ER Environmental Review Journal

Volume 9 No. 4, 2024.
ISSN:1118-7190

Research Article

Compensation Claims Valuation Template: Deploying Current Ethical Standards and Realities in Practice

Taoheed Adewale Raji[1], Fidelis Ifeanyi Emoh[2], and Johnbosco Ikenna Okafor[2*]

[1] Raji Adewale and Associates

[2] Department of Estate Management, Nnamdi Azikiwe University, Awka, Nigeria

*Corresponding Author: Johnbosco Ikenna Okafor, E-mail: ij.okafor@unizik.edu.ng

Abstract

In Nigeria's economic revitalization, valuation for compensation claims is crucial in ensuring equitable compensation for project-affected persons (PAPs) whose occupancy rights have been revoked for public use. Estate surveyors and valuers are essential in executing compensation claim valuations by adhering to ethical standards and professionalism to uphold public trust and confidence in the valuation process. Conducting compensation claims valuations with integrity, objectivity, impartiality, confidentiality, competence, and professionalism is crucial for promoting and preserving public trust. The Nigerian Valuation Standards (The Green Book) provides guidelines and principles for Estate Surveyors and Valuers in conducting valuation and ensuring consistency, objectivity, and transparency in the valuation process. This paper aims to discuss the ethical standards required of Estate Surveyors and Valuers in valuing compensation for economic revamping in Nigeria, focusing on the importance of adhering to ethical guidelines and standards in valuation practices.

Keywords: Compensation, Valuation, Estate Surveyors and Valuers, Ethics, Professionalism.

Article History: Received: November 06, 2024 Accepted: December 13, 2024 Published: December 21, 2024

1. Introduction

Compensation claim valuation in Nigeria is a critical aspect of the real estate sector, particularly in infrastructural development and revocation of rights on land for public projects. This process involves assessing the value of the unexhausted improvements/assets, particularly crops and economic trees, installations, and buildings on the land being by an authority for overriding public interest. The Land Use Act of 1978 (now CAP. L5 LFN 2007) is the primary law that governs the revocation of rights of occupancy, as well as the assessment and payment of compensation claims in Nigeria. This Act outlines the rights of the project-affected persons (PAPs), the purposes of revocation, and how the compensation claim amount is paid. Ethical principles and standards guide the compensation claim valuation process, ensuring integrity, objectivity, impartiality, confidentiality, competence, and professionalism in the conduct of estate surveyors and valuers. These ethical standards are crucial in building public trust and confidence in the valuation process. The appropriate officer, typically a Chief Lands Officer (now Director of Lands) or recognized Valuer, plays a key role in determining the compensation claim amount. Their assessment is fundamental in ensuring fair and adequate compensation for the project-affected persons (PAPs).

Valuers are expected to adhere to the guidelines outlined in the Land Use Act to ensure consistency, transparency, and reliability in their valuation services. The Land Use Act provides a framework for conducting valuations for compensation claims in Nigeria. However, the Nigerian Valuation Standard (The Green Book) provides general ethical guidelines for valuation practices that every valuer in Nigeria

is expected to adhere to. The Land Use Act provides compensation claims based on heads of claims including ground rent, buildings, installations, improvements, and crops. However, advocacy may be needed to include cultural sites like shrines and sacred bushes if the Land Use Act is amended. Compensation claim valuation in Nigeria is a complex and critical process that requires valuers to uphold ethical standards, adhere to regulatory requirements, and collaborate effectively with all stakeholders involved.

2. Discussion

2.1. Legal and Regulatory Framework for Compensation Valuation in Nigeria

Compensation claim valuation in Nigeria is governed by a legal and regulatory framework that outlines the rights and obligations of all parties involved. The primary legislation guiding this practice is the Land Use Act 1978, which is now captured in CAP. L5 LFN 2007. This Act provides the legal basis for rights revocation for landholders or occupiers and outlines the procedures for determining compensation.

In Nigeria, the Land Use Act of 1978, now known as CAP. L5 LFN 2007, provides the government with the statutory authority to revoke the right of occupancy on land Part V, Sections 28 (1); (2) (a), (b), (c); (3) (a), (b), (c), (d); and (4). Obineme *et al*., (2021) assert that Section 29 of the Land Use Act of 1978, now Cap L5 LFN 2007, emphasizes the entitlement of a holder or occupier (claimant) to Compensation, depending on the type of revocation. For instance, if it is for mining natural resources, it states it shall be "under the appropriate provisions of the Minerals Act or the Mineral Oil Acts or any legislation replacing the same". Generally, Section 29 of the Land Use Act of 1978 outlines the compensation process based on the type of land and interests in the land. From the foregoing, the government may take over any land in Nigeria by revoking existing rights or interests, be they right of occupancy or any other rights held by the existing owner over any land. However, the Nigerian Constitution fundamentally protects this right, and the government can only revoke it for the overriding public interest.

Chapter IV of the 1999 Constitution (as amended) lists such rights as fundamental, thus protecting such human rights. In practice, Chapters IV, Section 44 (1), a, b; (2) m are relevant. From the foregoing, this is one of the laws that prescribe the purpose and manner for the revocation of property rights in Nigeria. Thus, the Land Use Act derives power from Chapter IV, section 44 (1). Under the Land Use Act, the appropriate officer, who is usually the Chief Lands Officer (now Director of Lands) of a State or the Chief Federal Lands Officer (now Director of Lands) of the Federal Capital Territory determines the compensation claim amount. The Act specifies the heads of claims that should be considered in the valuation process, including compensation claims for "ground rent, buildings, installations, improvements, and crop".

In addition to the Land Use Act of 1978, the Nigerian Valuation Standards (The Green Book) provides guidelines for valuation practices in Nigeria. The Green Book sets out ethical principles, standards of conduct, and procedures for conducting valuations. It emphasizes the importance of integrity, objectivity, impartiality, confidentiality, competence, and professionalism in the valuation process. Valuers are to adhere to the provisions of the IVS and Nigeria Green Book and implement its guidelines in their valuation practice. Valuers should collaborate with appropriate officials and professionals to ensure the accuracy and fairness of compensation valuation.

2.2. Ethical Standards in Valuation for Compensation Claims

Compensation claims related to compulsory acquisitions and valuations are commonly instructed by the acquiring authority (requiring authorities or acquiring authorities or, in some cases, private enterprises/organizations under statutory provisions or claimants, dispossessed owners, or tenants). Ethical standards in valuation for compensation are crucial for ensuring fairness, transparency, and credibility in the revocation of rights. These standards help uphold the integrity of the valuation profession and build public trust in the process. Ethical standards ensure the valuers adhere to honesty, integrity, objectivity, impartiality, confidentiality, competence, and professionalism in their valuation practices. These standards guide valuers to conduct themselves ethically and responsibly when determining compensation for project-affected persons (PAPs) whose properties have been revoked for infrastructure development projects. By following ethical standards, valuers can instill confidence in the acquiring authority and the project-affected persons (PAPs), ensuring that the compensation process is carried out fairly and justly. This not only protects the rights of the landowners but also contributes to the overall success and credibility of the infrastructure development projects. Ethical standards play a pivotal role in the valuation of compensation claims as they promote trust, integrity, and professionalism in the valuation process. Valuers should diligently uphold these standards to ensure the conduct of compensation for revoked rights of occupancy is ethical and compliant with regulatory requirements.

2.3. Principles and Ethical Conducts in Compensation Claims Valuation in Nigeria

In the practice of compensation valuation in Nigeria, there are specific principles, ethical standards, and codes of conduct that estate surveyors and valuers are expected to adhere to. These principles and ethical standards guide the valuers in conducting their valuation assignments with integrity, objectivity, impartiality, confidentiality, and professionalism.

Integrity. The quality of being honest and having strong moral principles. Valuers are expected to act with integrity in all their dealings, ensuring transparency and honesty in their valuations.
Objectivity. The quality or character of being objective, free from bias or favoritism toward one side or the other. Valuers must be objective with their valuation assignments to ensure that judgments are based on facts and evidence rather than personal biases.
Impartiality. The equal treatment of all parties involved in the valuation process. Valuers should remain impartial and fair in their assessments, ensuring that they do not show favoritism towards any party.
Confidentiality. Valuers are expected to keep all information confidential to protect sensitive information and data shared during the valuation process and only disclose it to authorized parties.
Professionalism. An estate surveying and valuation professional should possess the necessary skills, knowledge, and expertise. Valuers must conduct themselves professionally, adhering to the ethical standards and codes of conduct set forth by regulatory bodies.

Adherence to these principles and ethical standards is crucial in maintaining public trust and confidence in the valuation of compensation claims. Valuers must uphold these standards to ensure reliability, effectiveness, and transparency in their valuation service which will ultimately contribute to the economic development and growth of the nation.

2.4. Guidelines for Value Determination in Compensation Claims Valuation

Compensation claims valuation in Nigeria for revoked right of occupancy in land for required infrastructure development is a crucial aspect of the valuation profession. Section 29(1) of the Land Use Act provides for the payment of compensation for right of occupancy revoked for the cause set out in section 28 of the Land Use Act (Kalu, 2001). It is important to adhere to ethical standards and guidelines for determining compensation claims fairly and transparently. Here are some guidelines for compensation claims valuation:

Understanding Legal and Regulatory Requirements. Valuers should be familiar with the relevant provisions of the Land Use Act of 1978 (now CAP. L5 LFN 2007) and other applicable laws governing compensation claims valuation in Nigeria. Particularly, sections dealing with heads of compensation claims, appropriate officers, and grounds for the revocation of rights of occupancy.

Heads of Claim for Compensation. Valuers should consider the different heads of compensation claims, including ground rent, buildings, installations, and improvements to the land and crops. It is important to accurately assess the values of these assets based on the provisions of the Act.

Other Heads of Claims for Compensation. 'The essence of compensation is to put the claimant back to the same position he/she was in prior to the revocation of the right of occupancy.' Having identified the statutory heads of claims recognized by the Land Use Act, there are also, some other heads of claim that are not in the Land Use Act but would ensure fair and adequate compensation if included in the Statutory Heads of Compensation Claim. These other heads of compensation claim include.

1. *Value of Land Taken.* The value of land taken should align with the IVS Defined Basis of Value. Market Value is the estimated amount for which an asset or liability should be exchanged on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently, and without compulsion (IVS).
2. *Special Value.* The principle of special value envisages that the land possesses some attribute that has a financial value to the owner but would not hold the same value for a hypothetical purchaser. Put simply, the current owner would pay something more for the land. In the Pastoral Finance Association's case, it was held that market value should reflect what a prudent buyer in the same position as the landowner would have been willing to give for the land sooner rather than failing to obtain it. Typically, a special value will be considered when the land is adapted to a particular purpose or benefit that cannot easily be replaced. However, it is not on a sentimental or irrational basis. The law refers to a special value, but the concept may differ slightly from the IVS concept. In the Turner case, the Court found that the special consideration needed to be legal and likely fall under the highest and best-use assumption.
3. *Reinstatement.* This method of assessing compensation involves calculating the expenses required to restore the claimant to their pre-compulsory acquisition status. The current physical condition of any improvements to the land taken is to be considered in any assessment of compensation.
4. *Disturbance.* This includes costs and expenses reasonably incurred in moving from the land being acquired to another comparable property and may also include other costs, including reasonable fees for consultants appointed to assess and lodge the compensation claim. Business compensation is considered under this principle. Business loss may comprise the extinguishment or loss of goodwill, both local and personal.

5. *Severance.* This is considered where part of the land is taken, and the owner retains the remainder of their land. Severance refers to the impact on the value of the remaining portion of land.
6. *Injurious Affection.* This implies a decrease in the value of the claimant's other land due to the carrying out or proposed carrying out of the public work for which the land has been taken. Consideration needs to be given to the injurious affection while the public works are being undertaken, as well as any long-term impact. In addition to the impact on an owner-occupier's interest in the property, which is readily identifiable, consideration may also be given to the impact on a tenant's interest and any long-term impact on the rental and use of the land by the tenant.
7. *Enhancement/Betterment.* The increase in residual land value, if any, from works or the public purpose for which the land was acquired. It should be considered, but not to the extent that negative compensation results.
8. *Solatium* is compensation for emotional attachment to a property.
9. *Compensation for Juju, Shrines, and Sacred Bushes.* Valuers should consider appeasement sacrifices, the cost of relocation, and losses when determining compensation for shrines, juju, and sacred bushes. These cultural and spiritual assets should be valued with sensitivity and respect.
10. *Alignment with International Standards.* Valuers should align their valuation practices with International Valuation Standards such as the Nigerian Valuation Standards (The Green Book) and the International Valuation Standards to ensure consistency, objectivity, and transparency in valuation for compensation.

By following these guidelines and maintaining ethical standards, Estate Surveyors and Valuers can ensure that compensation claims valuation in Nigeria is conducted professionally, fairly, and in the best interest of all parties involved in infrastructure development projects.

2.5. Templates for Compensation Claim Valuation

1. *Service of Notice of Revocation from revoking authority*. Date of Proposed Revocation Notice/Opening Letter/Notice to Treat/Notice of Intention to revoke rights of occupancy on land. Notice of Intention to Resume (NIR)/Notice of Acquisition/Notice of Trust Acquisition/Public Acquisition Overlay (PAO) or any other notice should be served on the project-affected persons.
2. *Valuation Inspection/Enumeration.* The buildings, installations, and improvements on the land would be inspected by Estate Surveyors and Valuers who must have obtained the necessary brief/instructions from the claimants. The crops and economic trees are to be enumerated according to the guidelines provided by the appropriate land officer. The Estate Surveyor and Valuer must have acquired the Power of Attorney to represent the claimants before the inspection and enumeration.
3. *Value Determination for Buildings, Installations, and Improvements Made on Land.* Valuers should determine the compensation for buildings, installations, and improvements based on replacement cost depreciation, with interest at the bank rate for delayed payment. Current construction rates should be used in the assessment to avoid further impoverishing project-affected people (PAPs).
4. *Value Determination for Crops and Economic Trees*. Compensation for crops and economic trees should be determined based on their economic value, which may require discounting projected

future income for the remaining economic life. Valuers should avoid using arbitrarily fixed rates and ensure that the valuation reflects the economic worth of the crops and trees.

5. *Submission of Compensation Claim Valuation Report*. The Attorney (who must also be an Estate Surveyor and Valuer) representing the claimants shall prepare the compensation claim valuation report and submit the same to the revoking authority for timely payment of compensation to those whose right of occupancy had been revoked (the claimants).

2.3. Challenges for Improving Compensation Claims Valuation Practices in Nigeria

Compensation claims valuation in Nigeria, especially for revoked right of occupancy on land for infrastructure development, faces several challenges that should be addressed to ensure fair and adequate compensation. Some key challenges for improving compensation claims valuation practices in Nigeria are:

1. *Lack of Uniform Standards.* **A** lack of uniform standards and guidelines for compensation claim valuation practices across different states in Nigeria leads to inconsistencies in the amount of compensation paid to claimants in different States.
2. *Inadequate Training and Education.* Some estate surveyors and valuers may lack sufficient training and education in compensation claims valuation, resulting in subpar valuation practices that do not adequately address the needs of project-affected persons (PAPs).
3. *Ethical Concerns.* Ethical lapses, such as lack of transparency, conflicts of interest, and biased valuation practices, can undermine the integrity of compensation valuation processes.
4. *Inadequate Data and Information.* Limited access to reliable data on prevailing construction rates, crops, economic trees, and other assets can challenge accurate valuation assessments.
5. *Insufficient Collaboration and Communication.* Inadequate collaboration and communication among stakeholders involved in compensation valuation, including estate surveyors, appropriate officers, project-affected persons, and government agencies, can lead to misunderstandings and delays in compensation valuation processes.

3. Conclusion

In conclusion, upholding ethical standards is crucial for the sustainability of compensation valuation practice. The practice of valuation for compensation requires Estate Surveyors and Valuers to adhere to ethical principles such as integrity, objectivity, impartiality, confidentiality, competence, and professionalism. By following these ethical standards, valuers can promote and preserve public trust in their services, ensure consistency, transparency, and reliability in their valuation reports, and ultimately contribute to economic development. All valuers must embrace International Valuation Standards and implement the Nigeria Valuation Standards (The Green Book) to guide their valuation practice and to uphold professionalism in all their dealings. By upholding ethical standards, Estate Surveyors and Valuers can foster public confidence and trust in valuation for compensation, ultimately contributing to the overall success of developmental projects and the well-being of project-affected persons (PAPs).

4. Recommendations

1. *Standardization of Practices.* There is a need for standardized valuation practices and guidelines for compensation valuation in Nigeria to ensure consistency, transparency, and fairness in

valuation outcomes. This can be achieved through the implementation of the Nigerian Valuation Standards (The Green Book) and adherence to international valuation standards IVS.

2. *Continuous Professional Development.* Estate surveyors and valuers should actively engage in continuous professional development programs to enhance their skills, knowledge, and expertise in compensation valuation practices. Training sessions, workshops, and seminars can help improve the quality of valuation services.
3. *Ethical Compliance.* Estate surveyors and valuers must adhere to ethical standards in their valuation practices, including integrity, objectivity, impartiality, confidentiality, competence, and professionalism. Upholding ethical principles is essential for maintaining public trust and credibility in the valuation profession.
4. *Improved Data Management.* Efforts should be made to improve data management systems for capturing and analyzing relevant data for compensation valuation. Access to reliable and up-to-date information is crucial for conducting accurate valuation assessments.
5. *Stakeholder Engagement*. Enhanced collaboration and communication among stakeholders in compensation valuation processes can promote transparency, trust, and effective decision-making. Regular dialogue, consultation, and feedback mechanisms should be established to address concerns and resolve issues promptly.

By addressing these challenges and implementing the recommended strategies, the valuation profession in Nigeria can enhance compensation valuation quality, credibility, and integrity, ultimately contributing to the sustainable development of infrastructure projects and protecting claimants' rights.

References

Obineme, C.H, Udobi, A. N. & Ifediora, C.O. (2021). *An evaluation of compensation processes on compulsorily acquired lands for infrastructural facilities in SouthEast Nigeria*. Retrieved from https://www.irejournals.com/formatedpaper/1701597.pdf

Land Use Act (2007) CAP. L5 LFN

Kalu, I. U. (2001). *Property valuation and appraisal*. Bon Publishers, Owerri.