

**PETITION: FOR SENATE TO SUSPEND NAIROBI CITY COUNTY GOVERNMENT (NCCG).**

**PETITION: APPEAL FOR SENATE TO SUSPEND NAIROBI CITY COUNTY GOVERNMENT (NCCG).**

**UNDER KENYA CONSTITUTION ART 192.CLAUSE 1 (A) OR (B).**

I the undersigned Patrick Kamotho Githinji ID.No 21686936 Chairman, Muthurwa Residents Welfare Association, Chairman Muthurwa Housing Cooperative Society, Director-East Africa Climate Change Network-NGO, member Jubilee Party (JP) membership No. ZJ 79588731. A resident of Muthurwa Estate located in Land No.209/6502 in Nairobi, Kenya.

The preamble of the Kenya Constitution states the people of Kenya are **COMMITTED** to nurturing and protecting the well-being of the Individual, the family, communities and the nation, we do **RECOGNISE** the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law.

**THAT objects of devolution of government** are (a) to promote democratic and accountable exercise of power; (b) to foster national unity by recognizing diversity (c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.

**THAT the current administration** herein named Nairobi City County Government has failed in its responsibilities in service delivery due to internal conflicts thus hindering development and wellbeing of Nairobi County citizens.

**THAT Art.181 of Kenya Constitution states.** (1) A county Governor may be removed from office on any of the following grounds (a) gross violation of this Constitution or any other law; (b) where there are serious reasons for believing that the county governor has committed a crime under national laws (c) abuse of office or gross misconduct.

**COGNISANT THAT Governor Nairobi County**, as captured in print media and online platforms, that on or about 15<sup>th</sup> or 16<sup>th</sup> August 2018 was involved in an unethical activity by defending and directing the released of a suspect held legally in Police Service custody.

**THAT The Governor Nairobi County** consented to issues procedurally building approvals, for two multi storely building under construction, belonging to a fellow Kiambu Governor. The 8 storely Buildings are located within the Nairobi Central Business District posing grave danger to all Kenyans.

**THAT The Governor Nairobi County**, his actions and activities in regards to above issues usurp the functions of Nairobi- County Executive Committee, thus violating National values and principles of governance, which includes (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.

**THAT The Governor Nairobi County** has failed to meet and hold a Public Participation with 2880 residents of Muthurwa Estate as directed by the Attorney General in letter dated 11th July, 2017. AG

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Office Letter Reference: AG/CONF/5/35 Copied to the current suspended Kenya Railways Cooperation (KRC) Managing Director. Anthanas Maina.

**THAT *The Ouster Of Speaker*** on 6<sup>th</sup> September, 2018 violates principles of governance that I being a Jubilee Party Member to the best of my knowledge, the party has not in any way written a letter informing for suspension of the County Government of Nairobi Speaker.

**AWARE THAT On 6<sup>th</sup> September, 2018** Nairobi County Assembly, in a record setting full house attendance, unprocedurally amended the standing orders to shorten the impeachment process of Speaker Madam Beatrice Arachi, which is in bad faith and goes against the spirit and values of the Kenya Constitution administrative justice.

**FURTHER THAT** an irreconcilable and bad blood formed by this ouster will be detrimental to all plans and effectiveness of a conducive County Government. That this ouster was precipitated by among others the ongoing criminal investigations by independent arms of the government, invited by to probe alleged irregularities, in procurement matters by the speaker.

**COGNIZANT THAT** the Nairobi County government as established under the Constitution fails to reflect the principles of no more than two-thirds of the membership of representative bodies in each county government shall be of the same gender.

**THAT Muthurwa Estate** A KRC Land/ Asset was placed unlawfully under the defunct Kenya Railways Staff Retirement Benefit Scheme (KRSRBS) vide legal notice 169 of 2006 the estate is located in a 72 Acre of Land, Muthurwa Market and 16.Kv Power Substation elected within the area, administratively the estate falls under Central Ward in Starehe Constituency, with an estimated 1,978 households, thus being the only residential estate within the City Center, can be categorized as a special interests location which is marginalized.

**COGNIZANT** of the fact that since the Month of June the Governor Nairobi County indicated to have acquired over Ksh 800 Million from the National Government with plans to expand and relocate Wakulima Market/Marikiti to 5.4 Acres of Muthurwa estate, exposing about 800 residents to evictions and demolitions without reprieve thus opening an avenue for land grabbing as was the case with the acquisition of 19 Acres of the existing Muthurwa Market Land in 2005/6.

**FURTHER CONCERNED** that the Nairobi City County poses to lost an approximately Ksh 107,550,000 in regards to development of Nairobi Viaduct Road funded by World Bank and JICA, this is mainly due to double allocation of funds i.e National Government through KURA and NCCG into re-carpeting the 1.1 Km Muthurwa Market feeder road connecting to City Stadium. Thus the NCCG mandate is to (e) to protect and promote the interests and rights of minorities and marginalized communities; (f) to promote social and economic development and the provision of proximate, easily accessible services throughout the county.

**AWARE THAT** the matter of this road construction is pending in judgment in Nairobi High Court Petition number 228 of 2016.

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**WHEREAS THROUGH** Shambolic Public Participation that NCCG Assembly is yet to receive a satisfactory report on the implementation of county plans and policies almost a year since the inception of current administration.

**DISTURBED THAT** since 9<sup>th</sup> March, 2018 Supreme Court Advisory on the directive for nomination of a County Deputy Governor to date none has been achieved.

**FURTHER THAT RESIDENTS OF NAIROBI COUNTY** have not participated in formation or electing the management of 85 Ward Administration Fund Committees among other committee that involves Public Participation. . Thus violating acts forming the county governments which states County Government shall be based on democratic principles and the separation of powers.

**THAT, WHEREAS** Nairobi City County Since March this year has been undertaking a high number of demolitions of properties without clear procedures and frameworks. That disrupts livelihoods, destroy infrastructure, divert planned use of resources, interrupt economic activities and retard development.

**AND COGNIZANT** Parliament enacted the Commission on Administrative Justice Act (No.23 of 2011) Function of the Commission on Administrative Justice among others is to investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice; including investigating complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector.

**THAT** I confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.

**THEREFORE MY HUMBLE PETITION** is to pray that Senate invoke powers conferred to it by the Kenya Constitution Chapter 11 Part 6 on Suspension of County Governments Art **192. (1) (a)** in an emergency arising out of internal conflict or **(b)** in any other exceptional circumstances. **(1) (b)** unless an independent commission of inquiry has investigated allegations against the county government.

**That the future** Nairobi City County Government will open a meaningful engagement with the residents Of Muthurwa Estate in regards to planned developments vide the directives from the Attorney General office.

**Further appeal** in future decentralization and strengthening Nairobi's financial and revenue mobilization capacities which are key factors for improving the city's condition, minimize the bloated workforce by retrenchments and volunteers retirement. Further, NCCG should expand service delivery and planning capacity, facilitate broader-ranging cooperation; NCCG should set up mechanism for City Forums for discussion and participation in order to encourage public involvement and promote responsive leadership for the management of the County, thus meeting the needs of Nairobi's population. However, experience and research shows that urban inefficiency and inequality can be reduced through improved governance.

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**My prayer, Senate** to suspend the Nairobi City County Government, about 4 Million Nairobi Citizens and Kenyans will save millions of monies lost and swindled through double funding and ghost projects. Land illegally acquired or annexed will be reclaimed, new infrastructure will be established, community lands, Schools lands, Sports, Educational and Recreational Spaces will be recovered i.e sewerage, electricity, pavements and footpaths will be reclaimed and recovered. As citizens we will get an opportunity to engage for a new County Integrated Development Plan (CIDP) and Annual Development Plan (ADP) will be established guided by the spirit of constitution, hence during the suspension under the Kenya constitution, I believe arrangements shall be made for National Youth Service to take over and perform NCCG functions through the Ministry of Devolution and ASALs in collaboration with Ministry of Housing and Urban Development.

Yours petitioner will ever Pray.

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Signature.....