



- 6 JUNE 2013

Recipients :.....SPD.....
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.....No. 144/2013

The Permanent Mission of the Federal Republic of Nigeria to the United Nations Office and other International Organisations in Geneva presents its compliment to the Office of the High Commissioner for Human Rights and has the honour to refer to the latter's letter of 26 February 2013 with the subject "*Communication from Special Procedures Allegation Letter AL Housing (2000-9) NGA 1/2013*". The letter conveyed an allegation from the Special Rapporteur on Adequate Housing that the Lagos State Government had demolished 30 houses in the Oke-Ilu-Eri area of Badia East in Lagos State, Nigeria.

The Mission wishes to convey verbatim, the response of the Government of Lagos State of Nigeria, as follows in italics:

The Affected Area

The Badia community in the Apapa Iganmu Local Council Development Area of Lagos State is one of the nine (9) identified slum areas earmarked for regeneration/renewal under the World Bank funded Lagos Metropolitan Development and Governance Project (LMDGP). The Particular area now in question is only a small part of a 14 hectares block within the Badia settlement which was earlier cleared of all structures in 2003. It was a swampy portion now filled with refuse and the least built up of the entire community.

The 2003 clearance was then intended to pave way for the construction of a network of roads and drains, Lagos light rail project other social amenities planned by the administration of the then Governor of Lagos State, Asiwaju Bola Ahmed Tinubu and notice of demolitions was duly served. The same area which is in issue now was therefore totally cleared of all buildings in the earlier exercise before its gradual reoccupation.

It had however been subsequently filled up with refuse, having been used as a refuse dump since it was first cleared and Lagos State Government could not provide the funds to immediately begin

construction. A few planks and shanty structures were put up there by people whose origins could not be ascertained. (Annex 1)

General Redevelopment Plan

Sometime in 2005, the Lagos State Government (LASG) enumerated the households that were in the larger Badia Community, which included families that had built physical structures. A total of 477 households were recorded during the exercise. LASG policy is still to resettle these identified households when the phased redevelopment effort eventually reaches their location, i.e., if and when they are displaced. For that reason, the master plan of the entire area already has 2 hectares of the portion that was cleared 2003 designated as resettlement area. The intention is to redevelop the entire area by a gradual process and to provide mass housing for displaced persons in the resettlement area.

Recently Affected Persons

The persons affected by the recent exercise had no property rights to the land and no structure was ever approved by the Lagos State Town Planning Authorities for development there. Prior to the clearance effort, the community had put up temporary structures on the refuse dump which grew gradually into a small community characterized by all the negative features of urban slum settlement, including unstructured shelter arrangements, wooden pallets, regular flooding, unhealthy environment, insecurity and people engaged in all sorts of nefarious activities.

The Current Plan

In line with Lagos State policy on the provisions of estates with infrastructure facilities at concessionary rates for residential, industrial and commercial development, Lagos State has embarked on the development of 1,008 Housing Units beginning in the recently cleared area to assist her citizenry in meeting their shelter aspirations and to replace the unstructured shelters and shanties hitherto inhabited illegally in the area.

The development had to be implemented in phases and, accordingly, demolition began in the least populated area, seeing that

the area was earlier cleared as far back as 2003 and later filled with refuse and has no stable buildings.

Notification and Sensitisation:

Having earmarked the area for redevelopment, and in a bid to sensitise the occupiers, the current Governor of Lagos State, Mr. Babatunde Raji Fashola, SAN personally led other Senior State Officials to visit the area and discuss our plans with the occupiers on the 26th of April 2009 and again on the 12th of October 2012. Afterwards, several stakeholders' meetings were held between the Lagos State Government, the Ancestral Land Owners (Ojora's Family), traditional rulers and residents' representatives in the community concerning Lagos State Government's intention to regenerate the area, and to curb the menace of insecurity and threat of terrorism emanating from the area.

In view of the type of structures placed illegally and without approval in the cleared area, the law only required an abatement notice to occupiers, which was issued to them through the community leader. (Annex 2).

Necessity for Government Action

As indicated during these meetings, the necessity to clear the affected areas was in furtherance of Lagos State Government's larger responsibility to the general public which may not be readily appreciated by reference to a single project or a single community. It was also made clear that welfare, health, safety, security, etc of the greatest number was paramount and that Lagos State Government had an obligation to enforce its laws and discourage illegality. In this particular instance, it was necessary for Lagos State Government to take action in view of the health, security and environmental problems in that area, especially the dumping of refuse that is eventually carried into the drains. With heavy rains expected this year, Lagos State Government has to take steps to minimize the prospects of destructive flooding. (Annex 3).

The Issue of Compensation

Lagos State Government takes its compensation obligations seriously and has recently paid over N1.025 billions to persons whose properties were demolished to make way for the expansion of the Orile-

Badagry, Ikorodu, Ago Palace roads as well as the Lekki/Epe Airport project, and the resettlement project for the Free Trade Zone, among others. The Lagos State Government has and implements standard processes for compensation if and when required.

The removal of encumbrances for infrastructural development, including rights of way for roads and drainages is also not peculiar to Badia alone as similar steps were taken at Orile, Bariga, Ajegunle and so on, which are also some of the identified slum areas that fall under World Bank assisted Lagos Metropolitan Development Governance Projects (LMDGP) and where infrastructural developments are now taking place. Compensation and resettlement plans are always implemented where appropriate.

However, Lagos State Government has a policy of not paying compensation to trespassers or for illegal developments. Among other reasons for this is the need to discourage such practices, but it is pertinent to note also that once Government begins to pay for illegal developments, it will have to do so in all other cases. Government has no financial means of achieving this within the very limited resources available to it.

In this regard, it is worthy of emphasis that the particular area in question now was previously secured for developmental projects and never approved for any kind of occupation or use by the recent evictees. Persons affected had no interest in the land and were either trespassers or illegal squatters. They did not possess any title and the terrain was clearly uninhabitable. That notwithstanding, the State Government has decided that affected persons who are interested will be considered first in the allotment of low cost houses when the project is completed.

Apart from the globally acknowledged power of eminent domain which allows acquisition of any land for larger public interest, the Nigeria Land Use Act (Decree No. 6 of 1978) and the 1999 Constitution, vests the administration, management and control of land in Nigeria on State Governors who hold them in trust for the people.


Conclusion

Lagos State Government remains committed to its legitimate obligation to pay compensation and, aside from those in the 477 earlier enumerated, if anybody else is able to establish any legitimate interest

established over the cleared area, Government will recognize such rights and pay whatever is due in consequence.

In view of the above facts, the report of the Special Rapporteur on allegations of demolitions and forceful eviction of residents in Oke-Ilu-Eri Area of Badia did not give a true and complete picture of what transpired.

As a responsive Government, we will continue to make and implement policies that will positively affect the lives of our citizenry and fulfill our electoral promises while managing the impact on persons who may be adversely affected by the process.

The Permanent Mission of the Federal Republic of Nigeria to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, the assurances of its highest consideration. 

Geneva, 6 June 2013

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