

Revocation of Rights of Occupancy and Compensation in South East, Nigeria: Processes and Methods of Assessment

¹Paul Obiorah,
¹Charles C. Egolum and
²Joseph U. Ogbuefi

¹ Department of Estate Management, NnamdiAzikiwe University, Awka, Nigeria
² Department of Estate Management, University of Nigeria, Enugu Campus, Nigeria

Abstract

Land Use Act enacted to harmonize land system in Nigeria seeks among other missions to provide answers to the problems of process and method of expropriation of private estates for overriding public interests and compensation to the citizens concerned. This study examined the process of revocation of rights of occupancy, payment of compensation claims and challenges thereto in the South-East, Nigeria. Structured questionnaire was used to elicit information from Land Officers in the Ministries of Land and practising Estate Surveyors and Valuers operating within the zone. Data were analyzed through the use of appropriate statistical techniques. Jettisoning due process, and absence of joint enumeration and assessment in the revocation of rights of occupancy inhibit access to land for development projects. Litigation, delay and diversion of payment of compensation claims are some of the key challenges experienced in the operation of power of eminent domain in the South-East, Nigeria. Insistence on following due process in revocation of rights of occupancy, joint enumeration and assessment, and state policy on time frame within which compensation claims must have been settled are the panacea to hiccups in the system.

Keywords: Compensation Claims, Revocation, Rights of Occupancy, Enumeration, Due Process

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I. Introduction

Revocation of rights of occupancy of citizens in land for overriding public interest has always been a recurring phenomenon with regard to developmental projects executed by government over the years. The issue of compensation sequel to revocation of rights of occupancy since inception of the Land Use Act has been a subject of serious concern to many scholars of land ownership and use. Despite the humongous enunciations by scholars, problems still abound with regard to the process of revocation of rights of occupancy and payment of compensation in Nigeria. The current practice of expropriation of private estates in land and compensation payment in South-East, Nigeria are plagued with so many challenges which have stalled government agencies' entry into purported sites revoked for developmental projects in the zone.

The problems which beset the practice of revocation of rights of occupancy and access to the sites range from undue delayed payment of compensation, demolition of structures before compensation, and discrepancies in amounts of compensation payable arrived at by government and claimants' valuers. Other challenges include disagreement between landlords and leaseholders over their entitlements, hostility of land owners against valuers, fraudulent community leadership, splinter groups within the land holding communities, protests against meager compensation payable and protest against demolition beyond boundaries after settlement of compensation (Adeyinka, 1998). Therefore, it becomes imperative that peaceful and satisfactory approaches are devised to ensure that communities and people affected by revocation of rights of occupancy exercises are assuaged before entry into the sites. This study therefore, is based on the critical review of the processes of revocation of rights of occupancy and methods of compensation payment thereafter in South-East with a view to proffering measures that will reduce frictions and tensions that beset the practice in the study area. Pursuant to the aim of this study, the following objectives were put forward to guide the investigation.

1. To examine the processes of revocation of rights of occupancy in South-East, Nigeria.
2. To examine the methods of assessment of compensation payable to the claimants.
3. To identify challenges encountered in settlement of compensation claims.

Research Questions:

The following research questions have been posed to guide collection of relevant data for this study:

1. What are the due processes of revocation of rights of occupancy in South-East, Nigeria?
2. What are the methods of assessment of compensation payable to the claimants?
3. What are the challenges encountered in settlement of compensation claims?

II. Research Methodology

Given the nature and purpose of this study, survey research approach is deemed appropriate and is therefore used. A survey research in this regard entails collection of responses from many people who constitute the stakeholders in the very subject matter by way of polls using appropriately designed data collection instrument. The collected data are analyzed using appropriate statistical techniques arrive at scientific conclusion.

The study was limited to the South-East Geopolitical Zone of Nigeria. The zone comprises five states (Abia, Anambra, Ebonyi, Enugu and Imo States). The zone covers the bulk of the Igbo speaking ethnic territory; the remnants of which extends west wards into Delta and South wards into Rivers State. The culture of the Igbo people has been shaped primarily by rain forest climate of the zone, migration and social history within various clans and peoples, ancient trading neighbours, allies and lately Europeans. On the north, the zone is bordered by Kogi and Benue State; on the west by Edo and Delta States; on the south by Rivers, Akwa-Ibom and Cross-River States. In terms of land mass, the South-East Zone is the smallest zone in Nigeria having only 3.2% of the national land mass. The capitals of the states and major cities in the study area are: Umuahia, Awka, Abakaliki, Enugu and Owerri; and Aba and Onitsha, respectively. These are the cities where the bulk of development and redevelopment of infrastructures by governments are mainly carried out; leading to revocation of rights of occupancy and payment of compensation.

The major stakeholders or key players in the in revocation of rights of occupancy, assessment and payment of compensation are the land officers in the Ministries of Land in the five South-East States and practicing Estate Surveyors and Valuers within the study area who have cognate experiences in the revocation of rights of occupancy and compensation payment. These groups of professional are used in this study as the population. Their distribution in the states is given in Table 1.

Table 1: Distribution of Land Officers in South-East Zone

State	Number of Land Officers
Abia	20
Anambra	33
Ebonyi	13
Enugu	23
Imo	22
Total	111

Research Instrument: The major research instruments used to gather data for this study were structured questionnaire, personal interviews with stakeholders and personal observations. The questionnaires were administered on the land officers in the Ministries of Land in the study states and Consultant Estate Surveyors and Valuers practicing in the study area. The questionnaire was mailed to some of the respondents who could not be reached personally. Interview of key stakeholders in matters of revocation of rights of occupancy and payment of compensation in the states was used to complement the questionnaire. Use of these approaches offered a robust room for collection of enough data to achieve the objectives of the investigation.

Data Analysis Techniques: Descriptive statistical techniques which measures percentages, mean score, variances and standard deviation were used to analyze the data collected and results were presented using tables.

Data Presentation, Analysis and Discussions

The highest educational attainments and number of years put in the public service by the respondents are presented in Tables 2 and 3, respectively.

Table 2: Distribution of Highest Academic Qualifications of the Respondents

Academic Qualifications	Frequency	Percentage
FSLC	—	—
SSCE/WASC	—	—
OND/NCE	—	—
HND/BSC	91	82.0%
PGD/MBA/MED/MSC/PHD	20	18.0%
Total	111	100.0%

From Table 2 the respondents are adequately equipped with academic training which enabled them to understand and respond confidently to the questions raised in the questionnaire. None of them holds educational training less than first degree or its equivalent.

Table 3: Respondents' Years of Service

Years of Service	Frequency	Percentage
1-10	48	43.2%
11-20	50	45.0%
21-30	13	11.7%
Total	111	100.0%

Majority of the respondents, over 56%, have put in more than 10 years in the services in the Ministries. Hence, they very well understood the system and operations thereof. Distributions of the respondents by professional qualifications/affiliations and grade levels in public service are presented in Tables 4 and 5, respectively.

Table 4: Distribution of the Respondents by Professional Qualifications/Affiliations

Professional Qualifications	Frequency	Percentage
ANIVS ONLY	16	14.4%
ANIVS and RSV	76	68.5%
FNIVS and RSV	8	7.2%
NONE	11	9.9%
Total	111	100.0%

From Table 4 less than 10% of the respondents do not possess requisite professional affiliation even though they have basic educational training.

Table 5: Distribution of the Respondents' Grade Level of Service

Grade Level of Service	Frequency	Percentage
07-12 Grade Level (Schedule Officer)	57	51.4%
13-above Grade Level (Management Staff)	54	48.6%
Total	111	100.0%

From Table 5 schedule officers represent about 51% of the respondents while about 49% are management staff. The respondents are quite involved in the processes of revocation of rights of occupancy and payment of compensation claims to the claimants.

Processes of Revocation of Rights of Occupancy

Sections 28 of the Land Use Act Cap. L5, LFN, 2004, provides grounds on which rights of occupancy held in land by individuals, communities and corporate bodies in Nigeria can be revoked. From many Supreme Court judgments, unless the revocation of rights of occupancy accords with the specified grounds in the Act, the purported revocation tantamount to a nullity; *ultra vires* and an exercise in futility. Equally essential to observe is the process of revocation of the rights of occupancy. Due process must be strictly followed. The steps involved in revocation of rights of occupancy are:

- i. Identification of the land required for overriding public interest,
- ii. Demarcation of the boundaries.
- iii. Gazetting of the revocation of rights of occupancy and appropriately serving of the revocation notice to the holders of the occupancy rights on the land.
- iv. Identification and assessment of unexhausted improvements, developments, economic trees and crops on the land for compensation claims and payment.

Situations where the due process was not appropriately followed before entry into the land was made by the government's agents ended up as trespass; government had to pay for damages and still vacate the land. Except in emergency situations, following the due process is very essential for sustainable revocation of rights of occupancy.

The respondents in the survey felt as presented in Table 6 with regard to compliance with the due process in revocation of rights of occupancy.

Table 6: Breach of Due Process in Revocation of Rights of Occupancy

Responses	Frequency (f)	Percentage	Weight (w)	fxw
SA	19	17.1	4	76
A	41	36.9	3	123
D	36	32.4	2	72

SD	15	13.5	1	15
Total	111	100.0	-	286

Mean Score = 2.58

The above analysis shows that the majority of the respondents agreed that a breach of due process in compensation process would violate stipulations in Land Use Act and thus occasion hiccups in access to land for development projects.

Methods of Assessment of Compensation Payable to the Claimants

Usually, the claimants appoint their representative valuer-attorneys who jointly carry out the enumeration and assessment of unexhausted interests of the claimants in the revoked parcel of land. The private enumeration and assessment by the valuer-attorneys of the claimants are not accepted by the government’svaluers. Neither, do the communities/claimants accept the assessment by government’svaluers hook, line and sinker. The communities/claimants often resist entry into the land by the government’s agents to commence development actions unless majority of themare satisfiedthat their interests were sufficiently protected. Failure to satisfy the claimants’ interests by the government leads to restiveness and obstruction of entry into the land for development by the community members. Joint enumeration and assessment by representatives of the government and community sides have been found to be the panacea for disagreement between both sides in enumeration and assessment of compensation payable to claimants for revoked rights of occupancy. Table 7 shows the distribution of the respondents with respect to agreement or otherwise between the community and government sides on enumeration and assessment of compensation claims payable to claimants.

Table 7: Joint Enumeration and Assessment Approach is Acceptable to both Sides

Response	Frequency	Percentage
SA	32	28.8
A	58	52.3
D	20	18.0
SD	1	0.9
Total	111	100.0%

Table 7 reveals that over 81 percent of the respondents agree that joint enumeration and assessment of the compensation payable is an acceptable approach to both government and community sides. Less than one percent strongly disagree thatthe approach is good and acceptable to the parties. This proportion is negligible. Joint enumeration and assessment should always be explored and availed to ensure acceptance of revocation of rights of occupancy, assessed compensation payable and peaceful entry into the land for development by government agents. The duly authorized officer of the government and the accredited attorneys of the community/claimants must sign the joint report of the compensation payable.

Challenges to Revocation of Rights of Occupancy

A number of challenges beset the practice of revocation of rights of occupancy and settlement of compensation claims in the study area. Some of the challenges include:

i. Litigation

Often times some communities and individuals may suit the government or its agent to object to the revocation of their rights of occupancy. This obtains especially where they believe that due process was not followed or that the community/individual is being unduly deprived of their sustainable land in the light of what they had foregone to the government in the past. At other times refusal to pay or rejection of the compensation offered leads to litigation. On this latter grounds the respondents opined as presented in Table 8.

Table 8: Refusal to Pay or Rejection of Compensation Leads to Litigation

Response	Frequency	Percentage
SA	46	41.4%
A	52	46.8%
D	13	11.7%
SD	—	—
Total	111	100.0%

Table 8 shows that over 88% of the respondents firmly believe refusal to pay compensation by government or its land accessing agent or total rejection of the compensation payable by the community or individual lead to litigation. On the other hand, only about 12% were of the opinion that refusal by government or its agent to pay or rejection of compensation offered would not lead to litigation. Litigation takes a long time to conclude and as such access to land for development is suspended and the development project put in

abeyance. To avert litigation and its fallouts, the joint enumeration and assessment strategy has been found very effective and beneficial to both sides.

ii. Delayed settlement of compensation claims

The Land Use Act as well as the 1999 Constitution of Nigeria as amended never contemplated that there would be delay in settlement of compensation claims in circumstances of revoked rights of occupancy for overriding public interest. As a result of this, it is provided in the relevant sections of the Act and the Constitution that compensation claims should be promptly paid to the claimants. Alas, this has never obtained. This scenario portrays revocation of rights of occupancy as a punitive gesture of government and a means of impoverishing the affected citizens. Table 9 shows the distribution of the respondents' opinions on delay in the settlement of compensation claims.

Table 9: Government Delay in Settling of Compensation for even after Takeover

Responses	Frequency	Percent
SA	30	27.0
A	59	53.2
D	19	17.1
SD	3	2.7
Total	111	100.0

Table 9 reveals that over 80 percent of the respondents affirmed that government delay payment of compensation for years even after its agents had takeover access to the land. In other words, persons hitherto in beneficial occupation of the land are displaced, set parking away and still compensation is not paid as assessed. The economic hardship occasioned by such delay on the displaced citizens is better imagined than experienced. Delayed payment of compensation was not contemplated by the drafters of the Act and the Constitution. Consequently, absolutely nothing is done to address the time-value-of-money on the amount of the assessed compensation even when it is paid many years post assessment and displacement of the occupiers.

iii. Diversion of Payment of Compensation Claims

Non-prompt payment of compensation leads to diversion or hijacking of the compensation due by wrong persons in one guise or another. Delay in payment of compensation claims often provides opportunity to some fraudulent and greedy members of the community to collude with corrupt government officials to divert the compensation due to the genuine claimants in community. Table 10 shows the opinions of the respondents on the impact of delay in payment of compensation claims.

Table 10: Delay in Payment Deprives the Genuine Claimants

Responses	Frequency	Percent
SA	18	16.2
A	56	50.5
D	34	30.6
SD	3	2.7
Total	111	100.0

Over 66 percent of the respondents in Table 10 concurred that non-prompt payment of compensation deprives genuine claimants. Only about 33 percent opined otherwise. There is therefore very likelihood that the delay in payment of compensation is sometimes occasioned advertently by the corrupt officers in government offices who are waiting to be compromised. Such corrupt officers put up attitude to make believe that payment of compensation claims is a favour as against the right of the dispossessed.

Fallouts of the diversion of compensation payment are often suit cases in courts and youths' restiveness which usually stall progress in the development projects. Table 11 shows the distribution of the views of the respondents on the possibility of suit cases arising from diversion of compensation payment.

**Table 11:
Possibility of Suit Cases Arising from Diversion of Compensation Payments**

Responses	Frequency	Percent
SA	25	22.5
A	59	53.2
D	26	23.4
SD	1	.9
Total	111	100.0

Table 11 indicates that over 75 percent of the respondents affirmed that there are possibility suit cases arising from misdirected payment of compensation. In particular instance in Anambra State, the officers of the state government colluded and paid the compensation meant for the individual claimants in the community to the traditional ruler of the community who misappropriated the money. Concerned members of the community vehemently resisted the government agency's entry into the land through suit case and youths' restiveness. The government agency was thus compelled to pay the compensation to the genuine claimants and seek for ways of recovering the misdirected payment.

III. Summary of the Findings

- i. Following due process of revocation of rights of occupancy is very fundamental and germane for the intended expropriation of private estates in the land to be achieved. Any manouvre short of the full process is ordinarily construed as a trespass. This can evoke resistance from the concerned rights of occupancy holders to the stalling of the intended development project.
- ii. Joint enumeration and assessment by government's valuers and the claimants' valuer-attorneys has been the panacea to disagreements between government and the displaced land occupiers with regard to the amount of compensation payable. Any enumeration and assessment carried out by either side alone is highly suspicious and treated with contempt. Hence, there is no need for dissipation of energy and resources carrying out independent enumeration and assessment of the compensation claims by either party.
- iii. Delay in settlement of compensation claims leads to complications which may include misdirection of payments, obstruction of access to the land for development project and youths' restiveness.

IV. Recommendations

Based on the findings of this study the following recommendations are put forward to effectively address the challenges:

- i. Land Officers in the Ministry of Lands should always guide their Commissioners and Permanent Secretaries appropriately in respect of matters concerning revocation of rights of occupancy. They must insist that the right thing is done and due process followed to the letter. Such proper guide will not only ensure that the process of revocation is not faulted and rendered ultra vires but will also notify the concerned occupiers of the land in good time to do the needful through engagement of valuer-attorneys to represent their interests as most appropriate.
- ii. There should be policy stating the time frame for payment of compensation due to claimants for revoked rights of occupancy in every state. This however, will reduce delay in compensation after revocation of rights of occupancy. The period between enumeration cum assessment and actual payment of compensation to the claimants should not extend beyond one cropping/farming season (i.e. one year). This will afford the claimants opportunity to sue the government or its agent for delay in payment of compensation and also the right to claim for appropriate interest on the compensation for the delay.

V. Conclusion

Revocation of rights of occupancy for overriding public interest is within the fundamental powers of a sovereign state known as power of eminent domain. However, the government in exercising this power must not stretch it to impoverish the affected citizens. Non-prompt payment of compensation claims occasions unimaginable negative economic and social impacts on those whose rights of occupancy were revoked as well as inhibits accessibility of the land for development as proposed.

Bibliography

- [1]. Adeyinka, G. (1998). Compensation problems after formal land acquisition policies in Nigeria. *Journal of Environment and Earth Science* 7(3) 54-59.
- [2]. Akuezilo, I., & Agu, T. (2007). Research methods. *Journal of Research and Innovation*. 5(27) 17-33.
- [3]. Ayedum, K. (2009). Basic techniques in research. *Journal of Educational Research*, 5(27) 17-33.
- [4]. Nuhu, M.B. (2007). Compulsory acquisition and payment of compensation in Niger: A case study of Federal Capital Territory Abuja. Fig commission 9 workshop on compulsory purchase and compensation 6th – 8th Sept, 2007 at Helsinki University of Technology, Espoo, Finland.
- [5]. Nworgu, B. G. (2015). Educational research: Basic issues and methodology. University Trust and Publishers. Nsukka.
- [6]. Ogunba, O. A. (2013). Principles and practice of property valuation in Nigeria. Ibadan. Atlantis Books.
- [7]. Olaeye, A. (2005). Sampling and Population. *Pacific Research Journal*, 1(3), 22-33.
- [8]. Olatunji, H., Igbokwe, M., & Onuora, E. (2004). Principle of research methodology. *Journal of Social Sciences*, 1(7), 7-16.
- [9]. Umezurike, N.O. (1989). The land use decree: A critical analysis. Joe Education Book, Nigeria.
- [10]. Viitanen, K., & Kakulu, I.I. (2008). Global concerns in compulsory purchase and compensation processes. Integrating generation, fig working week Stockholm, Sweden June 14 -19.