

**IN THE SECOND MEETING
OF THE SECOND SESSION OF THE SIXTH
PARLIAMENT OF THE FOURTH REPUBLIC
OF GHANA**

REPORT

**BY THE SPECIAL COMMITTEE
ON THE DEMOLITION EXERCISE UNDERTAKEN
BY THE TEMA DEVELOPMENT CORPORATION
(TDC) AT ADJEI-KOJO, IN THE TEMA
METROPOLIS**

17TH JULY, 2014

1.0 INTRODUCTION

1.1 Following the statement presented to the House by the Hon. Member for Tema West and 1st Deputy Minority Whip, Ms. Irene Naa Torshie Addo on Tuesday, 11th February 2014 on the demolition exercise undertaken by TDC at Adjei Kojo in the Tema Metropolis, the Rt. Hon. Speaker constituted a special Committee to investigate the issues raised in the statement and report to the House. The Committee held several meetings with stakeholders to consider the referral and report as follows;

1.2 Composition of the Committee

The Right Hon. Speaker directed the committee to be composed as follows:

- i. The entire membership of the Committee on Works and Housing
- ii. The Chairman and Ranking Member of the Committee on Constitutional, legal and Parliamentary Affairs
- iii. The Chairman and Ranking Member of the Committee on Lands and Forestry
- iv. The Hon. Member for Prampram and former Minister for Water Resources, Works and Housing, Mr. E. T. Mensah

2.0 TERMS OF REFERENCE

2.1 The Committee was mandated to investigate:

- i. Legitimacy of TDC's claim to the demolished site

- ii. Whether the demolition was justified
- iii. Whether due process was followed in the demolition
- iv. Any other matter incidental thereto; and
- v. Make recommendations

3.0 PROCEDURE/METHODOLOGY

3.1 It was the considered opinion of the Committee that, the issues raised by the Member of Parliament for Tema West Constituency bordered on Lands, Housing and Security. As a result, there was the need for the adoption of well defined procedures to thoroughly execute the Terms of Reference.

3.2 The Committee decided that the assignment should adopt the four approaches indicated below:

- a. Interrogate the Managing Director (MD) and officials of TDC, traditional rulers of the area and affected persons
- b. Review of documents
- c. Visit to the demolished site
- d. Solicit information from the following;
 - i. Lands Commission
 - ii. Survey and Mapping Division of the Lands Commission
 - iii. National Security

4.0 REFERENCE DOCUMENTS

The Committee made reference to the under-listed documents:

- i. The 1992 Republican Constitution (Article 257 (2))

- ii. Public Lands (Protection) Act 1974 (NRCD 240)
- iii. Report on the survey and verification of Site Plans within and around the TDC demolition site
- iv. Site plans and indentures of Chiefs and affected developers

5.0 ACKNOWLEDGEMENT

The Committee expresses its sincerest gratitude to all the stakeholders and representatives of the various resident associations who represented the victims at the meetings. It also extends its appreciation to the security agencies and officials from the Lands Commission, especially, the Survey and Mapping Division of the Commission for their invaluable assistance in the course of the investigation.

6.0 VISITS TO THE DEMOLISHED SITE

After the Second Meeting, the Committee accompanied by the media, the Police, National Security, traditional rulers of the area, affected persons and an official of TDC paid a working visit to the demolished site to ascertain for themselves, the number of affected structures and the extent of the demolition.

7.0 FINDINGS

7.1 Title to the affected site

Based on the documents made available to the Committee, it was found that, title to the affected area is vested in TDC, same having

been leased to the TDC for 125 years from 1955 by the Government of Ghana.

- Land Title Certificate No. Vol T1 Folio 1, issued on 17th March 1997).
- Compensations were duly paid at the time of the acquisition to the Tema, Kpone and Nungua Paramountcies
- Various court judgments (eg High Court judgment, 2004 and Court of Appeal, 2008) have over the years confirmed the title to the said site in TDCs favour.
- Annuities are paid yearly by TDC to the Lands Commission to be paid as royalties to the paramountcies in accordance with the Lease Agreement

7.2 Conduct of TDC

The Committee found that, from 1973 to date, TDC had ceded portions of the acquired lands to the traditional rulers of the area who in turn allocated same to some of the developers. The TDC subsequently regularizes these lands by issuing sub-leases to the developers. In total, TDC released 4,861 acres of lands to the chiefs under the foregoing arrangements. The problem however is that, TDC did not properly demarcate the boundaries to clearly differentiate portions ceded to the chiefs and those still being retained by the TDC. Besides, TDC did not make it public what portions of the land was ceded to the chiefs.

In the view of the Committee, the lack of publicisation and proper boundary demarcation between ceded portions of the land and the

rest of the acquired land possibly contributed to the exploitation of unsuspecting developers by some of the traditional authorities, thus culminating in the present level of encroachment on the Acquisition.

7.3 Processes of the Demolition

- (a) Prior to the demolition exercise, TDC served notices on encroachers on several occasions, to stop work and marked all unauthorized structures in the area for demolition.
- (b) TDC could not take further actions against the encroachers as the encroachers resorted to appeals and court injunctions which frustrated their efforts.
- (c) TDC was also unable to prevent the encroachers from further development on the land as a result of the activities of Armed Land Guards in the area. In some instances, Land Guards inflicted injuries of various degrees on the TDC Task Force in their attempt to prevent the encroachers from developing. For this reason, some of the encroachers continued developing their properties and also managed to stay on the property for more than ten (10) years.

7.4 The grantors of the affected land

It was also established that all the victims of the demolished portions of Land, acquired their lands from either of the following sources:

- Abomantey family (Sraha East)
- Nii Tetteh Santeo Family (Solomon City)

The above mentioned chiefs appeared before the Committee to give evidence. They insisted that, the demolished portions of the land were not part of the acquisition area of the TDC. They claimed the demolished portions was part of their ancestral land, which they were at liberty to dispose of without reference to TDC. However, upon the superimposition by the Survey and Mapping Division of the Lands Commission of all the site plans submitted by the victims and the chiefs, all their site plans were found to be squarely within the acquisition area.

The Chief of Sraha East for instance submitted to the Committee, a plan showing the area owned by the family. However, upon superimposition of their site plan on that of TDC's, it was found to be totally outside the acquisition.

This notwithstanding, the Officer from the Survey Department informed the Committee that the Sraha East Chiefs had previously submitted a site plan to their Department which fell within the TDCs acquisition area, and for which reason the Lands Commission refused to register the land for the Chiefs.

The Chiefs of Santeo on the other hand failed to provide any valid documents to justify their claim to the ownership of the said parcel of land when they first appeared before the Committee. They also failed to honour further invitations from the Committee.

The Committee therefore considered the action of the Santeo Chiefs as an affront to the Institution of Parliament and in clear violation of Article 103(6) of the Constitution and Order 155 of the Standing Orders of Parliament.

8.0 OBSERVATIONS

8.1 NRCD 240 (1974)

The Committee observed that TDC acted on the strength of Public Lands (Protection) Act - 1974 (NRCD 240) (3) to demolish the properties. The law states that:

(1)“where a trespasser has unlawfully occupied or encroached on or interfered with a public land, the appropriate authority or a duly authorized agent of that authority may, in writing, serve a notice on the trespasser, personally or by affixing the notice to a part of the land affected, requiring the trespasser to vacate the land within twenty-one days from the date of the notice.

(2) Where a trespasser refuses or fails to vacate the land within twenty-one days from the date of the notice referred to in subsection (1), the authority or a duly authorized agent of that authority may

(a) remove the trespasser from the land;

(b) confiscate or remove the goods of the trespasser from the land;

(c) abate a nuisance or terminate an interference caused by the trespasser on the land;

(d) confiscate, demolish or remove a structure or an obstacle on the land;

(3) The authority or its duly authorized agent may use reasonable force necessary for the purpose of carrying out a measure specified in subsection (2)

8.2 Actions of National Security

The TDC with the assistance of National Security cleared debris from portions of the demolished site before the Committee visited the site. According to TDC, it was to enable their engineers construct drain works for the area. This greatly affected the gathering of evidence by the Committee with respect to the actual number of structures demolished.

The Committee however found the explanation by TDC untenable and considers it disrespectful to the institution of Parliament, as that action interfered with evidence on the ground.

9.0 RECOMMENDATIONS

9.1 Review of the NRCD 240

Taking into consideration, the 1992 Constitution and the general democratic dispensation of the country, the Committee recommends to Government to review the NRCD 240.

9.2 Courts authorization

The Committee recommends that in future no State Agency should demolish any landed property without recourse to the courts of the land.

9.3 Conduct of Public Institution

The Committee is aligning itself with the 2014 State of the Nation's Address by His Excellency the President, Mr. John Mahama under the heading "Law and Order" which states that, 'Public Institutions have a responsibility to act in a timely manner in protecting state-owned lands, and must do so. It doesn't help to sleep on ones rights only to suddenly wake one day and seek to enforce those rights by measures as drastic as demolitions'.

In effect the Committee strongly recommends for the employment of proactive measures by all institutions (both public and private) to avert encroachments that will necessitate the need for demolitions.

9.4 Further Action

- The grantors who sold out the lands to affected persons should be made to compensate the victims
- Government may consider providing legal assistance to victims
- For humanitarian reasons, the Committee recommends that the Government and or through TDC take steps to ameliorate the plight of the affected persons

9.5 Elimination of bottlenecks in the land registration process

The Committee recommends that the Lands Commission and all Stakeholder Institutions involved in the land registration processes must streamline the processes of land registration.

9.6 Public Education

The Lands Commission and other stakeholders should undertake massive public education of the importance of conducting formal search at the Lands Commission before lands are acquired.

9.7 Sensitization among stakeholders

The Committee also recommends that intensive sensitization exercises involving major stakeholders should be undertaken prior any future demolishing exercise.

9.8 Provision of adequate resource

The Committee recommends that Government should adequately resource the Lands Commission to efficiently perform its duties.

9.9 Resource building inspectors

Building inspectors should be trained and better resourced to be more proactive in checking illegal developments.

9.10 Notice on acquired lands

Ministries Departments and Agencies must ensure that, giant billboards are mounted on all public acquired lands to protect innocent buyers from falling victims to unscrupulous people.

9.11 Measures to deal with the Land Guards menace in the Country

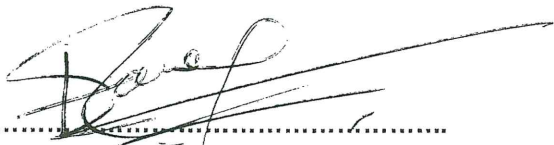
As a result of the nefarious activities of Land Guards who normally take the law into their own hands and cause harm to innocent lives and damage to properties, the Committee strongly recommends that the IGP should put a mechanism in place to flush out all Land Guards in the country. This would help protect lives and ensure sanity in land acquisition in the country.

10.0 CONCLUSION

- The principal conclusions drawn from the investigation are that, whilst the Chiefs of Sraha East and Santeo (Solomon City) illegally sold out the said plots to unsuspecting developers, the victims also acted ignorantly by not conducting any search on the Land at the Land Title Registry before acquiring their parcels of land from the illegal grantors.
- The TDC on the other hand, slept on its rights for far too long thereby giving the victims a false sense of security and the impetus for continued development and further encroachment on the land.

The Committee hereby recommends to the House to adopt its Report.

Respectfully submitted.



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HON. DAVID TETTEH ASSUMENG
(CHAIRMAN)



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AKUA OWUSU AGYEKUM (MRS.)
(CLERK TO THE COMMITTEE)