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An Analysis of Revocation of Right of Occupancy for Unity and Pocket Layouts by Anambra State Government

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ABSTRACT: The study focused on the Analysis of Government Revocation of Rights of Occupancy for Layouts in Nkpor and Awka, Anambra State, Nigeria. Proper management of revocation of right of occupancy and compensation is key to a successful land acquisition. In Anambra State, some of the revocations made by the State government are marred with irregularities. Firstly, problems may arise where the initial purpose of the revocation of right of occupancy communicated to the landowners is not maintained. Secondly, the rightful owners not being officially notified that their lands were taken over by the government at the onset. Thirdly, delay in payment of compensation, or payment of what may seem not to be adequate compensation to the dispossessed landowners. These facts are evident on the land held by Anambra State government in Nkpor town since 1976 formally for Teaching Hospital and Government Reserved Area (GRA) as a grant from the community, later the right of occupancy revoked again for School of Health and Unity Layout, as well as the revocation of right of occupancy done in Umuoramma village, Awka for a housing estate as far back as 2001. The objectives are: to examine the provisions of the Land Use Act of 1978 on revocation of right of occupancy, and payment of compensation, to identify the roles of the relevant stakeholders for an effective dispensation of revocation of right of occupancy, and the payment of compensation, to examine the various problems inherent in the entire processes of revocation of right of occupancy and payment of compensation relating to the subject revocations under study. Works of other scholars on the subject were looked into. Data were obtained from questionnaires administered to the 153 affected landowners in the study area, out of the 250 affected members using Taro Yamani's formula, 50 registered private Estate Surveyors and Valuers, and those in the Ministry of Lands, Physical Planning and Rural Development. Reconnaissance survey and oral interview were employed. Data collected were statistically analyzed with the use of bar-charts, percentages and analysis of variance (ANOVA) to test the hypothesis. Finally, the findings and the conclusion were drawn.

KEYWORDS: revocation, right of occupancy, unity, pocket layouts, Anambra state government

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INTRODUCTION

Revocation of right of occupancy which was termed Compulsory acquisition before Land Use Act of 1978 refers to revocation of right of landed property by Government for overriding public interest through an order or notice served on the owners or the occupiers of such property. Sustainable development requires government to provide public facilities and infrastructure that ensure safety and security, health and welfare, social and economic enhancement, and protection and restoration of the natural environment (Otubu, 2014).

In order to achieve this, there is need for an appropriate acquisition. Governments are under increasing pressure to deliver public services in the face of an already high and growing demand for land. Hence, Government has Power to revoke land. The subject matter revocation of right of occupancy and compensation is a very complex issue. With the promulgation of the Land Use Decree (now Act) of 1978, it has become more controversial than ever before. People do not readily part with their land because of the importance they attach to its ownership. The main fact is that land is a factor of production/development, a real estate asset, etc.

However, the practice of compulsory acquisition or revocation of use right one has on property can be traced back to "1900" during the early colonial era when parcels of land were acquired to build quarters for European Colonial Masters. The act was called Land Proclamation Act of 1900. This was followed by the Public Lands Acquisition Act of 1917 in which the basis of the assessment of acquired land is the open market value of the land as at the date of the acquisition. So many other Decrees were promulgated but finally, the Land Use Decree, No. 6 of 1978 was promulgated by General Olusegun Obasanjo in March, 1978. Every land in the state in the federation were then vested on the Military Governor of the State to hold in trust and administered for the use; and common benefits of all Nigerian in accordance with the provisions of the Decree.

Indeed, several land tenure systems had been operated by various regions of Nigeria Prior to 1978. Two distinct tenural systems were however practiced in the Northern and Southern regions of the country. While in Northern Nigeria, Land was vested on the Governor or the Emir to hold same in trust for the common benefit of the people, in the Southern Region, land ownership devolved around families and clans who held freehold titles to such land.

The Land Use Decree (now Act) No. 6 of 1978 was promulgated into law on March 29, 1978. The law was revolutionary in essence, having been meant to reassert and preserve the rights of all Nigerians to the Land of Nigeria. Preamble of the decree captures its major objective as: "whereas it is in the public interest that the rights of all Nigerians to the land of Nigeria be asserted and persevered by law; and whereas it is also in the public interest that the rights of all Nigerians to use and enjoy land in Nigeria, and the natural fruits thereof in sufficient quantity to enable them provide for the sustenance of themselves and their families should be assured, protected and preserved".

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The whole essence of the law was to make land readily available to all Nigerians. To achieve this, section 1 of the Decree vested all land in the territory of each state on the (military) governor of the state. The decree created a statutory title to land known as the statutory right of occupancy and customary rights of occupancy to be granted by the Governor or the Local Government Chairman respectively. Either title is usually given to the holder as evidence of title. This work therefore, is an examination of government revocation of right of occupancy and the payment of compensation for properties so acquired in the subject areas of study under the operating land law which is referred to as Land Use Decree (No. 6) Now Act of 1978. It also examines and critically reviews the practice of Government Revocation of Right of Occupancy and compensation in Nigeria with a particular reference to the acquisition made by the Anambra State Government in Nkpor town for a Unity Layout and that of Umuoramma village, Awka, Awka South Local Government Area, Anambra State.

Statement of the Problem

The Land Use Act of 1978, states clearly the conditions that may warrant acquisition of land and the processes to take in order to ensure smooth exercise. The major problem is that in the exercise of these powers by the State Governments most often are not usually in line with the conditions spelt out in the law enabling them. For instance, the purpose of the acquisition is usually not very clear or not mentioned in the revocation notice. In some cases the initial purpose of the acquisition communicated to the landowners are not maintained. There are also problem of delayed payment of compensation.

These identified problems are eminent in the land acquired and re-acquired by the Anambra State Government in Nkpor town since 1976 and 2002 for Unity Layout, and that of Umuoramma land in Awka town since 2001. Till date, the land owning communities could not allow the state government and the allottees of land in the area actual full physical possession.

This study, however determines the state government compliance with relevant provisions of the Land Use Act of 1978 on revocation of right of occupancy and payment of compensation. The question is therefore, whether Anambra State government complied with the relevant provisions of the Land Use Act, 1978 for the acquisitions made in the study areas?

LITERATURE REVIEW

Land is seen by the Australian Real Property Act 1862, as the surface of the earth extending" to include misusages (a house or a dwelling house, tenements and hereditaments, corporeal and incorporeal of every kind and description), whatever may be the estate or interest therein, together with all parts, passages, ways, water courses, liberties, privileges, easements, plantations, gardens, mines, minerals and quarries and all trees, and timber thereon or thereunder lying and being, unless the same are especially expected.

Prior to 1978, two distinct tenural systems were practiced in the northern and Southern Regions of Nigeria. While in Northern Nigeria, land was vested on the Governor or the Emir to hold

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same in trust for the common benefit of the people; in the southern region, land ownership devolved around families and clans who held freehold titles to such land.

Compulsory Acquisition

According to Keith, (2008), Compulsory acquisition is the power of government to acquire private rights in land for a public purpose, without the willing consent of its owner or occupant. Yet despite being a core and necessary governmental power, compulsory acquisition must be for a purpose which is in the public interest. Such purposes have been defined through legislation and case law. For any acquisition, there must be an "acquisition notice" served on the owners/occupiers of the subject property of the acquisition under section 19 of 1978, Land Use Act.

Revocation of Rights of Occupancy:

Prior to the Land Use Act of 1978, the common practice known in law in Nigeria was compulsory acquisition of land, right of occupancy by virtue of Sections 5(1)(a) and 6(1)(a) of the Land Use Act, 1978 is classified into statutory and customary rights of occupancy respectively. The Land Use Act of 1978 simply transferred the ownership of land to the state, which is to hold the land in public interest, a certificate of occupancy also known as the C of O is issued by the state governments in Nigeria to landowners and property buyers as legitimate proof of ownership. A right of occupancy may be revoked by the Governor in accordance with the provisions of the land Use Act of 1978, and the law provides the circumstances under which the right of occupancy over land may be revoked as well as the procedure to be followed. A right of occupancy may be revoked for overriding public interest. Under Section 28 of the Land Use Act, 1978, the power of revocation of right of occupancy is provided for as follows:

- 1. It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest.
- 2. Overriding public interest in the case of Statutory right of occupancy means (a) The alienation by the occupier by assignment, mortgage, transfer of possession, sublease or otherwise of any right of occupancy of part thereof contrary to the provisions of this Act or of any regulations made thereunder (b). The requirement of the land by the government of the state or by a Local Government of the State, in either case for public purposes within the state or the requirement of land by the government of the Federation for public purposes of the federation, (c) The requirement of the Land for mining purposes or for oil pipelines or for any other purposes connected therewith.
- 3. Overriding public interest in the case of customary right of occupancy means: (a) the requirement of the land by the government of the State or by a local government in the state, in either case for public purposes within the State or the requirement of the land by the government of the Federation for public purpose of the federation. (b) The requirements of land for mining purposes or oil Pipelines or for any purposes connected therewith. (c) The requirement of land for extraction of building materials. (d) The alienation by the occupier by sale, assignment, mortgages,

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transfer of possession, sub-lease bequest or otherwise of the right of occupancy without the requisite consent or approval.

The revocation of right of occupancy must be communicated to the deemed holder of either statutory or customary rights of occupancy noting the purpose. The purpose must be for any of the stated public interest as highlighted in the law. It is also supposed to be pasted at the conspicuous or public places in the area of revocation such as in the Town halls, churches, markets, state or local government headquarter, etc. Revocation notices have to be affirmed in the court, gazetted, and published through a public media such as newspapers.

Compensation

Compensation Prima Facie means to recompense for loss. It is to place in the hands of the owner expropriated, the full money equivalent of the thing of which he has been deprived; and that when an owner is to receive compensation for being deprived, his pecuniary loss must be ascertained by determining the value of the property taken from him. (Umezuruike, 1988). The 1999 Constitution of the Federal Republic of Nigeria has it that a right to compensation in an instance is like a fundamental human right hence claimants must be put in positions which are not different from their state before the occurrence of the disasters; emphasis placed more on prompt payment of compensation rather than on fair and adequate compensation. The Nigerian constitution of 1999 reflected matters affecting fundamental human rights. Section 40(1) of the same Nigerian Constitution states; "No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by law; that among other things:-

- a. requires the prompt payment of compensation thereof; and
- b. gives any person claiming such compensation a right of access to the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.

From the foregoing, whatever is paid as compensation must be appropriate, fair, acceptable and adequate. In valuation principles, it means existing use value. The amount payable therefore should be a summation of three important items; the market value of the affected property, the calculated depreciation value of any remaining land caused by severance and injurious affection, and any claim for disturbance, loss of rent, accommodation works and damage during construction.

The basic principle of compensation should be that it should restore the individual to a state where he or she was neither better nor worse off at the end of the revocation. Compensation should therefore be based on fair market value of the value of the property to its owner. Compensation, determination requires sufficient valuation skills and the use of adequate techniques to yield fair and adequate amount payable (Wilfred and Anim, 2011).

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Basis of Payment of Compensation:

Section 50(1) of the Land Use Act of 1978 defined improvements thus: "Anything of any quality permanently attached to the land directly resulting from expenditure of capital or labor by an occupier or any person acting on his behalf, and includes buildings, plantations of long lived crops or trees, fencing wall, road and irrigation or reclamation works, but does not include the result of ordinary cultivation other than growing produce".

Developed land is also defined in the Act as "land where there exist, any physical improvement service, water, electricity, drainage, building, structure or such improvements that may enhance the value of the land for industrial, agricultural or residential purposes. Plantation of long lived crops or trees refers to large group of plants or trees under cultivation (Webster Ninth new collegiate Dietronary, 1984). Such trees and crops plantation may include rubber, cocoa, palm trees, cashew, etc. However, trees and crops in wild form are not in the group.

Other improvements for compensation are roads, irrigation, reclamation works, etc. They should be estimated on the basis of replacement cost as prescribed by the Act. In some cases, resettlement is used as an option to monetary compensation. Section 33(1) provides that: "where a right of occupancy to any developed land on which a residential building has been erected is revoked and the revoking authority makes an offer of resettlement which has been accepted, the right to compensation of the person accepting such an offer shall be deemed to have been duly satisfied and no further compensation shall be payable to such person".

In respect of crops and economic trees, Sec29(4)(iii) provides that "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'. Appropriate officer as defined by the Section 50(1) is the Chief Land Officer of a state or Director of Lands who are mostly Estate Surveyors and Valuers.

In another case, as provided in section 180-191 of the Act, if planning permission is refused, either by the local planning authority or is granted subject to conditions, then if the owner of the land claims that it is incapable of reasonably beneficial use, compulsory purchase by government becomes an option.

RESEARCH METHODOLOGY

Research Design

This study used a survey research design approach. The survey will be carried out with the use of structured questionnaires and interviews to source for data

The Population and Sample Frame: The target population and sample frame for this study comprise of 250 Land owning family members in the study area, 50 Staff of Ministry of Lands, Physical Planning and Rural Development, Anambra State, and 50 Registered Estate Surveyors and Valuers in Private Practice in Anambra State.

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Since the number of Estate Surveyors and Valuers in private practice and Staff of the Ministry of Lands, Physical Planning and Rural Development in Anambra State are both manageable, all of them were used as sample size for this study. However, the number of members of land owning family are relatively large, the Taro Yamani's formula was adopted in the estimation of the sample size as follows:

```
n = N
    1 + n(E)^2
                  Fig. 3.1
Where:
n =
      Sample size
N=
      Number of items in universe or population
       Square of maximum allowance for sampling error (assumed @ 5%)
e^2 =
1=
      Unity (a constant)
Hence:
n = 250
     1 + 250 (0.05)^2
=250
   1 + 0.63
= 250
    1.63
n = 153.37
Thus, the Sample size will be 153.
```

Sampling Technique:

Census method sampling technique was used in selecting the sample units of Staff of Ministry of Lands, Physical Planning and Rural Development, Anambra State and Registered Estate Surveyors and Valuation Firms in Anambra State because their sizes are manageable. In selecting the sample size for the land owning families in the area, Taro Yamani's formula was adopted.

To achieve this, questionnaire was administered to a representative of every affected family until the desired same size of 153 was achieved.

Method of Data Collection

Other data collection methods were employed, such as Reconnaissance survey, Library sources, Use of Questionnaires, Personal observations, and Personal interviews.

The instruments used in the collection of the data were adjudged valid because there were logical links between the research questions and the objectives of the study.

Study Area

Anambra State is one of the States in Nigeria. It was carved out from the then old Anambra State in August, 1991. The State is made up of twenty one local government areas. These local government areas are shared into three major senatorial districts namely Anambra North,

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Anambra Central and Anambra South. Nkpor is a town located inside Idemili North Local Government Area. Idemili North Local Government emerged from a unit formerly known as Idemili Local Government Area in 1997 by a split into two. The other one becomes Idemili South Local Government. It is part of Anambra Central Senatorial district.

Nkpor town is bounded in the western side by Onitsha, in the north by Oze Community, and Ogidi, in the east by Umuoji, and in the south by Obosi, and Oba, Nwosu C.A. (2012). It is made up of five villages namely Umusiome, Isingwu, Ububa, Amafor and Mgbachu villages. The main occupation of the forefathers were farming and hunting. According to population census of 2006, Nkpor Town has the population of about 103,733 persons.

On the other hand, Awka is a town situated within Awka South Local Government Area of Anambra State. It is also part of Anambra Central Senatorial District. Above all, it is the capital City of Anambra State. Awka is strategically located midway between two major cities in Northern Igboland; Onitsha and Enugu. The town has boundaries with Amawbia, Okpuno, Nibo, Isiagu and Ugwuoba. According to population census of 2006, Awka is made up of 301,657 population. The town is made up of two major sections namely Ifite sections as the senior comprising- AyomnaOkpara, Nkwelle, Amachalla, and Ifite-oka; then Ezinator section comprising of Amikwo, Ezi-oka, and Agulu. Each of these quarters has number of villages totaling 33 (thirty three). Thus:

- AyomnaOkpara quarters: Umuayom, Umunnoke, Umuoramma, and Umuokpu.
- Nkwelle quarters: Achallaoji, Umunamoke, Agbana, and Umudiaba.
- Amachalla quarters: Amachalla, Amudo, and Umuzuocha.
- Ifite-Oka quarters: Enu-Ifite, Ezinato-Ifite, and Agbana-Ifite.
- Amikwo quarters: Umudiana, Okperi, Igweogige, Isiagu, and Obunagu.
- Ezi-Oka quarters: Omuko, Umueri, Umuogwali, Umuogbunu 1, Umuogbunu 2, Umudioka, and Umukwa.
- Agulu quarters: Umuogbu, Umubele, Umuanaga, Umuike, Umujagwa, Umuenechi, and Umuoruka.

Anambra State government acquired some parcels of land belonging to Umuoramma village in 2001, and allocated to members of the public for housing estate but did not tidy up the process of the acquisition. Though the allotees have certificate of occupancy from the state government but were not allowed to possess the allotted land by the land owning community. The deemed original owners of the land re- entered the land and re-designed it as against the government design.

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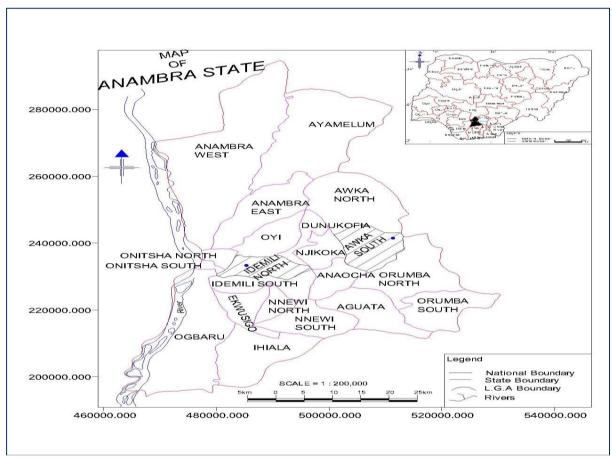


Fig 3.1: Map of Nigeria/Anambra State

Source: Surveying Department Nnamdi Azikiwe University, Awka

METHOD OF DATA ANALYSIS

For research questions 1-3, respondents' responses were scored. Any response indicating that government complied with any given provision was scored 1 while any response that indicating government noncompliance was scored 0. Therefore possible scores for questions 1 and 3 ranged between 0 and 8. All scores were converted to percentage score to determine appropriate decision rule. The decision for questions 1 and 3 are as follows:

Percentage mean score of 0 - 39 = Very low 40 - 49 = Low; 50 - 69 = moderate; 70 - 79 = High; and 80 - 100 = Very High.

For research questions 2, mean ratings below 2.50 were regarded as "disagree"; mean ratings from 2.50 and above were regarded "agree".

One sample t-test was used to test the hypotheses. Where a calculated *P*-value associated with a t-cal was less than the stipulated 0.05 level of significance, the null hypothesis was rejected, indicating that there was a significant difference between the obtained mean score and the comparison value. However, where a calculated *P*-value associated with a t-cal was greater

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than the stipulated 0.05 level of significance, the null hypothesis was not rejected, meaning that there was no significant difference between the obtained mean score and the comparison value.

DATA PRESENTATION AND ANALYSIS

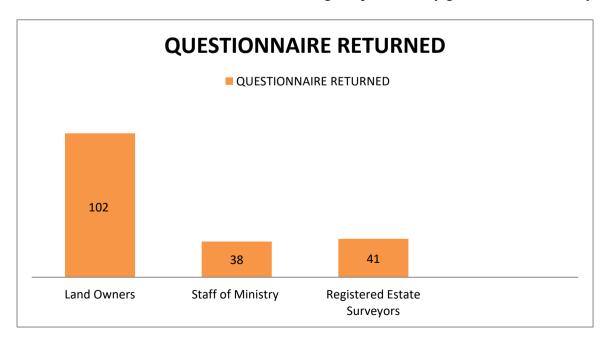
This Chapter is divided into two parts. The first part gives an insight into the nature of the data collected and the distribution of respondents while the second parts analyses the result of the study.

Data Presentation:

Table 4.1.1: Attributes and Distribution of Respondents

Questionnaire	Land owners	Percentage	Staff of Ministry	Percentage	Estate Surveyors &Valuers	Percentage
No. retrieved	102	66.7	38	76	41	82
No. not retrieved	51	33.3	12	24	9	18
Total	153	100	50	100	50	100

Table 4.1.1 indicate that out of 153 questionnaires administered to land owners, 102 (66.7%) were retrieved and 51 (33.3%) were not retrieved. Also, out of the 50 questionnaires administered on staff of Ministry of Lands, Physical Planning and Rural Development, Anambra State, 38 (76%) were retrieved and 12 (24%) were not retrieved. Furthermore, out of the 50 questionnaires administered on Registered Estate Surveyors and Valuation Firms in Anambra State, 41(82%) were retrieved while 9(18%) were not retrieved. The researcher believes that these numbers are reasonable enough to provide very good data for the study.



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Research Ouestion

Did Anambra State Government comply with the relevant provisions of the Land Use Act 1978 for the revocation of rights of occupancy made in the study area?

What is the level of compliance by Anambra State Government with the relevant provisions of the Land Use Act 1978 for the revocation of rights of occupancy made in the study area?

Table 4.1.2 Mean Score on Compliance with Relevant Provisions of Land Use Act of

1978 on Revocation of Right of Occupancy

	N	Min. Score	Max. Score	Mean	Remark
Compliance on relevant					Low
Provisions - percentage		12.50	75.00	46.21	compliance
scores					compilance
Valid N (listwise)	232				

Result displayed in table 4.1.2 shows that the minimum and maximum scores on the government compliance with relevant provisions of Land Use Act of 1978 on the revocation of rights of occupancy are 12.50 and 75.00 respectively. The mean score is 46.21. This suggests that the level of State Government's compliance with the relevant provisions of the Land Use Act of 1978 on the revocation of rights of occupancy is very low.

Hypothesis Testing

Anambra State government did not fully comply with the relevant sections of Land Use Act 1978 on the acquisition made in the affected communities

Did Anambra State Government complied with the relevant provisions of the Land Use Act 1978 for the revocation of rights of occupancy made in the study area?

Table 4.3.1 Summary of One-sample t-test for Compliance with Relevant Sections of Land Use Act of 1978 on Acquisition

	N	Mean	Std. Dev.	Test value	Mean Differen ce	df	T-test
Compliance on relevant Provisions - percentage		46.21	15.81	100	53.79	231	-27.65
scores Valid N (list wise)	232						

Table 4.3.1 shows that percentage mean score on compliance with relevant sections of the Land Use Act of 1978 on land acquisition was significantly lower than the comparison value of 100% at 0.05 level of significance. This shows that Anambra State Government did not fully comply with the relevant provisions of the Land Use Act of 1978 on acquisition.

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SUMMARY, CONCLUSION AND RECOMMENDATION

Summary of Findings

The presentation and analysis of responses from the land owners, the practicing Estate Surveyors and Valuers, and the Estate Surveyors and Valuers in the Ministry of Lands, Physical Planning and Rural Development who were asked to answer the key question on the

Compliance of Anambra State Government with the relevant provisions of the Land Use Act 1978 on the Revocation of Rights of occupancy made in the study area is as follows:

The result in table 4.1.2 shows that the minimum and maximum scores on the government compliance with the relevant provisions of Land Use Act of 1978 on the revocation of rights of occupancy are 12.50 and 75.00 respectively with the mean score 46.21. However, this suggests that the level of State Government's compliance with the relevant provisions of the Land Use Act of 1978 on the revocation of right of occupancy is very low.

CONCLUSION

There were so many reasons why revocation of right of occupancy and the payment of compensation claim are faced with challenges especially on that of the study areas. The study revealed that some of the relevant provisions of the Land Use Act, 1978 on the revocation of right of occupancy were not complied with by the government agency charged with the responsibility of handling the assignment on revocation of right of occupancy. They failed to carry the actual land owners along by serving them Exclusive notice of revocation of right of occupancy. Moreover their payment of compensation was delayed for so long, and so on.

Recommendation:

Based on the result of this research work and its conclusion, the following recommendations are hereby suggested. Government agency charged with revocation of right of occupancy and payment of compensation should adhere strictly to the relevant sections of the Land Use Act 1978 in administering its duty. This will help to avert any loophole which will in turn make the landowners see reason for their non-compliance and surrendering in full the acquired lands.

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