Tropical Built Environment Journal. Volume 9, No. 1, 34-40, 2023 www.tbejournal.com
ISSN: 1118-1790

ANALYSIS OF PRACTICE OF REVOCATION OF RIGHTS OF OCCUPANCY IN SOUTH-EAST, NIGERIA

Paul O. Obiorah, Charles C. Egolum* and Celestine U. Ugonabo

Department of Estate Management, Nnamdi Azikiwe University, Awka, Nigeria

*Corresponding Author: drccegolum@yahoo.com

Abstract
This study analysed the practice of revocation of rights of occupancy in South-East, Nigeria. A number of issues have been observed to arise from the process of and execution of the revocation of rights of occupancy in the zone. The issues include poor process of service of notice of revocation of the rights of occupancy, degree of knowledge of the rationale for revocation by the stakeholders, impracticability of relocation/resettlement of rights of occupancy holders among others. Data were gathered through the use of structured questionnaires served on a sample size of 111 selected from land officers and real estate surveying and valuation practitioners in the states. Descriptive statistical techniques which measure percentage and mean score were adopted to analyze the data and results were presented using tables. The results revealed that truncation of due process of expropriation of private estates in land, limited knowledge on parts of stakeholders, lack of transparency in the revocation exercises and non-feasibility of the of relocation/resettlement provision of the Act impact on the exercise of revocation of rights of occupancy authority of the governors in the South-East, Nigeria. Based on the findings the there are needs: to expressly include what constitutes sufficient service of notice of revocation of rights of occupancy in the Land Use Act; for advocacy and education of the stakeholders on the essence of requirement of the land by government; and policy requirement that only registered estate surveyors and valuers can serve as attorneys to the rights of occupancy holders affected by revocation for peaceful and seamless exercise of power of eminent domain in the zone.

Keywords: Land Officers, Notice, Relocation/Resettlement, Revocation, Rights of Occupancy

Introduction
The Land Use Act, Cap L.5 Laws of Federal Republic of Nigeria (LFN) 2004 replaced the citizens' original proprietary interest in land (freehold) with statutory rights of occupancy; and vested in the Governor of a state the non-derivative interest in all the land within the jurisdiction of the state. This statutory positions notwithstanding, the government is still expected to formally revoke the rights of occupancy held by the citizens over any parcel of land it requires for execution of development projects. The exercise of this fundamental right of government has generated a number of issues in the South-East, Nigeria. Scholars and stakeholders have proffered some suggestions to address the problems but despite their efforts, the challenges have persisted (Ogunleye & Oladepo, 2015). Because revocation of rights of occupancy has been the most veritable means by which government or its agencies can secure access to required land in the right size and location for provision of social amenities and infrastructure for the populace, efforts must be continued in finding solutions to mitigate if not eliminate the challenges. Kotey (2002) rightly noted that exercise of revocation power is not without controversy. The observation is even much more truism in the developing countries where many in corridors of power exercise power very recklessly without regard to due process. When such actions pertain to land, they

undermine tenure security and evoke resistance and obstruction of execution of the laudable development projects (Deininger, 2003).

Nuhu (2007) noted that implementation of the laws governing revocation of rights of occupancy in Nigeria has generated controversies, lapses and disputes. Many citizens whose interests had been revoked were most often left in a position far worse than they were before the revocation. This is contrary to the golden rule which holds that no person should be put in a better nor worse condition by the single reason that his property was compulsorily acquired or taken over by the government for purpose of common benefit of the citizens. According to Alterman (2007) there have been signs of crises in several countries that stem from disparity between law and practice in the concept of the public purposes as a basic tenet for legitimate revocation of rights of occupancy. Sometimes political office holders unjustly evoke revocation of right of occupancy power as a punitive instrument to get at and settle scores with political opponents.

This study was limited to the South-East Geopolitical Zone of Nigeria. The zone comprises five states; namely: Abia, Anambra, Ebonyi, Enugu and Imo States. The zone covers the bulk of the Igbo speaking ethnic territory; however, some of the ethnic group are found west wards beyond the River Niger in some parts of Delta State and south wards in some parts of 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 and allies, and lately Europeans. On the north, the zone is bordered by Kogi and Benue State; on the west by Delta State; 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 capital cities of the states are: Umuahia, Awka, Abakaliki, Enugu and Owerri for Abia, Anambra, Ebonyi, Enugu and Imo States, respectively.

States government in the South-East, Nigeria and their agencies have been in the recent times engaging in different kinds of new development projects, upgrading and redevelopment of dilapidated infrastructure and expansion of some major urban towns. All these laudable projects require additional lands accessed through revocation of rights of occupancy held in such lands. Some of such notable projects include development of Celebration Housing Estate Nawfia and other estates in Anambra State; roads widening and expansion projects in Owerri, Imo State; airport construction in Abakaliki, Ebonyi State and many others. These projects had had bottle-necks or hic-cups in their execution most of which emanated from the processes and methods of the revocation of the rights of occupancy of the affected citizens. Hence, it becomes imperative to analyze the current processes and methods of revocation of rights of occupancy in South East, Nigeria with a view to proffering strategies that would drastically reduce the challenges in the processes of revocation of rights.

Issues in the Revocation of Rights of Occupancy

Section 28 of the Land Use Act (Cap L5 LFN 2004) specifies various grounds on which the Governor of a state can revoke right of occupancy. Even though some of the grounds on which revocation may be made by the Governor are punitive; the issue of compensation and or relocation/resettlement arises only in circumstances where the revocation for overriding public interest that is not punitive. For a revocation of right of occupancy to be valid, notice of the revocation must be served on the right of occupancy holder (Section 28(6)). By Section 28(7) the rights of occupancy are deemed to have been revoked once the notice of the revocation has been served on the right holder. It is worthy to note that the Land Use

Act does not make express provisions on how the notice shall be served on the rights of occupancy holder or what constitutes effective service of the revocation notice. Iroaganachi and Gambo (2012) held that even in the Landlord and Tenancy relationship that the provisions of the law on how notice of determination of tenancy and intension to recover the premise are very unambiguous and clear. Unless the landlord or his agent complies strictly to the provisions of the Act/Law, the action must fail due to improper service of notice. The relationship between right of occupancy holders and Governor of a state under the Land Use Act from every intent and purpose is much greater than landlord and tenant relationship. But, alas, the Act fails to make provisions on the process of service and what constitutes sufficient and proper notice for revocation of rights of occupancy. This singular limitation goes a long way to explain the blunder being committed with regard to proper and effective notice service on the right of occupancy holders. What is construed as ideal notice and service process are found in Section 5 and 9 of the Public Lands Acquisition Act (Cap 167, LFN 1958). By Section 9(1) "Every notice under Sections 5 (and 8) shall either be served personally on the persons to be served or left at their last usual place of abode or business, if any such place can after reasonable inquiry be found, and in case any such parties shall be absent from Nigeria or if such parties or their last usual place of abode or business after reasonable inquiry cannot be found, such notice shall be left with the occupier of such lands, or if there be no such occupier shall be affixed upon some conspicuous part of such lands." Indeed, there is legal duty on the part of government to give proper service of revocation of right of occupancy on the holders before taking steps to enter the land for whatever development.

There are, however, other issues that arise with regard to the practice of revocation of rights of occupancy in the South East, Nigeria. They include but not limited to the following: degree of knowledge of the due process of revocation by the stakeholders, transparency of revocation exercises and practicability of relocation/resettlement option for the displaced right of occupancy holders.

Methodology

The study essentially towed survey research approach. A survey research entails eliciting information from people who constitute the stakeholders in the very subject matter by way of polls using appropriately designed data collection instrument. The major stakeholders or key players in the revocation of rights of occupancy, assessment and payment of compensation are the land officers in the Ministries of Land in the States within the study area. The distribution of Land Officers 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

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 on 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.

Descriptive statistical techniques which measures percentages and mean score were

used to analyze the data collected and results were presented using tables.

Results 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 of 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.

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

Table 4: Distribution of the respondents by professional qualifications/affiliations

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

Table 5: Distribution of the respondents' grade level of service

Grade Level of Service	Frequency	Percentage
07-12 Grade Level (Schedule Officers)	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.

Degree of Knowledge of Due Process of Revocation by the Stakeholders

In our desire to ascertain the extent the stakeholders are aware of the legitimate processes of revocation of rights occupancy we posed the question that most of the land officers (stakeholders) are fully aware of the processes involved in revocation of rights of occupancy. The responses obtained are summarized and presented in the Table 6 below.

Table 6: Awareness of process of revocation of right of occupancy

Responses	Frequency	Percentage
SA	41	36.9%
A	53	47.8%
D	12	10.8%
SD	5	4.5%
Total	111	100.0%

From the analysis in Table 6 about 85% of the respondents concurred that most land officers in Ministries of Land in the states are aware

of the legitimate processes of revocation of rights of occupancy in line tandem with the provisions of the Land Use Act. On the other hand, about 15% of the respondents disagreed that most of the officers are aware of the due processes. It can therefore be concluded that most of the land officers are knowledgeable in the due processes of revocation of rights of occupancy in South-East, Nigeria.

Issuance of Notice of Revocation of Rights of Occupancy

After the parcel of land required for a particular public project had been identified and the boundaries properly demarcated, the next step would be to gazette the notice and issue same to affected right of occupancy holders. On the issue whether due notice and gazette of the revocation are made before government agency makes in-road to take possession and commence development actions, the respondents opined as presented in Table 7.

Table 7: Every revocation of rights of occupancy is preceded by due gazette and notice to concerned rights of occupancy holders

Responses	Frequency	Percentage
SA	53	47.7%
A	42	37.8%
D	14	12.6%
SD	2	1.9%
Total	111	100.0%

From Table 7, majority of the respondents, about 86% indicated that that every revocation of rights of occupancy goes with due gazette and notice while only about 14% of them felt otherwise. Though the latter can be said to be relative small, but it nevertheless portends that there may be instances where due notices and gazettes of the revocation of rights of occupancy as ideally required are not observed. No matter how small the number of such instances may be, they are capable of evoking bleach of peace and social disturbance which can forestall the execution of the project as planned.

Often times some people construe objection to revocation of right of occupancy held by a community or some individuals as a challenge to the direct authority of the governor of the state. The views of the stakeholders in this study on this issue were explored. Their summarized opinions are presented in Table 8.

Table 8: Resistance to revocation is often a challenge to direct authority of the governor

Responses	Frequency	Percentage
SA	42	37.8%
A	55	49.6%
D	14	12.6%
SD	—	—
Total	111	100.0%

In Table 8, over 87% of the respondents believed that resistance to revocation exercise is affront to the direct authority of the governor to access land for overriding public interest. About 13% felt otherwise. The majority opinion notwithstanding, it can be averred that citizens do not agitate against authority of the governor of the state to revoke rights of occupancy for overriding public interest. Challenges to revocation of rights of occupancy by a community or individuals most often arise from non-observance of the due processes in the revocation of their rights of occupancy or for some other peculiar circumstances of the community or individuals vis-à-vis the land in question. Most often such genuine agitation/ resistance succeeds even in courts against the state. In *Osho v. Foreign Finance* (1991) 4NWLR (Pt.184) 157, the Supreme Court of Nigeria held that the notice of revocation not having been duly served on the plaintiff was invalid; hence, the purported revocation could not stand.

Transparency of the Revocation Exercises

Revocation of rights of occupancy is most times done in a manner that is transparent to the people concerned. The people are not informed as appropriate with the government intension to take over their land holding for public purpose. They are usually suddenly slammed with revocation of their rights order and given some very short time to vacate. This creates bottled hurting feeling among the people concerned. Table 9 presents the

opinions of the respondents on the transparency of revocation exercises in the study area.

Table 9: Revocation is not done in a transparent manner

Responses	Frequency	Percentage
SA	53	47.7%
A	49	44.1%
D	9	8.1%
SD	—	—
Total	111	100.0

From Table 9 about 92% of the respondents believed that revocation of rights of occupancy held by people is not done in a transparent manner. Only about 8% of the respondents opined otherwise; and held that the exercise is carried out transparently. Going with the majority in this context, one would not wonder why people encroach on such lands revoked and reserved for public purposes when government or her agency fails to take effective possession of such lands. Delay in commencing the proposed development on parcels of land revoked for public purpose always leads to individuals encroaching on the parcels of land for private use. Instance of such encroachments abound in South East. Most often the government agencies' hands are twisted into excising out such encroachments from their eventual land-holdings.

Relocation and Resettlement

It is part of the provisions of the Land Use Act that holders of rights of occupancy in a parcel of land revoked for overriding public interest can be relocated and resettled elsewhere. This option has never been availed in the history of revocation of rights of occupancy and compensation payment in the South-East, Nigeria. Opinions of the respondents on relocation and resettlement option for displaced people on account of revocation of rights of occupancy for overriding public interest are presented in Table 10.

It is seen in Table 10 that 91% of the respondents affirmed that relocation and resettlement of the displaced rights of occupancy holders is not done by government in the South-East, Nigeria. On the other hand, only 9% of the respondents opined otherwise. Indeed, there has not been any known case of relocation or resettlement of a displaced right of occupancy holder in the zone. Some of the reasons for this scenario include almost absolute unavailability of alternative sites for relocation and resettlement, and socio-political sentiments that such exercise would evoke. Table 11 shows the views of the respondents on possibility of relocation and resettlement of the displaced rights of occupancy holders generating socio-political sentiments.

Table 10: Relocation/Resettlement is not done by Government

Responses	Frequency	Percentage
SA	49	44.2%
A	52	46.8%
D	10	9.0%
SD	—	—
Total	111	100.0%

Table 11: Relocation/resettlement of people displaced by revocation generates socio-political sentiments

Responses	Frequency	Percentage
SA	54	48.6%
A	30	27.0%
D	17	15.4%
SD	10	9.0%
Total	111	100.0%

From Table 11 about 76% of the respondents believed that relocation and resettlement of people displaced sequel to revocation of their rights of occupancy generates socio-political sentiments, while about 24% of the respondents disagreed. There is no doubt considering the cultural affinity and interrelatedness of communities. Both the communities directly concerned and other members of their acclaimed clan communities would object to relocation and resettlement, especially if the location is far away from their present location. Individuals on the other hand, would resist relocation on account of sentiments attached to ancestral domain. Hence, the issue of relocation/resettlement in the South East, Nigeria is just a mere provision in the book of law which practical feasibility is very remote.

Conclusion

The study showed that most of the issues that beset revocation of right of occupancy for overriding public interest in South East, Nigeria obtain due to truncation of due process of expropriation of private estates in land, limited knowledge on parts of stakeholders, lack of transparency in the revocation exercises and non-feasibility of the of relocation/resettlement provision of the Act.

Proper service of notice of revocation of rights occupancy on the holders of the rights is a legal duty on the part of the Governor of the state. This duty should not be compromised for peace and seamlessness in the provision of required infrastructure in the system.

Recommendations

Based on the findings of the study the following recommendations are made:

i. There is need to expand the provisions of the Land Use Act to include express provisions on notice of revocation of right of occupancy and methods of its service on the holders of right of occupancy for validity.
ii. There is need for constant retraining of the land officers on the provisions of the Land Use Act and appropriate implementation of the Act. In the same vein the advocacy on the requirements of land by government for infrastructure developments and the need for their cooperation for effective governance. This will go a long way to equip the citizens with the requisite disposition to contain the psycho-social trauma that may be associated with the revocation of their rights of occupancy.
iii. There should be government policy making it compulsory for holders of rights of occupancy affected by revocation to be represented only by qualified estate surveyors and valuers as their attorneys to ensure seamless enumeration and assessment of compensation claims and eventual payment as appropriate.

References

Alternman, R. (2007). The "legitimate public purpose" for land expropriation being paper presented at the joint seminar on *compulsory purchase and compensation in land acquisition and takings*, September 6th to 8th 2007, in Helsionki, Finland, organized by FIG commission.

Deininger, K. (2003). *Land policies for growth and poverty reduction,* Washinton DC. The world bank/oxford.

Iroaganachi, N. and Gambo, Y. L. (2012). Service of notice in public land acquisition and tenancy in Abuja, Nigeria: A tool for national peace. *Global Journal of Management and Business Research*, 12(21), Version 1.0, Year 2012.

Kotey, N. A. (2002). Compulsory acquisition of land in Ghana: does the 1992 Constitution open new vistas? In Touhnin, C.; Delville, P.L. and Traore. S (Eds), *the dynamics of resource tenure in West Africa*. London, GRET/DED, James Currey and Heinenian.

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.

Oguneleye B. M. and Oladepo A. F. (2015). Towards effective compulsory land acquisition and compensation process in Nigeria. *Journal of the Nigeria Institution of Estate Surveyors and Valuers, 40*(1), 11-23.