

REPUBLIC OF KENYA
IN THE CHIEF MAGISTRATE'S COURT AT NAIROBI
MILIMANI COMMERCIAL COURTS
CIVIL CASE NO. E5308 OF 2020

KEPHAR ODONGO.....1ST PLAINTIFF
GAMAN ALI ABDOW.....2ND PLAINTIFF
HALIMA HUBILE ABDUL.....3RD PLAINTIFF
BARNARD ONGESO & OTHERS.....4TH DEFENDANT

VERSUS

NORTH EASTERN IMPEXO AGENCIES LTD.....1ST DEFENDANT
NAIROBI CITY COUNTY.....2ND DEFENDANT
NAIROBI METROPOLITAN SERVICES.....3RD DEFENDANT

AND

LATEWA COMMUNITY BASED ORGANIZATION.....INTERESTED PARTY

NOTICE OF MOTION

(Under Article 48, 50 and 159 of the Constitution, Order 1 rule 10 (2), Order 51 Rule 1 of The Civil Procedure Rules, Section 3A of the Civil Procedure Act and all other enabling Provisions of the Law)

TAKE NOTICE that the Honourable Court will be moved on the _____ day of _____ 2020 at 9:00 O'clock in the forenoon or soon thereafter as Counsel for the interested party may be heard in an application for **ORDERS:-**

1. **THAT** this Honourable Court be pleased to grant leave to LATEWA COMMUNITY BASED ORGANIZATION to be enjoined as an interested party in the suit herein.
2. **THAT** the costs of this suit be determined.

WHICH APPLICATION is supported by the annexed affidavit of MWANGI HASSAN KHADIJAH and on grounds:-

- (a) **THAT** the interested party is a Community Based Organization involved in several Youth Empowerment Programmes including; Drug and Substance Abuse Rehabilitation, Social Justice, Women Empowerment, Environmental Conservation Awareness, Arts, Music Production and

Sustainable Urban Farming and is located along Shimo La Tewa Road which is the subject matter in dispute.

AND on such other and/or further grounds as may be adduced at the hearing thereof.

DATED at **NAIROBI** this 15th day of October 2020.



IQRA BARE & COMPANY ADVOCATES
ADVOCATES FOR THE INTERESTED PARTY

DRAWN & FILED BY:-

*IQRA BARE AND COMPANY ADVOCATES,
HUGHES BUILDING, 8TH FLOOR,
P.O. BOX 38982-00100,
NAIROBI.
TEL: 0717981471
Email: boduor29@gmail.com*

TO BE SERVED UPON:-

1. *NORTH EASTERN IMPEXO AGENCIES LTD,
NAIROBI.*
2. *NAIROBI CITY COUNTY,
P.O. BOX 30075-00100,
NAIROBI.*
3. *NAIROBI METROPOLITAN SERVICES,
KICC 23RD FLOOR,
P.O. BOX 30075-00100,
NAIROBI.*

“If any party served does not appear at the time and place above-mentioned such order will be made and proceedings taken as the court may deem fit and expedient”.

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LATEWA COMMUNITY BASED ORGANIZATION.....INTERESTED PARTY

SUPPORTING AFFIDAVIT

I, **MWANGI HASSAN KHADIJAH**, of Identity Card Number **29416661** a resident of Nairobi and of Post Office Box Number **429129 - 00100, NAIROBI** within the Republic of Kenya do hereby make oath and state as follows:-

1. **THAT** I am a male adult of sound mind and the Chairperson of the interested party herein well conversant with the facts of this case.
2. **THAT** I have been duly authorized by the Management Committee of the interested party herein to swear this supporting affidavit on behalf of the interested party. (**Annexed herein and marked "MHK-1" is an authority to act on behalf of the interested party**).
3. **THAT** we have occupied and operated Latewa Community Based Organization involved in several Youth Empowerment Programmes including; Drug and Substance Abuse Rehabilitation, Social Justice, Women Empowerment, Environmental Conservation Awareness, Arts, Music Production and Sustainable Urban Farming located along Shimo La Tewa Road which is the subject matter in dispute for about **Three (3) years** now.

4. **THAT** Latewa Community Based Organization (C.B.O) was duly registered in 7th February 2020 in the Ministry of East Africa Community, Labour and Social Protection under the Department of Social Development Office. (Annexed herein and marked 'MHK-2' is a copy of the Certificate of Registration).
5. **THAT** we subsequently instructed our advocates on record, Iqra Bare & Company Advocates to apply on our behalf to be enjoined as an interested party in this matter.
6. **THAT** for the entire time that we have conducted our Youth Empowerment Programmes in the said location and we have never compromised the security of the area. As a matter of fact, most youths who were previously engaged in criminal activities have been reformed courtesy of our Youth Empowerment Programmes.
7. **THAT** I am aware that we have carried a proper and extensive consultations with all the stakeholders along Shimo La Tewa Road including:
 - i. Nairobi City County
 - ii. Area MCA
 - iii. Area MP
 - iv. Industrial Area Police Station
8. **THAT** we are aware that the 1st Defendant has written to the 3rd Defendant through a letter dated 23rd July 2020 asking the 3rd Defendant to demolish the over 60 kiosks constructed along the road reserve of Shimo La Tewa Road situate in L.R. No. 37/714.(Annexed herein and marked MHK-3 is a copy of the said letter).
9. **THAT** we are aware that the 2nd Defendant having approved our Youth Empowerment Programme is now estopped by law from threatening to demolish the said 60 kiosks.
10. **THAT** we have no objection to the 1st Defendant developing and improving its parking yard in its own compound as the Plaintiffs have not occupied the 1st Defendant's premises but are along Shimo La Tewa Road reserve.

11. THAT it is on this basis that we beseech this Honourable Court to allow us to be enjoined as an interested party in this matter until it is heard and determined.

12. THAT it is in the interest of justice that our application herein be granted.

13. THAT what is deponed herein is true to the best of my knowledge, information and belief.

SWORN at NAIROBI

by the said

MWANGI HASSAN KHADIJAH

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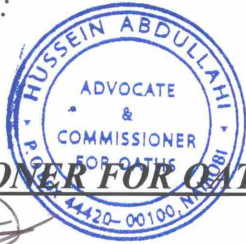
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DEPONENT

this 15th day of October 2020
BEFORE ME:



COMMISSIONER FOR OATHS

DRAWN & FILED BY:-

**IQRA BARE AND COMPANY ADVOCATES,
HUGHES BUILDING, 8TH FLOOR,
P.O. BOX 38982-00100,
NAIROBI.**

TEL: 0717981471

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AND

LATEWA COMMUNITY BASED ORGANIZATION.....INTERESTED PARTY

AUTHORITY TO ACT

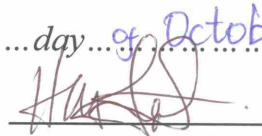
TAKE NOTICE that the Management Committee of **LATEWA COMMUNITY BASED ORGANIZATION** has authorized **MWANGI HASSAN KHADIJAH** to swear affidavits/documents and/or statements on behalf of the interested party in this suit.

In witness whereof this authority has been given under the official stamp of the interested party herein.

Stamped on this 15th day of October 2020

Chairperson

Signature



Secretary


Signature

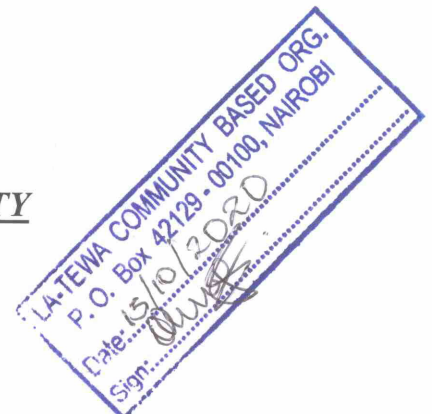




IQRA BARE & COMPANY ADVOCATES
ADVOCATES FOR THE INTERESTED PARTY

Page 1 of 2

This is the exhibit marked MHK-1 referred to in the annexed Declaration of Affidavit of MWANGI HASSAN KHADIJAH Declared Sworn before me this 15th day of October 2020 at Nairobi in the Republic of Kenya

Commissioner



DRAWN & FILED BY:-

IQRA BARE AND COMPANY ADVOCATES,

HUGHES BUILDING, 8TH FLOOR,

P.O. BOX 38982-00100,

NAIROBI.

TEL: 0717981471

Email: boduor29@gmail.com

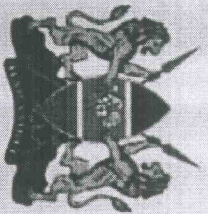
TO BE SERVED UPON:-

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NAIROBI.

3. *NAIROBI METROPOLITAN SERVICES,*
KICC 23RD FLOOR,
P.O. BOX 30075-00100,
NAIROBI.

This is the exhibit marked WTK referred to in the annexed Declaration of MMANGI HASSAN KHADJAH Declared before me this 15th day of October 2020 at Nairobi in the Republic of Kenya



Certificate No. 51401

Republic of Kenya

Commissioner For Oaths
MINISTRY OF EAST AFRICA COMMUNITY, LABOUR AND SOCIAL PROTECTION

DEPARTMENT OF SOCIAL DEVELOPMENT

Certificate of Registration of Community Based Organization (CBO)

This is to Certify that

LATEWA COMMUNITY BASED ORGANIZATION

HUD.GPO/STAC/BO/02/2020/0012
Group Name / Project
CENTRAL
7 FEBRUARY 2020

Division
STAREHE
Date of Registration
STAREHE

Constituency
Sub County
NAIROBI

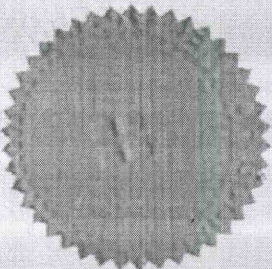
is registered with the Department of Social Development Office as a Community Based Organization (CBO).

County

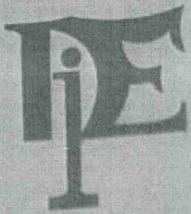
Signature

Name
ISAAC A. NYAGAKA
County / Sub County Social Development Officer

7 FEBRUARY 2020
Date of Issue



Note: The Contents of this Certificate should not be erased, altered or defaced in any way



NORTH-EASTERN IMPEXO AGENCIES LTD.



23rd July 2020

Maj. Gen. Mohamed Badi
Director General
Nairobi Metropolitan Services
P. O. Box 30110-00100
Nairobi

This is the exhibit marked MHK-3 referred
to in the annexed Declaration of
M.WANGI HASSAN KHADJAH Declared
Affidavit Sworn
before me this 15th day of October 2020
at Nairobi in the Republic of Kenya

Commissioner For Oaths

Dear Sir,

RE: REMOVAL OF ILLEGAL STRUCTURES

We bring to your attention the existence of illegal structures erected on our loading zones, LR No. 37/714 Shimo La Tewa Road Industrial Area. The illegal structures have made it difficult to operate and compromised the safety and security of the whole area.

We intend to pave the area using Cabro, which will not only beautify the space, but also increase revenue collection of the County from the parking provided. The purpose of this letter is to therefore request your office to assist in the removal of these illegal structures that have compromised safety and security of the area.

We thank you in advance and look forward to the swift response from your compliance team.

Yours sincerely,

Tayib H. Abdi
GENERAL MANAGER