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The Lagos Journal of Environmental Studies

The Lagos Journal of Environmental Studies is an academic journal published twice a year by the Faculty of Environmental Sciences, University of Lagos.

This fourth volume features a variety of articles drawn from the different fields concerned with the built environment.

Acknowledgement

This fourth volume of the LJES is the product of the University's continued commitment to academic advancement and excellence. We are therefore grateful for the support of the University Publications Committee, the tireless efforts of our assessors, and the encouraging enthusiasm of both the authors and members of the Editorial Board.

THE LAGOS JOURNAL OF ENVIRONMENTAL STUDIES

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1. The article may be theoretical in its contributions to knowledge. Book review, Comments and notes on articles previously published in IJES are welcome but they must not exceed 1000 words.
2. Three (3) clear copies must be submitted together with an abstract of not more than 200 words.
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Adams, A. M. (1989) *Managing The Urban Environment In Developing Countries*, Lagos: Macdonald.

Black, J.U. (1992) "Making Cities More Viable", *Shelter International*, 12, pp 55 – 70.

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Land Use Charge Law 2001 of Lagos State: An Overview and Need for Property Tax Reform in Nigeria

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Abstract

Property tax is a veritable source of urban finance when properly administered. Poor administration can impose a burden on payers and lead to distortion in property market. The paper traced the history of property tax in Nigeria, and its colossal failure. Though there are well-defined regulations yet tax avoidance is high making it a very weak source of government revenue for urban management. Land Use Charge Edict of 2000 was promulgated to re-engineer the existing system but done in the most unprofessional and haphazard manner that made it the second most controversial law after the Land Use Decree of 1978.The paper assessed the various provisions and the effect on business, mortgage, investment and the common people. The paper posited that the edict is a pointer to urgent need for property tax reform in Nigeria.

Introduction

The word property has different meanings to different individuals or groups of individuals. To the layman, property means "Some physical things that he thinks of as his own possession and are owned by him, such as Car, Television, Furniture, Electrical equipment etc. On the other hand, a lawyer thinks of property not only as a thing such as mentioned above but also the legal interest in such a thing. "It is the aggregate bundle of rights and privileges among people and between a person and his government in relation to a thing". Also included in this legal concept of property are intangible things such as bonds, stocks, patents etc. The legal concept of property thinks of it in two ways viz.: Real Property, and Personal property. Real property, also known as Realty, refers to such property as land or any other things that is permanently attached to the land such as a house, tree etc.

Property tax in simple terms is a method by which residents of a particular area contribute money to share the cost of providing services to themselves. Property taxation plays a major role in financing local government throughout the world (McCluskey, 1991; Youngman and Malme, 1994; Kelly, 1995; IMF, 1996 and OECD, 1997).

Although comparative data is scarce, property taxes account for between 40-80 percent of local government finance, 2-4 percent of total government taxes, and about 0.5-3.0 percent of GDP. In contrast to developed countries, developing countries tend to generate significantly less property tax revenue – typically generating a maximum of 40 percent of local government revenue, 2 percent of total government revenue and about 0.5 percent of GDP. According to Mou (1995) and Dillinger (1992) property tax is one of the most lucrative, yet least tapped sources of revenue to support urban government in Africa. However, local authorities provide very minimal services to the residents, yet they continue to charge taxes. It would seem that (taxpayers) are quite prepared to make a contribution and pay when the works are completed and services are delivered. The reason for low yields in property tax systems are varied, and method for overcoming them would require the co-ordinated efforts of different institutions and stake holders, including central and local government

Compared to other developing countries, Local government in Nigeria appears to be underutilising its property tax capacity. Rates (property taxes) provide an average of 22 percent of the total recurrent revenues for local authorities and represent 1.3 percent of total government tax revenue and 0.3 percent of GDP (Dillinger 1992).

In several cases in Nigeria, especially in Lagos, central government has been slow or reticent in devolving to local government authority over property tax: Rates, tax basely, and the system of valuation are centrally controlled. Furthermore, to the extent that central government does not benefit from property tax collection it also lacks incentive to improvė policy legislation. In cases where authority over the property tax is in the hands of local government, improvements and innovation do not take place. There are several administrative and procedural obstacles, including the absence or poor condition of existing systems for recording and valuing property. Other problems related to administration are the difficulties of assigning tax liabilities, valuation, collection and enforcement of tax obligation.

With no conscious efforts at removing these constraints, Lagos State in a desperate bid to increase revenue, compounded the property tax problem by introducing Land Use Charge (LUC) in June 2001. This has generated a lot of controversy, which forced the government to reduce the rate. The principle and operation of LUC remained the same and is unsatisfactory to taxpayers. This brings to focus the need for critical evaluation of property tax administration in Lagos and it call for urgent reformation.

The Historical Background of Lagos State

Lagos State was created in 1967. The state is on the Southwest part of Nigeria with an area coverage of 335,000 hectares (3,350 sq. km). It is one of the smallest of the 36 states in Nigeria. The state is current population is put at about 12 million. The population of metropolitan Lagos, the largest urban centre, in the state is put at 16 million by 2015. This will make metropolitan Lagos the third largest city in the world.

While the national average population density is about 118 person per square kilometre, Lagos State has an averag population density of about 1308 persons per square kilometre (eleven times more than the national average). The largest density of 20,000 persons/square kilometre occur in the oldest core of metropolitan Lagos (Omirin 1990). There are 20 Local Government Councils in Lagos State. There is no doubt that the entire state is under the strong influence of the Lagos metropolis. The population characteristics in the state are heterogeneous with most parts of the nation represented. There are several stratifications that have spatial consequences.

This increase in size of the population of Lagos metropolis can be traced to its role as the major seaport and the Federal and State capital, as well as commercial nerve centre of Nigeria. Despite the relocation of the Nigerian Federal capital to Abuja, Lagos still strongly remains the commercial capital of Nigeria. It harbours almost all the headquarters of the multinational companies in the country. The development of infrastructural facilities played major roles in its development. This includes the construction in 1895 of a railway linking Lagos to the sources of raw materials in the hinterland. The development of the Lagos harbour between 1908 and 1917, which provided employment opportunities in goods handling and related activities; and the construction of the Carter Bridge in 1900 to link the island with the mainland. In addition, the introduction of social amenities – Banks, schools, hospitals, electricity, pipe borne water, the transportation to a modern architectural outlook together with the relative glamour of city life brought more influxes. By the time Nigeria gained independence in 1960, the city had expanded to approximately 70 square kilometres having engulfed the nearest villages existing on the mainland. In 1976, the metropolitan area covered 17,228 hectares and houses 3,300,00 people giving an overall population density of nearly 200 people per hectare of developed land. Today metropolitan Lagos has distinct land uses: Resident, Commercial, Industrial, Agriculture etc. By 1963, Lagos had taken over from Ibadan as Nigeria's most populous city and was growing at a rate four times that of the entire country.

The velocity of growth was so rapid that Lagos was classified as the second world fastest growing city. By the United Nations population projection Lagos will be the third most populated city by the year 2015 with population size of about 25 million. There is no doubt that this growth has it attendant problem of how to meet the ever-increasing demand for infrastructural services and facilities. According to Kuye (1999), with the introduction of monetary economy and rapid urbanization aided by the imposition of Western civilization, the traditional methods of maintaining public services become unsuitable to meet the demands of present day sophistication. The traditional methods of collecting rate were best suited only to the then community not only because life was basically simple but also agrarian when public developments were effected through communal efforts organized on age group system. In those days, (Tenement Rate) constituted almost 100% of the Revenue of the Local Government Councils. Though things have since changed, the proportion that tenement rate has taken is still relatively large, it remains the best form of local taxation, forming the "fundamental source of funds for Local, Federal and State Governments because of its intrinsic simplicity, its ease and economy of levy and collection and its ready yield.

Local Property Tax

It is against the overall objectives of local government that local property taxes have to be examined. If it is judged that in providing certain services local government, as opposed to mere local administration, has advantages, then local people must be allowed to make their own decisions as to the type of services they prefer and be responsible for raising the necessary revenue. In this respect, taxes on property have many advantages.

First, they promote **local autonomy** and **accountability**. By being reserved to local authorities, property taxes afford a degree of financial independence from the central government. Moreover, by being raised on a local basis with the rate determined annually, they make local authorities responsible to local people. However, such accountability is limited in that only residential property is directly linked to the electoral process: no local voting powers are enjoyed by commercial and industrial property, though political influence may be exercised through pressure groups, such as the local Chamber of Commerce.

Second, local property taxes are **generally accepted**. Having been levied for nearly 400 years, they conform to the view that an old tax is no tax. Moreover in form they are simple, easily understood and appear equitable in that property benefits from local services, and those occupying the largest properties tend to be the richer members of the community.

Third, there is **certainty of yield**. Not only are property taxes difficult to evade, but being based on fixed property any increase in the rate of tax cannot easily be shifted geographically (unlike a sales tax where people can shop in a cheaper area). Only in the long term can occupiers respond to high rates by moving to another area.

Fourth, property taxes have **administrative advantages** in that, once rateable values have been assessed, the rate is easily calculated and can be adjusted when additional revenue is required. Furthermore costs of collection are relatively economic, being less than 2 per cent of yield.

Types of Property Tax in Lagos State

(a) Capital Gain Tax (CGT)

Capital Gain Tax (CGT) is tax chargeable on gain made upon the disposal of asset. It calculation requires applying a specific percentage of consideration for disposal

Less expenditure i.e.

a. Consideration for assumed acquisition
b. Enhancement expenditure
c. Incidental cost of disposal

In practice, no deduction is usually made. One wonders if the officers in charge of this tax are aware of the procedure for its administration. This high rate has led to high rate of evasion. When the tax is paid at all, the burden is transferred to the buyer.

(b) Ground Rent

Land Use Decree provided that lease should pay annual ground rent to be determined by the state. The rate is subject to revision. The question is how efficient is the collection of ground rent in Lagos? It has been restricted to Government schemes and Industrial estates.

The quantum of rent pay is not reasonable. It has always been blanket charges that merely categorized areas rather than individual properties. Residential area N10/m^2, Commercial N25/m^2 and Industrial area N30/m^2. When asked to determine the ground rent that petrol station and other users of University of Lagos land should pay, we found government rates ridiculously low.

Property Rate

Property Rating is the imposition of property rates. Property Rates on the other hand are local taxes or rates imposed on owners or occupiers of landed properties in respect of the rateable properties owned or occupied by them. In Great Britain from where our rating laws originated, it is the occupier of the property that is liable or the payment of Rates while here in Nigeria, the liability to pay rests primarily on the owner. However, because every rate made and levied upon a tenement, except in tenement vested on government, is a charge against the tenement being rated, the occupier is called upon to pay the rates in the event of the owner failing to do so. However, the Bendel State Local Government

Law, 1980 in section 138 (3) provides for the recovery of such rates paid by the tenant from the landlord or owner.

A distinguished feature of this type of Local Tax lies in the approach of the rating authority (i.e. the Local Government) to the problem of revenue raising. With this type of taxation, the amount of revenue required from Tenement Rating is first of all decided upon. This total revenue expectation is then distributed among the ratepayers according to the worth of their properties. The basis of assessment of property for rating is the rateable value, severally known also as assessed or annual value. Rateable value is defined as the value at which the Tenement is for the time being, being rated.

The amount of rates to be paid by an individual is calculated by dividing the estimated income from tenement rates by the total annual vales of all the rateable tenement in the rating area. The resultant figure, known as the Rate Nairage, is used to multiply the assessed value of each tenement. Thus, for example, if a local government intends to realize the sum of N200,000.00 as property rates in a particular year, the total annual values of all the rateable tenements in its area should be N2,000,000.00, where the rate nairage of N0. 1 or 10 kobo is used to multiply the assessed value of each tenement. It follows therefore that a tenement with an assessed value of N500.00 will pay a rate of N500.00 x N0.10 i.e. N50.00.

Land Use Charge 2001

This law was enacted on 22nd of June 2001. It is a law to make provision for the consolidation of all property and land bases rates and charges payable under the Land Rate, the neighbourhood improvement land charge and Tenement Rate Law in Lagos State into a new Land Base Charge to be called Property Land Use Charges, to make provision charges and for the levying and collection of the charges and for connected purposes.

The law has 24 sections, which include

Section 1-2.	Description and collection authority.
3	Property assessment
4	Value of annual chargeable rate
7-8	Exemption and loss of exemption
9	Demand notice
10-15	Agent identification and Appeal tribunal
16	Land Use Charge Collection Fund
17-21	Recovery of charges, and penalty
22	Application of other laws
23	Interpretation.

There is no doubt that the laws just like the Land Use Decree of 1978, has generated controversy and received public criticism. Omirin, Babawale (2001) presented eight arguments against the method of assessment used to determine LUC. These include:

1 The constant rate (per unit) schedule employed in the exercise is, to say the least, inadequate for property valuation since real properties are heterogeneous and two properties can never be identified in all respects.

2. The valuation approach is too simplified and over assuming. It only considered the effect of location on property value and does not cater for the effect of construction, design and maintenance on property value.

3. In the developed Western countries of the world, if the basis of assessment of property tax is structured to use a regionally mass appraisal model within a geographic information system (GIS), efficiency, equity and capacity for revision are always the watchwords.

4. The approach that is employed is cut and ready at variance with a Computer Assisted Mass Appraisal (CAMA) method within a geographic information system (GIS), which is applied in carrying out similar exercises in the developed world of Britain and Japan.

5. Property tax being an "Ad-valorem" tax is always based on the Net Annual Value (NAV) of property rather than Gross Value that is the basis for the formula used in calculating the land use charge.

6. For the purpose of equity and fairness, a valuation list ought to have been prepared and published prior to the assessment of any hereditament within a taxable region.

7 For the purpose of equity and fairness, owners that are liable to property-based tax, ought to have been given the opportunity of appeal against the rateable value of their properties.

8. There are reasons to believe that in the enactment and operation of the Land Use Charge Law 2001, the legally recognized profession of Estate Surveyors and Valuers was sidelined.

A Working Example of Land Use Charge (LUC) of a Property and Its Relationship to Annual Rent.

Type of Property: Single floor shop /store
Annual rent (current): N1.5 million

Land Area	=	539 708M^2
Built-up Area	–	324 94M^2
Applicable Building Values =		N42,000/M^2
Applicable Land values =		N50,000/M^2

Annual Land Charge
=M[(LA+LV)+(BAXBVXPRC)]
= M[539 7088 XN50,000) + (324 94 X N42,000 X 1.0)]
= M[26,985,400 + 13,647,480]
= M[40,632,880]
= 2.5% of N40,632,880
= N1,015,822

Charge as percentage of actual annual rent (return on investment)

$$\frac{1,015,822}{1,500,000} \times \frac{100}{1} = 67.7\%$$

This year at 40% discount

$$\frac{N609,493}{N1,500,000} \times \frac{100}{1} = 40.6\%$$

This charge is considered irrational and the law undemocratic.

This made Manufacturing Association of Nigeria (MAN) and Lagos Chamber of Commerce and Industry (LCCI) to demand for: (1) Review of valuation (2) Methodology (3) Using applicable assessment rate (4) Amendment of the section of the law on:

-Composition of Appeal Tribunal
-Section 18, which provides for imprisonment, is confiscatory and punitive.
-Section 19, which imposes a penalty on incitement, is a breach of the constitution on freedom of speech and fundamental human rights.
-Section 20 relating to receivership, objection to assessment and the requirement to deposit 25% of amount charged, 5% deposit recommended.
-Assessment should be done by an independent assessor.

Nigeria Bar Association also set up a committee to look into the law and prepare to take Lagos State Government to court if they refuse to amend the law (see appendix b)

Effect of Property Tax On:

I. Investment

The investment aspect of real property is based on its durability and use over time If an object can be used over time, payment can be made for its use as it is used There can be a separation of ownership and the right of use The owner can give the right of use to another person in return for a periodic payment, and that person will pay a rent for the right of use. The owner is treating the object as an investment. He could give up the ownership in return for a capital sum, but he prefers to retain it and receive an income over time. With durable objects, there are the alternative of owing and using owning and not using, and using not owning.

With real property, it may sometimes appear as if there are no other alternatives to purchasing or renting Some properties can only be purchased whilst other property can only be rented. The basic reason for this fact is that the alternative is not attractive enough to potential investors and potential users. Where potential users can only purchase, it is because they are not willing to pay a high enough rent relative to the purchase price to persuade someone to hold the property as an investment, or to look at it from the point of view of investors, they are not willing to give up the purchase price in return for the rent which potential users would be prepared to pay.

The decisions of both potential users and investors will be based on the consideration of alternatives. The users must think that they can receive a better return for their money by purchasing the property rather than paying the rent which investors would be prepared to accept, and using the money for some other purpose Where the user borrows the money to purchase, he will compare the interest payment on the loan with the rent he would have to pay. He will only be prepared to pay more in interest payment than in rent, if purchase gives some advantage over renting such as security of tenure. The investors must believe that they can obtain a better return on investing an equivalent sum to the purchase price in an alternative investment of comparable risks than the rent, which a user would be prepared to pay. Where it appears that users have no alternative, but to rent, the converse of the above reasoning is true. It means that potential users are unwilling or unable to pay a high enough capital sum relative to the rent which they are prepared to pay, in order to attract the property away from the investors. It also means that the investors consider that they receive a better return from purchasing or holding the property than from purchasing some alternative comparable investment

It can be seen that investment is relevant to every decision to purchase or rent real property, even when it appears that the alternative is not present. With most types of real property, the alternatives of purchasing or renting will be evident, since some investors, at prevailing prices, will be prepared to hold real property as an investment, whilst users will prefer to purchase rather than to rent, and vice versa.

A high marginal tax rate could reduce the attractiveness of risk-taking. The essence of risk whether accepting a new job or developing a new product – is that things can go well or badly. A high marginal tax-rate hits the balance against risk if the gain from a successful outcome is traded at a high rate; the risk differential is reduced, thereby leading risk takers to choose the safe course. The burden of taxation may shift forward to consumers. On the other hand, consumers themselves as sellers of labour, can try to shift the burden backward by claiming higher wage. There is no doubt that existing cost of production which include high cost of capital, tax (corporate income tax) VAT etc. all induced high per unit cost of production. These are naturally transferred back to consumers. The endless industrial action e.g. local government staff went on strike for weeks, Academic Staff Union (ASU), NUPENG, ASUP etc. regular strike actions are efforts to push this burden backward.

Similarly, when the burden of tax is shifted backwards on to labour, workers, as consumers of final products, reduce their demand for goods and so tend to shift the burden back again to sellers of final product. The final incident of tax as between consumers and producers will depend upon relative elasticity of supply and demand. The greater the elasticity of supply compared with the elasticity of demand, the more will the tax be borne by the consumer, and vice versa.

ii. Rent and Supply of Housing

A tax on housing services is illogical in the light of the government's policy of subsidizing housing as merit good Local property taxes, like all selective outlay taxes, distort market prices and thus, at least in the long period, have allocative effects In order to show this we will assume:

a there is a competitive free market in housing;

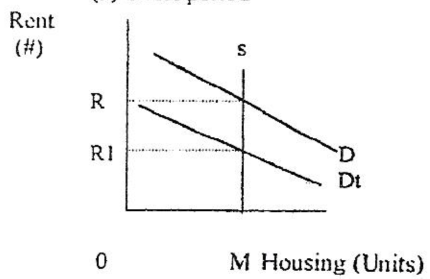
b houses are homogeneous;

c all houses are rented on a monthly tenancy;

d no rates are being levied initially;

The demand for rented housing is depicted by the D curves Figure 1. (a) and (b)

(a) Short period



(b) Long period

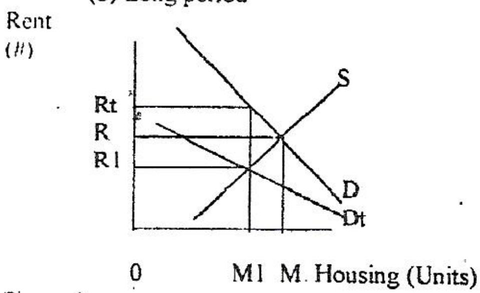


Figure 1.

Initially the rent paid is OR (figure above) 1. (a). if rates are now to D_t. In the short period, the stock of rented houses is fixed, and the new rates will be borne by landlords for net rent will fall from OR to OR_1 unless the tenant is under a long-term contract to pay exclusive of, since assuming no planning consent is required, owners will adapt them to other uses or simply not replace them as they wear out, switching to lower-taxes and more profitable forms of investment. This means that some of the rate burden is now passed on to the tenant, the extent depending upon the relative elasticity of supply and demand.

Thus in figure above 1. (b) RR_t shows the rate of burden shifted forward to the tenant, and RR_1 backwards to landlords, the total rates paid being R_tR_t x OM_t. Furthermore, rented housing decreases by MM_1. It should be noted, however, that if the new rates resulted in improved local services, especially education, roads and transport facilities, there could be an increase in the demand for property in the area, the demand curve shifted to the right. As a result the impact of the rates on the landlord is partly offset by a rise in rents so that rented housing will not decrease by as much as MM_1.

Furthermore, when the rate system itself is made selective by varying the nairage between different types of property (as for instance, when agricultural land pays no rates and domestic buildings pay at a lower rate than shops, offices and factories) there are additional allocative effects.

iii. Effect on Property Market

The yield from property taxes lacks buoyancy – the result of the narrowness of the tax-base together with its rigidity in the face of inflation. Concentrating on a single form of wealth – property – allows other types, e.g. pictures. Jewelry and antiques, to escape tax. Consequently, a rise in local government expenditure results in a considerable increase in the rate nairage. While this promotes accountability, it hampers progressive authorities that wish to extend their services. Again, while the yield from such taxes as income tax and VAT automatically increase with inflation, the rise in property prices takes time to be reflected in higher rateable values because quinquannial revaluation have, through administration difficulties, been continually postponed. Worse still, local government serves tend to be labour-intensive so that the yearly rate-poundage increase tends to be proportionately higher than the rate of inflation. With the half-yearly rate demand making the rise so obvious, there are periodic outbursts of discontent.

Local property taxes tend to be regressive and inequitable. Not only do poor people tend to spend a higher proportion of their income on housing, but the tax levied may be unrelated to ability to pay. For example, a single pensioner may live in a house identical to that of a family containing many wage-earners. Nor is there any direct link between the property tax and local services used. A pensioner, for example, has little call on education or refuse collection. However, rate rebates do help to offset the burden for poorer persons. In any case, the rating system must be viewed in relation to the overall national fiscal structure where more progressive taxes and free social benefits can be compensated

iv. Effect On Mortgage

A well functioning title and lien registry is an important underpinning of both the primary and secondary mortgage markets. Without a good title, borrowers cannot use their homes as effective collateral for loans and investors will not view securities that backed such loans as safe. Urban land price varies from N250,000.00 – N10million and in some cases up to 50million (Monday Guardian, 2000) Cost of transfer and documentation of titles are very expensive; sometimes as high as the cost of land. Example: a plot of (900 sm^2) at medium income estate like Omole, Amuwo Odofin, Ogudu GRA, Ojota Lagos attracts the following:

Land cost - N3.5m
- Agency Fees @10%
- Legal fees @10%
- Governor 's consent @15%
- Stamp duty @ 3%
- Capital gain tax @10%
- Registration @ 1%
- Legal fee for processing C of O @10% Total =59%

59% of N3.5m = N2.07m

Not only are costs high in term of finance, longer time is also involved. Registration of titles sometimes takes a year or more. This is counter-productive in a dynamic and volatile economy.

v. Effect on Housing

In 1997 Government promulgated Rent Control. The main focus of the edit was to increase housing affordability. LUC imposed charges that are in some cases higher than the amount specified as rent under the Rent Control Edict. A big short coming permitted by zoning method of rate determination where individual plot were not treated on their own merit.

vi. Effect on Local Government

Olowu (1982), Nubi (2001) described Local Government as the third tier of government in Nigeria. Being the closest form of government to the people, all over the world they exert direct influence on man from cradle to grave. No wonder, childbirth is registered in local government and his death certificate is equally collected from local government. Unfortunately, in spite of several reform, the state always strangulate local government in Nigeria.

In Lagos State the local governments have been rendered irrelevant. One was not surprised that the local government went on strike for about 2 months in 2001 and it had no effect on the system. This is obviously an unfortunate development. If local government should go on strike in U.K. for one day the system will collapse. There is no way the state government will take over the function of local government. State government, in Nigeria, especially in Lagos, is biting more than they could chew. The result is what we have today. The state has been drawing loans to provide services and urban infrastructure. Another desperate move to finance its ambition is the introduction of Land Use Charge Law.

How far have these taken us? Have things really changed for the better? Do we now have electricity, pipe-borne water, good roads, and better waste management system?. State government cannot reach every nook and cranny, as local government will do. There are some facilities and services that all the stakeholders should jointly provide. It is only the local government that can mobilize the community to achieve this. If the state should succeed at killing the local government, the nation will suffer for it. We all have the responsibility to wake the local government up. Encourage them to put away their inertia, put up good and dynamic administrative structure and generate more funds by being innovative.

Section 21, of LUC provides that Tenement Rate Law shall cease to apply to properties chargeable under LUC. This is a direct denial of local government its main source of revenue. LUC is more or less the final burial of local government considering the present problem of zero allocation. Though sections 2 and 3 pretended to make LUC a local issue, section 16 shows the truth.

It state thus:

(1) The Commissioner for Finance shall establish and maintain a fund, to be known as the Land Use Charge Collection Fund, consisting of all Land Use Charge payments deposited in each designated bank in accordance with this law.

(2) At the beginning of each month, the Commissioner for Finance shall determine the total amount of Land Use Charge payments on deposit in the designated banks

(3) The Commissioner for Finance shall, not later than Ten (10) days after the beginning of each month, pay to each Local government Council in the State a share of the Land Use Charge collected and standing on deposit in designated banks.

(4) The share to be paid by the Commissioner for Finance to each Local Government Council shall be such percentage of the Net Land Use Charge on deposit at the end month as agreed between the State and all the Local Government Areas.

Major Property Tax Issues in Lagos State

Taxable Properties

Some of the major problems in mobilizing property taxes in Nigeria as a whole and Lagos in particular revolve around the inability to administer property tolls adequately. Since many properties are often not listed on the valuation rolls, payment evasion is widespread. And even in many cases where properties are listed, they are under-assessed; worse still, many of those assessed are often unpaid.

Much of the revenue losses in property taxes could be linked to the fiscal cadastre, or the system of recording and valuing property. More often than not, the factors used in assessing properties are not clearly established on the property records, and, in most instances, are not regularly updated. The ideal fiscal cadastre format, based on detailed maps, giving individual boundaries and codes, does not exist in many cities. The consultant working on LUC promised that the map base data will be ready within 5 years.

Tax maps are rare and at times, non-existent. Properties are not often identified by title, but by canvassing. Where property taxes are newly instituted, the city is often divided into zones, identifying parcels and owners as well as property characteristics. Such an approach works in areas with regular street patterns, named streets, and numbered houses. In the absence of street address, tax liabilities cannot be linked to the respective properties. Tax bills are poorly delivered, and penalties are unenforceable. This failure makes most of the property in Lagos city untaxable. Most important, the cadastre needs to be updated regularly to reflect increase in the number of taxable parcels.

Identifying Tax Liability

Another problem of property tax administration is difficulty in identifying the person liable for the taxes. In Lagos, legal title registry is often not well organized; as such, it does not serve as a good index of taxpayers.

In some cases, the owner of the property has primary responsibility for the tax payment. In other cases, the tenants and agents are designated as having secondary responsibility for paying the tax and, under the law, are allowed to recover their costs by deducting taxes paid from rents due. There is no need, in these latter cases, to identify absentee landlords because the location of the property enables delivery of the tax bill. However, even though this solves the question of liability, tenants and agents are often reluctant to assume financial responsibility on behalf of the owner.

The problem of ascertaining tax liability is further complicated by high mobility and frequent property sales/exchanges. Legally, the owner of the property is liable for tax payment; however, because registration of titles is often inadequate and often slow, tax administrators do not interpret legal ownership as ownership. Instead, tax bills are delivered to the owner on record. This procedure is not always straightforward, given the high incidence of absentee property ownership and difficulty of obtaining the owner's name and address. The delivery of tax bills thus becomes a critical problem. There are cases of original owner receiving bills long after he has sold. Sometimes bills are delivered in address that have been changed for years This is because relevant departments in government ministries are not properly coordinated.

Valuation

The property tax base is inelastic. Property values unlike income or sales of goods do not rise automatically with inflation, increased population, or even improved economic activities. Instead, the tax office is responsible for measuring and valuing those various increases and then adjusting the fiscal cadastre to reflect underlying increases in property value. In most cases, they will need to identify the changes that increase the physical size of the tax base such as new buildings or improvement to existing ones and capture the rising cost of land and building values that affect properties such as inflation, increasing population, and other issues. In many instances, these procedures are not adequately conducted.

Part of the problem is that this procedure is expensive to administer relative to the tax yields; this is true even when no attempts are made to adjudicate titles. The technical staff needed to organize and supervise surveying and valuation work is in short supply. Thus, in effect, an increasing proportion of new construction goes unrecorded on the fiscal cadastre Often, general revaluation are postponed or undertaken sporadically. The result is a stagnation of the property tax base, despite rapid growth in the physical size or value of the property tax. The present valuation list being used in Lagos was compiled under the World Bank Assisted Loan in 1992. This contradicts the quinquanial revaluation required.

In some cases, the system of valuation is so simplified that it does not attempt to reflect market values. The task of updating the residential building characteristics is based on two criteria: construction materials used and number of stories to a building. A building's location, size, numbers of rooms, or structural condition are not considered. Consequently, this system fails to reflect a wide variation in property values and does not promote raising substantial revenues through property tax.

Collection

Collection of property taxes is poor. often as a result of the failing of the fiscal cadastre. And even where tax bills are served, they often go unpaid. There is poor enforcement of legal penalties for non-payment For one thing, seizure of property for non-payment is often a very politicized issue, which few tax administrators are willing to pursue. Also, legal cases arising from non-payment can drag on for prolonged period of time. Lagos, during the last military rule, in the late 1990s turn tax collection over to private firms working on commissions.

Future Outlook : Critical Ratios For Improving Property Tax In Lagos

A property tax system involves six major functions: (1) tax base identification, (2) tax base valuation, (3) tax assessment, (4) tax collection, (5) tax enforcement, and (6) dispute resolution and taxpayers service. As summarized in table below, collection

Property Tax Administration Function and the Four Critical Ratios

Property Tax Function	Objective	Action	Critical Ratio
Tax Base Identification	To determine what will be taxed	Identify the tax base (land, building and/or machinery and equipment)	Coverage Ratio
Tax Base Valuation	To determine how the tax burden will be distributed among the taxpayers	"Weight" the tax base (either by area, other characteristics or value) influence the distribution of the tax burden among the taxpayers	Valuation Ratio
Tax Assessment	To determine how much tax will be levied To determine how the tax burden will be distributed among the taxpayers	Determine the overall tax level Influence tax burden distribution among taxpayers through varying effective tax rates.	Tax Ratio
Tax Collection	To collect the tax	Issue and Deliver the Tax Bills Collect the tax	Collection/Enforcement Ratio
Tax Enforcement	To determine how much revenue will be collected though enforcement	Enforce against non-compliance (sanctions and penalties)	Collection/Enforcement Ratio
Tax (and Valuation) Appeals Resolution	To ensure that the tax is equitably administered	Resolve disputes concerning the property information, valuation or tax assessment	(Linked to Coverage, Valuation, and Tax Ratio)
Taxpayer Service	To provide services to the taxpayer	Taxpayer Education Taxpayer Service	Linked to Collection Ratio (i.e., good taxpayer service will encourage higher collection)

Source: Dillinger (1989).

Property tax revenues stagnate primarily because of lags in maintenance and completeness of the tax base coverage, inaccurate valuations, and inadequate collection/enforcement. Although tax policy concerning tax base definitions, exemptions, valuation standards, and collection/enforcement provisions can improve revenue yield, the key to increasing revenue buoyancy is largely improved administration. That is, the government must ensure that all property is on the tax rolls, that property is valued close to market value, that the tax is assessed accurately, and that the revenue is collected and enforced. This relationship can best be illustrated through the following property tax revenue model:

Tax Revenue = Tax Base * CR * VR * TR * CIR

Where,

CR = Coverage Ratio is defined as the amount of taxable capture in the fiscal cadastre, divided by the total taxable land in a jurisdiction which taxes land only, such as Kenya. This measures the accuracy and completeness of the property information in the valuation roll.

VR = Valuation Ratio is defined as the market value of properties on the valuation roll. This measures the overall accuracy of the property valuation level (i.e., what percent of market value is being captured through the valuation process).

TR = Tax Ratio is defined as the "rate struck" for the taxation jurisdiction. This measures the tax amount per value of the property that is to be paid as tax. The tax ratio (or tax rate) is determined through the annual budget process.

CIR = Collection Ratio is defined as the tax revenue collected over the total tax liability which has been billed for that year. This measures the revenue collection efficiency. The collection ratio is affected by the collection of both current liability and tax arrears (i.e., enforcement efficiency).

As this formula indicates, potential tax revenue is a function of the accuracy and level of the coverage ratio, the valuation ratio, the tax ratio -and the collection. In fact, these four ratios ultimately determine the effective tax rate and tax burden for each property, thus affecting the revenue yield, economic efficiency and overall equity of the property tax system.

Unlike the tax ratio, i.e., the "rate struck", which is determined politically once during the annual budget process, the coverage ratio, valuation ratio and collection ratios are affected by the level of administrative capacity and political will continuously throughout the year.

Policy Recommendation

Among the major issues that impede the efficiency of administering the property tax, the diverse institutional relationships governing its management are the most crucial. Thus in addressing property tax reform, the policies that govern systems for rate setting and revaluation must be examined.

Central Government Control

The key factors determining the buoyancy of property taxes are rate structure and the methods used in revaluing property. Procedural improvement to the property tax will bear no fruit unless these policy issues are addressed. This will necessitate reviewing the manner in which property rates are established. Unless the political liabilities of administering the property tax are addressed, local governments will continue to rely on less politically vulnerable sources of revenue, such as indirect taxes, transfers, and other discretionary grants from the central government.

Decentralisation

The central government should consider devolving control of property tax policy to local government, since this is the level directly affected by property taxes. And, in those cases where the central government is responsible for administering the tax, efforts should be made to contract out these functions. In some cases the local authority should be made responsible for its own valuation. The last military rule tried this in Lagos. Local government should be encouraged to restructure its local revenue sources.

Local Government Resources

Given the political liabilities of the property tax, improvement in its mobilization will be inadequate as long as more politically attractive means of increasing the level of resources are available. Increasing the level of resources such as discretionary grants or unrestricted indirect taxes have been known to deter efforts to improve property tax mobilization. Where this funding alternative have been reduced, political support of property tax reform has been high, necessity, they say is the mother of invention. Dwindling supply of fund from federal government is a pointer for possible looking inward for alternatives.

Conclusion

Nigeria's low property tax yields could be improved if some major problems are addressed adequately. These problems earlier enumerated in this paper include the need to streamline and regularly update the property record system. Rapid population growth and high inflation yield major increase in property values each year, but the existing property record system cannot keep up with new construction and the revaluing of existing properties. Consequently, total assessed value of property over time is often stagnant or declining in real terms.

Collection of taxes is poor in many places. More often than not, revenues are consistently less than total payment demand notices. Poor collection performance partly reflects the weakness of property tax records, since the person liable for the tax is often unnamed or not easy to locate. The lack of political will to enforce the properties allowed by law is another important factor perpetuating property tax evasion.

Property tax is a major source of Local government revenue, hence, the Land Use Charge Law should be abrogated. Central government should concentrate on how to improve the administration of property tax such as Ground Rent and Capital Gain Tax under its control and equally help Local government to improve upon its revenue through property rates.

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15th July, 2011

The Registrar
University of Lagos,
Akoka, Lagos State,

Dear Sir,

CLARIFICATION OF JOURNAL STATUS AND PEER REVIEW PROCESS

The attention of the Institute Secretariat has been drawn to the need for clarification on the status of the Quantity Surveyor Journal.

However, we wish to confirm to you that as a quality control measure, the institute's Editorial Board which consists of both Professionals and academics adheres strictly to peer review process before accepting any article received for publication.

It may interest you to know also that some of the existing reviewers of the journal include: Prof T.C. Mogbo, Dr. G.O. Jagboro, Prof. K.T. Odusami, Prof. D.R. Ogunsemi, Dr. S.O. Onyeador, Dr. M.M. Andawei, Mall. M.B. Abubakar. These reviewers are all professional members of the Institute whose pedigree is well known both in the academia and in the construction industry.

Thank you.

Yours faithfully,

For: Nigerian Institute of Quantity Surveyors

Anselm .U. Anyimigbo,FNIQS

Executive Secretary