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## EFFECTIVE LAND MANAGEMENT AS AN INDISPENSABLE TOOL FOR IMPROVED REVENUE GENERATION IN ENUGU STATE

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### **Abstract**

*The collapse of the global oil prices has compelled the various States and Local Governments of Nigeria to seek alternative sources of revenue to augment the dwindling revenue allocations from the Federal Government. Land has been identified as the alternative source of revenue. Such revenue will come as direct income or tax revenue. The land-based taxes include among others tenement rates, land use charge, capital gain tax (CGT), ground rent, probate taxes, severance taxes, development levy and other planning charges. To harness land-based revenue, such data as location, size, value, ownership, tenure, and other attributes of every parcel of land must be readily available; unfortunately, data on most parcels of land in Enugu State have not been recorded. Land administration aided by cadastral surveys and land registration is essential for Enugu State to take full advantage of the revenue potentials of its 7,161 km<sup>2</sup> of land. Cadastral surveys are expensive and may not be immediately affordable by the State. As an interim measure, the State should attract skilled valuers into their Lands Department to make the best of the limited data in the implementation of the proposed land use charge law. A suitable administrative structure for the land use charge valuation survey of the State has been recommended. This will help Enugu State to successfully implement the land use charge law, improve the State's revenue while awaiting the execution of a State-wide cadastral survey for a modernised land administration system which will yield an even bigger revenue for the State.*

**Key Words:** Land Management, Revenue Generation, Tool, Enugu State.

### **Introduction**

The drop in Nigeria's oil revenue as a result of the global collapse of crude oil prices, compounded at home by the massive expenditure on the Niger Delta militancy and Boko Haram insurgency, has led to a drastic fall in the revenue available to the Nigerian Government. As a result, the Federal revenue allocations to States and Local Government Councils plummeted. Many States and Local Governments are no longer able to pay salaries and pensions or embark on capital projects and meet other essential obligations. To cope, States and Local Governments must find alternative sources of revenue to augment

the revenue they receive from the Federal Government. Land is a source of wealth which the western world has continually exploited to meet much of their infrastructure development needs. Land or land rights are typically the single biggest asset for both the government and the individual person (Urban-Karr, 2016). The Nigerian governments must therefore turn to land for salvation. To unlock the wealth in land for the benefit of the government and the population, this essential resource must be administered appropriately to yield the desired result. Fortunately, Enugu state is endowed with 7,161 square kilometres of this essential resource. Therefore the key to overcome the economic challenges is here. The aim of this paper is to explain the role of land administration and management in assisting revenue generation in Enugu State.

### **Land as A Source of Wealth**

Land is the most important resource for human development. Land has been defined as the earth's surface, both land and water; and anything that is attached to it whether by the course of nature or human hands; all natural resources in their original state, e.g mineral deposits, wild life, timber, fish, water, soil, etc.(Appraisal Institute, 2001). Land is both a physical commodity and an abstract concept in that the rights to own or use it are as much a part of the land as the objects rooted in its soil (UN Economic Commission for Europe, 1996). These rights can come in form of freehold, leasehold, easements, etc. which are represented in the various instruments that confer such rights and privileges. Land is tangible, immobile, heterogeneous, durable and inelastic in supply. The characteristics of land predispose it to providing opportunities for wealth creation and exploitation. They also render it suitable for taxation, since land is tangible and immobile and cannot be hidden from the tax authorities. Returns from land-based activities can also be taxed to generate government revenue.

Access to land and other natural resources has also been recognised as an important basis for the livelihood of the poor people all round the world (Sida, 2008). Unfortunately, majority of the land in Nigeria have no registered titles. In fact, only about 3% of the land in Nigeria is covered by title deeds (Atilola, 2010) and most of this lie in the urban areas.

It is this low level of land titling that accounts for the high level of poverty in the land as it is not possible to harness the (financial) potentials in land without title deeds (Atilola, 2010). Such lands which have no title deeds constitute "dead capital" as they do not possess titles which can be used to raise capital from banks and other financial institutions. Dr. Hernando De Soto in his globally-acclaimed thesis, "The Mystery of Capital: Why Capitalism Triumphs in the West and Failed Everywhere Else" stated categorically that the poor in the developing world are poor because the assets they have, land, cannot be used to secure investment capital because of the lack of titles, unlike their counterparts in the developed world who have bankable titles as a result of the existence of definable procedures for titling every inch of real estate in their jurisdiction (Nigeria Best Forum, 2009).

According to Griffith-Charles (2004) as cited by Thontteh and Omirin (2015), land titling is the initial process of formally recognizing rights to land while land registration is the process of initially recording legally valid rights to land. He asserted further that title registration carries the additional guarantee not only of those rights being valid but also of the transactions regarding those rights being legally recognized by virtue of the recording process. Moreover, subsequent transactions in land must be recorded in the registration system at the time of transaction to be legally valid or to have legal priority over unregistered transactions. The more accessible land and landed property assets become and the greater the possibility of their use as collateral for mortgage purposes, the more likely they are to contribute to the economic growth process and the alleviation of poverty (DFID, 2010).

Without secure land rights there can be no sustainable development, for there will be little willingness to make long-term investments. This brings to the fore the importance of land administration which has its base on land registration. The Government should therefore endeavour to help in converting land to capital and means of empowerment through land registration under effective land administration and management.

#### **What is Land Administration?**

Land administration is the process of regulating land and property development and the use and conservation of the land, the gathering of revenues from the land through sales, leasing and taxation, and the resolving of conflicts concerning the ownership and use of the land (Dale and McLaughlin, 1999, as cited by Atilola, 2010). It is the process of determining, recording and disseminating

information about the ownership, value and use of land when implementing land management policies (Sevatdal, 2002). Land management on the other hand is the process whereby aided by good information land resources are put to good and appropriate use having due regard to sustainable development. As observed by UN Economic Commission for Europe (1996), a good land administration system will guarantee ownership and security of tenure, support land and property taxation, provide security for credit, develop and monitor land markets, protect State lands, reduce land disputes, facilitate land reform, improve urban planning and infrastructure development, support environmental management, and produce statistical data. In order to achieve the foregoing, there is need for adequate information on every plot of land. The information includes location and size of land, types and ownership of interests in the land, value of the land, development status of the land, and any judicial decisions or other matters affecting the land. Consequent on the functions above, land administration is concerned with land tenure, land value, land use and land development. Land management operates through a system of juridical, regulatory, fiscal, and information management functions. The efficient and effective administration of land and its associated resources depends upon the availability of good land information (Dale and McLaren, n.d.). Each attribute of land needs to be carefully managed to ensure the sustainable use of land. To achieve this there must be good land records: of ownership to ensure security of tenure; of value to ensure fairness in land and property taxation and equity in the compulsory acquisition of land for State purposes; and of the use of land to ensure efficient resource management. Therefore land administration should begin with land registration to ensure that land administrators and managers are provided with adequate information on the land to aid decision-making.

#### **Land Registration And Land Titling**

According to Griffith-Charles (2004) as cited by Thontteh and Omirin (2015), land titling is the initial process of formally recognizing rights to land while land registration is the process of initially recording legally valid rights to land. Thontteh and Omirin (2015) continued that Griffith-Charles further asserted that title registration carries the additional guarantee not only of those rights being valid but also of the transactions regarding those rights being legally recognized by virtue of the recording process. Moreover, subsequent transactions in land must be recorded in the registration system at the time of transaction to be legally valid or to have legal priority

over unregistered transactions. Dale and McLaren (n.d.) defined land registration as the process of recording, and in some countries guaranteeing, information about the ownership of land either through the storage of contract documents about the land (deeds registration) or by compiling special inventories of land ownership (title registration). Land registration is generally the function of government. In many countries it is operated as a national centralized system. In Nigeria individual States run autonomous land registries.

#### Systems of Land Registration

The three systems for recording rights in land are: (a) private conveyancing; (b) the registration of deeds; and (c) the registration of title.

In private conveyancing, documents agreeing to the transfer of ownership are passed between seller and purchaser. The State merely provides a legal framework within which this process takes place. Private conveyancing is generally regarded as inefficient and potentially dangerous since it can be subject to fraud as there is no easy proof that the vendor is the true owner (UNECE, 1996).

Deeds registration is a system of proof of property ownership and interests based on the registration of transfer and other deeds. In the registration of deeds, a copy of the transfer document is deposited in a deeds registry. An appropriate entry is then made into the register of the time, date, parties and transaction, as may be required by the particular jurisdiction. The deeds registration system is limited in that it does not provide a guarantee of title (FAO Corporate Document Repository, 2003). The act of deed registration does not perfect the title; it does, however, provide a system of notice of interests against the land. All that the registration provides is access into the chain of transactions that can be used to prove title. The validity of the contents of the documents is entirely the responsibility of the depositor, not the Government.

The deeds registration system has the obvious disadvantage that no inquiry was made into the authenticity of the deed either as to form or as to content; it is left to the prospective purchaser of land to investigate all deeds in the chain of title before concluding his purchase (An Encyclopaedia of New Zealand, 1966). The Government cannot be held responsible for any losses that are suffered as a result of misrepresentation, misinformation or outright fraud contained in the deposited deeds. A further shortcoming of the deeds registration especially in the analogue system, is that it leads to the storage of vast

quantities of ancient documents, which would have to be searched to establish root of title. How far a search would go to establish good title is dependent on the country. In Hong Kong, the vendor is generally only required to prove his title up to 15 years prior to the date of the sale and purchase while it is 20 years in Ireland (Wikipedia, 2009a).

An alternative to deeds registration is the registration of title to land. Under this system, each land parcel is identified on a map while the rights and name of the landowner are recorded in the register. Under this system the ownership of land can be guaranteed. To establish ownership, all you need to do is to search the title register to find out who has been registered as the current owner of the property. Anyone who is dispossessed of land through the functioning of the registers will be compensated even if the mistake was not made by the registry but rather was a case of fraud (UNECE, 1996). The advantages of title registration are so much that most developed countries have moved from deeds registration to title registration. Hong Kong, one of the very last places in the common law world to still maintain a deed registration system, finally passed the Lands Title Ordinance in 2004, which would see Hong Kong shift to the Torrens title system; the law will be gradually implemented over a period of 12 years (Wikipedia, 2009a). In India, the city of Delhi as at 2008 had concluded arrangements "to curb property disputes" (*indian express.com*, 2008). Reporting on the new system, *indian express.com* quoted a government official as follows: "Under the new system, the government will be the guarantor for the owner. In case of fraud or incorrect information, the government will be liable to pay compensation to those who have been defrauded."

The most common system of title registration is the Torrens title which was introduced in South Australia in 1858 by the then Premier of South Australia, Sir Robert Torrens. Torrens title is a system of land title where a register of land holdings maintained by the state guarantees an indefeasible title to those included in the register (Wikipedia, 2009b). "The system was formulated to combat the problems of uncertainty, complexity and cost associated with the old system (deeds registration system), which depended on proof of an unbroken chain of title back to a good root of title" (Wikipedia, 2009b).

The old analogue paper-based registration systems that were still prevalent in most parts of the developing world were fraught with problems. The problems included slow and tedious official processes, continual frustration of workers

attempting to locate paper files, data loss due to poor filing or damage by the weather, long delays in obtaining or transmitting information, very poor service, and rampant corruption (Arnot and Meadows, 2006). Modern registration systems today are computerized. They are efficient and time-saving. The Lagos Land Registry uses the Electronic Document Management System (EDMS) software for organizing and storing the different kinds of documents. The system involved the digitization and the storage of all data electronically to facilitate the setting up of an on-line document search and retrieval system. EDMS stores digital documents, although paper documents can be digitized by scanning and stored accordingly. These modern systems have facilities which enable them to create, capture, index, distribute, review, maintain, store, retrieve and dispose of information assets (Thontteh and Omirin, 2015). Some systems generate barcodes for labeling and identification of printed hard copies of documents. Major components of EDMS include imaging, document management and workflow processing. EDMS is often primarily used for archiving. In order to provide good classification for digital documents, many electronic document management systems rely on a detailed process for document storage, including certain elements called metadata. The metadata around a document will facilitate the finding of information with ease, whether by chronology, topic, keywords or other electronic "cataloguing" strategies.

The system proposed last year for the Ministry of Lands Enugu is the Land Information management solution (LIMS). As revealed by the Enugu State Government in November 2015, the Digital Dreams Limited would be engaged "for the upgrade of the state land administration" which would help to improve revenue generation. According to Digital Dreams Limited (2016), the company has successfully deployed at the Enugu State Ministry of Lands the Land Information Management Solution (LIMS), "a browser-based software solution for the management of land information, automation of land registration and printing of computerized Certificate of Occupancy". Property search, digitization of survey plan, document management and land allocation would be facilitated by LIMS. Another feature of LIMS is that it tracks all fees payable by property owners and produces the revenue account accordingly.

#### **Title Registration and the Need for Cadastral Surveys**

Ownership of land is based on land units, parcels or plots of land. A cadastre is a complete and up-to-date

official register or inventory of land parcels in any state or jurisdiction containing information about parcels regarding ownership, valuation, location, area, land use and usually buildings or structures thereon (Williamson, 1994). It is basically a land register containing information on each of the component parcels of land in a given area or jurisdiction. The cadastral records consist of map and text; the map shows the spatial relationships while the text describes the contents and interests in each parcel of land. Three categories of cadastre are commonly recognized: the juridical cadastre which serves as a legally recognized record of land tenure; the fiscal cadastre developed primarily for property valuation/taxation purposes; and the multipurpose cadastre which encompasses both the juridical and the fiscal with the addition of other parcel-related information. Cadastral survey is a sine qua non for title registration because of the guarantees that go with the title registration system; you cannot guarantee what you do not know. The problem with cadastral surveys, however, is that they are expensive to execute and may not be affordable on a nationwide scale by many developing countries because of their poor economic standing.

The high cost notwithstanding, the Government must ultimately go for cadastral surveys since the certificate of occupancy issued under the Land Use Act, L5 LFN 2007, does not confer any title on the grantee. The Supreme Court in *S.O. Adole v. Boniface B. Gwar* (2008) 4 S.C.N.J.I confirmed as follows: "*A certificate of occupancy issued under the Land Use Act – not conclusive evidence of any interest or valid title to land in favour of the grantee – it is only a prima facie evidence of such right, title or interest and not more – it may be effectively challenged and rendered invalid*".

#### **Benefits of Land Registration**

- I. Security of ownership and tenure rights are greatly enhanced by land registration: As a consequence, land disputes are very significantly reduced.
- ii. More efficient land transfers: An efficient registration system makes transfers easier, faster, less expensive and more secure.
- iii. Security of credit: The registered title can be used as collateral for loans thereby enabling the release of needed funds for investment.
- iv. Public control of land markets and intervention: Registration makes the identification of landed property easier and enhances the ability to implement development control.
- v. Support for the land taxation system:

- vi. Identification of parcels and their owners and conditions will facilitate the collection of land-based taxes thereby increasing the revenues of the tax authorities.
- vii. Improved land use and management: The availability of information on specific parcels of land makes for improved land use planning and management.
- viii. Improved tax revenue: A comprehensive record of land and landownership will facilitate the efficiency of property tax collection thereby improving government revenue.
- ix. Registration of land in the names of both spouses strengthens women's right to land, and reportedly already having the effect of reducing divorce and polygamy as noticed in Ethiopia (IIED, 2006).
- x. A land registration system based on parcels could lead to a more advanced land information system. Improvement in available land information will help in the sustainable use and management of land resources.

**History of Land Registration in Nigeria**

Formal recording of rights, interests and obligations in land was introduced by the Colonial Administration which established a Land Registry in Lagos in 1863 (Federal Ministry of Works and Housing (n.d.). Ordinance No. 9 (Registration Ordinance of 1863) appointed three commissioners to inquire into the title under which all land within the Settlement of Lagos was held. The commissioners were later empowered to decide on issues of land ownership. In 1888, a General Registry Ordinance established a General Registry for land, marriages, births and deaths, etc. In 1900 Land Registry Proclamation No.16 came into force in Southern Nigeria. It was the first law to deal exclusively with instrument in lands and it also included wills, copy of judgements of Supreme Court, Judge's title, Judge's certificate to land sold in execution, affidavit or solemn declaration of ownership and any other writing affecting land in the Protectorate of Southern Nigeria (Fed. Min. Of Works & Housing, n.d.). In 1901, a similar law came into force in the Protectorate of Northern Nigeria. Following the unification of the Protectorates in 1914, the laws concerning the registration of land instruments were re-enacted into a single legislation namely, the Land Registration Ordinance No. 36 of 1924, which to date is the parent statute governing land registration in Nigeria. After the creation of States, the states re-enacted the Act with precisely the same provisions but slight variations in the titles, presumably to reflect their own

identities. Prior to the creation of States in 1967, there were the Federal Land Registry in Lagos and Regional Land Registries at Ibadan, Enugu, Kaduna and later Benin City. After the creation of Lagos State, the Federal Registry was transferred to the Lagos State Government; the Federal land instruments in different parts of the country were registered in the Lagos State Registry (or in the State where the property was located – optional). In 1992, the Federal Lands Registry (Miscellaneous Provisions) Decree No. 7 of 1992 re-established the Federal Land Registry to register exclusively the interests on land belonging to the Federal Government. Consequently, the registration of Federal land titles in the State Land Registries ceased in 1993.

In 2004/2005, the UK Department for International Development (DFID) conducted a study of the land registries at Abuja, Lagos, Enugu, Benue, Jigawa, Kano, Benue and a few others. The study revealed that with the exception of Abuja and Lagos State, the conditions at the registries were as follows:

- The physical infrastructure was both run-down and inappropriately configured.
- The level of basic office equipment was inappropriate for the tasks.
- The level of surveying sights was deficient.
- The level of staff training was inadequate for the demands of modern service provision.
- The registry had no vehicles to undertake site visits.
- The registration system was totally paper-based with all the attendant problems of physical decay and the possibilities for malpractice.
- The strong room was inappropriate both for security purposes and provides an inappropriate environment for paper storage.
- There was effectively no computerization of any tasks.
- There were deficiencies in the available maps of the State.

Following the DFID report, the Enugu registry was totally refurbished and computerized. A lot of improvement still needed to be done which is why Digital Dreams Ltd. has been engaged in 2016 to achieve higher efficiency. The land registries at Abuja and Lagos are the most modern and most advanced in Nigeria today.

In 2006, the National Technical Development Forum (NTDF) was established to formulate ideals for



uniform operations in land administration, establish a consistent data recording format as well as establish acceptable software standards among others (Nuhu, 2009). This provided an opportunity to harmonise the existing states' systems and formulate acceptable national standards and procedures. Unfortunately, the NTDF was abandoned after the change of Government in Nigeria. The operation of registries at the States and Abuja continued independent of each other. The Federal Land Information System (FELIS), Abuja Geographic Information System (AGIS), Lagos Geographic Information System (LAGIS), and the systems in the other states such as Enugu, Niger, Kwara, Benue, Kaduna, Plateau, Ondo and Cross River at various stages of development operate independently without interconnectivity, a result of policy inconsistency occasioned by the abandonment of the NTDF.

#### **Registrable Instruments in Nigeria**

The Land Registration Act 1924 defined registrable instrument as a document affecting land whereby one party called the grantor confers, transfers, limits, charges, or extinguishes in favour of another party called the grantee, any right or title to or interest in land and includes a certificate of purchase and a power of attorney under which any instrument may be executed but does not include a Will (Nuhu, 2009). A more recent law, the Property and Conveyancing Law 1958, in addition to the provisions in the 1924 Act included estate contract, deed of appointment or discharge of trustees containing expressly or impliedly a vesting declaration affecting any land. State grants and mortgages are registrable. A sales receipt or purchase receipt which is a mere acknowledgement of sales or payment and does not confer or transfer interest in land is not a registrable instrument. A will is expressly excluded.

#### **LAND ADMINISTRATION AND REVENUE GENERATION I:**

##### **Land And Property Taxation**

Effective land administration will ensure adequate land information to assist property taxation.

Property taxation involves those taxes payable by individuals or legal entities in respect of interests or estates in real property. Since real property is both a source of income and a form of wealth, it is subject to all the taxes levied on income and wealth generally (Harvey, 1981). Land or property taxation may be based on ownership, occupation, use, worth or value, depending on the socio-political, legal, and economic policies of the area (Ogbuefi, 2004). A land or property tax is usually levied on the value of property owned, usually real estate. The tax base can vary between net annual value and capital value. Property

taxes may be charged on a recurrent basis, or upon a certain event. Property rates are charged on recurrent basis. The two most common types of event-driven property taxes are stamp duty, charged upon change of ownership, and inheritance tax, which is imposed in many countries on the estates of the deceased (Wikipedia, 2007). Others include capital gains tax charged on net capital gain on disposal of property, withholding tax, VAT charged on property transactions, and various other charges related to the registration of land, mortgage security for loans, application for certificate of occupancy, and application for planning permission and other development permits.

There are other situations in which property tax is payable. These include where land occupied for residential and other purposes is transferred by virtue of inheritance, gift or sale.

Consequent on the above, the major taxes imposed in respect of landed properties include capital gains tax, capital transfer tax, income tax, value-added tax (VAT), tenement rate, land use charge, estate tax, inheritance tax, stamp duty, severance tax, withholding tax, road tax, ground rent, consent fee, development levy, sanitation levy, inspection fee, registration fee, charting fee, survey services fees, premium rent; planning charges (betterment and other charges), and severance taxes charged on depleting land resources such as petroleum and solid minerals. Severance taxes except in the case of laterite and granite quarries fall within the ambit of the taxes due to the Federal Government. Enugu State government has a high reserve of laterite and granite. Land administration will ensure that Enugu State makes a lot of revenue from property taxation.

#### **LAND ADMINISTRATION AND REVENUE GENERATION II:**

##### **The Land Use Charge Bill**

As observed earlier, taxation and revenue generation benefit from both land registration and land administration. Estate surveyors and valuers, land surveyors, engineers, lawyers, land economists, planners and developers have roles to play in land administration but these different roles which are clearly defined are profession-specific. Unfortunately, "governments at various levels behave as if issues relating to land can be handled and managed by anybody" (Ogbuefi J, Emesoba and Ogbuefi P, 2015). That is why land administration in Nigeria, particularly land taxation has not been restricted to core professionals, with dire consequences on revenue generation and attendant

equity issues for the tax system. Therefore, a lot of caution should be applied in the choice and quality of manpower that should drive the different aspects of the tax system. One of the activities that should benefit from improved land administration is the land use charge, a state-wide tax that would be “payable on all real property situate in the State” (Enugu State Land Use Charge Bill, 2016). A state-wide inventory of all real property in Enugu State containing such details as location, owner, type, size, development status, tenure, and value would be necessary. The absence of a cadastre of Enugu State would surely affect the ease and efficiency of such an exercise. Some precautionary measures will therefore be taken to mitigate the effect of the absence of a state-wide cadastre. The use of experienced assessors to carry out the exercise will provide the necessary remedy. Good enough, the Enugu State Land Use Charge Bill made sure that the valuation exercise will be handled by “qualified assessors”. The Bill clearly states that *“assessors’ means a person legally qualified and registered as a professional in Nigeria in the art and science of property valuation”*. This is consistent with the provisions of the Estate Surveyors and Valuers (Registration, Etc.) Act, Cap E 13 LFN 2007 which is emphasized in the Estate Surveying and Valuation Regulations, 2014, that *“Only a registered estate surveyor and valuer shall value and determine the value of property, chattel, plant and machinery, equipment and any other fixed asset and motor vehicle in Nigeria”*

(Federal Republic of Nigeria Official Gazette No. 66, Vol. 101 of 24<sup>th</sup> June, 2014).

The Commissioner for Lands and Urban Development can use the opportunity of the land use charge valuation survey offered by the Bill when it becomes Law to build up an interim property data base for Enugu State pending when a State-wide property registration exercise will be possible. A valuation project management structure with effective supervision and monitoring will be very beneficial. The project administrative structure should place an experienced valuer in charge of each local government area to ensure that standards are maintained by the assessors assigned to the particular Local Government Areas (LGAs). Consequently, there will be a Coordinating Valuer (CV) for each LGA who will report to a Senatorial District Coordinator (SDC) who in turn shall report to the Director of Lands (DL). Finally, the DL shall report to the Honourable Commissioner of Lands and Urban Planning. Ideally, the SDCs and CVs shall all be staff (and of course, estate surveyors and valuers) of the Ministry of Lands and Urban Planning. Where staff disposition cannot permit that, experienced consultant estate surveyors and valuers will be appointed CVs but as much as possible the SDCs shall be staff (Estate Surveyors and Valuers) of the Ministry of Lands and Urban Planning. The organogram for the above structure is presented in Figure 1 below.

<b>COMMISSIONER</b>		
<b>DIRECTOR OF LANDS</b>		
<b>COORDINATOR (ENUGU EAST SENATORIAL ZONE)</b>	<b>COORDINATOR (ENUGU WEST SENATORIAL ZONE)</b>	<b>COORDINATOR (ENUGU NORTH SENATORIAL ZONE)</b>
<b>6 Nos. Coordinating Valuers</b>	<b>5 Nos. Coordinating Valuers</b>	<b>6 Nos. Coordinating Valuers.</b>
Enugu East LGA Enugu North LGA Enugu South LGA Isi Uzo LGA Nkanu East LGA Nkanu West LGA	Aninri LGA Awgu LGA Ezeagu LGA Oji River LGA Udi LGA	Igbo Etiti LGA Igbo Eze North LGA Igbo Eze South LGA Nsukka LGA Udenu LGA Uzo Uwani LGA.

FIGURE 1. Management structure for the LUC Property Valuation Survey.

It is necessary to mention that the exclusion of ground rent from the land use charge in Enugu State may raise the question of multiple taxation which is held as one of the merits of the Land Use Charge regime in Nigeria. If this has something to do with exercising authority over the ownership of land, the Land Use Act is clear enough on the fact that all land in Nigeria belong to the Government. On another aspect of land and property tax which has bearing on the land use charge valuations, there is need to look at the options available for the determination of the taxable value of real property.

#### **Options for Determining the Taxable Value of Real Property**

The policy options for land and property tax (LPT) valuation vary from the market-driven approaches based on capital value on one end and non-market approaches based on purely physical property characteristics on the other (UNHABITAT, 2011). The appropriate choice of policy option will depend on two principal factors:

- i. The economic and social infrastructure supporting markets for real property.
- ii. The administrative infrastructure available to implement the tax.

Policy options based on capital value are more common and are dependent on the existence of an active property market and public availability of the relevant property market information. Necessary economic infrastructure to facilitate capital market value approach include the existence of banks and financial institutions to provide mortgages, availability of real estate professionals to facilitate the market process, estate valuers to provide valuation information to the market operators and an effective lands registry to record property instruments and transactions. Where the property market is weak or non-existent, the LPT policy option must be based on land and property attributes other than market value.

Consequent on the above, the major policy options for determining taxable value vary from capital value to area and location as follows:

#### **Capital Market Value Option**

The first alternative in determining the taxable value of property is through the use of the capital value. As observed earlier, the success of this approach depends on the availability of adequate property market information. The techniques involve the application of the three main valuation methods depending on the type of property concerned and amount and nature of available information, namely: comparable sales approach, cost approach and income approach, to determine the capital and taxable value of a given property.

#### **Annual Rental Value Option**

Another alternative is to use the annual rental value. Like the capital value option, the annual rental value option needs adequate property market information. This approach however relates better with the current use of the subject property and appears more equitable. Suppose for example a particular property is currently used for a residential purpose, but can be granted a change of use to commercial, the capital value approach would value the property for its commercial potential, since that is what a likely buyer would be planning. This will increase the tax burden on the tax payer. The annual rental value approach on the other hand, would value the property at its current rental value, based on the current residential usage of the occupier tax payer i.e. *rebus sic stantibus*. Tenement rating in Nigeria and non-domestic rating in England is based on the annual rental value approach to determine the rateable values of such property. Both capital market value and annual rental value approaches require a lot of expertise and are prone to a lot of objections and appeals in a democratic setting. "To minimise both the expertise required and the number of potential appeals, some countries" such as England and Scotland "have employed a less precise valuation concept known as banding" (UNHABITAT, 2011).

#### **Valuation Bands Option.**

This option has been in use in England since 1993 where it is called council tax. It is applicable to residential property only. (Commercial and industrial properties in the United Kingdom are still subject to property rates using the rateable values).

"Rather than estimate the actual market value of each residential property, all homes are placed in one of eight value clusters called bands based on a judgement of the approximate value of the home in 1991" (UNHABITAT, 2011). See Table 1 below. The value range of each band is based on the values of market sales evidence of comparable residential properties (referred as key properties) as at 1 April 1991 (Council Tax Manual, 1993)



Table 1: Valuation Bands Used in England

Valuation band	Range of values
Band A	Not exceeding £40,000
Band B	Exceeding £40,000 but not exceeding £52,000
Band C	Exceeding £52,000 but not exceeding £68,000
Band D	Exceeding £68,000 but not exceeding £88,000
Band E	Exceeding £88,000 but not exceeding £120,000
Band F	Exceeding £120,000 but not exceeding £160,000
Band G	Exceeding £160,000 but not exceeding £320,000
Band H	Exceeding £320,000

Source: Council Tax Manual (1993). UNHABITAT (2011).

All residential properties in the same value band within a given local municipality pay the same annual tax. The tax may be different in another municipality for the same band. One major advantage of valuation bands is that they require less information and less expertise to operate and consequently are less expensive to implement and maintain than the capital market value or annual rental value options. As a result of less precision in the valuation, there are less reasons or grounds to dispute the valuations thereby reducing the number of possible appeals. The available appeals most of the times hover around the properties near the boundaries between bands since the tax difference between one band and the next may be quite considerable (Onyike, 2016).

#### Cadastral or Formula Value

"This approach provides an intermediate step between systems based on physical property

attributes and those based on capital market value. The method uses property attributes in a mathematical formula to arrive at a taxable or cadastral value" UNHABITAT, 2011). *This is the method adopted in the Land Use Charge Bill of Enugu State (See Part II, Sect. 7 of the Bill)*. Same is the case in the Lagos State Land Use Charge Law 2001. The cadastral value approach involves gathering available property market information such as capital value per unit land or building floor area in a given jurisdiction, and property attributes such as the total land area, the floor area of buildings or flats within buildings, number of flats in a building and any other valuable improvements on the land. Estimates of average or typical market values are assigned to each unit of property attribute for valuation of properties within demarcated "fairly homogenous geographical zones". For illustration purposes, see Tables 2 and 3 below.

Table 2: An Example of Residential Land and Building Values.

Property Attribute	Average Value (Naira per square metre)		
	Zone 1	Zone 2	Zone 3
Land	2000	1800	1500
Buildings	8000	3000	5000

Table 3: Application of Estimated Values (from Table 4) To Individual Properties.

Location of property	Zone 1	Zone 2	Zone 3
Property Identifier	HA1	HA2	HA3
Property Description	5-Bedroom Detached House	One Flat in a block of 40 flats	4-Bedroom Bungalow
Land Area (m <sup>2</sup> )	700	7000	500
Building Floor Area (m <sup>2</sup> )	350	100	200
Cadastral Value (N)			
Land per Property	2000 x 700 = 1,400,000	1800 X 7000/40 = 315,000*	1500 x 500 = 750,000
Building	8000 x 350 = 2,800,000	3000 x 100 = 300,000	5000 x 200 = 1,000,000
Total Cadastral Value (N)	4,200,000	615,000	1,750,000

Table 2 shows the values/m<sup>2</sup> of the land and identified buildings (HA1, HA2, and HA3) in the three zones. These values are used to multiply the respective land areas and floor areas occupied by the individual buildings as shown in Table 3. The sum of the separate cadastral values of the respective component land and building gives the total cadastral value of each property. \*Note that in the case of the flat, the land value is divided by the number of dwelling units that share the land.

#### **Area and Location**

This method is perhaps the least demanding in terms of data and expertise. This approach involves defining the tax base in terms of the physical attributes of the property such as location and size. If it is land only, some combination of land area (m<sup>2</sup>), location and land use will define the base. If buildings are to be included, the building floor area will be included. The taxable value will be determined by multiplying the land area and/or floor area of the building by appropriate unit assessment rates. The main advantage of the area-based approach is that it can be used with minimal property information. There are some disadvantages. There are inherent inequities because the use of very limited data means that properties with very different market demand/value may be given the same assessment simply because they have similar size and located in the same zone of the town. Another disadvantage is that the assessment lacks revenue buoyancy: the assessment lags very much behind the pace of growth in property values since the physical attributes generally will not change along with the changes in property values; periodic reviews as necessary will help to reduce the impact of this shortcoming.

#### **Land Administration and Compulsory Acquisition and Compensation**

The Land Use Act, cap 202 LFN 1990, is the law that guides the management of land in Nigeria today. It nationalized all land in Nigeria and vested them in each state on the state governor. Except where the law recognized special provisions such as the oil pipelines act, etc. the government does not pay compensation for land. Rather it pays compensation for the unexhausted improvements on land. The people in Nigeria no longer talk of compulsory purchase but compulsory acquisition because the government would not be buying or paying for what is already hers. The process of acquisition would have been a lot easier and quicker if all occupiers of land in Nigeria had registered titles. Only very few people have certificates of occupancy (C of O) and the C of O based on the old surveys which did not have the

benefit of the modern global positioning systems (GPS) do pose some problems especially if the survey beacons are lost or vandalized. The Government must continue working until a time when a cadastral survey of all the land in Nigeria and Enugu State is done. The ownership and boundary problems that are regularly encountered during compulsory acquisition and compensation exercises will be reduced to a minimum if there is a cadastral coverage of the country and in this case, Enugu State.

The problem of the certificate of occupancy being paraded today as a title document has been mentioned above. Until a proper title is made possible through title registration, the problems of multiple claims on the same parcel of land which happens severally during compulsory acquisition in Nigeria will persist.

#### **Land Administration and Land Use Management**

The other aspect of land administration more specifically referred as land use management deals with the need to ensure that land is applied to appropriate uses. Land will not be put to conflicting uses or uses that impact negatively on the environment; otherwise there will be dire consequences on real estate investment and quality of the living environment. Development and other land use controls are put in place to protect man, his investments and the environment. Land use management systems are adopted to promote good land use husbandry. Conflicts between different land uses are resolved and negative externalities controlled. The interests of individuals are balanced against the public interest in the approval of land uses. There is certainty of land use which protects property values and creates investor confidence. Finally, sustainable development is promoted to protect the interest of the future generations. For land administration to be successful there is need for effective development control. With land administration promoting effective land use management, investment in real property will be enhanced resulting in an increase in taxable revenue, whether rental or capital values.

#### **Conclusion**

Effective land administration which will depend on the availability and good management of land records is a sine qua non for improved government revenue generation in Enugu State. Efforts should therefore be made towards improving the acquisition of land information by promoting state-wide land registration. The Government should be encouraged to continue on the path of developing land information acquisition infrastructure. The goal will be to achieve a full cadastral survey of the state because of its numerous benefits. There is also need

for adequate manpower not only to drive the project but also provide effective remedies to achieve the highest possible revenue under the existing circumstances, because the State will need the money to pursue the above recommendations as well as other necessary State projects and programmes. Finally, the Land Use Charge Bill of the State reflected a good understanding of the legitimate responsibilities of the estate surveyor and valuer in Nigeria; this will ensure that the revenue generation under the LUC law will be greatly enhanced,

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