

MEMORANDUM

DATE: 30TH AUGUST, 2021

SUBJECT: ACUTE AIR POLLUTION

FROM: EAGLE PLAINS ESTATE RESIDENTS ASSOCIATION

TO: NAIROBI COUNTY ASSEMBLY

REFERENCE: EPERA/ENVIRON/NCC/01/2021

SYNOPSIS

Air Pollution is growing health threat with adverse effects on human health. Exposure to fine particulate matter is especially deleterious to human health, and can lead to cardiovascular and respiratory diseases. The negative impact of air pollution often has most severe impact on vulnerable people such as children, older people and those with existing heart and lung conditions.

According to the Kenya National Bureau of Statics (KBNS) economic survey, year 2020, respiratory system diseases were the leading cause of morbidity at 39.3% of all disease incidences reported in health facilities in Kenya in 2020.

Eagle Plains Estate (herein also referred to as EPERA) is located behind Panari Hotel on Mombasa Road and borders the former Nakumatt Headquarters. The residents of Epera have suffered for many years owing to the effects of air pollution. This has been occasion by the divergent behavior of manufacturing plants located within the industrial area not complying with the laid down NEMA regulations and emission compliance plans.

Guiding Principles

- a) Environmental Right: Under the 2010 constitution, every person in Kenya has a right to clean and healthy environment and a duty to safeguard and enhance the environment. Air quality regulation seeks to safeguard the right to clean and healthy environment.
- b) Pollutant Pays Principle: (Extended Producer Responsibility) The pollutants and users of environmental and natural resources shall bear the full environmental and social costs of their activities.
- c) Human Right: The right to clean and healthy environment in Article 42 of the constitution is a fundamental right that should be protected at all levels of government.

- d) Consultation & cooperation between Governments: Air quality regulation cuts across both the levels of governments and in accordance with Article 189 of the constitution, governments at each level are required to cooperate in the performance of functions mandated by the constitution:

Actions taken by Eagle Plains Residents on the Pollution effects.

1. "Cooking Oil Company that won't allow locals to catch a breath" Daily Nation 8th September 2020. The article appearing in the Daily Nation (in Year 2020) underlined the plight of Eagle plains residents affected by particulate matter emitted by Edible Oils. Residents have endured unsurmountable healthy challenges resulting from pollution from the oil manufacturing plant. Their health condition continue to deteriorate despite the estates appeal to NEMA to address the issues. NEMA has continued to give lukewarm action to the issues including closing the plant and re-opening of the plant without advising the complainant, i.e. Epera of the action(s) taken by the said company. The temporary closure of this manufacturing entity was prominently featured on the national Television. See YouTube clip reference; <https://www.youtube.com/watch?v=JfOSYyv8t08>
2. Air Quality Index, the Nairobi City Council installed an Air Quality Index checker at the estate to take measurement readings in Year 2020. The readings revealed high levels above the recommended reading of 50 particulate matter. The readings ranged between 50 to 150. These high levels of particulate matter cause nausea, vomiting and difficulty in breathing. This has resulted in respiratory diseases that has been witnessed by the residents and particularly our children the last couple of years. NEMA brought in a mobile air sensor truck to the estate during the same period. This was brought to confirm the air pollution levels within the Estate. The mobile unit was in the estate from 12th May – 19th May 2020. The truck was stationed in the estate for one week. The findings of the testing have not been shared to the residents todate, despite numerous attempts to get the results shared by NEMA.
3. Petition to NEMA - the residents wrote a petition to NEMA demanding immediate intervention, identification of the source of pollution and stop culpable industries from operating. The petition was delivered to NEMA on 18th May 2020. Again, this petition was not responded to by NEMA. They have remained quiet on the matter.
4. We had several meetings with NEMA, jointly with representation from the estate residents and our property manager. The meetings were to compel NEMA to submit the reports from their investigations and the environmental audit reports. During one of the meetings in 2020, it was evident that NEMA were not committed to divulge the investigation process and when we pushed back, they produced an emission compliance plan, that did not indicate timelines on implementation of the plan. At the

meeting, NEMA agreed to provide the reports and to date this have not been forthcoming.

5. We wrote to the office of the Ombudsman demanding NEMA audit reports from industries that were culpable of emitting high levels of particulate matters. The office of the Ombudsman responded on 11th December 2020 instructing NEMA to provide the information. We have not received any feedback on the same.

Action and Recommendations

As residents of Epera and the representing many other voices of Kenyans who live within the environs of Nairobi South region, we make the following recommendations to the Nairobi County Assemble for consideration. These are: -

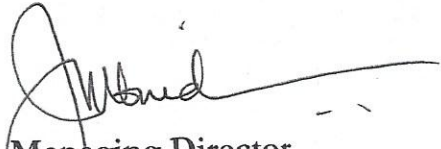
1. That the County Assembly develops and enacts an Air quality legislation for the county that will guide and govern air pollution prevention, identification and rectification processes.
2. Enforce industrial emission limit values based on the best available techniques nationally and internationally.
3. Ensure compliance for all industrial sector players with at source emissions and ambient air quality limits imposed and adhered to.
4. In cooperate and support residents and consumer associations to create public awareness on the challenges of air pollution.
5. Compel the offending parties to compensate affected parties and residents within the City estates for any harm caused by the pollution including catering for their medical bills.
6. Priority to be given to human settlements over industrial activity.
7. The residents of Eagle Plains estate pray that the relevant authorities will ensure that all Nairobi County residents are protected against industrial emissions and air pollution emanating from the nearby industries.

Signed on behalf of the Eagle Plains Residents Association.

Sincerely,


Chairman

Epera


Managing Director

Property Managers