

# An Examination of Revocation of Rights of Occupancy for Flow Line Right Of Way in Udu Local Government Area, Delta State

Ambrose Boyce Chukwunweike, Fidelis Ifeanyichukwu

Emoh, Okafor Johnbosco Ikenna

*Nnamdi Azikiwe university, Awka.*

*Nnamdi Azikiwe University, Awka*

*Nnamdi Azikiwe University, Awka*

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## ABSTRACT

The word land means different things to different people and in different context. This study is to explore the evolution of compulsory land acquisition and compensation under the Land Use Act of 1978 with a view to identifying problems associated with it and to proffer ways in which compulsory land acquisition and compensation process can be made fair. Another objective of this study is to see whether the compulsory acquisition and compensation of Flowline Right of Way (ROW) actually conformed with the provision of the Law. The study is based on two sources of data which are the primary and secondary sources. Data collected were analyzed using frequency table, percentage and mean score analysis while the non-parametric score test (chi-square) was used to test the formulated hypothesis using SPSS (Statistical Package for Social Sciences). The data collected through the administration of questionnaire, was coded, tabulated and analyzed using SPSS statistical software according to the research question and hypothesis. It was discovered in this study that even though all claimants were aware of the compulsory acquisition exercise, not all were aware through a definite means of communication. Also it was discovered that no interest was paid for delayed payment of compensation to any of the claimants. It was therefore, recommended that it should be made mandatory for acquisition authorities to pay interest for delay in payment of compensation as provided for in Sec. 29(4) and (6) of the Land Use Act. This should be paid at the prevailing bank rate, and this fraction of the compensation should be made known to the land owners as interest for delayed payment

**Keywords :** Compulsory Land Acquisition, Compensation, Land Use Act, Flow Line, Right of Way, Delta State

## I. INTRODUCTION

In the early days, land was vested in the elders and paramount chiefs to hold in trust for themselves and the community. Everybody within the community has a right to use the land under a grant from the chiefs or the elders in return for obligation of services.

The need for the use of land for public purposes during this period was very limited owing to the low level of public activities. However, whenever such need arose, it was the elders and paramount chiefs again who exercised the prerogative power to grant land. Those whose grants were affected would get a substitute land elsewhere as compensation.

However, as society advanced and socio-political groups increased the need arose for government to acquire land which are owned by private individuals and community for their own use. An acquiring authority finds it inevitable to resort to compulsory acquisition.

Subject to certain provisions, land compulsorily acquired is first and foremost under the 1999 constitution of the Federal Republic of Nigeria treated as a matter affecting the fundamental human rights of all Nigerians. Section 40(1) of the 1999 constitution provides that "no movable property or any interest in an immovable property shall be taken possession of compulsorily in any part of Nigeria except in a manner and for the purposes prescribed by a law that among other things requires the prompt payment of compensation thereof. This is further reiterated in

section 29(1) of the land use act which provides that “if a right of occupancy is revoked, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements”. Thus, an individual’s interest cannot be compulsorily acquired except adequate compensation is paid either in cash or in kind.

## II. LITERATURE REVIEW

### 2.1 Concept of Compulsory Acquisition

Compulsory acquisition is the power of government to acquire private rights in land without the willing consent of its owner or occupant in order to benefit society (Emoh, and Nwachukwu 2016).

Compulsory land acquisition is an activity dominated by the government transferring the land ownership or interest in land from privately owned to state owned where the public interest is involved. It is a power possessed in one form or another by governments of all modern nations. This power is often necessary for social and economic development and the protection of the natural environment.

Land must be provided for investments such as roads, railways, harbours and airports; for hospitals and schools; for electricity, water and sewage facilities; and for the protection against flooding and the protection of water courses and environmentally fragile areas. A government cannot rely on land markets alone to ensure that land is acquired when and where it is needed. However, a number of countries require that the government should attempt to buy the required land in good faith before it uses its power of compulsory acquisition.

In the same vein, the popular Arnold Encyclopedia for Real Estate defined compulsory acquisition as the taking of privately owned property for a public use. The taking may be either by a Judicial or administrative proceeding or by a governmental agency or some other body duly authorized to exercise the power. It also makes it clear that the owner need not consent to the taking, but the owner has a constitutional right to receive just compensation for his property.

Compulsory acquisition requires finding the balance between the public need for land on the one hand, and the provision of land tenure security and the protection of private property rights on the other hand. In seeking this balance, countries should apply principles that ensure that the use of this power is limited, i.e. it is used for the benefit of society for public use, public purpose, or in the public interest (Tsuyoshi & David, 2002).

### 2.6 Compensation Under the Land use Act of 1978

Compensation under subsection (1) of this section shall be, as respects-

- 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. Building, installation or improvements thereon, for the amount of the replacement cost of the building, installation or improvement, that is to say, 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 a prescribed and determined by the appropriate officer. (5) Where the land in respect of which a right of occupancy had been revoked forms part of a larger area the compensation payable shall be computed as in subsection (4)(a) above less a proportionate amount calculated in relation to that part of the area not affected by the revocation but of which the portion revoked forms a part and any interest payable shall be assessed and computed in like manner. (6) where there is any building, installation or improvement or crops on the land to which subsection (5) applies, then compensation shall be computed as specified hereunder, that is a respects-
  - a. Such land, on the basis specified in that subsection;
  - b. Any building, installation or improvement or crops thereon (or any combination or two or all those things) on the basis specified in that subsection and subsection (4) above, or so much of those provisions as are applicable, and any interest payable under those provisions shall be computed in like manner.For the purposes of this section, “installation” means any mechanical apparatus set up or put in position for use or materials set up in or on land or other equipment, but excludes any fixture in or on any building.

### 2.10 Problems of Land Acquisition

The powers of compulsory acquisition has become the single most important tool used from time to time to facilitate the acquisition of particular land for desired public purposes.

This is to ensure that individual property owners do not frustrate the will of the majority by refusing to sell land needed for desired public development while he is adequately compensated.

However, the smooth exercise of this power is usually hampered by the following problems.

#### **1. Death of Information on the Land to be Acquired**

One of the problems that renders land acquisition a herculean task and therefore a costly affair in many parts of the world is the lack of sufficient information and reliable land data bank about the land that is subject of acquisition.

In some advance countries, there are reasonable accurate ordinance cadastral and Geographical survey maps which are useful guides in land matters. The scantiness of information in developing countries such as Nigeria has led to rejection of sites after human and material resources has been expended on them.

#### **2. Lack of Effective Boundary Adjustment**

In Nigeria, for example, the Land Use Act created two systems of Urban and Rural Land. This is difficult to operate in most developing countries. The boundaries between local communities are not easily distinguishable in the absence of accurate maps. In Nigeria, creation of more states and local government and the inability of government to constitute an effective boundary adjustment committee to effect the necessary boundary adjustment is contemplated and executed.

#### **3. Location of Site/Cost of Acquisition**

It is most reasonable to ensure that the cost of executing a project does not exceed the benefit expected to be derived from it. Thus, successive government administration by various means try to reduce cost of land acquisition of public projects. Success has been elusive for numerous reasons which among others include:

- a. The absence of effective town planning authorities charged with the responsibility of proper land use zoning, preparation of land use maps and surveys.
- b. Indiscipline and corrupt practices of government officials lead to over escalating cost of land acquisition by inflating the actual cost for their own selfish interest.
- c. The influences of the location of public projects by politicians and prominent men in a bid to satisfy their political ambition and personal selfishness leads to escalating/excessive cost of land acquisition.

#### **4. Lack of Acceptance of Land Policy**

One of the major problems of land acquisition is the lack of acceptance of land policies introduced by government. In Nigeria for example the provisions of the Land Use Act are yet to be totally accepted by the traditional land owning class who originally exercise ownership over large expanse of family land. First and foremost, they believed that the purposes of land acquisition are in most cases not in the public interest; and that compensation paid are usually awfully inadequate. This has resulted to stiff resistance to acquisition of land.

#### **5. Inability to Compensate for Land**

It is hardly ever possible to pay adequate compensation to a land owner because of the social ad psychological sentiments the attaches to land. Besides mere ownership of land, land all over the world is regarded as a status symbol. It is therefore really unachievable to take a man's land and pretend to have put him in a position the was before the acquisition took place by merely giving him money as adequate compensation.

### **III. METHODOLOGY**

The entire land acquired belong to 40 families hence the sample size therefore is 40 respondents.

The method of data analysis means the statistical method used by the researcher to analyze data collected from various sources. The research involves the use of frequency distribution tables and charts.

Data collected were analyzed using frequency table, percentage and mean score analysis while the non parametric score test (chi-square) was used to test the formulated hypothesis using SPSS (Statistical Package for Social Sciences). The data collected through the administration of questionnaire, was coded, tabulated and analyzed using SPSS statistical software according to the research question and hypothesis.

### **IV. DATA PRESENTATION AND ANALYSIS**

This session presents comprehensive breakdown of the data collected from questionnaires administered to claimants of land acquired for flowline right of way (ROW). The session also deals with presentation of results.

#### **4.1 Distribution of Questionnaires**

For the purpose of this study, forty (40) questionnaires were distributed to claimants whose land was acquired. The entire land acquired belong to forty (40) families hence the sample size therefore is forty (40) respondents . Thirty-three

out of the forty (40) questionnaires were retrieved.

This is summarized in below:

**Table 4.1 Response of respondents to questionnaires distributed**

S/N	Total Distributed	Total Received	Return Rate
1	40	33	82.5%

#### 4.2.1 Respondents' Gender

Out of a number of thirty-three (33) respondents, twenty-one (21) representing (63.6%) were male while lesser proportion in total of twelve (12) respondents were female representing (36.4%) as illustrated by Table 4.2.

**Table 4.2: Percentage of the Respondents by sex**

S/N	Gender	Frequency	Percentage (%)
1	Male	21	63.6
2	Female	12	36.4
	Total	33	100

From table 4.2 it is evident that majority of the respondents were male; however, the gender disparity had no effect on the reliability of opinions made in the study.

In this section, attempt was made to determine the level of respondent's maturity. In this regard, the age of the respondents were classified into four, the results of the analysis of the age group is shown in Table 4.3

#### 4.2.2 Respondent's Level of Maturity

**Table 4.3 Respondents' Level of Maturity**

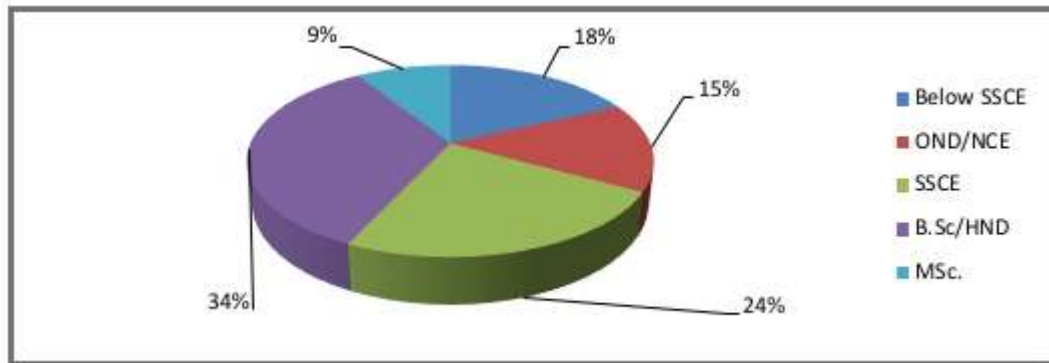
S/N	Age Group	Frequency	Percentage (%)
1	Less than 20 years	-	-
2	20-30	11	33.3
3	31-50	15	45.5
4	Above 50	7	21.2
	<b>Total</b>	<b>33</b>	<b>100</b>

The age group distribution of the respondents as illustrated in figure 4.1 shows that out of thirty-three (33) respondents, 11 (33.3%) of the respondents were within 20-30 years age bracket; 15 (45.5%) of the respondents were within 31-50 years bracket; while 7(21.2%) were within the above 50 age bracket. This shows that greater number of respondents was within 31-50 years age limit and implies that at least 67% of the respondents aged above thirty years and indicate high level of maturity and reliability of the respondents' opinion.

#### 4.2.3 Respondents' Level of Education

The literacy level of the respondents was determined to ascertain their understanding of the questions that may affect the reliability of their opinions. Out of thirty-three (33) respondents, 34% had either B.Sc. certificate or HND, while 15% had either OND or NCE certificate; 24% have senior School leaving certificate (SSC); 18% had education below SSCE level while 9% have others apart from the afore mentioned ones as shown in figure 4.1;

**Figure 4.1 Respondents, Educational Level**



Details of the analysis shown above indicates that nearly all the respondents hold at least B. Sc/ HND degree, implying that the respondents were highly educated and expected that their opinion would have positive impact on the reliability of the research findings.

**4.4.1 Were you served any notice before acquisition?**

The opinion of respondents as illustrated in Table 4.4 shows that all thirty-three(33) respondents were served notice before compulsory acquisition was done.

**Table 4.4 Respondents’ Opinion on serving of notice before acquisition**

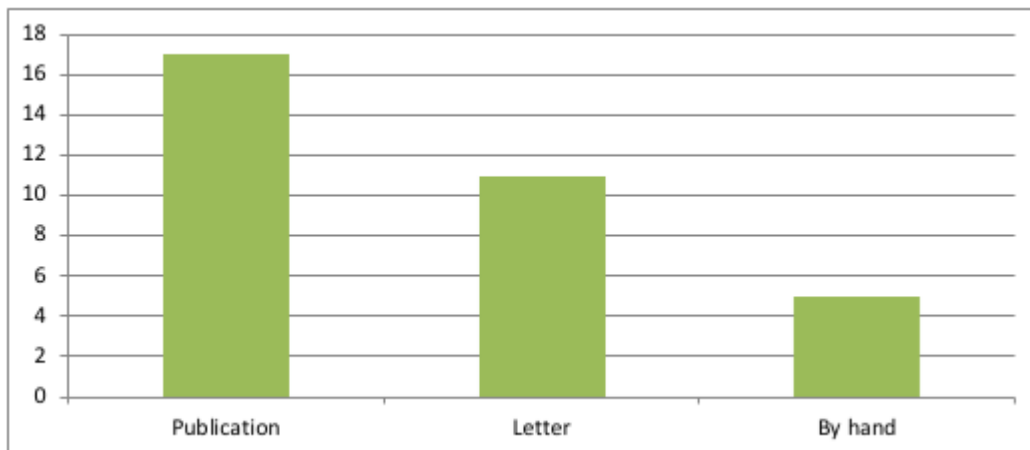
S/N	REESPONSE	RESPONDENTS	PERCENTAGE (%)
1	YES	33	100
2	NO	-	-
<b>TOTAL</b>		<b>33</b>	<b>100</b>

**4.4.2 How was the notice for Acquisition served?**

The opinion of respondents as illustrated in figure 4.3 shows that 17 (51.5%) knew of the

acquisition exercise by publication, 11 (33.3%) were served the acquisition notice through letter while 5(15.2%) were served the notice by hand.

**Figure 4.3 : Method by which acquisition notice was served**



#### 4.4.3 Was the land acquired for public purpose as claimed ?

Table 4.5 illustrated below shows that all respondents agree with the fact that the land acquired was for “Public purpose: as seen with the sighting of the flowline Right of way (ROW).

**Table 4.5 Respondents’ opinion on acquisition for public purpose.**

S/N	REESPONSE	RESPONDENTS	PERCENTAGE(%)
1	YES	33	100
2	NO	-	-
<b>TOTAL</b>		<b>33</b>	<b>100</b>

#### 4.4.4 What was assessed in the acquisition exercise?

Table 4.6 shows that 100% of the respondents indicated that they were assessed in respect of one economic crops or the other. This

confirms with the provision of the law. Some of the respondents claimed there were not assessed for some other types of interests like shrines, sacred places, hunting rights etc, but these represent a small percentage of the examined sample.

**Table 4.6: Assessment during Acquisition**

S/N	ASSESSED FOR	NO. OF RESPONDENTS		TOTAL	PERCENTAGE (%)		PERCENTAGE (%)
		Yes	No		Yes	No	
							Total
1	Land	30	3	33	90.9	9.1	100
2	Building of structure	30	3	33	90.9	9.1	100
3	Economic and others	33	-	33	100	-	100
4	Shrines and others	-	-	-	-	-	100

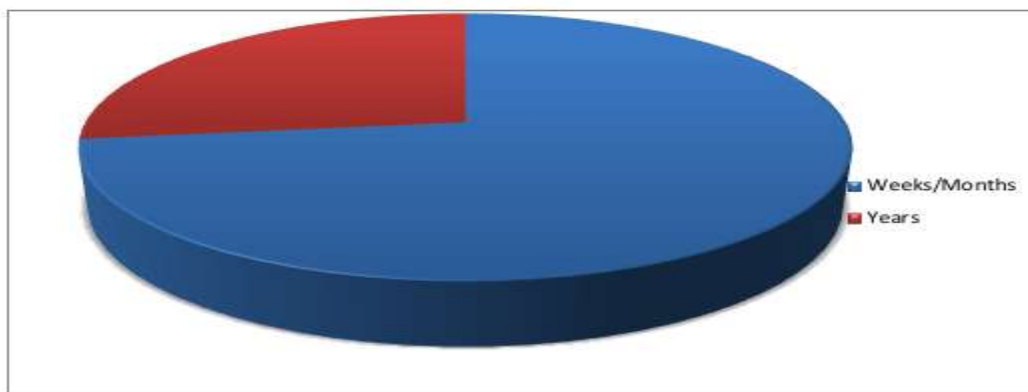
#### 4.4.5 How long did it take before compensation was received in full?

Figure 4.4 below shows that no claimant was paid compensation immediately while 24 (72.7%) waited for weeks / months to be paid, 9

representing 27.3% waited for years to be compensated and despite this they are yet to be paid in full.

This presents the compulsory acquisition process as an unfair one.

**Figure 4.4 : Respondents’ opinion on length of time taken for compensation to be paid in full**



#### 4.4.6 Did the compensation paid to you put you back to the state you were before compulsory acquisition ?

Table 4.7 shows that 26 (78.8%) of the respondents did not receive adequate compensation as the compensation paid to them did not put them in the state they were before the acquisition while 7

of the respondents representing 21.2% said they were adequately compensated

**Table 4.7 Respondents’ opinion on adequacy of compensation.**

S/N	REESPONSE	RESPONDENTS	PERCENTAGE(%)
1	YES	7	78.8
2	NO	26	21.2
<b>TOTAL</b>		<b>33</b>	<b>100</b>

**4.4.7 How satisfied are you about the compensation paid to you?**

From table 4.8 shows that majority of the respondents’ representing 78.8% said they were not in any way satisfied with the compensation paid to them while 7 (21.2%) said they were.

**Table 4.8: Respondents’ level of Satisfaction on Compensation paid**

S/N	RESPONSE	FREQUENCY	PERCENTAGE (%)
1	Very Satisfied	-	-
2	Just Satisfied	7	21.2
3	Undecided	-	-
4	Not satisfied	26	78.8
5	Total	33	100

**4.4.8 Was there any development on the land before acquisition?**

Table 4.9 shows that twenty-six (26) representing the larger percentage of 78.8% has one kind of development or the other on the acquired piece of land while 7 (21.2%) had no development on it.

**Table 4.9: Respondents’ opinion on presence of existing development on acquired land**

S/N	RESPONSE	Frequency	Percentage (%)
1	Yes	26	78.8
2	No	7	21.2
	Total	33	100

Furthermore, it was discovered that those who didn’t have existing development on land were not compensated for bare land.

**4.4.9 Was Any Interest Paid to you for Delayed Compensation?**

Table 4.10 shows that 33 (100%) of the respondents did not receive any interest for delayed compensation. This is in fact contrary to the Land Use Act.

**Table 4.10: Respondents’ opinion on payment of interest for delayed compensation.**

S/N	RESPONSE	FREQUENCY	PERCENTAGE (%)
1	YES	-	-
2	NO	33	100
<b>TOTAL</b>		<b>33</b>	<b>100</b>

**Test of Hypotheses**

**Hypothesis 1**

H<sub>0</sub>: There is no significant problem associated with the compulsory acquisition and compensation for flowline Right of way in Udu L.G.A, Delta State.

**Level of significance :0.05**

**Decision Rule:** Reject null hypothesis Ho if the P value is less than the level of significance. Accept the null hypothesis if otherwise.

### Test Statistics

	There is no significant problem associated with the compulsory acquisition and compensation for flowline Right of Way in Udu L.G.A. Delta State.
Chi-square Of Asymp. Sig	105.520 <sup>a</sup> 3 .000

a.o cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 25.0

Conclusions based on decision rule.

Since the P-value = 0.000 is less than the level of significance (0.05), we reject the null hypothesis and conclude that there is a significant problem associated with compulsory acquisition and compensation for flowline Right Of Way in Udu L.G.A., Delta State

## V. SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

### 5.1 Summary of Findings

It was discovered in this study that even though all claimants were aware of the compulsory acquisition exercise, not all were aware through a definite means of communication. Also, it was discovered that there was delay in payment of compensation and no interest was paid for the delay in payment of compensation as provided by the law. It should be noticed that the claimants due to ignorance of the law did not make any claim as regard interest for delayed payment.

### 5.2 Conclusion

Land acquisition for public interest and fair and adequacy of compensation for land taken has generated a lot of controversy both among the general public as well as the members of the landed profession, however, efforts to resolve these problems through literature and various organized seminars and workshop involving the landed professionals has not yielded any fruitful results. The Federal Government is hereby advised to set in motion machinery to review these provision of the Land Use Act especially in respect of land acquisition and compensation as a first step to solving these problems. The recommendation made herewith in this research work if strictly adopted and enforced will equally go a long way in solving these problems. It will also serve as a guide to future land acquisition and compensation in the country.

### 5.3 Recommendations

The following policy measures if adopted and properly implemented will offer a far reaching solution to the problems of land acquisition. The propositions are as follows:

1. The provision of the Land Use Act on land acquisition should be reviewed as the basis of compensation prescribed by the Act is awfully unfair both in practice and in equity.
2. To ensure adequate and fair compensation to an expropriated land owner, compensation for bare site, goodwill and other disturbances should be enshrined in the Land Use Act.
3. To ensure that the good intention of the government or the acquiring authority is not defeated, claimants should be compensated as at when due.
4. It should be made mandatory for acquisition authorities to pay interest for delay in payment of compensation as provided for in sec. 29(4) and (6) of the Land Use Act. This should be paid at the prevailing bank rate, and this fraction of the compensation should be made known to the land owners as interest for delayed payment.
5. Finally, to facilitate the review or amendment of the Land Use Act, the Act should be expunged from the constitution of the Federal Republic of Nigeria and made to operate like any other law of the land.

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