

Mr. Chama  
pls review. There was an  
earlier version of this  
petition  
JWZ/ML  
20/7/18



DKAS  
Please review.  
MOR  
19/7/18

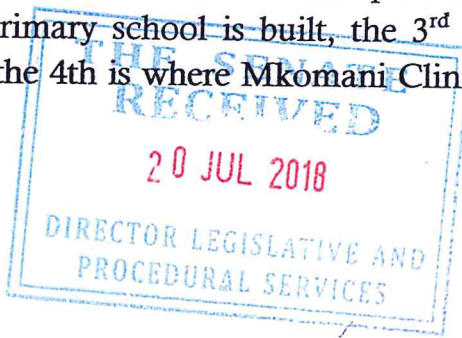
The Clerk of the senate  
Parliament Buildings  
P.O.Box 41842-00100  
NAIROBI  
Email:csenate@parliament.go.ke

**RE: PETITION TO THE SENATE CONCERNING COMPLAIN IN REGARD TO BOMU HOSPITAL/MKOMANI CLINIC SOCIETY.**

I undersigned, citizen of the republic of Kenya and resident of Changamwe in Mombasa County DRAW the attention of the senate to the following:-

Mr. Nanyua  
Please facilitate  
this matter.  
See comment  
above and  
cross-check  
our records.  
D. Chavira  
20/7/18

1. **THAT** the petition is against Mkomani Clinic Society now trading as Bomu hospital which was allocated land by the Wachangamwe Community to build a self help hospital which was to serve the wanachangamwe and the public in general.
  - 1.1 That Mkomani Clinic Society started as a charitable organization and operated a clinic in Mkomani area, currently Maweni-Mkomani ward in Nyali constituency, Nyali Sub County, Mombasa County.
  - 1.2 That later disagreements arose between the Mkomani Clinic Society and the Kipasho family which owned the land on which the Clinic was built. As a result the clinic was closed.
  - 1.3 That the Wachangamwe Community had surrendered some portions of its land during the establishment of the Changamwe Repooling scheme in 1953 to the Government of the Republic of Kenya invited the Mkomani Clinic Society to establish a clinic on a portion of the land known as Plot No. 4114/VI/MN.
2. **THAT** the land was among the four portions set aside by Wachangamwe community for special purpose programs for the benefit of Wachangamwe Community and the general public. The 1<sup>st</sup> land is where Bomu primary school is built, the 2<sup>nd</sup> is where Mwijabu primary school is built, the 3<sup>rd</sup> is where Kwahola primary school is built and the 4<sup>th</sup> is where Mkomani Clinic society now Bomu Hospital is built.



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3. **THAT** the clinic previously operated at Mkomani/Nyali area in the plot owned by Kipasho family. They had disagreements with the family and the said clinic was closed.
4. **THAT** the petitioner who was then the Mayor of Mombasa assisted them in obtaining registration of title of the land in which Mkomani Clinic society is built among the special purpose plots. The said land is registered as **Plot No. LR 4114/VI/MN.**
5. **THAT** the land in which Bomu hospital/Mkomani clinic society is established was a special purpose plot. It is the petitioner through his influence when he was the mayor of Mombasa that he facilitated the acquisition of the said land by Bomu Mkomani clinic society. This land was registered as "peppercorn" since the clinic was charitable institution then.
6. **THAT** the petitioner and Wachangamwe community raised their grievances to the NGOs Co-ordination Board via their memorandum dated 3<sup>rd</sup> May 2013.
7. **THAT** the NGOs Co-ordination board undertook investigation and in September 2014 they compiled a report with recommendations.
8. **THAT** the CEO or Directors of Mkomani Clinic Society trading as Bomu Hospital have refused and/or ignored to implement the recommendations in the said report.
9. **THAT** the petitioner wishes to have the recommendations in the report implemented within the stipulated time lines issued by the NGOs co-ordination board to conform with the NGOs co-ordination Act and good practice.
10. **THAT** the board came up with the following recommendations.
  - 10.1 **That** Bomu hospital should offer charitable services either directly or indirectly by deliberately setting aside part of its surpluses to support



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those who are unable to pay the bills. Based on its audited financial statements for the financial year 2013, Bomu hospital made net profits amounting to **Kshs. 76,478,459/-**

- 10.2 **That** within 30 days after the publication of the report Bomu Hospital to provide and update the register of all members. The organization was also to make available and accessible to all eligible individual membership forms at its registered offices.
- 10.3 **That** Bomu hospital within 60 days after the release of this report to amend its constitution to expunge the provision for trustees and to comply generally with the requirements of the NGOs co-ordination board good practice.
- 10.4 **That** Bomu hospital ensures full disclosure of incomes from all sources as required in the statement of comprehensive income and expenditure.
- 10.5 **That** future audited financial statements of the organization meet the International Financial Reporting Standards (IFRS)
- 10.6 **That** the organization with immediate effect implements the provisions of its own HR manual and to give a report to the NGOs Board of progress made in this respect during the submissions of its next annual report.
- 10.7 **That** the organization removes the Board of trustees and hold property in its own name.
- 10.8 **That** in terms of employment the hospital is required to practice fairness and equality in all its operations. The equality of opportunity for all regardless of ethnic background, gender, religion or creed.

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10.9 **That** the Board of Directors were in violation of the NGOs Code of conduct, Article 10(b), (c) (e) 11(a) and 13(a) and (b)

- 11 **THAT** the petition states that none of the recommendations by the NGOs Co-ordination board has been implemented by MKOMANI CLINIC SOCIETY trading as Bomu hospital.
- 12 **THAT** the right of the Wachangamwe Community provided for under Articles 43, 119 and 174 of the constitution have been violated and therefore petitions the senate to investigate the same and order appropriate redress.
- 13 **THAT** the Wachangamwe community continues to suffer in terms of accessing quality and affordable medical services yet they cannot access the Bomu Hospital facility built on their land. Mkomani Clinic society has turned Bomu Hospital to a fully fledged commercial hospital charging exorbitant fees.
- 14 **THAT**,I have made the best efforts to have matters addressed by the relevant authorities such as Kenya National commission on Human Rights(KNHCR),Registrar of societies, Ministry of lands, Commission On Administrative Justice(Ombudsman)and NGO Co-ordination Board all of which have failed to give a satisfactory response.
- 15 **THAT** none of these issues raised in this petition is pending in any court of Law, constitutional or any other legal body.

**WHEREFORE** your humble petitioner pray that the senate;-

1. Carry out investigation and consider the plight of Wachangamwe Community as a marginalized group in Mombasa.
2. Order the Mkomani clinic society to implement all the recommendations by NGOs co-ordination Board as entailed in the report.

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3. Order the Mkomani Clinic Society to compensate the Wachangamwe Community for the loss and injustice occasioned to them.
4. Order the Mkomani Clinic Society to offer charitable services from the surplus in terms of profit they make.

And your petitioner will every pray.

Dated at Mombasa this ..... Day of .....2018.

NO.	NAME	ADRESS	ID.NO	SIGNATURE
1.	<b>Ahmed Shahame Mwidani(OGW)</b>	P.O.Box 1279-80100 Mombasa	0306041	ASMwidani