

LANDS MINISTRY AND LAND COMMISSION HEADED FOR TURF WARS

Posted on Sep 07, Posted by [Mwathane](#) Category [Land Commission](#)

Coming so soon after the Lands Cabinet Secretary Charity Ngilu attacked the national land commission, the story below (on the allocation of public land in Kibera) appearing on the Standard on Saturday 7th September 2103 is a pointer to turf wars between the commission and the Lands Ministry in days ahead. I would advise the two institutions to beware that they both draw their mandate from the people of Kenya to whom they should remain committed to serve. It would be prudent of the two to handle any differences of mandate or operations internally but keep their eyes on the larger picture of implementing land reforms and improving service delivery. That they work within the same building, Ardhi House, should make it quite easy to consult.

The Standard on Saturday, September 7, 2013, page 7

Showdown looms as Ngilu allocates land to Nubians

Updated Friday, September 6th 2013 at 21:04 GMT +3

By Cyrus Ombati and Geoffrey Mosoku

Kenya: Another row is simmering between Cabinet Secretary [Charity Ngilu](#) and the National Land Commission over a controversial decision to allocate close to 300 acres of public land to a private organisation in [Kibera](#) slums, Nairobi.

The commission says it did not approve the allocation of 117 hectares of land to a group calling itself Trustees of [Kibera](#) Nubian Community and set to last 99 years.

Only a week after Ngilu publicly took on National Land Commission chair Mohammed Swazuri, it has emerged the ministry has allocated the land in a move that promises to reignite the turf wars between a ministry and an independent commission.

Swazuri said he was not aware of the lease and he has not seen it.

I have asked my officers to give me a copy and as far as I am concerned, it is my commission that is mandated by the law to allocate public land for both county and national government. We have not done so in the case of [Kibera](#) , he said on phone.

This could also ignite violence among residents of the biggest slum in the region if the new owners decide to make use of it and evict those deemed tenants.

According to the letter of allotment dated July 30, the community will pay an annual rent of Sh72.

Such an allocation means the organisation would oversee almost half of [Kibera](#) slums, the region's biggest informal settlement. A Mr PK Kahuho signed the letter of allotment for the Commissioner of Lands.

The geographical area of [Kibera](#) slums is estimated at about 700 acres, which the Nubian community through the Nubian Council of Elders have been laying claim to as ancestral land.

Former Lands Commissioner and now Lands Secretary Zablon Mabeya said the Trustees of [Kibera](#) Nubian Community, will hold the title as representatives of the council of elders.

The community had been demanding they be allocated the entire [Kibera](#) slums on claims they were given the land by the colonial masters.

Other officials at the NLC said the move goes against the Transition to Devolved Government Act, which has put a moratorium on transfer of assets during the transition period.

Section 35 of the Act says a state organ, public office, public entity or local authority shall not transfer assets and liabilities during the transition period.

If there is such a move, Transitional Authority, National Treasury, Commission of Revenue Allocation, Ministry of Local Government and Ministry of Lands have to be involved.

Surveyors from the ministry have since Monday been visiting the targeted area for their work.

Ironically, the position of Commissioner of Lands was scrapped with the coming in of the NLC in March 2013.

Again, the ministry failed to notify the NLC of the allocation, in spite the constitutional mandate it is assigned to manage both public and community lands.

When contacted on Thursday, Mr Mabeya defended the allotment saying Ngilu was right to issue the letters.

There is nothing unprocedural in the allotment letter since the Cabinet Secretary had told even parliament of the plans to give the Nubian community titles for the land they have claimed as ancestral land, Mabea added.

When asked why they had not involved NLC, Mabeya said that Mr Kahuho and all other offices that were under him are now consolidated in the NLC.

Mr Kahuho is basically an employee of the commission, he said, adding that the NLC has no power to sign any land document including leases.

Cause strife

Surprisingly, the ministry failed to copy to the NLC the allotment letter which it copies to the PS Lands, Director Survey, Nairobi County Clerk, Director of Physical Planning, Officer in charge land rates, accountant, records and plot file.

According to the law, it is the commission that is supposed to issue allotment letters of such land to individuals, by working in consultation with respective county governments.

A section of ministry officials and NLC have faulted the move and accused the Cabinet Secretary of being behind it.

What we believe is that those behind the move have other agendas and it will backfire on them badly, said a senior official at the ministry who asked not to be named.

The Nairobi county government too dismissed the allocation as irregular saying much as the aim is noble, the law has not been followed.

We were not involved in this allotment as we don't have the legal instruments to transfer any land in the counties, Nairobi County Executive for Lands, Planning and Housing Tom Odongo said.

Odongo, who is also a former Director of City Planning, said the law provides for a joint management of such community land between the NLC and County Government adding that the ministry has no role to play.

As far as we are concerned, the office of Commissioner of Lands ceased to exist upon the appointment of NLC, he said adding that the County Lands Boards that will work with NLC are yet to be appointed.

Ngilu earlier in the week attacked the commission and told the House committee on Lands the NLC threatened to distract the implementation of the Jubilee manifesto.

The National Land Commission has been there for the last eight months and they are still educating people; they are creating awareness and they are holding meetings, seminars and what-have-you, she said.

I must do what I have got to do as a Cabinet Secretary and I want to say I don't disrespect them. I would love to work with them but if they are not going to do what has to be done, then they can do their work and I will do my work and we will be judged by the nation.[] []

She said some of the NLC's public announcements could cause panic and lead to strife.

The Cabinet Secretary singled out the claim that land whose leases had expired would be given to the public as likely to cause strife because it could prompt people to invade property that people have developed.

Tags: