



LEGAL ISSUES IN THE DELIVERY OF AFFORDABLE HOUSING IN NIGERIA BY 2016

April 2013

- ❖ About 32 million households, or over 50% of Nigerians are either homeless or live in inadequate shelter.
- ❖ 56.4% or 17.8 million households living in urban areas are in either rented houses or unpaid makeshift accommodation - NBS
- ❖ In Lagos alone, the figure was as high as 73.8% in 2006. More alarming is the distribution of this housing gap.
- ❖ It is heavily skewed against the urban areas with over 80% home ownership gap compared to near surplus situation in some rural areas
- ❖ the problem is due largely to undersupply of affordable housing to the rising population
- ❖ Despite the housing gap, the size of mortgage and real estate loan remain highly low at 7% of total banks credit or lower
- ❖ Over N500 billion in unclaimed stock of approved mortgage loans is locked up in the vaults of both commercial and mortgage banks



The question is



Why is there an undersupply where the market size is as big as N50- N60 trillion?

The answers are:

The Land Use Act 1978 and gaps in related laws are biggest impediments to housing in Nigeria

- ❖ Affordability gap in home ownership- small but expanding middle income
- ❖ Dearth of long term funds and mortgage liquidity facility
- ❖ Critical need for enhanced capital and resource base of Primary Mortgage Institutions (PMIs) and the Federal Mortgage Bank of Nigeria (FMBN)
- ❖ Difficulty in accessing land and securing title to Land due to the shortcomings in the provision and implementation of the Land Use Act of 1978.
- ❖ Inadequate, often times cumbersome and encumbering land, housing and real estate Legal Framework
- ❖ Inadequate Housing Infrastructure
- ❖ Inadequate incentives, concessions and taxes and non-availability of insurance Framework for housing
- ❖ Insufficient production and high cost of building materials as well as inadequate skilled labour

- ❖ The Land Use Act 1978
- ❖ The National Housing Fund Act 1992
- ❖ The Mortgage Institutions Act 1989
- ❖ The Federal Mortgage Bank of Nigeria Act 1993
- ❖ The Trustee Investments Act 1962
- ❖ The Nigeria Social Insurance Trust Act 1993
- ❖ The Insurance Act 2002
- ❖ The Investments and Securities Act 1999
- ❖ The Federal Housing Authority Act 1990
- ❖ Securitization Bill
- ❖ Foreclosure Laws Bill (Residential Mortgages Act & Residential Mortgages (Incentives) Act)

All these laws need to either be amended or repealed while new bills need to be passed

Hydra-headed challenges of LUA 1978

The Land Use Act (1978) vested proprietary rights in land in the State Governments and makes it mandatory to obtain Governor's Consent on all Mortgage transactions, both at the Primary and Secondary Market Levels.

The provision of the Act is also enshrined in the 1999 Constitution implying that its provisions cannot be amended or repealed with changing the constitution.



The effects

- ❖ Tenuous process and attendant costly and multiple land title perfection requirement
- ❖ Difficulty in the transferability of land and properties
- ❖ Tough property foreclosure practices with no legal framework
- ❖ Increases the risks profile of real estate and housing finance transaction
- ❖ Responsible for the dearth of mortgage finance and low credit to the sector
- ❖ Hampers securitisation of mortgages and liquidity for housing finance
- ❖ Constrains real estate investments and profitability potentials
- ❖ Subsisting issues of community and indigene struggles for ownership



The effects

- ❖ The land use regulation and difficult title registration procedures adds to the failure of housing supply
- ❖ The Mortgage Banks Association of Nigeria (MBAN) considers the Land Use Act as the primary impediment to the development of a virile mortgage banking sector
- ❖ Costly corruption ridden Title costs- the act has become a source of political and social abuse as well as unprecedented corruption in the Ministry that processes the Certificate of Occupancy
- ❖ The effect is a cost push inflationary effects on value of lands in many cities with impact on housing costs
- ❖ This has push the house price to rent ratio beyond reasonable/bubble threshold in major cities in Nigeria with implications for financing
- ❖ The non existence of standard foreclosure laws and procedures also implies mortgage defaults are difficult to redeem
- ❖ Mortgage insurance is hampered by uncertainties of land ownership/tenure, the cumbersome title process and lack of foreclosure laws
- ❖ Hence the low level of mortgage related securitisation such as MBS.

Figure 1: Costs of Registering Property (% of property value)

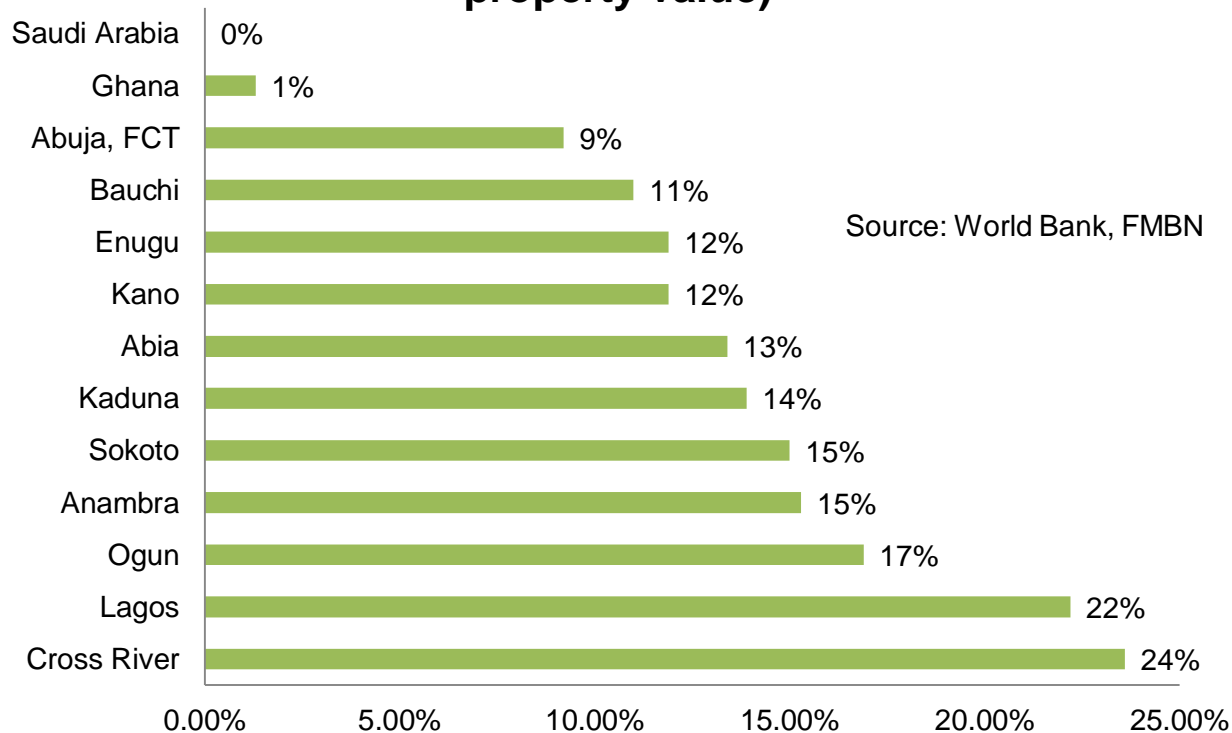


Table 1: Registering Properties

Country	Procedures	Duration (Days)	Cost (% of property value)
Indonesia	6	39	10.7
Malaysia	5	144	2.5
Nigeria	14	82	21.9
Singapore	3	9	2.8
Thailand	2	2	1.1

Source: World Bank

What Better Housing Legal Environment will do

- ❖ Facilitation of easy and continuous amendments to the Act, as and when considered desirable
- ❖ Obtaining titles to ownership of land would be faster
- ❖ There would be security of tenure of land
- ❖ Home ownership by Nigerians would become easy, affordable and faster
- ❖ Mortgage financing would become easier
- ❖ Land would become a veritable source of wealth creation for Nigerians
- ❖ Contribution of Nigerian Mortgage Sector to GDP would increase significantly
- ❖ Increased productivity and GDP as more Nigerians leverage off the capital value of land and home ownership for entrepreneurship and business finance
- ❖ Increased employment generation and reduced poverty level
- ❖ Increased capital market activities as mortgage securitisation and related assets emerge

- ❖ The current administration has indicated commitment to housing for all in many fronts
- ❖ The government has indicated plan to recapitalise the FMBN to N100 billion before the end of 2013 from N2.5 billion currently
- ❖ the FMBN was restructured into a federal government sponsored enterprise and realigns its focus on secondary mortgage
- ❖ The mortgage industry regulation and supervision role was transferred to the CBN.
- ❖ The CBN is currently implementing the reforms of the PMIs starting with increase in minimum capital to N2 billion and N5billion for State and National PMIs
- ❖ The CBN in conjunction with the Ministry of Finance is also promoting the Mortgage Refinance Company (MRC) as a liquidity provider for mortgages
- ❖ The capital market has also advanced and is deep enough to absorb mortgage backed securities and help provide liquidity
- ❖ LUA 1978 remains a constant issue in the National debates and a major matter in the Nation's parliament

- ❖ Reforming the land use act and mortgage related rules would be central to getting the best out of the reforms of the mortgage market
- ❖ It would promote increased access to affordable housing in Nigeria
- ❖ The stable macroeconomic environment is also poised to support housing finance initiatives
- ❖ Stable and single digit inflation environment supports milder monetary policy environment in the medium to long term
- ❖ This should support affordable mortgage finance in the country
- ❖ It is however important that the amendment of the LUA 1978 be effected as part of the on-going constitutional amendment.
- ❖ While the other related laws and bills before the National assembly are accorded special attention
- ❖ The stakeholders- Mortgage Bankers' Association of Nigeria (MBAN), the FMBN, and others- working with the Ministries of Finance and Land and Housing to push for actions on these laws.

Thank you