

Infrastructure Provision and Private Lands Acquisition Grievances: Social Benefits and Private Costs

Funlola Famuyiwa (corresponding author)

Department of Estate-Management, Faculty of Environmental-Sciences, University of Lagos
Nigeria

E-mail: ffamuyiwa@unilag.edu.ng

Modupe M. Omirin

Department of Estate-Management, Faculty of Environmental-Sciences, University of Lagos
Nigeria

Received: September 15, 2011

Accepted: October 18, 2011

Published: December 1, 2011

doi:10.5539/jstd.v4n6p169

URL: <http://dx.doi.org/10.5539/jstd.v4n6p169>

Abstract

Urban infrastructure delivery will benefit a nation directly by improving public welfare. In urban areas, it is particularly necessary for sustainability. A crucial prerequisite for this is the provision of land. However, suitable lands for specific projects may not be available, and where such lands exist they may be in private holding. In Nigeria the Land Use Decree of 1978 provides that such properties can be acquired compulsorily by governments with powers of eminent domain for overriding public interest. This decree is however silent on the issues of injurious affection and disturbance. Currently in Lagos, the initiatives of the government to improve public welfare have been geared greatly towards solving the problems associated with urban and infrastructure decay. Series of public developments like road expansions have been embarked upon, thereby disturbing several land owners. This paper aims at demonstrating the adequacy of compulsory compensation policy on injuriously affected land owners within Victoria Island, Lagos. The study also makes corresponding clarifications with acquiring authorities, on a study population within a prestigious socio-economic status. Data collection was based on a survey which adopted the use of questionnaires, and structured interviews. Results revealed the opinions of various stakeholders in the process and deficiencies in the process amongst others. This study will serve as a guide for urban land management planning and development.

Keywords: Compensation adequacy, Injurious affection, Lagos, Land Use Policy, Urban infrastructure

1. Introduction

Infrastructure provision is necessary for economic growth and development of any region, as well as for competitiveness in international markets and sustainable development. The delivery of services like water, electricity supply, waste disposal services, and road development will directly benefit any community and significantly improve public welfare (Famuyiwa et al., 2010). As such, it is by this that operating costs are reduced and, more importantly, market opportunities are expanded. The ensuing gain in competitiveness and production are what stimulates the gains in economic growth and ultimately welfare.

A fundamental prerequisite to this is the availability and provision of land. Land as a factor of production is characteristically fixed and limited in supply and this sometimes poses a constraint in the development process. Suitable lands for specific projects may not be available, and where such lands exist, they may be in private domain. Land however can be acquired compulsorily by governments with the powers of eminent authority for overriding public purposes. In Nigeria, the Land Use Decree of 1978 (now Act) provides and sets out guidelines by which lands may be compulsorily acquired from land owners. The constitution of the Federal Republic of Nigeria (1999) also alludes to revocation of rights and interests in land. Once this expropriation takes place, the enabling policies usually provide that compensation be made to those whose interests have been revoked. This Act however is silent on the issue of injurious affection and disturbance. According to Alterman (Undated) injuries to property values caused by land use regulations may fall along a continuum - from no injury at all to a reduction of all or most of the property's value. The quantum and adequacy of compensation has generated

dissatisfaction in various instances, even outside the scope of a localized context. (Ogedengbe, 2007; Larbi, 2008; Nuhu, 2008; Omar & Ismail, 2009, Alias et al., 2010).

Kotaka (2000; 2002; 2009), has helpfully suggested that adequate compensation must fulfill three conditions: the affected landowners are paid all the losses incurred as agreed during a harmonized negotiation (or hearing) in an arm's length sale transaction; payment is made by considering the physical factors, non sentimental value is taken into account; the date of valuation based on the date of first proposal to acquire the land and not when it was been actually acquired.

From literature, dissatisfaction amongst expropriated land owners still remains a prominent phenomenon. There are different ways by which a land owner may have been affected. This may range from total revocation of interests to disturbance, severance, injurious affection and other incidental losses.

This paper specifically investigates the adequacy of compulsory acquisition laws on injuriously affected land owners within Victoria Island, Lagos. As adapted from previous studies and in fulfilling the main purpose of this study, the following objectives will be sought

- (i) To investigate the various issues that cause discontent amongst 'compensated' land owners whose rights might have been fully or partially expropriated in the study area.
- (ii) To clarify the meaning of adequate compensation from the viewpoints of affected Landowners, Estate-Surveyors and Valuers and Land administrators
- (iii) To assess the level of efficiency of the policies and procedures put in place on compulsory land acquisition and compensation in the study area.
- (iv) To determine the average time frame within which approved compensation is received by the affected land owner.

The current section introduces the subject matter and gives a background to the study, also discussing the relevance of land for infrastructure delivery. In the second section, the enabling laws on the subject matter of this study are presented, as well as indicators of adequate compensation. Following this is a description of the study area as well as the research methods employed for the study. The results of the survey are then presented in the fourth section. This is to identify areas of deficiency in operations and delivery of adequate land compensation. Finally, recommendations and conclusions are presented.

2.

2.1 *The Land Use Act of 1978 - A Framework for land acquisition and compensation in Nigeria*

The process of valuation for compensation in compulsory acquisition of land takes place within distinct legal, cultural, socio-economic, political and historical environments which influence the delivery of the process by key actors in it (Kakulu et al., 2009). In Nigeria, one of the earliest legislations introduced by the erstwhile colonial administration was with acquisition of lands for public purposes. The first of such legislations was the Public Land ordinance of 1876 which was re-enacted as the Public Lands acquisition Act of 1917 with a few amendments. (Olawoye, 1982). However the Act was fashioned in line with the already existing British laws. This was then trailed by the State Lands (compensation) Decree of 1968, the Public Lands Acquisition (miscellaneous provision) Decree of 1976 and finally the Land Use Decree (now Act) of 1978 (LUA) in which an expropriated owner may be considered under the following claims:

- (a) "The land, for an amount equal to the rent, if any paid by the occupier during the year in which the right of occupancy was revoked;
- (b) Buildings, installations or improvements thereon, for the amount of the replacement cost of the building installations or improvement, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer;
- (c) Crops on land apart from any building, installation or improvement thereon for an amount equal to the value as prescribed and determined by the appropriate officer".

Though the Land Use Decree of 1978 is silent on injurious affection and disturbance, the matter can be left to the discretion of Valuers (Uduehi, 1976). Until the promulgation of the Public Lands Acquisition Decree 1976 which repealed the Public lands acquisition act, provision was made for 'Severance and Injurious affection'.

Under the current act, an affected land owner does not necessarily have any remedy for his losses, though he may be entitled to compensation for unexhausted improvements.

2.2 Literature

Several studies have been carried out on compensation issues regarding compulsory acquisition of lands for public uses. In most cases, it is usually found that compensation on expropriated lands is inadequate, non-existent, or delayed, which in any manner causes dissatisfaction to land owners. Kortey (2003) and Larbi (2008) suggest that the manner by which the governments in many developing countries exercise the rights of compulsory acquisition undermines tenure security because often, little or no compensation is paid, which then have negative impacts on equity and transparency.

Nuhu (2007) reports that in 1978 indigenes in the Federal capital territory (FCT) of Nigeria faced problems of relocation when the government decided that “the meager funds available should be spent more on development of infrastructure rather than on payment of compensation” hence the ‘integration policy’ which was introduced in 1991, by the democratic government for the incorporation of existing settlements into Abuja. It was then revised to incorporate complete resettlement plans. Some residents were thus slated for this review which was further reaffirmed in 2003. Nuhu, further observes that the LUA is silent on the question of “Disturbance and injurious affection” which implies that dispossessed land owners are not compensated for certain losses such as goodwill. The study though comprehensive and apt for this research adopted a case study survey of only a residential location and tended to focus on applicable policy issues.

Ogedengbe (2007) recommended amongst other issues, the provision of basic infrastructural amenities such as pipe-borne water, electricity, clinics, good roads, beside the compensation due, to dispossessed land owners. Ogedengbe further demonstrated that the compensation paid to residents whose lands were acquired was grossly inadequate. The study was however limited to the south western regions of Nigeria- specifically the oil exploration fields in the Niger-Delta region and may not be extended to other areas in Nigeria.

In another study by Nuhu (2008) it was concluded that the implementation of Public Land acquisition and payment of compensation in Nigeria has generated controversies, lapses and disputes in the past. Inadequate revocation notices, Inadequate Compensations, Illiteracy of the Claimants, Inadequate funding of the Compensation exercise, Non-payment of interest on delayed payments, problems of conflicting Claims, Use of low rates for assessment of economic Trees & Crops, Non-enumeration for some Crops/ economic Trees, problem of identifying claimants (owners), disallowance of Surveyors to represent Claimants, communication problem, non-payment for undeveloped land, corruption of Government Officers etc were problems identified from the findings in the study.

In Larbi (2008) the conclusions from the study tended to tilt towards policy frameworks in solving the problem and the paper did not solicit information directly from the concerned individuals.

Kakulu et al. (2009) identified - ambiguity and lack of clarity of the relevant statutes, unsuitable prescribed methods of assessment, over-valuation and under-valuation of interests, lack of standards and clear definition of the functions of Government Agencies amongst others. Kakulu et al.’s study concentrated heavily on the research procedures employed, and on demonstrating how phenomenology as a diagnostic research could be applied to real estate research using that particular study as a demonstrative tool. There wasn’t any empirical application demonstrated. There was no presentation as to the procedures used in analyzing or explaining either the qualitative or numerical data gathered for the study. Further, the authors were interested in disseminating the discrepancies between Real estate professionals’ valuation figures and actual values. The conclusions though, seem to support the findings of Ogedengbe above.

In a collaborative research by Nuhu and Aliyu (2009), the study aimed at reviewing the compulsory revocation of communal titles by the governor of Niger state in Nigeria within the realms of statutory procedures for just and fair acquisition of communal land and payment of compensation. It was shown that “private convenience” does not translate to “public purposes” or “public infrastructure uses”, thus, the compulsory acquisition of communal lands for private purposes becomes void. It was recommended that a radical harmonization of all conflicting laws on compulsory purchase and compensation should be effected as this will enhance the building of logical and sound valuation basis that would ensure that a person deprived of his property through compulsory purchase is entitled to no more and no less than what he is being deprived of. The study hinged on gathering data from selected court cases on the subject matter on conflicts on compulsory acquisition and compensation. However, the results and recommendations from a couple of court cases may not be adequate enough to be generalized across the whole study area.

Even outside the realm of a localized context, Rowan-Robinson and Hutchison (1995) set out to establish the purpose of compensation arising from the compulsory acquisition of commercial premises for a city centre redevelopment scheme in Scotland. Findings from the study identified; delays, blight, the loss of goodwill, bank charges as disturbance claims, extinguishment of business, incurred expenses on relocation pending time of compensation payment, amongst key indicators to determine adequacy of compensation. "Most of the claimants expected that, as they were experiencing some loss in the wider public interest, there would be recognition of and sympathy for their plight. However, they were uniformly disappointed." Most of the claimants were dissatisfied with both the process and settlement values. This study though very comprehensive and in-depth, was mainly on compensations on business and commercial concerns from compulsory land acquisitions.

Alias and Daud (2006) reported that that the main issue of land acquisition is the quantum of compensation that is perceived by the respondents as inadequate to fulfill adequate compensation notion under the spirit of the Constitution. They conclude that adequate compensation is not defined in the statute of Malaysia. However, one major observation from the study is that the population is not all encompassing as Estate-surveyors and Valuers mainly constituted the sample.

Omar and Ismail (2009) elicited information from most of the landowners interviewed in the study, which highlighted the dissatisfactions with the amount of compensation offered to them. The recommendations proposed reviews to include payment of all genuine losses, common agreement on any amount of compensation between landowners and land administrators, no special consideration on land value, date of proposed acquisition, no proposed land use taken into consideration, quick payment, value plantations separately and the payment of solatium to the affected landowners, as more detailed elements of adequate compensation. Solatium is a payment to the affected landowners as an extra payment over the open market value of the land taken excluding the compensation for disturbances (Sarkar, 1998; Omar & Ismail, 2009). The study builds on a previous model on land compensation issues and benchmarks its methods and findings against it. Most of the respondents surveyed were farmers dispossessed of their plantations. The study did not delve into developed residential lands. Munro-Faure (2009) states that even when compensation is generous and procedures are generally fair and efficient, the displacement of people from established homes, businesses and communities will still entail significant human costs. Where the process is designed or implemented poorly, the economic, social and political costs may be enormous. Attention to the procedures of compulsory acquisition is critical if a government's exercise of compulsory acquisition is to be efficient, fair and legitimate.

From the survey of literature above, there is hardly much review specifically addressing the plight of injuriously affected land owners. Though the Land Use Act of 1978 is silent on the issue, Uduehi (1978) points out that the silence does not infer a non-compensation status.

3. Study Area and Research Methods

Lagos state is a cosmopolitan centre in Nigeria and the smallest in size of the 36 states of the Federal republic of Nigeria. With a land area of 3,577sq km or 358,861 hectares; 22% of which is water, the state has an annual population growth rate of 8% as against the national rate of 2.5%. Population density stands at a staggering 4,193 persons per square kilometer. The metropolis is thus the 6th largest global urban agglomeration and it is projected to become the 3rd largest global mega city by 2015, with an estimated population of 24.6 million. (Lagos State Ministry of Works and Infrastructure, 2009).The region faces grave urban crisis, especially from excessive pressure on existing infrastructure as well as land resource allocation. Some of the challenges are manifested in deteriorating road conditions, bridges, railways, ports, airports, electricity & water supply, and information technology & communications. This trend has thus prompted various administrations of the state to initiate and embark on various development projects in order to alleviate poverty, suffering, difficulties and inconveniences faced by the masses.

The current initiatives and pro-active policies of the current Lagos state Government since it assumed authority in May 2007 have been geared towards solving the above highlighted urban and infrastructure problems in the state. As part of the Lagos State Government efforts in works and infrastructure, the administration has embarked on the development of good and motorable roads as well as to improve the road networks, increase road capacity to ease traffic congestion and reduce travel time within the metropolis. In a bid to attain regional growth and development by the government, this research sought to elicit information on the sustainability of the development scheme vis-a vis the position and views of stakeholders in the process. This entails a massive public works programme that has involved road developments in a qualitative and quantitative capacity. The consequential results from such action plans include compulsory acquisition of interests in private lands. Ozumba-Mbadiwe, a major road in the Victoria-Island axis of Lagos, was earmarked for such development

schemes. The nature of the road expansion was such that interests affected were not completely expropriated; rather only a portion of the affected lands were injuriously affected. Injurious affection happens whenever the value of remaining land depreciated due to the works on the land acquired carried out by the acquirer or their contractors. (See Omar & Ismail, 2009).

This study essentially investigated significant factors -asides the 'silence' that have caused grievances amongst affected land owners. A predominant portion of the population under study are commercial land users. Interestingly, it is generally assumed that land owners in this axis will impliedly fall in the upper income class of the society.

In a bid to fulfill the aim and objectives of this study, questionnaires were served to affected land owners. And where necessary, some of the questions posed in the questionnaire were simplified to the respondents in very simple terms in order to help with receiving valid responses. The issue of compensation adequacy was not over-flogged in the survey, rather questions hinging on the respondents ideology of adequate compensation was made. Essentially, the questions drew from the objectives outlined in the first section of this paper as well as data from previous literature. Certified Estate-Surveyors and valuers were also interrogated in the course of the research.

4. Data Results and Empirical Findings

Respondents for this study naturally constituted affected land owners in the study area. 87% of the respondents are male while 13% are female. (From a sample survey of 64 respondents). Private individuals constituted 56% of the ratio of respondents, while about 31% represented public entities. Most of the respondents fell into the 30-40yrs age bracket. 62 % of the respondents were employed while the other respondents were self-employed. Commercial properties surveyed were about 69% of the sample. Residential properties constituted about 25% while the remaining 6% fell into other categories. Interviews were also conducted with Estate-surveyors and valuers as well as land administrators with acquiring authorities. Tables 1 to 7 below show the results of the questionnaires survey with the affected land owners in the study area.

On the educational background of respondents, about 37% of the respondents has a tertiary education degree while a minute 25% ended their formal educations with a School leaving certificate. Another minute percentage of the respondents (3%) possessed either an MPhil or Ph.D. degree. 75% while respondents earn between N1,000,001-N5,000,000 annually.

Table 1 shows that (69%) of the respondents acquired their property by purchasing directly from a previous owner, (12.5%) acquired landed property by statutory allocation, (12.5%) acquired landed property by other means while (6%) inheritance the property. Hence, majority of the respondents acquired the landed property by purchase.

When queried on the possession of a formal title to their property, Table 2 shows that (62%) of the responses were affirmative. 19% of the respondents had no formal title on the land while another 19% of the respondents were not sure if there was any proper title attached to their properties

Table 4 shows that 81% of the respondents were affected by recently expansion of the road while 13% of the respondents not affected by recently expansion of the road and 6% were actually unsure of their status.

Further, 97% of the respondents agreed that they had been injuriously affected as a result of the road expansion. The remaining 3% of the respondents claimed that their interests were totally revoked.

About 39% of the respondents were first affected two years prior to when primary data for this study was gathered. 31% of the respondents claimed to have been affected about one year earlier. 15% of the respondents were physically affected first about 6 months earlier. This can be explained by the planned phasing of such developments.

When queried on the level of awareness using a 5 point Likert scale, ('Highly aware' (5), Aware (4) Barely aware (3), Unaware (2), Highly unaware (1)) of the prevailing compensation and acquisition law in Nigeria (Land Use Decree, 1978), 44% claimed to be 'aware'. A significant part of the sample - 31% claimed to be just 'Barely aware' of the prevailing land law while 12.5% were 'Highly aware' and another 12.5% said they were 'Unaware'. 38% of the respondents were found to be 'unaware' that the laws provided for compensation for certain categories of land acquisition, 31% aware of entitlement to some degree of compensation from the land acquisition while (31%) are not sure of awareness of entitlement to at least some degree of compensation from the land acquisition. Hence, majority of the respondents are not aware of entitlement to some degree of compensation from the land acquisition.

When queried on whether they had at least some idea about the process and procedures involved in compulsory acquisition and compensation in Nigeria, 80% of the respondents claimed that they did have some idea. The other 20% said they had no idea of the process and procedures involved in compulsory acquisition and compensation in Nigeria.

Regarding filing for claims where applicable, 85% of the respondents had not applied for any compensation claim whatsoever. 7.5% of the respondents had filed for compensation while another 7.5% of the respondents said they were in the process of filing.

When queried further on the respondents been enlisted for any form of compensation. 62 % claimed to not have been given any compensation, while 38% did not know the status of their applications. None of the respondents thought they had been adequately re-instated to the position that they were before the land was affected by the road expansion.

89% of the respondents had not employed the services of a professional estate surveyor and valuer for assessing losses suffered while 11% of the respondents did employ the services of a professional in this regard.

The textual analyses in table 5 and 6 cover all several explanatory variables. In eliciting primary data, this variable fell among the few questions that were put in lay-man's terms to the respondents who could not understand the technical terms contained in the question. As it would be unwieldy to deal with all the variables at a once, they were first subjected to a factor analysis (Principal Component Analysis) to determine, from the interrelationships of the variables, fewer numbers of factors that will account for the observed relationships. The factor analysis technique was used to derive a cluster relationship. Various tests for the appropriateness of factor analysis were done. These preliminary tests indicated that two factors listed above specifically made respondents unhappy with the compensation procedure namely, 'delay in payment' and 'basis of valuation/assessment' (open market value) in the Land use Act. They were then excluded from other variables in the factor analysis. Because whenever either the communalities of certain variables or their factor loadings in at least a component are not greater than certain values, these study variables should be ignored and factor analysis should be redone from start as recommended in Hair et al. (2006). The other 9 factors were found to be appropriate for factor analysis. The Bartlett test of sphericity yielded a value of 512.811 and its associated significance level was small ($p=0.000$). This suggests that the population correlation matrix is not an identity matrix (Hair et al., 2006). The correlation matrix showed that all variables have significant correlations at the 5 percent level. It implies that the exclusion of any other associated factors is unnecessary. The value of the KMO MSA was 0.794, which is satisfactory for a factor analysis. Hence, these are significant criteria that cause discontent amongst 'compensated' land owners whose rights have been expropriate in this study. Routinely, the varimax, orthogonal rotation, of principal component analysis was used to interpret the components.

In determining the number of factors that explain the underlying similarities of the 11 variables, the Kaiser's (1960) procedure of selecting the factors with eigenvalues greater than one criterion was adopted. There are five such factors and they explain 34.6%, 22.6%, 15.7%, 10.2 and 9.11% of the total variance respectively (See extraction sum of square loadings in Table 6 above). In the Screeplot five components for rotation were considered. The five components were rotated using the Varimax rotation in order to maximize their orthogonality and clearly describe the pattern of the original variables. In the table below, the loading of each variable on each of the components is shown. The five components explained a total of 92% variation in the original data, distributed as 34.6% for first components, and 22.6.4% for the second, 15.7.0% for the third, 10.2 for the fourth and 9.11 and for the fifth.

Component 1: This covers Lack of payment of present value of future income derivable from the property and manners/mode in which notice of revocation was served are the most significant causes of unhappiness among the property owner with eigenvalues of above 1

Component 2: The next most significant cause was found to be payment on loss of profitability of the business during road and payment of compensation on personal depression felt from the acquisition (solatium).

Component 3: Only one two associated causes fall under this group and they are: Disturbance claim (cost of other inconveniences suffered outside) and lack of payment of goodwill on the property.

Component 4: The next most significant cause is 'Interest on delayed payment on compensation'

Component 5: The least significant cause is 'inadequate value of compensation payment'.

In fulfilling the second objective, the table above reveals the views of land owners. Most of the affected and aggrieved land owners interviewed were not even aware of the amount of compensation due to them which might infer that they had not employed the services of Estate-Surveyors and Valuers. Most of those interviewed

were upset and angry with the whole process but were 'hands tied' as they explained that they could not 'fight' the government. Some of them explained that they had made protests on the issue of inadequate compensation and were still hoping that some of the decisions taken by the government in this regard might someday be reversed! Another point made by the respondents in this research was the issue of taxation. On their part, it was not fair enough for their businesses to have been adversely affected whilst still paying the *same* amount of tax they had been paying prior to the development. Some aggrieved owners, expected that there might at least be some tax rebate as a form of compensation. There was no generally acceptable consensus on compensation adequacy. In Ogedengbe's report (2007), 80% of Estate surveyors and Valuers surveyed responded negatively to the adequacy of the compensation payments made. Also, in this study, an estate surveying firm in close proximity to the study area also considered the 'compensations' inadequate. Their views on the meaning of adequacy (in an interview) supported that of the authors mentioned in the first section of this paper. According to Ogedengbe, Estate surveyors and valuers are the professionals in Nigeria that have legal competence to determine the market value of any interest in land and landed property by virtue of Decree No. 24 of 1975. From the foregoing, they are statutorily empowered to assess and determine compensation payable in the event of compulsory acquisition. Land administrators *interestingly* did not share the same views with the aggrieved land owners. It was claimed that most of the affected claimants had been compensated. It was further stated that each individual case presented is attended to accordingly and there were no aggrieved land owners. Further, all actions are carried out within the limits of the law and the Government operates within its power to ensure that the aggrieved are adequately taken care of. Adequate compensation in this context is thus derivable from the laws of the land. For the fifth objective, for determining the time frame within which compensation claims are resolved, none of the claimants stated categorically that they had been compensated as at the time primary data for this study was sourced, consequently were not positioned to respond. However, their grievances are stated in table 5 above.

From a literature survey above, the conclusions of most studies in Nigeria have hinged on the inadequacies of policies and statutory regulations on land compensation issues. Ogedengbe (2007) states that there is need for the land use Act and other statutory provisions to be reviewed or amended as they are contributing factors to the problems of the inadequate compensation. Nuhu (2008: a) also remarks that The Land Use Act which is the current land policy instrument of the Federal Republic of Nigeria negates the basis of open market valuation for Compensation for Compulsory purchase and provides for a basis of valuation which many scholars including Omuojine (1999) and Adisa (2000) have argued are inadequate. Nuhu (2008:b) suggests that many problems have hindered the successful implementation of compulsory and payment of adequate Compensation in Nigeria *originating* from the provisions of the LUA on compensation for Compulsory acquisition. These have generated feeling of dissatisfaction and resentment which has helped discredit the Compensation procedure in Compulsory acquisition of Land. This negates sustainability. In the words of Oladapo and Olotuah (2007) the Unified Land Use Act No. 6 of 1978 has been politicized, abused and has failed to bring land delivery to all.

5. Concluding Remarks

According to Oladapo and Olotuah (2007), the existing real estate law and policy in Nigeria is inadequate to meet the aspirations for sustainable development. The Land use decree of 1978 is silent on Disturbance and injurious affection. This has thus caused a lot of grievances on affected land owners and urgently needs to be addressed in a policy review. Uduehi (1987) helpfully analyses that there are two schools of thought on this omission in the policy. While one argues that compensation is not allowed under these heads and items, the other postulates that the silence of the decree on them does not infer a non-compensation status on them. Uduehi further opines that it is a serious omission to which the attention of the government should be drawn for amendment. Social costs of all forms of losses faced by affected land owners need to be valued on an aggregated scale and weighed with the benefits accruable to a community slated for infrastructure development for improvements. There is also lack of knowledge on the part of affected land owners. There is a need therefore for people to generally be aware of governing policies and edicts within their environment, so as to know what is fair, just and obtainable within the confines of the law. Infrastructure development ought to improve the lives of the citizenry and not subject them to worse economic conditions. A thorough cost-benefit analysis is therefore recommended from this study and beneficial options in place before community development strategies are actualized. Areas in the policy which have caused perpetual and recurring grievances to any or all parties in lands acquisition ought to be reviewed. As suggested in some literature, improvements should be made to allow for "before and after" valuations to be used.

Essentially, the provision of infrastructure improves public welfare and should promote development and sustainability, but where these dividends are outweighed by losses, and then the whole process may be called into

question. From the foregoing, it appears that enabling policies need to be reviewed for equitable and just management of resources.

References

- Adebayo, M. A. (2006). The State of Urban Infrastructure and its effects On Property Values in Lagos, Nigeria. *Journal of Land Use and Development Studies*. 2 (1).
- Akujuru, V. A. (2004). 'Land Administration and Infrastructure Management for Urban Development' Paper presented at the 34th Annual Conference of the Nigeria Institution of Estate Surveyors and Valuers held at the Nicon Hilton, Abuja 30th March - 4th April
- Alias, A. & Nasir Daud M. D. (2006). Payment of Adequate Compensation For Land Acquisition In Malaysia . *Pacific Rim Property Research Journal*. 12 (3)
- Denver-Green, B. (2005). *Compulsory Purchase and Compensation*. 8th Edition. Estate Gazette, London.
- Lagos State Ministry of Works and Infrastructure (2009). 2011 - 2013 Medium Term Sector Strategy (MTSS). *LSMWT*
- Kakulu, I. I., Bryne, P. & Viitanen, K. (2009). Phenomenological Research in Compulsory Land Acquisition and Compensation Being a paper presented at the FIG Working Week 2009 Surveyors Key Role in Accelerated Development Eilat, Israel, 3-8 May 2009. [Online] Available: http://www.fig.net/pub/fig2009/papers/ts07e/ts07e_kakulu_byrne_viitanen_3448.pdf
- Odame, W. L. (2008). Compulsory Land Acquisition and Compensation in Ghana: Searching for Alternative Policies and Strategies. *FIG/FAO/CNG International Seminar on State and Public Sector Land Management Verona, Italy*.
- Oladapo, R. A. & Olotuah, A. O. (2007). Appropriate real estate laws and policies for sustainable development in Nigeria. *Journal of Structural Survey*. 25 (3/4), 330-338. <http://dx.doi.org/10.1108/02630800710772890>
- Olawoye, C. O. (1982). Statutory Shaping of Land Law Administration up to the Land Use Act, in Omotola. J.A. Essays on the the land Use Act, 1978 University of Lagos Press, Lagos.
- Omar, I. & Ismail, M. (2009). Kotaka's Model in land acquisition for infrastructure provision in Malaysia. *Journal of Financial Management of Property and Construction*. 14 (3), 194-207. <http://dx.doi.org/10.1108/13664380911000431>
- Mendie, A., Atser, J. & Ofem, B. (2010). Analysis of Public Lands Acquisition in Akwa Ibom State, Nigeria. *Journal of Human Ecology*. 31 (3), 197-203
- Munro-Faure, P. (2009). Compulsory Acquisition of Land and Compensation. 7th FIG Regional Conference Spatial Data Serving People: Land Governance and the Environment – Building the Capacity Hanoi, Vietnam, 19-22 October
- Nuhu, M. B. (2007). Compulsory acquisition and payment of compensation in Nigeria: A case study of the Federal Capital Territory (FCT) Abuja. Being a paper presented at the FIG Commission workshop on compulsory purchase and compensation 6th - 8th Sept, 2007 at Helsinki University of Technology, Espoo, Finland
- Nuhu, M. B. (2008). Compulsory Purchase and Payment of Compensation in Nigeria: A Case Study of Federal Capital Territory (FCT) Abuja. *Nordic Journal of Surveying and Real Estate Research, Special Series*. 3, 102-126
- Sub-Saharan Africa Transport Policy Program. (2006). Strengthening Urban Transport Institutions: A case study of Lagos. [Online] Available: <http://www4.worldbank.org/afr/ssatp/Resources/SSATP-DiscussionPapers/dp05.pdf>
- Uduehi, G. O. (1987). Public Lands Acquisition and Compensation Practice in Nigeria. *Godrace Nigeria Limited, Lagos*.
- Rowan-Robinson, J. & Hutchison, N. (1995). Compensation for the compulsory acquisition of business interests: Satisfaction or sacrifice. *Journal of Property Valuation and Investment*. 13 (1), 44 - 65. <http://dx.doi.org/10.1108/14635789510077287>

Table 1. Source of acquisition of landed property

	Frequency	Percentage
Inheritance	4	6
Purchase	44	69
Statutory Allocation	8	12.5
Others	8	12.5
Total	64	100

Source: Field survey 2011.

Table 2. Formal title on the land

	Frequency	Percentage
Yes	40	62
No	12	19
Not Sure	12	19
Total	64	100

Source: Field survey 2011.

Table 3. Title subsisting in the property

	Frequency	Property
Certificate of Occupancy (1978)	24	60
Land Certificate (Prior to 1978)	4	10
Others	12	30
Total	40	100

Source: Field survey 2011.

Table 4. Recently affected by road expansion of the ozumba mbadiwe road

	Frequency	Percentage
Yes	52	81
No	8	13
Not Sure	4	6
Total	64	100

Source: Field survey 2011.

Table 5. Factors causing discontent amongst affected land owners

	Variance	Mean Rank
Lack of payment of present value of future incomes derivable from affected part of the property	0.25	0.441
Manners/mode in which notice of revocation was served	0.25	0.442
Payment on loss of profitability of the business during road construction (blight)	0.24	0.383
Lack of Payment of compensation on personal depression felt from the injurious affection (solatium)	0.24	0.384
Disturbance claim (cost of other inconveniences suffered outside)	0.22	0.315
Lack of payment of goodwill on the property	0.19	0.256
Interest on delayed payment	0.16	0.197
Others	0.16	0.198
Delay in payment	0.06	0.069

Source: Field survey 2011

Table 6. Total variance explained

Total Variance Explained

Component	Initial Eigenvalues			Extraction Sums of Squared Loadings			Rotation Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1	3.810	34.635	34.635	3.810	34.635	34.635	2.637	23.971	23.971
2	2.490	22.634	57.269	2.490	22.634	57.269	2.232	20.294	44.265
3	1.737	15.788	73.057	1.737	15.788	73.057	2.105	19.140	63.404
4	1.125	10.229	83.287	1.125	10.229	83.287	1.962	17.840	81.244
5	1.002	9.111	92.398	1.002	9.111	92.398	1.227	11.154	92.398
6	.451	4.103	96.501						
7	.238	2.168	98.669						
8	.088	.803	99.471						
9	.058	.529	100.000						
10	-4.9E-017	-4.49E-016	100.000						
11	-1.6E-016	-1.45E-015	100.000						

Extraction Method: Principal Component Analysis.

Source: Field Survey, 2011

Table 7. Cause of discontent amongst land owners whose rights have been expropriated in the study area

Comp	Eigenvalue	% of variance	Associated Causes of discontent	Factor Loading
1	3.81	34.635	Lack of payment of present value of future income derivable from the property	0.911
			Manners/mode in which notice of revocation was served	0.901
2	2.49	22.634	Payment on loss of profitability of the during road business	0.891
			Payment of compensation on personal depression felt from the acquisition (solatium)	0.891
3	1.737	15.788	Disturbance claim (cost of other suffered outside inconveniences	0.813
			Lack of payment on loss of goodwill on the property	0.791
4	1.125	10.229	Interest on delayed payment	0.731
			Others	0.701
5	1.002	9.111	Inadequate value of compensation payment	0.7

Source: Field Survey, 2011

Table 8. What is considered as fair and adequate compensation by landowners

	Frequency	Percentage
Compensation equal to the current open market value of acquired interest as at payment date	24	37.5
Total compensation equal to open market value PLUS interest on payment between date the interest was revoked and date payment was made	28	43.8
Offer of relocation to a perfectly comparable property	17	26.6
Others	5	7.8

Source: Field survey 2011.

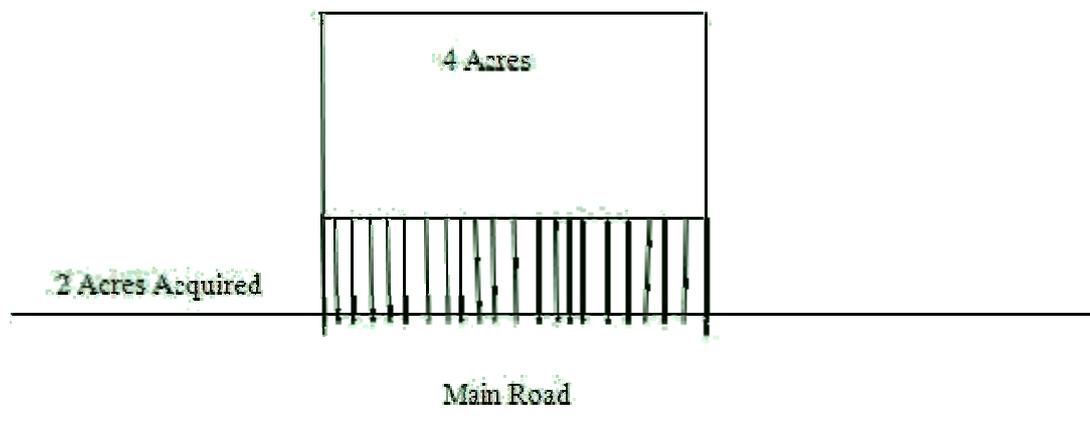


Figure 1. Injurious affection

Source: Mazlan (2008); Omar and Ismail (2009)

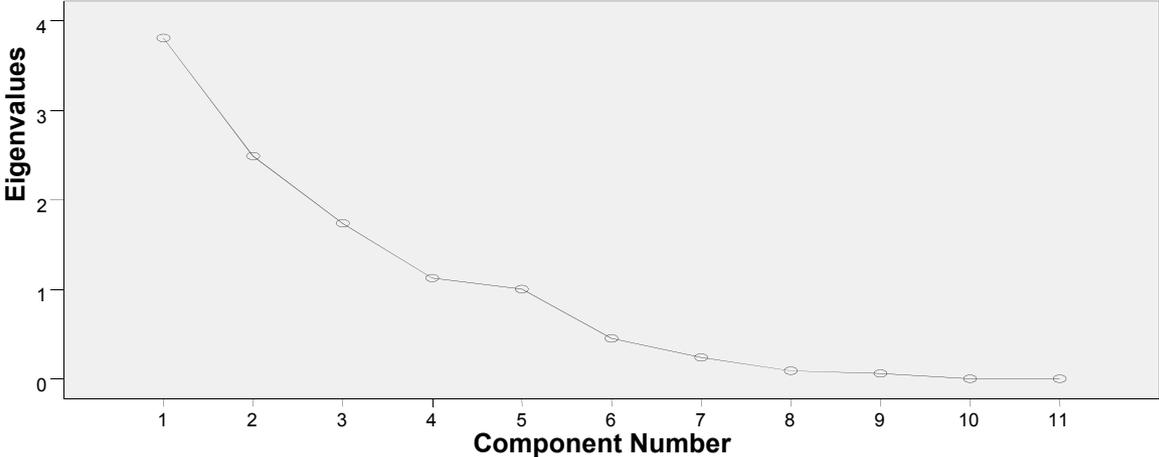


Figure 2. Scree plot