

## Value gap in Nigerian property compensation practice: measurement and economic effects

Nurudeen Akinsola Bello<sup>a</sup> and Olusegun Olaopin Olanrele<sup>b</sup>

<sup>a</sup>Faculty of Environmental Sciences, Department of Estate Management, University of Ilorin, Ilorin, Nigeria;

<sup>b</sup>Faculty of Built Environment, Department of Estate Management, University of Malaya, Kuala Lumpur, Malaysia

### ABSTRACT

The compulsory acquisition of some properties by Ogun State Government, Nigeria, along urban roads for road expansion required compensation for the affected owners. Statutorily, Estate Surveyors and Valuers (ESVs) are the recognized professionals who determine property value in Nigeria. This paper seeks to measure the gap in values between those submitted by ESVs representing the government and those ESVs representing claimants for the same property to investigate the economic implication of the variation on the claimants and the ESVs representing claimants, through the administration of 409 questionnaires to the claimants and the claimants' ESVs. The findings indicate a gap in value of above 41% between claimant's ESV's and government's ESV's, leading to an 83.29% (NGN8.88 m) loss of fee to claimant's ESV's. It is suggested that the Nigerian Institution of Estate Surveyors and Valuers should recommend standardized building cost per square metre data and provide guidance on an acceptable value gap to minimize the observed wide value gap in the future.

### ARTICLE HISTORY

Received 4 November 2015

Accepted 15 June 2016

### KEYWORDS

Urban regeneration; claimants; estate surveyor and valuer; fee; value gap

## Introduction

Development planning for urban centres aims to create a healthier environment by providing spatial re-organization and improving living conditions for inhabitants. It is inevitable that, as the government enforces codes and building regulations, eliminates slums and blight and constructs public infrastructure and roads, some families will be displaced from their houses, offices or shops. Practically, a typical urban regeneration project may destroy a great many houses, such as when houses are required for road reconstruction by government.

A part of the authority of government over private properties is the power of eminent domain for the compulsory acquisition of interests in land which, under normal circumstances and in an ideal situation, should be accompanied by prompt and adequate payment of compensation as provided by the enabling laws and relevant enactments. In Nigeria, the compulsory acquisition of land is guided by the Land Use Act, 1978 and is also enshrined in the different constitutions of the Federal Republic of Nigeria as amended (section 44 of

1999 constitution and section 40 of 1979 constitution and 1963 republican constitution). According to Aluko (2012), compulsory land acquisition is the most reliable power of government in Nigeria to acquire private rights in land to benefit society though without the willing consent of its owners or occupants. The Land Use Act, which is the current land policy instrument of the Federal Republic of Nigeria, negates the basis of open market valuation for compensation for compulsory purchase and provides for a statutory basis of valuation which many scholars have argued to be inadequate (Ajayi, 2007; Aluko, 2012; Nuhu, 2007; Omuojine, 1999).

In Nigeria, valuation for compulsory purchase and payment of compensation is a statutory valuation, in other words, the enabling statute dictates the basis and method of valuation. However, when land or property is compulsorily acquired, the compensation for the affected owners is guided by the services of Estate Surveyors and Valuers (ESVs). Accordingly, the compulsory land acquisition and compensation powers and actions of the government require the involvement of relevant professionals, especially ESVs among others. According to Viitanen and Kakulu (2009), the level of development of such professionals influences the process and stages of acquisition and compensation.

For any acquisition process in urban regeneration, Bello (2013) recommends that government should use relevant professionals and consultants. According to an editorial comment on the 1998 edition of the Nigerian Institution of Estate Surveyors and Valuers (NIESV's) Journal, *Estate Surveyor and Valuer*, the valuation process has been the focus of recent debate and controversy both within and outside the profession. Cases of two or more ESVs giving different capital values, with wide margins of variations (Gap) for the same property, abound. This had deepened the credibility problem for professionally prepared valuation reports by NIESV members. This outcome is of great concern and deserves more attention especially now that government, more than before, is involving practising ESVs in the compensation process in addition to the government staff ESVs (civil servants) through the assessment of value for compensation.

Land acquisition and compensation processes have been summarized under seven sequential stages by Aluko (2012): planning, publicity, valuation and submission of claim; payment of compensation; possession; appeals and restitution. Although ESVs have a role in all the stages, this research will be limited to the publicity stage and the valuation and submission of claims and payment of compensation stages.

Although the power to acquire property compulsorily is enabled by laws such as the Land Use Act (formerly known as Land Use Decree No. 6) of 1978, the 1990 constitution of the Federal Republic of Nigeria (1990a) Oil Pipeline Act Cap 338 and the Petroleum Act Cap 350 (1990b), this paper focuses on land acquisition for an overriding public purpose under the Land Use Act which governs compensation in this regard.

The various past administrations in Ogun State have been involved in various developments according to their programme priorities, but the current administration (2011–2015) is focused on road-widening/reconstruction and other developmental projects which require the compulsory acquisition of land. This research is limited to an examination of the acquisition of land and compensation payments to claimants (owners of the various interests on the acquired land and landed properties) within the year 2012 in Ogun State. The year 2012 was chosen because of the high volume of acquisition of land for road reconstruction in Ogun State. The main focus of the research is on the comparison of the compensation values arrived at by the two (2) opposing ESVs and to examine its economic effects on the

ESVs and their claimants. To achieve the goal of this research work, the remaining part of the work has been structured into eight (8) interrelated sections; the next section states the research problem; the third section is on the conceptual framework and review of literature, while the fourth section describes the methodology of the study; the fifth section presents the research findings which are discussed in the sixth section. The seventh section presents the study conclusion while recommendations, based on the findings are presented as the final section of the paper.

## Research focus

In the past, all matters relating to public land acquisition and compensation in Ogun State were solely handled by government officials without involving other real estate practitioners. Since 2012, Ogun State Government has adopted a policy of involving professionals in the assessment of compensation so that the affected owners of land and landed properties subject to compulsory land acquisition (claimants) can be represented by either a lawyer or an ESV. On the part of Government, assessment of compensation value is contracted to select practising professional ESVs.

Previous research has suggested that valuations for the same property may be inaccurate because of dissimilar bases and methods of valuation for the same valuation assignment (Ajayi, 2009), but there is a range of permissible disparity defined in developed nations. Valuation gap, referred to as 'margin of error, by Ogunba and Iroham (2010) is derived from the case of *Singer & Friedlander Ltd Vs John D. Woods & Co (1977) 2 ENGLR 8* 'and regarded as the disparity between the valuation estimate of one estate surveying firm and the valuation estimate of another estate surveying firm'.

While there is no consensus between academic researchers and the courts as to the maximum acceptable valuation gap, a range has been established with literature indicating a range of between 5 and 20% (Babawale, 2014). Ogunba and Iroham (2010) in their search for an acceptable margin of error among Nigerian ESVs empirically found a range of between 11.10 and 13.16% as acceptable variance between valuers and their clients. They concluded that a level above this range may be considered negligent on the part of the valuers. In the United Kingdom (UK) and Australian court cases, a range of between 5 and 15% has been deemed acceptable. In Nigeria, however, such precedent has not risen, though the possibility of such cases surfacing in Nigeria cannot be overruled, with inaccuracy and variation in value (valuation gap) noted by various scholars and authors in Nigeria (Iroham 2007; Ogunba & Iroham 2010). Interestingly, most of these variations were considered in the context of market value and mortgage value rather than for compensation value.

Previous research in Nigeria has not attempted to compare the different values derived in circumstance where the acquiring authority and the claimants are differently represented by the ESVs. Furthermore, while the valuation gap has been measured at an individual property level, it has not been measured at the aggregate level as this work attempts. This is a considerable gap in the literature that this paper is designed to fill, being particularly relevant given the recent trend of private land right acquisition for urban regeneration development projects by the various State Governments in Nigeria.

Since there is a change from the old system of compensation value assessment for compulsorily acquired land in Ogun State, this research is designed to measure and identify any notable difference in valuation process and opinion on the same property by professional

valuers representing the two opposing sides of government and the claimant. Also, it will provide an insight into the need to develop valuation standards and to justify the need for a valuation data bank by the professional bodies in Nigeria to assist in harmonizing opinions of value for the same property.

Relevant research questions include: what is the extent of the gap in valuation for compensation between opposing professional valuers?; what is the confidence level in the services rendered to the compensation claimants with respect to the value assessment by their ESVs?; and what economic effect(s) is the exercise having on the claimants and their ESVs? These questions, among others, are expected to contribute to identifying the valuation gap in opposing ESVs opinions of the compensation payable to claimants in respect of compulsorily acquired properties by Ogun State Government in the year 2012 and the economic effects on the claimants and their ESVs.

## Literature review

Compulsory land acquisition is a means of direct government control over land development and a tool to assemble land and so resolve land supply problems for development and redevelopment. The law of land acquisition is principally concerned with the rules governing the procedures to be followed in acquiring the land by compulsory means and with the awarding of compensation to the dispossessed landowner. It is subject to two essential conditions, private property is to be taken only for public use and just compensation needs to be paid for the property taken.

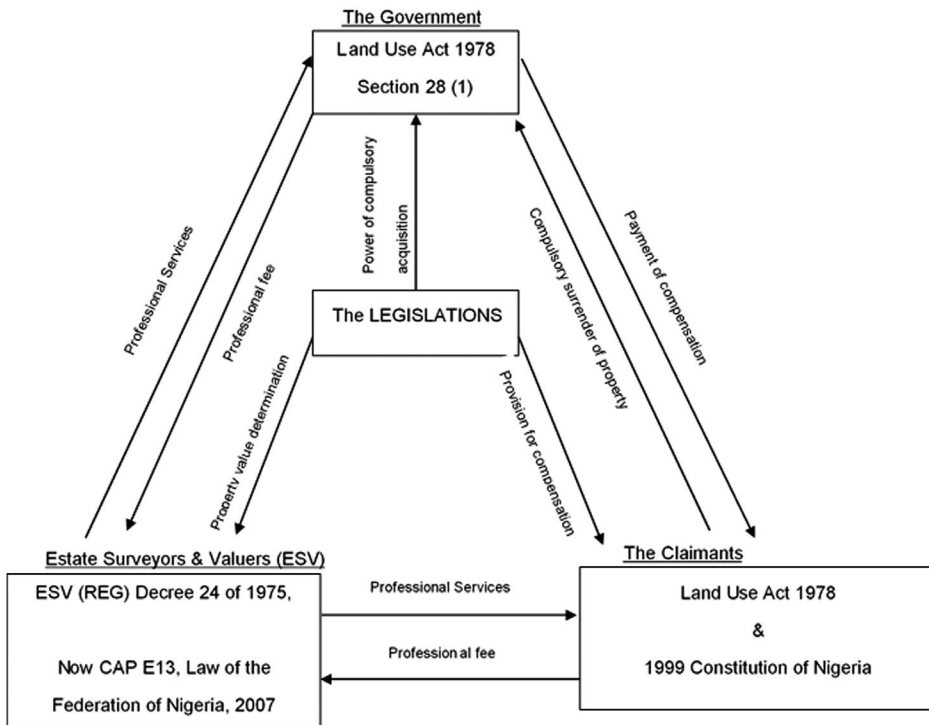
When land is compulsorily acquired, the issue of compensation arises and, ideally, the value for compensation should be determined before compensation is paid. The Nigeria Land Use Act of 1978 empowers the governor of a state to acquire private interests in land for public purposes through section 28(1) and also guarantees payment of compensation in section 29.

Compensation has largely been understood to refer to specific measures intended to make good the losses suffered by people displaced and/or negatively affected by the acquisition. The fundamental principle of compensation has always been to place the affected property owners in the same position, after the acquisition, as they were before; ensuring they are neither worse off, nor better off, in the wake of the acquisition.

Previous research in Nigeria has focused on the inadequacies of policies and statutory regulations for land compensation issues. However, the value for compensation is exclusively determined through the ESV Registration etc. Decree No.24 of 1975, now incorporated in the constitution as Cap E13 Laws of the Federal Republic of Nigeria, 2007.

In determining compensation value by different valuers for a property, there is tendency towards variation in value estimates (valuation gap) but the margin of the gap is only of concern if it is deemed to be too wide (Ogunba & Ojo, 2007), with a margin of between 5 and 20% featuring in the literature.

Babawale (2014) observed that the legislation guiding public land acquisition establishes a relationship between the government, the ESV and the claimant. The legislation empowers the Government to acquire property rights compulsorily, prescribes that compensation be paid to the claimants and exclusively designates the role of property value determination to the ESVs. According to ESVARBON (2014), ESVs are the only professionals in Nigeria



**Figure 1.** Statutory relationship established for compensation process in Nigeria.

that have legal competence to determine the market value of any interest in land and landed property by virtue of Decree No. 24 of 1975.

Simply put, as government is statutorily empowered to acquire property compulsorily and the affected owners of property are entitled to be compensated, so also are ESVs statutorily empowered to assess and determine compensation payable in the event of compulsory acquisition (see Figure 1).

Several researchers have investigated compensation issues in the compulsory acquisition of lands for public uses in Nigeria, finding that compensation for expropriated lands is inadequate, non-existent, or delayed, causing dissatisfaction to affected land owners. Famuyiwa and Omirin (2011) demonstrated the inadequacy of compensation policy on injuriously affected acquired land owners within Victoria Island, Lagos. Kakulu, Bryne, and Viitanen (2009) identified ambiguity and lack of clarity in the relevant statutes, unsuitable prescribed methods of assessment, over-valuation and under-valuation of interests, lack of standards and usurping of the functions by government agencies among others. These claims were, however, not backed up empirically. Nuhu (2006) argued that when land is compulsorily acquired for a just purpose, there should be prompt and adequate payment of compensation that will better the lots of the claimants in order to enhance their livelihood and contributions to the economic and social activities of their society.

Internationally, the first eminent domain law in the United States (US) was the Massachusetts Statute of 1639 providing for compensation of owners of developed lands that were taken for roadways and the fifth amendment of the constitution requires the government to provide “just” compensation to the owners of any private land acquired by the

government. The Land Clauses Consolidation Act 1845 in the UK standardized compulsory land purchase and compensation systems in the UK with compensation to be assessed on the basis of value to the owner with additional special allowance to reflect the compulsory nature of acquisition (Vaughan & Smith, 2014). The authors agreed that the right to compensation is a basic right of property owners in the case of compulsory acquisition of land and the principle of equivalence is the underlying principle for compensation assessment. Plimmer and Dubben (2003) argue that the UK law for compensation prescribes that the valuer value the acquired property in a “no scheme world”, ignoring the reality of the acquisition and any benefits to the open market of the intended development which may result in the claimants being paid other than the open market value of the property.

Bailey and Clough, 2009 reported no standard approach to compensation for farmers for land upon which power transmission lines were built prior to 1988 in New Zealand. Land owners were paid a small financial payment or a one-off payment in kind. “Transpower”, the electricity transmission company in New Zealand from 1988, was granted ownership of and access to transmission infrastructure running on and over private land through eminent domain. The Public Works Act 1981 guides compulsory purchase of land for the national interest in New Zealand. The Act also provides for compensation including injurious affection and damages. The English Compulsory Purchase Act of 1965 added injurious affection to loss of land value acquired in compensation.

In Australia, both freehold and leasehold forms of land ownership exist with the majority of private urban land being under freehold title, while large tracts of rural land are held under crown leases (Chan, 2008). Government, at different levels in Australia (Commonwealth, State and Territory), has passed separate land acquisition and compensation laws. However, the principle of assessment of compensation in respect of acquired land in Australia is “just terms” in accordance with the provision of the Australian Constitution. Although the meaning of “just terms” is not defined in the constitution, it is assumed to be on the same principle with “value to the owner” which acknowledges that compensation is more than the market value of the land taken (Chan, 2008).

Alias and Nasir Daud (2006) used a case study approach to investigate the adequacy and suitability of compensation for land acquisition in China as compared to the Malaysian framework and to enhance the understanding of land acquisition procedures and determination of compensation in both China and Malaysia. Their findings reveal that compensation in China is inadequate, varies with the open market value of land and that the problems of compensation are more than just a matter of law and valuation; it is a matter of justice between society and the individual.

Accordingly, the consensus of the literature may be contended to be that “fair and just” are the key principles for compensation.

## Methodology

This study adopted a semi-structured questionnaire survey research design approach. Two categories of questionnaires were administered with one administered on the compensation claimant’s ESVs while the second was administered on the affected claimants.

Further, government’s ESVs were interviewed as they declined to complete the questionnaire, possibly because their recommended values were adopted in the compensation



**Table 1.** The analysis of the administered questionnaires for the study.

Respondents	Number of questionnaires distributed	Number of questionnaires administered	The response rate (%)
Compensation claimants	438	372	85
Claims submitted by claimants ESV	79	37	47
Estate surveying firms	15	9	60

Source: Authors field survey, 2014.

payment which is lower. Officers at the Ogun State Bureau of Lands and Survey were also interviewed and secondary data extracted from their official records.

All the acquired properties for which compensation had been paid were listed in line with their identification number. From the list of identified and compensated claimants, those for whom the compensation process was handled by ESVs on their behalf were selected as the sample frame. The consultant ESVs were contacted for questionnaire administration.

Four hundred and thirty-eight (438) questionnaires were distributed to the claimants with 372 retrieved and analysed, representing an 85% response rate from the claimants' side. Fifteen (15) ESV firms participated with a total submission of compensation values for 79 acquired properties. Nine (9) firms participated in this study with submission of their compensation values for 37 acquired properties representing 60 and 47% response rate for participating firms and value submission, respectively, as indicated in Table 1.

## Analysis and result

The result of the survey shows that the claimants' ESVs solicited for briefs to represent the claimants in the compensation process, as attested to by 78% of the respondent claimants. The ESVs were engaged through letters of authority (something near "Power of Attorney") from their clients as acknowledged by 75% of respondents. The mandate of the ESVs included determination of compensation value of the compulsorily acquired properties and representation of claimants in the process until the actual payment of compensation amount (97% respondents).

Eighty-nine per cent (89%) of the respondents confirmed that the remuneration of the ESVs was agreed to be a certain percentage (ranging from 5 to 10%) of the compensation value. The claimants were less satisfied with the services rendered by ESVs in respect to the terms of the mandate given, as the compensation value from the claimants' ESVs was not accepted by the government who relied solely on the governments' ESVs values in the payment of compensation (as attested by 55% of respondents). In many cases, the government paid directly to the claimants circumventing the authorized ESVs (99%). This act of government resulted in claimants paying lesser fees than initially agreed to their ESVs (98%) and also at varying percentages of the amount paid by the government (77%).

77.15% of claimants confirmed that they were aware of the compensation value payable to them prior to the actual payment, such information being divulged to the claimants by the staff of the Land Bureau (the government department in charge of the compulsory acquisition), with 261 respondents affirming that there was a difference between their ESV's assessed value and the compensation amount. For about 68% of respondents, the difference

**Table 2.** Estimated margin of error at claimants' perspective.

Margin of error (%)	Frequency	Percentage (%)
0–10	3	00.80
11–20	7	01.88
21–30	19	05.11
31–40	21	05.65
41 and above	252	67.74
I have no idea	70	18.82
Total	372	100.00

Source: Authors field survey, 2014.

between their ESV's assessed value and the compensation amount is more than 41% of the assessed value, as shown in Table 2.

Table 3 compares the claimant's ESV's assessed value and the compensation paid, adopting the following basis:

- Estimated value = valuation estimate (as compensation value) by claimants' ESVs;
- Compensation paid = amount paid as compensation to claimants by the government;
- Gap in valuation (GIV) = difference between estimated value and compensation paid;
- Fee = professional fee (in %) payable to claimants ESVs based on estimated value;
- Expected fee = professional fee expressed in Nigeria Naira (NGN);
- Fee on amount paid = fee based on compensation amount paid to claimants (NGN);
- Actual fee = actual amount in Naira paid to claimants ESVs as fee;
- Value loss = GIV;
- Fee loss = difference between expected fee and actual fee.

Comparing the respondents' opinion on the margin of error with the margin of error (GIV) in Table 3 as supplied by the claimants' ESVs, 75% of the values indicated a margin of error above 40% as shown in Figure 2. Only 99 claimants (28%) received the compensation in the presence of their ESVs.

Significantly, ESV firms classified land, building, wall fence, forecourt and underground development as components for their valuation, but without any adopted uniform standard cost per square metre.

Further, claimants' ESVs disclosed that they had incurred substantial expenses in the pursuit and execution of the valuation to the extent of getting loans from their banks in the hope of repayment from their expected fees. Claimants' ESVs responses showed that the realized fee from the exercise could not offset the expenses they incurred, thus resulting in a substantial loss. The value-data analysis from Table 3 indicated the aggregate compensation value submitted by claimant's ESV's totalled N111,898,342, but the total compensation value actually paid by the government based on the Government valuers' recommended values was N60,314,663. This indicates an aggregate value gap of N51, 583, 679 (46.10%).

Further, the expected fee by claimant's ESV's based on their submitted assessed values for their clients summed up to N10,664,107, but the realizable fee based on the amount actually paid to the claimants was N5,745,111 being 46.13% less than the expected fee. The actual fee eventually received by ESV's from claimants amounted to N1,781,984, indicating a shortfall of N3,963,127 (68.98% on actual paid compensation value) and N8,882,123 (83.29% of the expected fee).

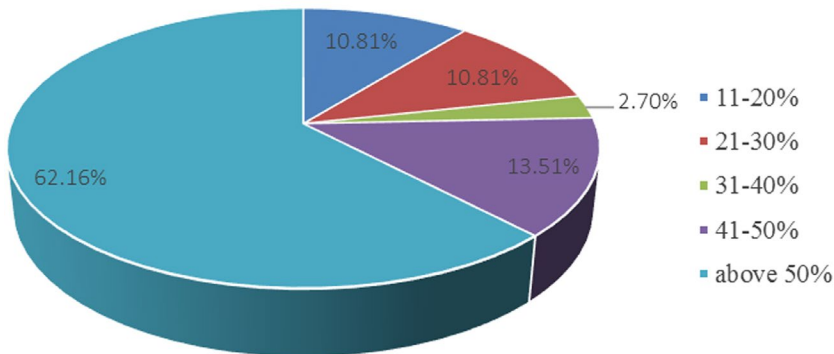


Table 3. Analysis of value-data collected from claimants' ESV.

SN	PIDN	Estimated value (NGN)	Compensation paid (NGN)	Fee (%)	GIV = value loss (NGN)	Fee on estimated value (NGN)	Fee on amount paid (NGN)	Actual fee paid to ESVs (NGN)	Fee loss (NGN)
1	S502	1,561,600	373,130	10	1,188,470	156,160	37,313	37,313	118,847
2	B506	2,116,160	940,000	10	1,176,160	211,616	94,000	94,000	117,616
3	B508	462,990	106,040	5	356,950	23,145	5,302	5,000	18,150
4	B453	9,074,590	3,202,000	10	5,872,590	907,459	320,200	160,000	747,459
5	S532	720,000	574,000	10	146,000	72,000	57,400	40,000	32,000
6	S518	1,142,512	572,500	10	570,012	114,251	57,250	57,000	57,251
7	B522	3,560,928	1,311,250	7.5	2,249,678	267,069	98,343	0	267,070
8	F706	842,400	213,000	10	629,400	84,240	21,300	20,000	64,240
9	S166	2,815,000	1,568,000	10	1,247,000	281,500	25,000	25,000	256,500
10	S67A	2,250,000	1,200,000	10	1,050,000	225,000	120,000	80,000	145,000
11	B215	569,760	52,000	10	517,760	56,976	5,200	5,200	51,776
12	FC164	385,550	122,850	10	262,700	38,555	12,285	10,000	28,555
13	B107	2,238,000	1,650,000	10	588,000	223,800	165,000	35,000	188,800
14	B397	921,856	750,000	10	171,856	92,186	75,000	70,000	22,186
15	B564	8,036,000	6,750,000	10	1,286,000	803,600	675,000	0	803,600
16	F310	264,000	98,480	10	165,520	26,400	9,848	10,000	16,400
17	B314	1,334,880	405,150	7.5	929,730	100,116	30,386	25,000	75,116
18	B1707	1,051,050	556,105	10	494,945	105,105	55,611	35,000	70,105
19	S313	4,800,000	3,740,164	10	1,059,836	480,000	374,016	150,000	330,000
20	S1389	469,404	210,756	5	258,648	23,470	10,538	0	23,470
21	BH225	300,000	120,000	10	180,000	30,000	12,000	12,000	18,000
22	B224	6,435,744	3,080,000	10	3,355,744	643,574	308,000	100,000	543,574
23	B1516	3,327,184	1,570,060	10	1,757,124	332,718	157,006	0	332,718
24	B1919	3,036,000	5,977,000	10	-2,941,000	303,600	597,700	0	303,600
25	B1428	9,697,736	3,629,150	10	6,068,586	969,774	362,915	180,000	789,774
26	B1669	1,051,050	732,550	10	318,500	105,105	73,255	73,255	31,850
27	B1707	721,188	605,000	10	116,188	72,119	60,500	50,000	22,119
28	S1647	7,134,255	4,552,104	5	2,582,151	356,712	227,605	25,000	331,713
29	B1364	534,810	2,888,664	10	-2,353,854	53,481	288,866	100,000	-46,519
30	B1679	2,214,576	938,204	10	1,276,372	221,458	93,820	40,000	181,458
31	FC1478	2,908,500	1,332,155	10	1,576,345	290,850	133,216	133,216	157,634
32	S1518	1,123,200	828,150	10	295,050	112,320	82,815	50,000	62,320
33	B223	12,796,877	5,882,316	10	6,914,561	1,279,688	588,232	0	1,279,688
34	FC876	956,875	411,000	10	545,875	95,688	41,100	20,000	75,688
35	B852	2,614,997	945,330	10	1,669,667	261,500	94,533	50,000	211,500
36	B868	1,781,220	413,955	10	1,367,265	178,122	41,396	10,000	168,122
37	B1534	10,647,450	2,013,600	10	8,633,850	1,064,745	201,360	80,000	984,745
	Total	111,898,342	60,314,663		51,583,679	10,664,107	5,745,111	1,781,984	8,882,123

Source: Authors' field survey (2014).

## Margin of Error



**Figure 2.** The margin of error in compensation value (GIV).

Ironically, two claimants were paid compensation value far above the valuation estimate from their ESVs. Item 24 claimant was paid N5,977,000 against the valuation estimate of N3,036,000, showing 96.89% higher. Similarly the claimant for item 29 was paid 440% higher (N2,888,664 instead of N534,810 estimated by the ESV). The claimant in item 24 still refused to pay the fee of the ESV.

### Discussion of findings

Ogun State Government was statutorily empowered to compulsorily acquire property for an overriding public interest through the Land Use Act 1978. The Act also provided that the owners of the compulsorily acquired property be promptly compensated and compensation value (as prescribed by the Estate Surveyors and Valuers Act of 1975) be determined solely by professional ESVs.

Affected property owners were expected to be better compensated for the loss of their properties when they were allowed to be represented by the professionals. While the Government benefits from the provisions of the legislation, it appears to prevent the claimants from benefitting from their legislative rights – most of the affected properties were demolished by the government before paying the compensation to the claimants and most of the claimants are yet to be compensated.

As evaluated by the claimants, a value gap of more than 41% was noted and the analysed data indicated a value gap of 46.10%, being a disconcertingly wide margin. Both Table 2 and Figure 2 indicate that the margin of error in the compensation valuation for the Ogun State compulsory acquisition of property in 2012 is beyond the acceptable error margin of 5–20% indicated in the literature (Babawale, 2014; Ogunba & Iroham, 2010; Ogunba & Ojo, 2007).

The consulting ESVs made considerable effort to secure the power of attorney to represent their individual clients, the claimants, in the compensation process with the hope of making legitimate fee income as recognized by law. Some of them made extra financial commitments to pursue the compensation work with an expectation of recouping and having a better income at the end of the exercise. Ironically, the ESVs of both the claimants

and the government are professional colleagues and members of the same professional institution (NIESV), yet there is a wide discrepancy in their value estimates as their source of their briefs is different.

This wider gap noted by the claimants coupled with the adverse comments about ESVs made by government officers prompted claimants to not adhere to the agreed basis of remuneration but to reduce the rate by an average of 31.02% of the agreed 6–10% of compensation received. Consulting ESV's lost fees of 83.29% due to the value gap while 68.98% was lost due to the Government officials' adverse remarks about the ESVs.

The study findings indicate that the claimants ESVs charged 10% of the compensated value in line with Federal Government approved scale but claimants, in some cases, negotiated the scale to as low as 5%, with the actual fee paid being further reduced and in few cases not paid at all or at a nominal amount as remuneration for the ESVs' professional service.

Accordingly, the urban regeneration exercise by the Ogun State Government has created negative micro and macroeconomic impacts on the claimants, their ESVs and the local economy, when viewed through the lens of the employment rate, national income and investment aggregate as well as supply and demand of housing stock. The total value of the acquired and demolished buildings at N111,898,342 is far more than the value of the entire compensated sum of N60,314,663. This suggests a negative impact on the economic position of the claimants, the participating ESVs and the nation.

There would appear to be a condition of disequilibrium between the stock variable (capital stock – which in this case is the destroyed houses) and the flow variable which are the benefits and utilities derived from the constructed roads. Apart from the fact that the compensation is grossly inadequate and not promptly paid, most of the claimants lost their established businesses and goodwill because most of the acquired properties were used for commercial purpose. In addition, some of the destroyed properties were managed by ESVs which indicates a reduction in their source of management income too. The realized and expected income (fees) by claimants' ESV's has not and cannot compensate for the reduction in the management income coupled with the initial expenses incurred on the compensation valuation and representation exercise. Accordingly, this was not a good venture for the participating ESV's.

## Conclusion

The Land Use Act of 1978 created a relationship between the government and the real estate professionals. The study found that the Ogun State government exercised its powers and benefited from the public land acquisition and compensation as provided in the Act but at the detriment of the real estate profession in Nigeria. The professionals were not only denied their reasonable professional fee in the state's road expansion project, that lead to the compulsory property acquisition and the compensation process, but they were also divided as one group represented the government and one group represented the compensation claimants without uniformity in assessment.

The research findings suggest the need for leadership of the profession in Nigeria to develop a standard methodology of assessment in line with the provision of the enabling law – the Land Use Act of 1978. Due to the subjectivity of opinion on value estimates, variation in value estimates is not unexpected. Nevertheless, two or more valuers in their assessment of same interest in a property for same purpose at the same time should be

expected to arrive at similar or insignificantly different value estimates, especially if they follow the same method and use the same set of data. However, this is found to not usually be the case in Nigeria, subjecting the real estate profession to a state of embarrassment. In the absence of a standardized methodology for compensation valuation, the credibility of the valuation exercise and the profession will be called into question by the government and the general public which may result in litigation.

In order for the opposing ESVs to be fair and honest in the discharge of their duties and to solve the problem of value gap, valuation standards and adherence is required. While efforts are being made to create a databank for property values by NIESV, efforts should also be directed towards having access to other related data for analysis such as building costs, interest rates, rate of return and risk. NIESV, as the professional body for ESVs, should provide guidance on an acceptable value gap for its professional members. This should permit a tolerable margin of error in the values to be arrived at by the opposing ESVs when the yardstick for the determination of value is statutorily stated. Efforts should be made to rebuild public confidence in the services of ESVs, such as through the reduction of the wide valuation gap found in the land acquisition and compensation system in Nigeria.

## Disclosure statement

No potential conflict of interest was reported by the authors.

## References

- Ajayi, C. A. (2007, 18th October). *Land policy reform (proposed review of L.U.A.) and economic empowerment' problems and prospects*. Paper presentation at CPD Workshop organized by Ogun State Branch of NIESV at NUT Hall, Kuto, Abeokuta.
- Ajayi, C. A. (2009, January–June). *International valuation standards as they apply in the use of the investment method of valuation and in mortgage valuation*. A paper presented at the National CPD in Lagos 2009 and published in *The Estate Surveyor & Valuer* vol. 32, no. 1, 7–17.
- Alias, A., & Nasir Daud, M. D. (2006). Payment of adequate compensation for land acquisition in Malaysia. *Pacific Rim Property Research Journal*, 12, 326–349.
- Aluko, B. T. (2012, Thursday 8th November). *The roles of professionals in land acquisition and compensation in Nigeria*. A paper presented at the NIESV Ogun Branch Business Luncheon held at Ogun State Housing Corporation Hall, Ibara, Abeokuta.
- Babawale, G. K. (2014, 4th December). *The effects of government legislations on the practice of estate surveying and valuation in Nigeria*. Being paper delivered at the MCPD of NIESV Ogun state branch held at DLK Events Centre, Abiola way, Abeokuta.
- Bailey, P. & Clough, P. (2009). *Compensation for transmission infrastructure: A report presented to the Federal farmers*. New Zealand Institute of Economic Research (NZIER): New Zealand.
- Bello, O. M. (2013, 7th November). *The impacts of cosmetic urban renewal on accessibility of land and social infrastructure in Nigeria*. Being paper presented at NIESV Ogun State branch mandatory continuing professional development seminar held at DLK Events Centre, MKO Way, Abeokuta.
- Chan, N. (2008, 20–23 January). *How Australia deals with land acquisition compensation for land subject to a leasehold title*. Paper presented at the 14th Pacific Rim Real Estste Society Conference, Kuala Lumpur, Malaysia.
- Estate Surveyors & Valuers Registration Board of Nigeria. (2014). *Approved Scale of professional Charges for Professional Valuers*. December 2014 edition.
- Famuyiwa, F., & Omirin, M. M. (2011). Infrastructure provision and private lands acquisition grievances: Social benefits and private costs. *Journal of Sustainable Development*, 4, 169–180, Published by Canadian Centre for Science and Education.

- Federal Republic of Nigeria. (1975). *Estate surveyors and valuers (Registration etc) Act, CAP E13, laws of the Federal Republic of Nigeria*. Lagos: Federal Government Press.
- Federal Republic of Nigeria. (1978). *Land use decree (now Act) of 1978*. Lagos: Federal Government Press.
- Federal Republic of Nigeria. (1990a). *Oil pipeline Act (Cap 338) of the Federal Republic of Nigeria*. Lagos: Federal Government Press.
- Federal Republic of Nigeria. (1990b). *Petroleum Act (Cap 350) of the Federal Republic of Nigeria*. Lagos: Federal Government Press.
- Federal Republic of Nigeria (1999). *Constitution of the Federal Republic of Nigeria*. Lagos: Federal Government Press.
- Iroham, C. O. (2007). *The influence of valuers and valuations in the workings of commercial property investment in Lagos Metropolis* (Unpublished M.Sc Thesis). Submitted to Department of Estate Management, Covenant University, Ota, Nigeria.
- Kakulu, I. I., Bryne, P., & Viitanen, K. (2009, May). *Phenomenological research in compulsory land acquisition and compensation: Surveyors key role in accelerated development*. Being a paper presented at the FIG Working Week 2009 Eilat, Israel.
- NIESV. (1998). *“The Forward”. Guidance notes on Property Valuation, Estate Surveyor and Valuer*. Lagos: The Nigerian Institution of Estate Surveyor and Valuer (NIESV)
- Nuhu, M. B. (2006). Compulsory acquisition and compensation of land in Federal capital territory Abuja (A case study of University of Abuja Permanent site). *Journal of Environmental Technology and Science (ETSJ)*, 1.
- Nuhu, M. B. (2007). *Compulsory acquisition and payment of compensation in Nigeria: A case study of the Federal Capital Territory (FCT) Abuja*. Being a paper presented at the FIG Commission workshop on compulsory purchase and compensation 6th–8th Sept, 2007 at Helsinki University of Technology, Espoo, Finland.
- Ogunba, O., & Ojo, O. (2007, January–June). Resolving reliability, consistency and rationality problems of professionally prepared valuations in Nigerian practice. *The Estate Surveyor & Valuer Journal of NIESV*, 30, 39–48.
- Ogunba, O. A., & Iroham, C. O. (2010). A search for an acceptable margin of valuation error: A case study of valuers and their clients in Nigeria. *Sri Lankan Journal of Real Estate, Journal of the Department of Estate Management and Valuation University of Sri Jayewardenepura*, 4, 54–73.
- Omuojine, E. O. (1999). The land use act and the English doctrine. *Estate Surveyors and Valuers Journal of NIESV*, 22, 54–56.
- Plimmer, F., & Dubben, N. (2003, 2–5 December). *The land of make believe: An overview of the assessment of compensation for land taken in compulsory acquisition in the United Kingdom*. Paper presented at the 2nd FIG Regional Conference, Marrakech, Morocco.
- Singer & Friedlander Ltd Vs John D. Woods & Co. (1977) 2 ENGLR 8.
- Vaughan, D., & Smith, L. C. (2014). An Introduction to compulsory purchase valuation principles spanning 150 years. *Journal of Building Survey, Appraisal and Valuation*, 3, 184–189.
- Viitanen, K., & Kakulu, I. (2009). *Global concerns in compulsory purchase and compensation processes*. Paper synthesising the issues addressed at an International Seminar on Compulsory Purchase and Compensation in Helsinki, Finland, 6–8 September 2007.