTE NOTICE No. 1094

THE MAGISTRATES' COURTS ACT
(Cap. 10)

INCREASE OF LIMIT OF JURISDICTION

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrates' Courts Act, the Chief Justice increases the limit of jurisdiction of—

ANTONY KIMANI KANIARU

resident magistrate, to Kenya shillings three hundred thousand (KSh. 300,000), with effect from 1st March, 1995.

A. M. COCKAR,
Chief Justice.

GAZETTE NOTICE No. 1095

THE OATHS AND STATUTORY DECLARATIONS ACT
(Cap. 15)

A COMMISSION

To All To Whom These Present Shall Come Greetings:

BE IT KNOWN that on 8th February, 1995—

PETER M. MBIRIA

an advocate of the High Court of Kenya, was appointed to be a commissioner for oaths under the above-mentioned Act, for as long as he continues to practise as such advocate and this commission is not revoked.

Given under my hand and the seal of the court, on 8th February, 1995.

A. M. COCKAR,
Chief Justice.

GAZETTE NOTICE No. 1096

THE OATHS AND STATUTORY DECLARATIONS ACT
(Cap. 15)

A COMMISSION

To All To Whom These Present Shall Come Greeting:

BE IT KNOWN that on 14th February, 1995—

JASON OBIWA MARANGA

an advocate of the High Court of Kenya, was appointed to be a commissioner for oaths under the above-mentioned Act, for as long as he continues to practise as such advocate and this commission is not revoked.

Given under my hand and the seal of the court, on 14th February, 1995.

A. M. COCKAR,
Chief Justice.

GAZETTE NOTICE No. 1097

THE OATHS AND STATUTORY DECLARATIONS ACT
(Cap. 15)

A COMMISSION

To All To Whom These Present Shall Come Greeting:

BE IT KNOWN that on 16th February, 1995—

JOSEPH RIIBA MOKUA

an advocate of the High Court of Kenya, was appointed to be a commissioner for oaths under the above-mentioned Act, for as long as he continues to practise as such advocate and this commission is not revoked.

Given under my hand and the seal of the court, on 16th February, 1995.

A. M. COCKAR,
Chief Justice.

GAZETTE NOTICE No. 1098

THE OATHS AND STATUTORY DECLARATIONS ACT
(Cap. 15)

A COMMISSION

To All To Whom These Present Shall Come Greeting:

BE IT KNOWN that on 21st February, 1995—

RUTH KARDI KINAGWI

an advocate of the High Court of Kenya, was appointed to be a commissioner for oaths under the above-mentioned Act, for as long as she continues to practise as such advocates and this commission is not revoked.

Given under my hand and the seal of the court, on 21st February, 1995.

A. M. COCKAR,
Chief Justice.

off copy
1/2/95

(Legislative Supplement No. 34)

Local Notice No. 160

THE FORESTS ACT
(Cap. 385)

ALTERATION OF BOUNDARIES—KIAMBU FOREST

IN EXERCISE of the powers conferred by section 4 (1) of the Forests Act, the Minister for Environment and Natural Resources declares that the boundaries of Kiambu Forest shall be altered so as to exclude the area described in the Schedule hereto.

SCHEDULE

An area of land of approximately 29.68 hectares, known as L.P. No. 15153, lying within and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of the Kiambu Township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary plan No. 175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga.

Dated the 11th July, 1995.

J. K. SAMBU,
Minister for Environment and Natural Resources.

Local Notice No. 161

THE STAMP DUTY ACT
(Cap. 480)

EXEMPTION

IN EXERCISE of the powers conferred by section 106 of the Stamp Duty Act, the Minister for Finance directs that the instruments executed in respect of purchase and transfer of plot No. 22402/111/202, situated in Langata, Nairobi, from Mbawanza Enterprises Limited, of P.O. Box 22876, Nairobi to Langata Islamic Welfare Organization, of P.O. Box 31033, Nairobi, shall be exempt from the provisions of the Act.

Dated the 14th July, 1995.

MUSALIA MUDAVADI,
Minister for Finance.

officer
1/12/95

Annex 5

KIAMBAA DIVISIONAL (141) WOMEN GROUPS

Ref:
Your ref: SEN/DCS/NSFR/CORR/2020(137)

26th November, 2021

Office of the Clerk of the Senate
The Senate
Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
Nairobi

Dear Sir,

RE: INVITATION FOR A MEETING WITH THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS.

The above captioned matter and your letter dated the 23rd November, 2021 refer.

I am a businessman and an appointed agent of Kiambaa Divisional (141) Women Groups who have instructed me to address you as hereunder:

Acquisition of title for Grant I.R. No. 74148 for Land Reference Number 13642

1. Kiambaa Divisional (141) Women groups (hereinafter referred to as "the Women Groups") was registered in 1983 comprising of various women groups that came together for common purposes *inter alia* economic development and sustenance. *Annexed herewith as item 1 on the index for the bundle of documents is the copy of the Certificate of Registration of the Women Groups).*
2. The said Women Groups as part of economic sustenance used to entertain by form of dance the late President Daniel Arap Moi during the events held on various National Public Holidays and public gatherings who upon request of the Women Groups on or about the year 1983 gifted and consequently allotted them an unsurveyed parcel of land excised for Kiambu Forest situate in Kiambu Municipality.

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Signature: *[Faint signature]* M. Canner

3. The Women Groups then began the process of acquiring the said unsurveyed parcel by initiating correspondence with the Ministry of Environment and Natural Resources and Ministry of Lands. *(Annexed herewith as items 2, 3, 4 on the index for the bundle of documents are copies of the letters dated 12th July, 1984, 13th July, 1984 and 9th October, 1984).*
4. Consequently, the Women Groups were issued with 2 letters of allotment for unsurveyed plots A & B each measuring approximately 50.73 ^{Acres} ~~Ha.~~ *(Annexed herewith as item 5 and 6 on the index for the bundle of documents are copies of the letters of allotment all dated 19th November, 1984).*
5. The Survey and excision process for unsurveyed Plots A and B was initiated sometimes in June 1987. The Director of Survey approved the Survey Plan of the excision of Plot Numbers A and B by the Survey Branch of the Forest Department on or about the 24th June 1987 as per the Survey Plan F/R No. 170/55 and L.R Number issued being 13642 (hereinafter referred to as "the Property"). *(Annexed herewith as item 7 is the letter dated 24th June 1987 and survey plan).*
6. The Women Groups applied to change the user of the property, while simultaneously undertaking the process of subdivision, from industrial to residential use. The said process was initiated on or about the 8th June, 1984 with various approvals being acquired and the change of user from industrial to residential being effected. *(Annexed herewith as items 8,9,10, 11 and 12 on the index for the bundle of documents are copies of the letters dated 8th June, 1994, 13th June, 1994, 26th November, 1996 and 3rd March 1997 and Payment Receipt dated 5th February, 1997).*



7. Further, given the size of the individual unsurveyed plots vis-a-vis the members of the Women Group of about 6000 individuals, the members initiated the Sub-division process of the unsurveyed Plots A and B on or about the 27th July, 1989 to take care of the individual interests of the members. Consequently, various approvals were obtained from the relevant Government departments within the Ministry of Lands and Housing. *(Annexed herewith as items 13,14,15,16, 17 and 18 on the index for the bundle of documents are copies of the letters dated 27th July, 1989 together with the proposed subdivision schemes, 28th July, 1989, 1st August, 1989, 4th August, 1989, 4th October, 1990 and 2nd April, 1992).*
8. Consequently, the Women Group were issued with Grant I.R. No. 74148 for Land Reference Number 13642 measuring approximately 39.82 ^{Acres} Ha for a period of 99 years from 1st December, 1984 (hereinafter referred to as "the Property") by the then Commissioner of Lands on or about the 30th July, 1997. *(Annexed herewith as item 19 on the index for the bundle of documents is the copy of the Grant for I.R. 74148 for L.R No. 13462)*
9. Upon surrender of the mother title to the Commissioner for Lands in 1997 and the proposed subdivision scheme approved on 1st April, 1998 the property was subdivided in 1998 into various plots for several uses *inter alia* agricultural, residential, light industries, school, community and shopping center together with a riparian reserve. The subdivision scheme approvals were then issued to the various Women groups with legal fees and other charges being apportioned. *(Annexed herewith as items 20, 21 and 22 on the index for the bundle of documents is the copy of the letter dated 1st April, 1998, various subdivision scheme approvals and survey maps).*
10. Upon subdivision of the property into the various plots, deed plans of the subdivided plots were processed and issued to the individual groups forming the Women Group and application for issuance title deeds were



made and the various payments effected. *(Annexed herewith as items 23, 24 and 25 on the index for the bundle of documents are copies of the list of the various groups, various deed plans and bundle of receipts, demand notes for rent and booking forms).*

11. Pursuant to processing the deed plans to the subdivided plots, titles to the various subdivided plots were issued for ¼ acre plots that were to be handed over by the Head of State, the Late President Daniel Arap Moi given that the property was direct allocation. *(Annexed herewith as items 26, 27, 28 and 29 on the index for the bundle of documents are copies of the letter dated 9th November, 1997 and 9th December, 1997 list of groups with complete title deed and bundle of title deeds).*

12. The Women Groups then sold the subdivided parcels to various individuals for value and without notice as the plots were too small for the said Women groups to do anything constructive on them as individuals thus selling the said plots and sharing the proceeds was the most ideal plan. *(Annexed herewith as item 30 on the index for the bundle of documents are some of the copies the details of the various Women Groups being their certificate of registration of registration and identification documents)*

13. Amongst the individuals who showed interest to buy the said subdivided plots were Golden Palm Gardens Residents (hereinafter referred to as "the Residents") who are even 3rd and 4th generation innocent purchasers for value who then proceeded to conduct utmost due diligence at the Lands Office in terms of applying for searches and established the rightful proprietors being the various Women Groups comprising the Kiambaa Divisional (141) Women groups as per the list annexed as item 22 above. *(Annexed herewith as item 31 on the index for the bundle of documents is the copy of the subdivision scheme).*

14. From the sale and purchase of the subdivided plots of land to the residents, it is manifest that due process in acquiring the same was followed:

The due process

- i. That there was a clear intention by the relevant authorities to excise the property and appropriate it for private use;
 - ii. The process commenced in earnest and all stakeholders, including Survey of Kenya, the Kenya Forest Service (hereinafter referred to as "KFS") and the Ministry of Lands were involved;
 - iii. The Director of Survey surveyed the land to be excised;
 - iv. The Women Groups paid the requisite fees to ensure that due process of excision, titling and sub-division was conducted to its logical conclusion;
 - v. As a fact, there exists a register and records of the property at the lands office and a title to the whole land as excised was processed and surrendered to the Ministry of Lands upon subdivision;
 - vi. Subsequently, the land was subdivided which subdivisions were registered at the Survey of Kenya. The title deeds for some of the subdivisions have since been processed and released to the plot owners.
15. The Residents upon conducting utmost due diligence bought the subdivided plots and effected the transfer process by paying stamp duty, rent and rates arrears and procuring clearance certificates thereto from the relevant departments of the Ministry of Lands and County Councils of Kiambu. Upon the said transfers being duly registered, the said residents then acquired clean title and proceeded to construct approximately 170 residential homes majorly retirement homes by residents who mostly have no financial capability to acquire new homes. *Annexed herewith as item 32 on the index for the bundle of documents are copies of payments receipts for rent, stamp duty, processed titles to some of the current residents and register of members of the resident's association).*

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Issue of Proprietorship

16. The issue in contention is that the Property is gazetted as Forest land and thus belongs to the KFS and has never been degazetted.
17. On 1st August, 2008 at the point of sale and purchase of the subdivided plots of the property by the Women Groups who had possession, KFS placed a caveat emptor notice on the dailies.
18. On 30th September, 2008, the Commissioner of Lands then, wrote to KFS informing them that the process of excision of the property was initiated by themselves being KFS and the necessary approvals effected giving rise to the L.R. No. of the property. *(Annexed herewith as item 33 on the index for the bundle of documents is the copy of the letter dated 30th September, 2008 by the Commissioner of Lands)*
19. Despite the aforesaid, the caveat by KFS subsequently led the Commissioner of Lands to cease processing the titles to the subdivided portions of the property.
20. The Women groups consequently filed a Judicial Review application seeking orders of certiorari to remove the caveat and an order of prohibition to restrain KFS from placing any other caveat on the land. The said application by the Women Groups was allowed by the Honourable Court via ruling delivered on 22nd September, 2011.
21. Further, the Report of the Commission of Inquiry into the Illegal/Irregular allocation of Public Land otherwise known as the Ndungu Land Report at page 231 of Annexes of Volume I mentions the property as part of Kiambu Forest being "an area measuring approximately 39.82 Ha which was authorized for excision for Kiambu Women groups as per Chief Conservator's Letter ref no: FOR:68/7/62 of 12th July, 1984 which area has

not been degazetted but already cleared" (Annexed herewith as item 34 on the index for the bundle of documents is the copy of the extract of page 231 of Annexes of Volume I of the Ndungu Land Report)

22. The issue was placed before the National Land Commission (hereinafter referred to as "the NLC") upon receiving numerous inquiries by land owners to determine whether their various parcels were part of the Kiambu Forest including the Women Groups who wrote to the NLC vide letter dated 15th January, 2014 requesting the re-opening of the process of issuing the remaining titles to the resultant owners of the subdivided plots to the property. (Annexed herewith as item 35 on the index for the bundle of documents is the copy of the letter by the Women Groups dated 15th January, 2014).
23. The NLC as mandated by section 6 of the National Land Commission Act invited all affected parcel owners for a public inquiry on 26th and 28th June, 2018 through the dailies at A.C.K. Gardens in Nairobi. (Annexed herewith as item 36 on the index for the bundle of documents is the copy of the advert).
24. Hearings took off upon which parties were allowed to file submissions. (Annexed herewith as item 37 on the index for the bundle of documents is the copy of the submission by the Advocates for the Residents and the Women Groups)
25. The findings of the NLC from the inquiry conducted and after hearing submissions by the various parties were that:
- i. KFS made attempts to degazetted the land
 - ii. Most of the land is developed with housing estates
26. The NLC then proposed that the attempted degazettment of the forest be completed so as to enable regularization of the current occupants of the forest as their recommendation on 21st January, 2019. (Annexed herewith

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as item 38 on the index for the bundle of documents is the copy of the review by the National Land Commission dated 21st January, 2019).

27. Pursuant to NLC's recommendation hereinbefore mentioned, the Residents' Association wrote to KFS to assist to have the process of degazettment of the property finalized which KFS responded to and stated that the land is not available for any other use other than forest conservation and management as stipulated in the Forest Conservation and Management Act 2016 . *(Annexed herewith as items 39 and 40 on the index for the bundle of documents are copies of the said letters by the Residents' Association and KFS).*

In Conclusion:

28. The residents are ready and willing and have been taking deliberate steps to plant more trees and ensuring, through its by-laws, that each resident plants and maintains at least then (10) trees or any number of trees that may be recommended by KFS.
29. Further, on efficiency and to guarantee enforceability in managing public land, the residents' association have been in the process of incorporating public land management practices in its by-laws.
30. There have been no allegations of fraud or deceit in the acquisition of either the grant of the property or the subdivisions thereto. There has neither been any allegation of deceit nor has there been any evidence of any impropriety or fraud on the part of the Women Groups and the resultant owners after subdivision of the property.
31. Further none of the owners of the subdivided plot to the property being (Golden Palm Garden Estate or their predecessors in title) are alleged to have grabbed forest land. Thus, any missed step, out of ignorance or any

inadvertence ought not to be a ground to disposes the owners currently in possession of the subdivided plots who are bonafide purchasers for value and they have enjoyed quiet possession.

32. Of importance to note is that no activist ever participated in the hearing held by the NLC back in the year 2018. The Women Groups and Residents are thus strangers to any activists who have ever raised any awareness about the property being forest land in form of public awareness and participation on or around the area the Property is located.

33. The property should thus be degazetted as a forest and further the relevant authorities to take steps to regularize the title to the property and the subdivisions thereto as recommended by the NLC as the Residents are on the verge of being evicted and thus losing their homes which were acquired using their life long savings.

Yours Faithfully,
KIAMBAA DIVISIONAL (141) WOMEN GROUPS



DAVID MURIUKI THIONG'O

Cc: Mr. Paul Kihara Gachukia,
Secretary,
Golden Palm Gardens Residents Association,
P.O. Box 17198-00100,
Nairobi.

HKM Associates Advocates,
Vision Tower, 6th Floor,
26 Muthithi Road, Westlands,
P.O. Box 13583-00800
Nairobi

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MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

FOREST DEPARTMENT HEAD
P.O. Box 10513, NAIRO.
12th July, 1984



Commissioner of Lands
Department of Lands
P.O. Box 30089
NAIROBI

(Att. Mr. Ntenga)

FCR 68/7/(62)
and date

EXCISION OF KIAMBU FOREST

I refer you to discussion Njenga/Mburu on 10th July, 1984 and enclose herewith a 1:5,000 map of Kiambu Forest showing edged in red the area that we are in the process of excising from the forest. You may therefore go ahead and draw up plans for it.

2. As you will see, and as mentioned in my letter FD/Z.67/Vol.VII/15 of 25th October, 1983, the area is 39 hectares. It only falls short of what had been requested by 1 hectare. However it has clearly defined boundaries - tarmac roads on two sides, a river on one side and farms on the other.
3. Please also refer to your letter No. 10274/14/34 of 15th August, 1983 and my FD/Z.67/Vol.II/12 of 23rd September, 1983.

O.M. Mburu
(O.M. MBURU)
CHIEF CONSERVATOR OF FORESTS

copy to: Officer-In-Charge
SURVEY BRANCH
KARURA

As agreed could you prepare the
H.P. and notices

2

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Telegrams: "LANDS", Nairobi
Telephone: Nairobi 27471 Ext.
When replying please quote

Ref. No. 102749/14/184
and date

MINISTRY OF LANDS AND SETTLEMENT



DEPARTMENT OF
P.O. Box 30

13th July, 1984

Mrs. Wariara Njenga
Chairperson,
Kiambaa Women Groups,
P.O. Box 134,
KIAMBU.

Dear Madam,

ALLOCATION OF LAND : KIAMBU FOREST

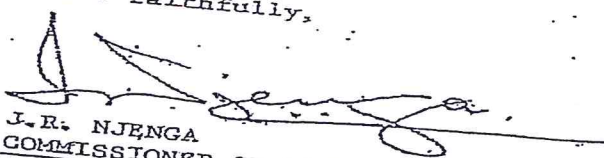
Reference is made to your recent enquiry regarding the allocation of the approx. 100 acres of excision from Karura Forest.

I have been in touch with the Chief Conservator of Forests and in this connection, I attach herewith a copy of his letter FOR.68/77(62) of 12th July, 1984 which is self-explanatory.

You will note that the site falls short by 3 acres but in view of the natural boundaries we have agreed that a Boundary Plan should be prepared as per the attached plan (the site shown bordered in red) to facilitate degazettement after which I will issue you with a Letter of Allotment.

Please let me know in whose name and address I should issue the Letter of Allotment.

Yours faithfully,


J.R. NJENGA
COMMISSIONER OF LANDS.

Encl.

c.c.:

Hon. J.N. Karume M.P.
Assistant Minister for Energy and
Regional Development and
Member for Kiambaa Constituency,
P.O. Box 30582,
NAIROBI.

4

REPUBLIC OF KENYA

Telegrams: "Lands", Nairobi
 Telephone: Nairobi 27471/Ext. :
 Kiambu Division Women Group
 P.O. BOX 134, KIAMBU

DEPARTMENT OF LANDS
 P.O. BOX 30089
 NAIROBI

Ref. No.

19th November 19...84

REGISTERED

SIR(S)/MADAM,

LETTER OF ALLOTMENT

KIAMBU FOREST - UNSURVEYED PLOT 'A'
 I have the honour to inform you that the Government hereby offers you a grant of

No. (unsurveyed) shown edged red on the attached plan
 subject to your formal written acceptance of the following

conditions and to the payment of the charges as prescribed hereunder:—

AREA: 20.53 hectares or 50.73 acres (approximately)

TERM: 99 years from the 1-12-1984

STANDARD PREMIUM: Sh. 100,000/-

ANNUAL RENT: Sh. 20,000/-

~~Sh. 20,000/-~~

GENERAL: This Letter of Allotment is subject to, and the grant will be made under the provisions of the Government Lands Act, (Cap. 280 of the Revised Edition of the Laws of Kenya) and title will be issued under the Registration of Titles Act, (Cap. 281).

SPECIAL CONDITIONS: See attached.

I should be glad to receive your acceptance of the attached conditions together with your cheque for the amount as set out below:—

	Sh.
Stand Premium	100,000.00
Rent from 1-12-1984 to 31-12-84	1,666.65
Conveyancing Fees	350.00
Registration Fees	50.00
Rates, proportion of (provisional) on demand	---
Stamp Duty	2,200.00
Survey Fees on demand	---
Road and Road Drains)	---
Sewers) ON demand	---
Receipt No.	Less Deposit
	5
	TOTAL ... Sh. 104,266/65

(P.T.O)

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If acceptance and payment respectively are not received within days from the date hereof the offer herein contained will be considered to have lapsed.

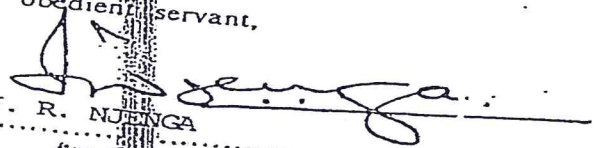
If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

The issue of the Government Grant will be undertaken as soon as circumstances permit.

Your full name(s) in BLOCK LETTERS should be given for the purpose of the draft grant which will be submitted later for your acceptance. The attached special conditions are part of the offer.

Allocation authorised by Government

I have the honour to be,
Sir(s)/Madam,
Your obedient servant,


J. R. NJENGA
Acting Commissioner of Lands

- TO:—
- The Director of Surveys, Nairobi.
 - The Permanent Secretary, Ministry of Lands & Settlement
 - The Clerk to the Council, County Council of Kiambu, P.O. BOX 170, KIAMBU
 - The District Commissioner,
 - The Town Planning Adviser, Nairobi.
 - The City Valuation Officer, City of Nairobi.
 - Land Rents.
 - Assistant.
 - Accountant.
 - Records.
 - Planning Record Officer.
 - File.

6

REPUBLIC OF KENYA

Telegrams: "Lands", Nairobi
 Telephone: Nairobi 27471/1xt.
 Kiambu Division Women Group
 P.O. BOX 134, KIAMBU
 Ref. No. 102749/14
 REGIST. RED
 (s)/M. DAM.

DEPARTMENT OF LANDS
 P.O. BOX 30089
 NAIROBI

19th November 1984

LETTER OF ALLOTMENT
 KIAMBU FOREST - UNSURVEYED PLOT 'B'

I have the honour to inform you that the Government hereby offers you a grant of the above plot shown edged red on the attached plan (Unsurveyed) subject to your formal written acceptance of the following conditions and to the charges as prescribed hereunder:—

AREA: 20.53 hectares or 50.73 acres (approximately)
 TERM: 99 years from the 1-12-1984
 STANDARD PREMIUM: Sh. 200,000/-
 ANNUAL RENT: Sh. 40,000/- } Subject to adjustment on survey.

GENERAL: This Letter of Allotment is subject to, and the grant will be made under the provisions of the Government Lands Act, (Cap. 280 of the Revised Edition of the Laws of Kenya) and title will be issued under the Registration of Titles Act, (Cap. 281).

SPECIAL CONDITIONS: See attached.

I should be glad to receive your acceptance of the attached conditions together with your cheque for the amount as set out below:—

	Sh.
Standard Premium	200,000.00
Rent from 1-12-84 to 31-12-84	3,333.35
Conveyancing Fees	350.00
Registration Fees	50.00
Rates, proportion of (provisional) on demand	—
Stamp Duty	400.00
Survey Fees on demand	—
Road and Sewer (on demand)	—
Less Deposit	—
TOTAL	Sh. 204,133.35

Receipt No.

I.P.T.O.

If acceptance and payment respectively are not received within days from the date hereof the offer herein contained will be considered to have lapsed.

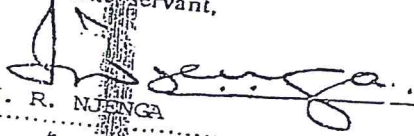
If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

The issue of the Government Grant will be undertaken as soon as circumstances permit.

Your full name(s) in BLOCK LETTERS should be given for the purpose of the draft grant which will be submitted later for your acceptance. The attached special conditions are part of the offer.

Allocation authorised
by Government

I have the honour to be,
Sir(s)/Madam,
Your obedient servant,


J. R. NJENGA
Commissioner of Lands

Copy TO:--

- The Permanent Secretary, Ministry of Lands & Settlement
- The Director of Surveys, Nairobi.
- The Clerk to the Council, County Council of Kiambu, P.O. BOX 170, KIAMBU
- The District Commissioner,
- The Town Planning Adviser, Nairobi.
- The City Valuation Officer, City of Nairobi.
- O/C Land Rents.
- Rates Assistant.
- The Accountant.
- O/C Records.
- Senior Planning Record Officer.
- Plot File.

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KWG-16

20

CF/45/401.1/17
24th June, 1987

The Forest Department,
O/C Survey Branch,
P.O. Box 30241,
NAIROBI.

This is the exhibit marked "C11"
and to be returned
to the person
declared
Sworn before me this 23rd day of
June 1987 at NAIROBI
Commissioner for Oaths

Dear Sir,

RE: EXCISION FROM XIAMBU FOREST:

Your survey submitted under cover of your letter ref. FD/SS/65/19 of 15th May, 1987 has been approved and is contained in our R/R 170/55. The plot number is LR No. 13642 with an area of 39.82 hectares. My checking fees amount to Ksh.150/=

Please note the surveyor should provide me with the source of the river data as required by the survey regulations. Boundary plan will be prepared on demand and when my checking fees are paid and source of river data is provided.

Yours faithfully,

HENRY F. K. WAMBUA
Henry F.K. Wambua,
DIRECTOR OF SURVEYS.

Checked by
Kw:

c.c.
Comps - 20509.

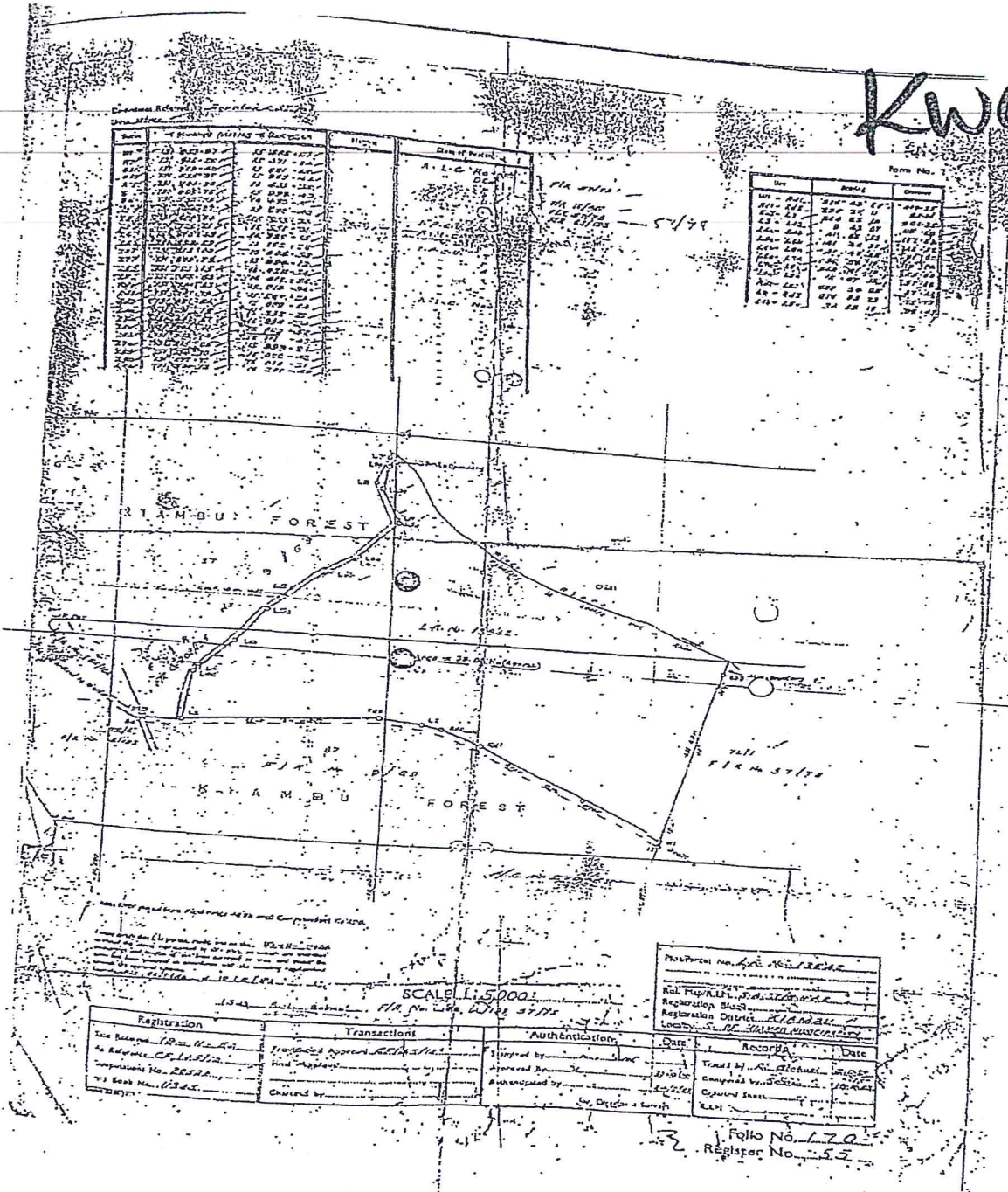
D/O - Prepare boundary plan when the above conditions are met.

9

16

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KWG-17



Form No.

Lot	Area	Owner
101-101	1.20	...
102-102	1.50	...
103-103	1.80	...
104-104	2.10	...
105-105	2.40	...
106-106	2.70	...
107-107	3.00	...
108-108	3.30	...
109-109	3.60	...
110-110	3.90	...
111-111	4.20	...
112-112	4.50	...
113-113	4.80	...
114-114	5.10	...
115-115	5.40	...
116-116	5.70	...
117-117	6.00	...
118-118	6.30	...
119-119	6.60	...
120-120	6.90	...

Registration No. 1342

SCALE 1:5000

FIR No. 3717

Registration	Transactions	Authentication	Date	Record	Date
Book No. 1342	Proposed by...	Approved by...	27/10/50	Checked by...	27/10/50
...

10

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REPUBLIC OF KENYA

Report of the Commission of Inquiry
into the
Illegal/Irregular Allocation
of
Public Land

ANNEXES VOLUME I

Presented to

His Excellency
Hon. Mwai Kibaki, C.G.H., M.P.
President and Commander-in-Chief of the Armed Forces of the
Republic of Kenya

June, 2004

Price: KSh. 1,200

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

Scanned with CamScanner

An area measuring approximately 39.82 ha was authorized for excision for Kiambu Women Group as per Chief Conservator's letter Ref. No. FOR: 68/7/62 of 12/7/84. The area has not been degazetted but it is already cleared. In the same locality an area of approximately 24.00 ha was allocated to Tugirane Project and registered under Kama Agencies owned by Hon. Kuria Kanyingi. Flower farming is being undertaken although the area is illegally acquired.

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Annex 6.

Valley View Estates
Off Njathaini Road, Kiambu

Our Ref: VVE/10/20211

Your ref: SEN/DCS/NSFR/CORR/2020(140)

29th November, 2021

Office of the Clerk of the Senate,
The Senate,
Clerk's Chambers,
Parliament Buildings,
P.O. Box 41842-00100,
Nairobi – Kenya.

Dear Sir,

RE: INVITATION FOR A MEETING WITH THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS.

The above captioned matter and your letter dated the 23rd November, 2021 refers.

I, JOHN MWAURA MBUGUA, the undersigned is a chairman of Valley View Residents Association and a purchaser for value of LR. No. 21350/27 which is a subdivision of that parcel of land formerly known as L.R No. 21350/1.

That I have the authority of 59 Valley View Residents to represent them in this matter.

That the residents of Valley View purchased L.R Nos. 21350/1 – LR. L.R No. 21350/59 which are subdivisions of L.R No. 21350/1 from Kama Agents Company Limited.

Thus, I am in receipt of yours under reference inviting initial allottees and the current owners of land that was formerly part of Kiambu Forest to provide information on the circumstances that led to the ownership of the said land.

Pursuant to your summons Valley View residents ("hereinafter referred to us "we") file these submissions as occupiers and purchasers for value of subdivisions of all that parcel of land known as L.R No. 21350/1 that previously formed part of Kiambu Forest.

The information provided hereinafter was garnered from Kama Agencies Company Limited and later Kama Agents Company Limited who sold me parcels of land after the subdivision of *L.R No. 21350/1*

Acquisition of title for Grant I.R. No. 80630 for Land Reference Number L.R No. 21350/1

1

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1. According to information within our knowledge, Kama Agencies Company Limited ("hereinafter Kama Agencies") a limited liability corporation was a real estate business company that owned L.R No. 21350/1.
2. That Kama Agencies were in the year 1995 gifted and consequently allotted all that parcel of land known as Land Reference Number L.R No. 21350/1 vide Grant No. IR. 80630, which land was surveyed and excised from the Kiambu Forest situate in Kiambu Municipality. The Grant was for a term of 99 years commencing on the 1st April, 1995.
3. That we are also aware that Section 4 (2) of the Forest Act, Cap No. 385 (Repealed by the Forest Act of 2005, Act 7 of 2005), the then applicable law with respect to the de-gazettement of Forests provided that *"prior to the making of a declaration that a forest area has ceased to be a forest, the Minister, in our case the Environment and Forestry, is obligated to issue a 28 days' Gazette notice of his intention to declare that such a forest has ceased to be a forest."*
4. That we are also alive to the fact that on the 11th July, 1995, the then Minister of Environment and Natural Resources, the Hon. J.K Sambu did comply with the provision of Section 4 (2) of the Forest Act, Cap No. 385 (Repealed) by declaring in the Kenya Gazette that all that parcel of land known as L.R. No. 21350 has ceased to be a forest.
5. That it is worthwhile to note that, the Survey and excision process for unsurveyed forest land was initiated with the concurrence of the Kenya Forest Department, a predecessor in title of Kenya Forest Services ("KFS"). The Forest Department, then under the Ministry of Environment and Natural Resources, did on the 3rd July, 1996 confirm the said allotment of Property with an approval to Kama Agencies to develop the Property.
6. That, given that Kama Agencies was in the business of real estate and flower farming it did initiate the Sub-division process of Land Reference Number L.R No. 21350/1 and transferred part of it, at a consideration, to the general public. Particularly, I and other 58 innocent purchasers for value have since acquired interests in the land formerly known as Land Reference Number L.R No. 21350/1.
7. That the said subdivision and various approvals were obtained from the relevant Government departments/agencies within the Ministry of Lands and Housing.

8. THAT we the occupiers of the sub divided L.R. No. 21350/1 contend that the allotment of the subject property, the excision thereof, the issuance of the mother title and resultant subdivision was initiated and implemented by relevant Government bodies, including but not limited to the then President of the Republic of Kenya, the Kenya Forest Department, the Ministry of Lands and Settlement, the Survey Department and relevant Physical Planning Office. It is thus manifest that the due process was followed during the entire exercise including the Sale and Transfer of the resultant titles from the Kama Agencies to the current occupiers.
9. THAT the occupiers of L.R. No. 21350/1 do content so due to the following reasons;
- i. That there was a clear intention by the relevant authorities to excise the property and appropriate it for private use;
 - ii. The process commenced in earnest and all stakeholders, including Survey of Kenya, the Kenya Forest Service predecessor in title and the Ministry of Lands were involved;
 - iii. The Director of Survey surveyed the land to be excised;
 - iv. The Kama Agencies paid the requisite fees to ensure that due process of excision, titling and sub-division was conducted to its logical conclusion;
 - v. As a fact, there exists a register and records of the property at the lands office and a title to the whole land as excised was processed;
 - vi. Subsequently, the land was subdivided which subdivisions were registered at the Survey of Kenya. The title deeds for some of the subdivisions have since been processed and released to the plot owners.
10. That Articles 27 and 40 of the Constitution guarantees the occupied of the subject property rights to equality and freedom from discrimination, and protection of property. The refusal to recognize their titles infringes on their right to own property.
11. The allotment of the subject property, the survey and excision thereof were all done by the relevant government authorities and surveys whether conducted by licensed government surveyors, or not must be submitted to the director of survey and authenticated as required by the Law.
12. That moreover, it would be contrary to the intent of the Law for a party seeking to acquire interest in land, read the occupiers of the subject property, to go

beyond the register to establish ownership and the antecedents and or history of the past transactions involving the Subject property.

13. Section 26 of the Land Registration Act provides that a Certificate of title must be held as conclusive evidence of proprietorship. We set out the provision in extensor as follows;

"The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except –

- (a) *on the ground of fraud or misrepresentation to which the person is proved to be a party; or*
- (b) *Where the certificate of title has been acquired illegally, un-procedurally or through a corrupt scheme.*

14. It is our contention that no particulars of fraud on the part of the occupiers of the subject property(s) has been advanced by the Conservation Alliance of Kenya for the titles to the properties were acquired lawfully and, in the circumstances, indefeasible.

15. It is also manifestly clear that any action to deprive the occupiers of the property their said properties would be capricious and or illegal, and it will also deny the occupiers/owners their legitimate expectation to own land. This is for simple reason that it is Government agencies that initiated the process of excision and subdivision of forest land and not the occupiers of the properties.

16. From the sale and purchase of the subdivided plots of land to the residents, it is manifest that due process in acquiring the same was followed:

In Conclusion:

17. The residents are ready and willing and have been taking deliberate steps to conserve the environment.

18. Further, there have been no allegations of fraud or deceit in the acquisition of either the grant of the property or the subdivisions thereto. There has neither been any allegation of deceit nor has there been any evidence of any impropriety or fraud on the part of the Kama Agencies and the resultant owners after subdivision of the property.

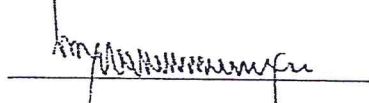
19. Further none of the owners of the subdivided plot to the property (being, the 59 purchasers for value or their predecessors in title) are alleged to have grabbed forest land. Thus, any missed step, out of ignorance or any inadvertence ought not to be a ground to disposes the owners currently in possession of the subdivided plots who are bonafide purchasers for value and they have enjoyed quiet possession.

For your information and knowledge, I attach herewith the following documents in support of my assertions;

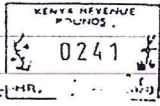
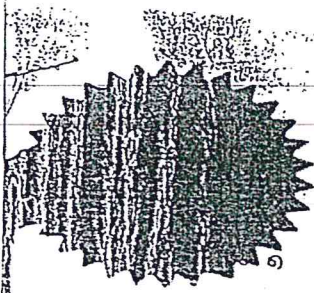
- a) A copy of the Certificate of Title for L.R No. 21350/1 1
- b) A copy of the said Gazette Notice dated 11th July, 1995. 3
- c) A copy of a letter from the Forest Department dated the 3rd July, 1996. 27
- d) Copies of Certificate of Titles issued by the Ministry of Lands L.R. No. 21350/32, 5, 8
LR. NO. 21350/51, L.R No. 21350/11, L.R. No. 21350/27 and LR. No. 21350/33 10, 12, 14
- e) Sale Agreements for LR No. 21350/27 and LR. No. 21350/32 17, 23
- f) Transfer instruments for L.R. No. (Transfer of interest Forms dully filled) 29, 42
- g) Rate Clearance Certificate for L.R. No. 21350/45 and L.R. No. 21350/51 47, 49
- h) Rent Clearance Certificate for LR. No. 21350/27 and L.R. No. 21350/51 43, 49, 51
- i) Construction Permit for L.R. No. 21350/45 53
- j) Letter dated 16th July, 2012 54
- k) Capital Gains Tax for L.R No. 21350/32 55

Yours Sincerely,

JOHN MWAURA MBUGUA



Cc: Valley View Garden Association.



REPUBLIC OF KENYA

50/24
82/6



THE REGISTRATION OF TITLES ACT
(Chapter 281)

GRANT: Number I.R. 80630
ANNUAL RENT: Ksh.240,830/- (REVISABLE)
TERM: 99 years from 1.4.1995

KNOW ALL MEN BY THESE PRESENTS that in pursuance of a surrender registered in the Government Land Titles Registry as I.R.67930/2 THE PRESIDENT OF THE REPUBLIC OF KENYA hereby Grants unto KAMA AGENCIES LIMITED a limited liability company having its registered office at NAIROBI (Post Office Box Number 56476)

(hereinafter called "The Grantee") ALL that piece of land situate in Kiambu Municipality in KIAMBU District containing by measurement fifteen decimal six two (15.62) hectares or thereabouts that is to say L.R. No. 21350/1

which said piece of land with the dimensions abutments and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 223761 deposited in the Survey Records Office at Nairobi

DEPARTMENT OF LANDS
DOCUMENT SCANNED

TO HOLD
for the term of ninety nine (99) years from the first Day of April One thousand nine hundred and ninety five SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of shillings two hundred and forty thousand eight hundred thirty (Ksh.240,830/-) (revisable) V.S.F. 1.4.1999 (b) the provisions of the Government Lands Act (Chapter 280) and (c) the following Special Conditions (namely):

[P.T.O.]

①

6

18

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Telegrams: "Forestry", Nairobi
Telephone: Nairobi 764194 and 764234
When replying please quote

Ref. No. ...CONE/ED/Z...67/VOL.XIV/(162)
and date



FOREST DEPARTMENT HEADQUARTERS
P.O. Box 30513
NAIROBI

....., 19.....

3rd July, 1996

✓ Managing Director
Togitene Projects
P.O. Box 652
LIMURU

This is the Annexure marked "Exh 6"
in the Affidavit of G.O. Wanjau
Statutory Declaration
sworn on 23/7/2012 Before me
[Signature]
Commissioner For Oaths

Dear Sir,

AUTHORITY TO DEVELOP PLOT NO. LR/21350
FORMERLY PART OF KIAMBU FOREST BLOCK

It has been communicated to us that the above property has been allocated to you and a title deed issued.

Authority is hereby granted to you to develop LR NO. 21350 for the intended purpose.

Yours faithfully,

[Signature]
J. M. MUTIE
FOR: CHIEF CONSERVATOR OF FORESTS

c.c.

The Permanent Secretary
MENR
NAIROBI

(24)

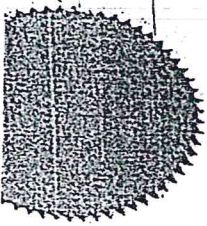
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IR 1/140998



REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(Chapter 281)



CERTIFICATE OF TITLE

TITLE NUMBER I.R. 140998

TERM 99

YEARS FROM 1-4-1995

ANNUAL RENT SHILLINGS 9,315/-

I HEREBY CERTIFY that KAMA AGENCIES LIMITED

(Reversible)

of Post Office Box Number 56476 NAIROBI

in the Republic of Kenya ~~is/are now registered proprietor(s) as Lessee(s)~~

from the Government of the Republic of Kenya for the term of Ninety Nine

years for the First day of April One Thousand Nine Hundred

and Ninety Five of ALL that piece of land situate in Kiambu Municipality

in the Kiambu District containing by measurement Nought Decimal Two Nought Two Five

hectares/acres ~~0.2025~~ (0.2025) Ha.

~~thereabouts~~ thereof and being Land Reference Number 21350/32

(Original Number 21350/1/31)

as delineated on Land Survey Plan Number 295794

annexed to the ~~said Transfer~~ hereto

SUBJECT however to the reversible annual rent of Shillings Nine Thousand Three Hundred and Fifteen and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this 26th

day of November Two thousand and Twelve

Registrar of Titles

MEMORANDUM

D. M. Njoroge '209

(1) The Government Lands Act (Chapter 280).

(2) The Special Conditions contained in a Grant registered as Number I.R. 80630/1

~~OF THE~~

This certificate of Title is issued under section 70 of RTA (Cap.281) and is in part substitution of a Grant registered as IR. 80630/1

(5)

LAND TITLES REGISTRY, NAIROBI REGISTRY
REGISTRATION OF TITLES ACT
REGISTERED AS IR. 140998
FILED IN 26th November 2012
BY [Signature]

D. M. Njoroge '209

FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE
Deed of Rectification rectifying Kama
Agency Limited to read Kama Agents
Company Limited.

Registration No. 2095

21-09-2016 de [Signature]

P. M. Njani'a *209

113 2 / 146995



I hereby certify this to be a true copy of the Original
Stamp duty at 500/-
Copying A/c at 20/-

21 December, 2018

[Signature]

B. F. Pitso *208

(6)

NOT TO BE USED WITH CATTISCA/MEI



REPUBLIC OF KENYA

TITLE REGISTRATION OF TITLES ACT
(Chapter 281)

CERTIFICATE OF TITLE

TITLE NUMBER I.R. 141014

TERM: 99

YEARS FROM 1-4-1995

ANNUAL RENT SHILLINGS 9,305/-

I HEREBY CERTIFY THAT ~~KAMA AGENCIES LIMITED~~ **AGENTS**
COMPANY LIMITED

(Revisable)

Handwritten signature and date: 18/05/2016

of Post Office Box Number 56476 NAIROBI

in the Republic of Kenya ~~is the registered proprietor(s) as Lessee(s)~~

from the Government of the Republic of Kenya for the term of Ninety Nine

years for the First day of April One Thousand Nine Hundred

and Fifty Five of ALL that piece of land situate in Kiambu Municipality

is the Plots District containing by measurement Nought Decimal Two Nought Two Three

~~square metres~~ (0.2023) Ha.

~~of the plots~~ and being Land Reference Number 21350/51

(Original Number 21350/1/50)

as delineated on Land Survey Plan Number 295812

~~annexed to the said plan~~ hereto

SUBJECT however to the revisable annual rent of Shillings Nine Thousand Three Hundred and Five and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this 26th

day of November Two thousand and Twelve

Handwritten signature of Registrar of Titles

MEMORANDUM P. M. N. 209

- (1) The Government Lands Act (Chapter 280).
- (2) The Special Conditions contained in a Grant registered as Number I.R. 80630/1

~~OF 1993-1994~~
This Certificate of Title is issued under section 70 of RTA (Cap 281) and is in part substitution of a Grant registered as IR.80630/1

⑧

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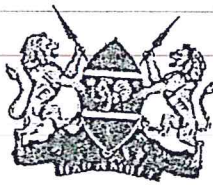
Annex 7.

MARG RIGDE ESTATE
LIMITED

L.R No. 21179

KIAMBU FOREST


1/14/20



1

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT
(No. 3 of 2012, Section 108)

THE LAND ACT
(No. 6 of 2012)

THE REGISTRATION OF TITLES ACT (Cap. 281) (Repealed)

THE GOVERNMENT LANDS ACT (Cap. 280) (Repealed)

THE LAND TITLES ACT (Cap. 282) (Repealed)

CERTIFICATE OF TITLE

Title No. IR.219594 Term: 99 Years, From: 01/12/1990

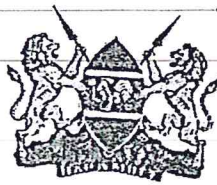
Annual Rent Kenya Shillings: one hundred forty thousand only (140000) (Revisable)

I hereby certify that MARGARET WAIBIMU MAGUGU OF (POST OFFICE BOX NUMBER 47958,
NAIROBI)

in the Republic of Kenya, pursuant to a Lease are now registered
proprietor(s) as lessee(s) from the Government of the Republic of Kenya for the term
of ninety nine years from the 1st day of December nineteen Ninety

All that piece of land situate in the South of Kiambu Municipality in Kiambu District
containing by measurement two five decimal Nought Nought Hectares (25.00 Hectares)
(less road reserve of -Nil- Ha/Ac) or thereabouts and being land Reference
Number 21179 (original Number -NIL-) as delineated on Land Survey Plan
Number 19E490 annexed hereto

GN. 58/17/11 1000 1 2010



1

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

(No. 3 of 2012, Section 108)

THE LAND ACT

(No. 6 of 2012)

THE REGISTRATION OF TITLES ACT (Cap. 281) (Repealed)

THE GOVERNMENT LANDS ACT (Cap. 280) (Repealed)

THE LAND TITLES ACT (Cap. 282) (Repealed)

CERTIFICATE OF TITLE

Title No. IR 219594 Term: 99 Years, From: 01/12/1990

Annual Rent Kenya Shillings: one hundred forty thousand only (140000) (Revisable)

I hereby certify that MARGARET WAIBIAMU MACUGU OF (POST OFFICE BOX NUMBER 47958) NAIROBI

in the Republic of Kenya, pursuant to a Lease are now registered

proprietor(s) as lessee(s) from the Government of the Republic of Kenya for the term of ninety nine years from the 1st day of December, nineteen Ninety

All that piece of land situate in the South of Kiambu Municipality in Kiambu District

containing by measurement two five decimal Nought Nought Hectares (25.00 Hectares)

(less road reserve of Nil Ha/Ac) or thereabouts and being land Reference

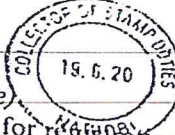
Number 21179 (original Number NIL) as delineated on Land Survey Plan

Number 19E490 annexed hereto

CPA (SP) 7271 0004 5 2018

Handwritten signature and date 11/12/21

LA No. 6 of 2012
(to be completed in quadruplicate)
Presentation Book Date received for registration



FORM LA
2

Paid on 20 Receipt No:

CF 199136



REPUBLIC OF KENYA

SDE 1540
A. K. Kigithu
Land Administration Officer

THE LAND REGISTRATION ACT
(No. 3 of 2012)
THE LAND ACT
(No. 6 of 2012)
REGISTERED LAND ACT (Repealed)
REGISTRATION OF TITLES ACT (Repealed)



LEASE

(This LEASE is issued pursuant to the transitional provision in Sections 160 and 161 of the Land Act and Section 108 of the Land Registration Act)

REGISTRATION UNIT Nairobi PARCEL NO LR.NO. 21179

THE NATIONAL GOVERNMENT
in pursuance of a New Grant

HEREBY LEASES to MARGARET WAIRIMU MAGUGU (POST OFFICE BOX NUMBER 47958 NAIROBI)

hereinafter called the Lessee .

ALL THAT piece of land comprised in the Registry Index Map No. /Deed Plan No. 198490 containing by measurement approximately 25.00 Hectares or thereabouts for the term of 99 Years

from the Ist day of December 1990

at the annual rent of Kenya Shillings 140000 (REVISABLE) WEF 01/05/1990 payable

in advance on the first day of January in each year and subject to the following special conditions

GPE (SP) 7333 - 600m - 05/2019

Handwritten signature and date: 11/12/21

SPECIAL CONDITIONS

1. No further buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with the plans and specifications previously approved in writing by the National / County Government.
The National/County Government shall not give its approval unless it is satisfied that the proposals are such as to develop the land adequately satisfactorily.
2. The Lessee shall maintain in good and substantial repair and conditions all buildings at any time erected on the land.
3. The land and buildings shall always be used for One private dwelling house (excluding a guest house)
4. The buildings shall not cover more than 50% of the area of the land or such lesser area as may be prescribed by the National / County Government Development Control Regulations.
5. The land shall not be used for any purpose which the National / County Government considers to be dangerous or offensive.
6. The Lessee shall not subdivide, change or extend use of the land, without prior written consent and approval of the National Government or County Government.
7. The Lessee shall not sell, transfer, sublet, charge or part with possession of the land or any part thereof or any building thereon except with prior consent in writing of the National / County Government.
8. The Lessee shall from time to time pay to the National / County Government on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the National Government/County Government may assess.

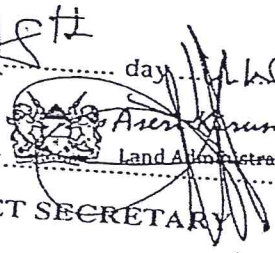
3

9. The Lessee shall pay such rates, charges, duties, assessments or outgoings of whatever descriptions as may be imposed charge or assessed by the National / County Government on behalf of the National / County Government upon the land or the buildings erected thereon, including any contribution or other sum paid in lieu thereof.

10. The National Government or respective County Government or such other person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and have access to water main service pipes and drains, telephone wire, fiber optic and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or Services pipes or fiber optic or telephone wires and electric mains.

11. The National Government/County Government may revise the annual ground rent payable. Such rental shall be at a rate to be determined by the National Government / County Government of the unimproved value of the land.

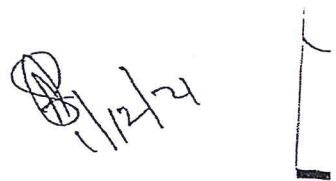
Dated this 15th day of March, 2020

 Auer *015
Land Administration Officer

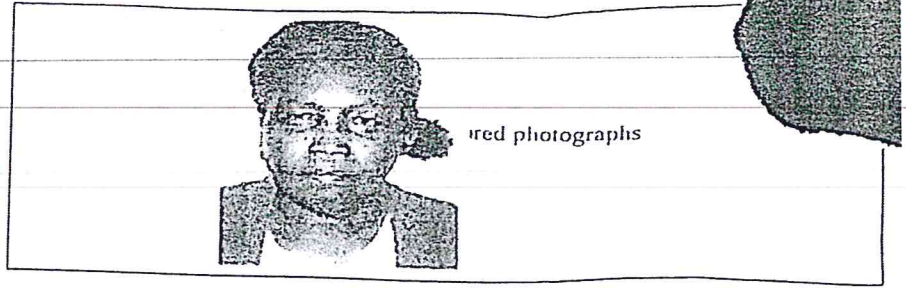
SIGNED BY: _____

For: CABINET SECRETARY

COMMON SEAL of the Lessee was affixed hereto in the presence of:

 1/12/24

SIGNED by the Lessee
IN THE PRESENCE OF:



Signature [Handwritten Signature]
ID/PASSPORT 0358977
PIN NO A001323538V

[Handwritten Signature]
OMWENGA-ARAS, ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 9726 - 00200 NAIROBI

I CERTIFY that the above-named appeared before me on the day
of 20 and being known to me/being identified by
.....
acknowledged the above signature or marks to belong to the Lessee and that the Lessee freely
and voluntarily executed this instrument and understood its contents.

[Handwritten Signature]
Signature and Designation of Person Certifying
REGISTERED day of July, 2020

Land Registrar

Name [Handwritten Signature]

DRAWN BY:

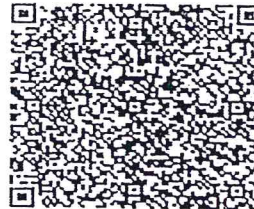
D. A. Dera 20, 3

CABINET SECRETARY
P.O. BOX 30450
NAIROBI



1050317284

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REPUBLIC OF KENYA

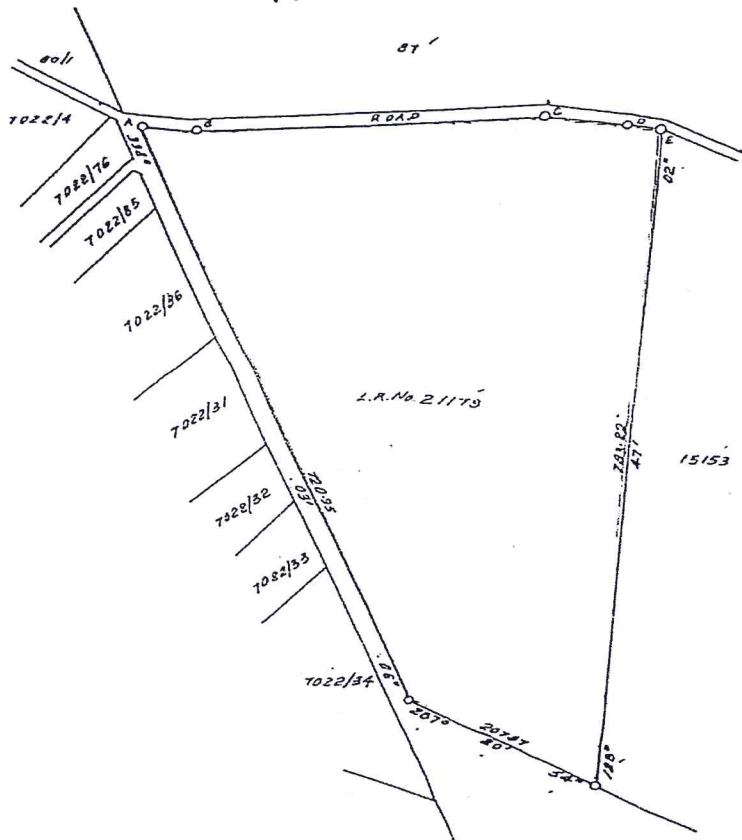
DISTRICT OF KIAMBU
 Locality SANDA OF KIAMBU MUNICIPALITY
 Reference Map SOUTH A. 87
S. 15 H. 1

Land Reference No. 21179
 (Orig No. _____)
 Sub division No. _____ (Orig No. _____)
 of Section No. _____

	Normal		Distance	
	Area	Area	Area	Area
A-A	20	20	20	20
B-B	20	20	20	20
C-C	20	20	20	20
D-D	20	20	20	20

Area = 25.00 Ha. (APPROX.)

IR 219 594



253
 42

G.A. Wayumba
 Licensed Surveyor

20/8/1951
 G. O. B. BARA
 15TH AUGUST 1950
 Scale 1 in 5000

G. O. B. BARA
 for Director of Surveys
 Nairobi 15TH SEPTEMBER 1955
 DEED PLAN No. 198490

Handwritten signature or initials.

Handwritten circled number '1'.

H. E. Hon. D. T. arap Moi, C.O.M., M.P.,
President and Commander-in-Chief of
The Armed Forces,
Republic of Kenya,
State House,
NAIROBI.

Approved
David O. ...
9/4/90.

Your Excellency,

I attach a sketch plan of a plot of 22 hectares just off
Kiambu road and generally known as Kiambu forest reserve;
adjacent to the 39 hectares which was granted to Kiambu
women groups several years ago by Your Excellency.

The general area is barshy, covered with poor grass undergrowth,
poor eucalyptus and murrum.

The purpose for which I am applying for the plot is to develop
light industrial and low cost houses for workers and neighbours
Kiambu township residents.

Your Excellency, I shall be most grateful for your consent to
my request.

Yours sincerely,



HON. A. X. KAGUGU, EGH., MP.,
MINISTER FOR COMMERCE.

GAZETTE NOTICE No. 5846

THE FORESTS ACT

(Cap. 385)

INTENTION TO ALTER BOUNDARIES—KIAMBU FOREST

IN ACCORDANCE with the provisions of section 4 (2) of the Forests Act, the Minister for Natural Resources gives twenty-eight (28) days' notice, with effect from the date of publication of this notice, of his intention to declare that the boundaries of the Kiambu Forest, shall be altered so as to exclude the area described in the schedule hereto.

SCHEDULE

An area of land of approximately 25 hectares, known as L.R. No. 21179, lying within and adjoining the western boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of Kiambu Township, Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the Boundary Plan No. 175/371 which is signed and sealed with the seal of the survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the Office of the District Forest Officer, Forest Department, Muguga.

Dated the 8th October, 1998.

F. P. O. LOTODO
Minister for Natural Resources

GAZETTE NOTICE No. 5847

LEGAL NOTICE No. 56

THE FORESTS ACT

(Cap. 385)

KIAMBU FOREST

ALTERATION OF BOUNDARIES

IN EXERCISE of the powers conferred by section 4 (1) of the Forests Act, the Minister for Natural Resources declares that the boundaries of Kiambu Forest shall be altered so as to exclude the area described in the Schedule hereto.

SCHEDULE

An area of land of approximately 25 hectares, known as L.R. No. 21179, lying within and adjoining the western boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of Kiambu Township, Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the Boundary Plan No. 175/371, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the Office of the District Forest Officer, Forest Department, Muguga.

Dated the 12th May, 1999.

F. P. L. LOTODO,
Minister for Natural Resources.



10

REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING

Telegrams: "Landi", Nairobi
Telephone: Nairobi 6221/6230
When replying please quote

DEPARTMENT OF LANDS
117 NGONG AVENUE
OFF NGONG ROAD
P.O. Box 30089
NAIROBI

Date: 26th March, 2021

Ref. No. CLR/V39/Vol.XIX

The Director of Survey
P.O. Box 30046-00100
NAIROBI

RE: LR. NO. 21179-I.R. 219594 KIAMBU COUNTY

Reference is to my letter Ref. No. GEN/CR/SCN dated 2nd March, 2021 and your letter Ref. No. AC/62/C/Vol.39/78 dated 23rd March, 2021 on the above subject matter.

Records available in our offices indicate that the subject parcel was a government forest land up until 8th October, 1998 when the Government excised it by de-gazettment *in vide* legal Notice No.5846 of 8th October, 1998.

We have also established that the alleged grant I.R. No.67273 issued to Webeso Investment Limited for a term of 99 years from 1st April, 1991 was irregularly obtained as the above parcel was still gazetted as government land and was no available for allocation.

Please note that the title held by Marg Ridge Estate Limited is genuine.

LONG'OLENYANG
R: CHIEF LAND REGISTRAR

(12)

REPUBLIC OF KENYA

Telegrams: "Lands", Nairobi
Telephone: Nairobi 27471/1xt
MARGARET WAIRIMU MAGUGU
P.O. BOX 47958
NAIROBI
Ref. No.....41680/VIX/28(A)

DEPARTMENT OF LANDS
P.O. Box 30089
Nairobi

.....5th March..... 19...90

REGISTERED

UNS. RESIDENTIAL PLOT - KIAMBU TOWN

SIR(S)/ MADAM,

LETTER OF ALLOTMENT

I have the honour to inform you that the Government hereby offers you a grant of
..... the above plot shown edged red on the attached plan

..... No. subject to your formal written acceptance of the following conditions and to the payment of the charges as prescribed hereunder:—

AREA: 22.0 hectares or acres (approximately)
TERM: 99 years from the 1.3.1990
STAND PREMIUM: Sh. 700,000/=
ANNUAL RENT: Sh. 140,000/= } Subject to adjustment on Survey

GENERAL: This Letter of Allotment is subject to, and the grant will be made under the Provisions of the Government Lands Act, (Cap. 280 of the Revised Edition the Laws of Kenya) and title will be issued under the Registration of Titles Act, (Cap.281)

SPECIAL CONDITIONS: See attached.

2. I should be glad to receive your acceptance of the attached conditions together with your cheque for the amount as set out below:—

			Sh.
Stand Premium	.....	.....	700,000/=
Rent from	..... 1.3.1990 to 31.12.1990.....	.....	93,333/=
Conveyancing Fees	.....	.....	500/=
Registration Fees	.....	.....	100/=
Rates, proportion of (provisional)	..... on demand	.....	-
Stamp Duty	.....	.....	30,800/=
Survey Fees	.....	.....	-
Road and Road Drains	.....	.....	-
Sewers	.....	.....	-
Receipt No.	Less Deposit	.....	.....
	TOTAL	..... Sh.	824,733/=

[P.T.O.]
11/2/90

If acceptance and payment respectively are not received within.....30..... days from the date hercof the offer herein contained will be considered to have lapsed.

If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

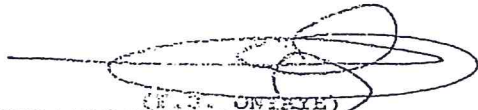
The issue of the Government Grant will be undertaken as soon as circumstances permit.

Your full name(s) in BLOCK LETTERS should be given for the purpose of the draft grant which will be submitted later for your acceptance. sent to you after registration. The attached special conditions form part of the offer and should be accepted in writing.

I have the honour to be,
Sir(s) /Madam,
Your obedient servant,

Authority: Thika Municipality

P.A.C. of 6th and 15th May, 1987
File 103749/14/11/477


The Commissioner of Lands

ENCL.

COPY TO :— P/S. M.L.S. & H - NAIROBI

The Director of Surveys, Nairobi.

The Town Clerk, P.O. Box 240, Thika

~~The District Commissioner, P.O. Box 32, Kiambu~~

The District Commissioner, P.O. Box 32, Kiambu

~~The Town Planning Adviser, Nairobi.~~

~~The City Valuation Officer, City of Nairobi~~

The Director of Physical Planning,
Nairobi

O /C Land Rents.)

Rates Assistant.)

The Accountant.)

O/C Records.)

Senior Plan Record Officer.) All to note.

Plot File.)

)

GPK (L)

Annex 8

Annex 8

NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL" Nairobi
Email: director@cid.go.ke
Tel: 020343312, 0202603724.



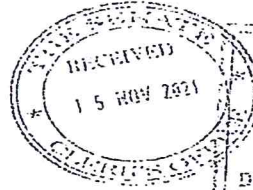
MAZINGIRA HOUSE
KIAMBU ROAD
P.O. Box 30036 NAIROBI.

DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/SEC/2/6/13/8/VOL.IV/190

12th November 2021

Mr. J. M. Nyegenye, CBS
Clerk of the Senate,
Parliament Buildings,
P. O. Box 41842-00100,
NAIROBI.



15 NOV 2021

INVITATION FOR A MEETING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FORRIGN RELATIONS ON THE MATTER OF A PETITION ON THE ALLEGED MURDER OF MS. JOANNAH STUTCHBURY

We refer to the invitation by the Senate Standing Committee on National Security, Defence and Foreign Relations vide a letter SEN/DCS/NSFR/CORP/2020(127) dated 3rd November, 2021 pursuant to a Petition by Members of Conservancy Alliance of Kenya on investigation into the death of an Environmentalist and Conservationist one Ms. Joannah Wendy Stutchbury.

Background

The deceased was a Kenyan Citizen of British Origin aged 64 years. She was a farmer and a renowned Environmentalist who lived in her late parent's residence situated at Mushroom Estate, Kivulini Farm within Kiambu County on L.R.NO.12892/4.

The above mentioned land borders the Kiambu Central Forest Block known as LR. No. 21179 F/R.NO.284/108 which was Gazetted as a Forest Reserve vide Proclamation No. 44 of 1932. It covers an area of 133.95 Ha which was alienated as Government Land for the purpose of Forestry Development vide Legal Notice No. 174 dated 20th May, 1964.

On the 5th February 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land LR.No.12892/4 which borders a Wetland. She single-handedly confronted the developers who were constructing an illegal road and they momentarily stopped the said illegal construction. She reported the encroachment to the Kenya Forest Services Headquarters, Karura.



Scanned with CamScanner

This led to the arrests and arraignment of two persons at Klambu Law Court vide Criminal Case No.257 of 2018 for the Offence of Constructing a Road in the Forest without Authority Contrary to Section 64(1)(I) as Read with Section 64(2) of the Forest Act No. 34 of 2016. The case was heard and the 1st accused person was acquitted under Section 210 of the CPC while the 2nd accused person was discharged unconditionally.

Shooting of the Deceased

On the 15th day of July, 2021 at around 1655hrs, one Ndambu Muteml a watchman to Joannah Wendy Stutchbury vide OB No.03/15/07/2021 reported to Kugeria Patrol Base that the deceased was attacked and shot dead by unknown gunmen at around 1635hrs while driving her motor vehicle Reg. No. KBS 710A Mitsubishi Mini Pajero along the drive way to her home.

Police officers responded immediately and secured the scene. The crime scene was forensically examined and analyzed by experts and all relevant exhibits were collected for further examination.

At the scene, the investigators noted that the deceased had several gunshot wounds and nothing had been stolen from her. Her shopping, wallet, phone and other belongings were found intact inside her car thus robbery with violence was ruled out.

Preliminary Investigations

Investigations were commenced to unearth the probable motive for the murder. The DCI constituted a team of specialists drawn from the following units:

1. Crime Research and Intelligence Bureau
2. Homicide Department
3. Cyber Forensics Experts
4. Crime Support Services
5. Firearm Ballistics Experts
6. The local Sub County Criminal Investigation team

The team was tasked to establish the motive and the Criminals behind the grisly murder of Ms. Joannah. Preliminary investigations reveal that the deceased's resistance to the encroachment and illegal construction of a road on LR. No. 21179 F/R.NO.284/108 may have been the probable motive behind the murder.

Notably, the autopsy done by the Chief Government Pathologist Dr. Johansen Oduor on the 19th July, 2021, revealed that the deceased died as a result of multiple injuries due to gunshots from a low velocity firearm at a close range.

Samples and exhibits recovered are equally undergoing forensic, cyber and ballistic examinations to link persons of interests to the murder.

Illegal acquisition of Kiambu Central Forest Land

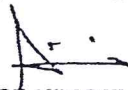
Preliminary investigations have established that Ms. Joanna Wendy Stutchbury might have been murdered due to her strong position and passion for preservation of environment at Kiambu Forest area against the will of the illegal developers who wanted to construct a road in the wetland area to gain access to their illegally acquired properties.

For the above reasons, the DCI has initiated investigation into the suspected illegal acquisition of Government land known as LR. NO. 21179 F/R.NO.284/108 gazetted as a Forest Reserve vide Proclamation No. 44 of 1932 covering an area of 133.95Ha. The investigators further have established that the same was alienated as government land for the purpose of forestry development vide Legal Notice No. 174.

DCI Detectives have been able to establish that Kiambu Central Forest boundaries and beacons are intact, however a total of 131.38Ha has been illegally allocated to individuals and companies and that only 2.57Ha of the said forest land remains as Kiambu Central Forest land.

The Detectives are now zeroing in on how these individuals and/or companies acquired and subsequently sub-divided the above government land into individual parcels and whether this has a nexus with Joanna murder. Further investigation into the murder of Ms. Joanna is still on-going and so far, several persons of interest have been interviewed and their statements recorded. Forensic investigations and analysis of all exhibits is on course.

This report is hereby submitted for your information.


GEORGE KINOTI, CBS
DIRECTOR OF CRIMINAL INVESTIGATIONS



