COUNTY GOVERNMENT OF KISUMU

COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – FOURTH SESSION

Thursday, 21st August, 2025

House met in the Main Chamber at 02:30 p.m.

(The Temporary Speaker (Hon. Carren Ajwang') in the Chair)

PRAYERS

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, I refer you to the provisions of Orders No. 32 (2) of the Kisumu County Assembly Standing Orders and direct that the quorum bell to be rung for the first five minutes.

(Quorum bell rung for the first minutes)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Madam Whip, could you please confirm if we have quorum.

The Deputy Whip (Hon. Obonyo, MCA, South West Kisumu): Thank you Madam Speaker, there is Quorum.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Thank you Whip. Clerk, please take us through the order of the day.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Next order!!

PAPER LAID

THE ALLEGATIONS OF REVENUE EMBEZZELEMENT BY EMPLOYEES OF THE KISUMU COUNTY REVENUE BOARD

BY

HON. MOSES OCHELE, MCA, EAST KANO WAWIDHI

[CHAIRPERSON, ADMINISTRATION OF LAW, JUSTICE, GOOD GOVERNANCE AND SECURITY COMMITTEE]

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Ochele.

Hon. Ochele (MCA, East Kano Wawidhi): Thank you, Madam Speaker. I wish to lay a Paper. Pursuant to the provisions of Orders No. 182 (6) of the Standing Orders. I wish to table today, Thursday, 21st August 2025, the Progress Report of the Joint Departmental Committees on Labour and Social Welfare, and that of the Administration of Law, Justice, Good Governance and Security, on the Inquiry into the Allegations of Revenue Embezzlement by Employees of the Kisumu County Revenue Board.

(Hon. Ochele tables the report before the House for consideration)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, I confirm a receipt of a report of the Joint Departmental Committees on Labour, Social Welfare and Administration of Law, Justice, Good Governance and Security on the Inquiry into the Allegations of Revenue Embezzlement by Employees of the Kisumu County Revenue Board. I therefore commit this report to the Select Committee House Business for scheduling for debate.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Next order!!

NOTICE OF MOTION

THE ALLEGATIONS OF REVENUE EMBEZZELEMENT BY EMPLOYEES OF THE KISUMU COUNTY REVENUE BOARD

BY

HON. MOSES OCHELE, MCA, EAST KANO WAWIDHI

[CHAIRPERSON, ADMINISTRATION OF LAW, JUSTICE, GOOD GOVERNANCE AND SECURITY COMMITTEE]

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Ochele.

Hon. Ochele (MCA, East Kano Wawidhi): Thank you, Madam Speaker. Madam Speaker, I have a report by the Joint Departmental Committees on Labour, Social Welfare and Administration of Law, Justice, Good Governance and Security.

Madam Speaker, pursuant to the provisions of Orders No. 45 (1) of the Kisumu County Assembly Standing Orders. THAT, this House adopts the Progress Report of the Joint Departmental Committees on Labour and Social Welfare, and that of the Administration of Law, Justice, Good Governance and Security, on the Inquiry into Allegations of revenue Embezzlement by Employees of the Kisumu County Revenue Board. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Next order!!

STATEMENT

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Members, it is Statement Hour.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Odari.

Hon. Odari (MCA, Chemelil Tamu): No, Madam Speaker, I don't have any Statements to seek. I'm just happy to see my sister today in an Arsenal jersey.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Okay, I called you because I saw you on your feet.

Hon. Odari (MCA, Chemelil Tamu): Madam Speaker, I don't know if that is the dressing code of this Assembly. This is because the member has equally donned sports shoes.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Ochele.

Hon. Ochele (MCA, East Kano Wawidhi): Honourable Madam Speaker, allow me to ride on the observations made by Honourable Adonijah Odari, who is from Muhoroni, as well as our sister, Honourable Regina Kizito. Madam Speaker, Honourable Adonijah Odari has noticed, and I also realize that our sister is in sports gear. I don't know whether we changed our dressing code to sports gear.

The member is in an Arsenal T-shirt, tight brook and trouser, and sports shoes. Is that the recent dressing code?

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Serjeant-at-Arms, can you please ascertain if Honourable Regina Kizito is properly dressed.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Madam Speaker, the mood in the country is that of sports….

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Oiko, I have not given you permission.

(Hon. Nyaoke rises on a Point of Order)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Granted.

Hon. Nyaoke (MCA, North Nyakach): Madam Speaker, I want to stand as per the regulations and the precedence of this House. Madam Speaker, you are also aware that our faithful team is due to play tomorrow. And we are just gearing towards the support we are ready to give this team. And as Assembly, we have to start demonstrating the mood from this House, Madam Speaker. So I find Madam Regina appropriately dressed for tomorrow's occasion. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Order!! Honourable members. Honourable Adega, please resume your seat. Honourable members, we have a addressing code. And we have to adhere to that. Please allow the Serjeant-at-Arms to do their work.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Next order!!

MOTION

REPORT BY THE DEPARTMENTAL COMMITTEE ON LANDS, PHYSICAL PLANNING, HOUSING AND URBAN DEVELOPMENT ON THE SUB-LEASE OF LAND TO THE ETHICS AND ANTI-CORRUPTION COMMISSION

BY

HON RATIB BOITONE MCA, NYALEDA "A"

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Ratib Boitone of Nyalenda "A".

Hon. Boitone (MCA, Nyalenda "A"): Thank you, Madam Speaker. I arise to move a motion on the report on the Proposed Allocation of Parcel, Kisumu/Municipality/Block 11/43 to the Ethics and Anti-Corruption Commission.

Honourable Speaker, on behalf of the Sectoral committee on Lands, Physical Planning, Housing and Urban Development, I wish to present to this House the report of the Committee on the proposed sub-lease of a parcel of land, Kisumu/Municipality/Block/11/43 to the Ethics and Anti-Corruption commission for establishment of office block.

Hon. Speaker, on 12th August 2024, the Office of the Clerk of the Assembly received a formal communication from the County Secretary regarding this matter. In the correspondence, the County Secretary conveyed that the County Executive Committee had approved a request from the Ethics and Anti-Corruption Commission (EACC) for allocation of a parcel of land for the establishment of an office block.

This communication was subsequently tabled in the House and the Hon. Speaker instructed the sectoral committee on Lands, Physical Planning, Housing and Urban Development to consider it and report back to the House within a period of 21 days. *(See Annex 1- Communication from the County Secretary)*

Honourable Speaker, in view of the sensitive nature of this matter, the Committee deliberated on it extensively over several sittings. In the course of its consideration, the Committee held multiple consultative meetings with key stakeholders, notably the Ethics and Anti-Corruption Commission (EACC) and the Department of Lands, Physical Planning, Housing and Urban Development. These engagements, some of which were convened specifically to address emerging concerns, were aimed at gathering comprehensive information and perspectives to guide the Committee towards an informed and objective determination.

In its meeting with the department, the committee seeks clarity on critical aspects relating to the parcel Kisumu/Municipality/Block 11/43. Deliberations focused on the status of ownership and tenure, the zoning designation, the suitability of the parcel for the proposed development, and its alignment with the County's spatial and physical development plans.

The Committee further inquired into the history of the land, any existing encumbrances, previous or current usage, and whether the allocation and proposed sub-lease were being pursued in accordance with the established legal and administrative procedures. This engagement was essential in determining whether the land was legally, procedurally, and practically available for sub-leasing to the Ethics and Anti-Corruption Commission.

The committee further held a meeting with representatives of the Ethics and Anti-Corruption Commission (EACC) on 3rd June, 2025, to understand the rationale behind their request, the intended use and design of the proposed office block, and the long-term implications of granting the sub-lease. The EACC's input was important in assessing the strategic significance of establishing their regional office within Kisumu County.

During its meeting, the Committee was informed that the Commission has long sought to expand its regional offices to enhance service delivery to the public. This plan has, however, been

slowed by the rapidly rising cost of renting office space in the city, which has made it increasingly unsustainable to operate from rented premises. It is in this regard that the commission requested Kisumu County for a sublease of a parcel of land to establish its regional office. While several locations were considered, Kisumu emerged as a natural choice owing to the Commission's strong and collaborative working relationship with the County Government over the years.

Honourable Speaker, this partnership has been characterized by joint initiatives such as the training of public officers on integrity and ethics, as well as coordinated efforts in the recovery of public assets. Notably, the EACC, with the support of the County Government, reclaimed Taifa Park for public use after it had been irregularly acquired by private parties, and facilitated the recovery of land initially reserved for the Kisumu Water and Sewerage Company (KIWASCO) that had been unlawfully allocated. The Commission is also actively pursuing the retrieval of other parcels intended for critical public purposes.

Honourable Speaker, the Commission emphasized that this history of mutual trust and successful collaboration made Kisumu the preferred location for establishing its permanent regional office. In their presentation, they noted that sub-leasing a parcel of land for this purpose would not only address the challenge of high and escalating rental costs but also enhance the Commission's capacity to deliver its mandate effectively within the County.

Honourable Speaker, the Committee further considered the procedural aspects of the proposal and confirmed that the request by EACC followed the necessary legal and administrative processes. These included formal communication to the Office of the Governor, deliberation and approval by the County Executive Committee, and submission to the County Assembly for consideration as required under Article 185(4) of the Constitution of Kenya, the County Governments Act, and the Land Act.

The proposal was accompanied by documentation outlining the intended public purpose and was assessed within the framework of national land management policy. While some administrative inconsistencies were initially observed, the Committee is satisfied that they were subsequently addressed, and that the allocation process is now aligned with applicable statutory requirements.

Hon. Speaker, having considered both the procedural aspect and the legal framework of allocating public land, the efforts and the mutual partnership that exists between Kisumu County and EACC, the committee resolved to approve this proposal to sub-lease land to the Ethics and Anti-Corruption Commission.

Honourable Speaker, I wish to register my appreciation to fellow Honorable Members of the Committee, the Offices of the Speaker and the Clerk of the Assembly and the Committee Secretariat for the facilitation and technical support that made the production of this report possible.

Honourable Speaker, on behalf of the sectoral committee on Lands, Physical Planning, Housing and Urban Development, I now wish to present the report on the consideration of the proposed sub-lease of parcel of Land Kisumu/Municipality/Block/11/43 to the Ethics and Anti-corruption Commission and urge this Honorable House to adopt it.

Preface

Establishment and Mandate Of The Committee

Honourable Speaker, Honourable members, the Sectoral Committee on Lands, Physical Planning, Housing and Urban Development is established under Standing Order No. 193 of the Kisumu County Assembly Standing Orders, whose mandate, pursuant to the Standing Orders No. 193 (5) is as follows;

i. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments
ii. Study the programme and policy objectives of departments and the effectiveness of the implementation
iii. Study and review all County legislation referred to it
iv. Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives
v. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly
vi. To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 187 (Committee on Appointments)
vii. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Composition of the House Committee

Honourable Speaker, Honourable members, the Departmental Committee on Lands, Physical Planning, Housing and Urban Development as currently constituted comprises of the following Members:

1. Hon. Boiton Ratib - Chairperson
2. Hon. Tom Nyaoke - Vice Chairperson
3. Hon. Seth Ochieng - Member
4. Hon. George Abaja - Member
5. Hon. Moses Ochele - Member
6. Hon. Zackaria Okoyo - Member
7. Hon. Joachim Oketch - Member
8. Hon. Nereah Okombo - Member
9. Hon. James Were – Member

Secretariat

1. Austine Ochieng - Committee Clerk
2. Mr. Rodgers Wagude -Assistant Committee Clerk
3. Ms. Vallery Achieng - Hansard Reporter
4. Ms. Faith Judith - Sergeant-at-Arms

LEGAL FRAMEWORK GOVERNING THE PROPOSED SUB-LEASE OF PUBLIC LAND TO THE ETHICS AND ANTI-CORRUPTION COMMISSION

Honourable Speaker, Honourable members, the proposed lease of public land to the Ethics and Anti-Corruption Commission for the establishment of a regional office in Kisumu, is regulated by a complex confluence of constitutional, statutory, regulatory, and policy standards governing public land management, land use planning, public-private partnerships, and property transactions in Kenya. The committee took notice of the key legal instruments implicated in this transaction and was guided by a holistic appreciation of these legal frameworks to ensure procedural fidelity, transparency, and the safeguarding of public interest as follows:

The Constitutional and Statutory Architecture of Public Land Management.

2.1 The Constitution of Kenya, 2010.

At the apex of the legal hierarchy, Article 62 of the Constitution of Kenya, 2010 vests public land in the national or county government to be held in trust for the people of Kenya. The Constitution mandates that the National Land Commission (NLC) administer such land on behalf of the public, subject to transparency, accountability, and sustainability principles enshrined in Articles 10, 60, and 69.

Specifically, Article 62 (2) provides that public land shall vest in and be held by a county government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission, if it is classified as –

a) land which at the effective date was unalienated government land as defined by an Act of Parliament in force at the effective date;
b) land transferred to the State by way of sale, reversion or surrender;
c) land in respect of which no individual or community ownership can be established by any legal process;
d) land in respect of which no heir can be identified by any legal process; and
e) land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease, other than land held, used or occupied by a national State organ.

2.2 The Land Act (No. 6 of 2012).

Pursuant to the constitutional framework provided for in Article 62, the Land Act, No. 6 of 2012 provides the primary statutory framework for the administration of public land. The Act prescribes procedures for the allocation, leasing, and sub-leasing of public land, with a focus on public interest and due process.

In effect to the Land Act are several specialized regulations that operationalize its provisions as follows:

2.3 The Land (Allocation of Public Land) Regulations, 2017.

The Land (Allocation of Public Land) Regulations, 2017 provide for detailed procedures for the transparent and equitable allocation of public land. The Committee therefore ascertained that these procedures were followed in the current transaction, including the conduct of stakeholder consultations and environmental assessments.

2.4 The Land (Extension and Renewal of Leases) Rules, 2017.

Further, the Committee inquired whether the land in question involved a renewal, extension or sub-lease of a prior lease, in which case the Land (Extension and Renewal of Leases) Rules, 2017 was applied to ensure that the renewal, or extension or sub-lease serves a demonstrable public interest and complies with procedural safeguards.

2.5 Valuation, Survey, and Compensation.

To safeguard public interest, the valuation of land for lease must be conducted transparently and professionally. The Valuers Act (Cap. 532) mandates that only registered valuers may conduct such valuations. The Committee confirmed whether the valuation report informing the lease terms adheres to professional standards.

Likewise, the Survey Act (Cap. 299) ensures that land surveys are accurate and conducted by licensed surveyors, thereby precluding boundary disputes and safeguarding land tenure clarity.

If the project necessitates the displacement of current occupants or the extinguishment of customary rights, the Land (Assessment of Just Compensation) Rules, 2017 must be meticulously followed to guarantee fair compensation.

2.6 County Government Act, 2012.

The County Government Act, 2012 sets out basic guidelines for a land use management system in the county taking into account any guidelines, regulations or laws as provided for under Article 67(2) (h) of the Constitution of Kenya 2010.

2.7 Summary of Allocation Process Based on Legal Framework:

Submission of Request by EACC – Initiated in accordance with the need for public purpose as allowed under Article 66 of the Constitution.

Receipt and Consideration of Application – County Government assesses the merit of the application in line with Article 60 of the Constitution and the Land Act.

County Cabinet Discussion and Decision – The Executive processes and prioritizes the request within the policy and land use planning framework.

County Assembly Approval – Required under Article 185 of the Constitution and Section 5 of the County Governments Act for accountability and public interest scrutiny.

Proposal Preparation – Documented details of intended use, size, tenure, and supporting documents for review.

Submission to the National Land Commission – As per the National Land Commission Act, the Commission considers the proposal in light of national land policy and public land management principles.

NLC Review and Approval – Final vetting and endorsement of the proposed allocation.

Preparation of Sublease Agreement – Legal documentation detailing the rights and obligations of both parties.

Registration – Final step for formalizing the allocation and updating land records as per the Land Act.

Introduction.

Honourable Speaker, Honourable members, on 12th August, 2024, a communication from the County Secretary, communicating the County Executive Committee approval to the request by the Ethics and Anti-Corruption Commission to be sub-leased a parcel of land to establish their regional offices was received by the Office of the Clerk.

The communication was subsequently tabled in this House and the Hon. Speaker instructed the sectoral committee on Lands, Physical Planning, Housing and Urban Development to consider it and report back to the House within a period of 21days.

The Communication was accompanied by a Cabinet Memorandum from the County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development to the County Secretary seeking approval from the Kisumu County Cabinet for the allocation of land parcel Kisumu/Municipality/Block/11/43, measuring 0.3031 hectares and located along Achieng' Oneko Road, to the Ethics and Anti-Corruption Commission (EACC) for purposes of a sub-lease. The following key points were drawn from the memo:

i. The EACC had formally requested a parcel of land within Kisumu County to establish a regional office, with the aim of enhancing its capacity to combat corruption and promote ethical practices.
ii. The identified parcel, Kisumu/Municipality/Block/11/43, measures 0.3031 hectares and is located along Achieng' Oneko Road.
iii. The allocation would be subject to approval by the Kisumu County Cabinet and consent from the National Land Commission for the sub-lease.
iv. The memo further indicated that all budgetary implications of the allocation—including the costs associated with valuation, legal due diligence, public participation, and registration of the lease agreements—would be met by the EACC upon the Cabinet's approval and subsequent consent by the National Land Commission.
v. It was noted that the County Executive Committee approved this request on 28th June, 2024. *(See Annex 2)*

Honourable Speaker, Honourable members, having considered the request from the County Secretary, the cabinet memo and the information herein, the committee noted that a number of documents to support the request were missing.

The Committee therefore resolved to seek for more information from the County Executive Committee member for Lands, Physical Planning, Housing and Urban Development.

Subsequently, the Clerk of the Assembly, through a letter dated 1st November ,2024, requested the County Executive Committee member to provide the following information;

i. Request from the Ethics and Anti-Corruption Commission
ii. County Executive Committee approvals
iii. Supporting documentation for the request
iv. Correspondences regarding the same

Honourable Speaker, Honourable members, through a letter ref; CGK/LHPP & UD/CA/2024/040 dated 6th November, 2024, the County Executive Committee member for Lands, Physical planning, Housing and Urban Development responded to the request. *(See Anne 3).*

Submission of request by the Ethics and Anti-Corruption Commission (EACC).
Honourable Speaker, Honourable members, the Committee, upon reviewing the documentation provided by the County Executive Committee member for Lands, Physical Planning, Housing and Urban Development, noted that the Ethics and Anti-Corruption Commission (EACC) had previously requested facilitation for office premises in Kisumu County. This request was made through a letter of Ref: EACC.1/1 dated 28th February 2014 *(See Annex 4),* which was addressed to the then Governor of Kisumu County, H.E Jack Ranguma.

The letter indicated that the commission had embarked on regional expansion and was looking to establish regional presence in all the 47 Counties of the republic.

Honourable Speaker, Honourable members, in the letter, the EACC explicitly sought assistance in securing office space through either:

1. The provision of existing County premises or
2. Allocation of land where the commission could construct its offices.

However, upon scrutiny of the documentation provided, the Committee could not trace any official response or further correspondence regarding the matter.

Further, on 3rd May 2023, the Ethics and Anti-Corruption Commission sent another letter to the Office of the Governor, once again requesting to be allocated County premises that could accommodate the EACC Western Regional Office. *(See annex 5)*

Through a letter Ref: CGK/COK/ADM/G/00/023 dated 21st June 2023, the City Manager formally informed the Ethics and Anti-Corruption Commission (EACC) of the approval for the allocation of a vacant institutional house located opposite Kisumu State Lodge in the Milimani Area – Block 11/43 for their use subject to acceptance. This letter did not specify the terms of tenancy. Notably, at the time the letter was issued, no Cabinet meeting had been convened to deliberate on the matter, as the Cabinet approval referenced was granted later on 28th June 2024.

Subsequently, Hon. Speaker, the EACC, via a letter of Ref: EACC.1/1/4 Vol.I (91) dated 21st August 2023, responded to the letter from the City Manager by acknowledging and appreciating, the prompt response by the County Government in addressing their request. The EACC committed to assign an officer to work with the City Manager to complete the transfer process. There was no correspondence in regards to this by the City Manager. *(See Annex 6).*

The Commission vide a letter dated 12th October, 2023 then wrote a letter to H.E the Governor, requesting the office to notify the National Land Commission of the decision to allocate a parcel of land KISUMU/MUNICIPALITY/BLOCK/11/43 to enable processing of lease to the Commission. This request deviated from the City Manager's letter which communicated allocation of institutional House and not a parcel of Land. *(See Annex 7).*

On 12th March 2024, the Department of Lands, Physical Planning, Housing, and Urban Development issued an advisory to the County Secretary, recommending that until the Ethics and Anti-Corruption Commission (EACC) revise their request from the allocation of County premises to the allocation of a parcel of land, the department would not be able to write to the National Land Commission. *(See Annex 8)*

Honourable Speaker, Honourable members, subsequently, through a letter of Ref: CGK/CS/CONF/09/VOL.III/66 dated 14th March 2024, the County Secretary formally advised

the EACC to reconsider their request and instead apply for the allocation of land rather than premises. *(See Annex 9)*

Following this advisory, Hon. Speaker, the EACC, via a letter dated 13th May 2024, formally wrote to the H.E the Governor, requesting the allocation of a parcel of land in place of the previously requested County premises. *(See Annex 10).*

Committee Observations on the correspondences between the County Government and the EACC.

Honourable Speaker, Honourable members, having considered the documents submitted and in view of the provisions of the Constitution of Kenya, 2010, the Physical and Land Use Planning Act, 2019, and other relevant laws, the Committee made the following observations:

1. The Committee noted significant gaps in correspondence and follow-up between the EACC and the County Government. For instance, the EACC's initial request in 2014 was never formally responded to. The next request by the commission was in 2023
2. The Committee observed that the request shifted over time from seeking allocation of County premises to eventually requesting to be allocated a parcel of land.
3. The City Manager issued a communication to EACC on 21st June 2023 regarding the availability of premises without the prior Cabinet approval, which was only granted on 28th June 2024. This contravenes established procedures for land and asset allocation within the County Government.
4. That while the Cabinet memo referenced legal processes such as valuation and public participation, there was no evidence of such activities having been undertaken or concluded prior to submission of the request to the Assembly.
5. The advisory issued on 12th March 2024 advising the EACC to revise its request came nearly six months after the Commission vide letter dated 12th October, 2023, wrote a letter to H.E the Governor, requesting the office to notify the National Land Commission of the decision to allocate a parcel of land KISUMU/MUNICIPALITY/BLOCK/11/43 to enable processing of lease to the Commission.

Committee Recommendations.

Honourable Speaker, Honourable members, while the Committee supports the establishment of an EACC regional office in Kisumu, and finds the proposed sublease of Kisumu/Municipality/Block/11/43 justifiable in principle, it makes the following recommendations to strengthen compliance and procedural clarity for future requests:

1. That in future, the County Executive must ensure that Cabinet and County Assembly approvals are obtained prior to issuing any form of communication regarding allocation of land or public property to external institutions.

2. That any future request by national institutions or agencies should be clear, consistent, and formally lodged, with clarity on whether the request is for land or built premises.
3. That in future, departments such as Lands, Physical Planning, Housing and Urban Development and the County Secretary's office should ensure that advisories, clarifications, and technical guidance are issued promptly.

COUNTY CABINET DISCUSSION AND DECISION.

Honourable Speaker, Honourable members, through a letter Ref: CGK/CS/ADM/20/VOL.VI/203 dated 12th August 2024, addressed to the Clerk of the Assembly, the County Secretary conveyed the Executive Committee's approval for the allocation of land to the Ethics and Anti-Corruption Commission (EACC) and formally forwarded the matter to the County Assembly for consideration. The accompanying Cabinet Memorandum had been signed on 26th June 2024, with the approval granted by the County Executive Committee on 28th June 2024.

Committee Observations on the Cabinet Memo and Approval Process.

1. That the cabinet memo was properly signed before the Cabinet deliberations and approval, indicating adherence to internal executive procedures.
2. The request was formally approved by the Cabinet on 28th June 2024, confirming that the County Executive followed the required process for such allocations as per the Public Finance Management Act, 2012, and County Government Act, 2012.
3. That the memo explicitly identified the intended use as Construction of an EACC office block and the beneficiary (EACC), aligning with principles of transparency and public interest in public land management.
4. The cabinet memo outlined that EACC would bear the costs associated with valuation, legal due diligence, public participation, and lease registration. This protects the County Government from incurring unintended financial liabilities.
5. Despite approval, the Committee observed no supporting documentation from the technical departments (e.g. valuation reports, survey maps, or legal opinions) accompanying the cabinet memo, which are typically expected in making informed executive decisions.
6. The memo did not indicate whether public participation was undertaken, Contrary to Article 10 and Article 201 of the Constitution, which require inclusive and participatory governance in the management of public resources.

MEETING WITH THE DEPARTMENT OF LANDS, PHYSICAL PLANNING, HOUSING AND URBAN DEVELOPMENT ON THE OUTSTANDING MATTERS.

Honourable Speaker, Honourable members, the Committee invited the Department of Lands, Physical Planning, Housing and Urban Development to appear before it in order to provide further clarification on key procedural and administrative aspects relating to the proposed sub-lease of the parcel Kisumu/Municipality/Block/11/43 to the Ethics and Anti-Corruption Commission. Specifically, the Committee sought to establish the status of the valuation of the parcel, whether public participation had been undertaken in line with constitutional and statutory requirements, and whether all necessary due diligence processes had been carried out to safeguard the interests of the County Government. *(See Annex 11)*

Honourable Speaker, Honourable members, during the meeting, which was attended by the Chief Officer of the Department, members of the Committee raised detailed queries regarding the methodology and date of valuation, the scope of due diligence envisaged, and the legal thresholds for conducting public participation prior to approval of the transaction. The Chief Officer responded as follows:

1. Valuation: The Chief Officer confirmed that a valuation of the parcel had already been conducted by the County Government's Valuation Office. This exercise was undertaken to determine the current market value of the land and to provide a basis for any financial implications associated with the sub-lease arrangement. The Committee was informed that the valuation report is on record and would be provided to the Committee.
2. Due Diligence: On the matter of due diligence, the Chief Officer indicated that the process had not yet been undertaken in full. He explained that due diligence in this context would involve verifying the authenticity of the title documents, confirming the absence of encumbrances, and ensuring that the land is free from any legal or customary claims. This process, he assured the Committee, would be initiated immediately upon receipt of formal approval by the County Assembly, so as to comply with all legal and administrative requirements before execution of the sub-lease.
3. Public Participation: With regard to public participation, the Chief Officer acknowledged that no such exercise had been conducted so far. He clarified that public participation would be carried out once the County Assembly has given its initial approval in principle, and that it would involve engaging local residents, stakeholders, and relevant interest groups to seek their views on the proposed allocation.

CONSULTATIVE MEETING WITH THE REGIONAL DIRECTOR – ETHICS AND ANTI-CORRUPTION COMMISSION (EACC).

Honourable Speaker, Honourable members, in the course of considering the request for the proposed allocation of Parcel No. Kisumu/Municipality/Block/11/43 to the Ethics and Anti-

Corruption Commission (EACC), the Committee held a consultative meeting with representatives from the Commission, led by the Regional Director *(See Annex 12).* The objective of the meeting was to clarify specific concerns raised by Members and to understand the context and rationale behind the EACC's request. The EACC team took the Committee through a number of issues, which are summarized below:

Rationale for Changing the Request from Premises to Land.
Honourable Speaker, Honourable members, the EACC representatives explained that the initial request for office premises was later revised to a request for a parcel of land. This decision was driven by the Commission's strategic goal to establish a permanent regional office. The team cited the high and rising costs of renting office space, which had become unsustainable for the Commission.

Further, they emphasized the strategic importance of Kisumu City, being the third largest in Kenya and the principal urban centre in the Western region. Establishing a permanent presence in Kisumu would enhance the Commission's capacity to serve the region effectively, strengthen its operational base, and support efforts to promote accountable and ethical leadership in the public sector.

Benefits Accrued to the County Government through EACC Interventions.
The Commission highlighted its mutually beneficial working relationship with the County Government of Kisumu. They reported that, in the course of executing its mandate, the EACC had facilitated the recovery of several parcels of public land, including:

i. Taifa Park
ii. Land at Dunga Beach for KIWASCO
iii. Several houses in Block 4 of Tom Mboya Estate
iv. Land under the sewerage treatment plant

Further, the Commission is actively pursuing the recovery of:

i. 20 hectares of land in Milimani initially set aside for the construction of staff quarters
ii. 18 hectares for the Kibuye Market redevelopment project
iii. Ongoing investigations into cases of embezzlement of public funds from the Department of Finance and the City of Kisumu administration

Consideration of Alternative Avenues for Land Allocation.
Honourable Speaker, Honourable members, the Departmental Committee inquired whether the EACC had explored other channels, including seeking land from national institutions. The Commission explained that, due to the sensitive nature of its operations, various factors needed

to be taken into account in the selection of a suitable site. Most importantly, they stressed the need to guarantee privacy and confidentiality, allowing members of the public to report corruption cases discreetly, without fear of exposure or intimidation.

Status of Regional Offices in Other Counties.
Honourable Speaker, Honourable members, The EACC confirmed that it had established 11 regional offices across various counties in Kenya. However, all these offices currently operate from rented premises. The Commission noted that in Isiolo County, they had already acquired and fenced a 1.5-hectare parcel. Additionally, processes were underway to acquire land in Kisii, Machakos, Mandera, and Tharaka Nithi Counties for the same purpose; establishing permanent regional offices.

Tenure and Compliance with County Regulations.
Honourable Speaker, Honourable members, on the question of whether the Commission intended to change the parcel number to its name and whether it would comply with land-related obligations, the EACC clarified that it would adhere to all terms of any binding agreements, including Memoranda of Understanding (MoUs). The Commission committed to engaging with the County Government in good faith to ensure both parties realize their respective goals and mandates.

COMMITTEE'S FINDINGS ON THE SUBJECT PROPERTY.
Honourable Speaker, Honourable members, the Departmental Committee, having duly considered the valuation report, (*See Annex 13)* makes the following findings:

Legal Description and Ownership.
Honourable Speaker, Honourable members, the Subject Property KISUMU/MUNICIPALITY BLOCK 11/43 is registered in the name of the Municipal Board of Kisumu as a leasehold interest for a term of 99 years, which commenced on 1st September 1949 and is situated at Milimani Estate, along Ochieng' Oneko Road, and measures approximately 0.3031 hectares (0.749 acres).

Valuation and Financials.
Honourable Speaker, Honourable members, the Committee notes that the professional valuation report establishes the current market value of the Subject Property at Kshs. 80,000,000/-, apportioned as follows:

i. Unimproved Land Value: Kshs. 75,000,000/-

ii. Value of Existing Improvements: Kshs. 5,000,000/-

The Committee acknowledges that this valuation represents a significant public asset and is satisfied that the proposed acquisition price is a reasonable market-based figure, which justifies the County's commitment to the transaction.

Legal and regulatory conditions.
Honourable Speaker, Honourable members, the Committee, in its duty to safeguard public interest and ensure procedural compliance, finds that the following mandatory legal and regulatory conditions must be fulfilled upon the approval of the Lease by this Hon. House. These conditions are hereby presented for the Assembly's directive to the County Executive:

Change of User and Zoning.
Honourable Speaker, Honourable members, the Committee has observed from the valuation report that the Subject Property is currently designated for residential use. The proposed development of a regional office constitutes a change of user. The Committee determines that it is a legal imperative that the County Executive, through the relevant department, formally secures an approved Change of User from residential to commercial or institutional use.

Verification of Title and Encumbrances.
Honourable Speaker, Honourable members, the Committee notes with caution the valuers' observation that, while no encumbrances are known, this fact was not independently verified. To mitigate this significant legal and financial risk, the Committee directs that a full and exhaustive legal search be conducted to establish the absence of any charges, caveats, or third-party interests.

CONCLUSION AND RECOMMENDATIONS.
Honourable Speaker, Honourable members, having considered the matter exhaustively, the Committee finds the sublease of Parcel No. KISUMU/MUNICIPALITY BLOCK 11/43 to the Ethics and Anti-Corruption Commission to be in the best interest of the public. The Committee therefore recommends to this Hon. House;

THAT, the sub-lease be approved to authorize the Department of Lands, Physical Planning, Housing and Urban Development to proceed with the transactions in the said property with expediency, to fulfill the next phase of the transaction in order to:

1. Initiate and secure a formal Change of User approval from residential to commercial/institutional use for the Subject Property.
2. Confirm the remaining term on the existing leasehold interest.
3. Conduct Legal due diligence before finalizing the lease agreement with the EACC.
4. Formulate a sublease agreement detailing the terms, duration, obligations of both parties, and reversion clauses for review by the Assembly Committee before signing.

THAT, public participation be conducted in accordance with Article 10 of the Constitution and Section 87 of the County Governments Act, 2012, and to demonstrate public views on the matter prior to lease execution.

THAT, the Department to Report back to the Committee on the fulfillment of these conditions prior to the finalization of the lease agreement. Madam Speaker, at this juncture, may I now call upon Honorable Reverend Tom Nyaoke to second the report. Who is also, the Vice-Chair of this House Committee. Thank you.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honorable, Reverend, Bishop Nyaoke.

Hon. Nyaoke (MCA, North Nyakach); Thank you, Madam Speaker. Madam Speaker, I want to first thank my able Chair for the good presentation of this long-awaited report that the member has just read before this House. Madam Speaker, we have come a long way with this issue and I'm happy now we are getting somewhere close to the end of this particular subject.

Madam Speaker, before us this afternoon is the report from the Departmental Committee on Lands, Physical Planning, Housing and Urban Development regarding the sub-lease of a parcel of land to the EACC as has been read by our able Chair. Madam Speaker, in that particular report, I want to also commend other Committee members where I'm also part of because we were involved in several discussions on the same.

Madam Speaker, with the view that we are able to bring a report to this House that is properly executed, investigated, and possibly all possible questions to be asked were deliberately answered.

Madam Speaker, in view of this particular sensitive nature of the whole thing, Madam Speaker, we did take quite a lot of time to go scrutinize through and to involve possible stakeholders, the relevant departments, the EACC, that is the Board requesting for the sub-lease of this particular land, so that we ensure that we have no issue at all with that particular land in question. Madam Speaker, it is also important to note that this House Committee on behalf of this House met and discussed with the EACC officials. We did invite them. They appeared before this House Committee. We seriously interrogated these officers and we took a lot of time to understand their point of request. We also invited officials from the Department of Lands Department.

They also came here, made a physical presentation. We did cross-examinations of what we thought members would be interested in knowing. And, of course, Madam Speaker, all the stakeholders that we felt were important to consult with were equally invited.

Madam Speaker, with the so many deliberations that we did, during all this process, it was satisfactory that the land in question was free from any encumbrances, and that it was free for sub-lease as was being requested by this entity. Madam Speaker, therefore, I don't want to say much. I want to say that I second this report.

And it is a report that, going forth, I think is going to lead us to the greater heights of what we plan to do. Thank you, Madam Speaker. I beg to second.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, now that a motion on adoption of the report of the Departmental Committee on Lands, Physical Housing and Urban Development on the Proposed Sub-lease of Lands Kisumu/Municipality/Block 11/43 to the Ethics and Anti-Corruption Commission has been presented and seconded, I want to propose a question, and I propose that the motion on adoption of the report is open for debate.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Ochele.

Hon. Ochele (MCA, East Kano Wawidhi): Thank you Madam Speaker. Please allow me to take cue from where my able Chairperson, who is the mover of the motion, and this Deputy Honourable Reverend Engineer, Chinese Nyaoke, has left it. Madam Speaker, it is worth noting that this report has taken quite a while, and going by the nature of the workload, I believe that the time taken by this House Committee in coming up with the report is worth mentioning.

Madam Speaker, sometimes I believe that, the time frame given to this House Committees should take into consideration the number of correspondences, the number of engagements, and the number of interactions the committee needs to come up with a report. Madam Speaker, the duration of compiling such a report should be considered based on certain fundamental facts. Like in this report, Madam Speaker, a number of correspondences were done to various offices.

Some were honoured early, some were honoured late. However, at the end of it, most of the deliberations were fruitful. Madam Speaker, personally, I didn't append my signature to the report, despite the fact that I'm a member of the same House Committee.

Madam Speaker, I would like to assist my brother, Honourable Nyaoke, that when the Chairperson mentions four active committee members, obviously the Chairperson is very active in this House Committee, Honorable Nyaoke is normally very active, and the newly-acquired committee member, Honorable Joseph Oyugi Were, is equally active. And the passive, semi-passive Deputy, who is committed in other matters, like the religious aspects, the member comes and disappears, but generally he prays for us. And the other one, he was truly myself, and therefore I believe the concern of Honorable Nyaoke is taken care of.

Madam Speaker, recommendation number one, and that is why I didn't append my signature in the Adoption Schedule, because I thought this adoption number one is overtaken by recommendations two, three, four, five, and six. This is because, when you say that the County Executive conducts Public Participation in compliance with Article 10 of the Constitution and Section 87 of the County Governance Act 2012 before execution of the lease, Madam Speaker, it kind of contradicts number one, because it is like we are giving the County Executive a fresh assignment, they do it, then they report back to this House Committee on their progress on public

participation, despite the fact that recommendation number one says that this Honorable House approves the Proposed Allocation of the Parcel Kisumu/Municipality/Block 11 /43 to the EACC for establishment of a regional office.

That number one alone kind of summarizes the findings and recommendations of this House Committee, that this House Committee is satisfied with everything, and therefore the land should be surrendered, and the House is convinced by the tune of moving of this motion, that, we have agreed, and the House should support us in agreeing to allocate the said parcel or number to the commission. Madam Speaker, in my opinion, which I was defeated by the majority, it is normally said that the majority have their say, while the minority have their way. So, I have my way by still standing with my position that this recommendation number one should not have been there, if indeed we wanted the County Executive to do further interrogations.

Madam Speaker, we should have just said it is a progress report, where we feel that there are certain areas, grey areas that the County Executive need to address, like that item two of the recommendation, and then item three, that a formal Change of User from Residential to Institutional be secured under the Physical and Land Use Planning Act. It is my belief that, this should come first, before we recommend to give them the said parcel. Four, that comprehensive legal search be conducted to confirm absence of incumbents, charges, and third party interest in this title.

Madam Speaker, if this is not done, then I believe that we should not request the House to approve the report. This is because, we will be approving the report when there are certain fundamental aspects to be considered in transfer of any parcel or land, held in trust on behalf of the Kisumu County residents, has not been done. So, I am still struggling to negate this recommendation number one, Madam Speaker, going by what we agreed on in the subsequent recommendations.

Number five, Madam Speaker, that a binding Sublease Agreement be formulated. Madam Speaker, sublease agreement is to be formulated much later, when all these number two and number three have been taken care of. So, it is my considered opinion that, this should come much later, when everything else is done. However, if we leave this report with recommendation number one, then it means entirely the remaining recommendations are null and void. And the outstanding recommendation is that the House will approve the allocation of this parcel of land to EACC, without all these fundamental aspects of lease or transfer of parcel is considered.

Finally, Madam Speaker that the County Executive reports back to this House on fulfillment of the above conditions prior to finalization of the transaction. We have given the County Executive Committee Member to go ahead and give EACC the land. Why are we again telling him to report back? Reporting back based on what?

Madam Speaker, this is because, we've given the land. So in my view, Madam Speaker, if room could be given, then, it is my opinion that, we would have either said that we go by recommendation number two to six, and do away with one, or in entirety leave it as it is and approve it, by saying that even though there are gaps, but us as an Assembly, we are willing, we are generous, we are willing just to give them and do whatever they want. So, in my judgment, Madam Speaker, just because of that, I still stand by my opinion earlier that I oppose the adoption of this report, because we'll be doing something that we don't understand, and something which is entirely illegal. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Warindu.

Hon. Warindu (MCA, Miwani): Thank you so much, Madam Speaker. Let me also air my voice on the subject matter. And before that, let me congratulate this House Committee for a job well done. I appreciate the four active members in the group that were heavily involved in the preparation of this report. And from the vice Chairperson, that the report is long overdue. And if you look at the recommendations that have been provided by this House Committee, actually what Honourable Ochele has been airing on, is that with all the recommendations from No. 2 up to the last one, they are contradicting the first recommendation. Public participation was not done, and it's yet to be done. Change of user, yet to be done.

Additionally, the Vice-chairperson stated in this this report, the matter is long overdue. So, you wonder what all the stakeholders were engaging in, if all these legal requirements were not addressed. And this House Committee is requesting the House to adopt the report first, before all these legal requirements have been addressed.

Further, according to the tradition of this House, once the report is adopted, then you'll wait up to the fourth term when all those legal requirements will be brought to this House. How I wish, and I would urge to request the Chairperson and the four active committee members to at least hold their horses so that the due actions should be taken before the report is adopted by the House. Madam Speaker, the County Government of Kisumu should be concentrating on ways in which we can at least raise our revenues so that our programs can go as planned.

Madam Speaker, one of the reasons which was given, why we are giving the land to the EACC, is that they have been partnering with us in so many ways. I really doubt if that is allowed in our constitution, that if you partner well with an institution, then you are expected to reward that institution with a piece of land. I'll also go with the same observation that if we can at least give time and make sure that all these legal requirements are adhered to, that is when we can adopt the said report, it is when we support this report or transfer. But as of now, let me go the different way. I oppose the report. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Oiko Pete.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Madam Speaker, I'm handicapped to contribute effectively in this House, because I'm hearing that there are no papers and I no longer get that copy. It has really become very tedious for me to contribute, Madam Speaker. Obviously, the office of the Clerk should be asking to provide materials so that the work moves on smoothly in this Assembly. Members could have seen the way Honourable Ochele was contributing very smoothly when the member was referring to the article of pieces. The work becomes very easy. Madam Speaker, this is a matter that should be addressed in this House. Madam Speaker, let that my displeasure be recorded. Madam Speaker, I wanted to contribute on this matter and I wanted us to pass this report in record time. Nonetheless, there are pertinent issues that have been raised and which appear on the report.

However my plea is that, the way the report is tabulated, I will assume that a good technical advice was not seconded to this House Committee. This is because, if the Cabinet had approved, the matter is brought to the Assembly. The Assembly is also asking to approve. This implies that, the due diligence ought to have been done. And what are those due diligence? The public participation ought to have been done. We are now being told that the County Executive should conduct public participation. That cannot be later. The matter comes to the Assembly to give the final approval. Let me give you an example. In 2021, I had the same problem in my ward. Land registered in the name of the County Council was to be transferred to the Ministry of Education. We had to do the due diligence, bring the matter to the Assembly for approval. Then, what remained was the National Land Commission to transfer the land to the Ministry of Education. When the matter comes to this Assembly, the implication is all due diligence has been done.

And once we give our approval, we are not asking again that the matter should be brought to us for further discussion. Madam Speaker, these are matters that we need to learn as we move on. But if I digress a little, Madam Speaker, there is a disease we have in this Assembly. The young clerks who are employed, when they are asked to consult the Senior Clerks, they drag their feet. And I wish when a matter like this comes for discussion, the Clerk Assistant in that House Committee should be seated in this Assembly to hear our comments. This is because, we shall become a laughing stock when we pass such an important matter, and then later on, holes will be poked into it.

Madam Speaker, so the table clerks should take this report back to the office of the clerk, that the Clerk Assistant should consult with the senior clerks, so that when the report comes here, it is watertight. But with that said, Madam Speaker, I want to say, the matter of public participation has come. Change of user, that should also have been done through public participation.

Transfer of land, that one will be done once we have given our approval. And the sub-lease will also come automatically. So, what I'm asking, Madam Speaker, despite those weaknesses, let the Assembly give their approval, and let us learn from our mistakes, because some of these are just mere clerical mistakes.

Madam Speaker, it is imperative that, when the Ethics Anti-corruption Commission will have their regional office in Kisumu, that will give Kisumu County a nice face. And we hope they will also consider our locals to get employment. This being a big government institution, when Kisumu County subleases land to them, there is no harm in that, Madam Speaker.

Madam Speaker, I urge that we give this matter our approval and proceed, even as we continue learning and improving. Let us show that the government led by Professor Nyong'o is a serious administration. When the national government approaches us for support, we must extend a hand of cooperation to enhance development within Kisumu County. Let us not harbour fears that allocating land to the EACC would compromise the integrity of processes. The Commission will perform its mandate professionally, and so will the County Government and this Assembly. Bringing their offices closer is beneficial to the residents. I therefore urge this House to support this approval. Despite the pitfalls highlighted, let them serve as lessons as we progress.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Oiko, you have thirty seconds remaining.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Thank you, Madam Speaker. I am concluding. I urge this Honourable Assembly to approve the request, noting the concerns raised, which must guide us moving forward. I so submit.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable James Omollo.

Hon. Omollo (MCA, West Nyakach): Thank you Madam Speaker, I want to first appreciate this House Committee for tabling this motion. Under the Constitution of Kenya 2010, we have 48 governments, 47 County Governments and one National Government. The Ethics and Anti-Corruption Commission is a national body and therefore a public entity.

Madam Speaker, there would be cause for concern if the land were being transferred to a non-public entity. Our Early Childhood Development (ECD) centres are located on land belonging to public primary schools, which are under the national government. Yet, the County Government has never formally requested land transfer for ECDs, and these centres operate smoothly. This shows that intergovernmental cooperation exists and can be effective.

Since devolution in 2013, such cooperation has been the basis of operations between levels of government. We must uphold this spirit of collaboration for the benefit of our constituents…

(Hon. Ochele interjects)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): What is it Honourable Ochele?

Hon. Ochele (MCA, East Kano/Wawidhi): Madam Speaker, I wish to inform Honourable Omollo that the analogy the member is using is inaccurate. The County Government has never formally requested the transfer of land from national schools to house ECD centres. These facilities have coexisted without any legal change of land ownership. The EACC is requesting a formal land transfer into its name, which is a different matter altogether.

Furthermore, the EACC is not a national government department. It is an independent commission, capable of suing and being sued. Therefore, when it seeks land from the County Government, it does so as a standalone institution not as an agent of the national or county governments. It should not be treated as part of an intergovernmental relationship.

Hon. Omollo (MCA, West Nyakach): Thank you, Madam Speaker. I acknowledge the point raised. Nonetheless, I foresee a time when the County will indeed seek formal transfer of land for ECD centres. The broader issue here is collaboration among public institutions for service delivery. The EACC, like us, serves the people of Kisumu and beyond.

Madam Speaker, if the procedural instruments were not followed strictly, then this matter should be rectified. The Committee Chairperson has taken note. Once that is addressed, the land can be put to meaningful use by a public agency. Kisumu serves as a regional hub, attracting neighbouring counties like Siaya, Homabay, and Kakamega. I therefore support the report.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Members, please refrain from switching on your microphones before being granted permission, as this disrupts the proceedings.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): What is it Honourable Ouko, because I can see you on your feet? Do you want to contribute?

Hon. Ouko (MCA, West Kisumu): Thank you, Madam Speaker. I commend the Committee for its effort, as compiling such a report is no easy task. However, I am concerned about the issue of due diligence. As the legislative arm, this Assembly must uphold the law. Past legal losses were due to shortcuts and lack of thorough process.

Madam Speaker, this report clearly states that the Chief Officer for Lands indicated that due diligence had not been fully undertaken. Why the urgency? We all agree that, the EACC's request is legitimate, but it must be handled in full compliance with procedure. Let us not bend the law to please individuals or institutions. We must ensure the process is complete before approval. I respectfully oppose the motion.

(Hon. Nyaoke rises on a Point of Order)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Granted.

Hon. Nyaoke (MCA, North Nyakach): Madam Speaker. I rise to inform the House that due diligence has been conducted. The report notes that the land in question is free of all encumbrances, which can only be established after proper due diligence. The main recommendation is to approve the transaction and authorize the Department of Lands to proceed.

Further, the report recommends initiating a Change of User from Residential to Commercial or Institutional use. This can only occur after the Assembly grants approval. The approval is a prerequisite, not a consequence. Therefore, concerns about process gaps are unfounded.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Whom are you informing, Hon. Nyaoke?

Hon. Nyaoke (MCA, North Nyakach): The House, Madam Speaker.

(Hon. Odari interjects with a Point of Order)

Hon. Odari (MCA, Chemelil-Tamu): Madam Speaker, it is my belief that Honourable Nyaoke is lying to this House.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Please allow Honourable Nyaoke to finish. Please refrain from using unparliamentary language

(Hon. Ochele interjects with a Point of Order)

Hon. Ochele (MCA, East Kano Wawidhi): Madam Speaker, the term "lying" is unparliamentary in this context. Members should express disagreement respectfully.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Odari, withdraw your statement.

Hon. Odari (MCA, Chemelil-Tamu): Madam Speaker, I withdraw and apologize.

Hon. Nyaoke (MCA, North Nyakach): *(Continuing)* Thank you, Madam Speaker. As I was saying, approval today enables the commencement of the change of user process. That process cannot start before this House gives its authorization. The recommendation aligns with due process, and I urge Members to take note of this.

(Hon. Warindu interjects with a Point of Order)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable member, granted

Hon. Warindu (MCA, Miwani): Thank you Madam Speaker, I wish to clarify whether Honourable Nyaoke is informing the House or debating in reply, which is typically reserved for the Mover of the Motion.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): No, I wish to inform you that, the member was informing the House, which is allowed.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honorable Dede.

Hon. Dede (MCA, Kisumu North): Thank you, Madam Speaker, for granting me this opportunity to contribute to this motion. Foremost, would like to congratulate this House Committee for having worked tirelessly, even though in this joint Departmental Committees there are some very dormant members while some others are active members, as has been stated by the Chairperson.

Madam Speaker, according to the Land Act No. 6 of 2012, it stipulates clearly that all due diligence should be followed before a transaction has been done. If we go to page 18 of the report, when this House Committee was engaged by the department, we found out that there were three steps which they followed. One was the valuation. It states that the valuation was done by the County Government Officer, and as for the Valuation Act, Cap 532 of the of the Constitution of Kenya 2010, Madam Speaker, there should have been a clarification on who did the valuation of this piece of land, which they stated at Kshs 80 million, but you know, there is no clarity on who did the valuation. Madam Speaker, concerning the due diligence which was to be followed and was not undertaken clearly, it states that if the due diligence is not followed, you ought to be given time to work on the report and bring it later.

Finally, according to the reaction of the Chief Officer of the Department of Lands, when they met with this House Committee, they informed us that, there was no proper public participation, it was totally not conducted. Yet according to the Kenyan law, there should be public participation, the input of the people should have been taken, which should have been one of the parameters when doing the due diligence, there should have been the issue of public participation conducted and views taken from all the stakeholders, so that we come out clearly on whatever was taking place. Again, the views of the public was not taken, it means no due diligence was followed for the sub-division of the land. With those few remarks, I stand to oppose the report, Madam Speaker. Thank you.

(Hon. Adonija rises on a Point of Order)

Hon. Adonijah (MCA, Chemelil/Tamu): Madam,

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honorable Odari.

Hon. Adonijah (MCA, Chemelil/Tamu): Thank you, Madam Speaker. I just want to add my voice on this. A lot has been said by my colleagues but from the committee recommendations, I

want to go by number six, which says that the memo, that the public participation was not carried out when this land was being leased or bought to, when the EACC was requesting for this land.

Madam Speaker, last time, or last month, we saw what the Lands Department brought to us for discussion in this House concerning Med Aditus. Again, today, this House Committee have come with the incomplete document and they are urging this House to adopt or approve it. I would like to urge the mover of this motion to withdraw it, because we do not want our decision to be rescinded. Just like the other time, what we saw in this Assembly, after all the Honorable members made their decisions. So, Madam Speaker that is my request. Let the mover of this motion withdraw this motion so that they go back and sit down as a House Committee and do some technical work on it then they bring it back to for discussion.

Another thing, Madam Speaker…

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Odari, I hope you know the procedure of this House. Members have debated so it is not possible for the mover to withdraw at this juncture.

Hon. Adonijah (MCA, Chemelil/Tamu): Thank you, Madam Speaker, from this…

(Hon. Okoyo interjects with a Point of Order)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honorable Okoyo.

Hon. Okoyo (MCA, Central Kisumu): Madam Speaker, I thought Honorable Odari was through with his statement, but...

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honorable Odari, are you through? Please conclude. Honorable Okoyo, please resume your seat.

Hon. Adonijah (MCA, Chemelil Tamu): Madam Speaker, when Honorable Boitone started debating and you heard him informing this House that this House Committee has four active members, and these members who are learned. However, I have realized that they have not gone through this document before it was presented to us here for discussion. So next time, do not be given a document by the Clerk Assistants and then you come and read it for us and at the same time you are giving us the committee observation and recommendations. So, thank you, Madam Speaker.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Okoyo.

Hon. Okoyo (MCA, Central Kisumu Ward): Madam Speaker, I am rising while citing the provisions of Orders No. 50 (a). I want to propose some amendment on recommendation, the recommendations which were read before this House, Madam Speaker, if you allow me.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, proceed.

Hon. Okoyo (MCA, Central Kisumu): Thank you, Madam Speaker. I am proposing to amend the recommendation No. 1, which initially read that: "this Honourable House approves the report as stated". So I am proposing an amendment for that to read that "this Honorable House deffers approval of the proposed allocation of the parcel, Kisumu Municipality Block 11/43 to the EACC for the establishment of the regional office", Madam Speaker, if you allow me. Thank you. Allow me to ask the Deputy Whip to second. Thank you.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Deputy Whip, Hon. Jennifer.

The Deputy Whip (Hon. Obonyo, MCA, South West Kisumu): Thank you, Madam Speaker. I second the amendments.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, now that Honourable Okoyo has moved that we need to do amendments instead of approving the Sub-lease land instead, we should use the word differ. Honourable Members, I now want it for this report as preferred or proposed by the local, be open for debate. Please debate while taking into considerations the amendments as proposed by Honourable Okoyo

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honorable Ochele.

Hon. Ochele (MCA, East Kano Wawidhi): I beseech the Chairperson to allow me debate just on the amendment because I had debated.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): So, Honourable members, you need to be keen. Now at this juncture, we are only debating on the amendment as proposed by Honourable Okoyo. It is when we will conclude. Please proceed, Hon. Ochele.

Hon. Ochele (MCA, East Kano/Wawidhi): Thank you, Madam Speaker. Allow me to appreciate the wisdom of a senior citizen, the Honourable member for Kisumu Central to have come up with the wise proposal to salvage our integrity and to put the County Assembly of Kisumu in the map of wise men and women.

Madam Speaker, by that proposed amendment, it will then give room for the County Executive to undertake all that they did not do within the prescribed time and then send their reports; (i) on the public participation, all the due diligence on the transfer of land as recommended in the Lands Act and as recommended in the Recommendation No. 3. Therefore, when they do that, then, it is my belief that, this House will be in the standing by debating the entire motion based on the findings from the public participation and also from the recommended statutes governing land transfers, Madam Speaker.

I therefore request this Honourable House to approve the proposed amendment to salvage the report and also to salvage our integrity as a House. Then, the Chairperson of this House Committee will move this committee with speed to ensure that all that which was not done by the County Executive is done with the powers vested on them within a time that will be dictated by the Chairperson. Thank you.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Ouko.

Hon. Ouko (MCA, West Kisumu): Thank you, Madam Speaker. Everything must have a solution towards anything which comes to the House and more so on this very important report. By amending the first recommendation is giving a leeway for the public which is affected directly by this exercise to take part in the process. There are a lot of things concerning public participation;

i) Inclusivity: Everybody is going to be included in this. It is not only the members of the County Assembly or the County Executive or the Ethic and Anti-corruption Commission.

ii) Transparency: In anything involving public, it has to be very transparent,

iii) Accountability: This is our role. We have to request for accountability from the County Executive. They have to do what is expected of them.

Madam Speaker, it is also important that we are going to empower our people to know that whatever we are doing belongs to them. We are only representative of the people. So, I also would like to say that we approve the report with that kind of amendment. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honorable Warindu.

Hon. Warindu (MCA, Miwani): Thank you once again, Madam Speaker. May I also thank one of the active members of the Departmental Committee on Lands and Physical Planning, Honourable Okoyo. I am also in support of the amendment to differ the approval of the proposed allocation of a parcel, Kisumu Municipality Block, to the EACC.

However, it should be on a condition that these other resolutions are met. And I want to believe that the reason why we are amending this and why we are now debating on this is to have these other resolutions that were raising eyebrow that were preventing this report from being approved, are adhered to. Therefore, how I wish that we had a timeline, but we cannot, we can also not set a timeline, a target for this as recommendations because it depends with what the County Executive will do with the information. I am glad to contribute to this very important motion. If the proposed amendment is adopted as presented, then indeed we shall have made a significant step forward as a House.

Madam Speaker, this should also serve as a warning to our secretariat that when formulating recommendations, they must ensure that such recommendations are not contradictory. I believe this concern will be taken seriously and adhered to. Thank you, Madam Speaker. I also support the amendment.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, I now call upon Honourable Okoyo, as the mover of the amendment to the motion on Recommendation Part One, to give his reply.

Hon. Okoyo (MCA, Central Kisumu): Thank you, Madam Speaker. Allow me to also appreciate the Honourable Members who have contributed to the amendment of the first recommendation. Madam Speaker, we strongly believe that, it is imperative to give the public sufficient time to go through this report and participate fully through public participation, including addressing any areas that may have been overlooked.

By amending this recommendation, Madam Speaker, we shall have a more concrete and watertight report to present before this House for adoption. With those remarks, I reply. Thank you.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, a motion to amend Recommendation Part One was moved by Honourable Okoyo, seconded by Honourable Obonyo, and duly deliberated upon. I now wish to put the question on its adoption.

(Question put and agreed to)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, the recommendation in Part One of this report, which states that *the sublease be deferred for approval*, has been passed today, Thursday, 21st August 2025, at 4:05 p.m.

Honourable members, now this amendments forms part of this report. As we proceed and I put the final question, kindly note that this will be incorporated into the report. We shall now proceed, Honourable Members. Honourable Obaso, kindly approach the Chair.

Honourable Obaso, kindly approach the Chair. Honourable Members, the floor is still open for debate.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Yes, Honourable Obonyo.

The Deputy Majority Whip (Hon. Obonyo, MCA, South West Kisumu): Thank you, Madam Speaker, I wish to call the mover to reply.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable Ratib.

Hon. Ratib (MCA, Nyalenda "A"): Thank you, Madam Speaker. First, allow me to sincerely thank Honourable members for the effective and decisive debate on this matter. As Honourable Moses Ochele rightly mentioned, there are certain reports that cannot be adequately handled within the limited timeframes often provided.

In this case, Madam Speaker, we were only given 21 days. The communication between this House Committee, the Department of Lands, and the relevant stakeholders consumed considerable time. At some point, we even invited the EACC, who came accompanied by their officers from Nairobi. This back-and-forth process significantly delayed progress. Moving forward, I strongly believe that reports requiring thorough interrogation should be allocated sufficient time.

Honourable members, the recommendations of this House Committee—specifically recommendations 2, 3, 4, 5, and 6—were made in good faith to ensure that the County Executive carries out due diligence.

Further, recommendation No. 2 calls for Public Participation, which is a constitutional requirement.

Similarly, recommendation No. 3 requires a formal Change of User, since the parcel in question was originally designated for residential use. Before transfer or sublease, the Physical and Land Use Planning Act, 2019, requires the change of user to institutional.

Recommendation No. 4 directs that a comprehensive Legal Search be conducted to establish whether any encumbrances exist that could compromise the lease.

Furthermore, Madam Speaker, there must be a binding Sublease Agreement that clearly outlines the terms, obligations, duration, and clauses of the agreement.

Madam Speaker and Honourable members, with these issues in mind, I hereby defer the approval of the proposed allocation of Kisumu Municipality Block 11-43 to the Ethics and Anti-Corruption Commission for the establishment of their regional office—until such a time that the County Government of Kisumu fully implements the committee's recommendations. Thank you, Madam Speaker. I reply. Thank you.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, Now that a motion on adoption of the Report of the Departmental Committee on Lands, Physical

Planning, Housing and Urban Development on the Proposed Sublease of Land, Kisumu Municipality Block 11-43 to the Ethics and Anti-Corruption Commission has been presented, seconded, and debated, I want to put a question on the adoption of the same.

(Question put and agreed to)

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, the motion on adoption of the Report of the Departmental Committee on Lands, Physical Planning, Housing and Urban Development on the Proposed Sublease of Land, Kisumu Municipality Block 11-43 to the Ethics and Anti-Corruption Commission has been adopted today, Thursday 21st August 2025 at 04.14pm.

Consequently, I direct that, the recommendations of this report and that of the House debate with amendments be forwarded to the relevant Department for action. Furtherance to that, I also want to advise the Select Committee on Implementation to do a follow-up of the same for implementation. Thank you.

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Next Order!

ADJOURNMENT

The Temporary Speaker (Hon. Ajwang', MCA, Kaloleni/Shaurimoyo): Honourable members, please be upstanding. There being no any other business to transact, this House stands adjourned until Tuesday, 26th August 2025 at 02.30 p.m.

(House rose at 04.16 p.m.)

Addendum

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