



EVICTIONS AND DEMOLITIONS IN PORT HARCOURT

REPORT OF FACT-FINDING MISSION TO PORT HARCOURT CITY, FEDERAL REPUBLIC OF NIGERIA

12-16 MARCH 2009



UN-HABITAT
with
**Ministry of Works, Housing and Urban Development of the Federal Republic of
Nigeria,**
**Social and Economic Rights Action Center (SERAC),
Women Environment Programme (WEP)**

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Cover photo: Legal structure along the upper part of Abonnema Wharf, demolished during the period 10 to 13 February 2009.

Photo credit: Social and Economic Rights Action Center (SERAC)

UN-HABITAT

Abuja and Nairobi, August 2009

Acronyms

AGFE	-	Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT
C of O	-	Certificate of Occupancy
CAP	-	Chapter of Law
CESCR	-	Committee on Economic, Social and Cultural Rights
COHRE	-	Centre on Forced Eviction and Housing Rights
EIA	-	Environmental Impact Assessment
ERSO	-	Experimental Reimbursable Seeding Operation
GRA	-	Government Reservation Area
GUO	-	Global Urban Observatory
HAPSO	-	Habitat Programme Support Office
HAPSO	-	Habitat Programme Support Office
HIC	-	Habitat International Coalition
HLRN	-	Housing and Land Rights Network
IAI	-	International Alliance of Inhabitants
LUO	-	Local Urban Observatory
MDG	-	Millennium Development Goals
MDGs	-	Millennium Development Goals
MoU	-	Memorandum of Understanding
NEPAD	-	New Partnership for African Development
NGN	-	Nigerian Naira
NGOs	-	Non-Governmental Organizations
NIWA	-	National Inland Waterways Authority
NUTN	-	National Union of Tenants of Nigeria
RSG	-	Rivers State Government
SERAC	-	Social and Economic Rights Action Center
SPDC	-	Shell Petroleum Development Company
TOL	-	Temporary Occupation License
TOL	-	Temporary Occupation Licenses
TV	-	Television
UN	-	United Nations
UN-HABITAT-	-	United Nations Human Settlements Programme
UNICEF	-	United Nations Children Fund
USD	-	United States Dollar
WDMC	-	Waterfronts Development Monitoring Committee

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Executive Summary

1. Mission background and justification

A five-person fact-finding mission led by UN-HABITAT has visited Port Harcourt, Nigeria, from 12 to 16 March 2009. The mission team was composed of UN-HABITAT staff who are based in Nairobi and Abuja, and representatives of the Federal Ministry of Works, Housing and Urban Development and the Nigerian-based non governmental organisations Social and Economic Rights Action Center (SERAC) and Women Environmental Programme (WEP).¹

In addition to petitions received by UN-HABITAT, an international outcry about large-scale demolitions and reported violations of housing rights undertaken by the Rivers State Government (RSG) triggered the organisation of this fact-finding mission. Various UN-HABITAT partners and members of the *Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT* (AGFE) had also expressed their concerns and requested UN-HABITAT to undertake a mission to assess the situation, or alternatively field an AGFE mission to look at the matter *in situ*. Security concerns and availability of experts adversely affected an earlier response of UN-HABITAT.

2. Methodology

The Mission objectively assessed the on-going and planned demolitions. It visited different sites where demolitions have recently occurred as well as locations where they are planned to take place. Additionally, the Mission met with Government officials, carried out individual interviews and group discussions and reviewed a wide range of documentation including web-based reports, official government reports, and legal papers and plans. The Mission interviewed and held consultations with the widest possible range of stakeholders including Government, NGOs, and civil society representatives.

3. Housing situation in Port Harcourt city

Port Harcourt city has more than 800,000 inhabitants (2006 census) living within its municipal boundary. According to the RSG, the population of Greater Port Harcourt currently stands at 1.2 million. The city has experienced spontaneous and uncontrolled physical growth arising from rapid urbanisation during the last four decades. Faced with the high cost of inner-city rentals and scarcity of housing, many households, especially rural migrants, resorted to land reclamation of swamps along the waterfronts and their subsequent occupation via self-help housing construction. This process of growth was not foreseen by the 1975 Master Plan that aimed at providing infrastructure and orderly development for the fast-growing city. The city's 1975 Plan was never fully implemented.

¹ The following persons participated in the Mission: Prof. Johnson Falade, Habitat Programme Manager in Nigeria (Head of Mission); Rasmus Precht, Human Settlements Officer, Housing Policy Section, UN-HABITAT (Headquarters, Nairobi, Kenya); Morenike Babalola, Federal Ministry of Public Works, Housing and Urban Development, Abuja, Nigeria; Victoria Ohaeri, Programme Coordinator, Social and Economic Rights Action Center (SERAC), Lagos, Nigeria; and Priscilla Achakpa, Executive Director, Women Environment Programme (WEP), Abuja, Nigeria.

4. The RSG’s justification for the demolitions

The Mission verified that indeed demolitions have taken place. Areas have been cleared and other sites are earmarked for further demolitions. The RSG justifies its clearance actions on its urban renewal strategy and its attempts to execute part of the 1975 Master Plan. The Mission concluded that the re-establishment of development control – which has been neglected by previous administrations resulting into encroachments on vacant land and into residential development along the waterfronts – is one of the most important drivers behind the on-going demolitions.

5. Location and typology of demolitions

The Mission witnessed demolitions in different parts of the city, some triggered by infrastructure development projects (road dualisation; installation of water mains and drainage; hospital expansion...); others by the RSG’s efforts to enforce development control. The Mission identified three types of demolitions:

5.1. Demolition of allegedly illegal structures

This concerns allegedly unauthorised extensions and transformations of originally legal structures in planned neighbourhoods like the Government Reservation Area (GRA), e.g. walls outside legal plot boundaries, additional buildings within plots, and full buildings encroaching on road reservations and other public spaces. It also concerns clusters of structures that have been erected allegedly without development permits in areas not planned for this purpose, including unplanned markets and workshops. The RSG does not compensate owners of illegal structures.

5.2. Demolition of legal structures

This concerns buildings whose owners hold valid land titles (“Certificate of Occupancy”), approved building plans and building permits. Owners of legal structures are legally entitled to compensation and the RSG has a policy of paying compensation for the demolition of legal structures.

5.3. Demolition of entire waterfront settlements

This concerns unplanned residential developments along the waterfronts, i.e. the swampy areas between the creeks and higher-lying planned areas of Port Harcourt. The tenure status of waterfront settlements differs significantly from all other neighbourhoods in Port Harcourt. The issue of “legality” versus “illegality” requires a wider perspective. The 1975 Master Plan does not provide for residential occupation of the waterfronts, and parts of them are likely to fall under the jurisdiction of the National Inland Waterways Authority. Waterfront residents do not hold land titles but Temporary Occupation Licenses (TOL). A TOL is revocable and only allows construction of a temporary hut. Since most structures in the waterfronts are built from permanent materials, they are – strictly speaking – illegal. However, the fact that residents have gone beyond what the TOL permits has not stopped Government officials from regularly renewing the TOLs, thus tacitly tolerating and recognising these settlements.

No waterfront had been demolished yet by the time of the Mission, but the RSG had announced that it would demolish all waterfronts and redevelop them. Enumeration of property owners was underway at Abonnema Wharf and Njemanze waterfronts at the time of the Mission. The RSG intends to compensate structure owners. No resettlement is foreseen.

6. Focus of the Mission's site visits: settlements within 2km of the Silverbird Showtime project

The Mission concentrated its site visits on the area surrounding the former Obi Wali Cultural Centre on Abonnema Wharf Road in Mile One, Diobu. The past and planned demolitions in this area are caused by the implementation of the Silverbird Showtime project, a stand-alone 8-screen cinema with several related commercial developments. According to the public-private partnership agreement between the RSG and Silverbird Ltd., all settlements located within 2km of the Silverbird project have to undergo urban renewal.

The Mission verified the most recent demolition of legal structures along the upper part of Abonnema Wharf Road, carried out by the RSG in February 2009 to clear the site for the Silverbird parking area. The office of the National Union of Tenants of Nigeria (NUTN) was in one of the demolished buildings. NUTN and other organizations had reported on these demolitions in great detail. SERAC had paid a visit to the area while assessing these demolitions *in situ* and had witnessed the actions.

The Mission visited two sites where evictions and demolitions were being prepared: (i) Azikiwe and neighbouring streets (road expansion for access to Silverbird site); and (ii) Abonnema Wharf Waterfront. Houses in these areas were marked with a red "x", for demolition. The Mission confirmed through various sources, including the RSG, that Njemanze Waterfront, equally situated within 2km of Silverbird, was undergoing the same preparatory process for demolition. The three areas accommodate large populations in a high number of residential structures.

7. The population affected by demolitions

Habitat International Coalition's Housing and Land Rights Network reported in January 2009 that between June and October 2008, "officials have destroyed numerous buildings and made 200,000 people homeless in Port Harcourt" and in December 2008, the government rendered 125,000 homeless people with evictions on just four major streets in Port Harcourt: Bonny Street, Creek Road, Gambia Lane, and Anyama Street." Should this be correct, it would mean that 325,000 people or nearly 50 per cent of the city's population were evicted from their homes by the end of 2008. These alarming numbers have been quoted in petitions sent to UN-HABITAT by international organisations like HIC, COHRE, and IAI. However, observations made on site coupled with rapid map and orthophoto interpretation made thereafter by the Mission suggest that the number of persons evicted since 2008 is significantly lower.

The main difficulty in estimating affected populations is that there is no comprehensive, reliable and recent data about the total number of residents who live in the waterfront settlements. It appears that an enumeration and census of the area has never been done to establish this baseline information. This explains the contradicting figures disclosed to the Mission:

- A 2007 report issued by a Government committee mentions that there are 41 waterfront communities that house 25 per cent of the total population of Port Harcourt city. According to the 2006 Census this would translate into a total of 200,000 waterfront residents.
- NUTN estimates that all waterfront settlements together contain more than 75,000 buildings with a total population of over 900,000, or two-thirds of the total population of Port Harcourt main-city. This is unlikely to be correct and gives evidence about the difficulties in assessing the exact number of waterfront residents.

The much needed enumeration exercise would not only identify the total number of waterfront residents; it would also provide data on absent owners, occupancy rates, number of tenants, etc.

The Mission estimates that if the demolition of all waterfront settlements goes ahead as planned and announced by the RSG, it is likely that at least **200,000** residents will lose their homes. This is a conservative figure based on the Government's total waterfront population estimate. However, analysis by the Mission gives evidence that it is likely that the waterfronts are occupied by a larger population. The occupants of legal and illegal structures in other parts of the city need to be added to this estimate of affected persons in the waterfronts. Thus, the Mission anticipates that the RSG's urban renewal programme – if executed as announced – will probably destroy the homes of **up to 300,000** Port Harcourt residents. In addition to residential structures, there are the numerous demolished shops, workshops and other small business structures in various parts of the city that provided livelihoods for thousands of low-income residents. The Mission estimates that the Silverbird Showtime project alone will lead to land clearance affecting between 100,000 and 150,000 people.

8. Social and economic impacts of demolitions and evictions

The Mission verified the absence of a relocation policy that would otherwise provide housing and livelihood alternatives. This has rendered many people homeless putting them under considerable strain particularly because of the scarcity of accommodation that results into soaring and unaffordable rents. Residents described their sufferings to the Mission during site visits. Additionally, losses incurred by inhabitants both in their private assets and in their livelihood opportunities have been brought to the attention of the Mission. These adversely affect poverty alleviation strategies and tend to stimulate slum formation elsewhere. The recent and on-going demolitions no doubt inflict distress, perpetuate poverty and homelessness, and thus jeopardize Nigeria's progress to achieve the MDG 7, Target 11 that seeks to ensure a significant improvement in the living conditions of at least 100 million slum dwellers by 2020.

9. Legal provisions and inadequate observance to their enforcement

9.1. Inadequate institutional framework

The RSG has not implemented most of the provisions of the Rivers State Physical Planning and Development Law of 2003. In particular, it did not establish the institutions and mechanisms prescribed for the implementation of urban renewal activities. Consequently, the ongoing urban renewal initiative with its numerous demolitions cannot find its full legal backing from this Law. In other words, the demolitions carried out by the current administration do not comply with the legal and institutional framework provided by the law.

9.2. Discretionary use of development control

The Mission observed strict discretionary use of development control in contradiction to provisions of the 2003 Law which advocates for more participatory, humane and inclusive approaches. The Mission observed a rather narrow interpretation and application of the 2003 Law that purposely serves to rectify the negligence of previous administrations regarding development control over its territory during a time when it was required and which would have prevented illegal buildings, encroachments and informal settlements and consequently the costly and socially pervasive evictions and demolitions. The Mission concluded that the present policy is non-inclusive and not pro-poor and not in compliance with the Habitat Agenda. It is socially and economically costly with very negative implications for the international image of the city. The Mission was informed by the RSG that it does not have any guidelines on how to carry out evictions and demolitions.

9.3. Compensation only for landlords and not for tenants

Analysis made by the Mission reveals that the RSG “buys” out legal properties from their respective owners instead of opting for land acquisition through a revocation order for overriding public purposes, as defined in statutory laws (1978 Land Use Act). No other option is offered. The RSG pays the replacement value at market rates minus the value of depreciation of the properties. The RSG does not provide for resettlement or compensation of tenants and has no will to establish any other support mechanisms for tenants who are rendered homeless. The Mission noticed that the RSG does not apply the provisions of the Land Use Act in the Silverbird area because the Land Use Act only provides for the revocation of land use rights for overriding public interest but not for private interests.

9.4. Non observation of tenants’ rights

The RSG pastes Demolition Notices on buildings that it has already bought. This shows a discrepancy in the procedure: It appears that Demolition Notices are used to evict sitting tenants from the RSG’s own buildings. Anecdotal evidence points out that landlords cash in their compensation and disappear, leaving the landlord-tenant relationship to the new owner – the Government. The latter seems to ignore rights and obligations of both parties. The eviction of sitting tenants as practised by the RSG is in contradiction with the Rivers State rental legislation that prescribes that only the court can order the eviction of tenants on the grounds that the premises are reasonably required for any purpose which is in the public interest. Considering that the agreement between the RSG and Silverbird is based on private sector business interests, this is clearly not a case of overriding public interest.

In addition, tenants are left at their own fate and very little evidence was provided to the Mission regarding the existence of tenancy contracts on buildings subject to buy-out and subsequent demolition. This would otherwise safeguard rights of the occupants/tenants.

The Mission confirmed that tenants of legal structures in the upper part of Abonnema Wharf Road that were demolished in February 2009 had initiated a court case against the RSG in August 2008. This suit was seeking an injunction to restrain the RSG from interfering with the tenants' constitutionally-enshrined rights to privacy, family life, and dignity of Human Person, whether by means of forced evictions or by any other means as may constitute an infraction of these fundamental rights. The Federal High Court order against the Commissioner for Urban Development to halt the demolitions was ignored and the forced eviction executed by the RSG.

9.5. Inadequate notice

Demolitions carried out by the RSG are not preceded by timely notice to occupants who must vacate the buildings. The Mission verified cases in which occupants were not allowed to remove their personal belongings and personal effects from the buildings under demolition. Additionally, the Mission verified the use of force in the Abonnema Wharf Road demolitions from the part of the Government.

10. Planned re-development of waterfronts: inadequate application and interpretation of State and Federal laws

10.1. National Inland Waterways Act of 1997

The Mission noticed that the Rivers State Physical Planning and Development Law of 2003 may not apply to the waterfronts, or parts of them, as these areas may fall under the jurisdiction of the National Inland Waterways Authority (NIWA) that has the right to all land within the right-of-way of such waterways. According to the National Inland Waterways Act of 1997 no person including a State has the right to erect permanent structures; reclaim land; undertake acquisition or lease/hire of properties within the right-of-way without the written consent, approval or permission of the Authority. The Authority has exclusive right to acquire, develop and use any landed property. These provisions may limit the RSG's possibility to acquire (through buy-out), demolish and re-develop the waterfront settlements.

During its discussions with the Mission, the RSG did not mention the National Inland Waterways Act, and the Mission only became aware of the Act's provisions when carrying out a detailed legal analysis after the site visits in Port Harcourt. It remains to be established to what degree the Act applies to all waterfronts (depending on their distance from the waterways and/or level of flooding). In any case, the Mission established that any waterfront re-development without the approval of Federal Government runs the high risk of being a violation of federal law. Further study by the RSG of the 1997 Law and its applicability is needed, in conjunction with Federal Government and the communities concerned.

For those parts of the waterfronts where the Rivers State Physical Planning and Development Law of 2003 does apply (to be verified), the Mission concluded that the RSG's approach to waterfront redevelopment based on clearance contravenes the

provisions of the 2003 Law for due process to be complied with by any urban renewal initiative:

10.2. Failure to declare waterfronts “Improvement Areas”

The main omission is that the waterfront settlements demarcated for demolition in the context of the Silverbird Project have not been declared “Improvement Areas”. If the 2003 Law would be fully and properly implemented, Port Harcourt’s waterfronts would have to be declared Improvement Areas. This would imply that plans would be publicly presented and the general public would be informed about its proceedings. Moreover, the Government would be responsible for the fate of owners, occupants and tenants of buildings subject to demolition, contrary to the current practice whereby only property owners are entitled to compensation.

10.3. Lack of transparency and participation/consultation

The Mission uncovered the absence of information provision to the citizens of Port Harcourt, as well as communication, consultation and public participation with regard to the RSG’s urban renewal plans.

10.4. Non consideration of alternatives to demolition/redevelopment

The Mission found that the RSG followed only one particular recommendation on how to bring about urban renewal in the waterfronts. The Committee on Port Harcourt Waterfronts in 2007 advised the RSG in favour of demolition/redevelopment. The RSG appeared to have followed this recommendation blindly without considering any of the alternatives provided for in the 2003 Law, such as *in situ* upgrading/rehabilitation and resettlement of the residents of housing that cannot be upgraded and/or serviced.

The Mission verified widespread fear amongst the residents of all areas visited. Waterfront residents fear that the present redevelopment process will lead to large-scale losses of homes and jobs as well as distress particularly to those who have no access to alternative accommodation and places for income-generating activities. Given that demolitions are being carried out without proper planning and with no engagement of residents, the Government misses a unique opportunity to develop constructive and appropriate alternatives with and for the local community. The Mission is seriously concerned about the destruction of social safety networks and community service provision mechanisms that are essential for the survival of poor households in the urban economy.

In the provisions of the 2003 Law would have been followed, it appears unlikely that the Silverbird public-private partnership project, regarded as an initiative for the public good, would have been approved and executed the way it is. The redevelopment of two entire waterfront settlements as well as several other communities who have lived in “legal structures” for many years, at this scale and magnitude, does not match any criteria of public social responsibility. In fact, the 2003 Law promotes – where technically, financially and environmentally possible – *in situ* upgrading of existing settlements as part of an inclusive, pro-poor urban renewal programme. If implemented, this would create the basis for the transformation of informal settlements located within the surrounding 2 km of the Silverbird site into sustainable neighbourhoods. These could contain possibilities for high-rise, multi-family, high-density housing where people can sustain their

livelihoods while living and earning their income from Silverbird's mall and entertainment parks and its surroundings. The Mission noted that the Memorandum of Understanding (MoU) between the RSG and Silverbird Ltd. does not specify which form the required urban renewal programme within a radius of 2 km of the project site should take. Thus, *in situ* upgrading and rehabilitation would be in line with the MoU.

11. A view from the rights-based approach to housing

From the housing rights point of view, the Mission found that only few owners received compensation for their properties through a buy-out approach by the RSG and moved somewhere else in the city. Many Port Harcourt residents who have been affected by the demolitions – owners and tenants – have been forced out of their homes against their will and have not received adequate compensation because their properties were considered “illegal” or because they were tenants. They are therefore victims of ‘forced evictions’ as defined in the General Comment No. 7 (1997) on the Right to Adequate Housing, issued by the Committee on Economic, Social and Cultural Rights: “*Forced eviction is the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights*”.

The Mission concluded that the current practice by the RSG is in conflict with the Habitat Agenda through which Governments committed themselves to “*protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided*”²

12. Government responses for guiding Port Harcourt's development

The Mission acknowledges a positive legislative initiative by the RSG to establish a new boundary for “Greater Port Harcourt City” and create the “Greater Port Harcourt City Development Authority”. The bill³ suggests that the newly established entity will regulate development and improve and maintain the city and its region and prepare a new Master Plan to guide its development. The bill opens an opportunity for civil society participation and for the setting-up of a new institutional framework for urban governance involving eight local governments. The Greater Port Harcourt City Development Authority appears as a response to fragmented local governance and seems to offer a new model that can be potentially replicated elsewhere in Nigeria. The Bill provides for all lands within the Greater Port Harcourt City to be under the management of the new Authority. This means that this Authority would take over the task of land and property allocation and acquisition, development control, land administration, project planning and overall urban management.

² Habitat Agenda (1996), Chapter III: Commitments, A. Adequate shelter for all (Paragraphs 39-41), Paragraph 40 (n)

³ Since the Mission visited Port Harcourt in March 2009, this Bill has been passed into law. The provisions are substantially the same.

However, it did not become clear to the Mission how gaps in the existing institutional framework will be addressed by this new authority so that, among other things, more efficiency, participation, inclusiveness and wider housing opportunities can be accomplished. There seems to exist no provision that revokes other laws relating to urban planning in Rivers State. While the bill makes reference to the national Land Use Act, it does not mention the Rivers State Physical Planning and Development Law of 2003. Therefore, the Mission is of the opinion that the new bill does not release the RSG from its responsibility to implement the 2003 Law. This needs to be legally confirmed. The establishment of the State Planning Board, Local Planning Authorities, and, above all, the Urban Renewal Board is still pending. Failure to fully implement the provisions of the 2003 Law implies that urban renewal will continue outside of the prescribed legal and institutional frameworks, thus leading to more forced evictions and demolitions.

13. Recommendations and way forward

Finally, recommendations are made by the Mission to address comprehensively the development challenges of Port Harcourt (see full list of recommendations in the next section). The Mission recognises the need to establish proper development control and adequate management of the city's urban environment that can lead to a sustainable urban development process. However, this should not be at the cost and exclusion of low-income households, small-scale entrepreneurs, and those living in informal settlements, tenants and owners of informally built properties alike.

The Mission suggests the enactment of an eviction moratorium and the establishment of a consultation and participatory mechanism to enable all stakeholders to get involved in the planning and implementation of the city's development strategy, including the upgrading and rehabilitation of the waterfront and other informal settlements.

The RSG and residents of Port Harcourt – private, public, community and social actors – should convene in dialogue so that negotiated alternatives can be found. The Mission suggests the undertaking of feasibility studies to assess improvement options for the informal settlements situated along the waterfronts. It also encourages the Silverbird Group and other private sector companies to make use of their social corporate responsibility in real estate development projects that have impacts on people's livelihoods and housing conditions. This will enable cost-sharing alternatives and private sector participation in the application of proper compensation and provision of adequate housing to those who are affected by urban renewal and development projects in the city.

Abuja and Nairobi, 21 August 2009

Introduction

1.1. Justification of the fact-finding mission

Over the past months, the UN-HABITAT Headquarters in Nairobi, the Habitat Programme Support Office (HAPSO) in Abuja, Nigeria, and the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT (AGFE), have received information from a range of different sources, including from several of UN-HABITAT's NGO partners, on ongoing and planned demolition of housing and commercially-used structures in Port Harcourt, Nigeria. These information sources include, but are not limited to, the following and were received in the order presented here:

- a. 8 September 2008 - Protest letter by the **Centre on Forced Eviction and Housing Rights (COHRE)**, addressed to the President of the Federal Republic of Nigeria, and the Executive Governor of Rivers State
- b. 1 December 2008 – Special Appeal for UN-HABITAT's Urgent Mission to Rivers State, by the **National Union of Tenants of Nigeria (NUTN)**, addressed to the Executive Director of UN-HABITAT (containing documentary evidence including court orders)
- c. 28 December 2008 – Press Release by Blessing Wikina (Ag. **Chief Press Secretary to the Governor of Rivers State**), entitled “Rivers State Government to dualise Iloabuchi, Ojoto, Azikiwe Streets in Port Harcourt”⁴
- d. 6 January 2009 – Press Release by Blessing Wikina (Ag. **Chief Press Secretary to the Governor of Rivers State**), entitled “International conference centre will provide employment – Amaechi”⁵
- e. 12 January 2009 - Open Letter by the Housing and Land Rights Network - **Habitat International Coalition (HLRN/HIC)**, addressed to the President of the Federal Republic of Nigeria, and copied to the Rivers State Government
- f. 9 February 2009 – Press Release by **the Social and Economic Rights Action Center (SERAC)** entitled “Forced evictions and demolitions in Port Harcourt, Rivers State, Nigeria”
- g. 13 February 2009 - Update on Port Harcourt demolitions by **National Union of Tenants of Nigeria (NUTN)**

⁴ Published at:

http://www.riversstatenigeria.net/index.php?option=com_content&view=article&id=496:rsg-to-dualise-iloabuchi-ojoto-azikiwe-streets-in-ph&catid=1:latest-news&Itemid=216

⁵ Published at:

http://www.riversstatenigeria.net/index.php?option=com_content&view=article&id=515:international-conference-centre-will-provide-employment-amaechi&catid=1:latest-news&Itemid=216

- h. 27 February 2009 – Internal report by **Habitat Programme Manager in Nigeria, Prof. Johnson Falade**, on a meeting with representatives from the Greater Port Harcourt City Development Authority, held in Abuja on 23 February 2009
- i. March 2009 – the **International Alliance of Inhabitants (IAI)** together with local partners promoted a Zero Evictions Campaign in Nigeria, through an appeal to international solidarity action.⁶

According to the information received, since June 2008 the Rivers State Government has carried out numerous demolitions of residential and commercially-used structures throughout the city. These demolitions were and are being undertaken as part of an ambitious urban renewal programme. The driving force behind the recent demolitions in a particular location appears to be a large entertainment project, the Silverbird Showtime, that is being implemented under a public-private partnership agreement between the Government and Silverbird Group Ltd., for which the Government committed itself to clearing the surrounding land areas in a radius of 2 km.

The above mentioned sources provided contradictory information with regard to the residential areas and numbers of households affected by the demolitions.⁷ There is also a mix of justifications for the demolitions, and application of due process by the Rivers State Government in dealing with land acquisitions, compensation, livelihoods in the affected areas, and the way in which the demolitions were carried out.

Generally, the reports and the letters signed by COHRE, HLRN/HIC, NUTN and SERAC alleged that the demolitions were carried out without following due process as established by the State's own laws and international legislation, and consequently many households were rendered homeless and jobless. SERAC and NUTN further reported that legal actions have been taken to stop the demolitions but that these have not halted the demolitions. The reports point out that the current demolition exercise has rendered many people homeless and jobless thus creating serious hardship for those affected. In particular, it was reported that no arrangements were made to provide alternative accommodation for the numerous tenants affected.

According to the Rivers State Government, the demolitions undertaken followed due legal process and adequate compensation was paid to structure owners who hold legitimate papers on their land. It did not become clear from the information received whether the Government had, in consultation with the affected communities, exhausted all possibilities to avoid the demolitions and the eviction of those residing in the affected areas.

Various partners of UN-HABITAT and Members of the Advisory Group on Forced Evictions (AGFE) expressed their concerns about reported violations of housing rights and requested UN-HABITAT to undertake a mission to assess the situation, or send AGFE to look at the matter *in situ*.

⁶ http://eng.habitants.org/zero_evictions_campaign/zero_evictions_in_nigeria

⁷ For a detailed summary of the contradictory information contained in the various sources of information, see annex.

All these complaints and the lack of clarity on the due process adopted for demolitions and evictions motivated the fact-finding mission that informed the present report.

1.2. Preparations for the fact-finding mission

A joint mission by the Habitat Programme Manager and a representative from the Federal Ministry for Public Works, Housing and Urban Development in Abuja was scheduled for 9-12 December 2008, but it did not materialise because of the non-accessibility of UN funds at that particular time of the year.

On 1 December 2008, NUTN requested UN-HABITAT to facilitate a mission of the Advisory Group on Forced Evictions (AGFE) to Port Harcourt. In response, the AGFE Secretariat (located within UN-HABITAT's Housing Policy Section in Nairobi) clarified to NUTN that UN-HABITAT, in line with the Habitat Agenda, promotes sustainable urbanisation including pro-poor urban renewal initiatives but does not endorse forced evictions.⁸

Following the authorisation by the Executive Director of UN-HABITAT, AGFE started preparations for a fact-finding mission to take place during the last week of February 2009. The mission could not go ahead due to a negative security advice by UNDP in Abuja. UN-HABITAT was advised that Port Harcourt was classified as "UN Security Phase 3" and that without provision of official security the mission could not be authorised. The UN has no formal presence in Port Harcourt and could therefore not provide security. AGFE considered it too risky to undertake the mission without official security. Efforts to reschedule the mission with AGFE Members proved to be difficult because of the incompatibility of schedules and availability of the Members assigned to this mission. Consequently, the AGFE mission was put on hold until the security problem could be addressed adequately.

On 23 February 2009, Ms. Aleruchi Cooney-Gam, the then designated Chief Executive Officer of the to-be-created Greater Port Harcourt City Development Authority visited the Habitat Programme Support Office (HAPSO) in Abuja and submitted a formal letter of request to UN-HABITAT for technical assistance in the implementation of the new Development Plan for Greater Port Harcourt. The Habitat Programme Manager, Prof. Johnson Falade responded that UN-HABITAT would be willing to extend technical assistance to the State Government. However, he stressed that RSG would need to have a clean bill with regard to the reported forced eviction, i.e. RSG would have to be acting within the law. It is in this context that RSG signalled their support for a UN-HABITAT led fact-finding mission.

When the Habitat Programme Manager and Rasmus Precht, UN-HABITAT staff member working for the AGFE Secretariat, jointly participated in the training workshop "Stimulating linkages between NGOs, CBOs and Local Government to

⁸ This is emphasised by the commitment of the international community, including the Government of Nigeria, to the following objective: "*Protecting all people from and providing legal protection and redress for forced evictions that are contrary to the law, taking human rights into consideration; when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided.*" (Habitat Agenda, paragraph 40n)

mitigate forced eviction”, which took place 9-11 March 2009 in Abuja,⁹ it became clear that the ongoing demolitions in Port Harcourt had become a topic of general concern amongst several organisations in Nigeria. Given these circumstances and the urgency of the situation in Port Harcourt, workshop participants belonging to government and NGOs in Nigeria urged that the positive momentum created by the Abuja training event should lead to a fact-finding mission immediately after the workshop in order to avoid further loss of time. Considering that this would be a multi-stakeholder mission with the participation of a UN agency and its advisory group (AGFE), the Federal Government and national NGOs, the RSG agreed to provide official security and logistical support to the mission.

Figure 1: Security Issues for the Mission



Being located in a security Phase 3 area (according to United Nations assessment), and in particular because of the recent kidnappings by militants, the mission to Port Harcourt could only take place under special security measures provided by the Rivers State Government: mobile police officers accompanied the Mission throughout its operations © M. Babalola, R. Precht

Such composition of the mission ensured that various views and experience would be represented in the analysis, reporting and recommendations. Unfortunately, the AGFE Member designated for this mission could not participate. Apart from UN-HABITAT, the mission comprised of representatives from the Federal Ministry of Works, Housing and Urban Development and from the Nigerian-based non governmental organisations Social and Economic Rights Action Center (SERAC) and Women Environmental Programme (WEP). WEP is engaged in advocacy and operational activities to prevent forced evictions in Abuja and SERAC had undertaken a mission to Port Harcourt from 9 to 12 February 2009. The findings and recommendations of the SERAC mission have been taken into consideration by this report.

1.3. Mission objectives and activities

The fact-finding mission to Port Harcourt had the following objectives:

- (i) Document the demolitions.
- (ii) Meet with and listen to the various stakeholders involved in the demolitions, including Government, non governmental organisation, representatives of civil society and community-based organisations, affected residents, landlords, the private developers driving part of the

⁹ This event was organized by HIS and Cordaid and attended by various stakeholders in Abuja.

eviction process, researchers, etc. to identify the underlying factors of Government's action.

- (iii) Identify the rights and obligations of all parties involved.
- (iv) If found to be necessary, identify any remedial plan for the affected persons.
- (v) If found to be necessary and if the opportunity arises, encourage constructive dialogue between the stakeholders of current or planned demolitions with a view of promoting alternative solutions.
- (vi) Report to the Executive Director of UN-HABITAT on the findings and recommendations of the mission for her consideration.

Based on the above activities, the Mission was expected to verify the conflicting information received from different parties prior to the mission, and to assess the Government's compliance with its own legal and policy provisions as well as the Habitat Agenda.

1.4. Mission participants

The Mission was staffed by the following individuals:

- Prof. Johnson Falade, Habitat Programme Manager (HPM) in Nigeria (Head of Mission)
- Rasmus Precht, Human Settlements Officer, Housing Policy Section, UN-HABITAT (Headquarters, Nairobi, Kenya)
- Morenike Babalola, Federal Ministry of Public Works, Housing and Urban Development, Abuja, Nigeria
- Victoria Ohaeri, Programme Coordinator, Social and Economic Rights Action Center (SERAC), Lagos, Nigeria
- Priscilla Achakpa, Executive Director, Women Environmental Programme (WEP), Abuja, Nigeria

Figure 2:



Mission participants with the Deputy Governor, Commissioner for Urban Development and other members of the Rivers State Government during the meeting on 12 March 2009 at Government House
© RSG Staff

1.5. Mission methodology

The team undertook an independent assessment based on a combination of visits to sites of recent and planned demolitions, one-to-one interviews, group discussions, structured meetings, telephone exchanges, internet research and review of relevant documentation including legal documents. The team interviewed and held consultations with the widest possible range of stakeholders including government, NGOs, and civil society representatives (see list in the annex).

The mission visited the following places:

- The area near the International Airport earmarked for the development of Greater Port Harcourt City
- Demolition sites in many parts of the city: Abonnema Wharf Road, portions of Abonnema Waterfronts, old and new GRA
- Areas marked for demolition: Azikiwe, Ojoto, Iloabuchi and Njemanze streets, Government Residential Areas (GRAs), Abonnema Wharf Waterfront
- Government housing scheme at Iriebe
- Cotton Beach Jetty at Abonnema Wharf

The mission costs were entirely borne by UN-HABITAT. Security and transportation throughout the mission was provided as courtesy of the Rivers State Government.

1.6. Structure of the report

This report is structured into seven chapters.

Chapter 2, which follows this introduction, is devoted to providing a concise account of the historical, socio-economic, political and environmental context of the demolitions in Port Harcourt.

Chapter 3 describes the Rivers State Government's urban renewal initiative, which has been advanced as the justification for the ongoing demolitions.

Chapter 4 presents the extent and impact of the recent demolitions, including an inventory and typology of demolitions, as well as some reflections on the total affected population since 2008 and the impact the demolitions have had. Special attention is given to the planned large-scale demolitions in the interest of the public-private partnership development Silverbird Showtime.

Chapter 5 contains a detailed due process analysis according to existing state, federal, regional and international legislation.

This is followed by general conclusions from a human rights perspective in chapter 6, Chapter 7 discusses a possible way-forward and makes recommendations to the Rivers State Government, including a response by UN-HABITAT to Government's request for technical assistance

The Annexes include useful documentation such as the Mission programme, a summary of meetings and attendance, a synopsis of relevant issues covered in newspapers, a review of forced evictions in Port Harcourt prior to 2008, and relevant court orders. Most importantly, there is an in-depth analysis of the various legislative and policy frameworks at the national and state levels to provide readers with a thorough understanding of the due process and powers of land use planning activities in the Port Harcourt.

2. Socio-economic, political and environmental context of the demolitions in Port Harcourt

2.1. Location and history of Port Harcourt

Port Harcourt is the capital of Rivers State and located in the Niger Delta. The city's location along rivers and creeks, and partly on marshlands and mangroves swamps, poses great difficulty for urban development.

Figure 3
Port Harcourt city in the Niger Delta



Source: www.kivafriends.org/index.php?topic=1715.0

The city of Port Harcourt was founded in 1913 by the British as a seaport to facilitate the extraction of coal via railway link. With the founding of oil in the Niger Delta in the 1950s, Port Harcourt became the operational base for multinational petro-businesses. The oil boom led to a rapid influx of migrants in search of job opportunities.

The city was designed and developed on the British 'garden city concept' which entails the establishment of a central business district housing mainly commercial and institutional uses that are surrounded by residential areas and suburbs. The first plan

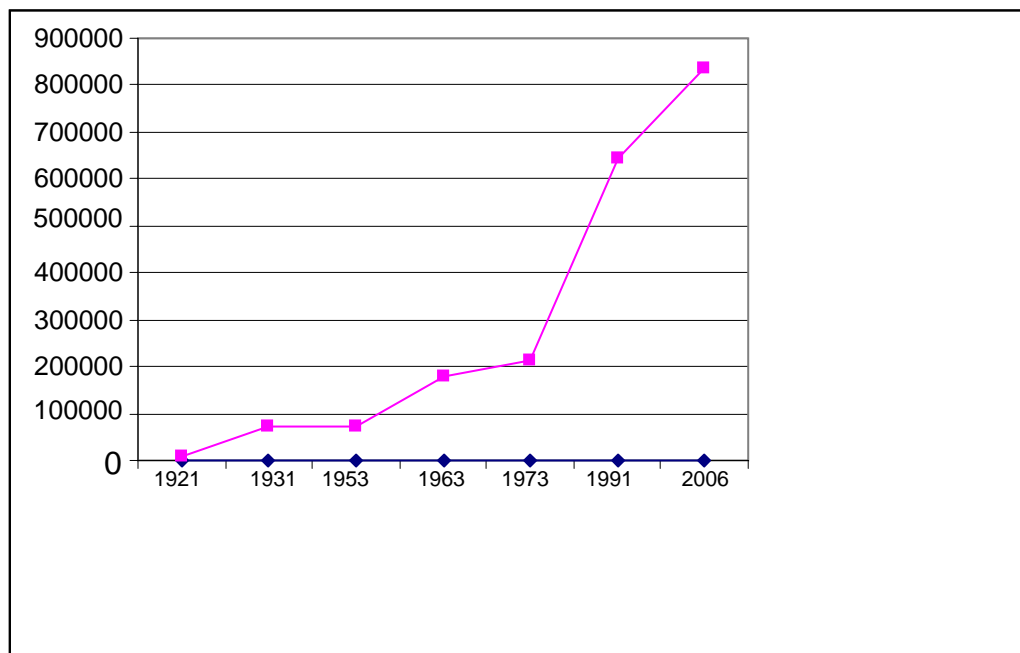
made ample provision for open spaces and parks; little of which remain today, but which together with the tree lined streets earned Port Harcourt city the appellation ‘garden city’.

2.2. Population growth

The population of Port Harcourt city (within its municipal boundaries) has grown from 7,000 residents in 1921 to more than 800,000 in 2006.¹⁰ According to the Rivers State Government, the population of Greater Port Harcourt currently stands at 1.2 million.¹¹

Figure 4
Population growth of Port Harcourt city (1921-2006)

Year	Population	% Annual Growth
1921	7185	0.0
1931	15020	10.9
1953	71634	17.1
1963	179563	15.1
1973	213443	1.9
1991	703416	12.8
2006	835332	1.3



Source: National Population Commission (2006), Izeogu (1989)

¹⁰ National Population Commission (2006)

¹¹ Meeting with Deputy Governor and various Commissioners on 12 March 2009

2.3. The urbanisation, housing and governance crisis

As a result of rapid population growth, migration and the failure of successive governments to manage urban growth, Port Harcourt expanded in an unplanned way, especially in the rural-urban fringe to the north and the waterfronts to the south.¹² During the 30 years of military rule in the country, urban planning and formal development and established planning procedures were disregarded, and systems and structures were abandoned (Rivers State Government 2008).

This has led to a shortage of affordable housing and planned areas for income-generating activities. Faced with the high cost of inner-city rentals and urban shelter deficits in Port Harcourt¹³, for many households, especially rural migrants, the only access to affordable housing was through reclamation of swamps along the many waterfronts and subsequent self-help housing construction. Thus, in the 1970s and 1980s marginal land in the south of the city bordering Bonny River was sand-filled and built-upon by households excluded from the limited formal housing market. These waterfronts, reclaimed by communities, became Port Harcourt's densely populated informal settlements, or slums.

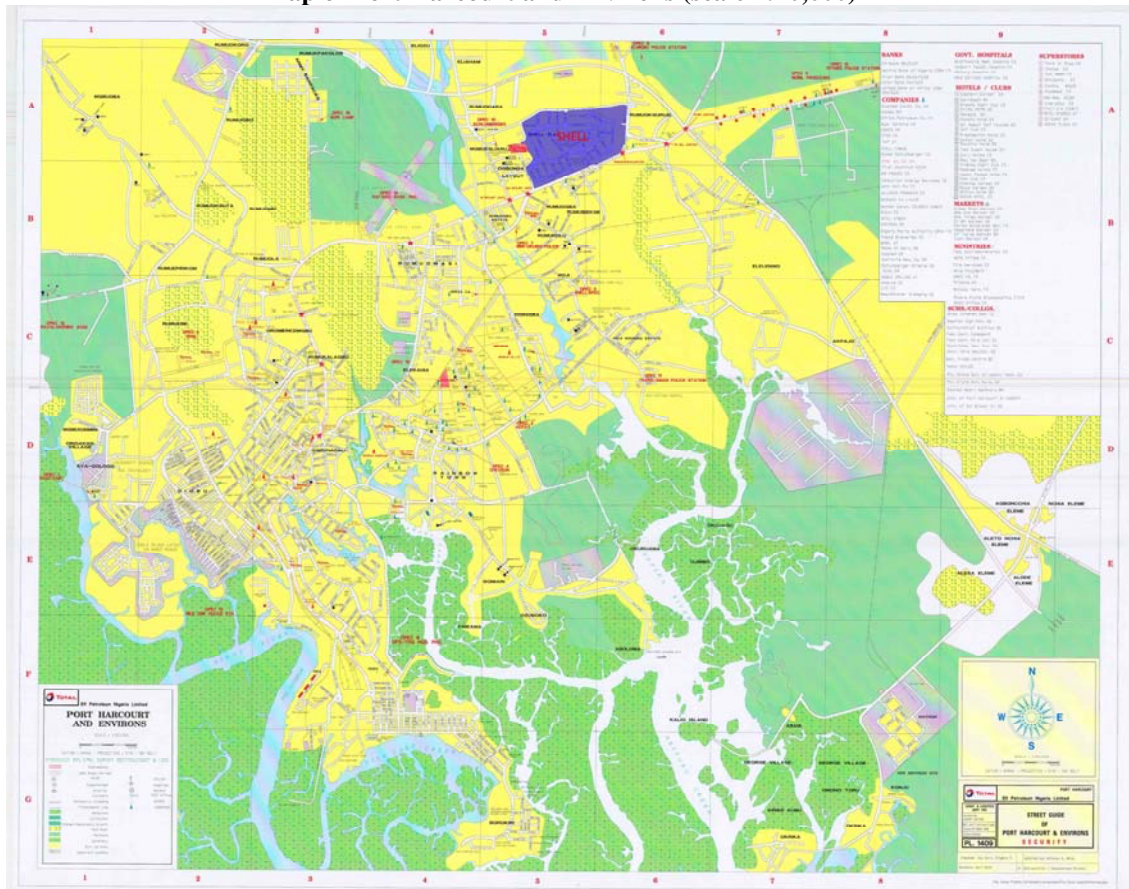
Similarly, those who are excluded from the formal job market and whose livelihoods depend on income-generating activities in the informal sector have occupied vacant spaces in the city. Moreover, as a result of lack of development control, many owners of buildings in planned areas have expanded their structures into the set-backs and built beyond their plot boundaries into rights of way and open spaces.¹⁴ One can say that both the poor and wealthier individuals have undertaken unauthorised expansion and occupation of land during the last decades, with evident government tolerance. This has negative impacts on traffic, storm water drainage, solid waste collection, and made it difficult to provide the much needed infrastructures such as piped water and sewer lines, roads, street lights, as well as social services like markets, schools, hospitals and recreation areas. With severe traffic congestion, pollution and almost complete loss of its open spaces, Port Harcourt lost its 'garden city' reputation.

¹² Izeogu, 1989:60

¹³ The price of housing in Port Harcourt is described as the highest in the country when compared with other major cities like Lagos, Kano, Owerri, Enugu and Aba (Weekly Star 17-23 February 2009, House Rent: Tenants Plan 1 Million March in Port Harcourt).

¹⁴ A critical evaluation of these unauthorized processes was undertaken by GIBB (2007).

Figure 5
Map of Port Harcourt and Environs (scale 1:20,000)



Source: Construction and Logistics Department Port Harcourt, Survey Section (October 1998, revised April 2004), published by Total Elf Petroleum Nigeria Ltd.

3. Urban renewal– the Government’s justification for demolitions

These unplanned developments were not foreseen by the 1975 Port Harcourt Master Plan that aimed at providing infrastructure for the fast-growing city.¹⁵ However, accounts from several sources showed that this plan was never implemented. It is against this background that the RSG launched an urban renewal programme and is undertaking the demolitions under review. Urban renewal has been on the political agenda since the beginning of the 2000s. According to the Deputy Governor, it received particular momentum in 2004 when he was Commissioner for Housing and Urban Development¹⁶.

3.1. The new Greater Port Harcourt Development Plan

At the time of the Mission to Port Harcourt, the new Master Plan “2007 Greater Port Harcourt Development Plan” was being finalized. Shortly after the Mission, on 2 April 2009, it was formally presented to the public and the law creating the implementing body was enacted.

The Plan is based on the vision to re-awaken the garden city development drive of the city fathers. The Plan aims at decongesting the old part of the city and promoting expanded outward development of the city inlands to accommodate growth. The Plan is seen as the tool for urban restructuring and re-establishment of proper urban planning.

The principles and objectives of the Plan include the following:

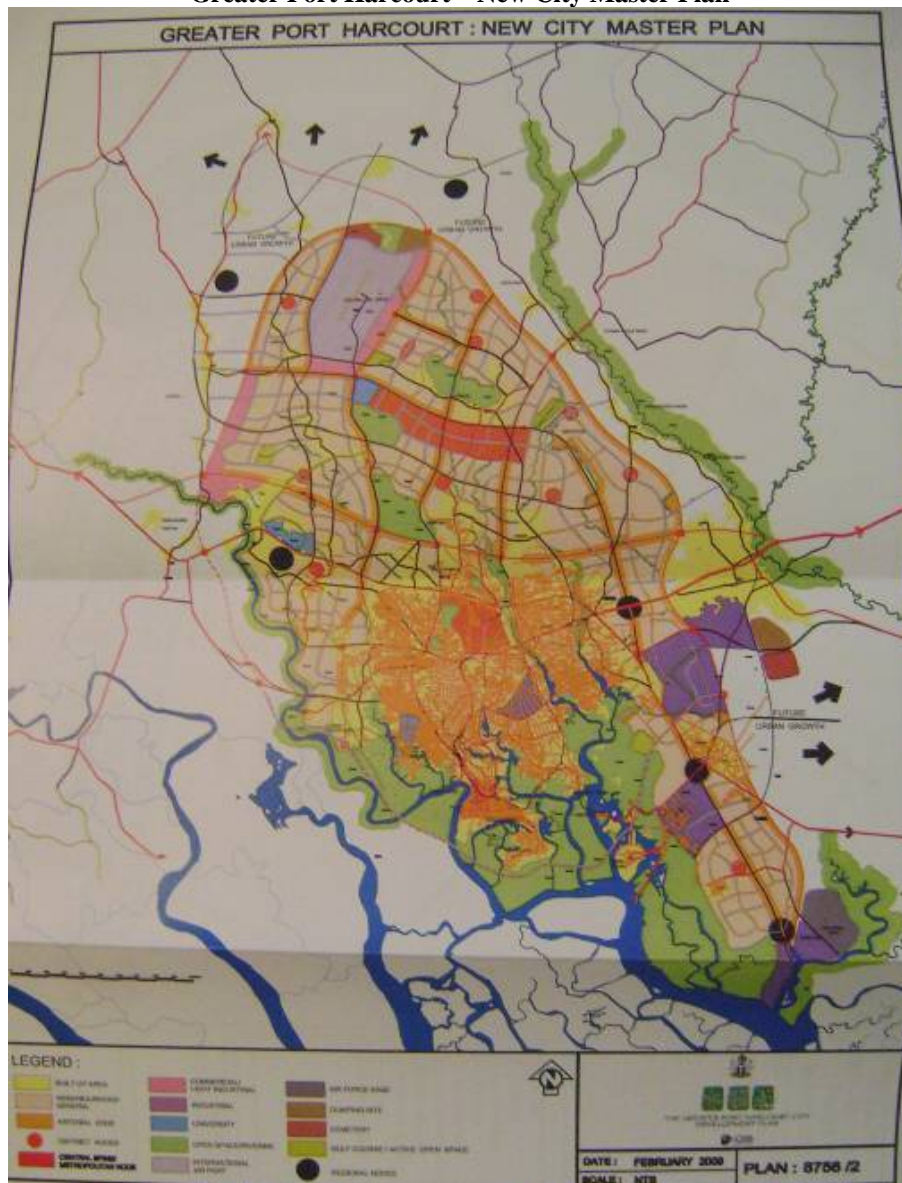
- (i) Introducing open spaces into the old city as a sign of renewal.
- (ii) Reducing the density of housing development especially where infill development has taken place and to remove 13 of the city’s squatter settlements (housing about 275,000 people) since they were not formally planned (see p. 38 of the Master Plan document). The plan proposes re-settlement of the residents of squatter settlements living in unsafe environments.
- (iii) Recognizing that Port Harcourt faces acute traffic congestion and is not well served with major arterial ways, the plan proposes to build on existing network of roads and designated major roads carrying traffic across the east-west axes and the north-south spine roads.
- (iv) Allocating land to various uses to reflect the garden city concept, with clear urban and landscape design principles. It demarcated as a first phase land area accommodating 20,000 housing units. The housing distribution should be 20%

¹⁵ According to Dr Charles Alonge, a professional town planner who participated in the formulation of the 1975 Master Plan, the Plan concentrated on providing roads to all the suburban expansion. The area covered by the 1975 plan only included the areas up to the present site of Hotel Presidential. Efforts to view this document proved abortive during the mission. Therefore, the nature and scope of this plan could not be ascertained.

¹⁶ Meeting with Deputy Governor and various Commissioners on 12 March 2009.

- low density, 30% medium density and 50% high density and low-income housing.
- (v) Defining some nodes of development which include the Central Business District/old city, site for two universities (University of Science and Technology and Port Harcourt University), airport, harbours, industrial area and residential belt.
 - (vi) Massive expansion of the city outwards into new areas northwards to embrace the airport and Onne Harbour, integrating the old and new parts and purposely to boost investment opportunities in the new city, including tourism.

Figure 6
Greater Port Harcourt – New City Master Plan



Source: 2007 Greater Port Harcourt Development Plan, unreleased document made available to the Mission on 13 March for review

It is clear that the intention of this Plan and the urban renewal strategy is to re-establish the urban order which had been lost as a result of government neglect of urban planning and public space management.

3.2. ‘Development control’ as key instrument for urban restructuring

The Government has identified ‘development control’ as the main instrument to achieve the goal of urban restructuring. Already in his inaugural address on 27 October 2007, Governor Amaechi warned that restructuring the city will involve demolitions of “illegal structures” and urged the people to be ready to make sacrifices.¹⁷ His Commissioner for Urban Development, Barr Osima Ginah, has been following up on his Governor’s announcement: “Demolition is what we term development control”. According to local media he has earned himself the sobriquet of “Demolition Commissioner”¹⁸ by executing large-scale demolitions of “illegal buildings”.

3.3. Implementation of the Development Plan

On 2 April 2009, the Governor signed into law the bill for the creation of the Greater Port Harcourt City Development Authority which will regulate development, improvement and maintenance of the new city.¹⁹

The Governor recently said that his government has set aside NGN 50 billion (USD 345 million) from the 2009 budget for the project, which he said would involve the renewal of the Old City and the construction of a brand new city which would have world-class infrastructure. The Governor has identified lack of capacity as the main bottleneck to adequately driving the development. Without serious efforts to enhance capacity it would not be possible to sustain the economic tempo of the present Government.²⁰

On 23 February 2009, Ms. Aleruchi Cookey-Gam, the recently appointed Chief Executive Officer of the Greater Port Harcourt City Development Authority visited the Habitat Programme Support Office (HAPSO) in Abuja and submitted a formal letter of request to UN-HABITAT for the following: (i) technical assistance to set up the Authority and due process procedure; (ii) technical assistance to structure the projects/transactions and negotiate same with interested private parties; (iii) funding/co-financing of projects; and (iv) capacity building for staff of the Authority. The Habitat Programme Manager, Prof. Johnson Falade responded that UN-HABITAT would be willing to extend technical assistance to the State Government in setting up the authority; identify investment projects in the structure plan and approach other donors such as Cities Alliance that are involved in slum upgrading and slum prevention to support the project. However, he stressed that RSG would need to have a clean bill with regard to the reported forced eviction, i.e. RSG would have to be acting within the law. The proposed fact-finding mission would provide clarity on this issue.

¹⁷ www.riversstatenigeria.net/index.php?option=com_content&view=article&id=298&Itemid=191

¹⁸ Interview - Demolition in Rivers State - Commissioner Speaks, *The Hard Truth*, 5-11 February 2009

¹⁹ RSG Press Release of 2 April 2009, <http://www.riversstatenigeria.net>

²⁰ *The Punch* (3 April 2009), Rivers crisis: White Paper orders investigation of Odili, Sekibo (written by Ibanga Isine), <http://www.punchontheweb.com/Articl.aspx?theartic=Art200904033221898>

4. Extent and impact of the recent demolitions

Stating the need for urban renewal as justification, the previous and current Rivers State Governments have carried out a number of forced evictions in Port Harcourt in recent years. Rainbow Town (2000) and Agip Waterside Community (2004-05) are two well-documented evictions carried out by previous State Governments. The Mission studied the available documentation and found that the rationale of ‘urban renewal’ was the same but that the procedures were different at the time when no compensation was paid to the affected structure owners. For a more detailed presentation of these two eviction cases, please refer to Annex E.

Under the current Government that came to power in October 2007, numerous demolitions have been carried out. All demolitions are justified by Government with the need for urban renewal in general, and for re-establishment of development control in particular²¹.

4.1. Inventory and typology of demolitions

Three main types of demolitions can be distinguished:

- (i) demolition of allegedly illegal structures;
- (ii) demolition of legal structures; and
- (iii) demolition of entire waterfront settlements.

4.1.1. Demolition of allegedly “illegal structures”

In order to re-introduce development control, i.e. the strict application of physical planning regulations and building plans, the Government is in the process of “removing illegal, offensive and contravening structures (...); the exercise is also aimed at correcting wrongs consciously perpetuated by individuals and government in the past.”²² According to the Rivers State Physical Planning and Development Law 2003 which the RSG quotes as its “legal backing” for the demolitions, owners of “legal structures” have to have the following: valid land title “Certificate of Occupancy) (locally called ‘C of O’), an approved building plan and a building permit issued upon approval of the building plan. To be considered “legal”, the structure must have been duly erected without any contraventions of the approved building plan and the existing building regulations. Thus, allegedly “illegal structures” lack one of more of these attributes. The RSG does not pay compensation for the demolition of “illegal structures”. The following types of “illegal structures” are being demolished:

²¹ Commissioner for Urban Development, Bar. Osima Ginah, in *The Hard Truth*, 5-11 February 2009, *Demolition in Rivers State: Commissioner speaks*

²² According to the ²² Commissioner for Urban Development, quoted in *The Times of Nigeria* (19 March 2009), *UN Commission Applauds Rivers Government Urban Renewal Initiatives*.

a) Allegedly illegal extensions / encroachments

These are formerly “legal structures” whose owners have contravened their approved building plans by erecting walls, fences and other annex structures beyond the plot boundary into rights of ways and other public spaces. Parts of residential structures that encroach upon public space are equally demolished. These include attachments built to fence walls, used for residential purposes by family members or domestic staff and used as shelters for security guards next to the gate and shops constructed outside of the plot boundary. A frequent phenomenon are small structures erected between the wall/fence of a property and the road, that are used either by the owners of the property behind, or by tenants, as kiosks, convenience stores, or small eateries where women prepare and sell food to domestic staff employed in the area.

These demolitions are being gradually rolled out across the entire planned part of the city. The Mission visited the Government Residential Area (GRA), the planned high-income part of the city, where numerous fences and other encroachments had been demolished in February 2009. Governor Chibuike Rotimi Amaechi announced that after the GRA, the exercise would move to other parts of the city.²³

Figure 7



Partly demolished “illegal structures” that were erected beyond a plot boundary in GRA
© R. Precht

Figure 8



A wall that had encroached on the road reserve in GRA is marked for demolition
© R. Precht

Figure 9



The wall of a Hotel in GRA, marked for demolition © R. Precht

²³ Government Press Release (26 January 2009), *Demolition of fences in Port Harcourt City GRA this week* (<http://www.riversstatenigeria.net>)

Box 1: Demolition of allegedly illegal small businesses versus regularisation and beautification

During the Government-led site visit to the Government Residential Area (GRA), the Mission came across the remains of a half demolished structure that had been used by three women for cooking and selling food. These women now operated in the open air in front of the demolished structure. The Sole Administrator of the Greater Port Harcourt City Development Agency explained to the Mission that the RSG had to demolish this structure twice because shortly after the first demolition, it was quickly rebuilt and used by the same tenants. Even after the second demolition, the three food vendors did not leave, and continued to offer cheap meals. The Sole Administrator added that the RSG had provided an area in the G.R.A. for this type of economic activities. The Mission learnt that this area was quite far from where the women operated from, and it also appeared to be congested.

Figure 10



Three ladies in front of their partly-demolished eatery in GRA
© R. Precht

The Mission made observations about people earning their living while responding to a specific market and demand for such a service. The RSG is of the opinion that individuals like these three women should not be allowed to build and stay where they were just because there was an apparent demand for affordable meals in this particular area. The Sole Administrator argued straightforwardly that such eateries would not be allowed to operate on the roadside in Hyde Park in London, so why should they in Port Harcourt? The Mission argued that the socio-economic reality in Port Harcourt called for different approaches that would make positive use of the entrepreneurship of these three women who created alternatives for improving their livelihood. Weather than simply and only demolishing these structures the RSG should consider other options that are technically and financially feasible.

The Mission presented the example from Nairobi, Kenya where the City Council in partnership with formal private companies had regularised kiosks and eateries near hospitals and other central locations with big demand. These illegal businesses had previously been demolished several times but kept re-appearing. By regularising some of these businesses, the City Council had created a win-win solution for all parties: the small entrepreneurs and their clientele and the local government that generated new tax revenues by formalising the businesses that had previously been operating in the informal sector.

Figure 11



The rubble of a hotel that had been constructed in a road reserve in GRA
© R. Precht

b) Residentially and commercially used “illegal structures” in unforeseen locations

These are commercially-used and residentially-used “illegal structures”, often used for both at the same time, that have not been authorized because they are not in line with planning and zoning according to the 1975 Master Plan. This type includes the structures built in unplanned markets. The Mission visited the following site where this type of illegal structures had been demolished:

- Lower part of Abonnema Wharf Road – June-September 2008: In June 2008 the Government demolished numerous structures²⁴ situated along the lower part of Abonnema Wharf Road. This is the part of the road that stretches from the Silverbird plot downhill towards the entrance of Shell Kidney Island operations site and Sigmunds’ fuel storage tanks. The Mission visited this site and verified the demolitions. The foundations of structures, including remaining floor tiles, toilet bowls and remnants of walls were visible on both sides of the road. According to persons doing business along the road²⁵, these structures housed primarily shops, restaurants, salons, and workshops where artisans, hairdressers, food sellers, caterers, fishermen and petty traders conducted their economic activities. On 24 September 2008 another streak of about 10 commercially-used structures were demolished along Abonnema Waterfront Road.²⁶

²⁴ According to COHRE and HLRN/HIC in their respective petition letters 500 structures were demolished.

²⁵ The Mission interviewed randomly a number of persons who were vending various products from stalls along the road, in front of the demolished buildings. Most of them had operated from these buildings before they were demolished and now kept operating from the same location.

²⁶ According to the NUTN, interview with Mr. Enwefah on 13 March 2009.

Figure 12



Demolished shops and houses along the lower part of Abonnema Wharf Road (September 2008) © NUTN

Figure 13



The same location as pictured left after the rubble has been removed. Only foundations and floors are left, in March 2009 © R. Precht

Figure 14



Remnants of demolished “illegal structures” used for commercial purposes along the lower part of Abonnema Wharf Road, with fuel tanks of Sigmund Nigeria Ltd. in the background © R. Precht

Figure 15



The toilet bowls are evidence that the demolished structures along the lower part of Abonnema Wharf Road had been much more than just temporary kiosks © R. Precht

Other demolitions of this type of allegedly illegal structures have been reported by different sources but could not be verified by the Mission as these locations are spread out across the city. They include the following:²⁷

- **Station Road, Eledenwo – July 2008:** The Government demolished commercially-used structures situated on land belonging to the railway. According to NUTN,²⁸ approximately 1,000 structures were demolished.
- **Bernard Carr Street – July 2008:** According to NUTN,²⁹ approximately 100 buildings were demolished.³⁰

²⁷ If not indicated otherwise, the listed demolitions were reported by NUTN. The information provided is not comprehensive regarding the primary use of the structures (residential or commercial) and the number of affected persons. None of these demolitions could be verified by the Mission because they took place in different locations all over the city. Thus, it is difficult to ascertain the exact number of persons rendered homeless.

²⁸ According to NUTN, interview with Mr. Enwefah on 13 March 2009

²⁹ According to NUTN, interview with Mr. Enwefah on 13 March 2009

³⁰ The NUTN main office was located here. It had been donated to NUTN by the Government in 1994. After the office was demolished, NUTN moved to their urban support office on Abonnema Wharf Road.

- Bonny Street, Creek Road, Gambia Lane, Anyama Street – November 2008: According to NUTN³¹, in November 2008 parts of the major streets Bonny Street and Creek Road were demolished, affecting 25,000 persons. According to the Commissioner for Urban Development, the Creek Road market had to “be renewed to a resort centre”³². Over the weekend 29-30 November 2008, according to NUTN all buildings along Gambia Lane, Anyama Street were demolished, making 100,000 residents and shopkeepers homeless or jobless.³³
- Mile One Diobu Railway Market – 18 March 2009: These demolitions were carried out by the RSG the day after the Mission had left Port Harcourt. The Reformer, a local newspaper³⁴, reports that this market housed all kinds of traders, including butcheries, chemists, fish and vegetable vendors as well as dealers in textile materials.

The RSG confirmed the demolitions it carried out along Station Road. According to the Commissioner for Urban Development, the demolished structures were owned by traders and were illegal. The traders felt that their shops were not illegal because they were erected on land belonging to the railway. They took the RSG to court, but the demolition was carried out nevertheless³⁵.

4.1.2. Demolition of legal structures

“Legal structures” include two types:

- Structures that comply with all requirements prescribed by the Rivers State Physical Planning and Development Law 2003, and that have to make way for expansion of infrastructure networks such as roads³⁶, water and sewer lines, as well as construction of hospitals and recreation facilities,
- Structures that comply with all requirements prescribed by the Rivers State Physical Planning and Development Law 2003 but that are based on “faulty building permits” issued to individuals by previous State Governments.³⁷

Owners of legal structures are legally entitled to compensation and the RSG pays compensation for the demolition of both types of legal structures.

³¹ NUTN (1 December 2008), Special appeal for UN-HABITAT’s urgent mission to Rivers State, addressed to the Executive Director of UN-HABITAT.

³² The Port Harcourt Telegraph (4 August 2008), *Abonnema Wharf faces demolition*

³³ NUTN (1 December 2008), Special appeal for UN-HABITAT’s urgent mission to Rivers State, addressed to the Executive Director of UN-HABITAT.

³⁴ The Reformer (20-26 March 2009), *Demolition – Railway Market goes down* (pages 1 and 3), Vol. 2, No. 12.

³⁵ According to the Commissioner for Urban Development in *The Hard Truth* (5-11 Feb 2009), *Interview - Demolition in R/S - Commissioner Speaks*

³⁶ Government Press Release (30 June 2008), Roads dualisation: RSG urges patience over structures for demolition (<http://www.riversstatenigeria.net>). Roads penciled for dualisation include Ada George Road Phase I and II Slaughter/Trans Amadi/Rumuobiakani road, and First Bank/Rumuomasi/Woji Old Aba Road. Others are Rumuola/Rumuokwuta Road, Trans Amadi Road, the fly-over at Ada-George/Airport Road and the fly-over at Agip/Rumueme/Abacha Road.

³⁷ As explained by the Deputy Governor during meeting with the Mission on 12 March 2009 and also by the Commissioner for Urban Development (see *The Hard Truth*, 5-11 Feb 2009, *Interview - Demolition in Rivers States - Commissioner Speaks*, pp 8-11)

The Mission witnessed this type of demolition when driving through different parts of the city. In fact, demolition justified by such infrastructure developments concerns both legal and illegal structures. The Mission visited the following sites of recent demolition of legal structures:

- Nanka Rumuji and Chief Jonas Nwuke streets, Diobu (beginning of 2009): The demolition of legal buildings in this area is justified by the RSG with the development of the New Niger Hospital, and the plan to link it to the existing Mile One Hospital. The Mission visited this area on 13 March 2009.

Figure 16



Legal structures in Nanka Street, demolished to make way for construction of a hospital (in the background) © R. Precht

Figure 17



Demolished legal structures in Nanka Street; New Niger Hospital (under construction) in the background © R. Precht

- Upper part of Abonnema Wharf Road and Njemanze Street – February 2009: From 10 to 13 February 2009, 40-50 buildings along the upper part of Abonnema Wharf Road and along Njemanze Street were demolished.³⁸ The buildings destroyed were residential houses, combined with business premises, churches and schools. According to NUTN, more than 10,000 persons were directly affected. NUTN's town office was among the destroyed buildings. Although among the demolished buildings were both legal and illegal structures³⁹, the Mission obtained a copy of the valuation report that covers 8 legal properties located between No. 14 and No. 25B Abonnema Wharf Road.⁴⁰ All properties were served with mains water, electricity and fixed line telephone cables. All buildings were connected to septic systems and storm water was diverted into drains.⁴¹ The space was required by the Silverbird project.

³⁸ Estimate by the Mission based on analysis of satellite imagery (Google Maps)

³⁹ This was confirmed to the Mission by both RSG and NUTN on 12 and 13 March 2009, respectively.

⁴⁰ The office of the NUTN was located within the property at 25B Abonnema Wharf Road.

⁴¹ Valuation Report of Properties Acquired for the Proposed Silverbird Project in Port Harcourt by Rivers State Government (July 2008), undertaken by Koko & Co. Estate Surveyors and Valuers.

Figure 18



Half demolished legal buildings on Abonnema Wharf Road, during demolitions 10-13 February 2009
© SERAC

Figure 19



See caption on the left. © SERAC

Figure 20



Mr. C.W. Enwefah, Secretary General of the NUTN, on the rubble of his former office on Abonnema Wharf Road
© R. Precht

Figure 21
Google Maps image of the upper part of Abonnema Wharf Road and Njemanze Street before demolition (the now demolished area is marked in red)



Source: Google Maps

The following further demolition of legal structures is planned. The Mission visited these sites and verified with residents that Government is in negotiation with structure owners about compensation:

- Akiziwe, Iloabuchi and Ojoto streets, Isaac Boro Park, Education Bus Stop: Buildings in these areas have recently been marked with red signs “remove” or “X”. Government’s public notice boards, notifying the public about impending road dualisation work, have been implanted at the end of Ojoto and Iloabuchi streets. Most structures in these streets are legal multi-storey mixed-use buildings in compliance with building codes and standards. Many of the multi-storey buildings provide rental accommodation. The buildings on Akiziwe, Iloabuchi and Ojoto streets have to disappear because they are within the area required for expansion of existing roads to provide access to the Silverbird project site. Buildings in Isaac Boro Park and Education Bus Stop will have to make way for the children theme park (see more detailed explanations in the later section on the Silverbird development).

Figure 22



Public Notice for dualisation of Azikiwe/Ojoto streets

© R. Precht

Figure 23



Legal buildings containing numerous rental units on Azikiwe and Ojoto streets, marked for demolition

© R. Precht

4.1.3. Demolition of waterfront settlements

History, location, tenure and living conditions of waterfront communities

Since the civil war of 1966-70, when migrants from the rural areas, especially those from the riverine area, arrived in Port Harcourt, the waterfronts have accommodated more and more low-income households. Originally inhabited by fishermen and women who engaged in commercial fishing on the shoreline and in farming on the adjoining coastlands, today's waterfront residents are engaged in all sorts of economic activities other than fishing and farming. Waterfronts are inhabited by people who could not secure better accommodation in the city due to high rent but who need to live close to relatives and job opportunities. The waterfronts exhibit attributes of slums – they are unplanned settlements with poor housing conditions and few infrastructural facilities such as roads, potable water, electricity and drainage, and without adequate social amenities.

The tenure status of waterfront settlements differs significantly from all other neighbourhoods in Port Harcourt. The issue of “legality” versus “illegality” requires a wider perspective. Waterfronts are *de facto* residential areas that according to the 1975 Master Plan were not foreseen for residential occupation. Parts of the waterfronts are likely to fall under the jurisdiction of the National Inland Waterways Authority that has the right to all land within the right-of-way of such waterways (see Section 5.4. in this report). Waterfront residents generally do not hold land titles, i.e. Certificates of Occupancy. Most of them have Temporary Occupation Licenses (TOL) that are revocable and only permit them to erect a temporary hut and not use cement blocks or any permanent material. The TOL is issued subject to acceptance by the holder to vacate the site at a very short notice not exceeding seven days.⁴² Renewing the license costs about NGN 2,000 (approx. USD 14) a year. Since most structures in the waterfronts are built with permanent materials, strictly speaking they are “illegal structures”. However, the fact that residents have gone beyond what the TOL permits has not stopped Government officials from regularly renewing the TOLs, thus tacitly tolerating and recognising these settlements. Due to their unplanned status, waterfronts are also referred to in Government circles as ‘squatter settlements’.

It was impossible for the Mission to obtain the official figure of residents who live in waterfront settlements in Port Harcourt. Already there is no clarity on the exact number of waterfront settlements that exist. This may have to do with the fact that there are no official “borders” between two waterfronts. One community is attached to the next one, and for the outsider it is not clear where one ends and the next one begins. Indications regarding their combined population size are usually made in terms of proportion, but different sources provide different numbers. The NUTN estimates that all waterfront settlements together contain more than 75,000 buildings with a total population of over 900,000, or two-thirds of the total population of Port

⁴² See CAP 125 State Land Laws which derived its power from State Land and Temporary Occupation Regulation (Regulation 10 of 1928 and 2 of 1946), and copy of a “Licence for Temporary Occupation of State Lands”, issued by the State Ministry of Lands and Survey to a resident of Ibadan Waterfront

Harcourt main-city. This is in contradiction with a 2007 report by a Government committee according to which there are 41 waterfront communities that are home to 25 per cent of the total population of Port Harcourt city.⁴³ However, this source is not clear as to the total population of Port Harcourt. If related to the 2006 Census that indicates the total city population at 800,000, this would translate to a total of 200,000 waterfront residents. The Mission Team obtained an impression through satellite images available at Google Maps and came to the conclusion that this figure would be too low. The sheer geographic spread and densities of some of the water fronts imply that this figure must be significantly higher. The draft new Master Plan mentions as one of the objectives the redevelopment of 13 squatter settlements that alone accommodate 275,000 people. Other sources that the Mission came across estimate that about 40 per cent of the total city population lives in the waterfronts, which would mean 360,000 people. The diverging figures point to an urgent need for a thorough enumeration. The following table and sketch map from the 2007 Committee report show the distribution and location of waterfronts

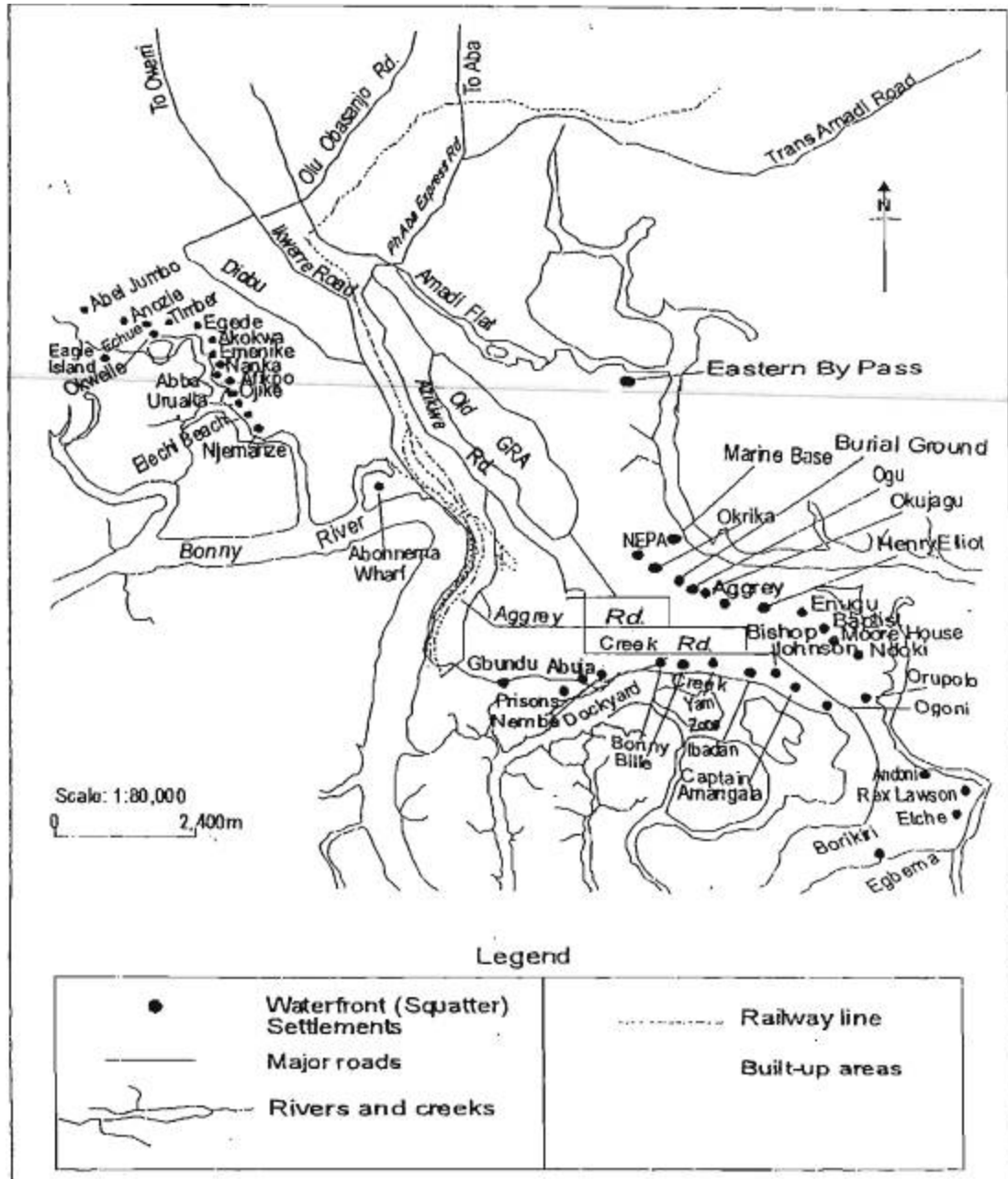
Figure 24
Distribution of waterfronts developments in Port Harcourt

Area	Waterfront Development	
Diobu	Elechi	Abah
	Egede	Akokwa
	Afipko	Emenike
	Timber	Urualla
	Abonnema Wharf	Echue
	Njemanze	Abel
	Eagle Island	Nnanka
	Ojike	
	New Layot	Marine Base
Ibadan		Moore House
Bishop Johnson		Baptist
Old Township	Aggrey	Dockyard
	Bundu	Reclamation
	Abuja/Prison	Yam Zone
	Nembe/Billie/Bonny	Ogu
	Cemetery	Okujagu
	Okrika	Nepa
Coronation	Captain Amangha	Eliot Henry
	Ndoki	
Borokiri	Rex Lawson	Etche
	Egbema	Ogoni
	Borokiri	

Source: Rivers State Ministry of Lands, Housing and Urban Development (2007), p.5.

⁴³ Rivers State Ministry of Lands, Housing and Urban Development (2007), *Report of the Committee on Port Harcourt Waterfronts* (unpublished document, made available to the Mission by the Commissioner for Urban Development)

Figure 25
Location of waterfront settlements in Port Harcourt



Source: Rivers State Ministry of Lands, Housing and Urban Development (2007)

Since the demolition of the AGIP Waterside community in 2004-05 (see Annex E) the Government has not demolished any other waterfronts. However, the recommendation by the Committee on Port Harcourt Waterfronts in 2007 was to demolish and redevelop all waterfronts in Port Harcourt.

This recommendation was influenced mainly by an earlier pronouncement by Government to clear the areas and partly by the observation that 90 per cent of the affected areas are characterized by poor living conditions. It was also based on the observation by the Committee that the waterfronts had become hideouts and residences of individuals who desire to live in environments devoid of government

harassment or what the Government terms as “hoodlums, militants and armed robbers which are the bane of Government and law abiding citizens of Rivers State”.⁴⁴

In February 2009, the Commissioner for Urban Development confirmed in the local media that all waterfronts would be demolished and then redeveloped in phases. He stated that Abonnema Wharf and Njemanze waterfronts would be the first to undergo redevelopment, which he described as replacing all shanties with modern buildings. He further clarified that *“the front part will be used for commercial purposes and the waterfront will be sand-filled and modern buildings erected. Government will also construct roads, electricity and pipe-borne water (...). As soon as Government finishes with the development of the Abonnema Wharf and Njemanze waterfronts, the people that will be displaced in that area will find a comfortable place to stay.”*⁴⁵

Planned demolition of Abonnema Wharf and Njemanze Waterfronts

All buildings in these two large informal settlements have been marked for demolition since January 2009. The Mission visited Abonnema Wharf Waterfront on 14 March 2009. Initial estimated figures of the affected total population by NUTN proved to be unrealistic.⁴⁶ A revised NUTN estimate, based on the number of the structures marked for demolition by Government, is that about 75,000 residents would be evicted in both Waterfronts together. Based on the running numbers that have recently been written on the structures by the RSG-contracted valuers, Abonnema Wharf Waterfront has 635 structures and Njemanze Waterfront 276. To calculate the estimated affected population, NUTN assumed that each house accommodates 85 persons. While some large tenement structures may be able to house so many people, the site visit by the Mission on 14 March 2009 to Abonnema Wharf Waterfront revealed that there are also many medium and smaller-sized buildings. There are no multi-storey buildings in these Waterfronts. The Mission estimates that the average room occupancy is 5-6 persons. Considering that most houses have up to 10 rooms, the average number of persons per house would be 50. This amounts to an estimated total number of persons in the two settlements combined of 45-50,000. Compared to the official total population figure of 800,000, this would mean 5 per cent of the total population of Port Harcourt city.

⁴⁴ Rivers State Ministry of Lands, Housing and Urban Development (2007), Report of the Committee on Port Harcourt Waterfronts (unpublished document, made available to the Mission by the Commissioner for Urban Development)

⁴⁵ Commissioner for Urban Development, Bar. Osima Ginah, in *The Hard Truth*, 5-11 February 2009, *Demolition in Rivers State: Commissioner speaks*

⁴⁶ NUTN on 13 February 2009 reported that the unplanned settlements of Abonnema Wharf Waterfront and Njemanze Waterfront threatened with demolition contain more than 75,000 buildings with a population estimate of over 900,000 persons or two-thirds of the total population of Port Harcourt main-city. The totality of these people, if added to those rendered homeless in 2008, would bring the number of homeless people in Port Harcourt to more than 1.2 million, the equivalent to more than one-third of Port Harcourt’s population as a whole.

Box 2: Portray of a low-income community: Abonnema Wharf Waterfront

Abonnema Wharf Waterfront is a predominantly Kalabari settlement housing different religious sects and social classes. Kalabari fishermen who settled on the land to facilitate their fishing activities, started with shacks and houses on stilts, and gradually raised them to permanent structures after years of unchallenged possession. Most house owners that the Mission met with have lived more than 15 years on the property. Whereas occupancy ratio per room is somewhere around 5-6 persons, most of the houses have about 10 rooms, coming close to 50 persons or thereabout per house.

Figure 26



Entrance to the Abonnema Wharf Waterfront Community, with one of the fuel tanks by Sigmund Nigeria Ltd overlooking the community (top right corner) © R. Precht

What may appear as contrary to widely-held beliefs is that many of the residents are not necessarily poor or low-income earners. The Mission gathered that civil servants, students, third party contract oil workers, traders and businessmen also live in these locations. Some landlords own about three to six houses. The rental income constitutes their sole livelihood. Among these landlords, a significant number are widows and female-headed households.

Overlooking the community is the oil company Sigmund Nigeria Ltd., importers of refined fuel, kerosene and diesel. The company was formerly British Oil Produce that was previously engaged in the exportation of palm oil when agriculture was the mainstay of Nigeria's economy. With the oil boom in the seventies that heralded the dwindling interest in agriculture, the company's revenue base suffered terribly and eventually bowed to the recession. Sigmund Nigeria Ltd. then bought it over and began to use the palm oil facility for fuel importation. The interest spurred by Sigmund's presence in the community is of two dimensions. First, queues of trailers waiting to load fuel are common sights, effectively making traffic in and around the community practically impossible. Secondly, the location of massive oil depots in such a densely-populated community poses a safety risk. As with other cases of major fire outbreaks and explosions, citizens are denied important safeguards and awareness that will enable them to make informed decisions about their public health and environmental well-being. On the other side of the community rests Shell Petroleum Development Company (SPDC) Kidney Island operation site.

The vast majority of the people interviewed agreed that the security situation in Abonnema Wharf Waterfront has improved considerably, compared to what it was in 2007. Many persons interviewed seemed to agree that the settlement had been a no-go-area in the past. In response, the Government posted a mix of military, police, navy and marine police in the area. Most residents interviewed insisted that it is now a relatively safe place to live.

Organized self-help initiatives do not exist within the community. Awareness of housing rights and environmental consciousness are low. These are issues that NGOs/DBOs can focus on. There is no single educational institution in the community. Children have to walk long distances, sometimes close to one hour, to schools outside the community. The nearest school is St. Andrews Primary School at Mile 1.

Figure 27



Abonnema Wharf Waterfront, with Shell Petroleum Development Company (SPDC) Kidney Island operation site in the background
© R. Precht

Figure 28



As part of its community development programme, Shell constructed a borehole in the community which serves as a major source of water supply. The borehole has been running without control because the handles have gone bad.
© R. Precht

Figure 29



Stagnant waste water along one of the foot paths in the waterfront settlement
© R. Precht

4.2. Total affected population since 2008

The Rivers State Government informed the mission that they only enumerate landlords and not all persons living in the structures that are to be demolished and thus do not know the overall number of people affected by the demolitions. According to the Deputy Governor, there is no need to keep data of affected persons because “no person has been made homeless”.⁴⁷ The only records maintained by Government and to some of which the Mission was granted access for verification, are the files and receipts of compensation payments made to each owner.

Given the above practices, the Government could not, upon request by the Mission, provide figures or estimates of the number of persons that lost their home through the demolitions.

The estimations indicated in the reports of local and international NGOs do not provide reliable figures. The figures of the NUTN tend to be on the high side and they do not clearly differentiate between buildings used for residential purposes and those used solely for business, i.e. shops and workshops. Some figures refer to number of buildings, some to number of households and others to number of affected persons. HLRN/HIC in their letter from January 2009⁴⁸ reported that between June and October 2008, “officials have destroyed numerous buildings and made 200,000 people homeless in Port Harcourt” and in December 2008, the government rendered 125,000 homeless people with evictions on just four major streets in Port Harcourt: Bonny Street, Creek Road, Gambia Lane, and Anyama Street.” This would translate to 325,000 persons evicted from their homes by end of 2008. Adding the 10,000 persons that were affected (according to NUTN) by the February demolition of the upper part of Abonnema Wharf Road and Njemanze Street (see details below), the total is likely to stand at 335,000 people.

In the absence of any reliable records, it was not possible for the Mission to establish post-eviction figures of the demolished buildings, their uses, and affected population. The mission could not visit all areas where evictions occurred since 2008 but visited the site of the most recent demolition in Abonnema Wharf Road and Njemanze Street. In addition, the Mission appraised the locations along major roads that had been cleared. The main focus of the site visits was on areas where structures have been demarcated for demolition and where negotiations with owners have started.

However, considering that the official total population of Port Harcourt City is 800,000, the Mission estimates that the number of persons having been rendered homeless by the evictions since 2008 is significantly lower than the figures suggested by some of the petitions received by UN-HABITAT.⁴⁹ Certainly, it is not true that

⁴⁷ Deputy Governor Engr. Tele Ikuru during meeting with the Mission on 12 March 2009 at Government House

⁴⁸ 12 January 2009 - Open Letter by the Housing and Land Rights Network - Habitat International Coalition (HLRN/HIC), addressed to the President of the Federal Republic of Nigeria, and copied to the Rivers State Government

⁴⁹ For example, estimates about the population threatened with demolition in Port Harcourt made by NUTN's was submitted to the Mission Team. This estimate is useful because it provides a list of 37 settlements/communities that are threatened with demolition/eviction, including the estimated number of buildings. However, the population is likely to be overestimated because the calculation is based on

more than 40 per cent of the total city population are now homeless. However, the fact that the number of affected persons is lower than expected does not neutralize the concerns that brought the Mission to Port Harcourt because demolitions of alarmingly large scale are currently under preparation.

The Mission estimates that if the demolition of all waterfront settlements goes ahead as planned and announced by the RSG, it is likely that at least **200,000** residents will lose their homes. This is a conservative figure based on the Government's total waterfront population estimate. However, it can be assumed that in reality many more people live in the waterfronts. The occupants of legal and illegal structures in other parts of the city need to be added to the conservative estimate of 200,000 affected persons in the waterfronts. Thus, the Mission anticipates that the RSG's urban renewal programme – if executed as announced – will destroy the homes of **up to 300,000** Port Harcourt residents. In addition to residential structures, there are the numerous demolished shops, workshops and other small business structures in various parts of the city that provided livelihoods for thousands of low-income residents. The Mission estimates that the Silverbird Showtime project alone will lead to land clearance affecting between 100,000 and 150,000 people (see detailed analysis below).

In any case, there is need for a systematic, participatory enumeration to be undertaken in all unplanned settlements in Port Harcourt..

4.3. Impact of the demolitions

The Mission met with a number of affected persons and confirmed that the demolitions carried out so far have caused severe hardships for the affected population. This observation is confirmed by local newspaper reports.⁵⁰ The majority of evicted residents are rent-paying tenants and low-income earners who are economically underprivileged and mostly dependent on income from petty-trading and informal business earnings for their daily subsistence.

The absence of a relocation policy has rendered many people homeless and now puts a considerable strain on victims who are both unable to afford the soaring rents in other settlements⁵¹ and whose livelihoods remain dependent on employment near their homes. The destruction of markets without provision of alternative trading sites has deprived many low-income households of their only source of income.

the assumption that each building accommodates an average of 85 persons. This figure seems too high because even under crowded conditions only multi-storey tenement buildings can accommodate such a large number of occupants.

⁵⁰ See for example:

- Weekly Watch (23-30 July 2008), *Port Harcourt Demolition in Progress: Marine Base, Borikiri Sandfilled Area To Be demolished ... more bulldozers arrive in Port Harcourt*; and
- The Mirror (18-24 July 2008), *Port Harcourt Residents Groan Under Roaring Bulldozers*.

⁵¹ See Weekly Star (17-23 Feb 2009), *House Rent: tenants Plan 1 Million March in Port Harcourt* (p. 2 and 16) which covers the soaring price of housing in Port Harcourt which is being described as the highest in the country when compared with other major cities like Lagos, Kano, Owerri, Enugu, Aba and others.

Numerous male victims complained to the Mission that they had no other option but to send their wives and children to relatives in their villages while they themselves are being accommodated by friends in the city so that they can continue with their income-earning activities. The involuntary relocation of their wives and children has led to disruption of education and social networks that were crucial in the families' livelihood strategies.

Generally, anecdotal evidence shows that the losses incurred by inhabitants both in their private assets and in their livelihood opportunities adversely affect poverty alleviation strategies and tend to stimulate slum formation. The recent and on-going demolitions inflict misery, perpetuate poverty and homelessness, and thus jeopardize Nigeria's progress to achieve the MDG 7, Target 11 that seeks to ensure a significant improvement in the living conditions of at least 100 million slum dwellers by 2020.

The demolitions do not only have grave human and material consequences; they also violate the human rights to adequate housing; to private and family life; to access to justice; to work; as well as education and health.

4.4. The area of greatest concern – planned large-scale demolitions for the public-private partnership development of Silverbird Showtime

Considering that the Mission only spent 4.5 days in Port Harcourt, not all sites of past and planned demolitions could be visited. Therefore, the Mission focused on the area in Port Harcourt where some of the most recent demolitions had taken place and where the largest-scale demolitions were being prepared at the time of the Mission. This is the area located in a radius of 2 km around the former Obi Wali Cultural Centre on Abonnema Wharf Road in Mile One, Diobu. This is the area where the office of NUTN was located and the demolitions which NUTN and other organizations had reported on in most detail.

In this area, the Mission witnessed past and planned demolitions of all three types: illegal structures; legal structures; and entire waterfront settlements. The planned demolitions are motivated by the Silverbird Showtime project, a stand-alone 8-screen cinema⁵² with several related commercial developments (see figure below). As laid out in the Memorandum of Understanding (MoU) signed on 24 January 2008, this project is being implemented under a public-private partnership between the Silverbird Group and the RSG⁵³. The Government's interest in this endeavour is to promote investment and private sector participation in the development and operation of social services facilities. This project will create a multi-purpose mixed use complex that, besides the cinema, will host an international conference centre that can accommodate also conventions, concerts and indoor sporting events; a shopping mall; and a high-rise hotel with helipad. In addition, a leisure park and children's theme park will be developed.

⁵² The movie has been officially opened in the second week of April 2009 (RSG Press Release 11 April 2009) - <http://www.riversstatenigeria.net>.

⁵³ In the form of a Special Purpose Vehicle, incorporated as Limited Liability Company

While Silverbird’s contribution to the equity shareholding is 80 per cent, or NGN 16 billion (USD 110 million) for the construction; RSG contributes 20 per cent in the form of the required land property and a payment of NGN 200 million (USD 1.38 million) to Silverbird as contribution to the building and operation of the children’s theme park. Furthermore, RSG is expected to grant lease over the “land known as Isaac Boro Park” to Silverbird for 99 years. The Silverbird plot (former Cultural Centre) and the “land known as Isaac Boro Park” are indicated in the map below.

Figure 30
Location of Silverbird project and surrounding areas



Inside the upright rectangle is the plot currently under development by Silverbird Group Ltd. The circle indicates approximately the radius of 2 km that has to be redeveloped as per the MoU. The “land known as Isaac Boro Park” is the large plot to the immediate right of the Silverbird plot, partly captured by the red rectangle.

Source: Construction and Logistics Department Port Harcourt, Survey Section (October 1998, revised April 2004), published by Total Elf Petroleum Nigeria Ltd.

According to the signed MoU, the RSG has to fulfill the following obligations:

- Deliver the property to Silverbird “absolutely free of all encumbrances and ensure that potential issues of absentee landlords are identified and eliminated (...) and ensure that all impediments on the property that may hinder the execution of the project are eliminated”.
- Ensure the “peaceful evacuation and relocation of present occupants (...). The means of relocation shall be such as is legally acceptable and accords with due process with a view to avoiding impinging on the reputation of Silverbird in future”.
- Provide basic services such as necessary access roads and safe neighbourhood buffer zone.

- Carry out an urban renewal programme within a radius of 2 km of the project site. It is not specified what form this urban renewal should take.

At the time of the Mission, RSG had allocated a plot of land that includes the former Government-owned Obi Wali Cultural Centre and Isaac Boro Park to Silverbird. Construction of the cinema was well advanced and according to local media the opening was planned for the first week of April⁵⁴.

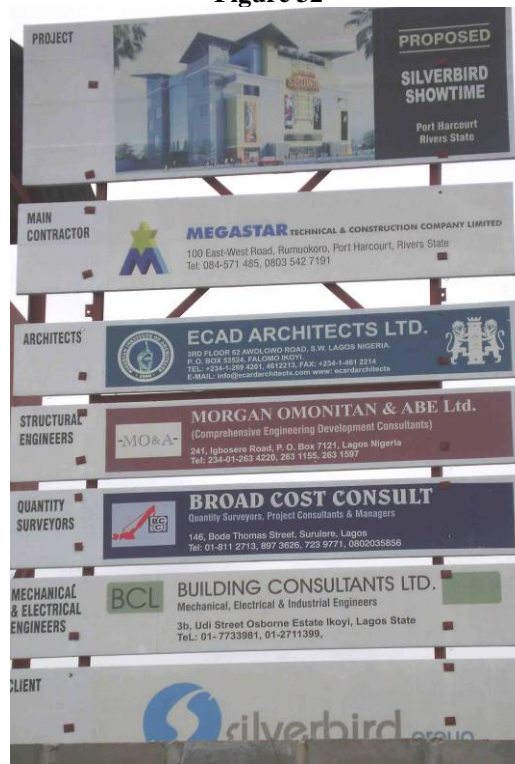
Figure 31



Silverbird Showtime under construction (12 March 2009); in the foreground, the rubble of buildings demolished (10-13 February 2009) to make way for a parking area © J. Falade

Some of the Government's obligations under the MoU have triggered the demolitions already executed along Abonnema Wharf Road and Njemanze Road from June 2008 to March 2009 (see above). As mentioned above, the Mission estimates that the Silverbird project in its entirety, if implemented as planned, will imply land clearance that will affect between 100,000 and 150,000 people.

Figure 32



Silverbird construction site board © R. Precht

⁵⁴ The Hard Truth (26 March-1 April 2009), *Proposed Silverbird Showtime stand-alone cinema for Silverbird Group at Port Harcourt, Rivers State.*

It is worth noting that the public private partnership arrangement between the Silverbird Group Ltd. and the RSG is based on private sector business practices. The MoU states:

“The parties agree that Silverbird is entitled to defray all its costs and expenses related to the construction of the Project from the [generated] income (...) after which profits will be shared in the proportion of its equity shareholding (...).”

Similarly, Silverbird will be entitled to 80 per cent of the profits from the Children’s Theme Park to be created on the land known as Isaac Boro Park and to be operated by Silverbird for a period of 99 years.

Figure 33

Image of the proposed Silverbird cinema complex with indications provided by the NUTN on location of buildings and settlements recently demolished or demarcated for demolition

The Hard Truth **MIXED GRILL** *March 26 - April 1, 2009 Page 10*

PROPOSED SILVERBIRD SHOWTIME STAND-ALONE CINEMA FOR SILVERBIRD GROUP AT PORT HARCOURT, RIVERS STATE

Silverbird is proud to open a state of the art 8-Screen Cinema in Port Harcourt.

Opening in the first week of April 2009, it will show the very best of Hollywood movies as well as Nollywood.

The site is situated at the former Obi Wali Cultural Centre, Abonnema Wharf Road Mile 1 Diobu Port Harcourt.

To celebrate the opening, your favourite newspaper The Hard Truth is giving away 50 free tickets to readers.

All you have to do is cut out the whole page of this ad for 25th March 2009 and 2nd April 2009.

Take both cuttings to 93.7 Rhythm Radio station on Friday 3rd April to collect your free ticket.

Remember tickets would be given to the first 50 people only from 10am.

PROPOSED SILVERBIRD SHOWTIME STAND-ALONE CINEMA FOR SILVERBIRD GROUP AT PORTHARCOURT, RIVERS STATE

*Paul Anderson Limited
Architectural & Planning Consultants*

STREET VIEW FROM WHARF ROAD

PO2

This was the position of the headquarter's Office of the National Union of Teachers of Nigeria's that was destroyed by the state government to pave way for the Silverbird project.

The totality of this environment was predominantly a residential area occupied by a family strength of no fewer than ten thousand persons and were all rendered homeless following the demolition on 9/02/09.

This premises were occupied partly by churches and partly by secondary and nursery/primary school children, who were all forced to stop school following the demolition on 9th February 2009 to pave to pave way for the Silverbird project.

This area covers the Abonnema Wharf Community with population of more than 80,000 families and is to be equally demolished as from April 2009 to pave way for the Silverbird project.

This area covers the Njemanze waterfront with a population of more than 50,000 families and is to be demolished as from April 2009 to pave way for the Silverbird project.

This is the Abonnema Wharf Road, to which the Azikiwe and Ibabuchi Streets are to be dualized and linked to serve as an entry point by the Silverbird customers.

Source: Local newspaper The Hard Truth (26 March – 1 April 2009), with insertions by C.W. Enwefah (NUTN)

5. Due process analysis according to existing legislation

The RSG has stated before, during and after the Mission that it follows due process when demolishing illegal or legal structures for the purpose of urban renewal.⁵⁵ To verify this statement against the numerous sources that claim the opposite, the Mission needed to undertake a thorough analysis of the extent to which the RSG does follow due process. This chapter assesses due process application in terms of three legislative levels: (i) Rivers State's very own legislation; (ii) applicable national legislation; (iii) and regional and international legal instruments.

Nigeria being a federal state, there is a number of policies and laws both at federal and state level that have a bearing on urban restructuring. A detailed review of the various national and state laws and urban and housing policies that have implications for urban planning, permit for development, land use zoning, land acquisition, secure tenure, slum upgrading and urban renewal in Nigeria, can be found in the annex of this report.

The RSG states that the following three legal documents provide the legal backing and process guidance for the demolitions:

(i) The Rivers State Physical Planning and Development Law No. 6 in 2003

In the context of a country with three tiers of government, i.e. federal, state and local, there was a need to provide clarity on the question which level of government is responsible for urban planning. On 13 June 2003, the Federal Supreme Court ruled that Federal Government has no legal right to pass planning legislation and that the 1992 National Urban and Regional Planning Law is not enforceable as a national law but can only be implemented in the Federal Capital, Abuja. This judgment *de facto* vested the State Governments with the responsibilities for urban and regional planning. However, the judgment also said that State Governments can re-enact the national Urban and Regional Planning Law of 1992 to be passed by the State Legislature as a deemed planning law. Accordingly, the RSG enacted the Rivers State Physical Planning and Development Law No. 6 in 2003, which is based on the provisions of the national Urban and Regional Planning Law of 1992. The 2003 Law provides for the control, planning and development of land in Rivers State.

(ii) The 1975 Port Harcourt Master Plan

This Master Plan was designed and adopted under the military State Governor Diette Spliff. The Mission could not view this document because neither the Office of the

⁵⁵ Before the Mission: the then designated Sole Administrator of the Greater Port Harcourt City Development Authority assured UN-HABITAT during her visit to HAPSO in Abuja on 23 February 2009 that due process was applied..

During the Mission: the Deputy Governor and the Commissioner for Urban Development assured the Mission during the meetings on 12 and 16 March that due process was followed.

After the Mission: the Commissioner for Lands is quoted in several local newspapers as having said that due process was followed, legally backed by the Rivers State Physical Planning and Development Law 2003 (see for example: *The Nigerian Village Square* (23 March 2009), *A Commissioner's High-ceiling Silhouette*; *The Nigerian Guardian* (23 March 2009), *Rivers gives Rumuokwuta landlords ultimatum as UN verifies renewal claims*).

Deputy Governor nor the Commissioner for Urban Development was able to show a copy. Hence the nature and scope of this Plan could not be ascertained. However, anecdotal evidence reveals that this Plan concentrated on providing roads and infrastructure to all the suburban expansions, but areas covered did not go beyond the present site of Hotel Presidential, which today is in a fairly central location. It can be assumed that the many unplanned developments in the city were not foreseen by this Plan. Thus, its implementation has been seriously compromised.

(iii) The national Land Use Act 1978

This law provides for a harmonised system of land ownership and administration to ensure easy access to land for development. It introduces procedures for compulsory acquisition of land for public purposes, payment of compensation and the possibility of resettlement. Concerning compensation, the Rivers State Physical Planning and Development Law 2003 refers to this federal law. Therefore, these two laws have to be viewed in conjunction.

5.1. The lack of a legal basis for the demolitions as a result of absence of required institutional framework and planning procedures

Provisions by the Rivers State Physical Planning and Development Law 2003	Institutional and procedural reality in March 2009
<p>Creation of the State Planning Board (State level) and Local Planning Authorities (Local Government level) Parts 2 and 3 of the 2003 Law prescribe clear roles to both bodies, including instructions on the types of plans to be prepared and adopted at the State and Local Authority level and the required procedures. The roles of the State Physical Planning Board would have included the preparation, adoption, implementation and review of various plans, including Subject Plans and Master Plans for Port Harcourt and other cities in Rivers State. Similarly, the Local Planning Authorities in Port Harcourt would have prepared Local Plans and Subject Plans.</p>	<p>Instead of creating the State Planning Board and Local Planning Authorities, the RSG has recently established a new Ministry of Urban Development and is in the process of creating the Greater Port Harcourt City Development Authority. The RSG never accorded any role to the 6 Local Governments in Port Harcourt⁵⁶.</p>

⁵⁶ Section 19 (2) of the 2003 Law provides that either the State Planning Board or the Local Planning Authority can perform any of the roles of the other body, respectively. Thus, either the State Planning Board or the Planning Authority can usurp the roles of each other. Section 20 provides that when a Local Planning Authority fails to perform its duty, the State Planning Board may assume the role of the Planning Authority and authorize any person or agency to act in this capacity. The allegation by the RSG of failure on the part of the Local Planning Authority to warrant the State to take over its functions cannot be substantiated because this Authority was never created in the first place.

<p>Establishment of a Development Control Department for enforcement of planning regulations</p> <p>This Department should have been created by the State Physical Planning Board.</p> <p>The Local Planning Authorities would be responsible for undertaking development control “<i>within its area of authority</i>” (Section 18, sub-section c)</p>	<p>Development control is being enforced exclusively by the State Government through the “Urban Re-orientation and Enforcement Department” in the Ministry of Urban Development.</p>
<p>Setting up of Planning Tribunals at the State and Local Authority levels</p> <p>These Tribunals would have had jurisdiction to investigate and adjudicate on all public complaints concerning the activities of the State Physical Planning Board as regards Building Plans approval or rejection, preparation of Master Plans (and other plans), disputes arising from compensation and all other matters affecting physical development in Rivers State.</p>	<p>The Planning Tribunals have not been established. Aggrieved parties have to complain either directly to the RSG or through regular courts.</p>
<p>Establishment of the Rivers State Urban Renewal Board</p> <p>As per the 2003 Law, the State Physical Planning Board delegates the power to implement all urban renewal policies and programmes to the Rivers State Urban Renewal Board, as specified in the <i>Rivers State Urban Renewal Board Law</i>⁵⁷ made pursuant to the 2003 Law (Sections 84-85).</p>	<p>The Rivers State Urban Renewal Board does not exist. The planned demolition and redevelopment of all waterfront communities is handled by the “Special Assistant to the Governor on Waterfronts Development”. The Commissioner for Urban Development explained to the Mission on 16 March 2009 that there had been a “lack of harmony” between the Office of this Special Advisor and his Ministry which equally claims to be responsible for waterfront redevelopment. The Commissioner explained to the Mission that he is in the process of regaining the coordination function of this area.</p>

The Mission observed that generally the RSG has no confidence in the Local Governments which it sees as “mere pay offices”. Describing the Local Governments as “becoming weaker and weaker”, the RSG took over primary education in both rural and urban areas within the State. Primary education in rural areas had hitherto been the exclusive preserve of the local government.

⁵⁷ The Mission did not have access to this law and can therefore not confirm whether it actually exists.

<p>Preparation of Urban Renewal Plans</p> <p>The State Physical Planning Board would have been required to develop a Subject Plan for urban renewal for a particular area, have it approved by order published in the State Gazette, and then delegate the power to implement it to the Rivers State Urban Renewal Board. The Urban Renewal Board would then have had to declare the concerned area an <i>“Improvement area for the purpose of rehabilitating, renovating and upgrading the physical environment, social facilities and infrastructure of the area”</i> (Sections 84-85).</p>	<p>Reference to 1975 Master Plan</p> <p>The RSG refers to the 1975 Port Harcourt Master Plan that did not provide for the development of waterfront settlements. Although the RSG admits that 24 years after its adoption, the 1975 Master Plan does no longer reflect the reality in the city and has outlived its applicability, the zoning as per the 1975 Master Plan is used to justify that buildings in numerous areas of the old city need to be removed to re-convert them to the originally intended use, in the interest of “urban renewal”. According to the information available to the Mission, no Subject Plans for urban renewal have been developed and none of the waterfronts where structures have recently been demolished for demolition were declared “improvement areas”. Also for the Silverbird development project the RSG did not present any urban renewal plans to the Mission.</p> <p>Since the new Master Plan for Greater Port Harcourt had not been adopted at the time of the demolitions this report is concerned with, it cannot be used to justify any demolitions.</p> <p>Even with the formulation of the Greater Port Harcourt Master Plan, there is no evidence of ample consideration for the resettlement of residents affected by the current demolition exercise. This happens to be a major gap in the new Master Plan.</p>
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The above table shows that the RSG has not implemented the institutional and procedural provisions of the 2003 Law. The RSG has not established any of the required institutions.⁵⁸ As a consequence, none of these institutions’ roles and the processes they are required to follow, could have been fulfilled. Nevertheless, the RSG refers to the 2003 Law to justify the ongoing urban renewal initiative with its numerous demolitions. This means, the demolitions carried out by the current RSG since 2008, have been undertaken through an institutional framework which is **not legal**.

According to local newspapers issued after the Mission left Port Harcourt, the RSG “has set up a professional body in the built environment to review the existing

⁵⁸ In fact, Section 104 of the 2003 Law provides that “from the commencement of this law, the function of processing and approval of Building Plans under the Lands and Housing Bureau in the Governor’s Office shall cease to exist and the Division/Department accordingly is hereby dissolved.”

Physical Planning and Development Control law to conform to modern development and social realities”⁵⁹, but this could not be verified by the Mission. It is not clear what should be inadequate about the 2003 Law. To the Mission it seems to be rather a matter of implementing the Law fully and interpreting its provision correctly.

Conclusion

Since none of the demolitions have been carried out by the institutions prescribed by the 2003 Law, they do not have legal backing. It is incorrect of the RSG to justify demolitions in the context of “urban renewal” if the institutional and procedural provisions of the existing law have not been followed. Similarly, the RSG states “urban renewal” as justification for the demolitions and, above all, the planned redevelopment of all waterfront settlements in the city, but it does not follow the process for urban renewal as prescribed in detail in Sections 84-90 of the 2003 Law. The Mission is not aware whether any of the areas affected by the demolitions since 2008 has been declared either “improvement area” or “redevelopment area”. Given these findings, it appears that the RSG is using “urban renewal” misleadingly.

5.2. Due process analysis: demolition of allegedly “illegal structures” according to the Rivers State Physical Planning and Development Law 2003

The previous section has revealed that the RSG carries out demolitions of “illegal structures” outside of the required institutional framework. This observation aside, the Mission Team wanted to ascertain to what extent the existing institutions do follow due process in demolishing “illegal structures”. This section presents the findings of this due process analysis.

5.2.1. Do all “illegal structures” have to be demolished?

According to the 2003 Law, in order to produce a “legal structure” any developer has to apply for a development permit from the Development Control Department. The following two sections of the Law provide for minimum requirements that have to be met:

Section 42: *“A developer shall apply for development permit in such forms and providing such information including plans, designs, drawings and any other information as may be prescribed by Regulations made pursuant to this Law.”*

Section 43: *“The Control Department shall have powers to grant development permit to any applicant if:*

- a. The land on which any building shall be erected shall have its development plan prepared by qualified professionals registered to practice in Nigeria and as prescribed in the Building Plan Regulations made pursuant to this Law (...).”*

⁵⁹ The Times of Nigeria (19 March 2009), *UN Commission Applauds Rivers Government Urban Renewal Initiatives*

The Checklist by the Ministry of Urban Development for approval of building plans provides more details (see Rivers State Government Ministry of Urban Development “Checklist for Approval of Building Plans” in the annex of this report).

The 2003 Law provides for what should be done to both types of “illegal structures” as per the typology developed earlier in this report:

In the case of illegal extensions/encroachments, i.e. structures that are found to contravene their approved building plan, Section 47 (1) provides that, “*The Control Department shall enforce all the rights and duties attached to a development permit against the holder (...) of a development permit or his agents.*”

In the case of residentially and commercially used “illegal structures” in locations not foreseen for this use, i.e. structures that are erected without development permit, Section 57 (1) provides that, “*The Control Department shall serve an enforcement notice (...) on the developer or owner of any structure on any land, whenever development commences without obtaining a development permit. The enforcement notice shall include one or all of the following:*

- (i) *Notice of contravention;*
- (ii) *Notice to stop work (stop work order);*
- (iii) *Notice to quit;*
- (iv) *Notice to seal up;*
- (v) *Notice of demolition.*”

Section 60 (1) clarifies that, “*These enforcement notices direct the developer or owner to alter, vary, remove or discontinue the development in question.*”

The Commissioner for Urban Development during the meeting held with him on 16 March 2009 provided the Mission with blank copies of the following notices, stating that these were used by his Ministry in the following sequence:

- a. Stop Work Order advises the developer to stop work because her/his development is unauthorized, and to furnish the Development Control Department with certain documents.
- b. Enforcement Notice refers to the Stop Work Order and specifies the nature of non-compliance of the development. Failure to comply with the Notice makes the developer guilty of an offence liable on conviction of a specified fine.
- c. Contravention Notice refers to 1) and 2) and observes that the developer has refused to comply with the requirements of the Development Control Department. S/he is now required to comply with one of the following options: (a) prepare and submit building plan for approval; (b) carry out alteration as specified; (c) pull down building; or re-instate the piece of land to the state in which it was prior to the commencement of the development. If within 7 days the developer does not comply with the request, the structure shall be earmarked for demolition.
- d. Demolition Notice refers to the Contravention Notice and that the structure has been earmarked for demolition on a date within 7 days from the date of receipt of this Notice. The demolition expenses are to be fully recovered from the developer.

None of the local newspaper reports or the accounts of affected persons met by the Mission confirmed that the full sequence of these 4 notices has been served on all those whose structures that have been demolished. The Commissioner stated that the 4-notices package had been used in the recent demolition of illegal extensions/encroachments in the G.R.A. This could not be verified by the Mission.

At first glance, the notices used by the RSG seem to be fully compliant with the provisions of the 2003 Law. However, a close review by the Mission Team of the text on each of these notices came up with the following observations:

The Stop Work Order and the Enforcement Notice are in line with Section 57 (1). The same applies to the Contravention Notice, which is based on Section 68: *“When a developer or owner contravenes the provisions of this Law or any regulations made pursuant to it, the Control Department shall have power to require the developer to:*

- *prepare and submit his building plan for approval, or*
- *carry out alterations to a building as may be necessary to ensure compliance, or*
- *pull down the building, or*
- *re-instate a piece of land/or building to its original state prior to the commencement of development.”*

However, Section 68 clearly provides for four options that the Control Department may choose to pursue - note the “or” after sub-sections a, b and c. In other words, demolition is only one of the options! In fact, Section 70 confirms that demolition is the solution only in the case of a structure that falls under the following criteria: *“The Control Department shall have the power to serve on a developer or owner a Demolition Notice if a structure erected by the developer or owner is found to be **structurally defective, poses danger or constitutes a nuisance to the occupier and the public.**”*⁶⁰

According to the Commissioner, in the GRA, the RSG has given the process from Stop Work Order to actual demolition sufficient time: *“In GRA, we have taken our time to let people know what we are doing.”*⁶¹ This appears likely because the Mission did not receive any complaints from owners of illegal structures in GRA about inadequate notice and the lack of opportunity to remove the offending fences and walls themselves and thus regularize their developments.

The Mission obtained information that for demolitions in other areas of the city the RSG took a different approach. For example, reports on the demolition of the Mile One Diobu Railway Market on 18 March 2009 state that traders had been there for up to 15 years and were not aware of the planned demolition until the bulldozers destroyed their businesses. Many of the traders lost their livelihoods, as they were not given the necessary time to remove their wares⁶². The same approach was reported by the Motor Mechanics, Technicians and Motor Spare Parts Dealers Association of

⁶⁰ Emboldened by the authors of this report.

⁶¹ Interview in: The Hard Truth (5-11 February 2009)

⁶² The Reformer (20-26 March 2009), *Demolition – Railway Market goes down* (pages 1 and 3)

Anyama/Gambia Street with regard to the demolition of their shops and workshops on 20 November 2008.⁶³

If the full range of options provided in Sections 68 and 70 of the 2003 Law is applied, for the developer of an “illegal structure” this would mean that if s/he submits a building plan or carries out the required alterations, s/he could have his/her building regularized, or, converted from “illegal” to “legal” structure. Some developments in Port Harcourt may not have been approved through development permit, but entire markets and residential buildings that have been in existence for many years. During these many years, the “public” has been benefiting from them without complaining. Therefore, they cannot automatically be considered “*structurally defective, posing danger or constituting a nuisance to the occupier and the public*” – simply because a developer does not comply with the enforcement notices s/he is served with. Rather, there might have been other reasons why s/he did not manage to comply with the enforcement notices. Needless to say that none of the occupiers of the demolished structures would have perceived her/his building as “*a nuisance to the occupier*”.

The Mission observed during site visits that many of the “illegal structures” could be upgraded and regularized at the cost of the owners, to a level considered “legal” according to (revised) standards.

The Mission thus concludes that the options provided by Section 68 (a) *prepare and submit his building plan for approval*; and b) *carry out alterations to a building as may be necessary to ensure compliance*, have been selectively offered to developers in GRA but not in other areas where there was no other option given than outright and immediate demolition.

A more careful reading of the 2003 Law reveals that there is ample provision for an alternative approach to “illegal structures”.

Section 60 (3) provides that “*Before issuing and/or serving an enforcement notice the Control Department shall:*

- (1) *have regard to the existing conditions for granting a development permit;*
- (2) *(....)*
- (3) *consider the overriding public interest without prejudice to paragraph (a)”.*

The Mission found that the process of obtaining a development permit is highly cumbersome and very costly and thus makes “legal” development inaccessible to many households in Port Harcourt. In having *regard to the existing conditions for granting a development permit*, the RSG may want to acknowledge this reality.

The 2003 Law does not hinder the RSG from retroactively granting development permits to owners of illegal structures that are located in areas that, under the new Master Plan, could be re-zoned for residential use, and that could be upgraded to meet building regulations. Paragraph c) of Section 60 (3) justifies this approach because it would be in the “*overriding public interest*” to regularize as many “illegal structures”

⁶³ Letter by Motor Mechanics, Technicians and Motor Spare Parts Dealers Association of Anyama/Gambia Street to NUTN, dated 12 December 2008.

as possible instead of causing severe material, economic and social damage and losses through demolitions.

This approach would require some innovation and flexibility on the side of the RSG in terms of land use planning and a simplified application process for the development permit, including the possibility of easier access to the Certificate of Occupancy as land title that provides security of tenure. Where this proves too difficult, the 2003 Law provides for declaring any part of the city an “Improvement Area”.

Sections 84-90 of the 2003 Law that make provisions for improvement of existing areas do not contain any limitations on the type of buildings in the “Improvement Area” – “legal” or “illegal” structures. This means, any area in the city, including planned residential areas, markets and waterfront settlements, may be declared “Improvement Areas”. This legal option for “in situ” improvement of existing buildings is dealt with in more detail in the later section on due process in the planned demolition of waterfronts.

The above analysis shows that there are other legal options than demolition – upgrading and regularisation. With regard to the options provided by the 2003 Law, the objective of the RSG to systematically demolish all “illegal structures” appears arbitrary and to be based on a narrow and selective interpretation and application of the Law. This approach does not give every developer in Port Harcourt equal opportunities. Not every “illegal structure” has to be demolished. For allowing residents to retroactively regularise their developments, the 2003 Law does not have to be changed; it simply has to be interpreted in its full range of provisions and implemented accordingly.

5.2.2. Do owners of “illegal structures” have to pay for the demolition?

The Mission acknowledges that, certainly, individuals have over the years taken advantage of the lack of development control in Port Harcourt. Thus, it is logical that the 2003 Law gives the RSG the right to also correct illegal development that happened before 2003: *“An enforcement notice may be issued (...) notwithstanding that the unauthorized development took place before the commencement of this Law.”* (Section 59 (2))

However, Section 64 implies that if the RSG had followed the provisions of the Law and carried out proper development control over the years, there shouldn’t be so many illegal structures in Port Harcourt today: .

“Where it appears to the Control Department that:

- (i) an unauthorized development is being carried out, or*
- (ii) where a development does not comply with a development permit issued by the Control Department,*

the Control Department shall issue Stop Work Order pending the service of an enforcement notice on the owner, developer, occupier or holder of development permit.” (Section 64)

This shows that the RSG shares a part of the responsibility for the proliferation of unplanned and “illegal buildings”. The Commissioner for Urban Development is aware of this responsibility. He explained that the exercise of demolishing illegal structures “*also aimed at correcting wrongs consciously perpetuated by individuals and government in the past.*”⁶⁴

But as the analysis has shown above, it appears that in a narrow interpretation of Section 59 (2), the RSG has decided to simply demolish all buildings that were erected a long time ago and have stood uncontested by the State’s development control ever since. In the same logic, the Commissioner for Urban Development offers what looks – at first glance - like a concession in view of the RSG’s responsibility for illegal development in Port Harcourt in the past:

*“From the law (...), once the Ministry marks your structure as illegal (...) the law provides that the Government should recover the money they spend in demolishing that illegal structure. (...) In law, there is what we call the bare law and equity. Equity mitigates the harsh effect of the law. We kept aside the harsh effect of recovering the money Government spent in demolishing your illegal structure. What we do is to demolish the structure and say, ‘don’t worry, we will bear the brunt of correcting the wrong caused by you’.”*⁶⁵

The Commissioner is obviously misinterpreting Sections 70 and 71 of the 2003 Law which clarify the right of the RSG to claim reimbursement for the demolition of illegal structures. Section 71 provides that, “*A developer or owner shall reimburse the Control Department for all expenses paid or incurred in the exercise of its power under Section 70 of this Law.*” And as we saw already earlier, Section 70 prescribes that demolition by Government is limited to structures that are “*structurally defective, pose danger or constitute a nuisance to the occupier and the public*”. Since many of the structures already demolished and still to be demolished by the RSG do not fall under these criteria, the “generosity” displayed by the Commissioner concerning his Ministry’s “sacrifice” to bear the costs of the demolitions, is incompatible with the provisions of the statutory law.

The above analysis reveals that only owners whose buildings are “*structurally defective, pose danger or constitute a nuisance to the occupier and the public*” have to reimburse Government the cost of demolition.

5.2.3. Do owners of “illegal structures” have a right to compensation?

The RSG informed the Mission during the meeting on 12 March 2009 that it does not pay compensation when demolishing any “illegal structures”. This is in accordance with the 2003 Law that does not provide for payment of compensation for illegal developments in planned areas. In assuming its responsibility for the negligence of previous Rivers State Governments, the current RSG is paying compensation to owners of structures that are based on “faulty” development permits that were issued against building regulations by previous Governments.

⁶⁴ In: The Times of Nigeria (19 March 2009), UN Commission Applauds Rivers Government Urban Renewal Initiatives

⁶⁵ Interview in: The Hard Truth (5-11 February 2009)

However, if the RSG declared the areas with high concentrations of “illegal structures” to be Improvement Areas, the 2003 Law in its Section 89 provides for compensation to be paid by the Urban Renewal Board in the case of inevitable demolition (see more detailed explanation in the later section on due process in the planned demolition of waterfronts). But since neither the Urban Renewal Board nor any Improvement Areas have been created, this legal option – by default – is currently not available to owners of “illegal structures”.

Thus, if Urban Renewal Board and Improvement Areas existed, owners of “illegal buildings” in these areas would be entitled to compensation.

Conclusion

It appears to the Mission that superseded government institutions are applying selected provisions for development control in an arbitrary manner contrary to the process guidance as provided by the 2003 Law. The Mission is under the impression that narrow interpretation and application of the 2003 Law serves only one purpose - to rectify, at the cost of many developers, the negligence of previous State Governments in not carrying out development control at the time when it was necessary. This expresses an attitude towards many low-income households in Port Harcourt that can only be described as non-inclusive and anti-poor. Since the 2003 Law provides for other options including upgrading/regularisation instead of demolition, an opportunity is missed here to practice “development control” in a less costly and more humane way.

5.3. Due process analysis of demolition of “legal structures” according to the Rivers State Physical Planning and Development Law 2003 and the national Land Use Act 1978

By definition, “legal structures” are erected on land to which the structure owner holds a Certificate of Occupancy. The 2003 Law provides for the acquisition of land by Government for particular urban development:

Section 81:

- a. *Where it appears to the Board or Authority that it is necessary to obtain any land in connection with planned urban or rural development in accordance with the policies and proposals of any approved plan, any right of occupancy subsisting on that land may be revoked by the Governor on the recommendation of the Board.*
- b. *No right of occupancy shall be revoked unless in accordance with the relevant provisions of the Land Use Act.*

Section 82:

- a. *All matters connected with the payment of compensation for the revocation of a right of occupancy under this Law shall be governed by the relevant provisions of the Land Use Act.*
- b. *(...)*
- c. *“Where in the opinion of the Control Department any person has committed a contravention of an existing scheme, the land together with any building and*

any goods or furniture therein may be requisitioned or forfeited for the breach of the scheme under this Law without the payment of any compensation.”

Since the 2003 Law exclusively refers to the Land Use Act of 1978, the Mission Team reviewed this Act. Generally, the 1978 Acts provides that all land in the State is vested in the Governor and such land shall be held in trust for use and the common benefit of the people. The people so allocated such lands have statutory right of occupancy and are issued a Certificate of Occupancy (C of O). A holder of statutory right of occupancy has right to absolute possession of all improvements on the land. The Act provides, *inter alia*, for compulsory land acquisition in urban areas for developmental purposes, and the processes of compensation by making revocation orders.

5.3.1. When does the Government have the right to compulsory acquisition of property?

Section 28 of the Land Use Act provides for instances for which a revocation order may be made. The instance relevant for the context of the recent and ongoing demolitions in Port Harcourt is the following:

“Land requirements by the Federal, State and Local Government for overriding public purposes”.

5.3.2. Has the RSG followed due process in acquiring properties for overriding public purpose?

None of the Government officials met by the Mission talked of a revocation order made by the RSG for *“land requirements for overriding public purposes”*, as prescribed by Section 28 of the Land Use Act. In fact, the RSG does not apply the provisions of the Land Use Act.

The Governor’s power of revocation for *“overriding public interest”* does not cover any revocation in favour of an individual’s interest in land and granting the same to another individual for a private purpose. Since the Land Use Act only provides for the revocation of land use rights for public good and not for the benefit of an individual or group of individuals, the justification of any revocation of Certificates of Occupancy in connection with the Silverbird Project is against the statutory law. As shown in the above section entitled *“The area of greatest concern – planned large-scale demolitions for the public-private partnership development Silverbird Showtime”*, the MoU that governs the public-private partnership between Silverbird Group Ltd. and the RSG leaves no doubt that the Silverbird Project is a private investment and not in any sense of *“overriding public interest”*. One could argue that this project has a greater economic impact for the city in terms of job creation, economic regeneration and service provision. But the way it is implemented, it gives neither evidence of public purpose as defined by law nor has it shown any sign of corporate social responsibility that private sector firms should have in such urban regeneration operation.

The absence of “overriding public interest” explains why the RSG does not apply the process of revocation or compulsory acquisition, and instead has adopted a “buy-over” strategy. Accordingly, the entire buy-over process does not follow due process as stipulated in the statutory legislation. The following analysis provides evidence for this observation.

5.3.3. How was the compensation level determined?

The RSG informed the Mission that it pays compensation for all “legal structures” that it has to demolish to make way for particular urban developments. The Mission received a copy of a valuation report of properties situated along Abonnema Wharf Road⁶⁶. The valuation basis and method is described as follows:

“Valuation for compensation is essentially a statutory valuation. The Land Use Act of 1978 stipulates compensation for value at the date of revocation of the unexhausted improvements. That is to say:

- 1) For land, an amount equal to the ground rent, development charges etc. Paid by the occupier or holder during the year.*
- 2) For buildings, the replacement cost.*

Based on the above, we have adopted the replacement cost method for all buildings involved in this exercise applying current building cost figures. Land values are however excluded in accordance with the provisions of the law.”

This Valuation Report refers to the Land Use Act but it does not cite any particular Section of it. As mentioned earlier in the report, this appeared to be logical considering that the RSG does not apply the procedure of compulsory acquisition according to the Land Use Act.

If applied in the Port Harcourt context, Section 29 of the Land Use Act would have provided for compensation payable on revocation of rights of occupancy by the Governor. It would have had to be paid as follows:

- (i) For the land, an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked;*
- (ii) For buildings, installation or improvements thereon, compensation shall be paid for the amount of the replacement cost of such buildings, installation or improvement, and as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer (...)*

A copy of a payment voucher issued to the owner of the property at 25 Abonnema Wharf Road was given to the Mission. The amount paid to the owner corresponds

⁶⁶ Valuation Report of Properties Acquired for the Proposed Silverbird Project in Port Harcourt by Rivers State Government (July 2008), undertaken by Koko & Co. Estate Surveyors and Valuers.

with the amount proposed in the above mentioned Valuation Report. Although the Land Use Act in Section 29 clearly provides for the reimbursement of land rent already paid to the Government, “land values” are excluded from the compensation amount paid to structure owners on Abonnema Wharf Road. Unless the compensation was paid in the very beginning of the year in which the right of occupancy was revoked, the non-compensation of land rent already paid by the holders of the Certificate of Occupancy would have to be considered a breach of the Land Use Act.

5.3.4. Were owners satisfied with the money they received from the RSG for their buildings?

The RSG did not make available to the Mission any evidence of communication between itself and the landlords. It was not possible for the Mission to meet all owners of structures along Abonnema Wharf Road to ascertain their satisfaction with the acquisition of their properties by the RSG and with the value of the compensation they received. However, during its interactions with residents during site visits, the Mission did not hear about any complaints by owners about the amount they received. The value of the compensation seemed to be acceptable. The payment voucher given to the owner of the building at 25 Abonnema Wharf Road states that *“the rate/price charge is (...) fair and reasonable”*.

5.3.5. What are the rights of tenants after the RSG acquired the legal properties they occupied?

The Mission was given below Demolition Notice by tenants whose rented places along Abonnema Wharf Road were demolished during the week 9-13 February 2009. This Demolition Notice is dated 2 February 2009 and addressed to “The Landlord”. It informs that the building is hereby marked for demolition within 7 days. The landlord is requested to take all necessary steps to remove the structure within 7 days.

This Demolition Notice, in many respects, is not in line with the statutory laws:

1- This Notice is addressed to “The Landlord” but it does not indicate any name or plot number. This is in breach of Section 44 of the Land Use Act that requires that *“Any notice required by this Act to be served on any person shall be effectively served on him”*.

2- Members of the NUTN who made this Notice available to the Mission reported that this Demolition Notice was actually served on the sitting tenants of that building.

3- This Notice does not state any reason for the demolition. Considering that this was not a case of compulsory acquisition, the Notice should refer to the purchase of the property by the RSG.

Figure 34
Demolition Notice

GOVERNMENT OF RIVERS STATE OF NIGERIA

Telegram:		MINISTRY OF URBAN DEVELOPMENT
Telephone:		OFFICE OF DEVELOPMENT MONITORING
		COMMITTEE
		P.M.B. 5031,
		PORT-HARCOURT
		RIVERS STATE.

Re: MUD/MC/05/02
The landlord

2nd February 2009

Sir,

DEMOLITION NOTICE

I am directed to inform you that your building is hereby marked for demolition within 7 days of this notice stating from today 2/2/2009 which expires 9/2/2009

Your structure is marked 'X' with red-oxide paint.

All necessary steps should be taken to remove the structure within 7 days.



TPL. MINA APRIOKU
Chairman, Development Monitoring Committee
Moscow Road, Port-Harcourt.
08033167622

4- The Notice resembles the Demolition Notice used by the RSG in the case of an “illegal structure”. However, the property to be demolished was, at the time of issuance of the Notice, already Government property. This would require that it is the Government’s responsibility to remove the structure as the landlord has no more responsibility for this property. As mentioned above, the Mission did not see any evidence of agreement between the buyer (the RSG) and the seller (private landlord) concerning an obligation by the seller to demolish the structure before ceding ownership to the RSG.

The above observations raise serious concerns about the legality of the use of this Notice. When the Mission showed this Demolition Notice to the Commissioner for Urban Development on 16 March 2009 for his comments and clarifications, he confirmed that instead of compulsory land acquisition backed by the Land Use Act, the RSG “buys” the properties required for development projects from the owners at market rate.

Since structure owners had already left their properties by the time the Demolition Notice was served on the occupants of the affected properties, it appears to the Mission that the intention of this Demolition Notice is to evict the remaining tenants.

The RSG stated repeatedly that they had neither the responsibility to compensate tenants, nor the right to negotiate with them. According to the Land Use Act, only land owners, i.e. holders of a Certificate of Occupancy, are entitled to compensation in cases of compulsory acquisition of land for overriding public purpose. However, since the RSG is not applying the provisions of the Land Use Act, its provisions are not enforced herein.

The RSG argues that it has no responsibilities towards the tenants in the legal buildings it demolishes and that it was the sole duty of the landlords to manage the relationship with their tenants⁶⁷. This needs to be questioned. The Mission was not given access to neither formal rental contracts nor relevant legislation, such as the 1991 Rivers State Recovery of Possession Edict in order to thoroughly make a legal analysis. Therefore, the provisions of rental legislation being uniform in all States of the Federation, the Mission reviewed the provisions of the Lagos State Rent Control and Recovery of Residential Premises Law.

Section 12: Security of tenancy

(1) Where an application has been made to the court by a tenant in respect of the accommodation to which this Law applies, any notice issued by the landlord and served on the tenant to quit the accommodation thereafter shall be of no effect, and no similar notice to quit shall be given by the landlord, before the decision of the Tribunal is given.

(4) Notwithstanding the provisions of any law or enactment, it shall be unlawful for a landlord to eject from any premises, in respect of which the tribunal has fixed the rent until the determination of the tenancy.

Section 23: Tribunal to allow tenant to seek alternative accommodation

(...) where in the opinion of the tribunal it is expedient to do so, it may allow a tenant up to maximum of six months to look for an alternative accommodation.

Section 33: Offences and penalties

(1) Subject to the provisions of any law in force, any person who demolishes, alters or modifies a building to which this law applies with a view to ejecting a tenant and without the approval of the Tribunal, is guilty of an offence and is liable to a fine of Twenty Thousand Naira or to three months imprisonment.

(2) i) Any person in respect of any accommodation to which the Law applies a) harasses or molests a tenant by action or words, with a view to ejecting such tenant,

b) wilfully damages any dwelling house (...) is guilty of an offence and is liable to a fine of fifty Thousand Naira or to three months imprisonment

⁶⁷ Explained by the Deputy Governor and Commissioner for Urban Development during the meeting with the Mission on 12 March 2009.

In the same line, the Rent Control and Recovery of Residential Premises Law of Lagos State⁶⁸ stipulates that one of the few valid grounds upon which a landlord may successfully eject a tenant upon application to a Court of competent jurisdiction or a Rent Tribunal, is that the premises are reasonably required for any purpose which is in the public interest. But as has been established earlier by the Mission, this is not a case of overriding public interest.

The same Law specifies in Section 36 that “accommodation” includes residence so approved by the building approving authorities designated by the State as residences regardless of user; all buildings used as residences from the commencement of this Law; and all other buildings whether or not approved by the building approving authorities or used as residences. This definition affords legal protection to all tenants, including those regarded by the RSG as ‘illegal squatters’.

Web-based information on the rental legislation in Rivers State provides insights into common eviction practices applied by landlords in Port Harcourt: Under the 1991 Rivers State Recovery of Possession Edict, “*only the court can order the eviction of tenants. Since the court process is slow and cumbersome, landlords evict tenants using an assortment of tricks, phony legal cases, intimidation, locking out tenants, and physically throwing them of their property.*”⁶⁹

In order to better understand the situation of tenants who have been, or are threatened with eviction from their current accommodation in legal buildings bought over by the RSG, the Mission collected anecdotal evidence on the transaction between the RSG and structure owners (or ‘landlords’ – the term used by the RSG):

The negotiations were carried out behind closed doors, without the knowledge and participation of the tenants who rented rooms in the buildings concerned. According to NUTN reports and interviews with former tenants along Abonnema Wharf Road, the owners/landlords wanted to avoid having to reimburse the amount of rent already paid by their tenants (in Port Harcourt, tenants usually pay rent between 12 and 24 months in advance).

During meetings with affected tenants, the Mission was informed that landlords had not reimbursed the unexhausted part of the rent tenants had paid in advance. Should the provisions of the 2003 Law be applied, the tenants would have a right to compensation and/or resettlement if the area concerned would be declared an “Improvement Area”. According to Section 90 of the 2003 Law, the Urban Renewal Board would have to provide alternative accommodation and/or site and/or financial assistance to all persons likely to be displaced from their homes (see more details in the later section that deals with the planned demolition of waterfront communities).

⁶⁸ In line with Francis Moneke’s analysis of state level rental laws, the Mission expects that rental legislations in the States of Rivers and Lagos are very similar when it comes to this crucial aspect (see Daily Independent Lagos (4 March 2009), *Nigeria: Landlord & Tenant – the Right to Shelter And Statutory Protection of Tenants*).

⁶⁹ <http://www.globalpropertyguide.com/Africa/Nigeria/Landlord-and-Tenant>. According to this source, the 1991 Rivers State Recovery of Possession Edict is “unimplemented”. What exactly this means for the rights of tenants in the context of the past and ongoing Port Harcourt evictions, needs to further analysed.

The interviewed tenants complained that they struggled to find adequate accommodation elsewhere in the city. The rental advance payments not reimbursed by their previous landlords were now sorely missing in their efforts to relocate to another area with a new landlord. Business owners who rented premises in the buildings along Abonnema Wharf Road are faced with similar challenges in re-establishing their livelihood in another location where they have no clientele.

When the Mission asked the RSG about the establishment of mechanisms to ensure that tenants are not rendered homeless⁷⁰, the Mission was informed that this was not government responsibility. This came as a surprise because the Mission had expected that the RSG as new landlord of the tenants in the acquired buildings would have to compensate the sitting tenants or provide alternative accommodation, especially if tenants still have valid rental contracts which reaffirms their statutory tenants position vis-à-vis the new owner of the building they occupy.

It is important to note in this context that based on the RSG's interpretation of its responsibility, the RSG did not ensure the protection of the sitting tenant population from unlawful eviction and homelessness. Moreover, as part of its buy-over deals made with landlords, RSG did not ensure that they fully discharge their contractual obligations towards their tenants, do not compromise laid down procedures regarding recovery of unused rent and ejection, and that penalties are imposed for non-compliance.

Assuming that the RSG actually became the *de facto* landlord of the occupying tenants in the buildings it purchased, this would make the government responsible for protecting tenants' rights, according to existing contractual agreements and the rental legislation applicable in the State. In fact, it appears that the RSG serviced Demolition Notices on the tenants of its own buildings and evicted them without any court order, thus violating statutory rental legislation. In other words, the government disrespected its own rental laws when it evicted the tenants. Furthermore, one could argue that the RSG interfered with the tenants' right to adequate housing when it pulled off the roofs of their homes while they were still residing inside. This entire process, and in particular the tenants' exclusion from the RSG-landlords negotiations about compensation, provides a plausible explanation for the difficulties encountered by the Mission when it attempted to meet with landlords. The Mission met with none of them.

Legal remedies - can tenants claim their right not to be evicted from the courts?

Tenants from Abonnema Wharf Road initiated a court case against the planned demolition by the RSG of the structures they occupied. By the time the demolitions were carried out, the suit instituted in August 2008 by the National Union of Tenants of Nigeria Vs. the Federal Republic of Nigeria, *Suit No: FHC/PH/CS/30/09* was pending before the Federal High Court, Port Harcourt Judicial Division. The suit was seeking an injunction to restrain the RSG from interfering with the tenants' constitutionally-enshrined rights to privacy, family life, and dignity of Human Person, whether by means of forced evictions or by any other means as may constitute an infraction of these rights. A *Motion ex parte*, dated 11 August 2008, was based on the

⁷⁰ During a meeting with RSG officials on 12 March 2009

request of granted “leave” to the plaintiffs to apply for the enforcement of the above mentioned fundamental human rights (see court document in the annex of this report). The Mission met with a number of lawyers who explained the grant of “leave” within the Nigerian legal context. The “grant of leave” is a well-settled legal principle in cases of fundamental human rights which operates as a “stay” on all action by parties pending the determination of the substantive suit. Unfortunately, the demolitions along Abonnema Wharf Road were being carried out while the suit was still pending in court. In fact, on 2 February 2009, a *Notice of consequence of disobedience of court order* was presented against the Commissioner for Urban Development, demanding him to halt the preparations for demolition that he had initiated at that time. The Mission gathered evidence that with the execution of the Abonnema Wharf Road demolitions during the week 9-13 February 2009, the RSG ignored the well-established legal principle described above and acted in defiance of an order by the court of law.

During the meeting on 12 March 2009, the Mission sought to obtain the RSG’s view of this court case. The Deputy Governor’s explanation to the Mission revealed that “the Government did not forcefully remove anyone from their shelter”, which contradicted the account provided by the NUTN. However, the NUTN’s account has been confirmed by SERAC who were present in Port Harcourt, undertaking a support mission from 9 to 13 February 2009.

Box 3:

Suit No: FHC/PH/CS/30/09, Federal High Court, Port Harcourt Judicial Division: National Union of Tenants of Nigeria Vs. the Federal Republic of Nigeria
Account of events by NUTN, submitted to UN-HABITAT by email on 13 February 2009

“As Suit No: FHC/PH/CS/30/09 came up for hearing on 2 February 2009, both Rivers State Government and the National Union of Tenants of Nigeria, were in court and represented by their respective counsels. At the court session, the counsel to the State Government served the Union a motion for Preliminary Objection to the suit while the counsel to the Union also served on the State Government a motion to join the Federal Government as a Defendant in the suit. The Presiding Judge, after going through the two motions, adjourned the case to 23 February 2009 and ordered that the motion to join the Federal Government be served on the Attorney-General of the Federation.

To our greatest surprise, barely an hour after we had left the court, the Commissioner for Urban Development, Mr. Osima Ginah, led a convoy of armed military/policemen to the Union’s office premise and ordered that the office building should be marked for demolition within seven days expiring Monday, 9 February 2009. He continued (...) going house-to-house and room-to-room along Abonnema Wharf Road and Njemanze Street to threaten the tenants to quit their premises within seven days or face the risk of the bulldozers pushing their buildings against them and their families at the expiration of the seven-day deadline. A copy of demolition notice served on the tenants, consequent to the threat is hereto attached as annexure A.

Further to this development, the Union hurriedly reported the threat to the Federal High Court, which immediately issued against the Commissioner a warning against the consequences of disobedience to the order of the court. A copy of the said warning, which was issued by the Deputy Chief Registrar of the Federal High Court and served by a bailiff of the court, is hereto attached as annexure B.

Regardless of the court warning, the Commissioner went further to the tenants’ houses on Friday, 6 February 2009, to warn them to quit their apartments or have all their personal belongings forfeited to the Government, claiming that the State Government had bought the entire buildings at the area for onward donation to Silverbird Group of Companies Limited and that the area was needed to expand the company’s business (...).

(...) On 9 February 2009, the Commissioner for Urban Development led a convoy of armed military/policemen to Abonnema Wharf Road to verify if the tenants had vacated the area (...).

On 10 February 2009, before the bulldozers arrived on site, a number of Government officials led by the Director of Urban Control, Mr. Ngozi Nwogu, arrived with armed policemen and other unidentified individuals to enter into buildings and cart away their personal belongings, claiming that these items were Government property since the purchase of these buildings from the previous owners (...).

Source: NUTN (13 February 2009), *Update on Port Harcourt demolitions*, submitted to UN-HABITAT by Email

These accounts demonstrate not only that the RSG failed to ensure that aggrieved persons had access to legal remedy but it also reveals its un-preparedness to submit itself to the rule of law. RSG has disregarded orders granted by the courts.

5.3.6. Was adequate notice given to occupants of legal buildings prior to demolition?

The mission has concluded that the Demolition Notice was addressed to landlords giving them 7 days to remove the structure but no formal communication was sent to tenants occupying the structures earmarked for demolition. Strictly speaking, communication to tenants should have come from the landlords. Because many of these structures had changed ownership as a result of the buy-over operation of the RSG, one should have expected the previous landlord and the Government to enter into an agreement about the rental contracts followed by a formal notice to tenants. The Mission was informed by several tenants and NUTN that the demolition notice was delivered to occupying tenants verbally by the Commissioner during a personal visit to the site on 6 February 2009, exactly 3 days before the start of the demolitions (9 February 2009).

The Mission concludes that the RSG has not given sufficient time for tenants to vacate their homes when it issued the 7-day notice of demolition. Tenants were still in the buildings when the demolition started and therefore tenants had insufficient time to remove their belongings. This situation has been confirmed by SERAC who were on site as witnesses of these demolitions during the period 9-13 February 2009, which corroborated the account of the NUTN.

5.3.7. Do owners of legal buildings have a right to resettlement?

The Government informed the Mission that it had no intention to resettle any owners of legal buildings. This may have negative repercussions for owners of properties bought up by the RSG who do not have access to an alternative piece of land where they can use the compensation received from the RSG to build a new house. This relates to the question whether the “replacement value” of the building is sufficient not only to erect a replacement structure somewhere else but also to obtain an alternative plot with Certificate of Occupancy.⁷¹ It appears that landlords in the upper

⁷¹ As with other major cities in Nigeria such as Lagos and Abuja, land processing procedures are costly, technically unclear and unduly prolonged. The Mission confirmed that it takes about a year to process a Certificate of Occupancy and land is expensive. In the GRA, the cost of 450sqm plot (50x100) is sold

part of Abonnema Wharf Road were either absentee landlords or had property elsewhere, so that the acquisition of this property did not render them homeless.

In other cases of Government acquisition of legal structures in Port Harcourt, this may not be different and owners were not able to actually build a new home in a planned neighbourhood that offered living conditions comparable to the previous location. Many of the residents of Abonnema Waterfront who the Mission spoke to are seriously concerned about their access to an affordable piece of land for them to build anew home (see more details in the later section that deals with the planned demolition of waterfronts).

Since the RSG does not apply compulsory acquisition for overriding public interest, the provisions of the Land Use Act are irrelevant here. However, if the RSG did follow this legal procedure, Section 33 of the Act would provide for resettlement in case of revocation of right of occupancy:

- *“Where a right of occupancy in respect of any developed land on which a residential building has been erected is revoked under this Act, the Governor or the local government, as the case may be, may in his or its discretion offer in lieu of compensation payable in accordance with the provisions of this Act, resettlement in any other place or area by way of a reasonable alternative accommodation (if appropriate in the circumstances).*
- *Where the value of any alternative accommodation as determined by the appropriate officer or the land use and allocation committee is higher than the compensation payable under this Act, the parties concerned may by agreement require that the excess in value in relation to the property concerned shall be treated as a loan which the person affected shall refund or repay to the Government in a prescribed manner.*
- *Where a person accepts a resettlement pursuant to subsection (1) of this section, his right to compensation shall be deemed to have been duly satisfied and no further compensation shall be payable to such person.”*

Conclusion

Analysis by the Mission revealed that instead of acquisition of land for overriding public interest through Compulsory Purchase Order, the RSG chose to “buy” properties from their respective owners through negotiation. It is likely that the motive for this course of action is because the Silverbird Project does not justify revocation of rights of occupancy for “overriding public interest” as provided for in the Land Use Act. The RSG opted to pay the replacement value for the properties it bought out (market price minus depreciation). Although the affected property owners

in the range of NGN 20-45 million (USD 134,000-302,000 at USD 1 = NGN 149). Land partitions at the GRA come in multiples, which means that a purchaser of land has to muster at least NGN 120 million (USD 805,000) in order to materialize her/his ambition of becoming a land or house owner. Over the years, Government has acquired land ostensibly for public use. The Mission was told by various interlocutors that it is suspected that the beneficiaries have been high-income people. Public land acquisition has been the arena of conflict between indigenous land owners and Government over the years. This has contributed to making access to land for the majority of urban dwellers, especially low and medium-income households, so difficult that the informal land market remains the only affordable option.

seemed to be satisfied with the compensation level, for reasons unclear to the Mission, the un-exhausted land rent was not reimbursed.

Despite the fact that the RSG had bought the properties from their owners, Demolition Notices were served on the landlords leaving the tenants totally out of this procedure. This seems to be an incorrect way of demanding tenants who are still occupying the buildings to vacate them. This is in contradiction to most international legislation that prescribes in cases of change of ownership of properties under rental contracts that tenants must be involved in the final resolution of the destiny of the property. Assuming that the RSG becomes the statutory landlord of tenants that still occupy the buildings bought over, it is apparent that by not putting in place any compensation or resettlement mechanisms for its tenants, the RSG has denied its responsibility for the tenants' right to adequate housing. The Mission further concluded that court orders in favour of tenants' rights have been ignored by the RSG, thus denying fundamental rights of tenants and their right to legal remedy.

Moreover, it is worrisome to observe that the demolitions carried out by the Government did not provide for adequate time to occupants who were not even allowed to remove their personal properties and belongings from the buildings under demolition. The Mission had the opportunity to confirm these cases *in situ*. The Mission has also received confirmed evidence about the use of force in the case of the Abonnema Wharf Road demolitions. The Mission has also been informed by the Government that it does not have any guidelines on how to carry out evictions and demolitions which helps to explain the many irregularities and mishaps of this entire operation.

5.4. Due process analysis of the planned demolition of entire waterfront communities according to the Rivers State Physical Planning and Development Law 2003

Possible implications of the National Inland Waterways Act of 1997

The Mission noticed that the Rivers State Physical Planning and Development Law of 2003 may not apply to the waterfronts, or parts of them, as these areas may fall under the jurisdiction of the National Inland Waterways Authority (NIWA) that has the right to all land within the right-of-way of such waterways. According to the National Inland Waterways Act of 1997 no person including a State has the right to erect permanent structures; reclaim land; undertake acquisition or lease/hire of properties within the right-of-way without the written consent, approval or permission of the Authority. The Authority has exclusive right to acquire, develop and use any landed property. These provisions clearly limit the RSG's possibility to acquire (through buy-out), demolish and re-develop the waterfront settlements.

During its discussions with the Mission, the RSG did not mention the National Inland Waterways Act, and the Mission only became aware of the Act's provisions when carrying out a detailed legal analysis after the site visits in Port Harcourt. It remains to be established to what degree the Act applies to all waterfronts (depending on their distance from the waterways and/or level of flooding). In any case, the Mission

established that any waterfront re-development without the approval of Federal Government runs the high risk of being a violation of federal law. Further study by the RSG of the 1997 Law and its applicability is needed, in conjunction with Federal Government and the communities concerned.

For those parts of the waterfronts where the Rivers State Physical Planning and Development Law of 2003 does apply (to be verified), the Mission presents the following due process analysis with regard to the RSG's redevelopment plans:

5.4.1. What are the provisions of the 2003 Law?

Sections 84-90 of the 2003 Law describe in detail the process to be followed for carrying out urban renewal.

According to the relevant provisions of the law, the appropriate planning agency has to declare an area for urban renewal and prepare either an Urban Plan or a Subject Plan and have it approved and then by order published in the State Gazette. As shown earlier in this report, this appropriate agency should have been either the State Physical Planning Board or a Local Planning Authority, but these legal provisions for institutional set-up and processes have not been implemented. Thereafter, it delegates the power to implement all intended urban renewal activities to the Rivers State Urban Renewal Board - another institution that does not yet exist. Based on the Subject Plan for Urban Renewal, the Urban Renewal Board may declare an area an *“Improvement area for the purpose of rehabilitating, renovating and upgrading the physical environment, social facilities and infrastructure of the area”* (Section 85).

In the 2003 Law, the following definitions pertaining to different forms of 'urban renewal' are given (Section 105):

Urban Renewal: *the planning process geared towards a physical improvement of existing urban settlements to eliminate blight of any of the following methods: redevelopment, upgrading and rehabilitation.*

Redevelopment: *the planning process whereby an urban area is cleared and prepared for a new development and it involves renewal of existing urban development.*

Upgrading: *the planning process whereby an existing but decaying urban area is improved to meet established physical planning standards and criteria (may also be called an 'improvement scheme').*

Rehabilitation: *the planning process whereby individual structures are improved to meet established building standards and criteria (may also be called 'renovation scheme').*

The law does not prescribe any limitations on how many areas may be declared "Improvement Area", the number of buildings or the population size in it, or its geographic size or which overall proportion of the city may be under improvement at once. It also does not say what type of area may be an Improvement Area. This means, any area in the city, including planned residential areas, markets and waterfront settlements, may be declared "Improvement Areas".

Section 85-90 of the 2003 Law make provisions for the following key principles, objectives and due process prescriptions of urban renewal activities in the Improvement Area:

Participation of the residents of the Improvement Area is given high importance:

Section 85 (2): The rehabilitation, renovation and upgrading may be brought about through the combined efforts of the residents of the area concerned, the Urban Renewal Board and other body in complementary effort (...)."

Section 85 (3): The Urban Renewal Board shall, before declaring any part of an area to be an Improvement Area, satisfy itself that the combined effort (see sub-section 2) is likely to be achieved.

Comprehensive information of the affected residents:

Section 86 (1): The Urban Renewal Board shall, before declaring any part of an area to be an Improvement Area:

- a. use its best endeavour to inform the residents of the proposed improvement area of:*
- purposes and contents of the proposed improvement*
 - powers vested in the Urban Renewal Board*
 - the facilities that would be made available and benefits to be derived in the area*

Consultation, communication and participatory monitoring are to be institutionalised:

- b. hold meetings with the Local Government and any other body in the area to:*
- 1) ascertain the views of the residents on the proposed improvement area and the exercise of powers relating thereto;*
 - 2) set up liaison or consultative committees between the Urban Renewal Board and representatives of the residents to monitor the progress of the rehabilitation, renovation or upgrading in the area;*
- c. inform other relevant statutory authorities of the proposed Improvement Area and invite and take into account their views and comments.*

Empowerment of the residents through capacity-building and a community-driven approach:

Section 86 (2): The Urban Renewal Board shall, after declaring an area to be an Improvement Area,

- (i) hold regular meetings with the liaison or consultative committees,*
- (ii) assist or join other persons and authorities in assisting a resident or group of residents within the area to draw up and implement plans for the improvement of the neighbourhood;*
- (iii) generally advise and assist the residents of the area to take full advantage of the improvement concerned.*

The powers of the Urban Renewal Board in an Improvement Area are quite far reaching. According to Section 87 (1), these powers are:

- 1) **Prepare an Improvement Area Plan** showing the ways and over what period of time the area is to be improved and may, where necessary include a plan for the **redistribution of rights of occupancy** of plots of land within the area, or
- 2) Grant, guarantee or otherwise facilitate the **granting of loans** to persons or groups of persons, to (i) assist in the improvement, repair or renovation of houses within the area (...), and (ii) to provide, improve, repair or renovate social and community facilities within the area, or
- 3) Demolish or order the **demolition** of a building or part of thereof and, where appropriate, recover the cost of demolition from the owner, or
- 4) **Improve, repair or renovate** or order the improvement, repair or renovation of a building, and where appropriate, recover the cost of improvement or repair from the owner, and
- 5) Pay **compensation** promptly, on such terms and conditions prescribed, to a person who suffers an injury or damage through the exercise by the Urban Renewal Board of its powers in the area.

The power to redistribute rights of occupancy of plots in the Improvement Area means that the Urban Renewal Board can *de facto* provide **security of tenure**, with protection from forced eviction, to the residents in the area. This is particularly beneficial to residents who previously only had a Temporary Occupation License.

Providing loans is another form of **empowerment** for residents to improve their own housing conditions.

The **power to demolish** comes with many restrictions. It is only applicable in particular situations, which are described in Section 88:

Section 88: The power of the Urban Renewal Board to demolish or order the demolition of a building or part thereof shall not be exercised unless,

- a. *the building falls so far **below the standard** of other buildings used for habitation in the area that it is or is likely to constitute a nuisance to the health of its occupier or occupiers of adjacent buildings;*
- b. *the building is in such a **state of disrepair** that is or is likely to become a danger to public safety and cannot at a reasonable cost be repaired;*
- c. *two or more contiguous buildings are **badly laid out** and so **congested** that without the demolition of one or more of them that part of the Improvement Area cannot be improved;*
- d. *it is in connection with the **provision of infrastructural facilities** in the area;*
- e. *it falls within the central Port Harcourt scheme area or any area declared redevelopment area by the Urban Renewal Board.*

And Section 89 provides in a detailed and clear manner for the **due process** that the Urban Renewal Board has to follow when ordering the repair, demolition or renovation of a building in the Improvement Area. This includes a mechanism that ensures **representation of the views of the owner**, and **compensation** to be paid in the case of inevitable demolition.

Section 89 (1): The Urban Renewal Board shall, before ordering the repair, demolition or renovation of a building or part thereof:

- i. *inspect the building or part thereof to ascertain its condition and situation,*
- ii. *where the proposed order is one of repair of a building or part thereof, prepare a schedule of necessary regulations which shall inform the owner or occupier of the building:*
 - a. *of the proposed order and the reasons there for;*
 - b. *the date and time when and place where the Urban Renewal Board shall consider any representations or objections to the proposed order (...);*
- iii. *affix a notice of the proposed order unto a conspicuous part of the building to which the order relates;*
- iv. *appoint a committee of members of the Urban Renewal Board to hear, consider and report on any representation or objection which may be made orally and in writing by the owner or occupier or his duly authorised representative, and*
- v. *where the proposed order is for demolition of a building or part thereof, prepare an estimate of the compensation payable to the owner or occupier of the building.*

Section 89 (2): Where the Urban Renewal Board after consideration of the report of the Committee appointed under paragraph (d) of sub-section (1) of the section, confirms the proposed order with or without modification or alterations, it shall serve a notice of the order and give the reasons therefore in such forms as may be prescribed by regulations pursuant to this Law:

- *on the owner or occupier of the building,*
- *on the person who made representations or objections to the proposed order.*

In cases of inevitable demolition (see Section 88), the Urban Renewal Board has the responsibility to provide **alternative accommodation and/or land, and/or financial assistance**.

Section 90: Where the Urban Renewal Board proposes to make an order for the demolition of a building or part thereof used for human habitation it shall provide the persons likely to be displaced from their homes by the order alternative accommodation and or site and or financial assistance by way of a grant or loan or guarantee either directly or through other authorities, on such terms and conditions as the Urban Renewal Board shall deem fit.

This Section also requires that the Urban Renewal Board has **to provide tenants alternative accommodation** because it refers to “*the persons likely to be displaced from their homes*” by the demolition.

5.4.2. To what degree has the RSG followed the provisions of the 2003 Law?

As a consequence of the failure to establish the Urban Renewal Board, none of the provisions of the 2003 Law for urban renewal activities could be implemented. However, since the RSG is determined to demolish and redevelop all waterfronts and is preparing for Abonnema Wharf and Njemanze waterfronts to be the first two, in

this section the Mission Team undertook an analysis of the narrow application of due process by the RSG in the preparatory process undertaken so far.

There have been earlier efforts since 1988 to upgrade the waterfronts but according to available reports, without much success. In four waterfronts, redevelopment as planned low-income housing areas was initiated but not completed.⁷² In 2007, the RSG formed the “Committee on Port Harcourt Waterfronts” to consider various options for dealing with the waterfronts: redevelopment, rehabilitation, renovation, preservation and economic revitalization.

Thus, instead of setting up the Urban Renewal Board as prescribed by the 2003 Law, the RSG created an 8-member committee with a rather limited task.

It is not clear whether all key stakeholder groups were allowed to participate in the work of the Committee. There is no indication that NGOs and community members were included in the Committee. The report only lists the names of the Committee members. For only three of them the professions are indicated: two town planners and a reverend. Thus, although the various options for undertaking ‘urban renewal’ that the Committee was requested to look into corresponded with the options provided for by the 2003 Law, this Committee did not possess any legal backing.

Interestingly, the Committee recommended to the RSG to establish the institutional framework as required by the 2003 Law, i.e. the Rivers State Planning Board, Local Planning Authorities and subsequently the Urban Renewal Board, with a view of ensuring consistent and sustained redevelopment.

However, the Committee recommended the comprehensive demolition and redevelopment of all waterfronts in Port Harcourt “*considering the ugly living situations apparent in them*”. This came in spite of the negative impacts of the recommended strategy that the Committee’s report pointed out:

- *Displacement of the squatters,*
- *Dislocation of economic activities of the affected areas,*
- *Re-settlement problems,*
- *Breaking of social ties,*
- *Creation of other social, economic and environmental problems in the resettled areas such as increase in crimes, unemployment, destruction and displacement of properties,*
- *High investment costs.*

⁷² These include Aggrey, Ndoki, Marine Base and Borokiri and Okirika. In 2001, the UNICEF extended technical assistance to the State Government under the Urban Basic Services Programme. The programme focused on the urban poor, especially women and children with the goal of poverty eradication and ensuring access to urban basic services, health, education and potable water and sanitation. The project was targeted at five communities which include Bundu, Elechi, Egele, Enugu and Eagle Island waterfronts. It was recorded that the programme did not succeed due to inadequate funding, insecure land ownership and lack of logistic support from government, UNICEF bureaucracy and the difficult terrain in which these communities were located (Rivers State Ministry of Lands, Housing and Urban Development (2007), *Report of the Committee on Port Harcourt Waterfronts* (unpublished document, made available to the Mission by the Commissioner for Urban Development)

In order to cushion the negative impact for the affected population, the Committee recommended the following process to be adopted:

- (i) *Reconnaissance survey of the waterfronts to ascertain the conditions of the areas to be demolished and redeveloped,*
- (ii) *Delineation of waterfronts for phased demolition,*
- (iii) *Inventory/profiling of the waterfronts: housing conditions, facilities, population and general characteristics, through studies instituted by the State Ministry of Lands, Housing and Urban Development.*
- (iv) *Active and thorough participation of primary stakeholders (the residents) in the demolition and redevelopment through meetings with organized waterfront communities represented by their Community Development Committees, associations and local governments,*
- (v) *Enlightenment, education and strong media publicity to inform the public on Government's intentions,*
- (vi) *Preparation of cost/benefit analysis and environmental impact assessment report,*
- (vii) *Phased demolition of the waterfronts and redevelopment of the area considering their poor living situation.*

Furthermore, in addition to its recommendation regarding the creation of the required institutional framework, the Committee recommended the following actions to be taken by Government:

- (viii) *Demonstrate political will by making waterfront redevelopment a permanent item in the State budget to ensure funds area available to continue with the programme for a period of 10 years or more.*
- (ix) *Immediately commence the process of site identification for resettlement of displaced occupants.*
- (x) *Since the Ministry of Lands, Housing and Urban Development does not have the capacity to handle the demolition of the waterfronts, consider the use of consultant specialists for the demolition and supervised by the Ministry.*

These recommendations include some of the principles provided for in the 2003 Law, such as stakeholder participation; information/communication; and resettlement. But all in all, these recommendations do not come close to the scope of activities and due process that the 2003 Law prescribes. For example, the requirement to declare the waterfronts Improvement Areas is not mentioned – the Committee only recommends the delineation of Waterfronts. And, very importantly, the issue of compensation for demolished structures was not touched upon by the Committee.

The Mission found out through discussion with a broad range of stakeholders that the RSG has followed neither the process guidance provided by the 2003 Law nor the recommendations of the 2007 Committee report. This is described in the following:

Lack of information and communication:

The RSG explained to the Mission that it has three different channels for reaching out to its citizens: (i) media (newspapers, radio, TV); (ii) officers who are deployed to various parts of the city to undertake house-to-house public enlightenment on urban policies and programmes of the RSG; and (iii) town hall meetings (for which minutes were not kept, as indicated by the RSG).

The Mission could not substantiate Government’s claims that they had constructively engaged waterfront residents on the planned redevelopment. The Mission did not see any official records of these meetings; no minutes were taken.

The Mission noticed that residents of Abonnema Wharf Waterfront have no clear knowledge on what the RSG intends to do with their settlement. There is a lot of speculation. For instance, some persons interviewed were quick to link the two oil companies that have production sites to both sides of the settlement, to the current scheming to wipe out the community. Others, including members of the Abonnema Wharf Community House Owners Association, suspect a secret ethnic agenda. They fear that the RSG is trying to expel the Kalabari-Ijaw people, the dominant group in this waterfront, in favour of the Ikwerre-Ibos a group to which the current Governor belongs. Reports from NUTN highlight the underlying conflict about control over waterfront land between the Okrikans, who are primarily settled along the waterfronts, and the Ikwerre, a community that predominantly occupies the Port Harcourt uplands. The reports point out that the Okrikans perceive the planned waterfront demolitions by the RSG as an attempt to remove the Okrikans from Port Harcourt. It was beyond the scope of this Mission to analyse local power dynamics based on ethnicity, since this would require in-depth knowledge of this highly complex and localised issue. However, the Mission recommends that the consequences of any possible escalation of ethnic tensions needs to be taken into consideration by the RSG, if it pursues its demolition approach in the waterfronts.

Many people are aware of the Silverbird project, but it is not clear to them how far it will reach. The confusion and fear displayed by many of the persons met indicate that there is no clear information and communication from the RSG.

Figure 35



Interview of a landlord and community leader in Abonnema Wharf Waterfront © Local Resident

On 13 March 2009, members of the Abonnema Wharf Community House Owners Association presented a letter to the Mission⁷³. The letter describes their difficulties to

⁷³ Letter dated 10 March 2009, addressed to Mr. Rasmus Precht, UN-HABITAT Secretariat, entitled “Save our soul (SOS) – Appeal for urgent intervention in a plan by the Government of Rivers State to expel the Kalabari Ijaw people from Port Harcourt the State capital”

obtain clarity from the RSG on plans concerning their settlement. They claim that on 10 February 2009 the RSG launched an enumeration and property valuation exercise in the waterfront. Not having any information on the objective of this exercise, the Association contacted both the Commissioner for Urban Development and the Special Advisor to the State Governor on Waterfront Development, without being able to get clarification from them. The Association concluded that the RSG does not want to dialogue with them.

The Mission drew on all sources to obtain information on the exact plans for the two waterfronts where enumerations and property valuation were going on at the time of the Mission.

Figure 36



Houses in Abonnema Wharf Waterfront demarcated for demolition

© R. Precht

According to local newspapers, the Commissioner for Urban Development stated that Abonnema Wharf and Njemanze waterfronts will be the first to undergo redevelopment, which he defined as replacing all shanties with modern buildings. “As soon as Government finishes with the development of the Abonnema Wharf and Njemanze waterfronts, the people that will be displaced in that area will find a comfortable place to stay.”⁷⁴ It was not reported how these two activities can be done simultaneously without having a temporary resettlement/decanting site.

On 16 March 2009, the Commissioner handed the Mission a colourful, two-sided flyer that was published by the Office of the Special Assistant to the Governor on Waterfronts Development at a date unknown to the Commissioner (see full flyer in the annex of this report).⁷⁵ This flyer is entitled “What you must know about development of Port Harcourt waterfronts”. The text refers to all waterfronts in Port Harcourt. In Question & Answer style, the flyer informs the reader that the RSG wants to develop the waterfronts to:

- a. Make them into decent residential areas,
- b. Turn them into recreational centres,
- c. Improve the physical infrastructure
- d. Provide adequate security
- e. Develop water ways along the waterfronts, and
- f. Stop criminals from using it as hideout

⁷⁴ Commissioner for Urban Development, Bar. Osima Ginah, in *The Hard Truth*, 5-11 February 2009, *Demolition in Rivers State: Commissioner speaks*

⁷⁵ A copy was given to the Mission by the Commissioner for Urban Development on 16 March 2009.

This is to be achieved through the following activities:

- a. Carry out adequate census/enumeration and valuation exercise,
- b. Undertake verification of ownership,
- c. Carry out compensation/rehabilitation of genuine structure owners,
- d. Carry out Environmental Impact Assessment (EIA),
- e. Carry out site survey,
- f. Collapse old structure, and
- g. Development.

The flyer further states what will happen to the present occupants of the waterfronts:

- a. “Government will pay compensation after valuation to assist genuine owners to rehabilitate.
- b. Genuine owners will be offered first choice of purchase, when these waterfronts are redeveloped”.

This confirms that the RSG is prepared to buy the properties from their owners but there will be no resettlement.

This is evidently not in line with the 2007 Committee’s recommendation to immediately commence the process of site identification for resettlement of displaced occupants. The Mission is not aware of any action taken by the RSG to carry out the recommended reconnaissance survey of the waterfronts; the delineation of waterfronts for phased demolition; the inventory/profiling of the housing conditions, facilities, population and general characteristics; nor the cost/benefit analysis report.

Absence of Subject Plans for urban renewal:

As regards the provisions of the 2003 Law, the Mission does not know of any Subject Plans for urban renewal/redevelopment, or for any waterfronts having been declared Improvement Areas.

Since the MoU between the RSG and Silverbird Group requires urban renewal to be undertaken within 2km of the Silverbird site, the Mission asked to see the relevant urban renewal plan. However, only the design plan for the Silverbird complex was available for consultation in the Commissioner’s office. This reveals that the entire approach to the Silverbird development is rather of *ad hoc* nature. This became evident when Mr. Ben Bruce, the Chairman of Silverbird Group, announced during a joint press briefing by RSG and Silverbird on 26 November 2008 that his Group “will require an additional land space for a 2,000 capacity Car Park”.⁷⁶ The space was required by Silverbird for the creation of a parking area for the cinema. Although this provision is not part of the MoU, the demolition of properties along Abonnema Wharf Road and Njemanze Street is associated by some stakeholders with this request.

It is not clear to the Mission to what extent the new Master Plan for Greater Port Harcourt will incorporate the Silverbird-driven urban renewal in the area. In any case, it had not been adopted at the time when the recent demolitions were carried out. The new Master Plan for Greater Port Harcourt has identified the need to reduce the

⁷⁶ The Hard Truth (27 November-3 December 2008), Port Harcourt: *Silverbird Showtime cinema hall to be ready by February 2009*.

density of housing development especially where infill development has taken place and to remove 13 of the city's squatter settlements (housing about 275,000 people). The difference between the Master Plan and the current approach by the RSG is that the Master Plan proposes re-settlement of the residents of squatter settlements living in unsafe environments.

Compensation: "forcing owners to sell" rather than "compulsory acquisition order"

Since the waterfronts have not been declared Improvement Areas, affected residents cannot claim their right to be provided with alternative accommodation and/or land, and/or financial assistance, as per the 2003 Law requirement. Given that residents do not have Certificates of Occupancy but only Temporary Occupation Licenses, the provisions of the 1978 Land Use Act do not apply. In fact, according to the regulations of the Temporary Occupation License, the RSG is not legally bound to pay any compensation. This seems to have led to the RSG's perception of the compensation issue as an extraordinary good faith and never-seen-before approach to urban governance. On many occasions, Government officials emphasized that "although waterfront areas are illegal structures, they are paying compensation".

Compensation is not going to be paid in the sense of the 1978 Land Use Act. The RSG clarified that it does not use compulsory acquisition order but acquiring land through a process it calls "buying land from owners by agreement". However, the Mission gathered evidence that some structure owners in Abonnema Wharf and Njemanze waterfronts perceive the process as "forcing owners to sell". Members of the Abonnema Wharf Community House Owners Association brought complaints to the attention of the Mission with regard to the practices of the estate valuers carrying out the valuation exercise in their settlement.⁷⁷ They report that the company had not informed them comprehensively and with adequate notice about the purpose and implications of this exercise. This led to the absence of many owners when the valuation took place. Further, the valuers were criticized for not taking into account the interior of the houses and the amount of sand-filling and piling the owners had to undertake to make the area habitable. Another complaint concerns the apparent double role played by Utchay Okorij and Associates, the firm that carried out the enumeration/valuation on behalf of a Government-contracted firm⁷⁸. The allegation that this firm also served as agent to represent the house owners' interest vis-à-vis the RSG, was confirmed by the Commissioner for Urban Development who admitted that there was need for harmonization. Those who refuse to sign their Power of Attorney were threatened by the firm that their property would not be assessed properly.

The RSG reiterated that once Government has bought the properties, tenants will have to vacate their rental units without any compensation. Upon inquiry by the Mission where tenants could find alternative accommodation, the Deputy Governor explained that they are free to participate in the open ballot for access to a Government housing scheme⁷⁹. The RSG guided a visit by the Mission to one of the sites of this scheme in

⁷⁷ Summarized also in a letter by Jim Tom George, the General Secretary of the Association, to the Commissioner for Urban Development, addressed 10 March 2009.

⁷⁸ By the name of Ideozu and Partners

⁷⁹ The Deputy Governor explained this to the Mission during the site visit to Abonnema Wharf Road on 12 March 2009.

Iriebe. Although they are labelled “low-cost”, the price of these apartments is beyond the reach of most Waterfront dwellers, and thus not a realistic alternative⁸⁰.

Other provisions of the 2003 Law that are not implemented

From the information the Mission could gather, there are no mechanisms for community participation in the redevelopment, no strategy for information, communication, consultation and monitoring. Since the current residents are to be bought out and to leave the settlement, it is not foreseen that there is any empowerment, capacity-building or community-driven development of an Improvement Area Plan. All in all, instead of the recommended people-centred approach, the whole process appears to have been led by Government alone.

An alternative approach proposed by the Abonnema Wharf Community for in-situ upgrading – in line with the provisions of the 2003 Law

Members of the Abonnema Wharf Waterfront House Owners Association informed the Mission that they have developed “Proposed alternatives to waterfronts demolition” and submitted the document to the Government. According to Association members, they had not received any response by 16 March 2009.

⁸⁰ The Government informed the Mission that they had built 800 low-cost houses at Iriebe, and that 400 been delivered as of the date the Mission visited. Onsite findings did not confirm this information as most of the houses were overgrown with weeds. Apparently, the buildings were not new, and no serious construction work appeared to be going on. Government sources clarified this doubt, when they admitted that the housing scheme was “inherited” from a previous administration, but Governor Amaechi is resolute about completing the project. Plans are equally underway to build 700 condominiums at Ayanma. There is no clear policy or criteria for the allocation of these low-cost houses. It is usually subjected to open ballot, and no measures are in place to ensure that beneficiaries actually belong to the low-income cadre. A house seeker has to buy the NGN 5,000 application form (= USD 33.50 at USD 1 = NGN 149). Thereafter, enlisted applicants are invited to an open ballot in an agreed public space. In Iriebe, 1-bedroom apartments cost NGN 2.96 million (= USD 19,900); 2-bedroom apartments go for NGN 4.6 million (= USD 31,000); 3-bedroom units sell for NGN 6.3 million (= USD 42,000); and 4-bedroom duplexes are fixed at NGN 9 million (= USD 60,000). With the minimum wage pegged at NGN 7,500 (= USD 50), and a random survey of income levels of low-income earners in the city hovering between NGN 7,000 and NGN 30,000 (= USD 47-201), it is very doubtful that low-income earners will find their way into these housing schemes. Mortgages and other forms of credits are still alien to the Nigerian real estate market, and no affirmative action is in place to expand the access of the urban poor and disadvantaged groups to adequate housing.

Figure 37



The Mission meets with members of the Abonnema Wharf Community House Owners Association © R. Precht

The proposed alternative strategy is participatory slum development based on integrating the slum dwellers in the planning and implementation process. The Association argues that the Government's portrayal of demolition/redevelopment as the only feasible solution to improvements of the waterfronts is wrong. Taking into account the socio-economic realities, upgrading the physical structure of the waterfronts to a high standard with ultra-modern housing units and networks of infrastructure may achieve little or nothing in the lives of the waterfront dwellers if they are too poor to purchase this housing and pay for these services. The Association fears that this approach will only cause displacement, homelessness and unemployment with the consequent adverse effects on children's education and the physical, mental and moral health of families who would be exposed to depressed living conditions, hunger and hardship.

Similarly, the destruction of the waterfronts in an effort to combat crime is seen by the Association as meaningless if the youths, who are prone to crimes, are too poor to provide for themselves, as destruction of the waterfronts as a strategy does not necessarily lead to the destruction of the criminals or their criminal tendency.

The Association proposes the following four strategy components:

- Drawing up comprehensive blueprints for waterfront development and incorporating into such blueprints the pattern for housing construction which must be tailored towards placing an obligation upon the house owners to upgrade their structures according to this pattern.
- Partnering with the private sector for the provision of neighbourhood services such as schools, hospitals, markets and banks in the waterfronts, and ensuring that infrastructure networks of roads, streets and drainage are provided by Government; with acquisition of parts of the waterfronts needed for infrastructure based on fair compensation and adequate relocation.
- Facilitating access to housing finance for house owners for their structural upgrading through partnership with financial institutions.

- Setting up a Waterfronts Development Monitoring Committee (WDMC) comprising of the representatives of waterfront communities and the Government, and placing upon this committee the duty to monitor the compliance with standards set for development.
- Developing a poverty reduction strategy to ensure crime reduction and affordability of maintenance of housing and infrastructure.

Conclusion

The Mission has concluded that RSG's approach to the redevelopment of waterfront settlements is not in line with the provisions of the 2003 Law. It does not only ignore the institutional framework prescribed by the Law but also contravenes the provisions for due process of any urban renewal initiative. There is lack of information and communication, consultation and participation. Since 2007, the Government has followed its committee's recommendation in favour of demolition/redevelopment and has not considered any other alternatives provided for in the 2003 Law. For example, neither upgrading/rehabilitation nor resettlement of the affected population were included in the agenda of the RSG. Lastly, there seems to be an alarming absence of plans to guide the renewal process and to make information available to the general public.

The RSG has opted for a waterfront demolition strategy without proper planning and engaging the residents and has not responded to constructive alternative proposals made by the community. The Mission has observed a widespread fear amongst residents of all visited areas for the present redevelopment drive that might lead to large-scale homelessness and unemployment amongst current waterfront residents. The fear is justified because many have no access to alternative accommodation and jobs. The redevelopment could further result in the collapse of social networks, services and social support mechanisms that are essential for low-income residents to survive in the urban economy.

5.5. Due process analysis of the Port Harcourt demolitions according to relevant regional and international laws

5.5.1. ‘Demolitions’ versus ‘forced evictions’

Throughout this report, the Mission Team has exclusively used the term ‘demolition’ and avoided the word ‘eviction’. This was in line with the RSG’s assurance that it did not forcefully remove any citizens from their homes and that they are acting in the interest of their people when they carry out development control as described by the Law.

After a thorough analysis of the process, the Mission Team has come to the conclusion that the neutral term of ‘demolition’ does not adequately describe the processes going on in Port Harcourt. The Mission has found overwhelming evidence that since 2008 many residents in the city have been evicted from their homes against their will. This is best exemplified by the reports, verified by the Mission, of high-level members of the RSG arriving on scene in the presence of heavily-armed military, police and other unidentified “security” forces. Is this the self-appraised ‘development control’ for restoration of the Garden City for all its citizens? It certainly is not what the thousands of evicted families wanted. They have lost their homes, livelihoods, education opportunities and their social networks. Forced from where they had lived and worked for many years, for them the city has not become any more ‘garden-like’.

According to the Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7 (1997) on the Right to Adequate Housing (Art. 11 (1) of the Covenant): Forced Evictions, the term “forced evictions” is defined as

the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

The Mission concludes that with the exception of a few “willing sellers” among those who receive compensation for their properties and willingly move somewhere else with the cash they received, the majority of Port Harcourt residents affected by the demolitions have been forced against their will to quit their homes so that the bulldozers of the Government can demolish the structures – they are indeed victims of ‘forced evictions’.

5.5.2. Regional housing rights legislation

The analysis of the Mission Team revealed that the demolitions are equally contravening regional human rights legislation: the Federal Republic of Nigeria and its constituent States are legally bound to respect, protect and fulfil the **African**

Charter on Human and Peoples' Rights, which guarantees the right to adequate housing including the prohibition on forced evictions.

According to a 2002 landmark decision of the African Commission on Human and Peoples' Rights (*SERAC vs. Government of Nigeria*), the African Charter guarantees the right to adequate housing, including a prohibition on forced evictions. In such rare cases where evictions may be considered justified, the Government is obligated to explore and exhaust all feasible alternatives *in consultation with affected persons* before pursuing eviction as a matter of last resort with a view to avoiding, or at least minimising, the need to use force. In addition, such evictions may take place only in concert with the provision of adequate relief for affected persons in the form of alternative housing and/or just compensation, and in accordance with general principles of reasonableness and proportionality. In addition, States *must* ensure that evictions do not result in rendering individuals homeless or vulnerable to the violation of other human rights. Governments *must* therefore provide alternative housing and compensation to any eviction exercise.

5.5.3. International housing rights legislation and instruments

According to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Rivers State, as one of the political subdivisions of the Federal Republic of Nigeria, a State Party to this covenant⁸¹, is legally obligated to respect, protect and fulfill the right to adequate housing. This includes the strict prohibition on forced evictions, as guaranteed under ICESCR Article 11(1) and the protection of everyone within its jurisdiction from forced eviction through third parties.

In line with General Comment No. 7 on Forced Eviction by the Committee on Economic, Social and Cultural Rights⁸², for evictions to be considered as lawful they may only occur in very exceptional circumstances. Only if such exceptional circumstances exist and there are no feasible alternatives, can evictions be deemed justified. However, certain requirements *must* still be adhered to. These are:

- (i) States *must* ensure, prior to any planned forced evictions, and particularly those involving large groups, that *all* feasible alternatives are explored *in consultation with affected persons*, with a view to avoiding, or at least minimizing, the need to use force.
- (ii) Forced evictions must not result in rendering individuals homeless or vulnerable to the violation of other human rights. Governments *must* therefore, ensure that adequate alternative housing is available to affected persons.
- (iii) Finally, in those rare cases where eviction is considered justified, it *must* be carried out in strict compliance with international human rights law and in accordance with general principles of reasonableness and proportionality. These include, *inter alia*:
 - Genuine consultation with those affected;

⁸¹ The accession of the Federal Republic of Nigeria to the ICESCR occurred on 29 July 1993.

⁸² Committee on Economic, Social and Cultural Rights, General Comment No. 7 (1997) on the Right to Adequate Housing (Art. 11 (1) of the Covenant): Forced Evictions

- Adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- Information on the proposed evictions, and where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- Especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- All persons carrying out the eviction to be properly identified;
- Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- Provision of legal remedies; and
- Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

Conclusion

The Mission concluded that the RSG has not adequately complied with the international guidelines, as outlined in General Comment No. 7 on Forced Eviction⁸³, in the way it carried out the demolitions. This applies especially to the inadequate consideration of feasible alternatives in consultation with affected communities, the lack of engagement with tenants, the inadequate eviction notices, and the non provision of alternative accommodation or adequate compensation to all affected persons.

If the forced eviction of the waterfronts and other demarcated areas should go ahead and if the RSG does not take the above into consideration, it will continue to contravene the human rights of many citizens in Port Harcourt. In this sense, the Mission shares the concerns of the Centre on Housing Rights and Evictions (COHRE), HIC/HLRN and other UN-HABITAT partner NGOs that have been warning of the urban renewal drive escalating into a large-scale human rights violation in Port Harcourt. As COHRE points out, *“demolition of these informal settlements without adequate rehabilitation would push a large number of Port Harcourt’s working classes deeper into poverty and deprivation.”*⁸⁴

The Mission further concludes that the current practice by the RSG is in conflict with the Habitat Agenda through which Governments committed themselves to *“protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided”*⁸⁵

⁸³ Committee on Economic, Social and Cultural Rights, General Comment No. 7 (1997) on the Right to Adequate Housing (Art. 11 (1) of the Covenant): Forced Evictions

⁸⁴ 8 September 2008 - Protest letter by the Centre on Forced Eviction and Housing Rights (COHRE), addressed to the President of the Federal Republic of Nigeria, and the Executive Governor of Rivers State.

⁸⁵ Habitat Agenda (1996), Chapter III: Commitments, A. Adequate shelter for all (Paragraphs 39-41), Paragraph 40 (n)

6. General conclusions

The Mission came to the following conclusions that highlight key issues in the current demolitions and forced eviction processes taking place in Port Harcourt:

1. Inadequate application of existing legislation;
2. Non-existence of institutional framework prescribed by the law;
3. Non-participatory approach to land use planning;
4. Lack of knowledge about the role of master plans and planning authorities among the population;
5. Non-recognition of the rights of tenants
6. Lack of harmony between international commitments and national, state and local responses.

The following is a summary of the main characteristics of non-due process in Port Harcourt, with regard to existing legislation:

- The 2003 Law that would have provided complete due process, has not been implemented and its provisions are applied selectively. Since the Law was enacted in 2003, the RSG has failed:
 - To set up the required institutional framework for development control and urban renewal; and
 - To develop the prescribed urban development and renewal plans.

More specifically, the meeting with the Commissioner for Urban Development revealed that there is insufficient knowledge about the provisions of the 2003 Rivers State Physical Planning and Development Law that clearly prescribes the Government to establish an institutional framework to implement the Law. The Commissioner appears to be unaware of sections 84-90 of the Law which provide for due process urban renewal, implemented by the Urban Renewal Board that is expected to declare the needy areas “Improvement Areas”. The Mission was deeply surprised by this lack of knowledge amongst senior officials regarding their own legislation.

The act of the bulldozers in Port Harcourt is in total contradiction with the provisions of the 2003 Law that state that demolition is only one out of numerous options to enforce development control. For example, retroactive regularisation of “illegal structures” is in line with this Law. But it has to be interpreted and applied!

This applies also to the case of the many illegal business premises that the RSG has demolished and is still planning to demolish. The Government has not considered making use of the possibility of formalisation, upgrading and beautification, or in-situ redevelopment of existing shops, kiosks and eateries as part of its urban renewal and redevelopment strategy. The Mission regrets to conclude that the Government has not considered a dialogue with this community of entrepreneurs and search for alternative solutions that would safeguard income generation, employment and the economic vibrancy of its urban core.

The Mission does not subscribe to the public statements made by the Commissioner for Urban Development during the aftermath of the UN-HABITAT-led mission to

Port Harcourt which was quoted in several Nigerian newspapers which affirm the “legal backing” that the 2003 Law provides for his demolition campaign.⁸⁶

The full implementation of the 2003 Law would mean that the waterfronts would have to be declared Improvement Areas based on subject plans that show everyone in the city what is going to happen in these areas. Moreover, it would mean that Government could no longer dodge the responsibility it has for tenants made homeless by urban renewal.

And, in the context of a community-driven improvement agenda, it would be highly unlikely that the Silverbird project, an initiative that certainly is not of “overriding public interest”, could go ahead unnoticed and unchallenged. Particularly if one considers its threats to more than 100,000 people who may become homeless because the private business interests underlying the public-private-partnership require the redevelopment of two entire waterfront settlements and several other communities that have lived in neighbouring “legal structures” for many years.

If implemented comprehensively, the 2003 Law would promote *in situ* upgrading as inclusive, pro-poor form of urban renewal and create the basis for the transformation of the surrounding 2 km of slum and low-income areas into sustainable neighbourhoods with vertically densified housing where people can sustain their livelihoods while living side-by-side with Silverbird’s mall and entertainment parks.

Instead of selective “legal backing” through failure to create the required institutional framework, the 2003 Law has the potential to turn the major issues identified by the Mission into components of an innovative approach to urban renewal that will be able to earn international awards. It could turn:

- The current non-participatory, top-down approach to land use planning into grassroots-based participatory and inclusive urban development where citizens and civil society organisations as well as the business community and multiple stakeholders have a saying in the development process and are well-informed about the role of master plans and planning authorities; and
- The discrepancy between international human rights commitments and national, state and local responses, into a rights-based approach to development that benefits all citizens.

⁸⁶ The Times of Nigeria (19 March 2009), *UN Commission Applauds Rivers Government Urban Renewal Initiatives*
The Nigerian Village Square (23 March 2009), *A Commissioner’s High-ceiling Silhouette*
The Nigerian Guardian (23 March 2009), *Rivers gives Rumuokwuta landlords ultimatum as UN verifies renewal claims*

7. Way-forward and recommendations

7.1. Latest institutional developments – a window of opportunity for the implementation of the provisions of the 2003 Law

The significant defects in the institutional framework and the resulting problems in the administration of planning have been confirmed in the new draft Master Plan for Greater Port Harcourt:

“While there are laws and regulations, there are no governing structures to implement, manage and enforce the laws. This has resulted in urban decay and decline, which is certain to continue, unless the institutional framework required by the laws is established. This is of the highest priority and must be undertaken even before this entire project (i.e. master planning exercise) is completed otherwise the project could very well remain a pipedream” (p. 39 of the Master Plan for Greater Port Harcourt).

In an apparent attempt to address this problem, the RSG has proposed the “Greater Port Harcourt City Development Authority Bill, 2009”. The Mission is in possession of the Bill, as published in a local newspaper on 18 February 2009, inviting memoranda from members of the public⁸⁷ The Bill was enacted on 2 April 2009.

The purpose of the Bill is to establish the new area to be designated “Greater Port Harcourt City” and to create the “Greater Port Harcourt City Development Authority”. The role of this Authority will be to regulate development and improve and maintain the city. The Master Plan showing the Greater Port Harcourt City shall be prepared and published in the State Gazette. The new Authority will be responsible for developing policies and planning for the implementation of the Master Plan.

The Mission generally commends the RSG’s decision to adopt a metropolitan-region approach to urban planning. If Port Harcourt with eight Local Governments is managed by one city development agency then this could provide an opportunity for resolving some of the critical issues with regard to the institutional framework for urban governance. The Greater Port Harcourt City Development Authority seems to be a new model which could be replicated by other cities that have been fragmented into several local governments.

The Bill provides for all lands comprised in the Greater Port Harcourt City to be under the management of the new Authority. This means that this Authority would take over from the Governor the task of property allocation and acquisition in Greater Port Harcourt. Amongst others, the Authority will have Departments for Administration and Lands Records; Development Control; and Project/Planning, Monitoring and Implementation. Section 26 prescribes that the new Authority shall be in charge of development control:

“Prohibition of Illegal Development

⁸⁷ The Punch (18 February 2009), pages 48-51

- *As from the commencement of this law, no person or body shall engage in any construction or improvements of any form, within the boundaries of the Greater Port Harcourt City except as provided in the Master Plan.*
- *Any person who contravenes sub-section 1 shall be liable to reinstate the land or building to its original state by an order issued by the Chief Executive Officer or any other officer of the Authority.*
- *Where a person fails to obey the orders of the Chief Executive Officer and or the Authority, the Authority or any other officer of the Authority shall execute the Order and recover expenses thereof as a debt to the Authority.”*

However, it is not clear to the Mission how this new approach under the new Greater Port Harcourt City Development Authority will fill the large gaps in the existing institutional framework. There seems to be no provision that repeals other laws relating to urban planning in Rivers State. While the Bill makes reference to the national Land Use Act, it does not mention the Rivers State Physical Planning and Development Law 2003. The Bill does not release the RSG of its responsibility to implement the 2003 Law. Thus, if no major additions have been made to the Bill in the meantime, there is the risk that the current defects in the existing institutional framework will be perpetuated.

The main question that arises is: How will the Greater Port Harcourt City Development Authority relate to the pending creation of the State Planning Board, Local Planning Authorities, and, above all, the Urban Renewal Board? If no clarifications are provided through this Bill or an additional law, it is likely that the narrow interpretation of urban renewal will continue, thus leading to many more forced evictions.

It is crucial that this gets resolved as soon as possible. The following recommendations by the Mission Team are to be seen as measures to prevent further forced evictions and for a sustainable approach to urban renewal.

UN-HABITAT and other partners stand ready to engage in partnership with the RSG to implement these recommendations

7.2. Recommendations

Based on its assessment of the situation in Port Harcourt, the Mission recommends that the Rivers State Government declares an **immediate moratorium** on demolitions and forced evictions which should have effect until the following recommendations are fully implemented. In brackets are the actors that are suggested to take the lead and support each of the recommended actions, respectively.

1. The RSG to call for a **multi-stakeholder consultation forum** involving Government, NGOs, community groups, private sector, developers, academic and research institutions, associations, trade unions, etc to discuss the Port Harcourt city development strategy with the **aim of setting up a task force and advisory council** on the further steps of the urban renewal strategy, including prevention of forced evictions and demolitions, amongst other things. This can be associated with the Urban Renewal Board. (RSG)

2. **Adequately compensate** all those that were forcefully evicted from their homes and commercially/socially used accommodations such as business places, NGO offices, churches, etc. in Port Harcourt since the beginning of all urban renewal activities (2000), including the tenants, and/or provide **resettlement** sites with basic services/infrastructure (in consultation with affected communities and their representative organisations). *(RSG)*
3. Carry out **review of the institutional framework** against the existing legislation. Streamline the 2003 Rivers State Planning Law with the new Law for the creation of the Greater Port Harcourt City Development Authority. *(RSG, with UN-HABITAT and SERAC)*.
4. Establish the **Urban Renewal Board**, either at State level, or under the new Greater Port Harcourt City Development Authority. *(RSG)*
5. Complement the new Greater Port Harcourt Development Plan which was designed in a non-participatory way, with a **City Development Strategy**, in view of slum prevention and sustainable urbanisation, including provision of dedicated areas for income-generation activities for small businesses. *(RSG, with Cities Alliance and UN-HABITAT)*
6. Undertake **participatory social and settlement mapping**, including **enumeration**, followed by a feasibility study to determine how waterfront settlement can be upgraded; pursue consultation and participation of all stakeholders in the areas, for example the Abonnema Wharf Community House Owners Association, traders association, government agencies, etc. *(RSG, with support from WEP, SERAC and/or other organizations that have this type of experience)*
7. Verify, through a study, to what extent the Rivers State Physical Planning and Development Law of 2003 actually applies to the waterfronts, and **which parts of them fall under the jurisdiction of the National Inland Waterways Authority (NIWA)** that has the right to all land within the right-of-way of such waterways. According to the National Inland Waterways Act of 1997 no person including a State has the right to erect permanent structures; reclaim land; undertake acquisition or lease/hire of properties within the right-of-way without the written consent, approval or permission of the Authority. The Authority has exclusive right to acquire, develop and use any landed property. It is important to establish to what degree these provisions affect the RSG's authority over any improvement intervention in the waterfront settlements with a view of ensuring these are authorised by Federal Government. *(RSG, with Federal Government/NIWA and affected waterfront communities)*
8. **Implement pilot projects for in situ upgrading and rehabilitation of Abonnema Wharf and Njemanze waterfronts** to test and demonstrate an alternative approach to urban renewal that is not based on demolition and redevelopment. These two settlements are located within the 2 km radius around the Silverbird project site, where – according to the MoU - urban renewal is required. Since the MoU does not specify which form of urban renewal should be

chosen, it gives the RSG the opportunity to implement *in situ* upgrading. **Engage Silverbird Group Ltd. as lead private sector partner** in this human settlement upgrading exercise. This is to be premised on Silverbird's corporate social responsibility that the company expresses in its commitment to the attainment of the 'African Dream' embodied by the values of NEPAD.⁸⁸ The RSG and Silverbird have the unique opportunity to **create a global model for inclusive, pro-poor public-private partnership-driven slum upgrading**. A large-scale entertainment project that is built within a participating, supportive community rather than on the rubble of the homes and livelihoods of over a hundred thousand people can create a win-win situation for all stakeholders. *In situ* vertical densification should be explored as a possibility to create open space for recreation while improving the living conditions of existing communities. Other important private companies like Sigmund and Shell (oil business) should be invited by the RSG to contribute to this urban renewal drive by providing basic services, such as water supply and access roads. *(RSG, Silverbird – explore possibility of technical collaboration with UN-HABITAT)*

9. Create the “**safe neighbourhood buffer zone**” required by the Silverbird MoU. Develop, through a comprehensive, community-based **crime prevention strategy**, with community policing and other innovative instruments. Expand this approach to all waterfront settlements. *(RSG - explore possibility of collaboration with Safer Cities Programme – UN-HABITAT)*
10. **Establish rotating funds for housing improvement loans** to be given to waterfront and other low-income landlords and structure owners. *(RSG - explore possibility of collaboration with UN-HABITAT – Experimental Reimbursable Seeding Operation-ERSO)*
11. Provide **affordable housing and resettlement** options for those who have to make way for essential infrastructure provision of upgraded settlements through reinforcing and accelerating the implementation of the **Government Housing Programme**. *(RSG)*
12. **Facilitate “legal development”** through review and simplification of the legal and regulatory framework for access to land and housing. This should include the building regulations, land tenure (easier access to Certificate of Occupancy and phasing out of Temporary Occupation Licenses); and the application and approval process for development/building permits. *(RSG)*
13. Create **awareness and build capacity on housing rights** among different stakeholders, including Government, NGOs, CBOs, and waterfront residents. *(RSG, with United Nations Housing Rights Programme-UNHRP, SERAC, WEP, COHRE, NUTN and other partners)*
14. (If still necessary,) develop an **Action Plan for prevention of forced evictions** through a multi-stakeholder approach, following the ongoing Abuja example.

⁸⁸ *Silverbird in Kenya, Ghana and Zambia*, Release by Silverbird, <http://www.silverbirdgroup.com/press-release-silverbird-expands-into-kenya-ghana-and-zambia>

(RSG, with Institute for Housing and Urban Development Studies-IHS / Cordaid, UN-HABITAT)

15. Develop **due process guidelines** on how to carry out evictions in inevitable and justified cases, based on the provisions of the 2003 Law, and in line with General Comment 7 on the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as the “Basic principles and guidelines on development-based evictions and displacement” prepared by the Special Rapporteur on Adequate Housing. These guidelines should be based on the premise that no demolition/eviction must be carried out without prior court order, which will safeguard the rights of the affected residents. This will also ensure all members of the affected community are equally informed. *(RSG, with Advisory Group on Forced Eviction-AGFE / UN-HABITAT, and possibly current Special Rapporteur)*
16. Establish a **local urban observatory** (LUO) for regular collection and analysis of human settlements data. *(RSG, with UN-HABITAT’s Global Urban Observatory-GUO)*
17. Enhance **institutional capacity of locally-based NGOs and community groups** to enable them to play a more pro-active role in popular awareness campaigns, on environmental sustainability and on participatory urban planning, amongst other important urban development themes. *(Various national and international actors)*
18. Ensure appropriate linkage of all the above actions with the **Master Plan for Greater Port Harcourt**. *(RSG)*

Figure 38



The Deputy Governor of the RSG, Engr. Tele Ikuru, receives the latest report by the Advisory Group on Forced Evictions (AGFE) and a the publication “Housing Rights Legislation” from the UN Housing Rights Programme, presented by UN-HABITAT officer Rasmus Precht (on 12 March 2009) © V. Ohaeri

7.3. UN-HABITAT response to the RSG's request for technical assistance

In response to the request by the Sole Administrator of the new Greater Port Harcourt City Development Authority, UN-HABITAT offers its technical assistance for the implementation of the new Development Plan for Greater Port Harcourt. As requested, this would include:

- i) Technical assistance to set up the new Greater Port Harcourt City Development Authority and due process procedure;
- ii) Technical assistance to structure the projects/transactions and negotiate same with interested private parties;
- iii) Assistance in resource mobilisation, funding/co-financing of projects. The collaboration could further include joint resource mobilisation through, for example, Cities Alliance, and other potential partners that are involved in slum upgrading and slum prevention, as well as other activities, as outlined in the recommendations above; and,
- iv) Capacity building of staff of the Authority, including training, on-the-job assistance, institutional strengthening, etc.

However, as emphasised in the Habitat Agenda and already stressed by Habitat Programme Manager Prof. Falade on 23 February 2009, UN-HABITAT cannot engage in such bold and needed programme assistance while forced evictions and demolitions are being carried out by RSG.

Since the main finding of this Mission is that the petitions and reports received prior to the Mission have been verified and complaints against discretionary demolitions are essentially true, the moratorium on forced evictions is a prerequisite to create the sine-qua-non conditions to boost fruitful and meaningful cooperation between UN-HABITAT and the Rivers State Government in laying the foundation for a sustainable and inclusive Garden City.

8. ANNEXES

8.1. Mission programme



FACT-FINDING MISSION TO PORT HARCOURT, NIGERIA

by
UN-HABITAT

with

Ministry of Works, Housing and Urban Development of the Federal Republic of
Nigeria,

Social and Economic Rights Action Centre (SERAC),

Women Environment Programme (WEP)

12 – 17 March 2009

DATE	TIME	ACTIVITY	VENUE
Thu, 12 March	08.40	Air travel to Port Harcourt	
	09.30	Arrival of mission at Port Harcourt Airport	
	10.00	Meeting with Dame Aleruchin Cookey-Gam, Deputy Chairperson of the Economic Advisory Council of the Government of Rivers State (Sole Administrator of the Greater Port Harcourt City Development Authority) and visit to site of new town, proposed in the new Master Plan	Airport Arrivals Lounge; new town development site
	13.00	Meeting with His Excellency the Deputy Governor of Rivers State and his team of Commissioners	Government House
	15.00	Visits to areas recently demolished, including Government Residential Areas (GRAs), guided by Deputy Governor and team, including government housing estate in Iriebe	
	19.00	Dinner with Deputy Governor and his team	Novotel
	21.00	Mission Team daily wrap-up meeting	
Fri, 13 March	08.00	Breakfast and Mission Team preparatory meeting	Novotel
	10.00	Meeting with Mr. Enwefah, Secretary-General of National Union of Tenants (NUTN)	
	13.00	Transfer to Vhelbberg Imperial Hotel	
	14.00	Visits to areas marked for demolition and recently demolished, guided by Mr. Enwefah, Secretary-General of National Union of Tenants (NUTN)	
	16.00	Meeting with Abonnema Wharf Community House Owners Association and other community members	Abonnema Wharf Road
	19.00	Work dinner with Mr. Enwefah, Secretary-General, and members of the National Union of Tenants (NUTN) recently evicted from Abonnema Wharf Road	Vhelbberg Imperial Hotel
	21.30	Mission Team daily wrap-up meeting	
Sat, 14 March	09.00	Breakfast and meeting with Mr. Tete Inameti, South-South Zonal Town Planning Officer	Vhelbberg Imperial Hotel
	10.00	Mission Team meeting on report outline and division of individual tasks	

	11.00	Stock taking of documents/evidence and meetings held thus far	
	12.00	Sighting of new Master Plan (unreleased draft) and other documents made available by State Government	
	13.00	<i>Lunch</i>	<i>Along the way to site visit</i>
	13.30	Visit to Abonnema Wharf Waterfront, interviews with landlords and tenants, guided by Mr. Enwefah, Secretary-General of National Union of Tenants (NUTN). Including meeting with Honourable K. A. George, Immediate Past Chairman, Abonnema Wharf Waterfront Community Development Committee	Abonnema Wharf Waterfront
	18.00	Sighting of new Master Plan (unreleased draft) and other documents made available by State Government	Vhelbberg Imperial Hotel
	19.00	Meeting with Mr. Enwefah, Secretary-General of National Union of Tenants (NUTN)	
	20.00	Mission Team daily wrap-up meeting	
Sun, 15 March	08.30	Breakfast and Mission Team preparatory meeting	Vhelbberg Imperial Hotel
	09.30	Meeting with Chris Newsom, Stakeholder Democracy Network (SDN)	
	13.00	<i>Lunch</i>	
	13.30	Meeting with Moses Bereiweriso, CED, GEO-MOB Social Response Centre	
	15.00	Report writing	
	17.00	Meeting with Ledum Mitee, President, Movement for the Survival of the Ogoni People (MOSOP)	
	18.30	Meeting with Mr. Enwefah, Secretary-General of National Union of Tenants (NUTN)	
	21.00	Dinner and Mission Team daily wrap-up meeting	
Mon, 16 March	07.00	Breakfast and Mission Team preparatory meeting	Vhelbberg Imperial Hotel
	08.00	Meeting with Jim Tom-George, Secretary of the Abonnema Wharf Community House Owners Association	
	11.00	Meeting with His Excellency the Deputy Governor of Rivers State and his team of Commissioners	Government House
	14.00	Meeting with Commissioner for Urban Planning	State Secretariat Complex
	16.00	<i>Lunch</i>	<i>Along the way to Royal Palace</i>
	17.00	Meeting with His Royal Majesty, King Sir Dr. Frank A. Eke, Eze Gbakagbaka of Ikwere Land, and Honorary President of the National Union of Tenants (NUTN) and Mr. Enwefah, Secretary-General	Royal Palace
	20.00	Dinner and Mission Team daily wrap-up meeting	Vhelbberg Imperial Hotel
Tue, 17 March	06.30	Drive to Port Harcourt International Airport	
	09.00	Departure of Mission Team	

8.2. Meetings and attendance

MEETING WITH THE RIVERS STATE GOVERNMENT

Thursday, 12 March 2009, 1:50 pm, Government House

S/N	NAME	DESIGNATION	TELEPHONE
1	His Excellency, Engr.Tele Ikuru	Deputy Governor River State	
2	Magnus Abe	Secretary, State Government	0803 708 5357
3	Arc. Iyerefa Cookey-Gam	General Manager RSHPD	0802 324 5754
4	Aleruchi Cookey-Gam	Special Administrator ,Greater PH Dev. Authority	0803 302 4324
5	Nyema E Weli	Commissioner for Land and Survey	0703 000 1800
6	Dakuku Peterside	Commissioner for Works	0803 312 3801
7	Osima Ginah	Commissioner for Urban Development	0805 994 0965
8	Ogbona Nwuke	Commissioner for Information	0803 600 2257
9	Johnson Falade	HMP Nigeria	0802 309 3649
10	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
11	Morenike Babalola	FMWHUD, Abuja	0803 706 262
12	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
13	Abiye Krukrubo	GHPCDA-Committee	0802 070 8364

Summary of the meeting

The Mission Team was conveyed to Government House to meet with Government representatives. The meeting was chaired by Engineer Tele Ikuru, Deputy Governor of Rivers State. Other high level government officials in attendance include the Commissioners of various ministries (including Lands, Survey and Town Planning, Urban Development and, Information), Special Advisors, Heads of various government agencies, and an array of press people attached to the government house.

The Deputy Governor and his team of high level government officials welcomed the Mission led by Professor J. B. Falade, Habitat Programme Manager in Nigeria. He appreciated the effort of UN-HABITAT in sending a fact-finding mission to the State. Thereafter, the Press Secretary called on Professor Falade to brief the Government Team on the purpose of the Mission.

Professor Falade thanked the representatives of Rivers State Government for finding time to meet with the Mission Team. He introduced the members of the fact-finding Mission to the Government Team. Thereafter, he briefed Government Officials on the purpose, objectives and drew attention of Government representatives in attendance to several complaints about demolitions and evictions being carried out in Port Harcourt. He informed the Government representatives that the international community was concerned about human rights issues regarding the demolitions and evictions and

whether due process had been followed and the fear that Nigeria might not be able to achieve MDG 7 Target 11 on improving the lives of slum dwellers and the Habitat Agenda goal of providing adequate shelter for all. He emphasized that there were overwhelming complaints and since they could not be verified from Abuja or Nairobi, the Executive Director of UN-HABITAT, Anna Tibaijuka, had approved this fact-finding mission.

According to the Deputy Governor who briefed the Mission Team, the present development effort was influenced by challenges of insecurity and the degradation of the esteemed landscape of Port Harcourt. According to him, Port Harcourt in the recent past became the theater for a dreadful mix of political intrigues, heavy militancy operations, extortions, kidnappings and other criminal activities. This made the Amaechi-led Administration to decide to embark on critical actions to tackle these problems. Some success is being recorded and the impression of Port Harcourt is now different. "Port Harcourt is now as normal as any other green civilization" said the Deputy Governor when he took stock of the efforts the RSG was making to bring about infrastructural transformation in the State.

He also threw some light on the RSG's urban renewal programme. Urban renewal in Port Harcourt dates back to 2002 when the Odili-led Administration (1999-2003) manned the affairs of the State. Immediately upon assumption of office, Rotimi Amaechi reiterated his commitment to take his predecessors' urban renewal agenda to the next level. He also realized the enormous challenges posed by incidents of flooding, traffic congestion, impassable roads and lack of potable water, especially in light of the growing influx of people attracted by the city's alluring promise of a better life.

According to the Deputy Governor, during the early weeks of his administration Governor Amaechi convened a forum to rub minds with the people on how to move the State forward. One of the decisions reached was unanimous agreement to restore Port Harcourt back to its former beauty as a 'garden city'. The RSG also realized that to implement this noble decision would require sacrifices to be made in terms of material losses and social dislocations. The Mission requested for a copy of the report of that forum but was told that 'minutes of such meetings were never really kept' but that 'video footages and media coverage of these events were usually kept'.

The Head of Mission took Government representatives through the Mission programme and there was agreement on the documents to be tendered to the team and bilateral meetings to be scheduled with focal Government agencies connected with the urban renewal programme. The Deputy Governor agreed that the Mission could meet with the Commissioner for Urban Development.

MEETING WITH MR.C.W. ENWEFAH, SECRETARY-GENERAL, NATIONAL UNION OF TENANTS OF NIGERIA (NUTN)
FRIDAY, 13 MARCH 2009

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141

3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Ohaeri Victoria	SERAC, Lagos	0803 403 3778
5	Priscilla Achakpa	WEP, Abuja	
6	C. W. Enwetah	Secretary-General NUTN	

MEETING WITH NATIONAL UNION OF TENANTS OF NIGERIA
FRIDAY, 13 MARCH 2009 8:40pm

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
5	Priscilla Achakpa	WEP, Abuja	
6	C W Enwefah	Secretary-General NUTN	
7	Pastor Ubong G Usoro	NUTN	
8	Bro. Emmanuel Uzopuo	NUTN	
9	Pastor Timothy Udoidivine	NUTN	
10	Pastor Mason IBT West	NUTN	

MEETING WITH ABONNEMAH WHARF COMMUNITY
FRIDAY, 13 MARCH 2009 4:00pm

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
5	Priscilla Achakpa	WEP, Abuja	
6	C W Enwefah	Secretary-General NUTN	
7	Pastor Ubong G Usoro	NUT	0805 595 1569
8	Bro. Emmanuel Uzopuo	NUT	
9	Pastor Timothy Udoidivine	NUT	
10	Pastor Mason IBT West	NUT	
11	Okoy Asirim	AWC	0803 310 9110
12	Godwill D. Rabi		080 6 399 3604
13	Abiye Brown		
14	Anthonia Sunday	Landlady	0806 356 2781
15	Tata Ibifuro		0807 074 2697
16	N C Irekosima	Landlady	0802 952 8737
17	Patricial Jack		0802 882 9876
18	Adbdul Lamid Dogna		0807 070 3347
19	Eric Harrison		0806 350 7360
20	Dumotein West		0803 309 0614

21	Isaac Klokoma	Youth Chairman	0806 885 3765
22	Georgewill Henry	Youth PRO	0805 667 2327
23	Briggs Osimaye	Youth Secretary	0703 891 2505
24	Fyneface Emmanuel		0806 383 0138
25	Mike Merriet	UTC	0803 502 8557
26	Irene Yaompson	UTC	0703 303 9571
27	Sembo Granville	UTC	0703 112 6645
28	Ada Sam Toby		0803 671 2782
29	Karibo Amachiree	UTC	0805 658 1266
30	Eunny Isreal	UTC	
31	G. Hosefa		0806 123 5686
32	Harvestba Harry	Community Secretary	0803 781 7585
33	Alaye Princewill	Landlord	
34	Idris Ahmah	Tenant	0803 312 1671
35	Francis Ugbowa	Tenant	0807 759 0750
36	Okey Nsirim		
37	Erefaa Nwokoma		0805 211 8153
38	Gift Jim George	Woman Sec (house owner)	
39	Elder Anthony Inyang		
40	Engr. David Mark		
41	Amachree S	Landlord	
42	Chief David Emineye-Orlu	Landlord	
43	Alafuzo Obere	Landlord	
44	Nelson Douglas	Landlord	
45	Allan Harry		
46	Prophet Branklin Batubo	Landlord	
47	Jim George	Landlord	
48	Georgemill Brepele	Landlord	
49	Nwidag Letan	Landlord	
50	Umoh Banna	Tenant	
51	Ibiso Jackrich	Landlady	
52	Ine Fyneface	Landlady	
53	Ereibi S George	Landlady	
54	Glary Nkumaa	Tenant	
55	Ibrahim Ahamed	Tenant	0803 927 5381
56	Ibifuo Wari-Koko		
57	Daya V J T Princewill		0806 404 0474
58	Ogbete Agbasi	Landlord	0803 266 0828
59	Tom george A		0806 427 4201
60	Mono Anga		0803 789 4201
61	Ma George		
62	Tari Tom		
63	Ibiye Tariah		
64	Ilima Joseph		

MEETING WITH CHRIS NEWSOM, ADVISOR, STAKEHOLDER DEMOCRACY NETWORK (SDN)

SUNDAY 15 MARCH 2009 9:30 AM

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
5	Chris Newsom	Stakeholders Democracy Network (ADVISOR)	+234 803 332 6450

MEETING WITH MOSES OTONYE BERIWERISO, GEO-MOB SOCIAL
RESPONSE (NGO)

SUNDAY 15 MARCH 2009 1:30 PM

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, lagos	0803 403 3778
5	Moses Otonye Beriweriso	Geo-Mob Social Response	

MEETING WITH LEDUM MITEE, PRESIDENT OF MOSOP (NGO)

SUNDAY 15 MARCH 2009 5:00 PM

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP ,Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
5	Moses Otonye Beriweriso	Geo-Mob Social Response, Port Harcourt	

MEETING WITH C.W. ENWEFAH

SUNDAY 15 MARCH 2009 8:00PM

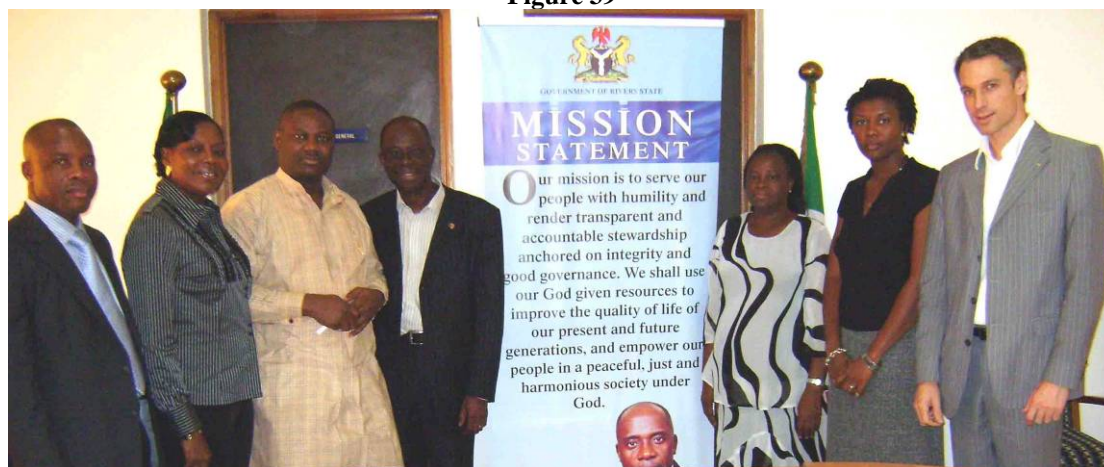
S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
5	C.W. Enwefah	Secretary-General NUTN	

MEETING WITH JIM TOM-GEORGE
MONDAY 16 MARCH 2009 8:00AM

S/N	NAME	DESIGNATION	TELEPHONE
1	Johnson Falade	HMP, Nigeria	0802 309 3649
2	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
3	Morenike Babalola	FMWHUD, Abuja	0803 706 262
4	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
5	Jim Tom-George	Secretary, Abonnema Wharf Community House Owners Association	08032081395

MEETING WITH THE RIVERS STATES DELEGATION
MONDAY 16 MARCH 2009 11:00 AM

Figure 39



Second meeting of the Mission with the Rivers States Deputy Governor, Commissioner for Urban Development, and the designated Special Administrator of Greater Port Harcourt Development Authority (16 March 2009) © RSG Staff

S/N	NAME	POSITION	TELEPHONE
1	His Excellency, Engr. Tele Ikuru	Deputy Governor River State	
2	Aleruchi Cookey-Gam	Special Administrator, Greater Port Harcourt Development Authority	0803 302 4324
3	Osima Ginah	Commissioner for Urban Development	0805 994 0965
4	Johnson Falade	HMP, Nigeria	0802-309 3649
5	Rasmus Precht	UN-HABITAT, Nairobi	+254723488402
6	Morenike Babalola	FMWHUD, Abuja	0803 370 6252
7	Victoria Ohaeri	SERAC, Lagos	0803 403 3778
8	Abiye Krukruwo	Greater Port Harcourt CDA Committee	0802 070 8364
9	Engr I T .Koko	Deputy Governor (Dir)	0803 316 8624

MEETING WITH COMMISSIONER FOR URBAN DEVELOPMENT
 MONDAY 16 MARCH 2009 2:00PM

Figure 40



Meeting of the Mission with the RSG Commissioner for Urban Development,
 Mr. Osita Ginah © RSG Staff

S/N	NAME	DESIGNATION	TELEPHONE
1	Osima Ginah	Commissioner for Urban Development	
2	Johnson Bade Falade	HMP, Nigeria	0802 309 3649
3	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
4	Morenike Babalola	FMWHUD, Abuja	0803 706 262
5	Ohaeri Victoria	SERAC, Lagos	0803 403 3778
6	Abiye Krukruwo	Greater Port Harcourt CDA Committee	

MEETING WITH HIS ROYAL MAJESTY, KING SIR DR. FRANK A. EKE
 MONDAY 16 MARCH 2009 5:00PM

S/N	NAME	DESIGNATION	TELEPHONE
1	HRM Dr. Frank A. Eke	Eze Gbakagbaka of Ikwere Land (Honorary President NUTN)	0807 903 4488
2	Johnson Falade	HMP, Nigeria	0802 309 3649
3	Rasmus Precht	UN-HABITAT, Nairobi	+254 762 3141
4	Morenike Babalola	FMWHUD, Abuja	0803 706 262
5	Ohaeri Victoria	SERAC, Lagos	0803 403 3778
6	C.W. Enwefah		



Audience with His Royal Majesty, King Sir Dr. Frank A. Eke,
Eze Gbakgbaka of Ikwere Land, at his Royal Palace (16 March 2009)
© King's Servant

8.3. Coverage of relevant issues in newspapers

UN begins probes of Nigeria evictions, *The Guardian (Nigeria)*, 6 April 2009

Rivers crisis: White Paper orders investigation of Ogili, Sekibo, *The Punch (on the web)*, 4 April 2009

Demolition – Railway Market Goes Down, *The Reformer*, 20-26 March 2009

A Commissioner’s High-ceiling Silhouette, *The Nigerian Village Square*, 23 March 2009

The Commissioner for Urban Development is quoted as follows: “As a democratic and people oriented Government let me reiterate that the Government in carrying out this exercise [demolitions], has deliberately and consciously sensitized and involved various stakeholders, including landlords and tenants in decisions and that Government has paid adequate compensation for structures it intends to acquire for public purpose in its urban renewal exercise. Such acquisitions are made in complete agreement and support of the owners, who are even given the rare privilege to get the services of private valuers and attorneys, an indication that the Government does not carry out any secret deals or plans to victimize its citizens as we are in Government to serve the people.”

Rivers gives Rumuokwuta landlords ultimatum as UN verifies renewal claims, *The Nigerian Guardian*, 23 March 2009

UN body assesses demolition in Rivers, *Daily Trust*, 21 March 2009

UN Commission Applauds Rivers Government Urban Renewal Initiatives, *The Times of Nigeria*, 19 March 2009

The Commissioner for Urban Development is quoted as follows: “The urban renewal exercise in the Njemanze/Abonnema Wharf area of Diobu is not only to transform the aesthetic beauty of the environment, but also to ensure security of people and property considering the high rate of criminality perpetuated in those areas, The upland part will serve its original commercial purpose, while sand filling will elevate the waterfront, and road and other social infrastructures provided in addition to low cost houses for the people. To ensure international best practice in urbanisation, my Ministry has set up a professional body in the built environment to review the existing Physical Planning and Development Control law to conform to modern development and social realities.” And further: “We are removing illegal, offensive and contravening structures (...). This exercise is also aimed at correcting wrongs consciously perpetuated by individuals and government in the past.”

1913 Agreement - Who Owns Port Harcourt, *Weekly Star*, 20-26 Feb 2009, p. 9

This publication describes the history of the sale of land to the British to develop Port Harcourt and that the land purchased was from the Okirika (50%), Diobu (35%) and Ikwerre (12%). This deed was concluded in 1913.

Assembly divided over Greater Port Harcourt City, *The Hard Truth*, 19-25 Feb 2009, p. 5

The story is about the mixed reactions of members of State House of Legislature during debate of the Bill to establish the Greater Port Harcourt City Authority. Some members questioned the need to name the new city Port Harcourt, non-submission of Environmental Impact Assessment, and the mode for constituting the board. Based on this reaction, the State Legislature decided to conduct a public hearing on the Bill in which the town planners and the general public would be invited.

Proposed Greater Port Harcourt City Rivers Lawmakers at War with Amaechi, *Weekly Star*, 17- 23 Feb 2009, p. 4

This story reported that the Lawmakers were opposed to the Bill submitted by the Governor for the creation of Greater Port Harcourt City because of huge budgetary provision, non-inclusion of Environmental Impact Assessment and the rationale behind the request for the creation of a board and the conditions given for the appointment of a board.

Residents Vow to Resist – As demolition of Water Fronts Reverberates, *Weekly Star*, 17- 23 Feb 2009, p. 5

The story is about the reactions of three residents of the Waterfront who denounced the proposed demolitions of the buildings along the Waterfront. The story indicates that residents have lived in the area for years, it is their home and source of livelihood and they promise to resist such demolition by all means, including by use of violence.

House Rent: tenants Plan 1 Million March in PH – *Weekly Star*, 17-23 Feb 2009, p. 2 and 16

The story is about the soaring price of housing in Port Harcourt which was described as the highest in the country when compared with other major cities like Lagos, Kano, Owerri, Enugu, Aba and others.

Law makers disagree with Governor over Greater Port Harcourt City, *National Network* 16-22 February 2009, p. 2

This is another publication on the initial reaction of the lawmakers on the proposed bill for Greater Port Harcourt City as widely reported in other newspapers

Abonnema Wharf Community Seeks Talks on Demolition, *The Mirror*, 6-12 Feb 2009, p. 3

This article is an open request by the Abonnema Wharf Community tenants and landlords to engage Government in fruitful dialogue on how to resolve the issues of demolition and compensation. The story refers to a general meeting by landlords and tenants held on 4 February 2009. The landlords and tenants were concerned about the widespread speculation and rumours about the impending demolition of the community. Chairman of the Community, Mr. Jim George, is quoted as follows: “We find it difficult to comprehend why Government is keeping us in the dark on this important issue only to be constantly harassed and intimidated by some unidentified persons claiming to be estate surveyors and valuers with the Government (...). The houses (...) were built from the toiling and sweat of our people. We should not be treated as illegal occupants because this has been a community for nearly a century.” Several requests to see the Commissioner for Urban Development for clarification were abortive.

Interview - Demolition in R/S - Commissioner Speaks, *The Hard Truth*, 5-11 Feb 2009, pp 8-11

This is an extensive interview on several issues surrounding the demolition carried out in the State (pp 8-9) and publication of the development control guidelines (pp 10-11). The Commissioner says in this interview that demolitions in the State had legal basis being based on enforcing development control under the operative planning law in the State is the Rivers State Physical Planning Law, No 6 of 2003.. Under the law, illegal structures are subject to demolition. Under the law, no compensation is paid for demolition of illegal structures by Government. In fact, the law provides that the cost of demolition is recoverable from the owners of illegal structures. Compensation is paid on all buildings with approved plans as was demonstrated in the case of Mrs. Soos vs. Rivers State Government in which a compensation of N25 million was awarded by Court as compensation to be paid. The Commissioner said that all those who feel that the demolition of their property was wrong should go to court for redress. For anyone who has a judgment against the Government for compensation, he would ensure that Government pays such compensation.

Asked about the issue of transparency with regard to the demolitions, the Commissioner said that they obeyed the law and did not inform the general public. He did not see anything wrong with this. The Commissioner also provided explanation on how areas earmarked for urban renewal especially all the waterfront areas will be demolished and redeveloped. He spoke about the new guidelines for fencing and setback for buildings to be enforced.

The Commissioner is quoted as follows: “From the law (...), once the Ministry marks your structure as illegal, no compensation is paid. In fact, the law provides that the Government should recover the money they spend in demolishing that illegal structure. (...) In law, there is what we call the bare law and equity. Equity mitigates the harsh effect of the law. We kept aside the harsh effect of recovering the money Government spent in demolishing your illegal structure. What we do is to demolish the structure and say, ‘don’t worry, we will bear the brunt of correcting the wrong caused by you’.” And further: “In GRA, we have taken our time to let people know what we are doing.”

The Hargrove Agreement (1913) Between Okirikas, Ikwerres Registered No. 16/13, *Weekly Star*, 27 Jan-2 Feb 2009, pp 8-10

This publication is simply the agreement for a land transaction between the native and British in 1913 with a map of the land, showing a total area of 25 square miles.

Port Harcourt: Silverbird Showtime Cinema Hall to be ready by February 2009, *The Hard Truth*, 27 November-3 December 2008, p. 3

This article sheds light on the requirement by the Silverbird Group of additional space for a 2,000 capacity car park. The Commissioner for Urban Development announces that Government will soon commence payment of compensation of owners of buildings at the Njemanze Waterfront which has been earmarked to be given to Silverbird Group for project expansion. He clarified that no compensation will be paid to tenants but to landlords who are expected to settle their tenants. He disclosed that the land given to Silverbird spans from the UCT junction to Isaac Boro Park.

Port Harcourt Demolition in Progress: Marine Base, Borikiri Sandfilled Area To Be demolished ... more bulldozers arrive in Port Harcourt, *Weekly Watch*, 23-30 July 2008, pages 1 and 2

This article draws attention to the fact that some persons are on their way to their villages since they have lost their business and livelihoods in Port Harcourt as a result of the demolitions.

Demolition Bulldozers Target Government Enemies, *National Network*, 21-27 July 2008, pages 1 and 3

This article covers the demolition of a 3-storey residential building at 177 Niger Street and the attendant court case filed by the owner against the Government. It includes a press release by the owner's lawyer, the motion ex-parte for interim injunction order as issued by the court, and an affidavit of service signed by the owner.

Port Harcourt Residents Groan Under Roaring Bulldozers, *The Mirror*, 18-24 July 2008, pages.

This article contains accounts from persons affected by the demolitions of "illegal structures" along Station Road. Mainly traders, artisans and small business outfits, the persons complain that they were not given sufficient notice by the Government to enable them vacate their businesses and find an alternative location; that they have lost all their life savings; and that they now have nowhere else to go than to their villages. One trader complained that he had been operating in this location for 10 years throughout which he had paid his taxes and various levies to the Council for the use of his business premises. He asked: "Why encourage us to pay for an illegal structure and then turn round to demolish the place. It's just a rip off."

How House 177 Niger Street Was Flattened; Government Acted Illegally – Landlord; It's Not True – Commissioner, *The Mirror*, 18-24 July 2008, pages 2 and 12.

These articles describe how this demolition was carried out through the eyes of witnesses of the process, and it presents representation from both sides, i.e. the landlord and the Commissioner for Urban Development.

Demolition of Abonnema Wharf: Amaechi, Residents on War Path, *The Verite*, 7-13 July 2008, pages 4 and 16

This article reports on a meeting between the Commissioner for Urban Development and concerned residents led by Mr. C.W. Enwefah, the Secretary-General of the National Union of Tenants of Nigeria (NUTN). The Commissioner clarified that during the planned development of the Waterfronts, to be undertaken in partnership with the private sector, no lawful building would be demolished without proper assessment. He stated that Government would not compensate tenants as this was the responsibility of the landlords. The NUTN opposed the abandonment of tenants by the Government.

Abonnema Wharf faces demolition, *The Port Harcourt Telegraph*, 4 August 2008

8.4. Forced evictions in Port Harcourt prior to 2008

8.4.1. Rainbow Town – July 2000⁸⁹

Rainbow Town was a settlement dating from the 1960s. Stating crime, land conflicts, and purported illegal occupation as justification, and that the evictions would allow urban renewal, the State Government forcibly evicted and demolished the settlement. According to the South-South Zonal Town Planning Officer⁹⁰, a consortium of banks was to invest in middle- and high-income private modern housing units – a development which has not materialized to date. The Rivers State Government has not commenced any development on the cleared site. This was confirmed by the mission when it drove past the site and can also be verified from Google satellite images (see figures below). The affected residents were not given adequate notice nor were they relocated, rehabilitated, compensated or provided with legal remedies. The evictions took place despite cases pending in the courts to stop them. According to COHRE, the number of persons evicted was estimated at 1.2 million.

The Mission drove past the cleared site and observed that it is a rather small area. Further study through a comparison between the satellite image found on Google Maps and a street map of Port Harcourt revealed that the cleared area is indeed only a single block. It appears highly unlikely that it was physically possible for 1.2 million persons to live in this small space, even if it had been an extremely dense high-rise settlement. It would seem more likely that the number of evicted people was 12,000.

⁸⁹ If not stated otherwise, information is based on the following sources:

1) COHRE (5 December 2006), Housing Rights Fact Sheet on Nigeria
2) SERAC (9 February 2009), Press Release FORCED EVICTIONS AND DEMOLITIONS IN PORT HARCOURT, RIVERS STATE, NIGERIA
3) Amnesty International (2006), Nigeria: Making the destitute homeless – forced evictions in Makoko, Lagos State, <http://asiapacific.amnesty.org/library/print/ENGAFR440012006>

⁹⁰ Meeting with Mr. Tete Inameti, South-South Zonal Town Planning Officer, at Vhelbberg Imperial Hotel on 14 March 2009.

Figure 41: Site of Rainbow Town eviction



Sources: Map on the left: Construction and Logistics Department Port Harcourt, Survey Section (October 1998, revised April 2004), published by Total Elf Petroleum Nigeria Ltd.; Image on the right: Google Maps.

8.4.2. Agip Waterside Community – December 2004 to April 2005⁹¹

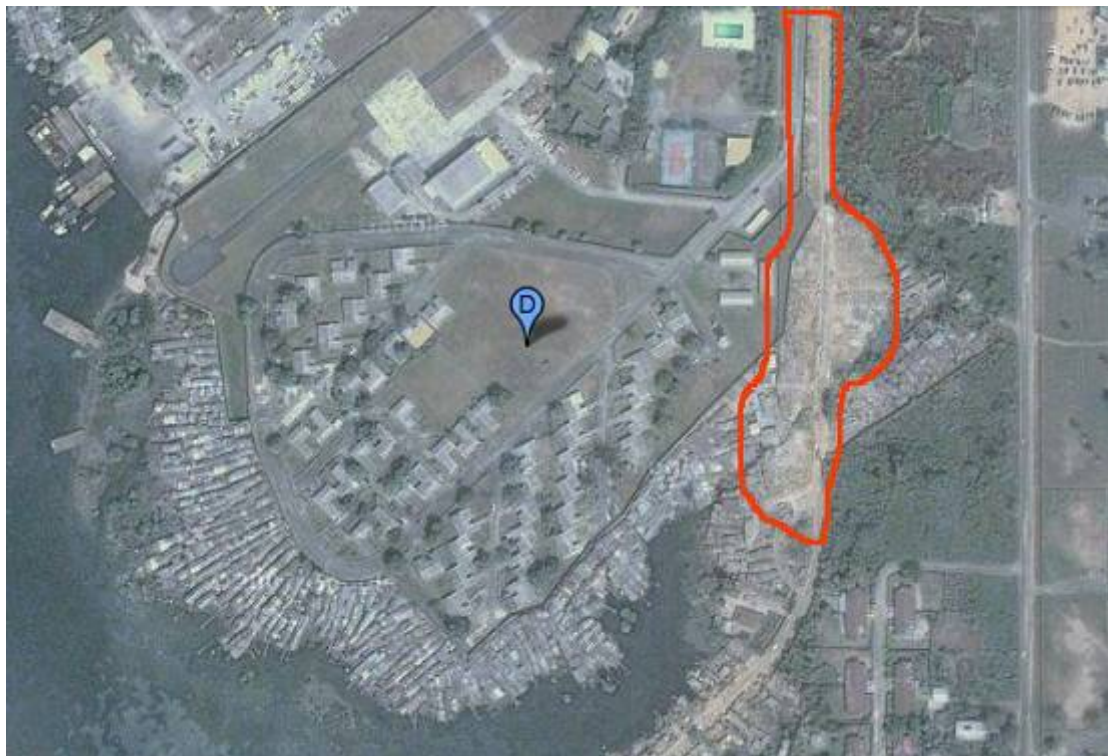
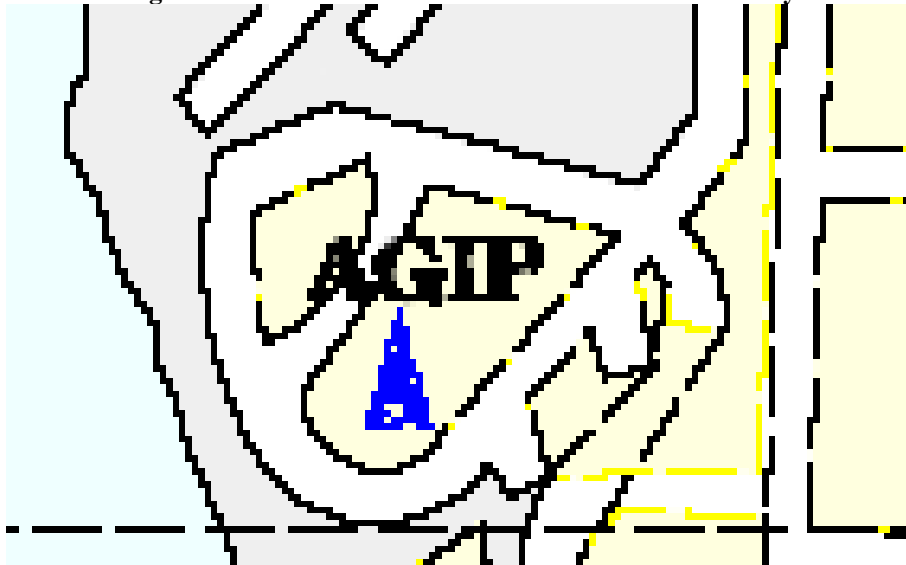
The Agip waterside was a shanty town of houses and shacks erected over a period of fifteen years without intervention from the authorities on marginal land adjacent to the Rivers State University of Science and Technology and the operational compounds of Italian oil giant Agip Oil. Its population was estimated between 5,000 and 10,000, most of whom were members of the Ogoni people. According to the available reports, the Rivers State Government had granted certificates of occupancy to some occupants. Amnesty International reported that a delegation which included the Director of Land and Urban Development of the Rivers State Government visited the site in December 2004 to explain that evictions would be necessary in order to broaden some roads. However, later in December law enforcement officials reportedly demolished houses, some of which were outside the immediate area affected by the road works reportedly without genuine consultations, due process, and ensuring adequate alternative accommodation⁹². In general, no arrangements for compensation or alternative accommodation were made and the Government is reported to have given inadequate notice and insufficient reasons for the demolition. The evicted residents were displaced to rural areas or other unplanned settlements in the city. Besides the main official justification for this eviction, i.e. urban renewal, reports state that another reasons advanced for the demolition were gang members and criminals operating in the settlement, but that no evidence of any major criminal presence had been produced by the Government.

⁹¹ Information based on the following sources:

- 1) Stakeholders Democracy Network (7 March 2005), PRESS RELEASE “THE DEMOLITION OF THE AGIP SHANTY TOWN”
- 2) Unrepresented Nations and Peoples Organisation (13 March 2005), Ogoni: The Demolition of the Agip Waterside, <http://www.unpo.org/content/view/2332/236/>
- 3) Dow Jones International News/Reuters (13 April 2005), Australian Reporter, Cameraman Arrested In Nigeria
- 4) AFP (13 April 2005), Thousands homeless as Nigerian bulldozers smash shanty town in oil city
- 5) COHRE (5 December 2006), Housing Rights Fact Sheet on Nigeria
- 6) Amnesty International (2006), Nigeria: Making the destitute homeless – forced evictions in Makoko, Lagos State, <http://asiapacific.amnesty.org/library/print/ENGAFR440012006>

⁹² <http://asiapacific.amnesty.org/library/print/ENGAFR440012006>

Figure 42: Cleared site of the AGIP Waterside Community



Sources: Map on the left: Construction and Logistics Department Port Harcourt, Survey Section (October 1998, revised April 2004), published by Total Elf Petroleum Nigeria Ltd.; Image on the right: Google Maps.

8.5. Documentation on relevant court cases

Figure 43: *Motion ex parte* dated 11 August 2008 – Grant of Leave to apply for the enforcement of the Applicants’ fundamental human rights to life, to dignity of Human Person and to private and family life







<p style="text-align: center;"><u>IN THE FEDERAL HIGH COURT OF NIGERIA</u> <u>IN THE PORT HARCOURT JUDICIAL DIVISION</u> <u>HOLDEN AT PORT HARCOURT</u></p> <p style="text-align: center;"><u>SUIT NO: FHC/PHCS/563/2008</u></p> <p><u>IN A MATTER OF FUNDAMENTAL HUMAN RIGHTS ENFORCEMENT:</u></p> <p>BETWEEN:</p> <p>1. PASTOR TIMOTHY UDOIDION 2. MR. FRANCIS OSAS UGBOYA (Suing for themselves and on behalf of tenants of Abonoma Wharf Road, Port Harcourt known and referred to as members of the Abonoma Wharf Rd Unit of National Union of Tenants of Nigeria</p> <p style="text-align: right;">} PLAINTIFFS</p> <p>AND</p> <p>1. THE EXECUTIVE GOVERNOR OF RIVERS STATE OF NIGERIA 2. THE ATTORNEY-GENERAL OF JUSTICE OF RIVERS STATE 3. THE HON. COMMISSIONER OF URBAN DEVELOPMENT, RIVERS STATE</p> <p style="text-align: right;">} DEFENDANTS</p> <p style="text-align: center;">ORDER</p> <p>UPON THIS MOTION EX PARTE dated the 11th Day of August, 2008 and filed the same day, praying the court for the following reliefs:</p> <p>1. LEAVE to apply for the enforcement of the Applicants fundamental human rights to life, to dignity of human Person and to private and family life as enshrined in Section 33(1), 34(1) and 37 of the Constitution of the Federal Republic of Nigeria and reinforced by Articles 4</p> <p style="text-align: right;">and 5 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Articles 1, 5, and 12 of the Universal Declaration of Human Rights, and, until the final determination of the substantive application, granting that this Leave shall operate as a stay of any action by the Respondents to demolish the buildings or any part thereof occupied by the Applicants at the premises situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt while the Applicants are in physical occupation, and as a further stay of any other action relating to the subject matter of this application.</p> <p>2. AN ORDER granting Leave to the Applicants to sue for themselves and on behalf of the other tenants of the building situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt known and referred to as members of Abonoma Wharf Road unit of the National Union of Tenants of Nigeria.</p> <p>3. And such further Order or other Orders, as this Honourable Court may deem fit to make in the circumstances.</p> <p>AND AFTER READING the affidavit in support of motion sworn to by Pastor Timothy Udoidion, male, Christian, adult and citizen of the Federal Republic of Nigeria now residing at buildings opposite the Integrated Cultural Centre (at Abonoma Wharf Road), Port Harcourt, Rivers State and filed at this Court's Registry.</p> <p>AND AFTER HEARING A. A. EPELE Esq. with him B.W. WUKU Esq. of Counsel for the applicants move in terms of the motion paper:</p> <p style="text-align: center;">IT IS HEREBY ORDERED AS FOLLOWS:</p> <p>1) The applicants are granted Leave to enforce their Fundamental Human Rights to life, to dignity of human person and to private and family life as enshrined in sections 33(1), 34(1) and 37 of the 1999 Constitution of Nigeria; And under Articles 4 and 5 of the African Charter on Human and Peoples' Right Ratification and Enforcement Act.</p> <p style="text-align: center;">2) The applicants are hereby granted leave to sue for themselves and on behalf of the other tenants of the building situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt, known and referred to as members of Abonoma Wharf Road Unit of the National Union of Tenants of Nigeria.</p> <p style="text-align: center;">3) That suit is adjourned to the 11th day of November, 2008 for hearing of the motion on notice.</p> <p style="text-align: center;">4) The motion on notice must be served on the Respondents at least 8 clear days before the next adjournment.</p> <p style="text-align: center;">ISSUED AT PORT HARCOURT under the seal of the Court and the Hand of the Presiding Judge this 29th day of October, 2008.</p> <p style="text-align: center;"> AMADI, M. M. (MR) CLERICAL OFFICER</p> <p style="text-align: center;"> CERTIFIED TRUE COPY REGISTERED FEDERAL HIGH COURT PORT HARCOURT</p>	<p style="text-align: center;"><u>IN THE FEDERAL HIGH COURT OF NIGERIA</u> <u>IN THE PORT HARCOURT JUDICIAL DIVISION</u> <u>HOLDEN AT PORT HARCOURT</u></p> <p style="text-align: center;"><u>SUIT NO: FHC/PHCS/563/2008</u></p> <p><u>IN A MATTER OF FUNDAMENTAL HUMAN RIGHTS ENFORCEMENT:</u></p> <p>BETWEEN:</p> <p>1. PASTOR TIMOTHY UDOIDION 2. MR. FRANCIS OSAS UGBOYA (Suing for themselves and on behalf of tenants of Abonoma Wharf Road, Port Harcourt known and referred to as members of the Abonoma Wharf Rd Unit of National Union of Tenants of Nigeria</p> <p style="text-align: right;">} PLAINTIFFS</p> <p>AND</p> <p>1. THE EXECUTIVE GOVERNOR OF RIVERS STATE OF NIGERIA 2. THE ATTORNEY-GENERAL OF JUSTICE OF RIVERS STATE 3. THE HON. COMMISSIONER OF URBAN DEVELOPMENT, RIVERS STATE</p> <p style="text-align: right;">} DEFENDANTS</p> <p style="text-align: center;">ORDER</p> <p>UPON THIS MOTION EX PARTE dated the 11th Day of August, 2008 and filed the same day, praying the court for the following reliefs:</p> <p>1. 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AN ORDER granting Leave to the Applicants to sue for themselves and on behalf of the other tenants of the building situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt known and referred to as members of Abonoma Wharf Road unit of the National Union of Tenants of Nigeria.</p> <p>3. And such further Order or other Orders, as this Honourable Court may deem fit to make in the circumstances.</p> <p>AND AFTER READING the affidavit in support of motion sworn to by Pastor Timothy Udoidion, male, Christian, adult and citizen of the Federal Republic of Nigeria now residing at buildings opposite the Integrated Cultural Centre (at Abonoma Wharf Road), Port Harcourt, Rivers State and filed at this Court's Registry.</p> <p>AND AFTER HEARING A. A. EPELE Esq. with him B.W. WUKU Esq. of Counsel for the applicants move in terms of the motion paper:</p> <p style="text-align: center;">IT IS HEREBY ORDERED AS FOLLOWS:</p> <p>1) The applicants are granted Leave to enforce their Fundamental Human Rights to life, to dignity of human person and to private and family life as enshrined in sections 33(1), 34(1) and 37 of the 1999 Constitution of Nigeria; And under Articles 4 and 5 of the African Charter on Human and Peoples' Right Ratification and Enforcement Act.</p> <p style="text-align: center;">2) The applicants are hereby granted leave to sue for themselves and on behalf of the other tenants of the building situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt, known and referred to as members of Abonoma Wharf Road Unit of the National Union of Tenants of Nigeria.</p> <p style="text-align: center;">3) That suit is adjourned to the 11th day of November, 2008 for hearing of the motion on notice.</p> <p style="text-align: center;">4) The motion on notice must be served on the Respondents at least 8 clear days before the next adjournment.</p> <p style="text-align: center;">ISSUED AT PORT HARCOURT under the seal of the Court and the Hand of the Presiding Judge this 29th day of October, 2008.</p> <p style="text-align: center;"> AMADI, M. M. (MR) CLERICAL OFFICER</p> <p style="text-align: center;"> CERTIFIED TRUE COPY REGISTERED FEDERAL HIGH COURT PORT HARCOURT</p>	<p style="text-align: center;"><u>IN THE FEDERAL HIGH COURT OF NIGERIA</u> <u>IN THE PORT HARCOURT JUDICIAL DIVISION</u> <u>HOLDEN AT PORT HARCOURT</u></p> <p style="text-align: center;"><u>SUIT NO: FHC/PHCS/563/2008</u></p> <p><u>IN A MATTER OF FUNDAMENTAL HUMAN RIGHTS ENFORCEMENT:</u></p> <p>BETWEEN:</p> <p>1. PASTOR TIMOTHY UDOIDION 2. MR. FRANCIS OSAS UGBOYA (Suing for themselves and on behalf of tenants of Abonoma Wharf Road, Port Harcourt known and referred to as members of the Abonoma Wharf Rd Unit of National Union of Tenants of Nigeria</p> <p style="text-align: right;">} PLAINTIFFS</p> <p>AND</p> <p>1. THE EXECUTIVE GOVERNOR OF RIVERS STATE OF NIGERIA 2. THE ATTORNEY-GENERAL OF JUSTICE OF RIVERS STATE 3. THE HON. COMMISSIONER OF URBAN DEVELOPMENT, RIVERS STATE</p> <p style="text-align: right;">} DEFENDANTS</p> <p style="text-align: center;">ORDER</p> <p>UPON THIS MOTION EX PARTE dated the 11th Day of August, 2008 and filed the same day, praying the court for the following reliefs:</p> <p>1. LEAVE to apply for the enforcement of the Applicants fundamental human rights to life, to dignity of human Person and to private and family life as enshrined in Section 33(1), 34(1) and 37 of the Constitution of the Federal Republic of Nigeria and reinforced by Articles 4</p> <p style="text-align: right;">and 5 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Articles 1, 5, and 12 of the Universal Declaration of Human Rights, and, until the final determination of the substantive application, granting that this Leave shall operate as a stay of any action by the Respondents to demolish the buildings or any part thereof occupied by the Applicants at the premises situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt while the Applicants are in physical occupation, and as a further stay of any other action relating to the subject matter of this application.</p> <p>2. AN ORDER granting Leave to the Applicants to sue for themselves and on behalf of the other tenants of the building situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt known and referred to as members of Abonoma Wharf Road unit of the National Union of Tenants of Nigeria.</p> <p>3. And such further Order or other Orders, as this Honourable Court may deem fit to make in the circumstances.</p> <p>AND AFTER READING the affidavit in support of motion sworn to by Pastor Timothy Udoidion, male, Christian, adult and citizen of the Federal Republic of Nigeria now residing at buildings opposite the Integrated Cultural Centre (at Abonoma Wharf Road), Port Harcourt, Rivers State and filed at this Court's Registry.</p> <p>AND AFTER HEARING A. A. EPELE Esq. with him B.W. WUKU Esq. of Counsel for the applicants move in terms of the motion paper:</p> <p style="text-align: center;">IT IS HEREBY ORDERED AS FOLLOWS:</p> <p>1) The applicants are granted Leave to enforce their Fundamental Human Rights to life, to dignity of human person and to private and family life as enshrined in sections 33(1), 34(1) and 37 of the 1999 Constitution of Nigeria; And under Articles 4 and 5 of the African Charter on Human and Peoples' Right Ratification and Enforcement Act.</p> <p style="text-align: center;">2) The applicants are hereby granted leave to sue for themselves and on behalf of the other tenants of the building situate opposite the Integrated Cultural Centre (by Abonoma Wharf Road), Port Harcourt, known and referred to as members of Abonoma Wharf Road Unit of the National Union of Tenants of Nigeria.</p> <p style="text-align: center;">3) That suit is adjourned to the 11th day of November, 2008 for hearing of the motion on notice.</p> <p style="text-align: center;">4) The motion on notice must be served on the Respondents at least 8 clear days before the next adjournment.</p> <p style="text-align: center;">ISSUED AT PORT HARCOURT under the seal of the Court and the Hand of the Presiding Judge this 29th day of October, 2008.</p> <p style="text-align: center;"> AMADI, M. M. (MR) CLERICAL OFFICER</p> <p style="text-align: center;"> CERTIFIED TRUE COPY REGISTERED FEDERAL HIGH COURT PORT HARCOURT</p>
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Figure 44: Notice of consequence of disobedience of court order, dated 2 February 2009, served on the Commissioner for Urban Development

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE PORT HARCOURT JUDICIAL DIVISION
HOLDEN AT PORT HARCOURT

BEFORE HIS LORDSHIP THE HON. JUSTICE E. S. CHUKWU
SITTING AT THE FEDERAL HIGH COURT NO.3, PORT HARCOURT

SUIT NO: FHC/PH/CS/563/2008

IN A MATTER OF FUNDAMENTAL HUMAN RIGHTS ENFORCEMENT:

BETWEEN

1. PASTOR TIMOTHY UDOIDIONG
2. MR FRANCIS OSAS UGBOYA

Suing for themselves and on behalf of tenants of Abonnenma Wharf Road, Port Harcourt known and referred to as members of Abonnenma Wharf Road unit of the National Union of Tenants of Nigeria.

} APPLICANTS

AND

1. THE EXECUTIVE GOVERNOR OF RIVERS STATE OF NIGERA
2. THE ATTORNEY-GENERAL OF JUSTICE OF RIVERS STATE
3. THE HON. COMMISSIONER OF URBAN DEVELOPMENT, RIVERS STATE

} RESPONDENTS

TO:

MR. OSIMA GINAH
Commissioner of Urban Devt
Ministry of Urban Development
Port Harcourt, Rivers State

(FORM 48)
NOTICE OF CONSEQUENCE OF DISOBEDIENCE TO COURT ORDER

TAKE NOTICE that unless you obey the directions contained in this order you will be guilty of contempt of court and will be liable to be committed to prison.

Dated this: 24th day of: FEB 2009


CASHIER REGISTRAR
FEDERAL HIGH COURT
PORT-HARCOURT
Date 02/02/09

Rel on cr no 2008/1533

8.6. Information materials by the Rivers State Government

Figure 45: Rivers State Government Ministry of Urban Development “Checklist for Approval of Building Plans

RIVERS STATE MINISTRY OF URBAN DEVELOPMENT

CHECKLIST FOR APPROVAL OF BUILDING PLANS

1.	Title Document (C of O, Assignment with Consent Certificate signed by Hon. Attorney-General and Commissioner for Justice, Lease or Deed of Conveyance with evidence of application for C of O). ✓	✓
2.	Income Tax Clearance Certificate for individuals. ✓	✓
3.	Certificate of Incorporation for corporate bodies.	
4.	Company/Organization Tax Certificate.	
5.	Soil test report prepared by qualified firms, Engineers, etc. and address. ✓	✓
6.	Name of the Designer i.e. Architect, qualification(s), registration number, residential and office address and telephone number. ✓	✓
7.	Name of the Structural Engineer, qualification(s), COREN registration number, residential and office address and telephone number. ✓	✓
8.	Name, residential and office address and qualification of Service Engineers i.e. Mechanical, Electrical and Ventilation. Lift Engineer (where applicable) and telephone number. ✓	✓
9.	Name of Client, residential and office address and telephone number <i>Engr Victor Chukwepo</i>	✓
10.	Name of the Site Engineer/Builder, his qualification(s), registration number, residential and office address in Port Harcourt, his passport photograph, phone number and a letter of undertaking accepting full responsibility for the construction. ✓	✓
11.	Name-board with names of the Professionals, Client, Contractor and their addresses. (This is to be inspected at the site).	
12.	Name and address of Insurance Company (Workman Compensation). ✓	✓
13.	Six (6) sets of drawings duly signed by the relevant professions in bounded A3 format ✓	✓
14.	Soft copy in Compact Disk (properly labeled). ✓	✓
15.	Environmental Impact Assessment Report duly prepared by a Registered Town Planner in respect of application for: a) A residential land in excess of 2 hectares and/or development in excess of 4 floors or 8 family units; b) Factory building or expansion of factory buildings; c) Place of worship; d) Major recreation development covering more than 2,000 square meters; e) Institutional buildings; f) Petrol filling/service station; g) Any other type of commercial and industrial buildings not described in paragraph 15(a - f) above.	

Engr Victor Chukwepo
MUD, PH
2011/09

Figure 46: Flyer produced by the Office of the Special Assistant to the Governor on Waterfronts Development “What you must know about development of Port Harcourt waterfronts”

WHAT YOU MUST KNOW ABOUT

DEVELOPMENT OF PORT HARCOURT WATERFRONTS

- Urban waterfronts whether natural or artificial are prime pieces of real estate in the developed countries.
- Port Harcourt waterfronts however, have remained undeveloped resulting from misuse and lack of planning.
- Development of our waterfronts are often misunderstood and generate adverse feelings among the people.
- This is due to insufficient information and gross unawareness on the part of the people about the benefit in a properly developed Waterfronts.

1. THE CURRENT STATE OF THE WATERFRONTS


- Currently, waterfronts in Port Harcourt are unplanned and over populated.
- Living conditions are characterized by overcrowding and lack of basic infrastructure such as roads, potable water, electricity, poor sanitary condition etc.
- The waterfronts have become hideouts for hoodlums, armed robbers and criminals.

2. WHY GOVERNMENT WANTS TO DEVELOP THE WATERFRONTS





- To make them into decent residential areas.
- To turn them into recreational centres.
- To improve the physical infrastructure of the areas.
- To provide adequate security in the area.
- To develop water ways along the waterfronts.
- To stop criminals from using it as hideout.

3. HOW DOES GOVERNMENT INTEND TO ACHIEVE THIS?

- Carry out adequate census/enumeration and valuation exercise of the waterfronts.
- Undertake verification of ownership.
- Carry out Compensation/Rehabilitation of genuine owners of structure.
- Carry out Environmental Impact Assessment (EIA).
- Carry out site Survey.
- Collapse old structure.
- Development.



Can't it look like this?

PLEASE TURN OVER

Old Waterfro

4. WHAT HAPPENS TO THE PRESENT GENUINE OCCUPANTS OF THE WATERFRONTS?

- Government will pay compensation after valuation to assist genuine owners to rehabilitate
- Genuine owners will be offered first choice of purchase, when these waterfronts are developed.

5. DO YOU KNOW?

- That in developed country, urban Waterfronts are the most beautiful landscape with prime pieces of real estate?
- That Port Harcourt Waterfront as component parts of the capital city have remained unplanned, overcrowded and without basic infrastructure?
- That Governor Rotimi Amaechi led administration has drawn a blue print to develop Port Harcourt and the Waterfronts are not left out of such development plan?
- That government effort at developing the Waterfronts is sometimes misconstrued by the elite due to lack of proper information or due to sentiment, political and ethnic considerations?
- That Government is eager to transform Port Harcourt waterfronts into decent residential areas, recreational centres and transportation waterways?
- That the development of the waterfront will be done in phases.
- That Governor Rotimi Amaechi has appointed a Special Assistant on Waterfronts Development?
- That the Special Assistant on Waterfront Development has started the enumeration and valuation exercise of all waterfronts?
- That the enumeration and valuation would lead to the rehabilitation/compensation of genuine owners of structures/buildings and the ultimate development of the entire waterfronts?
- That all genuine owners of structures/building shall have the first choice of purchase after the waterfronts have been developed?
- That government will not pay compensation for any structure/building developed after the first of January, 2009.



*Let us co-operate with Government.
Let us help Government to provide for us.*

*For further information call:
The Office of the Special Assistant
to the **Governor, on Waterfronts Development.**
07063251905. Email: developmentwaterfront@yahoo.com*

8.7. Legislative and policy frameworks for urban planning in Port Harcourt

Introduction

Generally, both policy and regulatory frameworks have a significant bearing on urban and rural development, and in particular, on their planning, zoning, land use, plot development, set-backs, space standards and infrastructure services. As a matter of fact, people living in urban areas all over the world are affected by both policy and regulatory frameworks in trying to carryout development and access legal shelter and basic services. Most city managers also claim that the basis of their acts are the policy and legal provisions and most often hinge or hang their actions on these provisions.

Nigeria is a federal state in which the three-tier governments have tacit roles in formulating policies, legislations, regulations and standards regarding the way urban settlements should be planned and managed. Evidence from literature suggests that government agencies are often unaware of the grave influences that regulatory frameworks have on urban land, housing markets and the poor living in cities.

In this section, the various national and state laws and policies that are operative to guide proper urban planning and management of cities are reviewed. This is simply to establish the synergy between the various legal and policy provisions and the approach adopted in carrying out the reported cases of evictions.

National legislative and policy frameworks for urban planning

National legislations

Three prominent national legislations are reviewed here which have profound implications for urban planning, permit for development, land use zoning, land acquisition and secure tenure, slum upgrading and urban renewal.

8.7.1. *The Land Use Act 1978*

The Land Use Act 1978 provides for a new and harmonised system of land ownership and administration purposely to ensure easy access to land for development. Its main feature has been the new measures introduced for land acquisition and land tenure. For the purpose of this review efforts shall be on relevant provision of the in respect of land in urban area for developmental purposes, land acquisition and the processes of compensation.

The 1978 Acts provides that all land in the state is vested in the Governor and such land shall be held in trust for use and the common benefit of the people. Under the 1978 Act, land for development purposes is classified into two categories. The first

are lands in urban areas which are under the the control of the Governor and are administered by the Land Use Allocation Committee. The second category are lands in rural areas which are under the control of local governments and are administered by the Land Allocation Advisory Committee (see S 1).

The people so allocated such lands have statutory right of occupancy and are issued a Certificate of Occupancy (C of O). A holder of statutory right of occupancy has right to absolute possession of all improvements on the land (see S. 15).

The often acclaimed advantages of the 1978 Act include its seeking to curb land speculation and the introduction of compulsory acquisition of land if necessary to obtain land for public purposes together with the payment of compensation by making revocation orders. Section 28 of the Act provides for three instances for making a revocation order including:

- (iii) Cases of land transactions contrary to the provisions of the Act;
- (iv) Land requirements by the Federal, State and Local Government for overriding public purposes; and
- (v) Land requirements for mining and laying of oil pipelines.

Section 29 provides for compensation payable on revocation of rights of occupancy by the Governor which shall be paid as follows:

- (vi) For undeveloped land compensation will be paid for an amount equal to the rent paid by the occupier during the year in which the right of occupancy was revoked;
- (vii) For buildings, installation or improvements thereon, compensation shall be paid for the amount of the replacement cost of such buildings, installation or improvement, and as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer;
- (viii) For crops on land apart from any building, installation or improvement thereon, compensation shall be paid for an amount equal to the value as prescribed and determined by the appropriate officer.

Section 33 provides for resettlement in case of revocation of right of occupancy on the following grounds:

- (vi) where a right of occupancy in respect of any developed land on which a residential building has been erected is revoked under this Act, the Governor or the local government, as the case may be, may in his or its discretion offer in lieu of compensation payable in accordance with the provisions of this Act, resettlement in any other place or area by way of a reasonable alternative accommodation (if appropriate in the circumstances).

- (vii) where the value of any alternative accommodation as determined by the appropriate officer or the land use and allocation committee is higher than the compensation payable under this Act, the parties concerned may by agreement require that the excess in value in relation to the property concerned shall be treated as a loan which the person affected shall refund or repay to the Government in a prescribed manner.
- (viii) where a person accepts a resettlement pursuant to subsection (1) of this section, his right to compensation shall be deemed to have been duly satisfied and no further compensation shall be payable to such person.

Section 38 of the Act preserves the power of Governor to revoke rights of occupancy. It states as follows:

Nothing of this part shall be construed as precluding the exercise by the Governor or as the case may be the Local Government concerned of the powers to revoke rights of occupancy, whether statutory or customary, in respect to any land to which this part of this Act relates.

Section 43 provides for prohibition of un-authorized development and imposition of penalties for following:

- (i) any unauthorized building, wall, fence or other structure; and
- (ii) any unauthorized enclosure, obstruction, cultivation or do any act on any land which is not the subject of a right of occupancy or licence lawfully held by him or in respect of which he has not received the permission of the Governor to enter and erect improvements prior to the granting of him a right of occupancy.

Section 47 provides for the exclusion of compensation paid under the Act from any court proceedings as follows:

No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.

From the above review the 1978 Land Use Act distinguishes between lands in urban and rural areas and the manner in which land can be owned. The Act also provides that secure tenure is based on obtaining either statutory or customary rights of occupancy and that in cases of revocation of ownership, only land owners shall be entitled to compensation. The Act also prohibits un-authorized development and no compensation shall be paid for their removal. It is obvious that the Act does not recognize the rights of tenants on land.

8.7.2. National Urban and Regional Planning Law No. 88 of 1992

The passing of statutory urban and regional planning law started in Nigeria in 1946, which was reported to be based on the British 1932 Act. It provides for physical planning and development control and remained the only legislative instrument for

physical planning in Nigeria till 1992 when the new Urban and Regional Planning Act was passed. It was the 1946 Act that influenced the Planning of all colonial cities like Port Harcourt, Jos, Enugu, Kaduna, Maiduguri and others as well the suburban expansion of indigenous towns like Lagos, Kano and Ibadan

The 1992 Act provides amongst other things for a new Urban and Regional Planning Law for Nigeria with the establishment of Federal, State and Local Government Authorities to oversee the implementation of a more realistic and purposeful planning of the country. The Urban and Regional Planning Law 1992 provides for the establishment of the following planning authorities at the three tier government levels. First is the setting up of the *National Urban and Regional Planning Commission* known as the ‘**Commission**’ for dealing with federal matters. It will have branches in the several Zonal offices in the Federation. Second is the establishment of the *State Urban and Regional Planning Board* known as the ‘*Board*’ to be set up at the State government level to deal with all state matters. Each state is required to set up Urban and Regional Planning Tribunal to adjudicate over planning appeals. Thirdly, is the setting up of the *Local Planning Authority* known as ‘*Authority*’ to be set up in each Local Government and area councils of the federation. By implications there should be at least 774 local planning authorities in the country.

The problem with implementing the provisions of the Urban and Regional Planning Law 1992 is the failure of the various Governments to set up the above bodies. Only Lagos State was able to set up the Urban and Regional Planning Board and the Planning Authorities.

Plan making and types of plans:

These Planning agencies are required to prepare and adopt a range of plans as shown in the table below.

Federal Government	State Government	Local Government
National physical plan	-	-
Regional plan	Regional Plan	-
Sub-regional plan	Sub-regional plan	-
Urban Plan	Urban Plan	Town Plan
-	Local plans (including district plans)	Local plan
-	-	Rural plan
Subject plan	Subject plan	Subject plan

All plans must be duly approved by the approving bodies. All plans with the exception of the subject plans are to be approved by the highest legislative body in each of the tiers of government. However, the subject plans prepared by the Commission, Board and Authority can be approved by these authorities.

Table 1: Roles of the Planning Commission

- | |
|---|
| <ul style="list-style-type: none"> • Formulation of national policies for urban and regional planning and development; • Preparation and implementation of the National Physical Plans on the recommendation of the Minister; |
|---|

- Formulation of Urban and Regional Planning standards for Nigeria on the recommendation of the Minister;
- Promotion of co-operation and co-ordination among States and Local Governments in the preparation of Urban and Regional Plans;
- Supervision and monitoring of the execution of projects in Urban and Regional Planning;
- Provision of technical and financial assistance to States in the preparation and implementation of plans.

Development control:

Section 27 of the 1992 Act provides for the establishment of Development Control Department by the Planning Commission, Planning Board and Planning Authorities to carry out development control.

All prospective developers are expected to file a planning application with the Planning Authority that has jurisdiction over their development proposal to obtain development permit. The procedures for filing a development application is contained in Sections 3037. The Planning Authority decides on all planning applications and only permitted developments are legally allowed to proceed to building.

Enforcement of planning regulations:

Enforcement notices is served on the owner of a property or development for the following reasons;

- Carrying out development without approval (S.47(1));
- Re-location (S. 49);
- Un-authorized development and development not compactible with adjoining land (S. 50);
- Contravention of planning law or regulation in pursuant of the Law (S. 60);
- Building falling below standard of other buildings used for rehabilitation (S. 83(a));
- Building is in poor state, disrepair and likely to constitute danger to the occupier (S. 83(b)).
- When two or more buildings are badly laid out such that without their demolition improvement cannot take place (S. 83(c)); and
- Provision of infrastructure in the area (S. 83 (d)).

The form of an enforcement notice (Session 50)

- Be in writing and communicated to the developer
- State reasons fort the proposed action
- Consider any representation made by the developer

Urban renewal:

The Act provides for the manner and procedures for improving the area through rehabilitation, renewal and upgrading. An approved local plan, by order published in the Gazette declares any part of the plan an improvement area for the purpose of rehabilitating, renovating and upgrading the physical environment, social facilities and infrastructure of the area (S. 83 (1,2,3)).

To ensure consultation and cooperation in improvement area, section 81 provides that Planning Authority shall use its best endeavour to inform the residents of the proposed improvement area. The authority shall enlighten the people on the following:

- purpose and content of the the proposed improvement
- power vested in the authority
- the facilities that would be made available and benefits to be derived.

The Planning Authority shall hold meeting with the Local Government and any other association in the area to ascertain the views of the residents on the proposed improvement and in the end set-up Liaison or Consultative Committees between the authority and representatives of the residents to monitor the progress of the programme to inform other relevant authorities of the proposed improvement and take into account views and comments made.

In addition, the 1992 Act Sections 81-82, requires the authority to undertake the following activities:

- (vii) hold regular meetings with the representatives of the community,
- (viii) prepare an improvement area plan,
- (ix) indicate what, ways and time certain activities would be carried out,
- (x) guarantee or facilitate loans to assist in the improvement.,
- (xi) provide or renovate social or community facilities
- (xii) pay compensation promptly to those who suffer loss or damage through the exercise

The Planning Tribunal:

The 1992 Act provides for the establishment of a Planning Tribunal to adjudicate on matters brought before it by aggrieved developers who wish to seek redress over application for planning permit that has been refused.

Appeals against development control decisions shall be to a tribunal set up to hear appeals within 28 days of service of a notice.-alteration amendment of conditions attached to grant of development permit.

The 1992 Act provides adequately for the setting up of an institutional framework for planning at the three-tier level, with clear definition of roles and responsibilities,. The Act identifies the range of plans that can be prepared and adopted by the three tier authorities. It set out the procedures for the preparation which include a modicum of consultation with the people for whom the plan is made, and provides for development control and enforcement of controls measures against un-authorized development. It also provides for the setting up the State Planning Tribunal, to adjudicate on matters brought before it by people aggrieved by planning authority.

Be it as good as the 1992 Act may be, many of its provisions are to be implemented by the three-tier government structures in the country. The Planning Commission is yet to be set-up at the Federal level. Some states have set-up their own Planning Board and Local Planning Authority. Many states are yet to respond. Many states have also not set-up the Planning Tribunal as provided in the 1992 Act.

National policies

8.7.3. National Urban Policy

In response to the country's rapid rate of urbanization of more than 2.8% per annum and with an urbanization rate now put at 50% and the need to cope with the various socio-economic and spatial planning challenges, the Nigerian government adopted a national urban policy in 1991, which was subjected to review in 2006.

The national policy recognized several development challenges that have accompanied the country's rapid urbanization which include cities growing without adequate planning, acute housing shortages with millions of Nigerian living in slums, and the gross under provision for basic urban social services, rising urban poverty and increasing crime rates. Of importance among these challenges are the low level of awareness of the various urban development challenges on the part of the general public, absence of effective advocacy and inappropriate programmes, which have further compounded the problems of urban growth and development.

Policy goal and objectives

The goal of the national urban policy is to develop a dynamic system of urban settlements which will foster sustainable economic growth, promote efficient urban and regional development and ensure improved standard of living and well being of Nigerians.

The several objectives defined in the policy were geared towards achieving efficient urban development and management; clarification of the roles of the three-tier governments in urban planning, promotion of public private partnerships, promotion of popular participation and inclusiveness for good urban governance and sectoral policy formulation for dealing with several urban development challenges in the country which includes the following:

- Access to land for building;
- Urban economy and poverty and employment generation;
- Urban transportation, communications and traffic management;
- Urban Renewal and slum upgrading;
- Urban environment;
- Urban infrastructure;
- Social welfare services and social integration
- Urban Finance;
- Urban management information system;
- Human resources development;
- Urban security;
- Urban governance
- Urban planning; and
- Institutional frameworks

The detailed provision of the policy in respect of the above are reviewed briefly below:

Access to land for building

The national policy provides for promoting easy access to land for building for the individual and private developers and strengthening the capacity of Planning agencies to promote orderly development of cities.

Urban economy and poverty and employment generation

The national policy recognized the need of the informal sector which is as high as 60-80% depending on the urban centre in question and provides that emphasis should be placed on providing small and medium scale enterprises with appropriate industrial estates and amending the existing legislative frameworks, especially making town planning regulations to be more sensitive to the needs of the informal sector.

Urban transportation, communications and traffic management

The policy provides for ensuring affordable, accessible modes of urban transport in urban areas and to ensure that the construction of all roads conform to acceptable standards. In the congested older parts of the cities the policy provides for promoting community and neighbourhood upgrading to improve accessibility.

Urban renewal and slum upgrading

The national policy recognized the preponderance of both inner city and peripheral slums due to historical origins of Nigerian towns. It advances three-fold objectives to be pursued in urban renewal scheme which include ensuring that infrastructural services are brought to an acceptable standard, pursuing the urban renewal programme through involving the population concerned both in the planning and execution process and integrating slum upgrading with the overall development strategy of the individual cities through inclusive programmes and with a view to enhancing the creation of employment opportunities for the urban poor. Towards achieving these objectives, the policy provides for the development of strategic plans for slum upgrading; undertaking low cost renewal schemes for the poor, improving access to land and secure tenure for the low income and the urban poor, mobilising women to play important role in slum upgrading during construction and promoting and encouraging partnerships with communities and local government by setting up a viable unit within the Planning Department for the purpose of engaging the community in close consultation with a view to developing appropriate urban renewal schemes.

Urban environment

To combat the prevalence of several environmental problems in cities including solid waste management, land, water and air pollution and industrial wastes in the country, the goal of the policy is to promote generally a safe, clean, healthy and aesthetically pleasing urban environment. The policy urges government to promote cooperation among urban households to take interest in the maintenance of a high standard of environment and the enforcement of development control measures in order to reduce environmental hazards and the need to coordination of activities of the various agencies.

Urban infrastructure

The policy's goal is to provide all essential infrastructure in urban areas to ensure efficient functioning of the cities and enhance the quality of life of urban residents and involving the participation of all residents and the private sector. It also provides for the provision of basic infrastructure before an area is approved for housing

development and the need for utility agencies to adopt the system of underground cabling.

Social welfare services and social integration

The policy emphasizes thened to empower all social group irrespective of their ethnic origin or religious affiliations and promote programmes of social integration so as to enhance the all-inclusiveness of our cities and their role in fostering national unity, by among others giving priority to programmes to enhance employment opportunities.

Urban finance

In order to cope with the incessant problems of lack of finance for urban projects, the national policy endorsed the establishment of the Urban Development Bank of Nigeria to provide funds and capacity building for local governments and planning authorities and stresses the need to reduce over-dependence on statutory allocation and explore other sources of revenue to meet their financial needs, and by ensuring transparency and accountability.

Urban management information system

To stem the problem of lack of data, which hinders proper planning of settlements and making meaningful future projections of population, the policy recommended that production of essential data and maps and that each LG and planning authority develops an operational management information system to enhance its capacity for efficient urban management.

Human resources development

To address the dire shortage of manpower, the policy provides enhancing the capacity of tertiary institutions to develop appropriate curricula for training manpower in the field of urban planning and management.

Urban security

To combat the rising crime rates, the objective of the policy is to make Nigerian cities a safe and secure place for all residents.

Urban governance

The policy accepts the definition of urban governance as the sum total of the many ways in which individuals and institutions, both public and private sector, participate in the planning and management of the common affairs of a city. It is a continuous process through which conflicting or diverse interests of citizens are accommodated and cooperative action in their resolutions are actively promoted. It therefore emphasizes the need for participation stressing that: **“for effective urban governance, decision-making process must be fully participatory and all inclusive, whilst implementation strategies and activities must be transparent and accountable to the generality of the citizens of the city”** (see para 15.1.2 on p 44 of the document). The objective of promoting good urban governance in any city will be to ensure good local leadership, institutionalise democratic rule, facilitate citizen’s participation, guarantee the use of public resources in a manner that is transparent, responsible, accountable, just and effective, all with a view to sustaining effective and efficient urban development and management throughout the country. The policy recommends that each local government should establish a planning authority in

accordance with the provisions of the Urban and Regional Planning Act of 1992 and the facilitation of the all inclusiveness of citizens in governance among others.

Urban planning

The policy laments the adoption of foreign culture and standards in the planning of Nigerian towns, all of which have made it difficult to secure the cooperation of the people with the laws and regulations. The policy advocates for re-orienting the concept and philosophy of urban planning, design, planning laws, regulations and standards to reflect the peculiarities and priorities of Nigeria. It also recommends the need to promote planning education for political leaders, city managers, and other stakeholders concerned with the orderly development and good governance of Nigerian cities.

Institutional frameworks

The policy recognizes the multi-disciplinary and multi-sectoral approaches to urban development and management in the country. It also lamented the fact many of the key institutions for proper urban development planning and management are not yet in place. It lays emphasis on close collaboration and effective coordination of the activities of the three tier governments, the private sector and civil society organizations and the informal sector. The policy defined the roles of the federal, state, local and Urban Development Bank, which has not been privatized.

(i) Roles of the Federal government:

- formulate, monitor and evaluate government policies on urban and regional development;
- coordinate the activities of other agencies of government in the areas of urban and regional planning and development;
- promote the full and effective implementation of the Habitat Agenda at all levels of government;
- establish an information system for urban planning and effective urban governance;
- review of existing legislations in the urban development sector with a view to achieving the goals of sustainable human settlements development;
- coordinate all development control activities on federal lands along federal highways;
- establish national guidance for designating metropolitan planning areas, municipalities, urban areas, special planning areas and any other areas as it may deem fit;
- provide technical and financial assistance to States and Local Governments in the preparation and implementation of physical development plans; and
- relate with all external bodies and international organizations including bi-lateral and multi-lateral agencies in relation to matters on urban and regional development.

(ii) Roles of the State Government:

- Establish the State Urban and Regional Planning Board charged with the responsibility for the overall planning, monitoring and management of urban development in the State.

- Establish broad urban development policies and strategies aimed at an efficient management of human settlements in the state within the framework of the guidelines set by the agency on urban development established by the Federal Government;
- Prepare state physical development plans, which shall provide broad objectives on the spatial organization of the state;
- Prepare Master Plans and Action Plans for any major urban centre including detailed designs for urban infrastructure development;
- Monitor the planning activities of the Local Government Urban Development Authorities in the State with a view to ensuring their plans conform with National and State standards.
- Promote manpower development for effective urban management at State and local government levels.
- Promote public enlightenment on urban development with a view to broadening the base of acceptance of urban planning, development and management, and encourage greater public participation in the planning and development process.
- Establish a Planning Appeal Tribunal, which shall be responsible for hearing appeals from persons aggrieved by the decisions of the State and Regional Development Boards.

(iii) Roles of the Local Government

- Establish the Local Planning Authority which shall be charged with the responsibility for the overall planning, monitoring and management of urban development in the Local Government Area.
- Control physical development throughout the local government area in such a way as will most effectively promote and safeguard the health, safety, convenience, economy and culture of the people;
- Fix and collect relevant planning rates, fees and charges with a view to strengthening their revenue base and enhance their ability to cope with ever increasing urban development and management responsibilities.
- Approve building plans as well as design and execute plans for the provision of urban services including transportation, housing waste disposal and environmental improvement;
- Prepare physical development plans including sub-division plans, which shall set out the directions of growth and development and the use of all lands within its legal boundaries;
- Establish Planning Appeal Tribunal which shall be responsible for hearing appeals from person aggrieved by planning decision.

The above review shows that the comprehensive nature of the national urban development policy is touching on key development issues, processes and policy goals and strategies to be developed in the promotion of sustainable urban development and management in the country. The policy was very instructive as to the roles of the three-tier government, the inter-relationships that should exist between them. The policy provides adequately on thematic issues like urban renewal, good governance, urban planning and infrastructural provisions. These provisions in this regard endorse a participatory approach and the need to be sensitive to the needs of the poor and people living in slums.

8.7.4. National Housing Policy

The first national Housing Policy was passed in 1991 and subjected to review in 2006. The revised national policy recognized the need for meeting the housing needs of Nigerians in terms of shortages in the quality, quantity and infrastructural provisions, especially the need to meet the housing needs of the low income earners. The policy recognized the lack of capacity or previous failures in implementing housing policies and programmes (see Chapter 1 of the document).

The goal of the revised policy is to ensure that all Nigerians own or have access to decent, safe and healthy housing accommodation at affordable cost. The objectives were focused on achieving strong political commitment, capacity building for all housing delivery institutions, creating enabling environment for active participation of the private sector in housing delivery, easy access to land and finance for housing, use of local building materials and appropriate technology, role definition and active participation of all tiers of government in housing delivery, enforcing regulations, improving quality of housing in rural areas (See Chapter 2 of the Policy document).

The Policy document dealt with other important several thematic issues including institutional framework for housing delivery (Chapter 3), land for housing (Chapter 4), housing finance (Chapter 5), building materials and construction costs (Chapter 6); low income and rural housing (Chapter 7), housing demand and plan (Chapter 8) and policy coordination, monitoring, evaluation and review (Chapter 9).

For the purpose of this assignment special focus is on the institutional framework and access to land.

Institutional framework

The revised policy recognizes the importance of putting in place an effective institutional framework for housing delivery in the country. It sets out the role of the federal government and its parastatals, as well as the roles of the state and local governments and the private sector in the housing delivery.

The Federal Government is to provide policy guideline while all levels of Government are required to create necessary and appropriate institutional framework for housing delivery. The Federal Mortgage Bank of Nigeria, Federal Housing Authority and the Federal Mortgage Bank of Nigeria are some of the federal institutions established as parastatals to the federal ministry of Housing and Urban Development. At the head of this is the National Council on Housing, whose membership comprises Honourable Minister for Housing and Urban development and all the Commissioners for Housing at the State level.

The policy also provides that the State governments are to promote and facilitate the development of site and services scheme, carry out re-development and upgrading of existing blighted residential areas either alone or in collaboration with Federal or International bodies or the private sector and Promote the formation of housing co-operatives, thrifts and credit societies etc

Similarly, Local Governments are to provide residential site and services layouts, upgrading of existing blighted residential areas and infrastructure, enter into partnership with other government agencies, private sector and others in housing delivery.

The revised national policy recognized the roles of States and local governments in upgrading slums and blighted areas.

Land for housing

The revised policy recognized the difficulty of accessing land for housing in the country. The objective of the policy is to make land available at the right time, in the right place and reasonable prices for people willing to build, to ensure provision of service and infrastructure. It urges the three-tier government to ensure easy access to land, control the use of lands in urban and rural areas through adequate physical planning and ensure security of tenure. The policy noted some of the defects in the land use Act in ensuring easy access to land and recommended that Government should enact supplementary or amending legislations to facilitate the effective and efficient implementation of the Land use Act.

To ensure easy access to land the revised policy specifically recommended as follows:

- (i) establishment of land registry at the Local government areas to facilitate registration of customary rights of occupancy;
- (ii) review the composition of the Local Government Land Allocation Advisory Committee to include professionals.
- (iii) Simplify and quicken the process of payment of compensation; and
- (iv) Provide guidelines for fixing ground rents and other land transactions.
- (v) Amend the Lands Compensation Law to reflect present day economic value of land.
- (vi) Standardization and improvement of procedure for acquisition of land and for revocations of title to land.
- (vii) Improvement in procedures for speedy issuance of Certificate of occupancy to make it less cumbersome and less costly.
- (viii) Standardization of procedures for registration of title to land both at the Federal, State and Local government levels.
- (ix) Produce on continuous basis cadastral and township maps in all relevant development scales in various parts of the country.

Low-income groups and rural housing

The policy noted the failure of past government programmes for low cost housing and that the problem of housing the low income people is on the increase. The policy recommended a sustained effort on the part of the government of adopting the concept of total funding of site and services to facilitate the access of the low-income group to serviced plots at reasonable cost. Other critical provisions of the policy include the following:

- (i) Support and encourage the inclusion of community Urban Upgrading Programmes.
- (ii) Ensure the establishment of appropriate institutional machinery in all communities for efficient maintenance of infrastructure;

- (iii) Encourage and support through Housing Co-operative and housing association in the provision and maintenance of low-income housing in decent, safe and healthy environment; and
- (iv) Empower the rural dwellers by way of deliberately introducing economic activities in the rural areas.
- (v) Promote a housing programmes in the rural areas which emphasis the special needs of rural dwellers, with adequate infrastructure.

From the above, the goals and objectives of the revised national housing policy emphasises the need to make housing accessible and affordable to all Nigerians, the reality is far from this. The policy did not address the issues of improving housing conditions without displacing the residents. In the case of displacement of the residents, issues of adequate compensation and resettlement are provided for but the implementation is not in line with the provisions of the laws and policies.

The involvement of the private sectors in the delivery of houses also hinders the urban poor from accessing houses because of the high cost. Furthermore, the policy encourages that rent control measures are never introduced as they mitigate against housing delivery. The absence of rent control measures is anti-poor and does endorse profit at the expense of the poor living in slums and squalor.

Although there is provisions for NGOs to have access to land for housing provisions for the less privileged, this has not been easily accessible because of the cumbersome procedure and time lag in accessing the land. Presently there are cheap funds that can be used for social housing but the process of accessing the fund has been very difficult. Contributors to the National Housing Fund are unable to access the fund while those who are able to have difficulty in meeting mortgage obligations tied to their length of service ranging between 5.8 years.

Rivers State legislative and policy frameworks for urban planning

Clarification regarding the level of government responsible for urban planning - Supreme Court judgement of 13 June 2003

The 1999 Constitution of the Federal Republic of Nigeria defines the roles and matters pertaining to the three tiers of government in the country, namely the federal, state and local governments. The Constitution distinguishes between matters listed in the Exclusive list reserved for the Federal Government only and the matters listed in the Concurrent list in which both the federal and state governments can adjudicate. Any matter that is not in the exclusive and concurrent list is referred to as 'reserved matters for state to perform.

In the 1999 Constitution, 'urban and regional planning and development' is neither listed in the exclusive nor the concurrent list. By the 1999 Constitutional provision it should therefore be regarded as a reserved matter. In 1992, when the Urban and Regional Planning Law was passed as a law applicable nationally, the country was under military rule. There was a dispute between Lagos State Government as to who

has the statutory power to administer planning between Federal and the State Government over land in Lagos State. This became a crucial issue since the capital of the Federal Government was relocated from Lagos to Abuja. The Lagos State went to file a suit in the Supreme Court for the interpretation of constitutional provisions for urban and regional planning in the country in the case of Attorney General of Lagos State *V* Attorney General of the Federation and 35 others.

The Supreme Court on 13 June 2003 delivered a judgement in the case declaring that constitutionally, Urban and Regional Planning and Development is neither on the Exclusive nor Concurrent list of the Constitution of the Federal Republic of Nigeria and therefore is a residual matter. The court decided that Federal Government has no legal right to pass planning legislation and that the 1992 Planning Act is not enforceable as a national law but can only be implemented in the Federal Capital, Abuja. This judgment repealed several sections of the 1992 Act. But the judgment went further to say that the State Government can re-enact the 1992 Act to be passed by the State Legislature as a deemed planning law.

The implication of this judgment is that the federal government and its agencies can no longer undertake planning activities in the State. Furthermore, this judgment though is in line with the Constitutional provision, it has vested the state governments with the overwhelming responsibilities for Urban and Regional Planning functions. Many people believe that there is need for an apex institution at the federal level to provide policy guidance for the administration of planning in the country and that the gap in the constitutional provision will be addressed, especially now that the constitution is being subjected to comprehensive review.

Rivers State legislations

8.7.5. Rivers State Physical Planning and Development Law No 6 of 2003

The Rivers State Physical Planning and Development Law No. 6 was passed in 2003 and is based on the provisions of the national Urban and Regional Planning Law of 1992. The State Physical Planning Law 2003 was passed purposely to provide for the control, planning and development of land in the state. In line with the national 1992 Act, the State 2003 Law accords provides for the following:

- (i) Institutional framework for planning at the State level notably the constitution of the Planning Board and Planning Authorities and their roles and the interrelationships between them and the National Physical Planning Commissions.
- (ii) Range of plans to be prepared and adopted at the State and local authority level and the procedures in which the plans are to be prepared and approved and the relations between these plans and the National Physical Development Plan.
- (iii) Procedures for Preparing and approving the range of land use plans to be prepared and adopted for implementation.

- (iv) Establishment of a development control department by the State Planning Board and Planning Authorities for enforcement of planning regulations; and
- (v) Setting up of a Planning Tribunal by the State Physical Planning Board to decide cases of appeal on refusal of planning permit arising from aggrieved parties.

Institutional framework for planning at the State level

Taking cue from the 1992 Urban and Regional Planning Act, the 2003 Rivers State Physical Planning Law provides for the establishments of Rivers State Physical Planning Board at the State level and Local Planning Authority in each of the Local Governments in the State. The Act also provides for the delegation of the roles of either the State Planning Board or the Local Planning Authority (Parts 1 and 2 of the 2003 Law).

Role of the State Physical Planning Board

The roles of the State Physical Planning Board are advisory, technical and information dissemination. The Board is required to provide advisory role to the Governor on all issues relating to urban and regional planning in the state. The technical roles include preparation, adoption, implementation and review of the adopted plans and providing technical support to the Planning Authorities set-up at the local government level. It also includes the coordination of planning activities and ensuring that the State physical plan is related to the National Physical Plan. The State Planning Board has the statutory role to promote research and development and disseminate information relating to urban and regional planning. Detailed provision for the roles of the State Planning Board is contained in Table 1.

Table 1: Roles of the State Physical Planning Board

- | |
|---|
| <ul style="list-style-type: none"> • Formulation of policies for urban and regional planning and the physical development of the State. • Advise the State government and initiate the actions • Initiation the preparation of regional plans, subject plans, urban plans, and subject plans. • Formulation and adoption of programmes for the coordination, preparation and review of development plans. • Publication in the State gazette of the commencement dates of the Draft master plans. • Scrutiny and amendment of draft master plans and their adoption for exhibition to public; • Receipt of comments on draft master plans and hearing of objectors or their authorized representatives. • Determination of objections to draft master plans and directing amendments to be made thereto on the basis of the objections where it considers the amendments to be in the public interest; • Submission of draft master plan together with schedule of objections made and amendments proposed (if any) to the Governor of the State for approval; |
|---|

- Ensuring that full and comprehensive records are kept of the plans and schedules of all applications for the development permit and those which are conditionally approved or disapproved.
- Promotion and conducting of research in urban and regional planning;
- Dissemination of research results for adoption by user organizations;
- Provision of technical assistance in Local Government in the preparation and the implementation of local, rural and subject plans.
- Preparation and submission of annual progress reports on the operation of the National Physical Development as it affects the State with respect to the National Urban and Regional Planning Commission.
- Cooperation and coordination with the Federal Government and Local Government Plans in the preparation of State Physical Development Plan.
- Review of the annual report submitted by the Local Planning Authority; and
- Supervision of the activities of the Local Planning Authority.

Role of the Local Planning Authority

The role of the Local Planning Authority is mainly technical in nature including the preparation of plans, implementation of plan through development control. The 2003 Act also provides that the Local Planning Authority shall be headed by an appointed Chairman. The functions of the Local Planning Authority embrace the preparation and adoption of town, rural and subject plans for their area. It also includes the preparation and submission of annual reports on the implementation of both the State Physical Development Plan and the National Physical Development Plan and carrying out the development control in the area of its authority. In other words, both the control and implementation of plans are the responsibilities of the Local Planning Authority and not the state (See S. 18).

Delegation of Authority of the State Physical Planning Board and Local Planning Authority

Section 19(1) provides for the delegation of the functions of both the State Planning Board and the Local Planning Authority as states in Sections 11 and 11 of the Act to a registered professions as both the Board and the Authority deems fit. Section 19 (2) provides that either the State Planning Board or the Local Planning Authority can perform any of the roles defined in sections 11 and 18, By so doing, this section gives room for either the Board or the Planning Authority to usurp the roles of each other . Section 20 provides that when a Local Planning Authority fails to perform its duty, the State Planning Board may assume the role of the Planning Authority and authorize any person or agency to act in this capacity.

Plans to be adopted by the tiers of Government

Part I of the 2003 State Planning Law provides for the range of plans to prepared and adopted at the three-tier government levels. It provides that the State Planning Board shall prepare and adopt Regional Plan, Sub-regional Plan, Urban Plan, Local Plan and Subject Plan. Similarly it provides that Local Planning Authority can prepare a range of plans which include town plan, rural plan, local plan and subject plan.

Procedures for preparing plans

The law provides for the following procedures to be followed by the Board.

- (i) Appoint any person or agency to act in the place of the Local Planning Authority.
- (ii) Call for memoranda to be submitted by government and non-governmental organizations and private sector.
- (iii) Instruct the Secretary to the Board to collate all memoranda
- (iv) Appointment of a Technical Committee to analyze and collate the memoranda received.
- (v) Prepare and exhibit Draft Master Plan

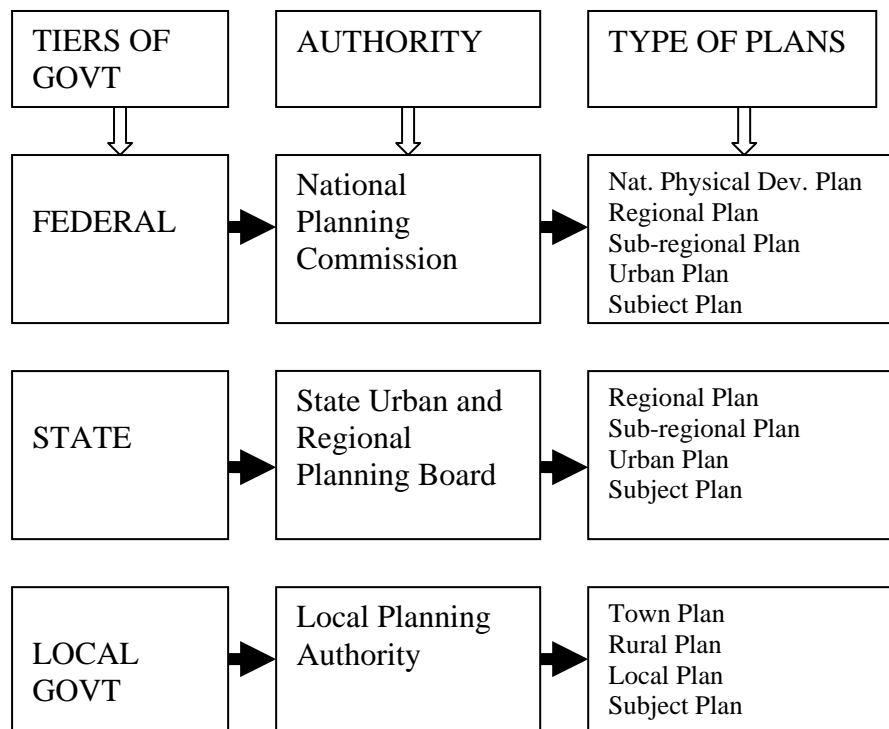


Figure 1: Institutional Framework for Urban and Regional Planning in Nigeria as provided for in the 1992 Urban and Regional Planning Act and the 2003 Rivers State Physical Planning Law No. 6.

Development Control

Part III of the 2003 State Law provides for the establishment of the Development Control Department as an essential composition of the State Physical Planning Board and the Local Planning Authority. In this Part of the Act reference is made to the establishment of the Urban Renewal Board and its roles.

The section provides for procedures for handling contraventions of the provisions of the Planning law such as illegal or un-authorized development.

Planning Tribunal

Part IV of the 2003 Act provides for the establishment of the Urban and Regional Planning Tribunal, as a quasi legal body to adjudicate on planning matters. But the body is yet to be set up.

Despite the various provisions of the 2003 Act, so far, there has been no setting up of the State Physical Planning Board and Local Planning Authority in the State. The allegation of failure on the part of the Local Planning Authority to warrant the State to takeover the functions cannot be substantiated. However, in the recent past the State Government has established the Ministry of Urban Planning and the Greater Port Harcourt Planning Authority to oversee in the State and Greater Port Harcourt, respectively.

Observations on the provisions and implementation of the River State Physical Planning Law No 6 of 2003

The review of the legal provisions in the Rivers State 2003 Physical Planning Law has thrown up several areas of defects and gaps in the governance of physical planning in the State.

The State is yet to constitute the State Physical Planning Board as provided for by the law. But the State has an established Ministry of Lands, Survey and Town Planning that is charged with urban and regional planning.

The Urban Renewal Board that was part of the provisions in Part IV of the Act is yet to be set up.

The State Physical Planning Tribunal that should be set up to adjudicate in matters of appeal by aggrieved party is yet to be implemented.

While the State Government neglected setting up the Physical Planning Board it has in the recent past established a new Ministry of Urban Development and is in the process of establishing the Greater Port Harcourt Development Authority charged with planning the State capital city.

Without strictly following the provisions of the statutory laws on planning, makes one to question the legal basis of the present planning exercise in the State. The administration of planning in Rivers State suffers from poor governance. As rightly acknowledged in the Master Plan for Greater Port Harcourt:

‘While there are laws and regulations, there are no governing structures to implement, manage and enforce the laws. This has resulted in urban decay and decline, which is certain to continue, unless institutional framework required by the laws, is established. This is of the highest priority and must be undertaken even before this entire project (i. e. master planning exercise) is completed otherwise the project could very well remain a pipedream’ (see p. 39 of the Master Plan for Greater Port Harcourt).

The entire planning process has been strictly top-down and non-inclusive. Local planning authorities have not been established and development control is enforced by the State Government. Planning in the State has been coercive and non-participatory as due consideration has not been taken into account to involve and engage the people. The provision for the composition of the Board excludes representation of the private sector and NGOs. Though the procedures for formulation of plan provide a limited

opportunity for engaging the citizen, it is obvious that such procedures had not been followed.

8.7.6. Rivers State Lands Law (Temporary Occupation Regulation)

The Rivers State has passed the above law as CAP 125 State Land Laws, which derived its power from State Land and Temporary Occupation Regulation (Regulation 10 of 1928 and 2 of 1946). This law provides that licences shall be issued by the Commissioner for Lands for temporary occupation of state lands for a period not exceeding 12 months and such license so issued shall expire on the date stated. The conditions attaching to Temporary Occupation License (TOL) include the following:

- (i) That the person granted TOL can not sublet the property to a third party.
- (ii) That the building on lands with TOL shall be kept in good condition to the satisfaction of the Commissioner.
- (iii) That the commissioner may at any time issue notice of quit to persons issued to a holder of TOL, who must quit and no refund or compensation shall be payable for the unexpired period of the licence unless the notice is served that the land is required for government use.

The provisions of the law do not recognize the right of holders of licence for secure tenure. Since building may be permitted on such land, the minimum period of 12 months specified for TOL seems to short and may cause occupiers to lose much when they are issued notices of quit.

Rivers State policies

The Rivers State Government has not adopted any land use policy and it will be right to assume that national policies predominate.

8.8. Petitions, press releases and correspondence on demolitions in Port Harcourt

- 8 September 2008 - Protest letter by the **Centre on Forced Eviction and Housing Rights (COHRE)**, addressed to the President of the Federal Republic of Nigeria, and the Executive Governor of Rivers State
- 1 December 2008 – Special Appeal for UN-HABITAT’s Urgent Mission to Rivers State, by the **National Union of Tenants of Nigeria (NUTN)**, addressed to the Executive Director of UN-HABITAT
- 28 December 2008 – Press Release by Blessing Wikina (Ag. **Chief Press Secretary to the Governor of Rivers State**), entitled “Rivers State Government to dualise Iloabuchi, Ojoto, Azikiwe Streets in Port Harcourt”⁹³
- 6 January 2009 – Press Release by Blessing Wikina (Ag. **Chief Press Secretary to the Governor of Rivers State**), entitled “International conference centre will provide employment – Amaechi”⁹⁴
- 12 January 2009 - Open Letter by the Housing and Land Rights Network - **Habitat International Coalition (HLRN/HIC)**, addressed to the President of the Federal Republic of Nigeria, and copied to the Rivers State Government
- 9 February 2009 – Press Release by **the Social and Economic Rights Action Centre (SERAC)** entitled “Forced evictions and demolitions in Port Harcourt, Rivers State, Nigeria”
- 13 February 2009 - Update on Port Harcourt demolitions by **National Union of Tenants of Nigeria (NUTN)**

⁹³ Published at:

http://www.riversstatenigeria.net/index.php?option=com_content&view=article&id=496:rsg-to-dualise-iloabuchi-ojoto-azikiwe-streets-in-ph&catid=1:latest-news&Itemid=216

⁹⁴ Published at:

http://www.riversstatenigeria.net/index.php?option=com_content&view=article&id=515:international-conference-centre-will-provide-employment-amaechi&catid=1:latest-news&Itemid=216

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