

**REPUBLIC OF KENYA**  
**COUNTY GOVERNMENT OF NAIROBI**  
**THE NAIROBI COUNTY PHYSICAL AND LAND USE PLANNING LIAISON**  
**COMMITTEE**  
**IN THE MATTER OF THE PHYSICAL AND LAND USE PLANNING ACT**  
**(No. 13 of 2019)**

-AND-

**IN THE MATTER OF THE PHYSICAL AND LAND USE PLANNING (LIAISON**  
**COMMITTEES) REGULATIONS 2021**

-AND-

**IN THE MATTER OF THE PROPOSED DEVELOPMENT AT 31 SCHOOL LANE**  
**PLOT NUMBER: 1870/111/233**

**SCHOOL LANE NEIGHBOURHOOD COMMUNITY**  
**(Represented by: James Hokans, Resson Kantai Duff,**  
**Khadar Ahmed, Waithera Njuguna**

**APPELLANT**

**STATEMENT OF COMPLAINT/APPEAL**

*Appeal under section 61 (3) of The Physical and Land Use Planning Act, 2019.*

1. **TAKE NOTICE** that the Appellant appeals against the decision of the Acting County Secretary and Head of County Public Service, Patrick Analo dated 13<sup>th</sup> September 2023 and received by the Appellants on 29<sup>th</sup> September 2023.
2. The Appeal relates to construction of a 31-floor development at 31 School Lane Westlands Plot Number:1870/111/233.
3. The Appeal is based on the following grounds:  
*Public Participation*
4. The Acting County Secretary erred in his finding that public participation was carried out by the Respondent. Residents along 31 School Lane were never consulted prior to issuance of the development permission. Moreover, during preparation of the Environmental Impact Assessment, no resident was consulted. The Environmental Impact Assessment did not comply with regulation 17 of the Environmental (Impact Assessment and Audit) Regulations, 2003:
  - i. No residents were consulted during the preparation of the Environment Impact Assessment (EIA).
  - ii. No posters showing the effects and benefits of the development were put in the vicinity.
  - iii. No notice of the proposed project was announced on radio station with a nation-wide coverage.

- iv. No meeting was held with the residents of the affected community.
5. The lack of public participation was also in violation of sections 58 (7) of the physical Land Use Planning Act 2019 and the Nairobi City County Public Participation Act, 2015.

*Nairobi City Development Ordinances*

6. The Acting County Secretary erred in finding that the proposed development is similar to other existing developments in the neighborhood. The proposed development is located at zone 3 of the Nairobi City development Ordinance. The development ordinance provides for buildings to be a maximum of 4 storeys. The proposed development will be 31 floors. This is 8 times the maximum allowable number of storeys. The proposed development falls foul of the zonal policies prescribed for Westlands as contained in the ordinance. The proposed development is completely out of character and antagonistic to existing developments as no building in the premises exceeds 10 floors. The proposed development is a gross violation of Nairobi City Development Ordinance.

*Non-compliance with construction regulations*

7. The development has failed to put up a sign board indicating the architect, quantity surveyor, type of construction or even name of the developer. To date there is no sign board. The Appellants also aver that on 11<sup>th</sup> October 2023, the National Construction Authority suspended and condemned the project by spray painting on the fence. However, the developer has callously proceeded with the project.

*Inadequate existing infrastructure*

8. The Acting County Secretary failed to address the Appellant's concerns that the proposed development cannot be supported by the existing infrastructure. The Appellants aver that the development would lead to increased population density which is not feasible without provision of adequate upgrading of infrastructure. In particular, the area is not served by a sewer line that can handle such a massive development. The already overstretched public utilities will not be able to service the additional demand created by such a massive development.



9. The proposed development does not guarantee those within the vicinity any form of privacy as the buildings will allow its occupants to have a clear line of site towards adjacent and surrounding properties. The height of the proposed development will also block the view of nearby residential homes and school and negatively affect the ambient air quality and sunlight access to the surrounding environment.

Children at Westlands Primary School

10. The Acting County Secretary failed to address the Appellant's concerns regarding the health and safety of Children at Westlands Primary School. The proposed development is only 33 metres from Westlands Primary School. Children pass by the construction site every day as they head to and from the Westlands stage. Furthermore, the road is only 4 metres and there are no sidewalks along the lane. The proposed development presents a real danger to the safety of children.
11. The principle of policy or law relied on in the appeal:
- a) Public participation
  - b) Nairobi City zoning laws
  - c) Environmental Laws.
12. The documents the Appellant intends to rely on in the appeal:
- i. Appellant's letter dated 7<sup>th</sup> August 2023
  - ii. Appellants' letter dated 5<sup>th</sup> September 2023
  - iii. Nairobi City Development Ordinances and Zones.
  - iv. Drawings of proposed development on Plot Number 1870/111/233
  - v. Letter dated 13<sup>th</sup> September 2023 from the County Secretary and Head of Public Service.
  - vi. Pictures of the proposed development as at 6<sup>th</sup> October 2023.
  - vii. Letters dated 5<sup>th</sup> September 2023 and 11<sup>th</sup> October 2023 to the National Construction Authority.
  - viii. Report by Expert Urban Planner.
13. The witnesses the Appellant intends to call up at the hearing of the Appeal: *where applicable*
- i. Resson Kantai C/O**  
Njuguna & Partners Advocates,

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ii. Expert in Urban Planning.

6. The reliefs sought in this Appeal are as follows: (set out each relief concisely)

- a) Cancellation of the Authority to construct the development at 31 School Lane Westlands at Plot Number: 1870/111/233.
- b) Any other reliefs that this Committee may deem fit and just to issue in the interest of Justice.

DATED THIS 12<sup>th</sup> DAY OF October 2023



**NJUGUNA AND PARTNERS LLP**

**APPELLANT'S APPOINTED REPRESENTATIVE'S:**

**DRAWN AND FILED BY:**

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APPEAL No ..... OF 2023