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THE PUBLIC RECORD OFFICE

the lands which it was proposed should be allocated to them in exchange for flooded land.

Shortly, we understand the scheme to be that the natives who are dispossessed as the result of flooding should be allocated areas lying between our farms in the manner indicated upon the sketch plan forwarded herewith.

When the farms were originally allocated under the Soldier Settlement Scheme it was clearly represented that the whole of the Maragua Ridge would continue to be reserved for white settlement and - even without such representation - it would appear from a reference to the sketch plan above referred to that it would be quite inequitable to plant a native location or reserve in the position indicated, involving as it would the danger of spreading disease through the trespass of native goats and cattle and the insanitary habits of the natives themselves.

The road of access to the main road would run through the proposed native reserve and the existence of a reserve in the position indicated would, in our opinion, render our farms practically valueless.

Apart, however, from the depreciation in the value of the farms which would result from the carrying out of the proposed scheme, there is the further question of the safety of the women and children residing on our farms.

To take the particular case of Mrs. A. R. Tullis - If the scheme goes through she will be surrounded on three sides by land occupied by natives and her residence is 2½ miles from the nearest house, while, with regard to the other farms occupied by us, there is approximately an average of two miles between the various houses.

When the interview above referred to with the Directors of the E.A. Power & Lighting Co. Ltd. took place, we

were naturally very much concerned with regard to the position and we accordingly consulted our Advocates for advice as to the best form of action to be taken in the matter. The advice which we received was that the facts should be laid before Government and that there was little doubt that when Government understood the gravity of the position other arrangements would be made. We accordingly instructed our Advocates to write to the Hon. The Commissioner for Local Government Lands and Settlement setting out our contentions with regard to the proposed scheme. We send herewith a copy of the correspondence which has taken place between our Advocates and Government, from which it will be obvious that Government have carried on their negotiations with the Electric Light Coy. and with the natives without even inviting one of us to attend to explain our views or supplement what our Advocates have stated in writing. Two unsigned acknowledgments and the letter of the 17th March constitute the only response to our representations and we must respectfully say that, apart from the gravity of the situation we can only consider the utter disregard for our interests and failure to reply adequately to our Advocates as a gross insult not only to ourselves but to the white community as a whole.

This is not a political matter and we have refrained up to date from invoking the assistance of the Representatives of the Unefficial Community. We are merely asking to be protected from an action which we genuinely consider would ruin our interests on the Maragua Ridge.

We are not suggesting that the Electric Light Coy. should not receive assistance in any of its schemes of development but it is a wealthy corporation, holding a very valuable monopoly and we certainly contend that if it is to be allowed to flood areas occupied by natives for its own purposes even although also in the public interest, arrangements should be

made for the settlement of the natives who will be dispossessed in such a manner as not to unduly interfere with the interests of individual settlers, who find it hard enough to carry on without further difficulties being presented to them.

Government must be fully aware of the danger arising from the isolation of women and children in the neighbourhood of native locations and we would urge upon you that we consider the scheme as a most serious menace to the safety of our womenfolk and our children.

If the scheme must go through we would respectfully submit that - in view of the facts detailed - Government should either locate the natives in some area which would not detrimentally affect our farms, or other European farms, or the Electric Light Coy. should be obliged to purchase the entire Ridge at a reasonable figure. We genuinely fear - if the present scheme goes through - that we shall be obliged to abandon our farms or to sell them at a figure out of all proportion to what could be obtained for them in normal times if the natives were not planted beside us.

The whole Maragum Ridge is essentially a white area separated by a river from the native area and if it is intended to turn that Ridge into a native area, we submit that it should be taken over as a whole for that purpose.

We regret to have to approach you on this matter at a time when so many difficult problems are before you but we are aware that the question of native settlement is at present under your consideration and we think it essential that you should be aware of the position with regard to Maragum Ridge before matters have gone too far with regard to arrangements with the Electric Light Coy.

We have no doubt that our Memorial will receive

5.
your very careful consideration.

We have the honour to be,

Your Excellency's Obedient servants,

(Signed)

T.D.Truman.

C.D.Williams.

Annie R.Tullis.

C.Rand Overy.

Robert S.Ballantyne.

for J.P.Freeman.

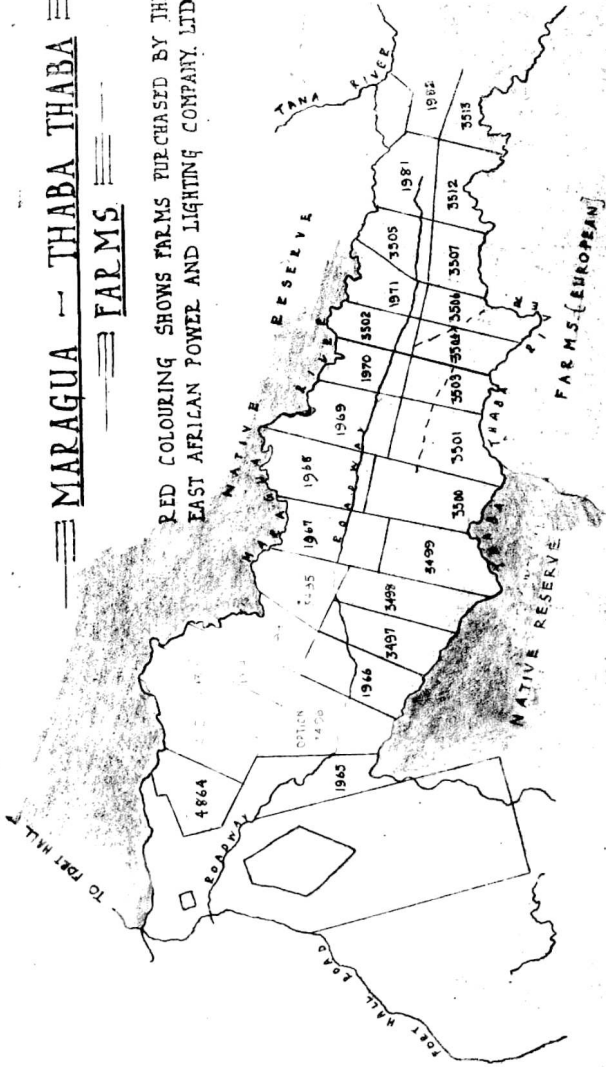
A.J.Millar.

A.J.Millar.

MARAGUA - THABA THABA

FARMS

RED COLOURING SHOWS FARMS PURCHASED BY THE
EAST AFRICAN POWER AND LIGHTING COMPANY, LTD



The Hon. The Commissioner for Local Government
Lands & Settlements,
NAIROBI.

Sir,

MAROGA RIDGE - FARM HOLDERS.

We beg to acknowledge receipt of your letter of the 17th. inst. No. LND. 20/6/2/84, the contents of which are noted.

In view of the manner in which our clients have been treated by Government they are not prepared to wait indefinitely for a reply.

The White Settlers who claim that they would be seriously affected if the scheme which has been proposed were brought into effect, consider that they have been completely ignored in the matter.

We wrote you on the 10th. January, 25th. January, 26th. February and 6th. March and until receipt of your letter under reply the only response has been a printed and unsigned note to the effect that our letter of the 25th. January had been received.

Not one of the settlers concerned has been invited to an interview to discuss his objections to the scheme, and our clients very much resent what they consider the scant courtesy which has been extended to them.

In view of the unsatisfactory nature of your letter under reply, our clients have decided to refer the matter direct to the Secretary of State for the Colonies and a Memorandum is being prepared for transmission through the Hon. The Colonial Secretary.

Pending the consideration of our clients' Memorandum by the Secretary of State, we would request that no further steps be taken with a view to binding Government to any agreement with the Electric Power & Lighting Co.

We gather from the reference to "Government" that the matter is out of your hands and appreciate that the delay is not due to laxity on the part of your office.

We have the honour to be, Sir,
Your obedient servants,
For DALY & FIGGIS,

Copy to:-

The Hon. The Colonial Secretary,
NAIROBI.

COPY.

17th. March 1936.

LND.20/6/2/34. Vol.III.

Gentlemen,

RE. MARQUEE RIDGE FARM HOLDERS.

With reference to your letter of the 6th. March,
I have the honour to inform you that the matter is still
under consideration by Government and I hope to be able to
forward a reply at an early date.

I have the honour to be,
Gentlemen,
Your obedient servant,

(Sd) C.E. Mortimer.

COMMISSIONER FOR LOCAL GOVERNMENT
LANDS & SETTLEMENT.

Messrs. Daly & Figgis,
P.O. Box 34,
MALIBORI.

COPY.

8
6th March 1936.

The Hon. The Commissioner for Local Government
Lands & Settlement.
NAIROBI.

Sir,

RE: MARAGUA RIDGE - FARM HOLDERS.

We would be obliged if you would let us have a reply to our letter of the 25th. January last as, in the event of some satisfactory settlement not being come to, our clients may have to refer the matter to the Secretary of State for the Colonies.

We trust that, pending a reply to us, no definite arrangement will be arrived at with the Electric Light Co.

We have the honour to be, Sir,

Your obedient servants,

For DALY & FIGGIS,

COPY.

DEPARTMENT OF LOCAL GOVERNMENT
LANDS AND SETTLEMENT.

NAIROBI.

KENYA.

LND.20/6/2.

1st. February 1936.

The Commissioner for Local Government Lands and Settlement presents his compliments and has the honour to acknowledge the receipt of your letter No. MJH/MD of the 25th. ultimo on the subject of Maragua Ridge.

To,

Messrs. Ealy & Figgis,
P.O. Box 24,
NAIROBI.

25th. January 1936.

COPY.

The Hon. The Commissioner for Local Government,
Lands & Settlement,
MALIBARI.

Sir,

RE: MARAGUA RIDGE.

Further to our letter of the 10th. inst. there is one further point in support of our clients' contentions to which we think we should draw your attention.

It has been for many years established law in England that where any estate is let out in building plots in pursuance of a building scheme and the various plots are let to various tenants with provisions that they shall not, without the consent of the Landlord, use the premises acquired by them, other than for certain specified purposes, then it is open to any Lessee of any of the plots to insist that no other leases shall be permitted by the Landlord to use his plot in another way, and to obtain from the Courts an injunction to prevent the Landlord waiving the restrictive covenant in question - (See *Spicer vs. Martin* (1888) 14 T.C. 12 and *Elliston vs. Reacher* (1908) 2 Ch. 374, 384; on appeal 665).

The scheme of development carried out by Government on the Maragua Ridge bears very marked resemblance to the development of an estate in England as a building estate, and we think that in justice and equity the Courts here would be prepared to extend to the area in question the rules established in regard to building estates in England.

These rules are based on the principle that each individual purchaser, having been led to acquire his property in the expectation that the adjoining properties would only be used in a certain way, is entitled to have that expectation fulfilled and that it would be contrary to English Justice and Equity to permit the Landlord to decrease the value of the adjoining plots by waiving restrictive covenants in respect of particular plots.

We trust and believe that the justice of our clients' claim will be so readily appreciated as to preclude the possibility of any appeal to the Courts ever having been made in this matter; but we also felt that our clients' case could be well reinforced by an indication of the legal principles which appear to be applicable to the matter, and you will understand that it is for that reason and not in any minatory spirit that this letter is addressed to you.

We have the honour to be,
Sir,
Your obedient servants,
For DALY & FIGGIS,

GORT.

10th. January 1936.

The Hon. The Commissioner for Local Government
 Lands & Settlement,
NAIROBI.

Sir,

We have been requested by the Settlers on the Maragua Ridge to write to you in connection with the acquisition by the East African Power & Lighting Coy. of various farms on the Ridge with a view, it is understood, to handing these farms over to natives to be used as Native Reserve, in return for an area in the Native Reserve intended to be flooded by a scheme of development proposed to be undertaken by the Company.

We attach hereto a small plan on which are coloured in red the farms which have been acquired by the East African Power & Lighting Coy. as aforesaid.

The areas on the plan on which we have placed the letter "N" in pencil are, we understand, already, or are about to be made, Native Reserve in any event, and it will therefore be clearly seen that the effect of transferring to Native Reserve the farms acquired by the East African Power & Lighting Coy. will be almost completely to surround the remaining settlers with native areas.

The farms acquired by the Settlers in this area were acquired under a Soldier Settlement Scheme and it was abundantly and clearly represented at the time that the whole of the Ridge had been set apart for White Settlement and would be so reserved, this representation being clearly implemented in each Title by the provision that no one other than a European or of European descent would, without the consent of the Governor in Council, be permitted to occupy or manage a farm. The Settlers took up their farms on the clear and justified understanding that this policy would be adhered to and they are very seriously and very greatly disturbed at the prospect now opening out before them of a radical departure from the basis on which they were induced to occupy this area.

It is not necessary for us to dilate at any great length on the deleterious effect of the proposed alienation. It will cut off the remaining settlers - and the comparative smallness of their numbers only makes the position more serious - from the main road, and will leave them surrounded on three sides by Native Reserve, and on the remaining side by Native Reserve and unoccupied Crown Land.

The consequent insecurity which must ensue to their wives and families and to themselves is a matter of very serious moment and the constant anxiety which it must necessarily cause will seriously endanger their occupation of their farms, as nobody could wish to live under circumstances which will occasion such continual worry.

Furthermore, this encloaving of their land by Native Reserve must result in a tremendous increase of trespass by

3

native which it will be quite impossible for them to restrain or guard against. This trespass will not merely interfere very seriously with the rights which every owner is entitled to exercise over his property, but must also bring in its train the danger of increased disease. An owner is entitled to expect that the Law would secure the aforesaid rights to him, but it will obviously be quite impossible for the Crown to restrain trespass by natives over the area in question when it is so completely surrounded.

The road of access to the properties will then run through a Native Reserve and is almost certain to deteriorate as a result. It is bad at the moment, but with the constant traffic of native cattle it will get worse.

So
Finally, the area will become/completely unattractive to other settlers as entirely to destroy the saleable value of the remaining farms, so that the proposed alienation will have the effect of depriving the remaining settlers of what they have always been led to believe would be valuable assets, in which belief they have been induced to sink money in the area.

There is no need to dilate any further on the damage which will accrue to our clients, we think it is obvious; and it is equally obvious that if the Crown permits this damage to be caused it will be departing from the representations and understandings on which our clients were induced to settle in the area in question.

We cannot believe that so clear a breach of faith will be permitted to occur and our clients accordingly trust that the Crown will not consent to the alienation to natives of the area acquired by the East African Power & Lighting Co. or if they do consent will only consent on terms which will ensure adequate compensation to those who are ultimately affected by the scheme, for it will be realised that the destruction of the amenities of property may be and sometimes is equivalent to the actual destruction of the property itself.

We have the honour to be,
Sir,
Your obedient servants,
For DALY & FICGIN,

EAST AFRICAN POWER & LIGHTING CO.
PLAN "Shewing"

MARAGUA - TANA AREA

Scale 1:5000 or 1:10833 Feet to Inch





Crown Lands Available For Disposal To East African Power & Lighting Co Ltd As Exchanged Lands



Exchange Farms Held By East African Power & Lighting Co Ltd



Flooded Area Tana Scheme.

May, 1936.

Dear Private Secretary,

Thank you for your letter of the 23rd of April enclosing a copy of the memorial from the Maragua Association. I have laid it before Mr. Thomas, who desires me to say that on receipt of the original memorial through the Governor he will give it his careful consideration. He notes from the letter of the 20th of March from Messrs. Daly and Piggis appended to the memorial that it was the intention to send a copy through the regular channel and until this is received with the Governor's remarks Mr. Thomas does not think that he can offer any useful comments.

Captain Guest is no doubt aware that schemes for the development of the water power resources in this area have engaged the attention of Government and of the company for a considerable time and one of the difficulties has always been to find suitable alternative land for the natives whose territory would be drowned by the construction

construction of the proposed dam. It is understood by the Department that there may be a further difficulty connected with the length of time the Company's licences have to run but nothing has yet been settled so there is no immediate urgency.

Captain Guest might perhaps reply saying that he has consulted Mr. Thomas who must of course await the arrival of the memorial via the Governor before he can consider it but that he has undertaken to give it careful examination.

Yours very truly,

(sac) T. W. S. [unclear]

C. O.

Mr. Flood. 01.3.26

Semi-official for *Downing* signature.

Mr.

Downing Street,

Sir C. Parkinson

6 May, 1926.

Sir G. Tomlinson

Sir C. Bottomley. 1-5

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

J.E.M. ALTHAM, ESQ.

Dear Private Secretary

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FURTHER ACTION.

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via the Governor before he can consider it

but that he has undertaken to give it

careful examination

Yours very truly

(32) T. H. Davies.

5708/1A

TELEPHONE
DAYFAIR 2100.

R297
Please
as sent.
mkw
made
file
J

REC
27 APR 1936
C.O.I

19, BERKELEY STREET.
W.I.

23rd April 1936

Private Secretary to
The Colonial Secretary,
Colonial Office,
Downing Street,
S.W.1.

R

Dear Sir,

Captain Guest has received a letter from Mr. W. Truman,
a copy of which I enclose, together with the Memorial
from the Maragna Association.

Captain Guest asks me to add that there are reasonable
people and would be very grateful if you could have the matter
considered and suggest to him what line to take in reply.

Yours faithfully,

J. E. L. Allan
A.

Case (2)

encs/

COPY

Nara-Moru, Kenya.

April 6, 36.

Dear Guest,

I am writing to you on behalf of the Maragua Association and I hope you will not mind my troubling you.

The East African Power & Light Co. wish to form a corridor to cut the Maragua ridge in half and hand the land over to the Natives without having consulted the White Settlement which has definitely been allocated as a white area under the soldier's settlers scheme.

The enclosed Memorial I think will put our grievance plainly and we shall be most grateful if you could see the Colonial Secretary about the matter.

As you know the East African Power & Light Co. is a very rich London Company charging exorbitant rates here and so far they have made no attempt to put up another scheme or to compensate us for the damage they are doing.

Incidentally none of us want to be unreasonable re price of compensation. Personally I can tell you the whole ridge could be bought for between £15,000 and £20,000 which for a Company who is going to spend a quarter of a million on the new Java dam and canal is a very small amount.

We shall be most grateful if you can put forward our case and even ask a question in the House if I am not asking too much.

Another big point is that it is contrary to the Carter Commission.

Yours sincerely,

(Signed) T. J. Truman.

MEMORIAL

RE

NATIVE OCCUPATION OF MARAGUA RIDGE
.....

To
The Right Honourable
His Majesty's Secretary of State for the Colonies
Downing Street,
LONDON. S.W. 1

Sir,

Re. Native Occupation of Maragua Ridge
and Scheme of E.A. Power & Lighting Coy. Ltd.

We respectfully beg to bring to your notice certain facts in connection with the proposals for the settling of natives who may lose the lands at present occupied by them owing to flooding operations, which we understand, will become necessary for the implementing of what is known as the Tana Scheme for increase of electric power in Kenya.

We are in occupation of farms spread over what is known as the Maragua Ridge, which farms, in addition to other farms, covering the whole of the Maragua Ridge were originally allocated under the Soldier Settlement Scheme.

The position of these farms will be apparent by reference to the sketch plan which is forwarded herewith.

We have never been officially informed of the exact details of the proposed scheme, but in the month of January of this year two of the Directors of the E.A. Power & Lighting Coy. Ltd. informed some of our number of the nature of the scheme and also intimated that the scheme had already been approved by Government.

We would add that in the month of December last the District Commissioner of the district concerned came upon the lands with certain of the native chiefs who have been occupying the area which it is proposed to flood and pointed out to them

the lands which it was proposed should be allocated to them in exchange for flooded land.

Shortly, we understand the scheme to be that the natives who are dispossessed as the result of flooding should be allocated areas lying between our farms in the manner indicated upon the sketch plan forwarded herewith.

When the farms were originally allocated under the Soldier Settlement Scheme it was clearly represented that the whole of the Laragua Ridge would continue to be reserved for white settlement and - even without such representation - it would appear from a reference to the sketch plan above referred to that it would be quite inevitable to plant a native location or reserve in the position indicated, involving as it would the danger of spreading disease through the trespass of native goats and cattle and the insanitary habits of the natives themselves.

The road of access to the main road would run through the proposed native reserve and the existence of a reserve in the position indicated would, in our opinion, render our farms practically valueless.

Apart, however, from the depreciation in the value of the farms which would result from the carrying out of the proposed scheme, there is the further question of the safety of the women and children residing on our farms.

To take the particular case of Mrs. A. R. Tullis: - If the scheme goes through she will be surrounded on three sides by land occupied by natives and her residence is 2 1/2 miles from the nearest house, while, with regard to the other farms occupied by us, there is approximately an average of two miles between the various houses.

When the interview I have referred to with the Directors of the E.A. Power & Lighting Co. Ltd. took place, we

were naturally very much concerned with regard to the position and we accordingly consulted our Advocates for advice as to the best form of action to be taken in the matter. The advice which we received was that the facts should be laid before Government and that there was little doubt that when Government understood the gravity of the position other arrangements would be made. We accordingly instructed our Advocates to write to the Hon. The Commissioner for Local Government Lands and Settlement setting out our contentions with regard to the proposed scheme. We send herewith a copy of the correspondence which has taken place between our Advocates and Government, from which it will be obvious that Government have carried on their negotiations with the Electric Light Coy. and with the natives without even inviting one of us to attend to explain our views or supplement what our Advocates have stated in writing. Two unsigned acknowledgments and the letter of the 17th March constitute the only response to our representations and we must respectfully say that, apart from the gravity of the situation we can only consider the utter disregard for our interests and failure to reply adequately to our Advocates as a gross insult not only to ourselves but to the white community as a whole.

This is not a political matter and we have refrained up to date from invoking the assistance of the Representatives of the Unofficial Community. We are merely asking to be protected from an action which we genuinely consider would ruin our interests on the Maragua Ridge.

We are not suggesting that the Electric Light Coy. should not receive assistance in any of its schemes of development but it is a wealthy corporation, holding a very valuable monopoly and we certainly contend that if it is to be allowed to flood areas occupied by natives for its own purposes even although also in the public interest, arrangements should be

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Government must be fully aware of the danger arising from the isolation of women and children in the neighbourhood of native locations and we would urge upon you that we consider the scheme as a most serious menace to the safety of our womenfolk and our children.

If the scheme must go through we would respectfully submit that - in view of the facts detailed - Government should either locate the natives in some area which would not detrimentally affect our farms, or other European farms, or the Electric Light Coy. should be obliged to purchase the entire Ridge at a reasonable figure. We genuinely fear - if the present scheme goes through - that we shall be obliged to abandon our farms or to sell them at a figure out of all proportion to what could be obtained for them in normal times if the natives were not planted beside us.

The whole Maragua Ridge is essentially a white area separated by a river from the native area and if it is intended to turn that Ridge into a native area, we submit that it should be taken over as a whole for that purpose.

We regret to have to approach you on this matter at a time when so many difficult problems are before you but we are aware that the question of native settlement is at present under your consideration and we think it essential that you should be aware of the position with regard to Maragua Ridge before matters have gone too far with regard to arrangements with the Electric Light Coy.

We have no doubt that our Memorial will receive

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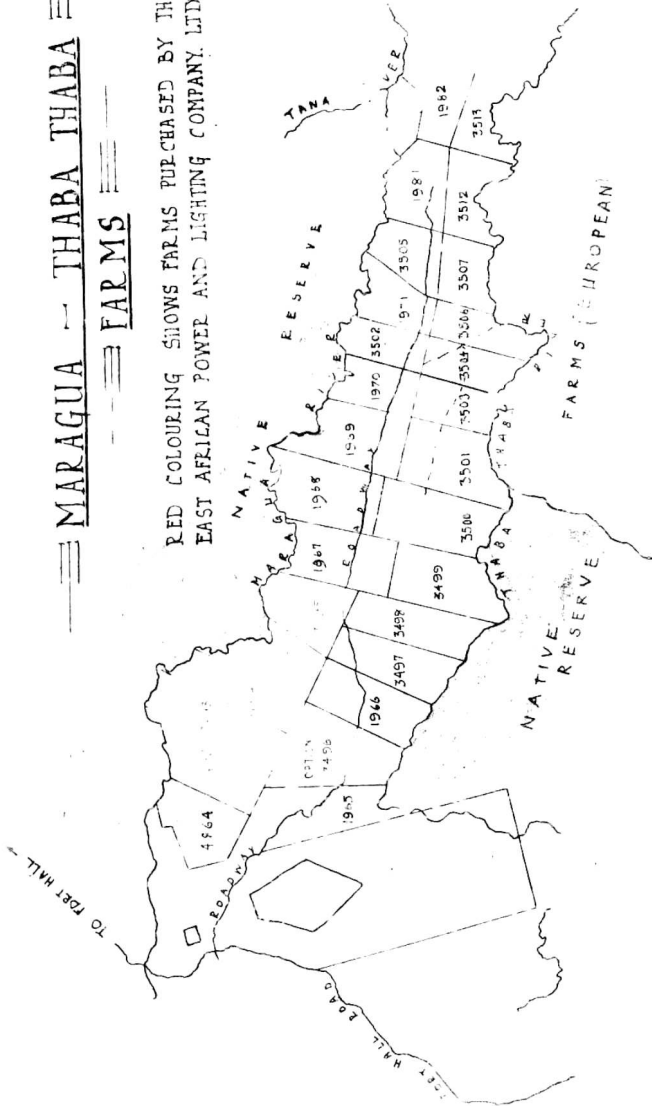
We have the honour to be,

Your Excellency's Obedient servants.

MARAGUA - THABA THABA

FARMS

RED COLOURING SHOWS FARMS PURCHASED BY THE
EAST AFRICAN POWER AND LIGHTING COMPANY, LTD



COPY.

10th January 1936.

The Hon. The Commissioner for Local Government
Lands & Settlement,
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We attach hereto a small plan on which are coloured in red the farms which have been acquired by the East African Power & Lighting Coy. as aforesaid.

The areas on the plan on which we have placed the letter "N" in pencil are, we understand, already, or are about to be made, Native Reserve in any event, and it will therefore be clearly seen that the effect of transferring to Native Reserve the farms acquired by the East African Power & Lighting Coy. will be almost completely to surround the remaining settlers with native areas.

The farms acquired by the Settlers in this area were acquired under a Soldier Settlement Scheme and it was abundantly and clearly represented at the time that the whole of the Ridge had been set apart for white settlement and would be so reserved; this representation being clearly implemented in each title by the provision that no one other than a European or of European descent would, without the consent of the Governor in Council, be permitted to occupy or manage a farm. The Settlers took up their farms on the clear and justified understanding that this policy would be adhered to and they are very seriously and very greatly disturbed at the prospect now opening out before them of a radical departure from the basis on which they were induced to occupy this area.

It is not necessary for us to dilate at any great length on the deleterious effect of the proposed alienation. It will cut off the remaining settlers - and the comparative smallness of their numbers only makes the position more serious - from the main road, and will leave them surrounded on three sides by Native Reserve, and on the remaining side by Native Reserve and unoccupied Crown land.

The consequent insecurity which must ensue to their wife and families and to themselves is a matter of very serious moment and the constant anxiety which it must necessarily cause will seriously endanger their occupation of their farms, as nobody could wish to live under circumstances which will occasion such continual worry.

Furthermore, this encloaving of their land by Native Reserve must result in a tremendous increase of trespass by

100

natives which it will be quite impossible for them to restrain or guard against. This trespass will not merely interfere very seriously with the rights which every owner is entitled to exercise over his property, but must also bring in its train the danger of increased disease. An owner is entitled to expect that the Law would secure the aforesaid rights to him, but it will obviously be quite impossible for the Crown to restrain trespass by natives over the area in question when it is so completely surrounded.

The road of access to the properties will then run through a Native Reserve and is almost certain to deteriorate as a result. It is bad at the moment, but with the constant traffic of native cattle it will get worse.

Finally, the area will become completely unattractive to other settlers as entirely to destroy the saleable value of the remaining farms, so that the proposed alienation will have the effect of depriving the remaining settlers of what they have always been led to believe would be valuable assets, in which belief they have been induced to sink money in the area.

There is no need to dilate any farther on the damage which will accrue to our clients, we think it is obvious; and it is equally obvious that if the Crown permits this damage to be caused it will be departing from the representations and understandings on which our clients were induced to settle in the area in question.

We cannot believe that so clear a breach of faith will be permitted to occur and our clients accordingly trust that the Crown will not consent to the alienation to natives of the area acquired by the East African Power & Lighting Co. or if they do consent will only consent on terms which will ensure adequate compensation to those who are ultimately affected by the scheme, for it will be realized that the destruction of the amenities of property may be and sometimes is equivalent to the actual destruction of the property itself.

We have the honour to be,
Sir,
Your obedient servants,
For DALY & FIOGIE,

COPY.

25th January 1936.

The Hon. The Commissioner for Local Government
Lands & Settlement,
NAIROBI.

Sir,

RE: MARAGUA RIDGE.

Further to our letter of the 10th. inst. there is one further point in support of our clients' contentions to which we think we should draw your attention.

It has been for many years established law in England that where any estate is let out in building plots in pursuance of a building scheme and the various plots are let to various tenants with provisions that they shall not, without the consent of the Landlord, use the premises acquired by them, other than for certain specified purposes, then it is open to any Lessee of any of the plots to insist that no other leases shall be permitted by the Landlord to use his plot in another way, and to obtain from the Courts an injunction to prevent the Landlord waiving the restrictive covenant in question - (See *Spicer vs. Martin* (1888) 14 A.C. 12 and *Elliston vs Reacher* (1908) 2 Ch. 374, 384; on appeal 665).

The scheme of development carried out by Government on the Maragua Ridge bears very marked resemblance to the development of an estate in England as a building estate, and we think that in justice and equity the Courts here would be prepared to extend to the area in question the rules established in regard to building estates in England.

These rules are based on the principle that each individual purchaser, having been led to acquire his property in the expectation that the adjoining properties would only be used in a certain way, is entitled to have that expectation fulfilled and that it would be contrary to English Justice and Equity to permit the Landlord to decrease the value of the adjoining plots by waiving restrictive covenants in respect of particular plots.

We trust and believe that the justice of our clients' claim will be so readily appreciated as to preclude the possibility of any appeal to the Courts ever having been made in this matter; but we also felt that our clients' case could be well reinforced by an indication of the legal principles which appear to be applicable to the matter, and you will understand that it is for that reason and not in any minatory spirit that this letter is addressed to you.

We have the honour to be,
Sir,
Your obedient servants,

For DALY & WIGGIS,

COPY.

DEPARTMENT OF LOCAL GOVERNMENT
LANDS AND SETTLEMENT,

NAIROBI.

KENYA.

LND.20/6/2.

1st. February 1936.

The Commissioner for Local Government lands and Settlement presents his compliments and has the honour to acknowledge the receipt of your letter No. MJH/MD of the 25th. ultimo on the subject of Maragua Ridge.

To,

Messrs. Ealy & Figgins,
P.O. Box 34,
NAIROBI.

167
COPY.

26th. February 1936.

The Honourable,
The Commissioner for Local Government
Lands & Settlement,
NAIROBI.

Sir,

RE: MARAGUA RIDGE.

We wrote you on the 10th. ult. and also on the 25th. ult. re the above but so far have merely received an acknowledgment dated the 1st. inst.

We are aware that Mr. Logan is at present laid up and do not wish him to be worried, but we are anxious to know how the matter stands as it is one of very considerable importance to the various parties concerned.

We have the honour to be,
Sir,
Your obedient servants,
For DALY & FIGGIS,

COPT.

5th March 1936.

The Hon. The Commissioner for Local Government
Lands & Settlement.
NAIROBI.

Sir,

RE: MARAGUA RIDGE - FARM HOLDERS.

We would be obliged if you would let us have a reply to our letter of the 25th. January last as, in the event of some satisfactory settlement not being come to, our clients may have to refer the matter to the Secretary of State for the Colonies.

We trust that, pending a reply to us, no definite arrangement will be arrived at with the Electric Light Co.

We have the honour to be, Sir,

Your obedient servants,

For DALY & FIGGIS,

COPY.

17th March 1926.

LND.20/5/2/84. Vol.117.

Gentlemen,

RE. MARAGUL RIDGE FARM HOLDERS.

With reference to your letter of the 6th March, I have the honour to inform you that the matter is still under consideration by Government and I hope to be able to forward a reply at an early date.

I have the honour to be,
Gentlemen,
Your obedient servant,

(Sd) C.E. Mortimer,

COMMISSIONER FOR LOCAL GOVERNMENT
LANDS & SETTLEMENT.

Messrs. Daly & Figgis,
P.O. Box 36,
NAIROBI.

The Hon. The Commissioner for Local Government
Lands Settlement,
Nairobi

Sir,

W. J. G. INC. - 101, HOLLIS

We beg to acknowledge receipt of your letter of the 17th. inst. No. INC.2 /6/2/64, the contents of which are noted.

In view of the manner in which our clients have been treated by Government they are not prepared to wait indefinitely for a reply.

Our clients' letters also claim that they would be seriously affected if the scheme which has been proposed were brought into effect, consider that they have been completely ignored in the matter.

We wrote you on the 16th. January, 26th. January, 26th. February and 6th. March and until receipt of your letter under reply the only response has been a printed and unsigned note to the effect that our letter of the 26th. January had been received.

Not one of the settlers concerned has been invited to an interview to discuss his objections to the scheme, and our clients very much resent what they consider the scant courtesy which has been extended to them.

In view of the unsatisfactory nature of your letter under reply, our clients have decided to refer the matter direct to the Secretary of State for the Colonies and a Memorandum is being prepared for transmission through the Hon. The Colonial Secretary.

Pending the consideration of our clients' Memorandum by the Secretary of State, we would request that no further steps be taken with a view to binding Government to any agreement with the Electric Power & Lighting Co.

We gather from the reference to "Government" that the matter is out of your hands and appreciate that the delay is not due to laziness on the part of your office.

We have the honour to be, Sir,
Your obedient servants,
For W. J. G. INC.

Copy to:-

The Hon. The Colonial Secretary,
NAIROBI.

The Hon. The Commissioner for Local Government
Lands & Settlement,
NAIROBI.

Sir,

MEMORANDUM - ELECTRICITY.

We beg to acknowledge receipt of your letter of the 17th inst. No. IND.2 /6/2/84, the contents of which are noted.

In view of the manner in which our clients have been treated by Government they are not prepared to wait indefinitely for a reply.

The white settlers who claim that they would be seriously affected if the scheme which has been proposed were brought into effect, consider that they have been completely ignored in the matter.

We wrote you on the 10th January, 20th January, 26th February and 6th March and until receipt of your letter under reply the only response has been a printed and unsigned note to the effect that our letter of the 15th January had been received.

Not one of the settlers concerned has been invited to an interview to discuss his objections to the scheme, and our clients very much resent what they consider the scant courtesy which has been extended to them.

In view of the unsatisfactory nature of your letter under reply, our clients have decided to refer the matter direct to the Secretary of State for the Colonies and a Memorandum is being prepared for transmission through the Hon. The Colonial Secretary.

Pending the consideration of our clients' Memorandum by the Secretary of State, we would request that no further steps be taken with a view to binding Government to any agreement with the Electric Power & Lighting Co.

We gather from the reference to "Government" that the matter is out of your hands and appreciate that the delay is not due to laxity on the part of your office.

We have the honour to be, Sir,
Your obedient servants,
For W. J. & J. G. I. S.

Copy to:-

The Hon. The Colonial Secretary,
NAIROBI.

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