



## NIGERIA - March 2018

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### **Land Use Charge: Lagos engages 100 property valuers**

As the newly introduced Lagos Land Use Charge (LUC) had continued to generate reactions, the state government yesterday said it had engaged over 100 registered Estate Surveyors and Valuers who in the next six months would visit various property to get accurate data for valuation that would be used as the basis for billing for another five years.

The government, which also justified its insistence on the payment, said that there was need to increase its revenue in view of the ever increasing population as Lagos state had been projected to become the third largest consumer market in the world with a population of 35.8 million, closely behind Tokyo and New Delhi, according to the statistics by 2030.

Besides, it said that various reliefs had been made available to payers including a general 40% relief for property liable to LUC payment, a 10% relief for owners and occupiers with persons with disabilities, a 10% relief for owners and occupiers of 70 years and above, a 10% relief for property above 25 years, a 5% relief for property occupied by their owners for over 12 years, a 20% relief for non-revenue generating federal and state government property of these reliefs, applicants must make claims with evidence for approval to the Lagos State Commissioner for Finance.

Commissioner for Finance, Mr Akinyemi Ashade disclosed this while briefing journalists at the state Secretariat, saying that the government of Lagos state was not unaware of the reaction of a section of the public on the reviewed land use charge law of 2001.

He said: "Amount payable is expected to be made from January 1 of every year and can be calculated by multiplying the Market Value (MV) of that property by the Applicable Relief Rate (RR) and Annual Charge Rate (CR). Upon receiving a notice or not, the new law has made it possible for owners to calculate their charge and enable prompt payment, which allows them to benefit from a 15% discount for early payment, applicable to payments made within 15 days of receipt of Demand Notice.

"For people saying the use of Market Value should not be the basis for deriving the LUC rate. We ask; what better application should be used? The cost of building houses varies according to area, so each property needs to be valued according to its location, in order to achieve a standardized rate for everyone that is progressive and rational. It is instructive to note that, according to the law, the incidence of payment is on the Landlord and not the tenant."

### **International Property Tax Institute**

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But in a swift reaction yesterday, the Nigeria Bar Association, Ikeja branch and the Action Democratic Party (ADP) asked Governor Akinwunmi Ambode to immediately reverse the new land use charge recently announced by his government.

They described the introduction of the Land Use Act by the Ambode-led administration as not only obnoxious but anti-people.

The association had since issued a 7-day ultimatum to Ambode within which to revert to the old land use charge, car registration and filing cost of litigation or face mass protest by its members.

Its chairman, Mr Ogunlana Adesina while addressing reporter said the branch would on Tuesday next week embark on street protest tagged “walk the talk” to protest against the over 400% increment in land use charge and another over 300% in car registration without consulting the people.

He said: “To the horrible shock of Lagosians, they woke up a few days ago to learn about the hyper-inflated rate of the so called land use charge which the Governor of Lagos state has escalated upwards 400%”.

“Another notable tax increase is in the car registration fee, another wacky 300% or so. In judiciary, filing cost of litigation has jumped astronomically, pushing genuine but financially weak grievances away from employing and enjoying access to legal and judicial justice.

“Must Lagos become a so called Paradise at the expense of lives and limbs of Lagosians?

“Ambode should not let people regret voting for him the first time and go on to reject him for a second term.”

Adesina was echoed by ADP which said the law would further impoverish Lagosians

Speaking to journalists yesterday, the Lagos State spokesman of ADP, Prince Adelaja Adeoye, said the new land use charge would geometrically increase the hardship Lagosians would face and therefore urged the governor to retrace his steps immediately because of the ripple effect this decision would cause.

### Lagos Government makes Clarifications on Land Use Charge at Stakeholders Meeting

The Lagos State Government today further clarified the rates for the newly reviewed Land Use Charge Law of 2018 noting that payers could compute the amount of charges payable on their respective properties themselves.

Speaking at a stakeholders’ forum organised by the Lagos Chamber of Commerce and Industry, LCCI, the State’s Commissioner for Finance, Mr. Akinyemi Ashade said the Land Use Charge law was aimed at entrenching a regime of self-assessment, which would allow property owners to make their own calculation and know their rate with the help of professional valuers.

“The Land Use Charge law institutes the regime of self-assessment. The intent of the reviewed Law is for Lagosians to be able to compute the amount payable on their respective property by themselves.

“You don’t have to wait for demand notices before you pay your charges, you can calculate it yourself, engage us, you can make your payments voluntarily. Do it yourself, let’s dialogue and let’s get the basis right.”

The Commissioner further gives examples under three categories recognised by the law. First of which is that, “If you are a landlord and you are the only one living in your house with your family (No tenant), your annual fee is 60% of the value of the house  $\times$  0.076%.”

“For instance, if your house is valued at N20million, your fee is 0.076% of (60% of N20m) = 0.076%  $\times$  N12m = N9,120.00 per annum”

“Secondly, If you are a landlord living with your tenant in the same building value of N20million, you will pay 0.256% of (60% of N20m = 0.256%  $\times$  N12m = N30,720.00 per annum.”

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“Thirdly, If you rented out the house to tenants only and you don’t live there and the house is worth N20million, you will pay 0.76% of (60% of N20m) = 0.76% of N12m = N91,200.00 per annum.”

“The Law does not tax the market value of properties. It gives a general discount rate of 40% to all property owners in the state. The Land Use Charge Law is holistic and fair to everybody. It is quitediscriminatory. It is not one cap, fit all. Market value of properties in Ikorodu and Ikoyi can never be calculated as the same.”

According to one of the participants at the stakeholders’

meeting, Mr.Shadrack Bayowa, The Managing Director, Hinges Construction and Properties Limited, the meeting had cleared the grey areas on the formulae used in assessing the Land Use charge as well as whose shoulder lies the responsibility of valuation. He could not hold back hisimpression of Mr. Ashade who he described as a thoroughbred professional and a brilliant public officer who was calm and patiently answer questions inspite of the initial hostile dispositions of some participants. “I am more comfortable now with the new law as it is reasonable and progressive”, he concluded.

In his remarks, the President of the Lagos Chamber of Commerce and Industry, Mr. Babatunde Ruwase noted that one of the key tenets of democracy was inclusiveness, participation and dialogue. He commended the Lagos state government for being receptive to dialogue.

“As business community, we appreciate what the state government has been doing, especially the investment in infrastructure and security. We are therefore willing and ready to pay our taxes. Indeed, over 90% of the current IGR of over N300bn generated in the state is coming from the private sector. We appreciate the need to even do more.”

### Land Use Charge: Lagos Finance Commissioner Gives Breakdown Of Controversial Tax

Amid the complaints about the new Lagos State Land Use Charge, the Commissioner for Finance, Akinyemi Ashade, says an aggregated tax that has combined three erstwhile separate taxes namely tenement rate, ground rent and neighbourhood improvement levy into one.

Ashade, who noted Tuesday in Lagos that Land Use Charge had been trending for the wrong reasons recently, said that instead of paying three different taxes, the tax payer pays just one consolidated tax.

“Land Use Charge is not new in Lagos, neither has it been arbitrarily introduced to the state. Rather, it emanated from a long process of deliberation, consultation and engagement, all of which typically precede law-making.

“Indeed, implementation of this particular tax was sequel to the passage of the Land Use Charge Law of 2001 as promulgated by the Lagos State House of Assembly.

“The law has therefore, been operational since 2001. Its stipulations are also fairly simple. It essentially applies to defined categories of properties which are in turn required to pay taxes that vary in accordance with the categories.

“In calculating the Land Use Charge payable on a property, a simple formula is applied: the estimated value of the property is multiplied by relief rate and further multiplied by the appropriate charge rate.

“While the estimated value of a property is self explanatory, I will explain each of the other two terms in more detail,” the commissioner said in a statement.

“The ‘charge rate’ is a relatively small percentage charge that is applied to different categories of property depending on their categorization. A property that is occupied by the owner for instance, enjoys the lowest charge rate.

“A property that is used for industrial or manufacturing activity is categorised as ‘industrial’ and is charged higher than owner-occupied properties but considerably lower than ‘commercial’ properties.

“Commercial properties are those properties that are deemed to be fully utilised for commercial activity — a bank branch for instance. There are a few categories in-between.

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“There is also the ‘relief rate’ which refers to a discount on the calculated charge.”

Ashade said the Land Use Charge Law of 2001 stipulated that reviews of the charges payable be made on a five-year basis but for some reason this did not happen.

He said that in 2017 for instance, properties were paying charges based on rates that were last determined in 2001, adding that clearly, after 16 years, those charges had largely become obsolete.

The commissioner said that property valuation did not appear to always follow a uniform standard and that there were often stark variations in property valuation that were inequitable.

“Furthermore, property enumeration did not appear to be proceeding as fast as it ought to and a considerable chunk of properties was actually not paying this charge.

“These were some of the inefficiencies in the old Land Use Charge regime that prompted the Lagos State House of Assembly to repeal the old law and promulgate a new one.

“In the course of today’s trending debate on Land Use Charge, some commentators have tried to create the impression that the Lagos State Government arbitrarily, without engaging or consulting different stakeholders, increased the Land Use Charge rates payable in Lagos.

“This is not true. The process of the review of the old law and promulgation of the new Land Use Charge Law by the Lagos State House of Assembly was elaborate and painstaking,” he said.

Ashade said the draft legislation was rigorously interrogated and debated at the Assembly not only at committee level but over two separate hearings and that memoranda were invited from dozens of stakeholder groups, including civil society groups, community development associations, leadership of local government councils and local council development areas.

He said the revised bill was eventually signed into law last February by His Excellency, Governor Ambode, noting that the new Land Use Charge law was different from the old law in some respects.

“First, in the valuation of property, the new law prescribes that this should be done using prevailing market rates. While I admit that this has expectedly increased the charges that property owners are expected to pay, I should add that it has helped to standardise the Land Use Charge regime, eliminating the opacity that was associated with the older law wherein calculation of property value was sometimes based on the whims and disposition of the assessor.”

Ashade recalled that with the Land Use Charge regime not undergoing any review for 16 years, as at 2017 before the repeal of the old law, rates payable had become significantly obsolete.

“So when some people complain that their rates have gone up by 300 percent over last year’s rates, the truth is that the rates have actually gone up for the first time since 2001.

“In adjusting the bill of a property owner from the N1,200 which he paid annually between 2002 and 2017 to N5,000 annually for instance, the new regime has simply tried to bring the charge up-to-date and in line with present day realities, regardless of the percentage increase.

“This is not to say, however, that the entire Land Use Charge administration is working perfectly. It isn’t.

“Like all systems which employ human intermediaries, there are occasional errors, especially where ‘Best of Judgement’ has been employed in determining the scope and size of a property and the exact use to which it is put.

“This typically happens where property enumerators are denied access to these properties. I would therefore like to implore Lagosians to kindly avail our enumerators of as much cooperation as possible when they visit your properties.

“This is to help ensure that ultimately accurate variables are used in determining the rates chargeable on each property,” he said.

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The commissioner said that this is one of the reasons why Ambode made it clear at his engagement with the organised private sector recently, that the government was open to dialogue.

“The Land Use Charge bills are on paper demand notices, not etched in stone. Property owners who find their bills contestable are encouraged to contact the Land Use Charge Office Help Desk at Alausa or indeed any of our offices spread across Lagos.

“There are also provisions for mediation. If after all of this, a citizen remains unsatisfied, he may proceed to the Appeal Tribunal,” he said.

Ashade said that even though the law clearly stipulates that upon receiving a demand notice, payment must be made within 14 days, failure of which different penalties of up to 200 percent of the original bill would begin to apply, the reality is that the state government is making key concessions in this area.

“We appreciate that the economic situation has impacted everyone significantly and that the increases are steeper for some property owners than others.

“Property owners who are unable to pay the full charge up front can engage the Land Use Charge officials and jointly agree on a staggered payment plan. So the argument that government expects everyone to pay this charge in full upfront, regardless of your economic circumstances, is not correct.”

He said the new Land Use Charge regime also has several reliefs or discounts that were designed to cushion the impact of the charge on property owners, noting that Pensioners who were aged 70 and above and who live in their own houses, were not expected to pay Land Use Charge.

“Every property enjoys a general 40 per cent discount on the calculated market value. Where a property owner goes ahead to pay his bill promptly upon receiving the demand notice, he enjoys an additional discount of 15 percent.

“A person living with disability and occupying his own property enjoys a further discount of 5 percent,” the commissioner said.

“So, I can confidently say that property owners need not be alarmed at what they may have heard or read regarding this new Land Use Charge regime.

“Land Use Charge does not seek to punish anyone. Where the charge is considered outrageous for instance, we have provided ample room for engagement with the Land Use Charge officials for possible review.

“And of course, we recognise that the law has been made for us and not vice versa.”

Ashade said: “Very importantly, Land Use Charge is being implemented in an asymmetric manner. What this means is that it impacts considerably less on the less-wealthy or poor than the wealthy.

“In our ongoing enumeration of properties in Lagos for instance, we realise that the vast majority of properties across the state — close to 75 percent, are valued below 10 million.

“A building that is valued at under N10 million is required to pay annual land use charge of N5,000 (up from N1,200 which they were expected to pay in the old regime).

“Simply put therefore, majority of properties in Lagos will be required to pay N5,000 annual Land Use Charge which translates to N417 every month.

“A building that is valued at N20 million for instance, only pays N9,120 annually where it is occupied by its owner. If that building is being used commercially, it pays N91,200 annually.

“If on the other hand it is partly occupied by the owner and partly used for commercial activities, then the annual charge is N30,720,” he explained.

He reminded Lagosians of the horrifying conditions of physical and social infrastructure across the state, adding that from roads to drainages, from power to bridges, from education to healthcare, the story was the same.

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Also, he noted that many of the residents were products of the public school system, but today on account of severe under-funding there was such a lack of confidence in the public school system that everyone who could afford it, takes his child to a private school.

“This need not be so. Is it decent to have Lagosians spend 7 to 8 hours in traffic everyday?”

“But this is what we have been condemned to in the absence of a functional mass transit system and the inadequacies of our road and transportation infrastructure.

“Should we be relying on rickety commercial buses, otherwise called “Danfo”, to convey human beings in the 21st century?”

“It is against the backdrop of decades of under-investment in infrastructure in the face of our rapidly exploding population, that we came to the realisation that we must embark on aggressive infrastructure renewal across Lagos or brace up for total infrastructure collapse.

“Internally generated revenue is our best hope for redressing this humongous infrastructure deficit. Thankfully, the evidence of effort in this regard stares us in the face everyday.

“From completed and ongoing construction works at Badagry, Epe, Ikorodu, Ajah, Abule-Egba, Ojodu, Pen Cinema in Agege, Airport Road, Oshodi, Oworoshonki and others, to the sundry road infrastructure projects planned in this year’s budget, including the BRT lane from Oshodi to Abule Egba and the 8km alternative road to be constructed to link VGC with Freedom Road in Lekki Phase One.

“From the enhanced security across the state and the major streets which are all lit up at night to the planned investments in education, healthcare and others, clearly the Ambode administration is putting your taxes to good use.

“Our pledge is that even in the midst of our anxiety to work as frenetically as possible to deliver the infrastructure that Lagos requires, we will continue to engage Lagosians to ensure that there is understanding, appreciation and buy-in by our people and that implementation of our IGR regime remains as humane as possible,” Ashade said.

### **Institute of Estate Surveyors and Valuers Raises Concerns On LASG Land Use Charge**

#### **STATEMENT BY THE NIGERIAN INSTITUTION OF ESTATE SURVEYORS AND VALUERS**

Ladies and Gentlemen,

Since the Lagos State House of Assembly passed the Land Use Charge bill on the 29th January 2018 and the Governor of Lagos State, Akinwunmi Ambode signed the bill into law on the 8th February, 2018, the law has received varied opinions from the populace.

We have received several calls from stakeholders as custodians of physical assets and managers of properties and facilities in the state. In some quarters, there is even a claim that the bill has risen to over 300 percent compared to the previous bill of 2017.

The Nigerian Institution of Estate Surveyors and Valuers is concerned about this law and has since studied the law, the methods, basis applied and the likely impact to the citizenry.

By the provisions of the law establishing our profession and our professional calling, The Institution has a responsibility to offer professional advice to both Government and the General Public on issues of development and management of land resources. It is in line with this responsibility, we hereby make the following observations after going through the Land Use Charge law:

1. It is our opinion that the Land Use Charge Law 2018 should be anchored on the basic principles of taxation. This will ensure fairness particularly from the tax payers’ point of view.

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2. The method proposed to arrive at the assessed value is clearly defined in this law and it is the Depreciated Replacement Cost approach to valuation. While this is not the only method applicable, we appreciate that this will suffice.

3. We are however worried that property values for 2018 have now been adjusted upwards without the valuation. We will appeal to the government to conclude the valuation exercise before adjusting assessment figures based on valuation.

4. Other areas of concern include Relief Rate (RR), Land Use Charge (LUC) Rate and the Depreciation Rate (DR) to arrive at the Amount Payable for the Land Use Charge.

The Institution would therefore be recommending the following to enhance the engagement with the Lagos State Government on issues concerning the law:

#### I. Relief Rate:

We recommend an upward review of the Relief Rates to accommodate provision for maintenance cost and other outgoings;

#### II. Land Use Charge Rate

It must be noted that most of the payers can only pay from the property income, therefore the Charge rate should take cognizance of rental trend which in most cases is stagnant or going southwards. We will suggest a holistic review of the Charge Rate to take account of the above which speaks to affordability.

#### III. Depreciation Rate

The rates adopted for depreciation is most inappropriate as this rate could be as high as 40% depending on the age and the repairs state of the property. Depreciation elements of obsolescence and dilapidation.

5. It was also observed that the rise in the rates has significant cut into the annual rental income which could be generated from some properties. This makes payment of this annual charge (LUC) difficult. This could also lead to increase in rents by landlords to meet up with the tax weight while being a disincentive for new real estate developments.

Government should therefore have a mechanism to limit the amount payable within highly reduced percentage of the net annual rental income on assessed property as a benchmark.

6. Finally, for sake of transparency and best practices, when the valuation is concluded, a Valuation List should be produced and displayed in each LGA for all stakeholders to see. This will reduce perception of arbitrariness and increase compliance. It makes it easier for stakeholders to compare their assessment with that of neighbouring properties.

We have articulated key suggestions and grey areas with contradictory provisions, which we would be recommending to the government when we meet for dialogue.

Ladies and Gentlemen, we are aware of government's efforts to commence the enumeration exercise in the state. This is a welcome development. Through this process, it would help government obtain the real values of the properties whilst also providing the necessary data on the housing stock in the state. It is our opinion that after that exercise, more people would have been brought into the tax net thereby reducing the tax burden on the few who presently are bearing the major brunt of the taxes, through reduces charges.

Thank you.

ESV Olurogba Orimalade FNIVS, FRICS

### **LASG Land Use Charge: A Civil Option And Strategic Cause of Action**

A strategic response to the new Lagos State Land Use Charge

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The Lagos State Government recently repealed its 2001 Land Use Charge Law, and replaced it with a new Land Use Charge Law, 2018. The Lagos State House of Assembly had passed the bill on 29th January, 2018, while the Governor signed the bill into law on the 8th of February, 2018. Based on this new law, new rates were sent to Lagosians as land use charge from the same month.

Most Lagosians that have received their bills claim it's an increase of between 150 and 300 percent over the 2017 rate. A dear friend who had paid N 7,860.3 in 2017 was recently served with a notice to pay N24, 567.36 in 2018. That's an increase of over 200 percent! This increase for many Lagos residents is huge, unfair and difficult to pay.

Not the first time

It is very clear that the Lagos State government is seeking various means to raise money for its budget. Interestingly, this is not a new occurrence because the Lagos State government has always acted this way. In *Registered Trustees of Association of the Licensed Telecommunications Operators of Nigeria & Ors v. Lagos State Government & Ors*, some telecommunication companies challenged certain sections of the Lagos State Infrastructure Maintenance and Regulatory Agency Law, 2004 on the basis that the law amounted to the imposition of tax on their operations. Justice Auta of the Federal High Court said:

“The IMRA Law, from the name it looks very innocent. From the contents of the law, the driving force is just to make money for the State, as the State has numerous laws dealing with the issue of urban planning. What the Lagos State is doing is to create an agency that will get its own share of the booty, as their counsel said that their operators are making billions of Naira.”

What is different in this new law, however, is that it has used a formula to ensure that valuation of properties increase radically and brought many properties into the land use tax net by removing some exempted properties. In the end, the aim is to increase the revenue generation base of the state. This itself is not bad because we need to pay taxes. That's one of the price we must pay for development. However, taxes are supposed to be fair, clear and reasonable. Personally, I don't think it's fair for Lagos State to sign a law in February 2018 and use this law to demand for taxes in the same month.

What do we do about this new law

The question before us as Lagos residents is, what do we do about this new law?

Taxes are a different kettle of fish. Even if unfair, you may be liable for nonpayment. Taxes have to be paid including the Land Use Charge. If anyone is unsatisfied with the rate, what we must not do is to resort to self-help. As citizens, we are expected to be civil, professional and strategic in our responses. The most strategic response, therefore, is to approach the courts. In approaching the court, there may be several options and angles to address this.

The Rivers State Example

For this article, I intend to review what happened in Rivers State and the court decision.

Rivers state passed the Rivers State Property Tax Law (5/1995). This law is similar to the Land Use Charge in several respects. One, it's a law on taxation of properties. Two, it's a law to harmonize property taxes in the state. Three, it's a law that harmonised some taxes that the Nigerian constitution had granted the local governments.

Grinaker LTA Limited, a Rivers State-based oil servicing company was served a demand notice of N70,871,850 payable as property tax. The company objected to this and approached the courts to seek a resolution. In the case, *Grinaker LTA Limited v Board of Internal Revenue (Suit PHC/2842/2010)*, they sought to challenge certain aspects of the Rivers State Property Tax Law and ascertain if Sections 1, 2(b), 3, 4 and 5(2) of the law were constitutional.

Their argument was that those sections of the law vested the power to assess, levy and collect property tax in respect of privately owned houses and tenements in the Rivers State government, the Rivers State Board Internal Revenue (RSBIR) or their agents, rather than to the local government councils as required by Section 7(5), Paragraphs 9 and 10 of Part II of Schedule 2 and Paragraph 1(j) of Schedule 4 of the Constitution. The fourth schedule of the Nigerian Constitution listed the functions of a local government council stating that the “assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State” is one of the main functions of a local government council. (Paragraph 1(j) of Schedule 4).

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The court, in resolving the issues raised followed the Supreme Court's decision in *Knight Frank Rutley Nigeria v Attorney General of Kano State* ([1998] 4 SC 251). In this case, the court held that by the provisions of Section 7(5) of the Constitution and paragraph 1(b) and (j) of the fourth schedule to the Constitution, only local government councils have the exclusive power to assess and impose rates on privately owned property. Therefore, it declared null and void a contract entered between the Kano State government and Knight Frank Rutley to prepare a valuation list of all ratable hereditaments for collection of property rates in some areas of Kano State for being outside the powers of the Kano State government and a usurpation of the powers conferred on local government councils by the Constitution.

The court therefore upheld Grinaker's claim, and declared that Sections 1, 2(b), 3, 4 and 5(2) of the Rivers States Property Tax Law were unconstitutional, null and void because it was in variance to the Nigerian constitution thereby restraining the Rivers State government and the RSBR from enforcing the assessment and demand notice. The judgment, however, upheld the right of state houses of assembly to make laws establishing the chargeable rates and the procedure to be adopted in assessing and collecting the rates charged by each local government council. However, such laws cannot make the state government usurp the powers of local government in assessing, levying and collecting property tax on privately owned houses and tenements.

#### Leveraging on Rivers State judgement to change Lagos LUC

In summary, the combined effects of these two cases is that states have limited powers to charge rates for property taxes in Nigeria and where they intend to do this, it should not be by usurping the rights of local governments.

The critical question therefore is, has the Lagos Land Use Charge Law usurped the powers of the local governments as the law is "to provide for the consolidation of property and land-based rates and charges payable under the land rates law, the neighborhood improvement charge law and tenement rates law in Lagos State into a new Land Based Charge, to be called Land Use Charge, to make provision for the levying and collection of the charge and for connected purposes"?

I must state that Lagos seems to have found a clever way around this by stating in the law that, "For the purpose of this Law, each Local Government Area in the State shall be the collecting authority and it shall be the only body empowered to levy and collect Land Use Charge for its area of jurisdiction."

The fact, however, remains that the spirit and intendment of the law is that the commissioner for finance calls the shot. The word, "Commissioner" was used about 26 times in the law and not once did it mention the term "Local government chairman"! So, another critical question is if any of the sections of the law has craftily transferred the powers of local government councils to the Commissioner of Finance.

The final question to be asked is, can a local government council empowered by the Constitution to collect the tenement rates and charges within its jurisdiction delegate this role to the state government? I don't think so.

The courts remain the only hope for the people. And the people should not be timid to approach the courts on any issue. It was Thomas Jefferson that was reported to have said, "When governments fear the people, there is liberty. When the people fear the government, there is tyranny". We should not be afraid to approach the courts. I suspect some people may feel that they may not win such cases in court or that they may be frustrated or the case may be too long to decide. When Grinaker LTA Limited approached the courts, there was no assurance of victory, but the company did regardless and won

#### Land Use Charge: Payment is Only 0.076% of the 60% of the Value of a Property

Following the announcement of the re-enacted Land Use Charge Law (LUCL) 2018 of Lagos State, the Coalition of Real Estate Investors and Surveyors in Lagos State has revealed that after its thorough analysis of the LUCL 2018, Owners-Occupiers are expected to pay a token percentage of 0.076% of the value of the assessed property.

Mr. Ayokunle Gregory, the convener of Coalition of Real Estate Investors and Surveyors in Lagos, made this revelation through in a statement after a closed-door meeting of the coalition held in Lagos at the weekend.

While also expressing dismay at the level of misinformation circulating about the law among the unsuspecting public, Mr. Gregory further stated that some mischief-makers were bent on exploiting the new law for their selfish purpose by confusing the entire populace through dissemination of half-truth.

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“And as such, we feel obliged to address the falsehood from a professional perspective before the unsuspecting public is misguided to bewilderment and violation of the law”.

The newly implemented LUCL 2018 is a repeal of the Land Use Charge Law 2001 (the LUCL 2001) that lacked clarity on the formula used to derive an accurate rate. Also, under the old law, the LUC rate was totally inaccurate and retrogressive which deprived the state of keeping track of all economic activities that relate to land in Lagos State.

According to the coalition, the reviewed LUCL 2018 is to put in place a regulated and standardised system that enables clarity and self-assessment. It was reviewed by the Lagos State House of Assembly and signed into Law by the Lagos State Governor, Mr. Akinwunmi Ambode on February 8, 2018. Property owners in the state have gone ahead to pay their LUC following the flag-off by the Lagos State Governor on February 19, 2018.

The law is a consolidation of ground rent, tenement rate, and neighbourhood improvement levy. Thus, the tenement rates law, the land based rates law, the neighbourhood improvement charge and all other similar property rates or charges, laws or amendments to any such property laws shall cease to apply to any property in the state as from February 2018.

Nonetheless, all pending invoices, orders, rules, regulations, etc. under the 2001 repealed Law shall continue to be in effect until such obligations are discharged.

The LUCL is payable annually by owners and occupiers holding a lease to a property for 10 years or more. Using the applicable formula provided by the reviewed law, owners and occupiers can now calculate their rate by multiplying the Market Value (MV) of a property by the Applicable Relief Rate (RR) and Annual Charge Rate (CR).

Providing detailed breakdown on the law, Ayokunle Gregory said, “For owner-occupied residential property, the LUC per annum is at 0.076%. For instance, if the market value of an owner-occupied property is at N15,000,000, it means that the amount payable is N6,840 per annum only, which amounts to N570.00 per month. For a property occupied by tenants, used for commercial purposes, at the same market value of N15,000,000, the LUC rate of that property will be N68, 400 per annum”.

It was made known that the state government has made available some reliefs applicable to the entire property owners and also some specific owners according to their status.

“These include a general 40% relief for all property liable to LUC payment, a 10% relief for owners and occupiers with persons with disabilities, a 10% relief for owners and occupiers of 70 years and above, a 10% relief for properties above 25 years, a 5% relief for properties occupied by their owners for over 12 years, a 20 % relief for non-revenue generating federal and state government property, and 20% partial relief for non-profit making organisations”, he disclosed.

In addition, some properties are exempted from the LUC payment, such as properties used for public and religious activities, properties used as registered educational institutes and charitable activities, properties occupied and owned by pensioners of 60 years and above, public cemeteries and burial ground and all palaces of recognised Obas and Chiefs in the state.

According to the statement, the state has provided professional services of registered Estate Surveyors and Values to get accurate data which will help in assessment and valuation of properties in the state.

“In order to clear the air of any misinformation, we implore all owners and occupiers of properties in Lagos to do a self-assessment using the formula provided, and also provide officials with valid documents to ensure a smooth run of the exercise for the benefits of all”, the coalition concluded.

### **Criticisms trail new Lagos land use charge law**

The Lagos State Government recently repealed its Land Use Charge Law (LUCL) 2001, replacing it with a new Land Use Charge Law, 2018.

The amendment is for the purpose of increasing the state government’s internally generated revenue and expanding its tax base.

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The state government also extended the period for the payment of all annual Land Use Charge Demand Notices for 2018 to Saturday, April 14, 2018. This is to enable property owners and affected occupiers take the option of enjoying the discounts available for the prompt and early payment of LUCL invoices.

The interesting take away from the reenactment is the exemption of senior citizens (70 years and above) who live in their own houses from paying Land Use Charge.

The same applies to properties owned by religious and not-for-profit organisations where such properties are not profit-yielding.

The state Commissioner for Finance, Mr. Akinyemi Ashade, said prior to the review, only a small fraction of taxable properties were actually remitting Land Use Charge to the government.

Ashade said property enumerators were being deployed across the state to verify not only the dimensions and reasonable market value of properties to enhance the accuracy of Land Use Charge determination.

According to the new law, a property solely occupied by the owner for residential purpose will be charged at a rate of 0.076 per cent per annum

A property occupied by the property owner and tenant(s) or third parties will be charged 0.256 per cent per annum

An investment property fully occupied by tenants or third party(ies) for revenue generation will be charged at 0.76 per cent per annum.

However, barely 24 hours after the announcement, property owners in the state have come out to criticise the new law, describing the timing as insensitive.

A resident who declined to give his name said, "I have just received the land use charge notification for this year; it has gone up 450 per cent. The justification is that the Lagos State House of Assembly on January 28, re-enacted the land use law which has necessitated an adjustment in the tariff. This adjustment became effective on February 8. I have looked at the basis for calculation and not only has the percentage rate increased from 0.394 to 0.761000, they have valued the house far in excess of its market value to maximise revenue," the resident said.

"Who hikes taxes by 450 per cent with 11 days' notice? To compound matters there's a threat of penalty payments ranging from 125 per cent to 200 per cent of this bill if payment isn't made between April and August. How on earth can we continue like this?" the resident asked.

The complaint of this property owner resonates with most of the complainants who spoke with Daily Trust on the new law.

The organised private sector also seems to think in the same direction.

The President of the Nigeria Employer Consultative Forum (NECA), Mr. Larry E. Ettah, at a press conference, said, "The recent amendment of the land use charge law is a classic case of insensitivity, alienation and gross disregard of the current state of wellbeing of both corporate entities and residents."

Ettah said in reality the new law expected property owners in Lagos State to pay at the very minimum a monstrous, appalling and callous increase of over 200 per cent, and in some instances over 500 per cent in Land Use Charge.

"It is not as if the income of a property owner has gone up significantly to justify this outrageous law. More so, the real estate sector continues to wallow in deep recession with high vacancy rates," he added.

To compound matters, he said, "There is a repugnant and odious penalty payment ranging between 125-200 per cent if payment is not made between April and August."

NECA hinted that the organised private sector (OPS) would do everything legal and legitimate; including social resistance, to challenge this "unfair and unjustifiable law."

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But a top management personnel of the Lagos State Government told Daily Trust that the new law had succeeded in harmonising tenement rate, the land use charge and the neighbourhood development levy.

He said there were misconceptions and lack of understanding around the new law and the numerous inherent incentives that came with it.

He noted that whatever was the valuation of the property involved, 40 per cent was immediately discounted.

For instance, the official said if a property was valued at N10m, a discount of 40 per cent would bring the value to N6m. The ground rent would be 0.7m, which translated to N7.60k for every N1,000 worth of that property.

Therefore, for the N10m property, it will come to N7,600 for an owner occupier.

If the property is a commercial property, the amount translates to N76,000, not more than 10 per cent of the value of the rent. Where the property owner stays in the same property with tenants, the rate is 0.25 per cent, which in the case of a N10m valuation, will translate to N25,000.

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