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Corner of Lelue Road & Mateialona Road, Nuku'alofa
Level 2, Retirement Fund Board Building

Long delay of work result in 30 years of uncertainty

Legislation	<i>Ombudsman Act 2001</i>
Ministry	Ministry of Land & Natural Recourses and Ministry of Education
Ombudsman	'Aisea Taumoepeau
Case number	17/48
Date	March 2019

Summary

The complainant has surrendered his tax allotment in Afa to the government for the purpose of building Afa Primary School. He was offered a tax allotment in exchange for his tax allotment in a different location however Government never took the necessary step to register the land.

The complainant approached the Ministry of Education ("MET") and Ministry of Lands and Natural Resources ("MLNR") many times to register the allotment but nothing was done. He sought compensation for the trees that was cut down on his allotment in Afa and also tried to negotiate with MET and MLNR for use of his Afa land.

The Ombudsman commenced the investigation and the matter was referred to MET and MLNR on the 10th May 2017. As a result of the Ombudsman taking on this investigation the registration of tax allotment took place in November 2018.

Background

1. The complainant was approached by the MET in 1987 for the surrender of his tax allotment (4 acres) situated along Taufa'ahau Road at Afa. The complainant surrendered the tax allotment for the purpose of erecting Afa Government Primary School and the constructing work for the school commenced shortly after.
2. At the time, the complainant was offered a tax allotment at Niutoua but declined this offer due to the land not being fertile.

3. From 1990 to 2010, the complainant was allocated by MET a tax allotment at Holonga, right next to Lotolu Government Primary School. During these 20 years, MET did not initiate actions to register this tax allotment.
4. In 2010, the Minister of MET approached the complainant to relocate from Holonga to a tax allotment at Sia'atoutai. Again, there was no effort from the Ministry to register this land for the complainant. The complainant complained to Office of the Ombudsman on the 14th April 2017.
5. Earlier in 2017, the complainant met with the MET and MLNR to discuss the paperwork concerning registration of the tax allotment at Sia'atoutai.
6. The complainant queried monetary entitlement for the 30 years of waiting for registration of a tax allotment. He agrees that he did have access to the land although he had surrendered it for over 30 years but he is concerned that he had 30 years of uncertainty as to where land in exchange to his surrender was to be located and registered.

Investigation

7. The Ombudsman commenced an investigation to determine whether the relevant Ministries should have considered the land registered to the complainant hence the fact that the complainant waited for 30 years for land to be registered.
8. The Ombudsman found out that the complainant surrendered his 4 acres in 2004 (however 1997 was the year the GPS Building was erected) for the Ministry to build a primary school.
9. The compensation for the trees that had been on the allotment was assessed at \$12,458 and authorized by Government to be paid to the complainant on 13th August 1998.
10. The complainant was given 4 acres at Holonga to use while there was a discussion by within Government to lease the land at Afa.
11. In 2013 the Minister of MET requested MLNR to consider land at Siaatoutai and included suggestion for compensation but this did not eventuate.
12. CEO MET does not support lease payments to the complainant because it was never approved by Cabinet and the complainant had always has access to the land in Afa.

Outcome

13. The Minister of MET has applied for the 4 acres at Sia'atoutai to be given to the complainant and the Minister of MLNR has approved it.
14. On the 19th November 2018, the tax allotment at Sia'atoutai was registered to the son of the complainant as requested.