

THE POTENTIALS AND PERILS
OF PUBLIC URBAN LAND OWNERSHIP AND MANAGEMENT:
A CASE STUDY OF THE LAGOS EXECUTIVE DEVELOPMENT BOARD
(NIGERIA) 1928-1972

by

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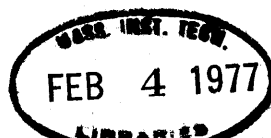
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Abstract

THE POTENTIALS AND PERILS OF PUBLIC URBAN LAND OWNERSHIP AND MANAGEMENT A CASE STUDY OF THE LAGOS EXECUTIVE DEVELOPMENT BOARD (NIGERIA) 1928-1982

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Donatus C.I. Okpala

This Thesis evaluates the potentials and perils of public involvement in urban land management in the Nigerian setting. This is done by way of a critical examination of the operations of the Lagos Executive Development Board (LEDB) which was an instrument of such public involvement.

The Thesis postulates that the realization of the supposed potentials of public urban land ownership and management are not necessarily achieved simply because land is publicly owned or managed. That the degree of success of realization of these potentials depends essentially on what form the public ownership and management take; on the nature and character of the society involved; on the structure and characteristics of the traditional land tenure system involved; on the quality of the personnel involved in the public administration, as well as on the condition of the exercise of such public authority in the process of this management.

This evaluation of the potentials and perils of the public role in urban land management is carried out by (i) identifying and characterizing the Nigerian traditional land market as the setting for this public involvement; (ii) identifying and characterizing the role that the Lagos Executive Development Board (LEDB) as a public urban land management and development agency has been playing in the area of urban land management and development; (iii) determining the effectiveness and consequences of such a role or policy; and (iv) assessing the desirability of such consequences and discussing alternative goals, policies, and strategies for improved performance.

From the results of this evaluation, the conclusions are that the Board was to a large degree successful in improving the infrastructural facilities in Lagos, in bringing more land into use and development, and in producing some classes of housing; but that the beneficiary distribution of these resources and facilities tended to be biased in favour of the middle and upper classes of the urban society.

In the course of its operation, the extent of the Board's performances were greatly inhibited by three main factors, viz.:

- (a) The peculiar indigenous land tenure structure which in many cases tended to frustrate the Board's development plans and projects by making it difficult for the Board to acquire the lands needed for such projects.
- (b) The perennial financial weaknesses of the Board, which arose out of the various constraints placed on its financing mechanisms and sources. This inadequacy of funding was a very real weak link in its chain of operation and success.

- (c) Above all, problems of management skills and administrative inefficiencies on the part of the Board, especially in its later years, had much to do with the failures or weaknesses that could be attributed to it. These problems were more transparent in the manner the Board dealt with people whose lands got acquired, in compensation assessments and payments, and mostly in the allocation or disposal of acquired and developed lands, and in its forms of housing developments.

Its problems and failures notwithstanding, the concept of the Board is still useful and desirable, if its management skills and administrative efficiency can be improved.

Thesis Supervisor: Ralph A. Gakenheimer

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TABLE OF CONTENTS

Abstract	i
Acknowledgements	iii
List of Tables	viii
List of Charts and Figures	xi
List of Appendices	xi
<u>Chapter One:</u> Introduction	1
1.1 Land in the Urbanization Process	1
1.2 Urban Land Management: The Opposing Views	3
1.3 The Real World Situation	12
<u>Chapter Two:</u> Urban Land Markets in Nigeria: Structure and Characteristics	22
2.1 Characteristics of Land Markets in the Southern States of Nigeria...	24
2.2 The Response of the Government or Bureaucracy to the Traditional Land Tenure System	41
2.3 The Response of the Courts to the Traditional Land Tenure	47
2.4 The Disadvantages of the Traditional Land Tenure in Urban Development	54
2.5 Desirable Features of the Traditional Land Tenure System	63
<u>Chapter Three:</u> Public Involvement in Urban Land in Nigeria: Framework and Rationale	67
3.1 Sovereign Powers of the State Over Land	67
3.2 Conditions for Compulsory Acquisition	74
3.3 The Attitude of Colonial Administrators to the Land Tenure and Acquisition Problems	80

<u>Chapter Four:</u> The Lagos Executive Development Board (LEDB) and Urban Land	93
4.1 Background to the Origins and Functional Orientation of the LEDB ..	95
4.2 The Constitution and Evolution of the Powers and Functions of the Board and its Relationship to the Lagos City Council	104
4.3 Application of Compulsory Acquisition Powers by the Board and the Problem of Land Tenure	116
4.4 The Funding and Finances of the LEDB	129
 <u>Chapter Five:</u> LEDB Land Acquisitions: Patterns and Processes	 163
5.1 Modes of Land Acquisition	164
5.2 The Process of Land Acquisition	169
5.3 Problems of Compensation Assessment and Payment	176
5.4 People's (Land Owners') Perception of Adequate Compensation versus Legally Defined Adequate Compensation	194
 <u>Chapter Six:</u> LEDB: Land Supply and Price	 202
6.1 Land Supplies	203
6.2 Forms of Tenure in the Supply Process	214
6.3 Problems in Objective Land Price Determination	226
6.4 Sector Price Comparisons	231
6.5 Land Prices Determination in LEDB Schemes	235
6.6 Comparison of LEDB Land and Housing Costs with those of Other Public Land Management Agencies (In Other Countries)	246
 <u>Chapter Seven:</u> The Character of LEDB Land and Housing Developments and the Criteria and Processes of their Allocations: Distribution- al Implications for Accessibility among Income Groups ..	 253
7.1 Criteria and Processes of Beneficiary Allocation	254

7.2	Lagos: Employment and Income Distribution Structure	266
7.3	Patterns of Beneficiary Distributuion among Socio-Economic Groups ..	279
7.4	The Character of LEDB Land Development and its Impact on Urban Land and Housing Supplies and Accessibility	291
<u>Chapter Eight: Summary and Conclusions</u>		314
8.1	Impacts of the LEDB on Urban Land Development in Lagos	314
8.2	Public Urban Land Management: Efficiency, Impact and Equity as Guiding Criteria and Measures of Effectiveness	323
8.3	Comparative Performance Evaluation of Three Modes of Land Control and Management	327
8.4	Improving the Effectiveness of the Board (Public Management): Some Suggestions	335

LIST OF TABLES

Table	Page
2.1 Responses on Methods of Acquisition and Disposal of Land in Nigeria (Expressed in Percent)	30
2.2 Trends in Land Transfer Transactions as Proxy for the Rate of Change of Cultural Attitudes Towards Land Matters in Urban Areas	32
2.3 Ethnic Group of Nigerians in the City of Lagos (1963)	37
2.4 Ethnic Origins of Landlords in Lagos Residential Areas	39
2.5 Progress of Land Title Registration	44
2.6 Housing Conditions in Selected Urban Centers in Nigeria	59
2.7 Lagos: Subsidiary Use of Residential Buildings	61
4.1 Classification of Houses in Lagos Island According to Quality, May 1946.	97
4.2 Structural Conditions of Residential Buildings in Lagos, 1967	99
4.3 Housing Conditions in Lagos, 1946 and 1967/70 Compared	99
4.4 Capital Expenditure and the Revenue Income of the LEDB 1929-1966	131
4.5 Areal Size and Expenditure Size Distribution of LEDB Projects by Type, Up to 1966	133
4.6 Sources of LEDB Capital Financing: Percent of Total Capital Funds from Each Source	137
4.7 LEDB Income from Capital Works (GDE) and the Board's Running (Recurrent/Operating) Expenses 1959/60-1964/65	141
4.8 Sources and Amounts of Loans Secured by the LEDB up to 1966	145
4.9 LEDB: Trend and Scale of Allocation of Land to Use Types	151
4.10 Government Sponsored Schemes and the Board's Sponsored Commercial Schemes as a Percentage of the Total Capital Works Executed by the LEDB 1959/60 - 1964/65	154
4.11 LEDB: Spending Plan on the Development of Residential and Industrial Estates	156

Table		Page
5.1	The Trend and Modes of LEDB Land Acquisitions 1931-1972	166
5.2	Acquisitions and Claims for Compensation	178
5.3	Suits Against LEDB Land Acquisitions 1957/58-1962/63	179
5.4	The Divergences between LEDB Compensation Assessments and the True Value of Lands	187
6.1	The LEDB: Share in the Urban Land Supply Market	205
6.2	Lagos: Ratio of Building Completions to Building Applications	206
6.3	LEDB Produced Houses as a Proportion of all Houses Produced in Lagos 1957-1970	207
6.4	Composite Projects of the LEDB	212-213
6.45	Sources of Existing Housing Finance in Nigeria (1966) and the Structure of Beneficiaries	220
6.5	Fee Payable under Titles for Conveyances, Assignments and Transfers	229
6.6	Comparative Prices of Land: LEDB and the Private Market	233-4
6.7	Increases in Prices of LEDB Land Sold to the Public 1959-1970	238
6.8	Land Prices in the Different "Markets" (In shillings per square yard)	241
6.9	Relative Cost Proportions of Land Development Elements in LEDB Schemes	244-5
6.10	The Weight of Land in Housing Costs	247
6.11	Cost of Basic Construction, Land Servicing and Raw Land as Percentage of Total Housing Cost for Low and Moderate Income Housing in Selected Cities	249
7.1	LEDB: Target Beneficiary Groups in Public Urban Land Projects	256
7.2	Occupational Groups in Lagos 1950 and 1963	268
7.3	Lagos: Employment of Adult Males 15 Years and Over, 1961	269
7.4	Lagos: Basic Income Distribution Structure	271
7.5	Lagos Consumer Price Index 1966-1972	274

Table		Page
7.6	Percentage Annual Variations in Consumer Prices (Lower Income Group) 1960 to 1975	276
7.7	Annual Rents Paid by the Federal Government for Rented Accommodation in Lagos in 1975	276
7.8	Distribution of LEDB Housing Units and Expenditures According to Beneficiary Income groups	281
7.9	Beneficiary Distribution of LEDB Plots among Socio-Economic Groups	285
7.10	Profit Scale in the Re-Sale of Publicly (LEDB) Allocated Lands	287
7.11	Character and Types of LEDB Housing Development	295-6
7.12	LEDB: Analysis of Cost for Site Acquisition and Development	298
7.13	LEDB Actual Densities or Forms of Development Compared with Possible Densities, as Index of Efficiency	299
7.14	Lagos Housing Conditions 1952/53 - 1972	301
7.15	Lagos: Number of Dwellings and Rooms by Persons per Room	303
7.16	Types of Dwellings in Lagos Residential Areas (% Distribution)	305
7.17	Lagos Housing Programme and Targets: 1962-1968	308
8.1	Performance Ranking of Three Systems of Urban Land Management and Control	328

LIST OF CHARTS AND FIGURES

<u>Chart and Figure</u>	<u>Page</u>
Fig. 2.1 Conceptual Diagrammatic Comparisons of Land Ownership Distribution Patterns across Socio-Economic Strata in Three Land Tenure (Market) Systems	64
Chart 4.1 Capital Expenditures and Revenue Income of the LEDB (1929-1966)	132
Chart 7.1 Lagos: Income Distribution Structure, 1962	273
Chart 7.2 Density in Dwelling Units per Acre	293
Fig. 8.1 Effect of LEDB Schemes on the General Movement of Land Prices (Conceptual)	321

APPENDICES

3.1 A Typical Public Land Acquisition Notice	92
4.1 Housing Standards in England (Used for Measuring Nigeria's (Lagos') Housing Standards, 1945	161
4.2 Classification of Houses in Lagos Island -- Explanation of Classification Categories	162

Chapter One

INTRODUCTION

1.1 Land in the Urbanisation Process

As countries become more and more urbanized, the issue of the efficient management of their urban land resources becomes more critical. With increasing urban populations and their increasing need for housing, the changing needs of production processes, with changes in the transportation and communications technologies and systems, the intensification of migration and rapid household formations, and with greater demands for higher space standards, cities are experiencing acute problems in providing adequate supplies of land to satisfy these needs and demands at the right places and at the right times.

While these demands for urban land continue to grow, however, its supply is both genuinely and artificially limited. This arises from the fact that supply and location of land is generally fixed, so that increased demands can in many cases only be met by intensification of use, but intensification of use often brings about problems of congestion which can give rise to serious social costs and other negative externalities that adversely affect the environment.

Increased demand for urban land is also often reflected in higher land price and higher prices lead to expectations of continued price rises, and thus to hoarding and speculation, thus further limiting the availability and accessibility of land facilities to an increasing proportion of urban residents.

The problems of urban land shortages are in some parts of the world further complicated by social and political attitudes and cultural norms towards land ownership

and control of transfers. Where, for example, communal, group, or even individual rights of ownership are highly regarded, it can be difficult for public authorities to exercise control and management over them in the social interest. This is particularly so where there is, as in Africa in general and in parts of Nigeria in particular, a long tradition of family and communal land ownership system, based not necessarily on land's economic significance, but rather on deeply held socio-religious and even ritualistic beliefs. In such cases, the problems are complicated by the inability of traditional land owners to develop their land in a manner that will not detract from the general environmental good, and also by their reluctance to make such lands available to the government or to private developers to develop in a more efficient ("socially desirable") way.

Land related questions lie at the roots of most national urban growth and development problems and policies. Land related issues, for example, affect the distribution of population, the distribution of jobs, housing, and infrastructural services, as well as mechanisms for controlling the growth of cities.

The significance of land derives from the very wide and important ramifications which its ownership and control has for the individual and for society.

Land ownership and control is a source of power in many societies. It is also the ultimate platform for almost all of man's everyday activities, and as a result, he who controls the land can in many ways affect the way people use the land. Land, too, is a great source of wealth, particularly in the urban areas where such wealth comes through rents and the rapid land value appreciation due to various external influences, not necessarily connected with any expenditures or investments by

the land owners themselves.

Land, too, is the base of man's home, and the deep-seated, almost primeval desire of people for security and safety within their home is often inseparable from ownership and control of some piece of land.

Because of its significance and implications, the manner of ownership and control of land has to a large extent epitomised the political controversy and struggle between "the right" and "the left" through most of modern human history. On the one hand, it is argued that the freedom of the market in land reflects a basic belief in the efficiency of the market to best allocate scarce resources; on the other hand, there is a recognition that if social needs are to be given over-riding priority, then land must be vested on the State, who, it is envisaged, would use it in the most socially advantageous manner.

A brief review of the arguments in this controversy will provide some relevant setting for this study.

1.2 Urban Land Management: The Opposing Views

Two opposing views are distinct, with respect to the systems of control and management of land, namely: (i) that which advocates the total nationalisation or complete public ownership of urban land and the enforcement of stricter planning controls; and (ii) the "market" view, which espouses a non-public interference policy in urban land questions, and little or no planning controls. To this group, economic forces should be left to allocate land to its "best" uses, "best use" here meaning the most profitable use.

(i) Public Ownership of Urban Land

One of the strongest advocates of public ownership of urban land in recent years is the Cambridge (England) Group.¹ They argue for public ownership of land on the grounds that it will "transfer the undeniable benefits of ownership of land

¹ Jack Brocklebank, Nicholas Kaldor, Joan Maynard, Robert Neild and Oliver Stutchbury: The Case for Nationalising Land, Campaign for Nationalising Land, London, September 1973.

from the hands of individual capitalists to the community as a whole". They cite and believe in the argument of J.S. Mill² that, "The ordinary progress of a society which increases in wealth, is at all times to augment the incomes of landlords; to give them both a greater proportion of the wealth of the community, independently of any trouble or outlay incurred by themselves. They grow richer as it were, in their sleep, without working, risking, or economizing." And like Mill, they ask, "What claim have they on the general principle of social justice, to this accession of riches?" It is further argued that public ownership of urban land would "secure consistency and continuity in framing and executing a national policy with respect to the use and development of land" (Buchanan, 1972).³ They insist that exclusive or even primary reliance on the private market mechanisms always exacerbates a number of social problems. Firstly, that accessibility to land is not neutral, and therefore it favours those who enter the marketplace with more money. This leads to the exclusion of the poor from the market, and consequently results in a society increasingly segregated along economic lines. Secondly, the allocation of land according to the test of the market tends to neglect broader societal desirable objectives which have no dollar values placed on them,⁴ but which nevertheless are very vital for the peace and stability of the society.

² J.S. Mill, Principles of Political Economy, Book V, Ch. 2, para. 5.

³ Professor Sir Colin Buchanan: The State of Britain, Chichele Lectures, 1971. Oxford University, Faber and Faber, 1972, p. 20.

⁴ Arthur P. Solomon: "The Effects of Land Use and Environmental Controls on Housing: A Review". (Working Paper No. 34, Joint Center for Urban Studies of M.I.T. and Harvard University, Cambridge, Massachusetts).

The related concept of urban land banks⁵ has become very current in recent years. Because of the importance of land, particularly urban land, and because of its basic characteristics of apparent lack of substitutability, immobility, and inflexibility in quantity, high prices, and its susceptibility to speculation and all its consequences, it has often been suggested that National Governments and Municipal Authorities should acquire all lands in and around all major cities, hold it and allocate it as is needed to different uses and users -- private and public, in a manner consonant with the best needs of the society and smooth functioning of the environment.

It is argued in favour of this public land banking or land reserve system that it makes for: (i) easier access to land for development when and where it is needed; (ii) better distribution of private land wealth as the State has the potential of maintaining a fairer distribution of such resources; (iii) security of tenure; (iv) increased efficiency of land management through better planning of land use; and (v) control of land values.

In the Nigerian context, for example, it has been suggested that public ownership would confer on the State a kind and extent of control which it cannot other-

⁵Harvey L. Flechner: Land Banking in the Control of Urban Development (Praeger Special Studies Publication); Charles M. Haar: Wanted: Two Federal Levers for Urban Use - Land Banks and Urbanks (U.S. Congress, House Committee on Banking & Currency, June 1971, p. 928); Stuart C. Myers: Investment Policy for Land Banks (Urban Land Research Analysts Corp., Monograph #4); and various other publications on the subject by this Corporation; Wm. A. Doebele: A Commentary on Urban Land Policy in Sweden (Draft IBRD Discussion Paper, 1974).

wise have through its ordinary powers of legislation.⁶ With this control, it is argued, the State can try to achieve certain social objectives with respect to land, namely:

- (a) Greater social justice in the distribution of land. By its power to grant occupancy rights, as in the Northern States of Nigeria, the State can ensure that land is fairly and equitably distributed among the people. It can also impose restrictions as to the amount of land an individual can have at a time; or to what use such land should be put.
- (b) Since under State ownership of land, everybody is a tenant of the State, those who hold land, it is often argued, will have in many cases to pay rent to the State. This means that it is the State, and not private land owners who get the income from land. The State, it is hoped, will then apply this income for the benefit of the whole community or society. In this way, those who hold no land at all will also indirectly benefit.
- (c) The State can check the incidence of land speculation, which in areas of population pressure has become a positive evil, some of whose consequences include: (i) division of the society into a landed and a landless class; (ii) encouragement of absentee landlordism, with all its exploitative tendencies; (iii) enabling the speculator to get unjustly enriched from the government's planning schemes which increase the value of land. It has always been said that private ownership encourages speculative rises in land prices, and enables owners to reap unjustified profits from plus

⁶ Nwabueze, B.O.: Nigerian Land Law (1973), pp. 635-637.

⁷ Ibid.

values which, because of their origin, should belong to the society and community; (iv) fostering of land litigation, a phenomenon whose expense has impoverished many an individual or family.

- (d) The State can also ensure proper use and development of land by attaching to the grant of a right of occupancy, a condition regarding its use. Thus, it may be made a condition of a grant, in the case of a grant of residential land, that the grantee must erect upon it building of a certain value.⁷

Various United Nations Conferences and those of its related agencies have also supported and advanced these potentials of public land ownership and management. They contend basically that because of its unique nature and the crucial role it plays in human settlements, land should not be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market. Further, they point out that private land ownership is a principal instrument of accumulation and concentration of wealth, and therefore contributes to social injustice; and that if unchecked, private land ownership may constitute a major obstacle in the planning and implementation of development schemes. In its most recent conference⁸ on the subject, the United Nations insisted that,

Public control of land use is indispensable to its (land's) protection as an asset and the achievement of the long term objectives of human settlement policies and strategies.

⁷ Nwabueze, op. cit.

⁸ U.N. Report of Habitat: United Nations Conference on Human Settlements (Vancouver, Canada, May 31 to June 11, 1976), p. 61.

Emphasizing that land is one of the most valuable natural resources, and therefore "must be used rationally," the Conference seemed to equate this "rational use" with public control. It insisted that,

Public ownership or effective control of land in the public interest is the single most important means of improving the capacity of human settlements to absorb changes and movements in population, modifying their internal structure and achieving a more equitable distribution of the benefits of development whilst assuring that environmental impacts are considered.⁹

In addition to the various potentials of public ownership and management already outlined, this Conference also believed that public ownership and management of land would enable and facilitate the re-capture by the public of,

...the unearned increment resulting from the rise in land values, resulting from change in use of land, from public investment or decision or due to the general growth of the community.¹⁰

Whether these supposed advantages are or can be realized in practical terms is far from certain. No empirical studies have conclusively demonstrated them. It would seem from their arguments, however, that proponents of public ownership and management imply that the state and its personification constitute the plenitude of virtues, the repository of social justice and fairness, which presumably would blindly and selflessly give every man or woman his or her due. They also tend to imply that public ownership and management are always better than the system it seeks to replace.

⁹ Ibid., p. 65.

¹⁰ Ibid., p. 62.

(ii) The "Market" View

This espouses the traditional economist's viewpoint. Its most vocal contemporary exponents are the Institute of Economic Affairs London Group.¹¹ This view basically argues that the prices of land are determined by the demand for it, and that the price which people bid serves to allocate land to its most productive uses and serves also as an incentive to further supply; high land prices are caused by high demands for it or its services and its limited supply, not by speculators' profits as advocates of public intervention and ownership of urban lands have argued.

¹¹ Walters, A.A., et al.: Government and the Land (Institute of Economic Affairs Reading 13). Institute of Economic Affairs, London 1974.

In the analogous field of zoning, Bernard H. Siegan (1972)¹², for example, cites his studies, which he claims, show that the land market works better in the absence of government controls.

My studies show that zoning is neither necessary to maintain or protect property values, nor an aid to 'planning' -- its principal justification. On the contrary, it has adverse effects on both... In the absence of most government controls, the private sector is much more likely to utilise the land to provide better for the environmental and material needs of people.

This view, therefore, insists that a structure of voluntary contracts in a market can achieve many of the benefits supposed to be the purpose of public land management, without some of its defects. In the analogous issue of housing, as a further example, this group cites 'well-documented' evidence¹³ on the capacity of the market to provide adequate housing once basic income deficiency has been corrected (Frank de Leeuw & Nkanta Ekanem (1971); Muth (1960, 1969)). On the other hand, they argue, attempts to overcome the lack of a systematic policy on poverty by disabling the urban land and housing market is a recipe unlikely to yield success, as poverty is most effectively and efficiently alleviated by increase in incomes. Moreover, public control and management of urban land imposes a double cost in terms of money: the administrative cost of management and control, and the

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Bernard H. Siegan: Land Use Without Zoning (Lexington Books, D.C. Heath & Co.), Lexington, Massachusetts, 1972.

13

Frank de Leeuw & Nkanta Ekanem: The Demand for Housing: A Review of Cross-Section Evidence (Review of Economics and Statistics, Vol. 53, No. 1, 1971); and The Supply of Housing (Urban Land Institute, Washington, D.C., 1971); De Leeuw: The Housing Allowance Approach (Urban Land Institute, Washington, D.C. 1971); R. F. Muth: The Demand for Housing in Cities and Housing, Univ. of Chicago, 1969).

economic cost of distortion; yet the objective of such public involvements are seldom achieved. They reject the conclusion that the solution is yet more government controls and management. "The solution lies in fewer controls and fewer public interventions, and in the more sophisticated use of market systems to facilitate the harmonisation of supply and demand"¹⁴, they argue.

They further contend that the public land and public building system of urban management gives the public authority too much control and too much freedom from the tests and disciplines of both the market and ability to pay as a guide to the preferences of land users. Advocates of the market view point to the assumption or implication of the assumption by the proponents of public management of land that, "State power will make men virtuous", and they hasten to point out that, "Far from giving everyman his acre of land, the most extreme forms of collective society apprehend all land titles in the name of the state, and drive millions of peasants from their land against their will into collectives and state farms."¹⁴ Public land ownership and management, they claim, simply puts power into the hands of a few in a manner "which towers above the petty powers of individual land owners."¹⁴ The state as landlord, they claim, allows no alternative. Furthermore, the proponents of the free market system go on to argue that the legitimate arguments which can be made for re-organizing the land development and redevelopment process, and which can be made for public urban land management and control, are not arguments for abolishing the (private) property market.

¹⁴ A.A. Walters et al.: op. cit.

1.3 The Real World Situation

While substantial elements of facts and realities are contained in each of these two views, it is more likely that the most desirable and acceptable position cannot lie wholly and exclusively with any one only of these polar opposites. In either case, some institutional factors that have serious potential social consequences are not fully taken into consideration. While traditional economic theory can, for example, show that based on certain assumptions (perfect information, demand-supply price responses, etc.), the free or perfect market can achieve an efficient distribution of goods and services, the urban land market anywhere, because of various institutional factors, is neither free nor perfect. Furthermore, the "best use" of the traditional economist is seldom the same as the "most desirable" use. On the other hand, the public management view assumes that state power would make men virtuous and that they would always manage such lands with the public's interest at heart. These assumptions notwithstanding, however, experience shows that what is reasonable or unreasonable is not a simple exercise of logic, but depends more often on the social and political climate of the society involved, the time, the stringency or relevance of the need for desired actions, and sometimes on precedents.

Even then, either view tends to emphasize their respective strengths and advantages, without as much discussion or acknowledgement of their respective weaknesses or disadvantages. Important questions of distributional equity and social justice, and their implications for the general income distribution structure and social peace are either ignored, treated with levity, or taken for granted by either of the two views. While the case for some public involvement in urban land management could be made on grounds of the negative externalities (both physical and social) and outcomes of the free and private market or decision-making; proponents of public

involvement would seem to be too optimistic in taking the human element for granted. The State ("public") after all is personified by fallible human beings, who could conceivably exercise public authority in such a perverse manner that the resulting outcome could prove as undesirable as or even worse than the outcome of "private" land market that it sought to remedy. In other words, management skills and competence, integrity and administrative efficiency on the part of public administrators -- qualities that essentially determine the success of any policy or enterprise, are often implicitly assumed as given in the public ownership and management arguments.

In any case, these two modes or systems (private and public) of land ownership and management do not represent the whole systems or scope of the problems involved in land ownership and management issues. Various land tenure and distribution systems exist in various societies of the world today, which systems have different characteristics and attributes and therefore different incidences in distribution and accessibility, from those of both the public and market systems as discussed above. These other systems pose some different kinds of issues and problems from those posed by the private or public systems as such. These issues and problems neither the proponents of the private nor proponents of the public modes of management have fully appreciated, or taken into account.

The Nigerian traditional land tenure system, which forms the setting for this study, for example, is different from both the private free market characteristics and public ownership patterns. It is a system in which centuries of culture and tradition have systematized a group and family system of land ownership, and one therefore in which individual ownership of land is an exception and not the rule. This system of

ownership and management, for example, poses problems both for the public system of ownership and controls and for the private "market" system.

It poses problems for public control because it does not fit into the modern legal or legislative frameworks, nor does it respond to them according to their intents and objects. Given the colonial history and experience of the context, the social, economic, and legal concepts of the traditional setting differed considerably from those of the Anglo-Saxon impersonal legalistic framework of approach to land matters which were then being introduced. As was observed by Lord Lugard, a former Governor-General of Nigeria,

...The European lawyers is likely to discuss native conditions by forcing them into terminology borrowed from European law. The untrained European, on the other hand, used such words as 'Communism,' 'individualism,' 'private property', 'tribal property,' and what not, without giving them the slightest intelligible meaning or understanding himself what he is talking about.¹⁵

The result was and still is that political remedies are proposed which are entirely unrelated to social or economic facts, and their (those who make the laws and those for whom the laws are made) resolution of their common problem on land remained very difficult and often times impossible, in spite of the force of legislations, and all the "eminent domain" and "police powers" of the State.

This system also poses a great problem to the "private market" because, in the first place, exchange or market transactions in land are strictly limited, because land sales are not culturally approved conduct, and even then most such transactions are intra-communal or intra-group. Secondly, as against the "private market" phenomenon of the "highest bidder wins," traditional transactions do not follow this rule,

¹⁵Cited by Malinowski in "Practical Anthropology: Africa", 1/29.

particularly with respect to land, when it is exchanged for money at all. The determination of price is dictated by very many intangible variables that do not have much to do with market forces, but rather with the degree of relationships (consanguinal) between the buyer and seller, and on the traditional beliefs of the seller. Thirdly, the feature of security and certainty which strengthens market transactions on land is minimal in the traditional land tenure system. Because of the extended communal and family network of land ownership, and given the traditional rules of valid land transactions and transfer as discussed in Chapter 2, both the security risks and the transactions costs are very high.

On the other hand, the incidence of land resources distribution and accessibility tends to be superior (wider spread) in this traditional land tenure system than it is in the "market" system, for example. In the light of all these differing characteristics, attributes and outcomes of the various modes or systems, the public-private market controversy tends to become simplistic and perhaps irrelevant.

The practical and relevant question then becomes not necessarily whether land is privately, publicly, or traditionally owned and managed per se, but rather that of how the given system or mode is applied and with what effects, outcomes, or consequences for the various groups affected and for the general public good. After all, the borderline between public, private, or any other ownership system of land is often vague, since anyone of the many rights associated with private or communal ownership may be pre-empted by the state, for public purposes, or ostensibly so, and public ownership is often times accompanied by con-

considerable freedom in private use. As had been aptly observed by Mace,¹⁶ for example,

The long theoretical controversy whereby private ownership was set against collective ownership seems largely devoid of practical meaning. It ignores the reality we can see objectively all around us. The countries which have retained private ownership have been unable to ignore completely the argument in favour of communal ownership. Nor have those countries which have opted in theory for collective ownership been able to ignore the human reasons in favor of private ownership. In practice, both camps have made fairly wide concessions. All agree that collective life clearly imposes a certain social order which limits and controls the individual's right to act and to use what belongs to him. Moreover, this distinction between ownership and use which nineteenth century capitalism tried to abolish, is a permanent feature of universal law. It is reflected throughout history in two systems which clash in their theoretical premises, but unite in their practical application. Quite naturally, therefore, the argument ceases in part to bear upon ownership itself and concentrates instead on the conditions of its exercise in an urban environment, and the outcome of this exercise.

In addition, there may not be a universally applicable single "best" solution or system in the urban land problem. Solutions may have to vary from context to context, taking socio-cultural, economic, and political environments into consideration. This view was supported by the recent U.N. Habitat Conference*, which acknowledged that although there existed a common denominator, which was the general awareness of the challenge of development and its complexity, and a general appreciation of the

¹⁶R. Mace, in an opening statement as Chairman of the Seminar on "The Supply, Development, and Allocation of Land for Housing and Related Purposes", held in Paris, France, March 28-April 6, 1965 (U.N. Economic Commission for Europe (ST/ECE/HOU/15), Vol. 1, p. 10.

*U.N.: Report of Habitat, op. cit., p. 139.

urgent need to improve the quality of life for a more equal and just sharing of resources and for improvement of the living conditions of the less favoured population groups, it was the consensus that,

The ways and means for solving the current (land and settlements) problems differed for everyone of these three* groups, and differed further from nation to nation in accordance, inter alia, with their social and political systems. (emphasis mine)

Given the foregoing background, this study examines the potentials and perils of public urban land ownership and management, not in the context or comparative pole of the "private free market" system for land, but in the context of the Nigerian traditional communal land tenure setting and its attributes. The Thesis aims specifically at assessing how much of the often assumed potentials of public land ownership and management were realized in the LEDB -- which was an instrument of public management -- and whether these potentials can be assumed to be a given irrespective of the prevailing socio-cultural and economic contexts.

The Thesis postulates that the realization of the supposed potentials of public urban land ownership and management are not necessarily achieved simply because land is publicly owned or managed. The degree of success or realization of these potentials depends essentially on what form the public ownership and management takes; on the nature and character of the society involved, and on the structure and characteristics of the land tenure system involved; as well as on the quality of the personnel involved in the public administration and on the conditions of the exercise of such public authority in the process of this management. It is intended in this essay, then,

*The three groups in reference are (i) developing countries; (ii) developed countries, and (iii) the group of countries that suffered extremely severe war damage during the Second World War.

to (i) identify and characterize the Nigerian urban land situation;
(ii) identify and characterize the roles the Lagos Executive Development Board as a public urban land management and development agency has been playing in the area of urban land management and development,(iii) determine the effectiveness and consequences of such role or policy, and (iv) assess the desirability of such consequences and discuss alternative goals, policies, or strategies for improved performance.

The impact and effectiveness of public intervention in this traditional land control system and the configuration of the outcomes of the involvement is emphasized in the study. The analysis will emphasize the socio-cultural matrix within which the traditional land tenure system functions and how this matrix affects the efforts of the LEDB to achieve a rationalized land management and land holdings system, and to bring about and maintain good sanitary urban environment.

This will be done by way of examining the activities and mechanisms of the Lagos Executive Development Board and the problems which this agency had had to encounter with the customary land tenure, and those problems it has tended to create

itself. From the resulting findings, it is hoped it might be possible to establish enforceable guidelines for an efficient and equitable urban land management mechanism as and when the traditional tenure arrangements break down under the pressure of public action or under the impact of development.

The choice of one particular agency--the Lagos Executive Development Board (LEDB) -- for analysis, while reducing the scope of the study, provides a more concrete basis for an in-depth analysis than a more general study would, to evaluate the potentials and the effectiveness of public intervention within the traditional land tenure system. The findings on one particular agency will also be relevant in varying degrees to all other agencies. The LEDB is the oldest such agency in the country, and therefore has a longer history and experience on which valid generalizations and inferences about the performance of the public role can be based.

It has been rightly said that, "The reason that a question is good for enquiry is because it has consequences; and that a good research ought to have the potential for changing somebody's or an institution's behaviour".^{*} It is hoped that this case study will play some part in providing knowledge not only about the substance of Nigeria's tenure problems, particularly with respect to urban lands, but also provide knowledge about the missing insights for solving them.

The remaining chapters of the study are set as follows:

In Chapter 2, the nature and characteristics of the traditional land tenure is presented and discussed as a setting and background for examining the rationale and framework of public involvement in the traditional land tenure problems; and for

*Aaron Fleisher: Seminar Discussions October 1974 (M.I.T.).

evaluating the effectiveness of such interventions for the achievement of the desired objectives. This setting and background is provided by a review of historical evidence relating to administrative and court decisions on the subject, and by reference to the various studies on land tenure problems in that part of Nigeria over the years. In the main, the chapter represents what the land market is like for a private buyer.

Chapter 3 examines the rationale for public intervention and the framework and instruments for such intervention. It represents what the land market is for the government -- and the various rules it introduces for dealing with the problems it encounters from the traditional tenure. The chapter also traces the growth of government involvement in the urban land problems in Nigeria and the features of such involvement.

Chapter 4 presents a more in-depth profile of the LEDB as an instrument of public urban land management. Its origin, and evolution, its activities in urban land management, and the degree of effectiveness of its legal powers in the face of traditional land tenure constraints are examined.

Chapter 5 examines the actual patterns and processes of land acquisition by the LEDB. The Board's rules of procedure in this respect are examined and their operational effectiveness evaluated in the context of the cultural milieu. The processes and equity in compensation assessments are also examined.

Chapter 6 assesses the performance of the Board in urban land supplies, and its prices, as compared with other sources (private, traditional, real estate market) of supplies in the city, and elsewhere.

Chapter 7 analyzes the distributional aspects of the Board's land management and its efficiency in the provision and use of urban land. It assesses the impact of the Board's land and housing activities on the different income groups.

Chapter 8 recapitulates and summarizes the main points of the thesis, and makes suggestions for a better and more efficient and effective approach to urban land management.

CHAPTER TWO

URBAN LAND MARKETS IN NIGERIA:
STRUCTURE AND CHARACTERISTICS

Chapter Two

URBAN LAND MARKETS IN NIGERIA: STRUCTURE AND CHARACTERISTICS

Introduction

This chapter describes the nature and characteristics of the traditional land tenure as a setting and background for examining the rationale and framework of public involvement in the land tenure problems in Nigeria; and for evaluating the effectiveness of such interventions in achieving the desired objectives.

This setting and background is provided by a review of historical evidence (documentary) relating to administrative and court decisions on the subject, and by reference to the various studies on land tenure problems in Nigeria over the years.

In the main, this chapter represents what the land market is like for a private buyer. For the government, it is different -- at least in the number of rules (laws) introduced to guide the transactions, if not in their effectiveness. These rules are discussed in subsequent chapters.

The Complexity of the Land Tenure Situation

Land (markets) Tenure and holdings in Nigeria can be described as peculiarly varied and complex. This variety and complexity arise from:

- (i) The almost unparalleled diversity of social, religious, and economic conditions -- Nigeria comprising some 260 distinct ethnic groups of different cultures and at different stages of modernization and development.
- (ii) The significant fact that the rate of economic and social change is not uniform, but varies from one locality of the country to another.

- (iii) The differing pattern of political evolution through which the groups and communities had passed.

Following from these, it can be said that there are as many systems of customary law as there are ethnic groups, and even within a single ethnic area, there may be variations, not in essence but in detail, with respect to the particular localities of the area. Nevertheless, a careful examination of the various systems reveals some common characteristics. The evidence which one gets from comparative estimates (of the studies of field workers) and also of the available data from judicial decisions, points to a large measure of common basic principles, which underlie indigenous systems of land tenure in various parts of Nigeria.¹

The Nigerian urban land market, as most African urban land markets, has generally been characterized as consisting of "clouded unmarketable land titles resulting from customary land systems, which militate against the development of a workable urban land market."² This urban market is characterized by:

- (i) The communal land tenure system which makes market commercial transactions in land difficult and sometimes impossible;
- (ii) The unwillingness of owners of urban land to sell, particularly to strangers or migrants, even at any price;
- (iii) The generally uncertain and defective titles to land, arising from a general lack of registration of land and titles to land.

¹Elias, T.O., "Nigerian Land Law and Custom" (Routledge, Keagan, Paul: London, 1960), p. 93.

²U.N. Urban Land Policies and Land Use Control Measures, Vol. I: Africa (U.N. Dept. of Economic and Social Affairs, New York, 1973,), p. 21.

A United Nations Mission to Lagos (1964), for example, observes that "In Lagos, competition for land is intense. There is land hunger, but practically no land market. Prices are high, but few plots are offered for sale..."³

To understand the Nigerian land market, therefore, is to understand the traditional land tenure of the communities and the politico-religious basis for them. Considerable attempts have been made by governments to reform and modernize these traditional land tenure systems, but with minimal effects as yet, except in the Northern States of the country, where a radical law in 1962 vested all lands in the State. To discuss the structure and characteristics of land markets in Nigeria, therefore, it would be reasonable to treat the north and the south of the country differently and separately. Our study deals principally with the land tenure system in the south, where our study site (Lagos) is located. Our emphasis, therefore, would be on what obtains in the south.

2.1 CHARACTERISTICS OF LAND MARKETS IN THE SOUTHERN STATES OF NIGERIA

Communal Ownership of Land

A considerable proportion of land in the southern states is still communally owned, and its control and administration are in the hands of the recognized heads of families -- who have no proprietary title or claim to ownership, but act as trustees of the land, passed on to them by their ancestors. This trusteeship is not merely

³Koenigsberger, et al., Metropolitan Lagos (U.N. Technical Assistance Mission, 1964).

an economic or social arrangement. These titular heads have also a religious duty both to the ancestors and to future generations of their people, and in addition, they are held to be responsible, in accordance with custom, for ensuring that fit and proper respect is paid at the appropriate time of the year to the "earth deity", thus expressing their people's gratitude for the past fruits of the soil and their prayers that nature and the ancestors will continue to be equally beneficent in future years. Land, therefore, has a special significance rooted in values that transcend immediate economic considerations. Communal ownership of property has profound sentimental and social values as an expression of group cohesion.

In this system, each member of the group has by right of birth a valid claim to be allotted as much land as he can conveniently farm, if in the rural area, and as much as is his due, if in the urban area and depending on his position of seniority in the family; and to be consulted whenever it is proposed to allocate land to a non-member of the group.

Speed⁴ in his Report and Recommendations on Alien Land Tenure Problems in Ibadan, accepted as accurate statement of the native law on the subject of Ibadan land tenure system, the contention of the Bale (Chief) and Council that:

The whole of the land of Ibadan is owned by the people of Ibadan, for and on behalf of whom the Bale and Council exercise control as guardians and trustees, whose duty it is to enforce the native law and custom relating to land. Under the Bale and Council are the families, occupying the land of their own right, entitled to occupy in perpetuity during good behavior, but with no right of transfer outside the family. Those who are not natives of Ibadan can hold land only with the consent of the Bale and Council, with no right of transfer and subject to the same conditions as natives, with this exception that in

⁴ Speed, Edwin Arney: Report and Recommendations on the Proceedings of the Commission to Investigate Alien Land Tenure Problems in Ibadan (April 10, 1916).

as much as every Ibadan is entitled to land and strangers are not, strangers are in the last resort liable to be dispossessed in favour of natives, that is to say, the Bale and Council in their case retain the right to dispossess them without cause shown, which right they do not possess in the case of native occupiers.

It is to be pointed out, however, that in actual practice, the real unit of land holding is the family.⁵ It is the family unit that exercises acts of ownership, the chief interest of the community or village in the land being purely the social and political one of maintaining group solidarity⁶ and joint ownership and maintenance of institutional spots.

The essentially family character of landholdings is reflected in the facts: (a) that grants to individual members of the group or to strangers leave the ultimate title in the family; and (b) that land formerly held as an individual owner by a grantee under a crown grant or an English conveyance devolves on his death upon all members of his family whose rights therein are recognized by local law and custom. A member of the family who has been allotted some piece of land for his use cannot sell that land without the knowledge and consent of the other members of the family, nor could his inheritors. This is because he has no separate interest in such family property. For the same reasons, the interest of a member of a family in family land cannot be attached for the payment of his personal debt. Justice Graham declared in the

⁵The family system in Nigeria is an extended one. The Nigerian society, too, is a polygamous one. So family would include all the children of a polygamous father, the children of these children into as many generations as can be remembered and traced. A family can therefore sometimes be as large as a small town.

⁶Elias, T.O., Nigeria Land Law and Custom (Routledge & Kegan Paul, Ltd., London, 1951, p. 95.

case of Jacob v. Oladunni Brothers that,

I am unable to find anything repugnant to natural justice, equity or good conscience in a native custom which protects 'family property' from attachment for the individual debts of one or more members of the family. In fact, Counsel for the execution creditors admitted that once this property was held to be family property, it was well settled by authority in this court that it could not be attached for the individual debt of one or more members of the family and that in that event he had no case.⁷

Likewise, a member of the family cannot dispose of his interest in family property by will. In the original sense of native law and custom, therefore, land is heritable, but inalienable, and reverts to the grantor in the event of 'misbehavior' or of an attempt on the part of the grantee to alienate or charge it.

In fact, ownership with its implication of the "fullest plenitude of rights of enjoyment, management, and disposal of which the nature of things admits, and the implication that title to these rights is paramount and not dependent upon or subordinate to a superior title" does not exist in the Nigerian land tenure context.

⁷ Nigerian Law Review, 12, 1, 1935.

The public notice below, for example, (which is only a representative sample of numerous similar notices regarding land tenure matters in various newspapers in the country today), published in the Observer newspaper of August 3, 1976, implies

PUBLIC NOTICE

NOTICE is hereby given that
**ALL land in AMUKPE is
COMMUNAL**

(2) It has been observed that certain indigenes of the Community who have received grants enjoyable in perpetuity within the individual family from the Community have thereafter alienated the same to third parties who are neither members nor tenants of the Community on terms out of proportion and in derogation of the original grants from the Community. The effect of these illegal transactions is to substitute the original grantees with strangers purporting the same to be grants made by and/or with the consent of the Community.

(3) The public is therefore informed that no stranger is entitled to an absolute grant or one made in fee simple, all alienation of AMUKPE Communal Land being subject to the reversion which resides in the Community. The General Public is therefore warned that any person or persons, Company, or public utility bodies, negotiating or purporting to acquire any interest in AMUKPE Land whatsoever without the knowledge of the Community do so at his risk. All such acquisition or alienation is null and void.

Dated at Sapele this day 22nd July, 1976.

P. S. J. Ofoborh Esq.,
9, Isekiri Road Extension,
Sapele.
(Solicitor for the AMUKPE COMMUNITY).

two things: (i) That some individuals in the community are trying to find ways of selling their share of family or communal land -- thus trying to break from the tradition of respect for inalienability of land. This could be attributed to the pressures of economic development and modernization, which in various ways, and for various

reasons have impelled these individuals to venture a deviation from the custom. (ii) The notice on the other hand indicates that even today, the system still resists the various changes and defends itself, interestingly enough, by use of modern legal and governmental mechanisms -- a legal notice. Thus, the rate of change is still very small.

Non-Alienation or Non-Marketability of Land as a Commodity

The conception that land ownership is vested in the departed and in the yet unborn, as well as in the living members of the group, renders the permanent alienation or sale of land unusual in the light of strict native law and custom. But it is possible, in certain circumstances such as the need to raise funds to carry out a common purpose, for a family lineage or exogenous group to execute, by common consent, a valid conveyance transferring permanent title to a purchaser. On the whole, however, outright sale of land is repugnant in the eyes of the people.

As already mentioned, various reasons have been advanced for the customary insistence on the inalienability of land. (1) It is said by some that the notion of inalienability derives from a religious and spiritual attitude towards land, regarded as an earth deity and conceived as a sacred trust of the living, undertaken in memory of the dead. To sell land would therefore be sacrilege. (2) Some postulate a myth of the original ancestor according to which the common origin of the members of a community renders inconceivable the giving away of ancestral land to non-autochthonous individuals or groups. It is to be pointed out here that in most places there were not and still are not any cemeteries as special places for the burial of the dead. The dead of each family were buried in the family compounds and lands, and

most graves are unmarked. The thought of selling lands which might include a grave of an ancestor is not palatable to the people's beliefs and values. (3) A third hypothesis asserts that land has been held inalienable from a desire to preserve it for the requirements of the owning groups, past, present, and future, this being a simple socio-economic device to protect the interest of present and future generations of the group, as otherwise the living might fritter away the contingent interests of their progeny. The reference to the dead in this context is similarly to the duty, incumbent upon them when alive, not to compromise the rights of the present occupiers.¹⁶ This idea was put to the West African Lands Committee by an Ijebu-Ode chief who said, "I conceive that land belongs to a vast family of which many are dead, few are living, and countless members are yet unborn."⁸ Sale of land, therefore, is a culturally disapproved action in the society, in general.

A survey of responses on acquisition and disposal of land in parts of Nigeria, for example, showed the following results:

Table 2.1

Responses on Methods of Acquisition and Disposal of Land in Nigeria (expressed in percent)

Area	Language of Area	Source of Land Ownership			Aware of Sale	Supportive of Sale
		Family	Purchase	Rent		
West:						
Olugbo	Yoruba	96	4	--	96	14
Alade	Yoruba	100	--	--	41	0
Bendel:						
Obazagbon	Edo	90	10	--	100	10
Abraka	Urhobo	90	10	--	83	0
Akwumasi	Ibo	100	--	--	0	0
East:						
Abak	Efik	57	29	14	93	42
Igbo-Ukwu	Ibo	80	10	10	44	0
North:						
Ilofffa	Yoruba	100	--	--	0	0

Source: Abstracted from Aderjibouye, R.O., "Analysis of Land Tenure Structure in Some Selected Areas in Nigeria" (*The Nigerian Journal of Economic and Social Studies*, Vol. 8, No. 2, July 1966, pp. 259-68).

⁸ Colonial Office Legal Library (London) Folio 13080, dated April 1917 (cited in Elias, T.O., *op. cit.*, p. 182).

Although the samples on which the above Table was based were small relative to the population of the country, it nevertheless spotlights some of the points already made about the structure and characteristics of the traditional land market. The dominant source of ownership is still the family -- through a share in the inheritance. Although generally a substantial proportion of the respondents have been aware of a sale of land somewhere, yet only 10% have owned land by purchase themselves, and the weakness and unconvincing nature of hypothetical questions and answers notwithstanding, only 8% would support the idea of sale. The samples, though drawn from the rural areas, they serve to show the basic attitudes and beliefs that condition transfers of land in the urban areas as well. The urban areas, though, because of the pressures of economic development, are likely to record greater numbers of transactions and transfers in land than the rural areas, but the same basic constraints still exist. Furthermore, a larger proportion of an urban population is more likely to be supportive of sale and transfer of land because of the usually greater proportion of migrant populations in urban populations and because the lands in question are not theirs, and so they have no cultural or religious or other stake at preserving the status quo in the place of their migration.

Table 2.2 for example, shows the trend of private land transactions in two major urban areas -- Lagos and Enugu. It can be seen that the number of these transactions recorded from year to year is relatively small in each city, though it seemed to increase in the 1970's. The rate of change towards marketability or transfers can therefore be said to be small and slow, even in the urban areas. It is noted also that there were more leases than freehold sales and in the case of Lagos, 28 of the 92 leaseholds (30.4%) transactions were by a single family as the lessor - the Oluwa

Table 2.2

Trends in Land Transfer Transactions as Proxy for the Rate of Change of Cultural Attitudes Towards Land Matters (Markets) in Urban Areas

(Sample)

<u>Year</u>	<u>Total No. of "Private" Transactions</u>	<u>Percent of Total</u>
<u>A. Lagos</u>		
1962	1	0.5
1963	1	0.5
1964	1	0.5
1965	1	0.5
1966	3	1.6
1967	1	0.5
1968	1	0.5
1969	0	0.0
1970	2	1.1
1971	10	5.6
1972	5	2.8
1973	5	2.8
1974	18	10.0
1975	131	73.2
	179	100.1

No. of leases were 92.

No. of freehold sales or registrations were 87.

B. Enugu

1965	1	1.7
1966	1	1.7
1967	3	5.0
1968	1	1.7
1969	0	0.0
1970	0	0.0
1971	4	6.8
1972	26	44.0
1973	4	6.8
1974	9	15.2
1975	10	17.0
	59	99.9

No. of leases were 29.

No. of freehold sales or registrations were 30.

family, so that in terms of changes in attitudes toward transactions in land, this feature reduces the proportion of people that are affected by such attitudinal change. In any case, the transactions were noted to be still dominantly intra-ethnic groups in both cities, which is another important characteristic of the traditional land tenure.

Intra-Ethnic/Intra-Group Pattern of Land Transactions

Table 2.1 showed that the idea of the sale of land is in existence, but has not yet been widely accepted. It ought to be pointed out also that when it is said that land is not sold or transferred, that what is meant is that it is not sold or transferred to 'strangers'¹⁰ -- i.e., outside the lineage or group -- but may be 'sold' or transferred between or among people within the lineage or group. This distinction between transfers or transactions in land within the 'group' and its non-transfer outside the 'group' was unintelligible to many foreign (British Colonial) administrators,

⁹The data on Table 2.2 was compiled by making a systematic examination of six of the latest Registers of Titles and Deeds in the Land Registries in Lagos and Enugu, containing leaseholds and freehold registrations. The data taken out of the Registers for this particular table were only those of private or communal transactions. Transactions involving the Government or state or public agency as lessor or seller (which class are the more numerous in the Registers of both cities) were not included in the calculation for the above table.

It is also pertinent to point out that the numbers represented on the Table may not represent all the actual transactions in the given years because of substantial under-registration of land transactions in the private, particularly communal, sector land markets.

¹⁰'Stranger' here means anyone not a member of the particular lineage or group and in its widest connotation, it means one outside the particular ethnic group concerned.

but was very distinct to the natives. It was the failure of earlier administrators to perceive the significance of this distinction between 'strangers' and group members that prompted Simpson¹¹ to somehow angrily charge that,

We are firmly told that native law and custom does not allow the sale of land, and yet we know that land has been bought and sold in Lagos for a century or more. Is it in defiance of custom, or because custom has changed?

Certainly custom has been changing a little, but it had not been a defiance of custom to transfer ("sell") or exchange land within the family or lineage group, as such a transaction does not take the land outside the group. Land transfers even within the group is by gift, exchange, or lease. Freehold sale is an exception, rather than the rule, and is culturally frowned upon. Under the pressures of economic development, however, such compromises are emerging as observed by Rowling,¹² that,

...the mortgage of urban land and property may be permitted to all, but the mortgage of agricultural land is permissible only if both parties are fellow-ethnics. Sometimes a rule has been made that while freehold land or house property may be mortgaged to anyone, in the event of foreclosure, or of sale under writ of execution, the property shall not pass to anyone who is not a fellow-ethnic.

The suggestion that "the mortgage of urban land and property may be permitted to all", however, tends to overstate the observed pattern in practice. Transactions in land

¹¹ C.W. Rowling: Land Tenure in Ijebu Province, para. 100. S. Rowton Simpson was the British Legal Officer appointed to enquire into the Registration of Titles to Land in Lagos. He produced the report titled, "A Report on the Registration of Title to Land in Lagos"(1957), Federal Government Printer, Lagos).

¹² ibid.,

still remain dominantly intra-group or intra-ethnic.

A feature of the intra-group (intra-community and intra-ethnic) pattern of land transactions is that these transactions are consummated at less than what would be considered the market value¹³ in a purely monetary transaction setting, for the property involved. That is because the transaction (grant or lease or even sale) is with family or community members, or co-ethnics, or other such relations; they are often not charged the commercial market price for the plots of land concerned, as buyers outside the group would be required to pay for such same property. There is an understanding that a relation should not exploit the full force of the market on another relation.¹⁴

An examination of about 200 sample private¹⁵ (non-state or non-government sources) land titles and deeds in the Lagos Land Registry¹⁶, for example, showed that private individual to individual or community to individual conveyances or leases was the lowest in price, for a given size of plot and location. About 98% of these

¹³ 'Market value' is defined as "the value of the land, estate, interests or profits which such land, if sold in an open market by a willing seller to a willing buyer, is expected to realise". More detailed explanation of the 'fair market value' as defined by law is given in Chapters 3 and 5. The problem, however, is not so much how the 'market value' is defined, as how it is observed and applied.

¹⁴ Although this is difficult to prove empirically or statistically, it is nevertheless understood and accepted as so in the society, and in part could account for the comparatively lower prices in the traditionally private sold or leased land. Cf. private communal sales with LEDB sales or leases and real estate firms sales (Chapter 6).

¹⁵ Private here includes both private individuals, real estate firms, and community or family group transactions.

¹⁶ This examination was carried out from November 1975 to February 1976. It involved an examination of six registers of Titles and Deeds and analysis of the entries as to location, size, price and tenure and year of transaction, as well as the number of years in case of leaseholds. A substantial proportion of this sample is represented in Section A of Table 2.2 and therefore need not be documented further here.

were intra-ethnic transactions. A similar number of government and quasi-government conveyances to individuals was also examined. The price per plot of a given size and location was in every case higher than that of a private individual or communal transactions. The ethnic pattern of this transaction remained the same as for private individual or community transfers, i.e., dominated by the ethnic group indigenous to the locale, which dominance may, of course, be a function of the proportion of the given ethnic group population in the total city population. The share of the 'indigenous ethnic group' in the transactions (98%) though, was more than proportional to their share in the city population (72.2%) (See Table 2.3) so that the inclination is to attribute the more than proportionate share as due to the persistence of traditional land tenure and transactions patterns seems reasonable.

In the same sample, it was noted also that the highest price for comparable sized plots of land and location was that conveyanced by real estate firms.¹⁷ Most of those who bought from such firms were 'strangers' (people not indigenous to Lagos or to the ethnic group to which the people of Lagos belong) and incorporated firms. Real estate firms were also noted not to deal in leases.

A 1960 sample survey of the ethnic origins of landlords in Lagos (Table 2.4) throws further light into this intra-group feature of land ownership and transactions. The important columns to note in Table 2.4 are the "Lagosian column" and the "Total Yoruba" column. The "Lagosian" column shows that with a few exceptions, Lagosians or peoples of Lagos origin, dominate as landlords. Particular attention is drawn to

¹⁷A fuller discussion of this point is undertaken in Chapter 6.

Table 2.3 Ethnic Group of Nigerians in the City of Lagos (1963)

Ethnic Group	Total Pop.	% of Total Pop. (Nigerians)
1. Yoruba	465,406	72.20
2. Ibo	99,638	15.46
3. Edo	20,450	3.17
4. Hausa	13,225	2.05
5. Efik	12,606	1.96
6. Ijaw	11,754	1.82
7. Urhobo	7,171	1.11
8. Ibibio	5,819	0.90
9. Itsekiri	2,703	0.42
10. Isoko	1,785	0.28
11. Ekoi	658	0.10
12. Nupe	556	0.09
13. Tiv	555	0.09
14. Idoma	485	0.08
15. Fulani	434	0.07
16. Igala	220	0.04
17. Annang	204	0.03
18. Igbirra	193	0.03
19. Poli	100	0.02
20. Yalla	67	0.001
21. Ogoni	65	0.001
22. Others	515	0.08
Total:	<u>644,609</u>	

Source: National Census of Population, 1963.

such areas as Idumagbo, Ebute-Ero, Idunshagbe, Idumota-Alakoro, Olowogbowo, Epetedo, and Faji, which are the traditional areas of Lagos. Here, Lagosians constitute over 60% of the landlords.

The "Total Yoruba" column brings out the point made that as a matter of custom, land is hardly transferred across ethnic lines. Yoruba is the ethnic group to which the people of Lagos belong. Other people of the same ethnic group who are not Lagosians include the "Egbas" (second column), the "Ijebus" (third column), and "Other Yorubas" (fourth column). A careful examination of the "Total Yorubas" column indicates that almost in every residential area, the Yorubas constitute 90-100% of the landlords.¹⁸

'Strangers'¹⁹ (Nigerians outside the Yoruba ethnic group) constitute a very small proportion of the landlords in the metropolitan area. The only exceptions are in Surulere and Obalende, areas where a "stranger element" (the Ibos) constitute about 23% and 13% respectively of the landlords. These exceptions, however, are accounted for by political processes or influences in which such lands were likely to have been obtained mainly through government allocations of state lands. Intra-group pattern of transactions in land has been a long-standing feature in the country, and the following Egba statements are fairly representative of the situation in most of southern Nigeria.

Among the Egba, for example, the law relating to urban lands was stated by

¹⁸C.W. Rowling: Land Tenure in Ijebu Province, para. 100.

¹⁹By Nigerian custom, a migrant is never a 'legal' resident of the place of his migration - resident in terms of having all the rights and privileges which the people indigenous to the place have. This is irrespective of the length of time he has resided in the given place. The migrant, however, has all rights and privileges back in his place of origin, irrespective of how long he stays away from it. In terms of "legal residence and origins", therefore, Nigerians are place-specific and therefore 'strangers' in any other place.

Table 2.1

Ethnic Origins of Landlords in Lagos Residential Areas, 1960

Residential Area	Lagosian	Egba	Ijebu	Other Yoruba	Total Yoruba	Ibo	Other Nigerian	Non-Nigerian
Idumagbo	75	--	15	10	100	--	--	--
Ebute-Ero	63	25	--	12	100	--	--	--
Idunshagbe	73	18	9	--	100	--	--	--
Oke Awo	18	11	35	18	82	--	--	18(D)
Isalegangan-Aroloya	46	29	17	8	100	--	--	--
Idunmota-Alakaro	60	10	10	20	100	--	--	--
Offin-Itolo	40	20	10	30	100	--	--	--
Olowogbowo	56	11	11	22	100	--	--	--
Ereko-Agarawa	29	57	--	14	100	--	--	--
Okepopo	42	16	16	24	98	--	--	2(T)
Epetedo	86	7	--	--	93	--	4(B)	3(G)
Faji	47	16	5	16	84	--	5(I)	11(D)
Brazilian Quarter	56	33	--	--	89	--	--	11(T)
Lafiaji	--	66	--	31	100	--	--	11(T)
Okesuna	11	25	39	12	88	--	--	12(G)
Araromi	--	18	55	27	100	--	--	--
Obalende	9	6	13	23	52	13	3(H)	33(TG)
Ebute Metta East	--	35	18	47	100	--	--	--
Yaba	--	48	25	25	98	2	--	--
Ebute Metta West	--	37	36	27	100	--	--	--
Cijuegba	--	21	42	17	80	8	4(E)	8(T)
Yaba east	16	34	34	16	100	--	--	--
Musini	11	36	17	28	92	4	4	--
Shomolu	--	18	35	39	92	8	--	--
Surulere	--	31	23	19	93	23	4(E)	--

KEY: B - Bini D - Dahomian E - Efik G - Ghanian H - Hausa I - Ifsekiri T - Togolese; SOURCE: A.L. Mabogunje, "Lagos" A Study in Urban Geography" (Ph.D. dissertation, London University, 1961), p. 144. Cited in Baker, P.: Urbanization and Political Change: The Politics of Lagos, 1917-1967.

the Secretary to the Egba Government as follows:

Where, in the family land, a member of the family has obtained from the other members, through the head, a definite portion, and by his own individual men he has built upon, or in other ways improved it, this portion becomes his own individual property. He may pledge it or sell it, but never outside the community. No Egba man can pledge or sell land to anyone who is not an Egba.²⁰

This is in accordance with a formal proclamation made by the Egba Government in 1904 that,

Houses and Lands in Abeokuta territory cannot be sold or mortgaged to anyone not a native thereof...and

No private individual may lease houses and lands to anyone not a native of the 'country' without the sanction of the Alake.²¹

That exchanges of land (lease, gift, mortgage, or even sale) do occur within the group is further attested to by Governor Donald Cameron, who observed that,

It further seems clear that by native law and custom, the natives have complete freedom to deal with their land as between themselves, with the sole restriction that in the case of strangers to the community, the permission of the head Administrative unit is required for the admission of the stranger as a member of the community; a consideration

²⁰ West African Lands Committee Report, 1048, p. 187.

²¹ Egba Government Gazette, No. 2 of 1904, The Alake is the King of the Egba Yorubas. The word 'country' means the ethnic area of the Egba (Abeokuta).

solely of a political nature, nor arising out of any power over the land possessed by the Chief.²²

The foregoing portrays how the people see themselves in land matters. The way the Government/bureaucracy and the Courts perceive the same land tenure and their respective responses to them are briefly examined in the following sections.

2.2 The Response of the Government or Bureaucracy to the Traditional Land Tenure System

A distinction could be made between how the Colonial Government or bureaucracy reacted to the traditional land tenure and how the post-Independence National Governments responded to the same tenure system and their respective attitudes towards it. Both Governmental periods recognized the system as a constraint in carrying out land development schemes, and as an indirect source of environmental danger, particularly in the urban areas. But while the Colonial Government, possibly out of its incomplete understanding of the system and out of fear of social unrest from attempts at a radical change, preserved its essential features and approached it with caution, the national Government has made more direct efforts at changing or modifying some aspects of the system.

While the Colonial Administration concentrated mainly on getting the people to register their titles to land, so as to ascertain titles to land and ensure their security, the post-Independence administration emphasized a more direct action by trying to

²² Sir Donald Cameron: A Note on Land Tenure in the Yoruba Provinces (Appendix C of H.L. Ward Price: Land Tenure in the Yoruba Provinces, Government Printer, Lagos, 1939.

make urban land essentially public, through massive compulsory acquisition, servicing, development and disposal to individuals by public urban development agencies, or housing corporations. In a general way, therefore, it could be said that the Colonial bureaucracy responded to this tenure system with caution with indirect attempts at modifying it; while the post-Independence administrations reacted more directly and radically in attempts to change the system.

The Nigerian colonial government, for example, formally recognized and strengthened the intra-group and intra-ethnic transfers and transactions patterns in land by enacting the Native Land Acquisition Ordinance (Southern Nigeria) and the Land and Native Rights Ordinance (Northern Nigeria) by which people from outside a district were barred from acquiring land in that district without the written consent of the Governor -- a consent that was seldom given.

Elias²³ later commented with respect to this law that,

Desirable as might be the original government idea to protect the unsophisticated Nigerian against a wanton alienation of their land which is their only source of wealth, it would seem that while the existing restrictions should continue in the case of non-Nigerians acquiring land rights in both provinces, the analogous discrimination against Nigerians acquiring lands from areas of the country other than their own places of birth, could with proper safeguards be abolished.

But it would seem that the social and political stresses in the country, particularly the state of inter-ethnic and other inter-group relations have seemed to make this suggested change or abolition of the rule premature.

²³Elias, T.O., op. cit., p. 205.

As has been pointed out, sustained attempts were made by the colonial bureaucracy to get titles to land registered as a first step to rationalizing the system. To this effect, a Registration of Titles Ordinance was passed and came into being in 1936. The law required the registration of all lands and transactions in land from that date. Responses to this legislation have been low. Table 2.5 shows the progress of the responses. It shows that up to 1957, only 2,518 freeholds and 569 leasehold registrations had been recorded, after some 21 years of the registration of titles ordinance. This is obviously negligible for a country the size of Nigeria (376,000 square miles and 31 million people -- 1952/53 census). It was little wonder, then, that of the 600 suits in the Lagos High Court during the twelve months ending October 31, 1956, 147 (24.5%) were "land cases," and most of these could be traced back to uncertain titles.

Mr. S. Rowton Simpson, who was later (1957) appointed to examine the working of the Lagos Titles Registry, observed with respect to this high proportion of land suits that, "it looked to me as if a high proportion of them could have been avoided by Registration." ²⁴

He went on to explain why registration was important, and what was the underlying rationale of the administration's priority on registration of titles to land. He pointed out that,

Having worked for so long in a territory where settlement (i.e., adjudication) and registration of title was the invariable prelude to any development, and where in the

²⁴S. Rowton Simpson: A Report on the Registration of Title to Land in Lagos, p. 11. Lagos, Federal Government Printer (1957).

Table 2.5

Progress of Land Title Registration

Year	No. Freehold Registrations	No. Leasehold Registrations	Total to Date Since the Registration of Titles Ordinance came into Being	
			<u>Freehold</u>	<u>Leasehold</u>
1937	90	7	125	10
1941/42	133	9	703	42
1943/44	148	8	999	60
1944/45	129	5	1,123	65
1946/47			1,267	90
1953/54	96	82	1,974	353
1954/55	108	70	2,082	423
1955/56				
1956/57	218	73	2,518	569

Source: Compiled from various issues of the Annual Reports of the Federal Land Department.

big towns it had been so long established that it had come to be regarded almost as the natural order of things, I find it very difficult to imagine how administration can proceed without it. That it can, of course, is evident, for it is the normal state of affairs in England, but there, the processes of private conveyancing do assure a sound title free of the uncertainty characteristic of land transactions in Lagos.²⁵

At certain times and under special circumstances, the colonial government intervened more directly to stabilize land matters, especially where law and order were threatened as a result of land tenure situations. In fact, within two years of British Colonial administration in Lagos (1863), an ordinance "for appointing certain commissioners for the purpose of ascertaining the true and rightful owners of land within the settlement of Lagos," made provision for adjudication. As a result of this, 3,932 grants were made in the 51 years between 1863 and 1914, each certificate of grant declaring that a claim had been investigated and granting the land "unto.... heirs, executors, administrators and assigns for ever." A privy council decision in 1931, however, declared the form of these Government grants "inconsistent with the whole idea of native rights,"²⁶ thereby stopping the process.

Another example of this type of registration and grant was the case of the Glover Layout in Lagos. Land ownership titles in this area became such a subject of bitter controversy and litigation that the Government appointed an officer to investigate claims and issue certificates to claimants who proved their titles. The area contained about 1,440 plots of residential land. But in response to the claims investigation, only 456 applications for certificates of titles were submitted, and all of

²⁵ ibid.

²⁶ S.R. Simpson, op. cit., p. 36.

these were contested and subsequently referred to the Supreme Court for determination. Subsequently, 261 certificates were granted; 30 cases were withdrawn, and 36 were struck out; and 129 of the cases remained outstanding. About 1,000 plots or persons out of 1,440 did not respond at all to the exercise and did not apply for the certificates, and therefore the problems of uncertainty and security of title remained. The Government's efforts at stream-lining titles to land were receiving little positive responses from the people, but such attempts continued anyway.

However, these registrations, while they defined title to land, did not necessarily succeed in individualizing such titles. This is because of the prevailing system of inheritance whereby the estate of a Nigerian dying without a will devolves upon all his children as family property, which rule applies with equal force even where the property has been acquired and held by the intestate under English law. The operation of this rule imposes a severe limitation upon the process of individualization, for it means that whatever progress is made in one generation is stultified in the next, as property reverts from individual ownership to family ownership -- family of the individual that owned it in the preceding generation, unless the owner specifically willed each plot of his land to specific individuals in his family before his death. Otherwise, the tenure under which land is held can vary with the status of the owner, and no present owner can impress on the land, any permanent form of ownership.

Adjudication and registration of titles was the main thrust of the colonial bureaucracy's response, while the post-Independence period saw the intensification of the use of public land development agencies to counter the problems of the traditional land tenure. This role and the extent of its success is a major part of this thesis. Fuller discussion of it therefore has to await subsequent chapters.

2.3 The Response of the Courts to the Traditional Land Tenure

The Courts, in contrast to the Government/bureaucracy that attempted to change or modify the system, were sympathetic to it. The attitude of the Courts to the system is more aptly conveyed in the words of criticism which Simpson* uttered on the Courts in this respect -- that "the Courts presumably were more accustomed to following principles than to evolving them." A dissenting opinion in a judicial decision that attempted to set aside the inalienability of land and its communal or family group ownership pattern, for example, was later vindicated on appeals. Chief Justice Kingdon, in the Supreme Court of Lagos, on the dissenting opinion under reference, observed²⁷ as follows:

In passing, I wish to refer to one point in connection with the question of changing the law which should not be overlooked. I refer to the right of future generations. Under native customary tenure, an individual cannot alienate the land he occupies; consequently, the rights of his descendants are safeguarded and cannot be realized by him. But once the tenure becomes a fee simple, the rights of generations yet unborn can be sold and the proceeds squandered by the present generation. This alone should in my opinion, make the Court slow to implement in the exercise of its equitable jurisdiction, the actions of persons who have selfishly sold or purported to sell the fee simple of land previously held under native customary tenure. The equities are not all on one side.

In consonance with this dissenting view, the West African Court of Appeal (W.A.C.A.) later reversed the majority decision of the Supreme Court at Lagos,²⁸ thus sustaining the communal character of traditional land tenure.

²⁷ Supreme Court at Lagos in Balogun & Ors v. Oshodi (1931), 10 N.L.R. at 36 at p. 58.

²⁸ W.A.C.A. (1936) 4, W.A.C.A. 1 (cited in Elias, T.O., op. cit., p. 182.

Various other judicial decisions later strengthened the fact or presumption that land is communal property. In Eze v. Igiliege,²⁹ it was held that the burden is on the person claiming that land is not or has ceased to be communal property to prove his claim. Similarly in the case of Ovie v. Onoriobokirhe, Justice Onyeama declared that,

The onus is on the plaintiff to establish by credible evidence that under local custom, land could be owned by individuals; that is to say that the general principle of communal land ownership which has been recognized and acted upon in all courts in West Africa, does not apply in his locality, or is in any way modified in its application.³⁰

The courts still void land transactions that are done without the consent of all relevant members of the community or family as required by customary land law. The Nigerian Federal Supreme Court in 1959 declared in the case of Ekpendu v. Erika that:

Whether a sale of family land is void or voidable depends on the person effecting the sale. If it is by the head of the family without the consent of the principal members, it is voidable. If it is by the principal members without the consent of the family head, it is void.³¹

In another similar case, the West African Court of Appeals in judgment observed that,

We can find no authority for the statement that the principal member of the family can give any title in

²⁹ 14 W.A.C.A. 61 (1952).

³⁰ W.R.N.L.R. 169 at p. 170 (1957). Also Aderimi v. Adedire (1966), N.M.L.R. 398.

³¹ Simpson, S.R.: A Report on the Registration of Title to Land in the Federal Territory of Lagos (Government Printer: Lagos).

a conveyance of family land without the head of the family joining in the conveyance, even though he may be in agreement.³²

The principle, then, is still upheld that the head of the family must join in the conveyance of family land, that the principal members must concur therein, and a conveyance purporting to transfer family land without these consents is void from the start.

The implication is that a prospective purchaser of land must first find out: (i) the family which owns the land, (ii) who the head of the family is for the time being, (iii) who the principal members of the family are -- i.e., how many branches does the family consist of. In other words, how many wives did the progenitor of the family have; each wife being the foundation of one branch of the family, for her male children carry on the line. It is not sufficient to obtain the concurrence of just anyone in the branch; he must be a principal member, usually the oldest man in the branch. Quite often, a purchaser is actively deceived by members of the family in his search for these very important facts in relation to their family. These problems notwithstanding, the Courts still uphold the process.

³¹ Simpson, S.R.: A Report on the Registration of Title to Land in the Federal Territory of Lagos (Government Printer, Lagos).

³² Crown Grants (Lagos) Act 1947 Cap. 44, Laws of Nigeria, 1958. Preamble. Cited in Nwabueze, B.O.: Nigerian Land Law, p. 152.

The Court's recognition and respect of the customary land law is very extensive and seemingly all-pervasive -- to the extent that registration of title to land does not assure security of tenure if the original conveyance was not done in accordance with the customary laws. Section 48 of the Registration of Titles Act, Cap. 181, provides that:

In so far as registration of title affects land, the title is guaranteed only after first registration, but affords no guarantee of title prior to first registration.

What this means in practice is that the most solemnly and ceremoniously registered title under the Act, and subsequent registered owners, can be deprived of their holding by proof, for instance, that the grant to the first registered owner was not made by the owners, or by those entitled to make the grant or that it was not consented to by the principal members of the family, or that it was transacted without the knowledge or consent of the head of the family.³³

Moreover, title in sale of land under native law and custom is not necessarily transferred validly by legal conveyancing. The presence of witnesses who saw the actual handing over of the property is a necessary pre-condition of a valid sale under customary law, the implication being that the sale is ineffective without it. The Courts have accordingly often held that,

³³ Supreme Court of Nigeria in Taiwo v. Ogunsanya (N.M.L.R. 375 (1967), cited in Nwabueze, op. cit.

Nwabueze, B.O., op. cit., p. 344.

In order to transfer an absolute title to a piece of land under native law and custom, it is necessary that such a grant or sale should be concluded in the presence of witnesses who saw the actual "handing over" of the property.³⁴

Not all members of the Judiciary, however, were sympathetic to the traditional land tenure system. In fact, some were utterly disgusted with the system and tried to discredit and do away with it. Justice Speed, who was one of its ardent critics, for example, once declared that,

The institution of communal ownership has been dead for many years and the institution of family ownership is a dying institution...I do not wish for a moment to be understood to be speaking with any disrespect of the customs of your ancestors. There was much that was admirable and much which I hope will be retained for many years in the family system which they evolved, but it can hardly be denied that their ideas as to ownership of property were utterly unsuited to modern requirements, that these ideas have been dying a more or less natural death ever since the people of this country entered into commerce with European nations, and that sooner or later, either the Legislature of the Colony or this Court in the exercise of its equitable jurisdiction will have to give the coup de grace to the whole system.³⁵

Along these same lines, Justice Mervin Tew commented in another similar land case that,

This conflict between the English law of real property and the customary native tenure, to which I have previously referred, has become very acute in Lagos and has given rise to cases of extreme difficulty and hardship. It suggests that the Legislature may before long decide that within the Township of Lagos at least, the

³⁴Supreme Court of Nigeria in Taiwo v. Ogunsanya (N.M.L.R. 375, 1967).

³⁵Speed, Ag. C.J. in Lewis v. Bankole (1909) 1, Nigerian Law Review, 31, 103, cited in Nwabueze, B.O.: Nigerian Land Law, p. 45.

time has come to make the change which was foreshadowed by Speed in Lewis v. Bankole, and sweep away the whole system of native land tenure.

But so entrenched and resistant to change are the customary practices, that communal ownership system still retains a firm grip and legitimacy in the society long after the above suggestive prediction was made by Justice Speed. In fact, Justice Butler Lloyd, in another Supreme Court case some three decades later, observed in reference to that prediction of the death of the traditional land tenure system, that,

Now with all due respects to the opinion expressed by Speed, acting C.J. in the case of Lewis v. Bankole, to the effect that family ownership is a dying institution, I am bound to place on record my view that notwithstanding the lapse of nearly a generation since that judgment was delivered, the institution of family ownership is still a very live force in native tenure in Lagos.³⁶

Even Sir Mervyn Tew had had to repudiate his own earlier prediction of the death of the system. In his Report on Titles to Land in Lagos, thirty years later, he observed that,

I do not believe that even in Lagos today family ownership can be said to be a dying institution, to which an end can be put by the wave of the Legislative wand. On the contrary, I am convinced that the idea of family ownership is so deeply ingrained in the minds of the large proportion of the community which is still illiterate, that any such sweeping change would cause widespread consternation even if, as is unlikely, it were widely understood.³⁷

³⁶ Justice Butler Lloyd in Bajulaiye v. Akapo (1938) 14 NLR 10, cited in Nwabueze, B.O., Nigeria Land Law (Nwamife Books, Enugu), 1972.

³⁷ Tew, Mervy, Report on Titles to Land in Lagos (Sessional Paper No. 2, 1947, Government Printer, Lagos).

The Courts therefore essentially interpret and apply the customary land tenure law. It thus seems rather paradoxical that the unlimited regulatory authority that the successive modern governments in Nigeria have attempted to superimpose upon the indigenous system of land tenure, with a view to modifying and controlling it, have seemed in effect to accord the system greater efficacy -- through one of the apparatus of the modern State -- the Courts.

But the Courts do protect the rights of strangers and migrants over land that they honestly acquired or were granted. The general stance of the Courts today regarding customary tenancy in this respect has often been that, where 'strangers' or 'immigrants' have been granted land for occupation and use, they are entitled to continue in peaceable enjoyment until they forfeit their rights on such grounds as: (i) alienating a portion of the land to others without the prior consent of the grantors, or (ii) putting the land to other uses other than those originally agreed upon, or (iii) by failure to pay the customary tribute or by denying the title of the overlord. It is also well established now that customary tenants should not suffer forfeiture for minor acts of misbehavior, and that the Courts are loathe to order forfeiture except "in the most exceptional circumstances."³⁸ A 1974 judgment sets out this protection of customary tenants:

A very important factor is that a grantor of land, once it has been given to the grantees as customary tenants, cannot thereafter grant it or part of it to a third party without the consent or approval of the customary tenants. The grantor is not allowed to derogate from his grant.³⁹

³⁸ O. Chukura, op. cit.

³⁹ Wagnoreghor and Ors v. Aghenghen (1974) 1, s.c.p.1 at p. 8.

2.4 The Disadvantages of the Traditional Land Tenure in Urban Development

The various problems posed by the features of this land tenure system must have become apparent by now. These are reflected in the inter-related areas of land assembly for urban development schemes, housing production, rationalization of land uses, and in the areas of environmental quality and protection.

Because of the prevailing reluctance to sale or other forms of land transfer, it becomes difficult to assemble land for any substantial development programs, either by the Government or by private developers. In effect, this tenure system has the tendency to obstruct important programs involved in the country's growth and development.

Quite often, for example, commercial and industrial activities by Government, its agencies, or private entrepreneurs are delayed or completely halted by the fact that business and factory sites are not held with certainty of title or that such sites are difficult to acquire.

On occasions, too, an ostensible owner of land is unable to establish his ownership, either because he cannot satisfy interested parties, usually financial institutions, that it is not family land, but individually owned land, or that he holds it as a result of partition, as distinct from allocation, or that his family granted the land to him and so cannot borrow money with which to develop his land, nor could he sell it to those who are prepared and are able to develop it. With increasing urbanization, loss and waste through litigation on land have become features of the traditional land tenure or market.⁴⁰ The Annual Report of the Nigerian Federal Land Department (1954/55), for example, points out that,

It is apparent that the difficulty of obtaining, whether by lease or purchase, secure title to land in many parts of Lagos causes a regrettable degree of loss and waste through litigation arising from this cause and materially hampers commercial development by its adverse effects on capital development.

⁴⁰ O. Chukura: "Legal Problems in Housing Provision in Nigeria" (paper presented to the Second International Conference on Housing, University of Ibadan, April 21-25, 1975).

In fact, the Third National Development Plan 1975-1980 repeats this same problem when it pointed out that,

...fraudulent land transactions and endless legal tussles over title ownership have combined to stifle housing development with consequential and significant escalation in the prices of rented accommodation. And virtually all public agencies have cited difficulties in land acquisition as the most intractable factor which delayed the implementation of their development projects and schemes during the second Plan Period.⁴¹

The British West Africa Mission's Report of 1948 reflected the same theme in its observation that,

We are informed that the only method by which title to land could be obtained in many areas was by means of a law suit and that suits of this nature are liable to drag on for long periods owing to the numerous claimants involved.

A classic example of these problems was the delays encountered by the Nigerian Government in the acquisition of land for the Apapa scheme. The compulsory acquisition proceeding was started in 1913, but was snarled and effectively held up by legal suits from the affected Chieftaincy family. It wasn't until 1925 that the Federal Land Department was able to report (somehow with relief) that,

The arbitration proceedings in connection with the claims of Chief Oluwa and a few others, who rejected the compensation offered by the Government were continued during December, and concluded on 2nd of January of this year (1925). The settlement of

⁴¹ Federation of Nigeria: Third National Development Plan, p. 37. (Lagos: Federal Ministry of Economic Development).

this long standing dispute, dating back to the year 1913 should not now be delayed.⁴²

These give some idea of the difficulties posed by land tenure in Nigeria in particular, and in West Africa in general.

The Lloyd Committee on the Registration of Title to Land in Western Nigeria⁴³ summarised these problems of land tenure as follows:

The problems which arise from the uncertainty of title to land in the Region are too well known to need lengthy exposition. A man who wishes to purchase or lease and cannot find out who are the right people to convey it to him; many men buy their land twice from rival claimants, or from two sections of a family. Having acquired the land, a man is reluctant to develop it, being unsure of his rights to it. When he does take the plunge and build an imposing house or plant permanent crops, he finds that his lack of a secure title prevents him from readily selling the property or from mortgaging it to raise credit for further expansion of his business. Well known is the unscrupulous debtor who has cited his house as a security for a loan and who immediately defaults, claiming successfully that the building is on family land, and cannot therefore be attached for his debts. Once caught out, creditors are extremely reluctant to advance money to build a house on what seems likely to be family land, or to loan money with a house on family land as security. Creditors presume therefore that all land within the traditional built up areas of a town is family land until the contrary is shown. Another serious aspect of the problem is that valuable land lies unused because it is not clear, by customary law, who are the persons empowered to dispose of it. These issues have continuously been

⁴²Annual Report of the Nigerian Land Department, 1925.

⁴³Report to the Western Region Legislature. Sessional paper No. 2 of 1962, para. 2.

raised before the Minister of Lands and Labour by creditor organisations such as banks and building societies. A committee set up in Lagos to investigate the problems of the Nigerian businessman reported that his inability to raise credit was one of his foremost handicaps.

These same problems were reflected and articulated also in the Report of a United Nations Housing Mission to the Gold Coast⁴⁴ (Ghana, November 1954), whose land tenure problems are similar to those of Nigeria. The comment is as valid in Nigeria as it is in Ghana. The report pointed out that,

It has long been acknowledged that a serious need exists for clearing titles to land in certain areas of the Gold Coast and for instituting a system of land registration. These reforms are essential to record the rights of people to their land, to secure those who have purchased property against eviction as to assure people who build their homes that they can do so without fear or uncertainty. It has been iterated and reiterated that only when a sound system for buying and selling property exists, will the fundamental wealth represented by the country's land be brought into use for the benefit of the people. All too often, though, no one may be disputing ownership to land, the imputed owner is unable to establish his ownership, cannot borrow money with which to develop his land, nor sell it to those able to develop it. A legal mechanism able to define and record his interest is needed to enable him to bring his land into use.

The evils and mischiefs of the current situation are known. They rise to obstruct important programmes involved with the country's growth. They loom in the conflict between stools in some of the rural areas and between owners and tenants in the burgeoning cities. They affect large landowners and small.

⁴⁴Cited in Simpson, S.R.: Report on the Registration of Title to Land in Lagos (Federal Government Printer, Lagos, 1957), para. 20.

They have cost many persons into uncertainty as to their rights. Almost every phase of the housing problem which the team of the United Nations experts has explored has brought forth the uncertainties of land tenure as a primary obstacle. It has been emphasized in conferences with architects and builders, who have been obstructed in their operation; by small folk seeking to build a roof over their heads; by Government officials who have the duty of making housing loans or carrying out legislative policy; by those concerned with advancing the building and loan movement, and by local government officials.

Because of these many complexities, transactions in land, particularly by private individuals, is incalculably risky and expensive, to say the least.

Closely related to this is the effects it has on housing and housing production in the cities. Because it is difficult to assemble land, much less good and secure titled land, production of housing all the time falls far short of the demands for housing, with the consequent overcrowding in residences. Table 2.6, for example, shows the housing conditions in the urban areas of Nigeria, indicating very high percentages of urban households living in one room dwellings. On the average, about 50-70% of all the households in Nigeria's urban centers live in one room, and most of the major urban centers have an occupancy rate of 3-4 persons per room, and in no urban center is the rate below 2 persons per room.

Table 2.6

Housing Conditions in Selected Urban Centers in Nigeria

Town	Households Occupying 1 Room (%)	Average Number of Persons per Room
Lagos†	74.2	4.1
Ibadan†	48.1	3.2
Oshogbo†	36.4	2.2
Ilorin†	38.2	2.6
Kaduna†	73.5	3.8
Jos†	74.1	3.7
Port Harcourt*	51.5	2.4
Benin City*	48.0	2.2
Kano*	69.1	2.4
Warri*	59.9	2.6
Enugu**	n.a.	3.0
Onitsha**	n.a.	
Owerri**	n.a.	3.5
Abakaliki**	n.a.	2.5
Nsukka**	n.a.	2.5
Umuahia**	n.a.	2.8

Sources: † = NISER, University of Ibadan, Survey of Housing Conditions in Selected Urban Centers in Nigeria (preliminary).

* = Third National Development Plan 1975-80, Vol. 1 (p. 307).

** = Field Survey of Housing Conditions in Seven Urban Centers of the (Former) East-Central State, by C-E Tec, Inc., Waltham, Mass.

These are definitely serious housing situations which, incidentally, may improve only when the production of new housing has caught up with the demands and needs of a growing urban population. Studies of population growth rates of most Nigerian urban centers show annual growth rates of 3% to 5% per annum, with the highest rate of 8% for the city of Lagos and 11% for its metropolitan area.

The rates of housing construction are not anything near meeting existing

needs, much less the housing needs created by these rapid urban population growths.

Because of the tenure system, valuable land lies unused because the owners do not have the resources to develop and build the houses as needed, and are not disposed to transfer them to those who can develop them properly. This in some ways contribute to the housing problems.

Another effect is on land development or housing finance. Generally, over 90% of all residential houses in Nigerian cities are built with the personal savings of their owners. Consequently, most of them are relatively small rooming houses of 8 to 9 rooms on the average, and generally housing some 16 to 20 persons (about 4-5 Nigerian urban families) each. Bigger, better, and more housing developments are generally limited because housing development finance from commercial banks or other private sector commercial credit institutions are practically non-existent, and the trickle that exists in the public sector is restricted to a very small segment of the civil service. Housing finance is generally not available because the commercial credit institutions and other creditors are reluctant to advance loans for housing and other land development activities because of the insecurity of titles in land, nor do they accept land as security or collateral on loans, for the same reasons of uncertainty and insecurity of titles in land, so that even when they refuse to sell or lease these lands to developers, the traditional land owners may not be able to develop the lands themselves because they don't have the financing. The result is a heavy housing deficit in the cities, with its all-pervading ramifications.

A further negative implication of the features of this land tenure system is the problems it poses for a more desirable rationalization of land uses. In addition to irregular and confusing sub-division practices, the 'traditional' developments in urban settings are often characterized by mixed uses, and often these 'mixes' are considered incompatible uses and therefore undesirable from the point of view of health and the general environment.

Table 2.7 shows the different residential areas of Lagos with the proportion of the residences with subsidiary uses in each area. These subsidiary uses include light industries, offices, and all kinds of shops.

Table 2.5

Lagos: Subsidiary Use of Residential Buildings

<u>Area</u>	<u>Percent of Dwellings with Subsidiary Uses</u>
Lagos Island	28.0
Ebute Metta	43.6
Yaba	15.6
Surulere	10.4
All Areas	22.1

Source: LEDB: Lagos Master Plan (draft), 1971, p. 95.

The Central Business District (CBD) of Lagos is located in Lagos Island. This area (CBD) and other areas in the Island generally recognized as 'commercial areas' were not included in this table. This accounts for the lower rate of dwellings in Lagos Island recorded as affected by subsidiary use (28%) than might have otherwise been the case if designated commercial areas, in which there are also many dwelling houses, were included. The areas dominated by the indigenous people of

Lagos -- Lagos Island and Ebute Metta, clearly have a preponderance of subsidiary uses in their residential buildings. There are less of such mixtures in Surulere, which is largely developed and controlled by the Lagos Executive Development Board -- a public agency. In the indigenous areas, too, road spaces are narrow and without sidewalks, and open spaces are scarce.

Following from all these other implications of the traditional land tenure features are their environmental implications. Because land is difficult to assemble, irregular subdivisions exist, and sub-division controls cannot be effectively enforced. This means narrow or no streets, inadequate frontages and very high proportion of site coverage, inadequate drains and shortages of other utilities. These result in very un-sanitary conditions. The lack of housing development finance results in inadequately serviced houses, particularly with respect to sanitary facilities, water systems, sewers, and other refuse disposal systems. These, added to the subsidiary and incompatible uses to which a substantial proportion of the dwellings are put, creates a serious, undesirable environmental situation.

These problems created by the traditional land tenure system had prompted the suggestion that,

One way of reducing their significance (significance of the traditional land ownership pattern), in this respect is to valorize urban land through property tax. This is because lineage land is believed to be the real nexus of their relationships to the city...

and that,

...once this is pushed into the stream of economic exchange relations, the majority of such individuals would be forced to re-define their relationships to the city.⁴⁵

⁴⁵Mabogunje, A.L., "Urban Land Policy and Population Growth in Nigeria" (in Ominde, S.H. and C.N. Ejiogu, Population Growth and Economic Development in Africa, p. 242).

But the problems that might result from this approach might create more social and political problems than it might have solved.

2.5 Good Features of the Traditional Land Tenure System

We have discussed at length the problems posed by the traditional land tenure and its constraints on marketability and supply. In spite of these problems, however, it can be said that the traditional land tenure system has the distinct advantage of horizontal distribution. Ownership and accessibility to land is horizontal -- across the socio-economic stratum (Figure 2.1A). Most people have at least a piece of land, and therefore a house, because he or she can build a house of a sort. As against the modern market system in which there is a tendency for land to be monopolized by a relatively few wealthy people or firms (Figure 2.1B), this system has a wide social distributional pattern -- across the economic stratum. Land ownership is dispersed over a reasonably large number of people, so that a monopoly situation does not exist, except in cases where the public authorities themselves wield monopoly power and alter the distributional pattern (Figure 2.1C).

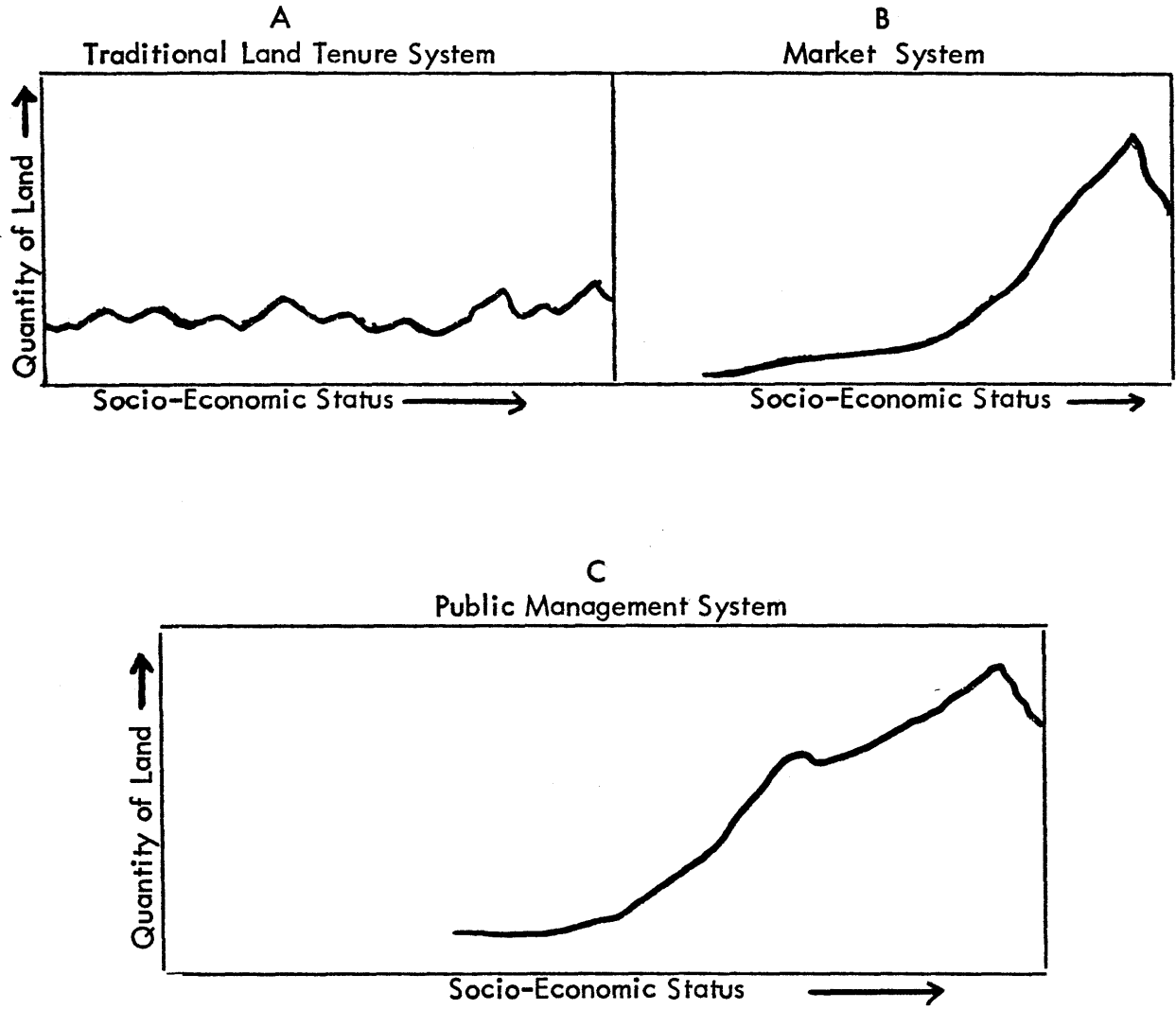
This horizontal pattern of land ownership⁴⁶ has come about as a result of the system of inheritance -- through parents and ancestors down the generations. As cultural

⁴⁶ This ownership of land by both the rich and the poor refers principally to the cases of populations indigenous to any given city, town, or village, and does not include migrants to the given place. The migrant rich or the migrant poor do not 'traditionally' own land at the places (destinations) of their migration, though in all probability, they own land at their indigenous places of origin. Migrants could, of course, own lands in their places of migration through buying or leasing such lands from the indigenous population, but as has been noted, in this essay, it is not always an easy thing to do.

The implication of this feature, then, is that migrants are generally dominantly renters, while the indigenous people would more likely be landlords and owner-occupiers.

Figure 2.1

Conceptual Diagrammatic Comparisons of Land Ownership Distribution Across the Socio-Economic Stratum in Three Land Tenure (Market) Systems .



norms usually disapprove of land sales, they succeed to a large degree in keeping the lands in the hands of the relatively poor people, without much danger of their being bought out, or being induced or pressured to sell to the wealthy or to commercial developers. While this feature or attribute may be dysfunctional or undesirable at times, its greater advantage of enabling accessibility of land to a cross-section of the society's income groups is very desirable, and if well channelled and utilized, this feature is positively sufficiently broad and inclusive of "public purpose" characteristics as such and could serve as effectively as the public mode of ownership as a matrix of investment in urban land improvements and development.

SUMMARY

This chapter has attempted to describe the features of the traditional land tenure, to show what the land market is like to a potential private buyer of land. To one non-indigenous to a given place, the land market is complicated, risky, and expensive. These problems derive from the extended family or community pattern of land ownership, and the consequent difficulty and expense of locating those members of the family that can validly transfer titles; the general non-registration of titles which makes it difficult to know which titles are genuine, and the general reluctance to "sell" land, which derives from the traditional cultural and religious abhorrence of such sales.

It was noted that in various ways the features of this land tenure have serious limitations to proper urban planning and environmental safety. In the traditional land tenure system, however, the distribution of land ownership is horizontal -- that is, ownership is accessible both to the rich and the poor, through the inheritance structure and mechanisms. This horizontal distribution and accessibility pattern is one of the strongest points in the traditional land tenure system, and is really unique to it.

CHAPTER THREE:

**PUBLIC INVOLVEMENT IN URBAN LAND IN NIGERIA:
FRAMEWORK AND RATIONALE**

Chapter Three

PUBLIC INVOLVEMENT IN URBAN LAND IN NIGERIA: FRAMEWORK & RATIONALE

Chapter Two had discussed the nature and characteristics of the traditional land tenure system in Nigeria, and its implications for urban land transactions and land supplies, for the production of housing, for the rationalization of land uses, and for environmental quality. It was pointed out that the Chapter mainly portrayed what the land market picture was for the private buyer of land, which implies that the picture could be different where the government was the buyer of land. It would, of course, be unimaginable for a government to allow a land tenure system with such apparently "social cost" implications to continue to exist without any attempts at changing, or at least modifying, its undesirable features or aspects.

This chapter attempts to look into what this land market is when the government or its agencies enter the market for land -- how much the rules of the game get altered as a result, and with what effects. A brief historical review of public encounters with the problems of this tenure system (particularly in the early colonial period, when it was hardly well understood by British Colonial Administrators) is undertaken, and the initial official ambivalence towards it analyzed. The rationale and mechanisms for public acquisition of lands are presented and discussed.

3.1 Sovereign Powers of the State over Land.

The traditional land (market) tenure system in Nigeria poses as much problem for the Government as it does for the private individual, if not more. This will become evident from our discussions in the next chapter. Suffice it to say, meanwhile, that the only difference between the two (public and private) with

respect to these problems is that the government has a sovereign right to expropriate what it cannot purchase by negotiation and voluntary contract. It can make arbitrary rules to guide the transactions and impose and legitimize those rules as binding on all other relevant parties under its political jurisdiction. What we are going to discuss here, then, are the expropriatory rules of the government, and how, to what extent, and in what framework it deals with the traditional land tenure system under consideration, and its effectiveness in doing so.

The regulation by the State of the manner in which private owners of land are to hold and dispose of their land invariably results in some qualifications being imposed upon private rights of ownership for various public purposes such as town planning, social justice and equity, or even the protection of the private owners themselves against the dangers of unhealthy environment and sometimes against land trafficking by unscrupulous dealers or speculators. Private ownership is, therefore, subject to the "eminent domain" and "police powers" of the State, which implies that the rights of private ownership can be enjoyed only subject to such qualifications as the State may in the exercise of its sovereignty impose upon them. Theoretically, these are universally accepted facts, irrespective of ideological systems.

In addition to taking land for such "public purposes" as stated above, Governments or their agencies in Nigeria could also acquire land for housing and other urban land development or commercial schemes. In this respect, a slight distinction (sometimes a distinction without a difference) is made between: (a) "Public acquisition for 'public purposes'", and (b) "Public or Quasi-Public Acquisition for Planning schemes and residential developments".

Acquisition for 'public purposes' is where 'public purpose' is used in the very restricted sense of a purpose that benefits all or most of the people or a substantial proportion of the relevant 'public' -- a sort of 'public-free good' criterion. This sense of public purpose is approximately defined by the criterion of 'public purpose' outlined on page 71-72. Under this restricted sense are also classified such purposes that though ordinarily would be classified under (b) above -- (quasi-public) are directly used by the Government or are necessary for the smooth and more efficient functioning of the Government. Acquisition of land for housing to public servants would come under the meaning of this definition.

Public acquisition for planning schemes and residential developments denotes public action in the acquisition of land, which in a very general sense can be justified as of benefit to the public, but which nevertheless benefit certain individuals or groups more than it benefits others or benefits them to the exclusion of others. In other words, the public purpose character of this class of public actions could be said to be largely incidental to the benefits of the intended prime beneficiary individuals or groups.

This slight distinction was implied in the dictum enunciated by Oliver Lyttleton with respect to urban housing development, when he stated that,

In so far as government is concerned with providing houses for its own purposes, or its own employees, it will no doubt find it convenient to provide the finance from revenues and entrust the execution of building programmes to the Public Works Department or departmental works services. When however government is concerned to promote the provision of housing for the general public, it

will almost certainly find it more satisfactory to work through other agencies.¹

This in effect explains the basic framework for public involvement in urban land management and development in Nigeria -- direct government acquisition (by government departments) for purely "public purposes" as roads, medical facilities, educational facilities, and land for the building of government stations and offices and housing and industrial/commercial developments, and through Urban Land Development Agencies for "quasi-public purposes", as housing and industrial/commercial developments.

As had been pointed out, however, these are slight distinctions, and the two types of "public purposes" can and do overlap from time to time. "Pure public purpose" is the basic general rationale for the exercise of eminent domain or compulsory acquisition powers and acquisitions for quasi-public purposes are extensions of this main rationale. A further discussion of these powers of compulsory acquisition, its evolution, and application in the Nigerian context, are undertaken in the next section.

A. Acquisition for "Public Purpose"

Theoretically, the government or the State can obtain private lands and interests in them needed for "public purposes" through gifts, purchase in the open market, or by compulsory acquisition. These, though practicable, are not as easy, peaceable, and straightforward as they sound. The complexities of the Nigerian traditional land market system is fairly familiar by now. From the discussion of the nature and character of this tenure system in Chapter 2, it can be inferred that the time-consuming process of scouting out and identifying those members of a family

¹Sir Oliver Lyttleton, Secretary of State for the Colonies, in a letter to the Colonial Governors of British Territories (which included Nigeria at that time), November 3, 1953.

who hold interest in a given piece of land and whose consents are required for a valid purchase of such land to be made are unlikely to make easy, peaceable, and straightforward acquisition of land by any "body" possible. Compulsory acquisition has therefore come to seem the only potentially viable option for the Government. Where, for example, a communal decision has to be taken on whether or not to dispose of a piece of communal land, there are too many complex matters to contend with and the State may not want to wait indefinitely. To ensure, therefore, that the Government has access to land at the right times and places, legislation is often passed to empower the government to acquire, compulsorily if need be, land required for "public purposes". In Nigeria, this basic eminent domain legislation is formally provided by the Public Lands Acquisition Ordinance of 1876, amended and re-enacted as the Public Lands Acquisition Ordinance of 3rd May 1917, otherwise titled: An Ordinance to Empower the Governor to Acquire Lands when Required for Public Purposes.

The definition of 'public purpose' usually varies from place to place, and often depends on circumstances too, but certain general guiding criteria are accepted as determining when an action is for a 'public purpose' or in the 'public interest'. These criteria² include:

- (i) Whether the benefit of the action is available on equal terms to the entire public in the locality affected;
- (ii) Whether the service or commodity supplied is one needed by all or a large number of the public;
- (iii) Whether the enterprise bears directly and immediately, or only remotely on the public welfare;

²Allydonn Realty Corporation v. Holyoke Housing Authority, 304 Mass 288, 293, 23 N.E. 2d 665 (1939).

- (iv) Whether the nature of the need to be met requires united effort under united control, or can be served as well by individual (private) competition;
- (v) Whether private enterprise in the past has failed in supplying the want or eradicating the evil; and
- (vi) Whether insofar as benefits accrue to individuals, the whole of society has an interest in seeing those individuals benefited.

Not all these factors need necessarily be present in each particular case to make an action a "public purpose" one. The essential determination is that the real, primary, dominating or fundamental purpose be 'public'.

Public purposes in the context of Nigeria include Government offices and stations, utilities and land for institutional establishments -- hospitals, post offices, educational institutions, transport facilities, and other urban or rural land uses of a public nature. Section 2 of the Public Lands Acquisition Act (Cap. 167) formally defines "public purposes" as:

- (a) "Exclusive government use" or "general public use",
- (b) Use for or in connection with sanitary improvements of any kind including reclamations;
- (c) Use for or in connection with the laying out of any new townships (urban center) or government station or the extension or improvement of any existing township (urban center) or government. This involves a very broad scope of acquisition of lands for new towns and/or for the extensions of old ones, but is limited to the planning and installation of basic infrastructure. It does not include ownership of the land involved. Such lands usually revert to the owners, who are required to pay planning fees after the planning exercises are completed.
- (d) Obtaining control over land contiguous to any port;
- (e) Obtaining control over land, the value of which will be enhanced by the construction of any railway, road or other public works or convenience about to be undertaken or provided by the government;

- (f) Obtaining control over land required for or in connection with mining purposes; and
- (g) Obtaining control over land required for or in connection with planned rural development or settlement, development of telecommunications, housing estates, economic, industrial, and agricultural development.

As originally applied, the statutory powers of compulsory acquisition could not be validly invoked for other than public purposes as defined. But even then, the definition of scope as above is so wide that it hardly excluded much, and most acquisitions could by that definition still be justified as of 'public purpose'.

In the earlier days of the British Colonial Administration in Nigeria, however, most lands required for the services of government were readily made available free of charge by the customary owners (mainly from the pool of communal lands). Land was relatively a surplus good then, and modern urbanization was as yet embryonic. The Government did not therefore have to resort to large-scale compulsory acquisition of lands. But as time went on, and more demands were made by the governments on the lands of the natives, and with increasing urbanization, land assumed increased scarcity, and therefore money value. Willing supplies naturally dried up and compulsory acquisition became necessary, and actively used.

Earlier instances of the exercise of what might be called powers of compulsory acquisition were not general in scope, but were confined to particular projects. The first of these was the Town Improvements Ordinance of 1863 which with the object of "laying out the town of Lagos in broad streets, roads and highways", empowered the Governor of Lagos to pull down buildings or erections and to pay due compensation for them as well as for the ground upon which they stood.

The second enactment, the Swamps Improvements Ordinance of 1863, required the owners of certain swamp lands on the Island of Lagos to fill them up on pain of sale of such land by public auction to anyone ready to carry out the requirements of the Ordinance, and if no purchaser was forthcoming, the Governor could himself take possession of it for the services of the Colony on payment of adequate compensation.

The Public Lands Acquisition Act, No. 9 of 1917 (Chapter 167 of the Laws of Nigeria) with various amendments and modifications, is still the law governing compulsory acquisition of land in Nigeria today.³ The basic authorization for public compulsory acquisition of land is provided by Section 3(1) of the Act, which states that,

Where any lands are required for a public purpose of the Federation or of a public purpose of a State, the President in the former case, and the government of the State concerned in respect of any lands within the State, in the latter case, may acquire such lands for an estate in fee simple or for a term of years as he may think proper, paying such compensation or consideration as may be agreed upon or determined under the provisions of this Act.

3.2 Conditions for Compulsory Acquisition

Three conditions have to be fulfilled for a compulsory acquisition to be valid: (i) the acquisition must be for a public purpose; (ii) notice of acquisition must be given to the land owners or those claiming interest in the land. This

³ Umeh, J.A.: Compulsory Acquisition of Land and Compensation in Nigeria (Sweet & Maxwell, 1973), p. 21, 28.

notice must be sent directly by the acquiring authority to such interested persons, and the notice should also require them to send to the acquiring authority within six weeks from the date of the notice, a statement of their respective rights or interests, and of the evidence thereof, and of any claim made by them in respect of such rights or interests. (iii) Fair and adequate compensation must be paid to the land owners. Fair and adequate compensation is defined as "the fair market value" of the land or property, or "the value of the land, estate, interest or profits, or the amount which such lands, estate, interest or profit if sold in the open market by a willing seller to a willing buyer might be expected to realise".⁴ And no allowance shall be made on account of the acquisition being compulsory.⁵

In determining this "fair market value" of the land, relevant factors⁶ of consideration would include:

- (a) The assessment made by the officers of the acquiring authority;
- (b) The price paid for the land by the owner (if he had bought it);
- (c) The price at which the owner had sold land forming part of the area compulsorily acquired;
- (d) The price at which land has sold generally in the locality;

⁴Public Lands Acquisition Act, Cap. 167, s. 15(b).

⁵An earlier provision of the Lagos Local Government Act (Cap. 93) now replaced by PPD 199 D284 of the Laws of Nigeria (1959) provided that a fair market value be paid to an owner as compensation, plus 10% of that in addition in lieu of the acquisition being compulsory. This provision for a 10% addition was, however, statutorily stopped in 1945 on grounds that the Public Lands Acquisition Ordinance did not specifically provide for it.

⁶Nwabueze, B.O., op. cit.

- (e) The rate at which compensation has been paid for lands acquired in the locality;
- (f) The capital value of any rent payable in respect of the land.

Which of these or combinations of these that would be conclusive in determining the "fair market value" of any particular case, however, depends upon the particular circumstances of the case. Ultimately, therefore, "fair market value", however defined, basically involves substantial subjectivity in assessment. As was rightly (if statutorily incorrectly) observed by the judge determining such an assessment, "In such a state of things, any amount fixed by the Court as payable to a claimant must be arbitrary assessment."⁷

Cognizant of the complexities and intricacies of the Nigerian land tenure system, provisions were made in the enabling legislation to ensure that the acquiring authorities are not deliberately or unreasonably held up or obstructed by land owners. Legislation gives the Government or other relevant authorities:

- (i) The right to enter the property in question to carry out preliminary investigations on the land;
- (ii) The right to go to the appropriate High Court for the settlement of the amount of compensation due, if any, and/or disputed interest or title, if for six weeks after service and publication of notice of intention to take lands, (a) no claim was lodged with the authority, (b) the claimant and the acquiring authority have not agreed upon the amount of compensation; or (c) the claimant fails to give satisfactory evidence in support of his claim, or (d) separate and conflicting claims are made in respect of the same lands.

⁷Chairman, LEDB v. Williams (1 All Nigeria Law Review, 267 (1963)).

- (iii) A further proviso that where a party upon whom a summons has been served fails to appear at the appointed time, an effective decision may be given in his absence;
- (iv) A provision that lands or any estate or interests thereof belonging to such other persons under disability to sell and convey, such as infants, or lunatics, can be acquired through the appropriate guardians, committees, trustees, executors and administrators. Section 6 of the public Land Acquisition Act -- power of persons under disability to sell and convey -- specifically states that,

It shall be lawful for the persons being seized, possessed of or entitled to any lands or any estate or interest, therein, to sell and convey the same to the Governor...and the power to sell and convey as aforesaid may lawfully be exercised by such persons, not only on behalf of themselves and their respective heirs, executors, administrators and successors, but also on behalf of every person entitled in reversion or remainder after them or in defeasance of their estates.

These obviously were designed to circumvent the complex and protracted customary law in which all principal members of the family have to agree before a valid sale or conveyance could be made.

- (v) By Section 7 of the Act, a "recognized head chief" is empowered to sell and convey communal lands; this section provides that,

...where lands required for public purposes are the property of a native community, the recognized Head Chief of such community may sell and convey the same for an estate in fee simple (freehold title) notwithstanding any native law or custom to the contrary.

Under native law and custom, the Chief is only a trustee of the communal lands and has no rights to sell or dispose of it without the consent of the principal members of the community, and the process of getting these consents is prolonged and complex and often such consents are not possible or forthcoming. More so when even such a sale by a majority of the community including the Chief is not valid. A unanimous consent is necessary for a valid sale. This provision, therefore, empowering the recognized chief to validly sell and convey communal land to the Government is designed to get over such problems. The Act in addition defines a 'recognized Head Chief' as

"a Chief who is recognized by Government as holding for the time being the highest rank in a native community under native law and custom". As often happened, the rightful Chief may refuse to sell and convey lands to the Government and often, too, the Government recognized any other Chief or indeed any other person, Chief or not, but willing to sell and convey the required land to the Government as the "Recognized Head Chief".⁸

Thus, the necessity for obtaining the consent of the community or family or of any individual to alienations by the Chief or by any other required individual of communal lands is dispensed with in all cases of compulsory acquisition by the Government. Government (public) acquisition dispenses with the consent of the principal members or any other members, though providing that the compensation money be distributed among all relevant interests involved or applied for their benefit in such proportions and in such manner as the Minister shall approve. But the invocation of this section is rare because such sharing within the family group has not been such a problem.

Similarly, the rule that the Chief must consent or be party to a disposition of communal land may be dispensed with where such disposition is by the order of the Court in the exercise of its equitable jurisdiction.

Where in spite of these powers, processes and procedures, possession of land by the Government is still withheld by the land owners, the Act proscribes fines of £ 25 or imprisonment for three months, and in addition, provides that,

⁸ Chiefs so appointed and recognized by the Government in this way were commonly known as "Warrant Chiefs" because they acted on the strengths of the 'warrants' given them by the Government and not necessarily by virtue of choice or support of their people or subjects.

If any person hinders or obstructs any person duly authorized by the Governor from entering upon and taking possession of any lands in which the Governor may lawfully enter in pursuance of this Ordinance, a Lieutenant-Governor may apply ex parte at any time to any Court for a writ of possession, and such Court may thereupon upon proof of the service and publication of the notices... issue a writ of possession, addressed to the Sheriff, under which any officer of the Sheriff or Police Officer, may forthwith eject any person so withholding possession.

But whereas in many cases, it is the community or a relatively large family group that witholds possession, it implies that a battalion of Sherrif's officers or police officers would have to be sent to eject a whole community or group. The likely consequence is a breakdown of law and order, which any government, particularly a Colonial Government, tries hard to avoid. This means that if it gets this far, the Government often tactically accepts the inevitable, and as in the Central Lagos Acquisition and Slum Clearance Case*, abandons or modifies the particular acquisition projects to accommodate some of the concerns of the community.

That these provisions are made in the first place, however, shows that these complex land tenure problems also defy the government's authorities.

These provisions are envisaged to enable the government to override the problematic complications posed by multiple and at times intractable problems of land ownership problems in the society. From the foregoing, therefore, it can be seen that the Government had theoretically all the enabling laws to deal effectively with the traditional land tenure problems, particularly as they related to acquisition. But the effectiveness of these enabling legal powers proved more potential than practical, as will be evident from succeeding chapters.

*This scheme is examined in greater detail in Chapter 4.

3.3 The Attitude of Colonial Administrators to the Land Tenure and Acquisition Problems

In the exercise of statutory powers of land acquisition discussed above, various Colonial Governors and Administrators of Nigeria differed in their philosophies, attitudes and approaches to the land tenure question, and consequently varied in their approaches to the land problem when it arose, particularly with regard to direct Government land acquisitions for purely 'public purposes'. Among many of these administrators, there existed great ambivalence about the proper way to handle this tenure system. Many expressed the feeling that, given the complexity of the problem, and the deep-seated emotional attachment to land by Nigerians and the significance of land to the individual, family, or community, or group, attempts at full implementation of sweeping expropriatory legislation could be explosive and spark off uncontrollable social unrest. Being foreigners, too, most of the administrators did not fully understand the tenure system. Gradual evolution, therefore, was generally advocated to be better suited to the situation, until more accurate knowledge and understanding of the traditional land tenure phenomenon were available.

To obtain this accurate knowledge and understanding, various studies on land tenure were undertaken by the Colonial Administration. One of these administrators later explained why a great deal of importance and attention was accorded these studies. He insisted that,

Without an accurate knowledge of existing forms of tenure, it is difficult to conceive advancement of a given society on any plane, economic, social, or political. For lacking that, the Administration

runs in blinkers. Political remedies may be proposed which are entirely unrelated to social or economic facts of the given society.⁹

But until the results of those official studies, investigations, and commissions became available, individual administrators acted according to their whims and caprices in resolving given problem situations.

Lord Frederick Lugard¹⁰, partly because he believed in "indirect rule"¹¹, favored a policy of "patient progress". In his political memoranda, he argued with respect to this that it was,

...preferable that the natural evolution of land tenure should not be arbitrarily interfered with either on the one hand by introducing foreign principles and theories, not understood by the people, or on the other hand arresting progress in evolution by stereotyping by legislation, primitive systems which were in a transition stage.¹²

Lugard, however, was opposed to Government's paying compensation or even rent to local land owners for land acquired by the Government. "This anomaly must stop," he ordered. "It may be that finances (Government finances) cannot pay the

⁹Sir Olaf Caroe writing in the Journal of African Administration, Vol. 4, 1954, p. 157.

¹⁰Lord Frederick Lugard was the first Colonial Governor of modern Nigeria, from 1900 to 1919.

¹¹"Indirect rule" was a system of British Colonial Administration by which the British Crown rules the Colonial Population through the local Chiefs. This policy was conceived as a means of keeping down the cost of administration, as well as of allowing people to keep their customs and traditions, so as to minimize institutional disruptions that would result from a wholesale immediate imposition of British laws.

¹²F. Lugard, "Political Memoranda", London, Memo X, 1918, p. 363.

bill, and it may be that other means of expropriation can be found"¹³, he added.

It would seem that Lugard's guiding consideration here was the cost to the Government involved in such payments. His "indirect rule" policy, after all, was designed to keep the costs of administration down, and payment of land compensation would inevitably raise those costs. The Governor's ambivalence on the subject was therefore understandable in this light. Land continued to be acquired by the Government for public purposes without much compensation during most of Lugard's administration. It seemed, however, that Lugard, in pursuing his policy, was acting in contravention of the official British Colonial Government's policy regarding dealings in native lands.

In 1921, for example, the British Colonial Office in London warned the Nigerian Colonial Administration of reports reaching it that there were gross irregularities in urban land administration. Winston Churchill, at that time the British Colonial Secretary, reminded the Colonial Administration of Nigeria that it (the Nigerian Colonial Government) was "not a monopolist landlord entitled to make what profits it could out of its monopoly".¹⁴

In a policy statement shortly after this exchange, Mr. S.M. Grier, the Chief Secretary to Clifford's¹⁵ Government, explained the new administration's

¹³Conf. C45/1922 CSE, Lugard's minutes of February 12, 1913, quoted in his memo: "Land Required by Government: Whether it should be Held under Lease, or Obtained under the Public Lands Acquisition Ordinance".

¹⁴C.S.O. 1/13, Churchill to Clifford, February 16, 1921.

¹⁵Sir Hugh Clifford succeeded Lord Frederick Lugard as the British Colonial Governor of Nigeria in 1919.

policy as:

Where the Government does not employ the power it has to acquire land under the Ordinance, but enters into a private agreement with the owners, Government is as much bound as would be any firm, to respect the native law and custom about land.¹⁶

Governor Hugh Clifford himself believed that it was necessary for Government to have full control of urban lands in order to enforce orderly development.

But he insisted that,

The Government as far as possible should restrict their acquisition to purposes which are of a bona fide public character, and should not indulge in anything resembling land grabbing, and land speculation. I cannot think that it is right for example, for government to acquire large areas in specially valuable situations, and thereafter to lease plots to private persons without allowing the local tribal authorities, or native administrations any part of that rent accruing therefrom. Government can very properly claim a share in consideration of the improved value due to expenditure of public money, but that it should take the whole while paying a paper corn rent or no rent at all...does not seem to me to be equitable.¹⁷

Implied in this statement by Governor Clifford was that adequate compensation should be paid to the owner on acquisition of his land. He didn't seem to quarrel with the Government's power of compulsory acquisition per se, only that "a share" of the rent accruing be given to the owner by way of compensation. It is recalled that Governor Clifford's predecessor in office, Lord Lugard, did not allow compensa-

¹⁶ Minutes of S.M. Grier, 25/4/22. Conf. C45/1922, C.S.E.

¹⁷ Minutes of Hugh Clifford, May 4, 1922, Conf. C45/1922.

tion to owners whose lands were compulsorily acquired. Governor Clifford later refused to sign the Town Plan of the Town of Umuahia, because the land in that town was acquired in an irregular manner.¹⁸

Generally, most Colonial Administrators acted with great caution in matters relating to land administration, to the extent that even where judicial decisions were on their (the administration's) side, they were not content with it until they had further tested and confirmed the title in higher Courts. In one famous case in Onitsha in the late 1920's, the Resident for the Province was not convinced by the Administration's investigation team report and was not even convinced on the lower Court decision on the particular case. In a comment on the report, the Resident observed that,

I do not think that it is fully appreciated that the judgment was good as against Obanye and his successors only. It is extremely doubtful, if all or perhaps any of this land really belonged to him. In another connection, Obi Okosi and other Onitsha Chiefs stated that land at Onitsha was properly at the disposal of the representatives of the community, but that Obanye, being an important man and a great trader, has assumed a position as regards land to which he was not entitled, and had succeeded in misleading the Royal Niger Company.

Then he stressed that,

I am certain that any claim made by Government under this judgement would be strenuously opposed, and before we build too much on what to me appears a decidedly shaky title, I think that we should at least

¹⁸ Nwaka, Geoffrey I: Urban Development in Eastern Nigeria 1900-1952. (unpublished Ph.D. thesis, Dalhousie University, Halifax, Nova Scotia, June 1975).

test it further in Court. An opportunity for this would appear to be offered under paragraph 2, p. 3. in the case of those who still refuse to accept compensation...¹⁹

Some other Colonial Administrators were, however, less sympathetic or sensitive to the native land tenure problems, and applied the letters of the provisions of the Public Lands Acquisition Ordinance, with all stringency, more so when, as was later pointed out, "disputed and complicated claims, combined with congested Cause Lists in the Courts to drag out, even compulsory acquisitions over many months or even years."²⁰

Many Administrators exploited the ignorance of the people with the English legal system and terminology, which were used in drafting Nigerian laws, including the Nigerian Public Lands Acquisition Ordinance (Act). This was more so when the Government started to use a combination of the Public Lands Acquisition Ordinance and ordinary local agreements* concurrently. During the acquisition of lands, for example, for the development of Port Harcourt -- one of Nigeria's major port cities -- the Government suspected that if a formal acquisition notice was published, African lawyers would advise land owners to put high prices on their lands. It therefore

¹⁹Comment of the Resident for Onitsha Province on the Report of D.S. Cook on Land Matters in Onitsha Province, (National Archives, Enugu, Nigeria OP/270/28).

²⁰Annual Report of the Federal Land Dept., 1954 (Lagos, Nigeria), p. 10.

* The Administrators attempted to minimize use of compulsory acquisition powers by trying to arrive at mutual agreements for sale with the land owners. This device was aimed at neutralizing the effects and activities of indigenous lawyers who in compulsory acquisition situations duly advised the land owners as to how to make claims and what amounts to claim for their lands or even to refuse the lands being acquired at all. Inevitably, the involvements of these lawyers raised directly and indirectly the costs of compulsory acquisition for the Government, made the process more protracted, and therefore more problematic. Thus the administrators' ordinary agreements in order to shut out the lawyers. Without the lawyers, the administrators invariably undercompensated the landowners.

proceeded to acquire those lands informally, by local agreements with the people, who hardly understood the terms of such agreements, much less their significance or implications. This informal approach gave the government the opportunities of outmaneuvering the natives. During the acquisition of township land for Port Harcourt in 1913-1914, for example, Mr. Reginald Hargrove, the Government Lands acquisition Officer, did not want to commit the Government to any specific size of land needed to be acquired. He merely told the Chiefs that, "an enormously large area was required", reasoning that,

...as the Chiefs had generally little idea of what a breadth of 100 or 400 feet was, it was sufficient merely to tell them that 'an enormously large area of land would be required'. The Government could then take what amount of land it required.²¹

In line with this policy of minimizing costs from land acquisition in particular, and costs of administration in general, the Government assessed compensation to the owners of 60 houses demolished in Port Harcourt, in the process of land acquisition at ₦ 300 (\$1000 approximately), each house being assessed at ₦ 5 (\$15)²², which was even at that time considered a gross undervaluation for the houses and lands involved.

The attitude and response of the local land owners to Government policy in this regard was one of bitter disappointment, helpless resignation, and sometimes

²¹File No. Ow Conf. 22/14; Umprof, Hargrove to SSP 13/9/14 (cited in Nwaka, G.I., op. cit.).

²²"Government v. Diobu over Crown Land, especially Commissioner of Lands to CSG Lagos 28/12/40. (cited in Nwaka, op. cit.).

violent outbursts. The people of Enugu Ngwo, for example, epitomized such dissatisfaction with the Government's apparently shabby attitudes and treatments of the people, during acquisition of the lands for Enugu Township. In a petition to the Governor, they protestingly and disappointingly said,

We understand that the Government pays some money for land...How much does it pay, and from what year did it commence to pay such? We know from experience that such amount must accumulate into a high sum, and it is now high time for us to know where it is kept.²³

These lands in question were apparently acquired without any compensation. Of course, this is one out of many such petitions that were never heeded by the Colonial Administration, but which it continued to be confronted with for many years.

The traditional land tenure system and its complexities were never quite completely understood by the various British Colonial Administrations in Nigeria, in spite of its intensive and extensive studies of the subject over those many years. Neither could they find any definitive way of dealing with it. Each such administration, therefore, treated such arising case according to its prevailing whims of that moment, while still making strenuous efforts to systematize the system, which has so far defied solution to date. Rowling²⁴, who was for a long time the Nigerian Federal Adviser on Lands, summed up the intricacies of the dilemma of the traditional land tenure problem in Nigeria, and the process of change in it, as well as the

²³ Petition of Enugu Ngwo to the Governor, 15/21/41 (OP/1867/Vol.II).

²⁴ C.W. Rowling: "Land Tenure Supplement" (Journal of African Administration, October, 1952). The words 'we' and 'our' in the text refer to the English or British people or legal concepts.

potential complications that could be caused by unstudied imposition of foreign legal concepts and standards on it. Addressing British Colonial Administrators, he summed up the traditional land tenure system as one in which the,

...rights (of individuals) ramify into those of others, and into fields we may not suspect. Nor will they fit neatly into our own legal categories; indeed, these may be wholly irrelevant. By dealing with him and his rights in isolation we ignore those ramifications, and may be, set in train, changes we neither intend, nor desire, and they will quite probably appear in a seemingly unrelated context. We may also create unnecessary difficulties in the way of changes or controls which we do desire, since we are likely to ignore weapons which lie to hand. The traffic is moreover two-way: while we mistake our methods, he may mistake our intentions and will certainly not apply our ordinances according to the "objects and reasons" we publish in the Gazette. In short, our motives are very little to the point: his interpretations of them and the probable effect of our measures upon his neighbours quite as much as himself are what matter. No sovereign guide to either exists, but the more detailed our knowledge of his tenure and social concepts, the better our hope of leaving undone those things we ought not to have done, and of achieving success when doing those things which we ought to do. (emphasis mine).

This point is central to the whole issue of public involvement in land matters in most of Nigerian society. The statement suggests that gaps may exist (and often do exist) between what legislation says and what is practical in the given context. This is more so where age-old customs, practices, and values are involved. Legislation, while it can serve as a general guide to actions and sometimes as a "motor" for modernization and change, often may not be able to effectively legislate away long-held customs and values in a relatively short period of time.

Evolution of the Scope of Public Purpose Definition with Independence

"Public purpose" or "public use" for which lands were compulsorily acquired directly by the Government were initially limited to essential public services only (genuine public purposes), such as roads, pavements, drainage, electricity, schools, and all government and institutional buildings, but did not include residential housing, except for very high Government personnel, especially during the colonial era.

These classes of purposes would seem to justify compulsory acquisition with adequate compensation. The 'purposes' involved necessary and basic urban infrastructure and utilities. Minimal redistribution of income was involved, and no direct income transfers were directly involved. The benefits to society in acquisitions for these purposes are generally accepted to far outweigh the costs to the individuals concerned, or at least benefitted a large proportion of the people.

This restricted scope of 'public purpose', however, changed with revisions of the various Town Planning Acts and widened in the 1950's (and more particularly, after National Independence in 1960) into whatever the Government or its agency could define as 'public purpose', including residential housing of all types and even industrial and commercial estates. This expansion of the 'public purpose' scope was, however, still justified on grounds that these activities were engaged in with a view to providing and maintaining sanitary and healthy environment, and with a view to creating jobs.

With Independence, too, national development programs and projects -- economic and social, gained 'public purpose' aura and importance. Acquisitions for these

therefore were considered as acquisitions for public purpose. "Public purpose", has therefore evolved from its restricted 'public good' and 'merit good' meaning during the Colonial administration to practically anything that the Government can subjectively define it to be. This has been particularly true since after Independence in 1960.

With slight modifications, therefore, the Board after Independence was still operating under its basic enabling legislation of the Colonial period. But it started applying its powers more strictly and forcefully. The interpretation of the scope of those powers were widened by subsequent amendments to the basic legislation and the scope of operations of the Board grew and became more comprehensive.

SUMMARY

The provisions and conditions for public compulsory acquisition of land were examined in this Chapter. The Public Lands Acquisition Act of 1917 (which is the main source of eminent domain powers in the country) made provisions for overcoming all possible problems or complexities arising out of the peculiar traditional land tenure system. These laws fully anticipated the problems and fully legally provided for them.

The Chapter also discussed how the early British Colonial Administrators dealt with the land tenure and acquisition problems, their often-times ambivalent attitudes of sympathy and disgust toward the system -- attitudes that were at times at variance with the official British Colonial Office which they represented. The general lack of compensation in those early days was also reviewed.

The Chapter shows that in terms of theoretical legal provisions, the Government or its agencies had all the potential legal powers that could possibly be required in order to acquire land compulsorily or by agreement in the peculiar Nigerian tenure situation. The Public Lands Acquisition Act took cognizance of the nature and characteristics of the traditional land tenure system, its complexities and problems, and made legal provisions for neutralizing or minimizing their adverse impacts on public acquisition of lands. The practical effectiveness or otherwise of those legal enabling powers will be examined in succeeding Chapters.

APPENDIX 3.1 A TYPICAL PUBLIC LANDS ACQUISITION NOTICE

PUBLIC LANDS ACQUISITION LAW (CHAPTER 105)

LAND REQUIRED FOR THE SERVICE OF THE GOVERNMENT OF BENDEL STATE OF NIGERIA.

NOTICE is hereby given that the following Land at Benin City in Western Benin Division of Benin Province, Bendel State of Nigeria is required by the Government for public purposes absolutely.

**DESCRIPTION
PARCEL 'A'**

All that parcel of land near Benin City Technical High School at Ugbowo, Benin City in the Western Benin Division, Benin Province, Bendel State of Nigeria containing an area of approximately 112.5 acres (45.53 Hectare) the boundaries of which are described below:-

Starting at a concrete pillar marked B 9436, the co-ordinates of which are 865 328.06 feet (263751.99 metres) North, and 1172654.71 feet (357425.16 metres) East of the National Origin, the boundary runs on an approximate bearing of 70° 52' and an approximate distance of 10.0 feet (3.05 metres) to peg A, a point on the right bank of Ikpoba River; thence along the same bank of the Ikpoba River in a generally Southernly direction for an approximate distance of 7140 feet (2176.27 metres) to peg B, thence the boundaries run in straight lines the bearings and lengths which are as follows:-

From	Bearings	Lengths	To
Peg B	270°00'	532' (162.15 metres)	Peg C
Peg C	180°00'	656' (199.95 metres)	Peg D
Peg D	270°00'	1969' (600.15 metres)	Peg E
Peg E	0° 00'	1640' (499.87 metres)	Peg F
Peg F	90° 00'	985' (300.23 metres)	Peg G
Peg G	00°00'	500' (152.40 metres)	Peg H
Peg H	60°00'	370' (112.78 metres)	Peg J
Peg J	329°00'	600' (182.88 metres)	Peg K
Peg K	345°00'	1100' (355.28 metres)	Peg L
Peg L	78°53'	326.9' (72.21 metres)	B 7262
B 7262	78°52'	1304.1' (397.49 metres)	B 9436

(The Starting Point)

All pegs are temporary points;

All property beacons are concrete pillars;
All bearings and length are approximate; and
All bearing are referred to National North.

PARCEL 'B'

All that parcel of land near Ekiuwa Market and Edoh Camp, in Western Benin Division, Benin Province, Bendel State of Nigeria containing an area of approximately 80.0 acres (32.38 Hectares) the boundaries of which are described below:-

Starting at a point marked Peg 1, on the left bank of Ikpoba River, which lies on an approximate bearing of 262° 16' and an approximate distance of 10.0 ft. (3.05 metres) from a concrete pillar marked E 470 the co-ordinates of which are 865 417.02 feet (263779.11 metres) North and 1172 767.88 feet (357459.65 metres) East of the National Origin, the boundaries run in straight lines, the bearings and lengths of which are as follows:-

From	Bearings	Lengths	To
Peg 1	82° 16'	10.0 ft. (3.05 metres)	E 4. J
E 470	82° 16'	539.20 ft. (164.35 metres)	E 469
E 469	100° 13'	171.0 ft. (52.12 metres)	Peg 2
Peg 2	153° 30'	5340 ft. (1627.63 metres)	Peg 3
Peg 3	270° 00'	810 ft. (246.89 metres)	Peg 4
Peg 4	180° 00'	650 ft. (198.12 metres)	Peg 5
Peg 5	270° 00'	770 ft. (234.70 metres)	Peg 6

Thence the boundary runs along the left bank of the Ikpoba River in a Northernly direction for an approximate distance of 7140 feet (2176.27 metres) to Peg 1 on the same left bank of Ikpoba River.

(The Starting point)

All Pegs are temporary points;
All property beacons are concrete pillars;
All bearings and length are approximate; and
All bearings are referred to National North.

2. Any person claiming to have any estate, interest or right in the said land is required within six weeks from the date of the service of this notice to send to the commissioner of Lands, Ministry of Lands and Housing, (Lands Division) Bendel State of Nigeria, Benin City, a statement of his estate, interest or right and of the evidence thereof and of any claim in respect of such estate, interest or right.

3. The Government is willing to treat on the acquisition of the said Land.

4. Land in respect of which no statement is received is liable to be dealt with as unoccupied land.

5. And notice is hereby given that the Government intends to enter into possession of the said land at the expiration of twenty-four hours from the date of the publication of this notice in the Bendel State of Nigeria Gazette.

6. Any person who shall wilfully hinder or obstruct the Government or any person employed by the Government from taking possession of the said land or any part thereof is liable on conviction under the provisions of the Law above-mentioned, to a fine of fifty Naira or to imprisonment for three months.

7. A plan showing the site is available for inspection during office hours at the office of the Chief Lands Officer Ministry of Lands and Housing, (Lands Division) Bendel State of Nigeria, Benin City.

8. By virtue of the provision of the Law and subject thereto, no claim to any estate, interest or right in the land affected by the notice made after the expiration of twelve months from the publication of this notice in the Bendel State of Nigeria Gazette shall be entertained by any public officer whose duty it is to receive claims or by any Court.

DATED the 23rd day of April, 1975.

(Sgd.) (S. J. Ojeikere) M.F.R.
Acting Permanent Secretary,
Ministry of Lands and Housing.

CHAPTER FOUR

THE LAGOS EXECUTIVE DEVELOPMENT BOARD (LEDB) AND URBAN LAND

Chapter Four

THE LAGOS EXECUTIVE DEVELOPMENT BOARD (LEDDB) AND URBAN LAND

Chapter Two of this study had examined the nature and characteristics of the traditional land tenure as a setting and background for examining the rationale and framework of public involvement in urban land problems in Nigeria. It argued that the traditional land tenure as it existed had some negative implications for efficient land-use planning and development, because the land ownership system and pattern does not easily lend itself to rationalization of land use, and to the efficient provision of urban land and housing services. So also was its implications for the efficient provision of urban infrastructural facilities and services, which in its turn has great implications for urban environmental and sanitary quality. On the other hand, it was pointed out that the distribution and accessibility to land resources in this system was superior to that obtainable in a private market economy, or in a public management system. In terms of social equity, therefore, this system has something to recommend it.

Chapter Three examined the rationale for public intervention and the instruments and mechanisms of such intervention. It reviewed the framework, features, and objectives of this intervention, with special emphasis on the sweeping legal powers with which the Government arms itself or its agencies in order to be able to deal effectively with the problems and complexities of the traditional land tenure.

This Chapter essentially profiles the Lagos Executive Development Board

(LEDB) -- the subject of this critique. A deeper examination and analysis of one agency will provide more concrete insights on which to base more general conclusions and sounder policy decisions or judgments for other similar agencies. The origin, objectives and functions, and the processes of the Board will be examined, as well as the effectiveness of its legal powers with respect to the resolution of the traditional land tenure problems. The evidence on the practical effectiveness of the enabling legal powers, is that in spite of these sweeping powers of compulsory acquisition, the problems do not go away, because, as was aptly summed up by Rowling¹,

...while we (the administrators) mistake our methods, he (the native) may mistake our intentions, and will certainly not apply our Ordinances according to the 'objects and reasons' we publish in the Gazette. In short, our motives are very little to the point; his interpretations of them and the probable effect of our measures upon his neighbours quite as much as himself, are what matter....

The reason for this situation was that the English legal system which was imposed on Nigeria, was so different in its effects from that of the Nigerian customary laws and regulations that the new system was not generally understood. Even if it were, it was in many respects divergent or even contrary to the prevailing customs and values in its effects and implications that a long period of adjustments was inevitable before such a radically new and different system could take root and be internalized by the local populace. On the other hand, as has been

¹C.W. Rowling: "Land Tenure Supplement", Journal of African Administration, October, 1952.

discussed in Chapters 2 and 3, the British Colonial Administrators themselves did not fully understand the local customary laws or how much the superimposition of the English legal system would affect the prevailing customary laws, nor what the wider implications of the superimposition of the English legal system would be.

4.1 Background to the Origin and Functional Orientation of the LEDB.

The Lagos Executive Development Board was created in 1928, by means of the Lagos Town Planning Ordinance Cap. 103 No. 45 of 1928. The immediate circumstances that occasioned its creation was the bubonic plague which had broken out in Lagos in 1924, and which killed a large number of people in the city. Outbreaks of this plague continued over a number of years, and the effects were felt more in the 'native areas' than in the 'European Reservations'. Control of the plague was made difficult owing to the existence of overcrowded and unsanitary slums in the 'native areas'. The immediate objective of the Board then was to "rid Lagos of the filth and unsanitary conditions". Such then was the circumstance and urgency of the problem which led to the setting up of the LEDB. The initial conception of the Board, therefore, was that of a strong sanitary and planning Authority, much more powerful than a Municipal Government in the normal sense, since its instrument of creation provided that after the Board initiates a scheme and gets it approved by the Governor in Council, "...the powers and duties exercisable and devolving upon the Town Council or the Director of Public Works in such area or part thereof, shall be transferred to and be vested in the Board". The work of the Board started with a grant of £ 200,000 from the Colonial Government, with a promise of further funds when these were exhausted. By 1930, the work of the

Board was underway, but soon after, the revenue of the Colonial Government was hit by the world-wide depression and no further funds were available for it until the mid-1940's. The Second World War further interrupted work and both money and manpower were channelled to the war effort. While the work of the Board continued, it was at a reduced pace until the end of the War.

It was then that various Colonial Government commissions and investigations were set up to study the different aspects of the developments and improvements of Lagos and to make recommendations as to how and with what mechanisms such developments and improvements could be realized. The findings and recommendations of these various studies and commissions provided the focus and basic operational framework with which the LEDB functioned for the succeeding twenty years.

A brief review of the findings of these various commissions and studies will help shed some light into the conditions that the LEDB had to deal with and the direction of its orientation and priorities.

Lagos Housing Conditions 1946-1967

It had been pointed out that the immediate event that led to the creation of the LEDB was the outbreak of the bubonic plague in Lagos in the 1924-1928 period. The cause of these plague outbreaks were attributed to insanitary conditions, particularly insanitary housing conditions.

Table 4.1, for example, shows the result of a housing condition census conducted in Lagos Island after the War, in 1946, which classified houses broadly into four categories (A, B, C, and D), and according to Districts in the city.

Table 4.1

Classification of Houses in Lagos Island According to Quality, May 1946

District	Type			Total	Vacant Plots	
	"A"	"B"	"C"			
A	198	951	950	2,695	43	
B	413	711	1099	2,748	301	
C	87	906	662	2,330	43	
D	229	422	526	1,900	184	
Total	927	2990	3237	2519	9,673	571
% of Total No. of Houses	9.6	30.9	33.5	26.0	100.0	--

Source: T. Hoskyns-Abrahall, Report with Recommendations on the Planning and Development of Greater Lagos, June 1946 (Appendix E, p. 48).

The table shows that only 927 houses (9.0%) of the 10,244 houses in the city at the time were classified as Type A -- good all-round condition; 2,990 (29.2%) were in Type B -- good all-round condition, but requiring major alterations to bring them up to existing building standards. This means that 3,917 (38.2%) ("A" + "B") were in good conditions. Type C had 3,237 houses (31.6%) which were unsanitary and dilapidated houses, and Type D with 2,519 (24.6%) of the houses could be either way, but generally considered not good housing at the time.

Strictly speaking, it meant that only 9% of the houses in Lagos at the time met the requirements or standards for good housing as set by and used in the classification by the authorities.²

²The classification seems to have been mainly based on the structural conditions of the houses and principally on the building materials used. Types C and D were classified as inadequate principally because of the materials used in the construction -- which did not necessarily follow. The other requirements for good housing used included adequate ventilation, sanitary facilities, a maximum building plot, site coverage of no more than 50% and no less than 10 feet of frontage. Full explanation of the classification used is shown in Appendix 4.2.

In fact, the findings of the Lagos Housing Committee³ almost at the same time reported that, "150,000 out of the total population of 216,000 in Lagos at the time, or nearly 70% of the population required rehousing."

This proportion of the population requiring rehousing was also based on the standards obtainable in England (See Appendix 4.1) with which the Committee³ members were more conversant, being mainly Englishmen. While the conditions of housing were bad in Lagos at the time, it is possible that the standards prevailing in England with which these judgments were made might not have been relevant or realistic to the Nigerian situation, given the differences in climate between Nigeria and England, differences in building form and structure, and the greater degree of open-air living by Nigerians.

Also, as recently as 1967 the Lagos Executive Development Board conducted another survey of the structural conditions of residential houses, preparatory to drawing up a Master Plan for the metropolitan area. The structural conditions of the buildings were classified into good, fair, and bad, and were based on the external physical conditions of buildings. One survey was done for the city of Lagos, and another was carried out for the metropolitan region as a whole. The results are as shown in Table 4.2.

The table indicates that of a total of 56,359 houses in the city and its metropolitan area, only 27.6% of them were in good structural condition, 22.4% in fair condition, and as much as 50.0% were in bad condition.*

³Report of the Lagos Housing Committee, 1945.

*Note that this is based on the external structural condition, visually assessed. 'Bad' external structural condition may not necessarily be exactly synonymous with bad housing.

Table 4.2

Structural Conditions of Residential Buildings in Lagos, 1967

	Good	% of Total	Fair	% of Total	Bad	% of Total	Total
City of Lagos	8,157	42.1	3,360	17.3	7,842	40.5	19,359
Metropolitan Hinterland	7,400	20.0	9,250	25.0	20,350	55.0	37,000
Total	15,557	27.6	12,610	22.4	28,192	50.0	56,359

Source: Calculated and tabulated from LEDB Draft Master Plan for Lagos, 1970.

A rough comparison of the conditions in 1946 and 1967/70 (Table 4.3) shows that although there had been some improvements, the situation was still apparently bad with over 44% of the buildings still classified as bad in 1967/70.⁴

Table 4.3

Housing Conditions in Lagos, 1946 and 1967/70 Compared

Condition of Houses	1946		1967/70*	
	No.	%	No.	%
Good buildings	927	9.6	8,157	39.3
Fair buildings	2,990	30.9	3,360	16.2
Bad buildings	5,758	60.0	9,250	44.5
Total	9,673	100.0	20,767	100.0

* Only the Lagos Island figures are used in the above comparison, because the area has the requisite information for the two periods. The 1946 inquiry had no figures for the metropolitan area, and so the metropolitan figures of 1967 (Table 4.2) is not included in the comparison).

⁴It is pertinent to point out, however, that the criteria or standards of classification in the two periods were not exactly the same. While the 1946 classification included both physical conditions of buildings and facilities in them, the 1967/70 classification involved only the external physical conditions. The comparisons are therefore only approximate.

The variations in the parameters of measurements notwithstanding, the relevant point is that the housing and environmental conditions which the Board was created to attend to were immense, and as a consequence, the Board could not fully invoke or exercise its powers to pull down and demolish unsanitary buildings because, "The greatest percentage of buildings in Lagos are below standard and unsanitary, so that the operation of these clauses will create untold hardships in the present financial situation of the people."⁵ It is clear from the above tables that if the Board were to exercise its power of pulling down and demolishing unsanitary buildings, it would have been creating more problems than it was solving.

Other official reports implied that the poor sanitary conditions of Lagos at the time were in many ways related to the land and living practices of the people, and that for Lagos to be developed in a way that befitted the capital of a Great British Colonial Dependency, something radical had to be done about the control of the land.

A senior British Colonial Government officer who was commissioned to investigate the condition in Lagos at the time lamented the fact that Lagos was a bad showcase of British Colonial policy in these words:

In spite of the Marina, Broad Street, the Race Course, and Ikoyi, the real Lagos -- the higgledy-piggledy mass of Yoruba slum houses -- has not changed greatly in character or in appearance during the last half century. The people are more tight packed and corrugated iron partitions grow overnight in an attempt to give privacy and to squeeze in some additional accommodation, but fundamentally, Lagos remains a Yoruba village with a village mentality. Emphasis has been laid on the

⁵ Tribunal of Inquiry into the Affairs of the LEDB, (1967), p. 3.

importance of Lagos as the capital of a vast and important dependency, a town in which the observant eye will pick to assess at a glance the results of British Colonial policy since its inception. The observer in walking round and wading through the streets and bye-ways of Lagos, may well have in mind, the French town of Dakar or the Belgian capital of Leopoldville. He is likely to draw an unflattering conclusion, which though probably wrong, is nevertheless a weapon in the hands of our detractors. It is neither desirable nor possible to convert Lagos into an imitation of either of these places, but it is Government's determination to plan a Lagos of the future which will not be a disgrace to Nigeria. In order to do this with any hope of success, not only must the slums go, but with them must go the whole outlook of the people of the slums, an outlook which has in essence changed little with the years. The Lagos Yoruba is attuned to the environment in which he was born and has his being -- he requires a room in which his family may sleep, and obtain shelter from the rain, a suitable pitch for petty trading, and an open space of some sort with a tree, if possible, for gossip and entertainment. These needs are catered for in the slums of Lagos, and cannot be catered for to the same extent in any housing scheme in Lagos acceptable to the modern and civilized eye.⁶ If proof is needed, it is only necessary to walk around the Idunmagbo housing scheme and observe the determined effort which has been made to adapt a modern type of house and its environs to traditional Yoruba requirements".⁷ (Emphasis mine)

The reasoning in the above statement could be re-stated as follows:

- 1.) Lagos is an unsanitary city -- a substantial part of it considered as slums by the Colonial Administration.
- 2.) The British Colonial Administration wanted to build Lagos into a model (showpiece) capital of its Colonial territories.

⁶The speaker assumed the standards obtainable in England at the time to be the 'civilized' standards, or 'civilized eye'.

⁷T. Hoskyns-Abrahall: Report with Recommendations on the Planning and Development of Greater Lagos (Sessional Paper No. 24 of 1946, laid on the table of the Nigerian Legislative Council, 1946. (Government Printer, Lagos 1946).

- 3.) In order to achieve this, the slums must be cleared, including in some way the habits of the local inhabitants which were considered to be inherently slum-generating, presumably the quality of housing notwithstanding. (In fact, one of the final recommendations of this report was that "Township regulations and by-laws be more strictly enforced with a view to forcing out unwanted people"), and
- 4.) By implication, the hands of the Government or its executive agency has to be strengthened in order to achieve those goals.

This statement conveys the official thinking and attitude about the environmental and sanitary conditions of Lagos at the time, and while the implied statements and criteria of judgments were British (because the official making these judgments was British), it nevertheless, to a predominant extent, shaped and influenced the nature, character, and functions of the LEDB for the next several decades.

The question of land and housing, their pattern of ownership and mode of development were the central points around which the Board's functions revolved. The way the people built and lived, and their general land development practices and customs were perceived not to be conducive to rational and sanitary land development practices and economic provision of services.

It was felt, therefore, that for the Board to be effective in its work, it had to have effective control over urban land and its mode of development.

The feeling that the Board needed to exercise greater control over the mode of land ownership was in large part strengthened by the recommendations of these various official commissions, which in the main suggested to the Governor of Nigeria at the time that it was necessary for the proper development of Lagos that the LEDB hold title to the lands, in Lagos. The Report of the Lagos Town

Planning Commission (1946) reported to the Governor that,

We are convinced that the town of Lagos will develop rapidly once adequate residential and business areas and municipal services are available and we should anticipate that in a period of twenty years, assuming rapid execution of the development plan, the population of Lagos will increase very substantially. Having regard to the fact that land values and rents in Lagos are very high, it is hoped that if the Lagos Executive Development Board is permitted by the Government of Nigeria to hold title to all the swamp areas which are to be reclaimed, the revenue may ultimately well compensate for the interest on the capital expenditure. We wish to emphasize, however, to Your Excellency that we regard as a matter of fundamental importance that the Lagos Executive Development Board, should in the first instance, hold title to all the land in Lagos which is to be reclaimed under the scheme. Only in this way will the increment from such land be available to the general community of Lagos... and this will assure that land held by the Lagos Executive Development Board will belong to the people and to the rate payers of Lagos.⁸

The apparent emphasis of the Commission on reclamation of swamp lands in Lagos was premised, not only on the relative shortage of land in the city of Lagos, but also, and principally on the fact that acquisition of swamp lands were less likely to evoke opposition and resistance by the owners than ordinary lands would. The native owners were not likely to have the technology of reclaiming those lands themselves, nor were they likely to afford the costs of such reclamations, and therefore would be more likely to be restrained in their resistance against the acquisition. In fact, this path of least resistance was later to be adopted by the LEDB in many of

⁸ Report of the Lagos Town Planning Commission (1946), p. 8.

its land acquisitions in the metropolitan area, wherever that alternative presented itself. The authors of these Reports were obviously aware of the land acquisition problems in Lagos.

In the opinion of the Report, three problems or lines of functions were envisaged for the LEDB, namely:

- (a) Reclamation
- (b) The immediate provision of residential areas; and
- (c) Slum clearance on Lagos Island.

With regards to this last, and related to the other two functions, the Report warned that,

Slum clearance cannot be effective in reducing congestion unless persons displaced from crowded areas can be provided with alternative sites on which to live...

With the acceptance of this Report by the Government, the scope of the activities of the LEDB started to expand in the areas of land management and housing activities. So did its constitution and its relationships to other agencies.

4.2 The Constitution and Evolution of the Powers and Functions of the Board and its Relationship to the Lagos City Council.

The LEDB was given very wide powers over the city of Lagos and its metropolitan areas, and these powers had increased with subsequent amendments to the original Act creating it, particularly that by Chapter 95 of the Laws of the Federation of Nigeria and Lagos 1958 (more commonly known as the Lagos Planning Act of 1958). This was after Nigeria became self-governing in 1957, but the basic concepts of the Board remained unchanged from what they were originally, except that it

broadened the scope of the Board's powers and functions, and the Board became a little more actively used as an instrument of urban land development. This 1958 amendment implicitly broadened the definition of 'public purpose' in the acquisition and use of land, and it marked the beginning of the Board's entry into major and direct industrial/commercial developments in addition to residential developments and general town planning. Under these Acts (1928 and 1958), the LEDB's powers and functions among other things included:

- (1) Power to initiate and execute Town Planning Schemes⁹ with the general objective of securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of land to be made in accordance with the provisions of the Act;
- (2) Power to designate and recommend that an area be declared a Town Planning Scheme. This enables the Board to acquire lands in such an area, and subject the area to planning and enforcement of building and sanitary codes.
- (3) Power under Part VII of the Act to acquire land, either for the purpose of a scheme or otherwise, by agreement or compulsorily.

It also had the power to let, hire, lease, sell, exchange, or otherwise dispose of any land vested in or acquired by it, ensuring that private developers or individuals to whom it sells them, build according to approved plans and standards. The Board could re-sell the lands back to the original owners of the land from whom it acquired the lands in the first place, that is, after planning and servicing the land;

⁹"Town Planning Scheme" or "Town Planning Areas" or simply "Planning Schemes" connotes an area or areas where building plots and houses are or have to be laid out in an approved pattern and with approved specifications; and where all building codes and sanitary requirements have to be enforced. They are areas that are designated for high quality living environments.

or it could itself develop, build, maintain, manage, and control land and housing and collect reasonable rents from them. It therefore had very wide options regarding disposition of land that it acquired.

The Board is required to pay reasonable compensation for damages sustained by individuals or groups by reason of the exercise of any of these powers vested on it by the Act.

The general powers of the LEDB therefore included zoning, sub-division controls, demolition, re-housing, redistribution of property (private or public, buildings or roads), compulsory acquisition and disposal (through lease or sale) of land, and payment of compensation. It had the authority (rarely used) to demand that the Lagos City Council raise revenue for town planning.

In addition to these general powers, the Board was often given extra and specific powers with respect to individual projects. These extra powers depended on the problems or difficulties anticipated in the locality or in the scheme implementation (particularly with regard to land acquisition), as well as depending on the Government's objectives and goals with respect to the given project. It follows from this that while the general objectives and functions of the LEDB were outlined by the Act creating it, the objective of each scheme was specified so that in detail the objectives and purposes of the Board varied from scheme to scheme.

As has already been pointed out, the LEDB in its latter days had expanded the scope of its activities and operations into industrial and commercial projects -- particularly the building and development of industrial estates to provide facilities, including machinery and equipment for private businesses, for manufacturing, ware-

housing research, and the development of shopping centers -- all of which were extensions of its original purposes. The rationale and the processes of this expansion of scope and shift in emphasis is discussed in Section 4.5.

The Executive Organization of the Board comprised departments responsible for Administration, Legal matters, Town Planning, Engineering, Architecture, Land Surveys, Estate Management, Valuation and Finance. With such a comprehensive constitution, the Board was almost a self-contained developer, completing all arrangements necessary for it to carry out a project. With its architects and planners, it prepares the necessary project designs, plans and specifications; completes analyses necessary to determine project feasibility; makes arrangements for the acquisition or leasing of the project sites, arranges the financing necessary to execute the projects, and then enters into arrangements with the construction contractors for the final execution of the projects.

Relation to Other Urban Agencies

By virtue of the nature of the functions and powers endowed on the Lagos Executive Development Board by legislation, it was inevitable that conflicts would arise between it and the Lagos Town Council, because most of its functions, particularly town planning functions and provision of urban services, were functions traditionally performed by an urban council. In fact, in some other places, including Britain itself, these powers and functions of the LEDB would be exercised by the Municipal Council. The Colonial Government at the time, however, for reasons of control and flexibility of actions, preferred to vest these functions almost exclusively on the LEDB as a semi-independent agency directly appointed by the Governor, and that would also be directly responsible to the Governor.

The Lagos Town Council was for one thing still very young, weak, and undeveloped when the LEDB was created. Furthermore, at the time the future of the Town Council was obscure and the alternative possibility of the government making use of hereditary Chiefs rather than a Council, in the administrative machine was still a very live issue with the Colonial Administration of the time.

Moreover, a Town Council which was likely to be popularly elected or appointed on a representative basis was more likely to be responsive to and subject to the wishes and pressures of their constituents. Such a Council then would not be in a strong position to compulsorily acquire land in the area if the people opposed it. As such an opposition was obviously expected to be the rule rather than the exception, the Town Council would obviously not be the instrument to use for the purpose in view, less so by a Colonial Administration that put so much premium on projecting an image of stability and peaceful coexistence with its Colonial subjects.

By the 1928 Act creating it, the Board consisted of five members -- three ex-officio and two nominated. The ex-officio members included: (i) the Commissioner of Lands who was chairman of the Board, (ii) the Deputy Director of the sanitary service, and (iii) an Assistant Director of Public Works. The two nominated members were appointed by the Governor. The Governor also reserved the power to: (a) appoint at any time additional members of the Board for such periods or for such purpose as he would specify in the notice of appointment, and (b) vary the constitution of the Board by the appointment of persons in the place of the regular members; or for such purposes as it deems fit and desirable, any person or persons interested in the development of Lagos. But in spite of these, there was no Council representation on the Board.

The LEDB was therefore made a body entirely independent of the Town Council, and responsible directly to the Governor only. When with time the Council developed and grew, there were inevitable overlaps and conflicts between its functions and those of the Board. The fact that the LEDB operated in the Township, with major works in the center of the town, without any obligation to inform the Council of what it was doing, was a source of major conflicts between the two bodies. Sometimes, for example, the Council unknowingly planned to spend large sums of money on roads that the Board had decided to scrap. In fact, the LEDB's responsibility to the Council was practically nil, and until the 1936 amendment to the Lagos Town Planning Ordinance, the Board hardly admitted the existence of the Council. The results were duplications of functions and activities and consequent waste of money. So serious was the conflict between the Board and the Council that the Hoskyns-Abrahall Report recommended the absorption of the LEDB by the Town Council, so that the Board would become "as is proper for a fully fledged and responsible municipality, the planning section of the municipal body". Not only would it be inadvisable to split important local government functions between two authorities, it was argued, but the merger of the two would engender more civic spirit. If the merger occurred, it was further argued, LEDB lands would not be the property of the Crown, but of the municipality, and "the ownership of the land by the municipality is in fact nearer traditional Yoruba land tenure -- the family head holding the land on behalf of the family -- than any individual freehold ownership could be".¹⁰ The merger, however, never took place, possibly because of the British Colonial administrative maxim that, "the municipality is not a suitable organisation for controlling the development of a town, especially so where the expenditure of government grants is involved"¹¹, a maxim said to be borne out by British Colonial administrative experience in India and Far East.

¹⁰T. Hoskyns-Abrahall, op. cit.

¹¹Letter to Administrator of the Lagos Colony from the Nigerian Land Department, Lagos, January 13, 1932 (files of the Town Clerk's Office, Lagos City Council, Lagos).

In fact, Section 35 (1) of the Act empowers the LEDB at any time after the publication in the Gazette of a declaration by the Governor-In-Council that an area is town planning area,

...to declare, by notice in the Gazette its intention of framing and carrying out a scheme with respect to such area or a part thereof or with respect to any street in such area, and thereupon the powers and duties exercisable and devolving upon the Council or the Director of Public Works in such area or part thereof... shall be transferred to and be vested in the Lagos Executive Development Board (my emphasis).

In 1946, however, the Report of the Lagos Town Planning Commission¹² recommended that,

In order that the development of Lagos may be successful, it is indispensable that there should be one Authority responsible for all aspects of that development, and that there should be represented on that Authority all the interests which are concerned.

One of such interests and an obvious one was the City Council.

But then this 'centralization' of authority also meant an expansion of the scope of the functions of the LEDB, still to the detriment of the City Council. This expansion of scope took the form of the merging into the LEDB of the functions of other agencies charged with various other urban activities -- namely the Lagos Housing Committee, Drainage and Swamp Reclamation Board, Government Offices Siting Committee, and the Lagos Town Council Development Committee.

¹²This was a Commission appointed by the Governor of Nigeria in 1945/46 to "consider, report and make recommendations confidentially on the future development of Greater Lagos in all its aspects, and make suggestions for the implementation of these proposals including the financial considerations involved."

The Commission had recommended that,

...with the exception of the Lagos Town Council, the Ports Advisory Board, and the proposed Mosquito Control Board, all the bodies listed¹³ (in Section IX of Mr. Abrahall's report) should be regarded as dissolved and that the duties performed by all these bodies should be transferred to the Lagos Executive Development Board, and the Board should if necessary appoint sub-committees to consider the various questions now being considered by these Committees and Boards. We suggest that Your Excellency should consider an Amendment to the Ordinance to enable the Lagos Executive Development Board to appoint such sub-committees under the chairmanship of one of its members and that the Board should be empowered to appoint members to such sub-committees who are outside the membership of the Board. All reports of such sub-committees should in the first instance be submitted to the Lagos Executive Development Board who would report to the Government.¹⁴

With the acceptance of this recommendation and the absorption by the LEDB of the functions of the above listed four bodies -- Housing, Drainage and Swamp Reclamation, Government Offices Siting Committee, and the Lagos Town Council Development Committee -- the functions of the LEDB inevitably expanded very substantially.

On the basis of this Report and Recommendations, too, the constitution of the LEDB was broadened. The Commission had suggested that the Authority (LEDB),

¹³These bodies listed in Section IX of Mr. Abrahall's report under reference were: The Lagos Town Council, The Lagos Executive Development Board, Lagos Drainage and Swamp Reclamation Board*, Lagos Ports Advisory Board, Lagos Housing Committee*, Lagos Town Council Development Committee*, Government Offices Siting Committee*, Mosquito Control Board. The asterisked ones are those whose functions were absorbed by the LEDB.

¹⁴Lagos Town Planning Commission 1946, p. 8.

should be in the position of the Board of Directors of a commercial concern and the Chairman for such a Board should be the Commissioner of the Colony who is the Officer responsible to Your Excellency (the Governor) for Administration within the Township of Lagos.

The enlarged Board consisted then of:

The Commissioner of the Colony - as Chairman
The Deputy Commissioner of the Colony -- as Deputy Chairman
The Assistant Director of Medical Services in charge of Health Affairs
The Deputy Director of Public Works
The Harbour Master
Two members nominated by the Lagos Town Council from among
their own members
The town clerk
One nominee of the Lagos Chamber of Commerce

The entire membership, therefore, became ex-officio and represented all major interests in Lagos, including the Town Council members. The case was especially strongly made for the Town Council to be represented in the Board. The Commission pointed out that,

The Authority most concerned with the development of Lagos is the Lagos Town Council, and it is in our view indispensable that the Lagos Town Council should be fully represented on the Lagos Executive Development Board in order that a close liaison shall be established between the Board and the Council, and that the Board shall have the advantage of the advice of the Council on all matters concerned in the development of Lagos.

In addition, the Commission also recommended the appointment of a full time Manager (in later years designated the "Chief Executive Officer") who should be responsible for carrying out the executive instructions of the Board. The Commission also suggested that the qualifications required would be "experience not only of practical town planning, but also of town planning which involved both swamp re-

clamation and port development". It is also interesting that the Commission also made suggestions as to how and where to find the type of "Manager" they had in mind, by suggesting that,

It might be possible to obtain such a man from the staff of the Indian Government, the Singapore Municipality, or some similar authority, and if it proved impossible to find a suitable British subject for this job, we would ask Your Excellency to give consideration to the employment of an American who has had similar experience on the Coast of Florida where conditions obtain which are almost exactly parallel to those found in Lagos, and where town planning and reclamation has made immense strides during the past forty years.

Most of this Commission's recommendations were accepted and implemented, and the LEDB by that became much more powerful relative to the Town Council.

The Colonial Government was persistently reluctant to give power over urban development to the Municipal Council, in spite of the recommendations of some of its own official commissions. This was partly a result of the high level of development it envisaged for Lagos, and partly as a result of administrative, technical, and perhaps political convenience.

While accepting in principle, for example, that it should be the aim of public urban land and housing policy to entrust local authorities with building regulations, the management of land and housing, including assistance to home owners, the development of housing estates and construction of new housing; British Colonial policy did consistently insist that, "This was not possible at the present time; partly because of the political immaturity of a number of local authorities, and partly because they have neither the technical nor the financial resources needed for efficient management and development." For the present, therefore, the Colonial administration argued,

Central Government may well have to remain the principal land and housing authority, acting either through a special housing department (as in the Gold Coast), the Public Works Department (as Northern Rhodesia and Uganda), or a trust or commission (as in Singapore and Lagos).¹⁵

That trust or commission in Lagos was the Lagos Executive Development Board (LEDB).

Even in later years as the conflict between the LEDB and the Town Council continued and intensified, the authorities re-emphasized the functions of the LEDB as that of the generic provision of facilities and services, while the Council was charged with the maintenance of such services and facilities. This meant in effect that, "The LEDB dealt with sites and the Lagos Town Council dealt with structures.."¹⁶

¹⁵ Colonial Office: Housing in British African Territories (A memorandum forwarded under cover of a dispatch dated 3 November, 1953, from the Secretary of State for the Colonies to the Governors of the British African Colonies. (Colonial No. 303, HMSO 1954, paragraph 23, p. 14).

¹⁶ Minutes of the Lagos Town Council, May 3, 1949, p. 17 (files of the Town Clerk's Office, Lagos City Council). Cited in Baker, P.H., Urbanization and Political Change: The Politics of Lagos, 1917-1967. (University of California Press, 1974, p. 184.

The Board continued to be the sole executive authority for planning and development in the metropolitan area, while the maintenance of its constructed roads, drains and open spaces became the responsibility of the Lagos City Council.

With Independence in 1960, there occurred a fundamental shift in the constitution of the Board. Firstly, membership of the Board was enlarged to thirty-one, made up of 15 appointed members, 10 ex-officio members, and six members representing the Lagos City Council. Policy-making power of the Board shifted from the ex-officio members to the appointed members from among whom the Chairman of the Board was now appointed. Both appointed members and those representing the City Council also represented their different political parties so that the proceedings and decisions of the Board inevitably assumed political colorations.

With the exception of the enlargement of the membership of the Board and its increasing political party affiliations and influences, the structure and functions of the Board remained basically the same as before Independence. There was, however, some expansion in the scope of its functions and it became notably much more aggressive and comprehensive in land acquisition and development. A lot more emphasis became placed on residential housing and industrial/commercial developments, as contrasted with mere environmental health concerns that was its *raison d'etre*.

Although the Board had in principle "police" and "eminent domain" powers over private individuals, the Town Council and a host of other local agencies, and therefore theoretically had the potential of effecting any policies and programs that it desired in the metropolitan area, the socio-economic milieu and land tenure context within which it had to operate, coupled with serious financial limitations and problems, as well as problems of administrative and management inefficiencies, adversely affected the degree of its performance to a very large extent. The way some of these problems inhibited the Board's operations are examined in the following sections, and in subsequent chapters.

4.3 Application of Compulsory Acquisition Powers by the Board and the Problem of Land Tenure

The overriding powers of the LEDB over practically everything and everybody (except the central Government) including the City Council, would have seemed to be able to resolve the land tenure question, or at least made the rationalization of the land use and tenure problem much easier. This is more so considering the provisions of Sections 6 and 7 of the Public Lands Acquisition Ordinance, which gives blanket powers to the LEDB or to any other agency to take control of any land required for public purposes "notwithstanding any native law and custom to the contrary."¹⁷ But all too often, the possibilities of legal powers are far different from the probabilities of the realisation of the intents and objectives of those powers. The public legislative powers of the LEDB over urban land was not an exception to this. Despite its sweeping powers of compulsory acquisition, the Board did not seem to find it any easier acquiring lands than did any other individual or private developers. In fact, it could be said that the Board found it more difficult than private individuals or developers would. For one thing, its mode of acquisition was mainly by compulsion, and compulsion is more likely to be resisted. For another, the popular conception of the Government or its agency is that of a body with limitless resources which could afford to pay the 'cash' price. Consequently, higher price demands are often made on it than would

¹⁷ Chapter 3 has fuller discussion of these provisions.

¹⁸ It is possible that in the long-run, such desirable results would be achieved, but that is only a possibility. Even then, most people do not make decisions on the basis of long-run results.

normally be made on private individuals. It was a public institution and not an individual with "flesh and blood", and therefore the question of 'human considerations' (which is a dominant part of the local culture) was clearly out of the question as far as the Government or its agencies were concerned. And more still, the question of what use such lands are put to and who gets them after they have been divested of their owners is always a strong consideration on the part of the resisting land owners. There wasn't much land owner confidence on the Board, that it was acting in their interests or in the interests of the majority of the 'public'. The Board was perceived as acting in the interests of the 'higher-ups'.

This perception is evident from the statements of Counsel to the Central Lagos landowners at the Tribunal of Inquiry into the affairs of the LEDB. He argued that,

What they (the LEDB) wanted to do is that they themselves wanted to acquire these plots. They are seeking powers to be owners of the land. They said they were coming to develop the place and now they are seeking power to buy the area. It would pay the Board better to dispossess any clients because the Board would then become the big landlord. That was the original intention of the Government.¹⁹

It is possible that this is a misconception of the objectives and intentions of the Board, but that was the perception of the land owners and that perception guided their resistant attitudes and actions.

¹⁹Tribunal of Inquiry into the Affairs of the LEDB, Verbatim Report, Day 2, p. 75.

One of the central themes of this thesis is that the simple exercise of public legislative or legal powers as such do not necessarily solve the objective problems, or by itself necessarily bring about the desired goals and objectives. Appropriate, stable, and lasting changes in the land tenure, however rapidly and extensively they are desired, would seem to come about essentially by evolutionary methods and processes, carried out with the cooperation of the people rather than by authoritarian methods imposed from above. Impositions from above are often more likely to be resisted. Moreover, the mechanisms and instruments mostly used in this case are foreign legal instruments with values which are completely divergent from the prevailing local customary and traditional land tenure laws and values. This would suggest the need for more gradual processes, so as to allow time for the necessary transitions and transformations of values from the old system to the new -- a major factor in the problems.

An examination of some of the instances of acquisition by the Board and the processes employed will help elucidate further some of the points already made.

One of the most controversial of LEDB land acquisitions was the Central Lagos Acquisition. This Acquisition highlighted many of the problems and conflicts between the modern legal approaches and rationales by the Board (representing the Government and bureaucracy) and traditional customary values and laws, as will be discussed shortly.

In expanding the authority and scope of functions of the LEDB, and endowing it with powers of compulsory acquisition and disposal of lands, the policy makers (Government and bureaucracy) presumably acted as if:

- (i) Such powers would prevent the Government or the Board from being held to ransom by the individual or group, especially when land was needed for important public programs.
- (ii) Long-held and age-old habits of people could be wiped out by a stroke of legislation, and significant social and cultural resistances easily overcome in a relatively short time;
- (iii) Enough financial resources would be available to the LEDB to undertake massive enough programs that would overcome the objective problem (shortage of housing and unsanitary urban environment) or make reasonable progress towards the solution of the urban land use quality problem;
- (iv) Management and administrative skills and integrity were abundant and available enough to make the achievement of its goals and objectives fairly certain;
- (v) Public control ensures the most desirable use and equitable distribution of urban land resources to the benefit of the majority of people or the 'public.' That is, that the LEDB, having acquired such lands, would use them in the best equitable way to benefit all groups in the society -- in effect, that accessibility to urban land resources and facilities would be maximized under such public agency control. It assumed also that what the Government or the LEDB considered a 'public purpose' or of national importance would also be understood as such by the affected land owners, who on that basis would be better disposed to make the necessary sacrifices in the interest of the 'public' or the 'nation.'

The weaknesses and failures of the Lagos Executive Development Board as a public agency hinged on the shaky foundations of some of these assumptions, as will be evident from our analysis and discussion below.

By far the most classic example of this is the Board's experience with the Central Lagos Planning Scheme acquisitions, in which the LEDB attempted to acquire a 70 acre built-up area in downtown Lagos for renewal, development, and redevelopment purposes. This scheme was conceived in 1951 and approved in 1952 as a slum clearance scheme -- in line with the original purpose of the Board -- to "rid Lagos of filth and unsanitary conditions." The enabling statute empowering the Board to undertake this project specifically authorized and provided for the Board's:

- (a) Acquisition of this area of land, and clearance of the whole or the majority of buildings in the scheme area, unless there are on any part of it buildings of substantial nature which can be rehabilitated;
 - (b) The realignment of and reconstruction of roads, the provision of main services, drainage and lighting;
 - (c) The re-sale of land to the original owners as far as it is possible to do so; and
-

(d) A provision for the re-housing of the displaced.

In order to carry out the project effectively, and to forestall the anticipated stubborn resistance against the land acquisitions by the land owners, the Board was given extraordinarily wide powers by the enabling legislation²¹, whereby on the published vesting dates, all the legal estates and interests within the project area become vested on the Board, and all other interests on the land automatically cease to exist. It was specifically stipulated that it was not until the land and properties become vested on the Board could any negotiations, including those for compensations, with the owners begin.

But land and communal ownership of land in the society has such profound sentimental and social values as an expression of group cohesion that it was unthinkable that such a provision could be implemented without any opposition from the affected land owners, the apparent generosity of the terms notwithstanding.

By the decision to acquire these lands from the families who owned them, the Board was going against the prevailing sentiments and values, and was aware of its implications, though with faith in its legal powers, seemed to have underestimated the strength of the resistance that it was facing. The Government, through the Board, had planned to use 22 acres of this land for development of commercial

²¹ The LEDB has general powers of compulsory land acquisitions -- derived both from the Public Land Acquisition (1917) and the Lagos Town Planning Act, under which it generally operates. But for each major acquisition, it is conferred additional specific powers by the Government in order to be able to deal with the specific problems anticipated from the given situation. The objectives of a given land acquisition project may also necessitate more specific powers than the general ones permit.

buildings and also for such institutional buildings as Post Offices and police stations; while only 20 acres had been reserved for residential developments, and the land owners to be affected were aware of these facts. Such was the vehement, and often-times violent, opposition and resistance by the owners that the Government was forced to modify its plans. It issued a series of revised guidelines for the implementation of the project -- all in a bid to placate the land owners. These guidelines included, among other things, the provisions that:

1. All lands wherever possible will be reconveyed to the original owners; this undertaking was re-stated to counter rumors that the Government had reversed itself on that point.
2. Where persons possess land holdings which are too small to meet the required provision for rebuilding, they will be offered priority of consideration for freehold plots in other areas being developed by the Board and such plots will be granted freehold.
3. Where land is held by a communal group, the land will be reconveyed to them as a common family holding.
4. No person will be displaced unless alternative accommodation is available elsewhere.
5. An independent committee will be formed to identify and vouch for bona fide tenants in the area to be acquired and cleared, so as to help facilitate the allocation to them of accommodation in the rehousing estates at Surulere.
6. At all stages, the interest of displaced persons will be paramount.
7. If there are aged and infirm who cannot be accommodated by their relatives at Surulere, then free accommodation will be provided for them in the old People's Refuge at Yaba.
8. Free transport will be provided for the conveyance of persons and their effects from the cleared area to Surulere, and on their return in due course when the cleared area has been rebuilt.

9. The amount of land reserved for public purposes in the cleared area will be kept to a minimum.
10. Certain buildings of approved standards and design have been scheduled as being exempt from vesting under the scheme, these will not be taken over, but remain in the hands of their present owners.
11. Though no freehold grants can be made in the rehousing estate -- for this will be used at other stages of the clearance scheme -- persons displaced will be given first consideration on application for land in other areas being developed by the Board.
12. Funds will be available under the mortgage scheme to finance building²²

It was not certain that the Government or the LEDB intended these guidelines and assurances to be followed or implemented, because some of the guidelines appeared contradictory. The scheme was therefore impractical in light of these guidelines, and the financial formula under which the LEDB was required to function was not such as could sustain these obligations. The provision that land should be re-conveyed to their original owners after site preparation and servicing, for example, was accompanied by an injunction that any piece of land which for whatever reasons could not be reconveyed to an original land owner must be retained by the LEDB itself and never be offered for sale in the open market, where 'foreigners' could get them. This provision was directed at disproving a widespread belief among the land owners that the LEDB intended to permanently deprive owners of

²² From the text of a radio broadcast to the people of Lagos by the Federal Minister of Lands, Mines and Power. Published also in the Nigerian Daily Times (newspaper), September 30, 1955.

their lands by selling such lands to foreigners from whom it could charge the highest prices for the lands.

But this provision on the other hand somehow unintentionally debarred the LEDB from exercising decisive control over its legally, though compulsorily, acquired property, even after large sums of money had been paid out as compensation to land owners. Besides, land owners were apparently unwittingly given the false impression that most of them could get back their land after redevelopment, when in fact it was the intention of the Board to rationalize land use so as to eliminate small uneconomic holdings²³, and given the fact that the LEDB had already set aside 22 acres for commercial and other developments and only 43 acres were available for reallocation, the number of plots to be available for re-allocation would in any case be far less than originally existed. This means that the Board had to be ready to cope with the problem of irate land owners to whom land would not be re-allocated in the area. To increase the supply, the LEDB began to carve up plots into smaller irregular strips with a frontage of 25-30 feet and a depth of 80-100 feet. This solution obviously defeated one of the purposes of slum clearance, for it made inevitable the same old pattern of narrow, congested construction, and the developments taking place and its environmental outcome bore little relation to the best that could be achieved or was envisioned. In fact, the Chairman of the LEDB at the time later admitted that, "I think that the original concept of the scheme was not correct".²⁴

²³ Oberu Aribia: "The Politics of Rehousing", in Lagos Notes and Record, Vol. V, August 1974.

²⁴ -Mr. Fadahunsi, Chairman of the LEDB, in answer to a question about the objectives of the Land Acquisition, at the Tribunal of Inquiry in to the Affairs of the LEDB, Verbatim Report of the Inquiry, Day 2, p. 76.

Furthermore, the provision that all displaced persons must be found alternative accommodation created immense problems for the LEDB and its severely limited financial resources. A large proportion of lands and houses which came under this scheme were "family lands" and "family houses" communally owned by large numbers of people who could not be dispossessed of their individual titles, even after their prolonged absence from the area. This meant that displaced co-landlords, whether currently present in Lagos or not, were equally entitled to rehousing and compensation. The unending trickling of claimants upset whatever financial calculations the LEDB had made for rehousing displaced people, and this was a serious charge on its resources. These are as a result of the nature of the traditional land tenure.

Thirdly, the promise to keep to a minimum land reserved for public purposes greatly watered down the original intention of the LEDB to build a modern city center (CBD) with a complex of shopping centers, entertainment houses, car parks and ramps, and various other public facilities.

In spite of all these promises, and in spite of a series of compensation payments, ex-gratia awards (all amounting to some £ 4.2 million (\$12.8 million) and rehousing programs, the opposition and resistance continued. The first part of the implementation was undertaken amidst violent protests, and a section of the affected population was removed for resettlement. But when the remaining population found that very few of the first set of the population that was removed got any of their plots of land back after the clearance and servicing by the LEDB, they staunchly resisted their being moved and their lands acquired, not wanting to fall into the same trap and suffer the same fate as their brethren. And they effectively stalled and

halted the implementation of the scheme. Thus, one of the main factors responsible for the stalemate was the desire to assure the former owners their return to the land taken from them, and the physical impossibility of satisfying the claims of all the former owners was lost sight of in the effort to satisfy their pressures -- which was perceived as a political imperative at that time. To date (1976), of the 70 acres designated for acquisition, only about 25 acres have effectively been acquired by the LEDB, and only about 4 acres have been redeveloped. Thus the scheme remains uncompleted after over 25 years of its inception. This, in spite of the wide-ranging and overriding powers of the LEDB. This illustrates the gap between theoretical enabling legal powers and their potentials and the feasibility of translating these potentialities into effective actions and results. It also illustrates the fact that culturally and socially held values and beliefs are no less resistant to legislative compulsion than the ordinary economic and social pressures of modernization and change. It is possible to argue that those difficulties were a result of the Government's half-way measure in allowing itself into compromises with the landowners. It could have used force all the way, and removed the people and achieved the original intent of the scheme. The answer, however, is that the political and social costs would have been too high, and it is the realization of the potentials of such costs that forced the Government into the apparent compromise in the first place. Even then, the effectiveness of the use of force was not a certainty.

Baker (1974) observes of this particular project that,

More than any other public project, this scheme has crystallised the social conflict between indigenous landlords and traders who want to protect their birth right and their livelihood, and non-indigenous interests -- real estate speculators, merchants and

Government officials -- whose concerns lie in the development of land for economic profit and national pride.²⁵

Evidence for such a conclusion will become clear from analysis in Chapters 6 and 7.

Other evidence abound with respect to the effective obstruction of the legal powers of the State or those of its agencies by the traditional systems constraints. The activities of the LEDB had been stultified to a great extent by this particular problem. Surulere,²⁶ for example,

...was declared a Town Planning area on 12th August 1929. Proposals for effecting control were drawn up which included the purchase of the necessary land for the main arterial roads and sufficient land to permit of buildings plots being laid out on each side of the road; but no agreement with the owners could be reached and the scheme was dropped temporarily. Since then, investigations and negotiations have been proceeding with a view to framing a town planning scheme to include redistribution of holdings, but the completion of such a scheme will take a considerable time.^{26a}

It is an indication of the seriousness and complexity of land acquisition problems, that this scheme, conceived and planned in 1929, could not get off the ground until the middle to the late 1950's, more than twenty-five years after it was originally planned to be executed. It is also remarkable that traditional forms of land tenure have been retained for so long in the heart of the city of Lagos; in spite of the degree of urbanization there over the past half century. But this only underscores the strength of the traditional system.

²⁵Baker, Pauline H: Urbanization and Political Change; The Politics of Lagos 1917-1967 (University of California Press, 1974), p. 100.

²⁶Surulere is one of the sections of Lagos, which the LEDB later developed into a middle-class residential area.

^{26a}W. E. Hunt, Chairman of the Lagos Executive Development Board in LEDB: Annual Reports and Accounts for the Year 1933/34.

Enabling legislation and legal compulsions notwithstanding, the observation seems to still hold that, "Land and all that appertaineth to land are matters of life and death with the natives of West Africa...The shortest and easiest way to start a conflagration in West Africa is to make an attempt at depriving the native of his land or inherent rights thereto."²⁷ This is much more so when it involves urban renewal or slum clearance that includes demolition of houses and displacement of people. This fact is further underscored by Abrahall's assessment of the situation, to the effect that,

When public feeling is stirred against acquisition, reclamation, leasehold in place of freehold, destruction of slums, anything in which the interest of a vocal minority are subordinated to the needs of the silent majority, Government difficulties will be increased many-fold, to such an extent, perhaps, that important principles and important work have been abandoned.^{27b}

But his reference to the interest of a 'vocal minority' being subordinated to the needs of the silent majority seems a deliberate official underplaying of the scope of the problems and the facts of the situation.

While such land acquisition problems per se were major constraints on the operations of the Board, much of it might have been partly off-set by inducive payments to the land owners as compensation. But the Board was never in a strong enough financial position to try this out. The next section explores the sources of the Board's financial weakness and its consequences for the performance and direction of priorities and orientation of the Board in its later years.

²⁷ The Nigerian Democratic Party, statement reported in West Africa of April 10, 1927 (p. 415) in connection with Government attempts to acquire Apapa lands in Lagos and the Privy Council decision in favor of the Chief and native community.

^{27b} T. Hoskyns-Abrahall, op. cit., p. 34.

4.4 The Funding and Finances of the LEDB.

One of the implicit assumptions in the expansion of the powers and scope of functions of the LEDB is that enough funds would be available to it, to enable it to carry out comprehensive enough programs to make substantial impacts on the solution of the urban land and environmental problems in the city. This assumption proved tenuous, however, as the Board's operational effectiveness was often seriously undermined by the frequent shortage of sufficient and ready capital and operating funds from both public and private sources. It will be seen from Section 5. of Chapter 5 that, given the way the land owners perceived and calculated their costs (losses) for compensation purposes, and given the number of cases involved, the Board was in no financial position to meet the situation. That calculation, though theoretical, is in essence a model of the Board's problem.

Although Table 4.4 on the capital expenditures and revenue incomes of the Board shows consistently increasing capital expenditures, the revenue income for each comparable year remained consistently small compared with the capital expenditure (also see Chart 4.1), in fact at only 20.1% of the capital expenditure over the 1929-1966 (36 year) period. This low proportion of revenue income relative to capital expenditures, particularly between 1957-58 and 1966 can be accounted for by the very rapid expansion of activities during that period. This period marked the onset of both self-government (1957) and Independence (1960) of the country, and these events demanded the building and development of lots of housing and other infrastructural facilities and services preparatory to the celebration of these events. It was, as a result, a period during which the Federal Government made large grants

and loans to the Board for those purposes -- development schemes (see also Table 4.6).

The generally weak revenue income situation is explained principally by three basic factors:

- (i) Its near-total dependence on Government financing for capital projects and the Board's inability to internally generate other substantial revenue. This was a result in part of the mechanism or formula of revenue generation authorized for the Board by the Federal Government. Although the Board was a semi-autonomous agency, its finances were closely controlled by the Government, and much of its revenue depended on the general development expenses proceeds.
- (ii) A result of general management incompetence, high overheads, bureaucratic red tape, or levity of the agency's administration. This is most apparent in the Board's laxity in collecting debts owed to it. The Board's financial weakness could also be attributed to the fact that the Board was sometimes obligated to undertake and attend to social services projects that were by their very nature unprofitable in cash terms. Installation of basic infrastructure and subsidized low income housing development are examples, though in such cases the Federal Government provided the funds or was expected to reimburse the Board for such social expenditures.
- (iii) The corresponding unenthusiastic and lax attitude of the general populace to debts owed to the Government or its agencies. People do not feel much pressure paying debts owed to the Government, and the indebtedness to the Board by the public at any given time was often substantial.

It has been said that the efficiency and effectiveness of direct public intervention in the land market as part of urban land policy very much depends on the financial and administrative strength of the relevant authority or agency charged with such policy.³⁵ We have pointed out that the LEDB had serious limitations in respect to each

³⁴ "General Development Expenses" was a percentage levy on the cost of capital works and land acquisition (6% on land acquisitions and building expenditures and 15% on engineering and building construction expenditures). This constitutes a major revenue source for the Board. (See p.

³⁵ U.N.: Proceedings of the Seminar on the Supply, Development and Allocation of Land for Housing and Related Purposes (Paris, France, 28 March-April 6, 1965, Vol. II, p. 196).

Table 4.4

Capital Expenditure and the Revenue Income of the LEDB 1929-1966.

1 Year	2 Capital Expenditure (₦)	3 Revenue Income (₦)	4 Revenue Income as Percent of Capital Expenditure
1929/30-33	102,500	200,000 (Gov. grant)	195.1*
1944/45	5,089	17,402	342.0
1945/46	13,040	9,700	74.4
1946/47	13,180	10,310	78.2
1957/58	1,750,000	465,367	26.6
1958/59	1,541,775	492,029	32.0
1959/60	2,611,152	282,953	10.8
1960/61	2,768,001	295,850	9.8
1961/62	1,544,602	224,737	14.5
1962/63	1,094,468	196,514	18.0
1963/64	2,250,000	437,380	19.4
1964/65	2,421,361	344,186	14.2
1965/66	983,097	489,685	49.8
Total: ₦ 17,098,265 approx.		3,441,122	20.1

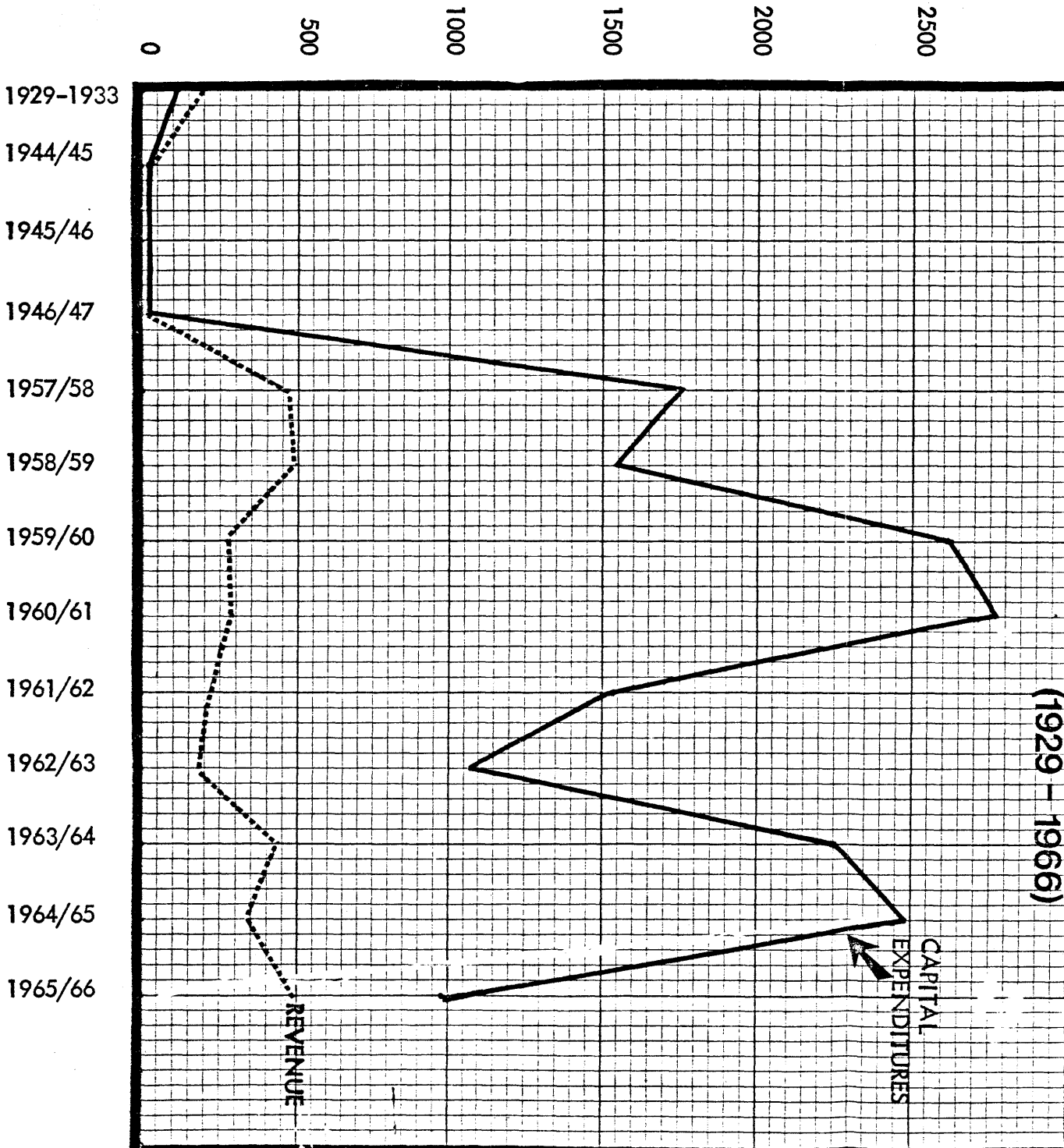
Sources: 1929/30-1946/47 figures are from T. Hoskyns-Abrahall, Report with Recommendations on the Planning and Development of Greater Lagos, 1946, p. 27-8.

1957/58-1965/66 figures are from LEDB: Annual Reports and Accounts, for the stipulated years.

₦ = \$3.04.

* This item is actually a Government block seed grant and not revenue generated by the Board itself. It is also from the grant that the capital expenditure was made. It should therefore be read in this proper perspective.

Expenditures and Revenues
(₹ '000)



of these prerequisites. We shall now proceed to discuss how and why this financial weakness came about, and what effects it had on the operation and future orientation of the Board.

Being a quasi-Government agency, the LEDB was principally financed from public funds -- Federal Government loans and grants.

The Board's most active years, particularly with respect to land acquisitions and housing activities, then took place after the War, particularly from the mid-1950's to the early 1970's. During this period, its annual capital expenditures averaged £ 1.5 million (\$5.0 million).

Table 4.5 shows the approximate size and distribution of project types of most of the Board's schemes during this period.

Table 4.5

Areal Size and Expenditure Size Distribution of LEDB Projects by Type up to 1966

Project Type	Total Size (in Acres)	No. of Housing Units	No. Bldg. Plots	Total Cost (£)
Land (building plots) schemes	3,500	--	7,000*	12,998,985
Housing & Rehousing schemes	400*	6,500*	--	6,939,984
Industrial/Commercial Schemes	950*	--	--	150,652
Solely Infrastructural Projects	--	--	--	894,978
Board's Gross Expenditure over the period				20,984,599**
Total spent on public works & infrastructural developments (reclamation, roads, drainage, sewage and electricity, etc.)				8,921,969

Source: Calculated from the various Board's documents and Annual Reports.

* Indicates approximate figures. **This includes recurrent expenditures which are not reflected in Table 4.4 (which reflected only capital expenditures)

It should be noted that the costs cited in Table 4.5 include compensation to land owners where applicable.

The table indicates that the Board during the period acquired some 5,000 acres of land. From this, it produced approximately 7,000 fully serviced building plots* of various sizes, ranging from 40' x 60' to 2-acre sized plots; approximately 6,500 houses and/or housing units, and some four to five industrial estates, of about 950 acre combined size.

These involved a gross expenditure of approximately ₦ 20,984,600. Of this amount, approximately ₦ 9.0 million, or 42.9% of the gross total was spent on Public Works, and infrastructural developments, which items included reclamation, roads, drainage, sewage, water and electricity. This total also included all the infrastructural cost components of all the Board's land and housing schemes, as well as for those in industrial and commercial estates. The high proportion of the gross expenditure claimed by this item accords with the main objective for which the Board was set up -- "...the general object of securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of the land."³⁶ A substantial proportion (₦ 4,265,002, or 47.8%) of this high amount spent on infrastructural development, however, was accounted for by the various land reclamations from the sea and the swamps that the Board had to undertake. In fact, one of the

*Building plot schemes are those schemes in which the Board acquired the land, prepared and serviced the plots and then sold or leased to the public to build.

³⁶ Ordinance to make Provision for the Planning, Improvement, and Development of Lagos (Lagos Town Planning Ordinance No. 45 of 1928), Part IV, para. 1.

most magnificent of the Board's achievements was in the area of reclamation, by which tracts of unusable and unbuildable land were brought into use for both residential and industrial/commercial developments. The more prominent of these reclamation schemes included the reclamation of Victoria Island (1,600 acres), Ikoyi (500 acres, approximately), parts of Apapa, Surulere and Ijora. These areas are still the most elegant parts of Lagos. Because of their swampy nature, there were no strong resistances against their acquisition, so that the Board had less human problems and so was able to plan and develop these areas as it wanted.

Building plots schemes in general claimed approximately ₦ 13.0 million, or 62% of the total inclusive of infrastructure. This high proportion is also accounted for by the fact that most of the areas involved had to be partially reclaimed from hitherto unusable swamp lands, involving some 3063 acres. And because of high cost of reclamation and site development in such areas, their qualities were developed to a very high amenity level in order to sell to people of high income who could afford them, and help defray the high cost of the site preparations.

Housing and rehousing schemes accounted for ₦ 6,939,984 or 33% of the gross expenditures. The remaining went to industrial and commercial developments.

As has been pointed out, the LEDB was principally financed with Government loans and grants, but given the competing needs for public funds for other development, this source was never adequate for the Board's needs. The Board also had authority to borrow limited amounts of money from the commercial money market, but subject to the approval of the Federal Government, through the relevant Federal Ministry (usually the Ministry of Lagos Affairs, or the Ministry of Lands when it

existed), but such approvals for loans were seldom given, and when it was, the amount of loan approved was very limited. The fact, however, remained inescapably true that for an agency like the LEDB to be effective in achieving its goals and stated purposes, it must have very large amounts of capital and have them on a regular yearly basis, then could it plan and produce more consistently and effectively. However, given the sources of capital funds, and the sources and nature of the formula of the revenue incomes of the LEDB, and given the competing needs for public funds for other development, there were always grave risks that the Board's plans and purposes would be frustrated by public loan and grant fund shortages. The discussions that follow below show the degree of dependence of the Board on public (Government) funds and how this dependence affected the activities and effectiveness of the Board.

Table 4.6 shows the major sources of the Board's finances and the relative importance or proportion of each source for the years 1929/30 to 1965/66. It shows that direct Government subventions in the form of loans and grants averaged over 60% of the Board's finances through most of the period. Quasi-Government or Government guaranteed sources (CDC loans) accounted for about 18% on the average. The Board's internally generated sources averaged about 26%. These were made up mainly of the general development expenses (income from capital works), ground (leasehold) rents, sale of building plots, housing rents, planning and building application fees, and other miscellaneous fees. Direct commercial loans made up less than 2% of the finances. In effect, direct and indirect Government sources (which include the CDC and NBS) make up approximately 78% of the Board's funding over the period.

Table 4.6

SOURCES OF LEDB CAPITAL FINANCING: PERCENT OF TOTAL CAPITAL FUNDS FROM EACH SOURCE

Source	Year											
	1929/30- 1945/46*	1955/ 1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966
Nigerian Govt. Loan	98	38.2	26	25.0	20.0	17.8	17.2	17.1	17.0	17.0	14.0	15.0
Nigerian Govt. Grant	--	2.5	35.0	37.0	44.0	47.1	46.4	42.2	40.0	40.0	33.6	34.0
CDC Loan	--	49.8	26.5	23.6	18.9	14.2	11.6	10.0	9.4	10.0	7.5	8.0
Bank Loans	--	--	--	--	--	--	1.0	2.0	2.0	2.0	3.2	3.0
LEDB Sources (Sale of Land, Houses & Loans Répuid, etc.)	2.0	9.4	12.5	13.4	17.0	20.7	23.6	28.4	31.7	31.9	41.6	40.0
Other (LTC, Capital Gifts, etc.)	--	--	--	--	0.06	0.06	0.05	0.1	0.1	0.1	0.2	0.2
NBS Loans	--	--	--	0.8	0.4	--	--	--	--	--	--	--

SOURCE: Various Annual Reports of the LEDB

* T. Hoskyns-Abrahall: Report with Recommendations on the Planning and Development of Greater Lagos: Appendix B:
Report of Accounts by Cassleton Elliot & Company, May 9, 1946.

NBS: Nigerian Building Society

CDC: Colonial Development Corporation

The most significant source of the Board's internally generated revenue income was what was known as the General Development Expenses. This was the fixed percentage charge that the Board levied on all Capital Works and Land acquisitions. That is to say, a percentage charge is imposed on the value of each capital work undertaken by the Board on behalf of the Government* or on behalf of other agencies or authorities, or even private (third party) individuals, and the income derived in this manner constituted the revenue income out of which the running expenses of the Board were met. This percentage charge was at the rate of 6% on the cost of acquisition of land or buildings, and 15% on the costs of Civil Engineering works and building construction. This means in effect that the Board adds 15% of the total cost of any works or development it carries out to the total cost of such works. If the total cost of the capital works of a project, for example, is ₦ 100,000, the Board adds 15% of that cost (₦ 15,000) to it as the General Development Expenses, to arrive at ₦ 115,000, which is taken as the actual cost of the project. The ₦ 15,000 accrues to the Board as its internally generated revenue. The Board depended so much on this revenue source because most of its established capital developments were relatively new and hadn't matured into generating much constant revenue. Furthermore, the Board was required by the Federal Government to provide certain social services which involved subsidized services, such as the rehousing schemes at Surulere and certain low income housing schemes. The Board, therefore, could not charge 'economic prices' for such services or facilities. Moreover, land

* Government schemes, as opposed to LEDB schemes, are projects which the Government wants to directly undertake, finance, and control, but for which it decides to use the services of the Board as construction agents or management consultants. The General Development Expenses in such cases stand for the agent's or consultant's fees.

leases, which were part of the Board's operations, do not usually return capital quickly enough to keep operations going.

Because the Board depended so heavily on these fixed percentage charges as the major source of its revenues (it averaged approximately 77% of the Board's total annual revenue during the 1957/58-1964/65 period (See Table 4.7, Row C) from which to meet its yearly recurrent expenditures, it meant that the level of the Board's expenditure on some categories of its activities were conditioned and constrained by the volume of capital works undertaken by the Board in a given year. The tendency, or rather the practice, of the Board then was to ensure that in a given year, enough capital projects were initiated, either for or by the Government, or such works solicited from other third parties, so as to ensure some income for the Board in the given year. To get such capital works projects, the Board usually had to initiate and design some such projects, and then attempt to persuade the Government to 'buy' and finance them. It wasn't often easy getting the Government to 'buy' such projects. It was often easier when the initiative of a project came from the Government itself. Because the amount of revenue from this source depended on or was determined by the total cost of capital works or land acquisitions, there were suspicions of a tendency on the part of the Board to make such works or acquisitions cost much higher than would ordinarily be the case, so as to increase the revenue from this source. Even then, this source remained inadequate.

The dependence of the Board on this General Development Expense, which itself is dependent on the amount of capital projects performed for the Federal Government or other parties, leaves the Board in a very vulnerable financial position, as

any shortage of such capital projects renders the Board financially and therefore operationally inept. Furthermore, the nature of this source of revenue naturally disinclined the Board from engaging in projects or fields that were not or did not involve capital projects, or that had not the potential of yielding appreciable financial returns. This is more so as the Board was generally required by its enabling Act to operate commercially -- that is, to make profits. This often meant by-passing desirable and needed public works and social projects that did not qualify for these rechargeable surcharges.

The Board's dependence for its revenue income on capital projects undertaken on behalf of the Federal Government or other parties is illustrated on Table 4.7, which depicts the fluctuating revenue fortunes of the Board from 1959/60 to 1964/65, and which was attributable to fluctuating availability of capital works on which to charge general development expenses. During this period, capital projects for the LEDB from the Federal Government dried up, leaving the Board in deficits towards the second half of the period. There were surpluses in 1959/60, 1960/61, and 1963/64 because there were substantial capital projects in hand from the Federal Government, and therefore substantial revenues from the General Development Expenses source. In the other three years, however, the reverse was the case, and therefore the resulting deficits. The Board's revenue fortunes, therefore, essentially swung with the amount of capital projects, which does not emanate from the Board itself, but from the Government and third parties.

The Board itself explained the above downward swing in its financial fortunes as being due to the fact that,

Table 4.7

LEDB Income from Capital Works (GDE*) and the Board's Running (Recurrent/Operating) Expenses 1959/60-1964/65 (£)

	1959/60	1960/61	1961/62	1962/63	1963/64	1964/65	1965/66
(a) Total Capital Expenditure (financed by Federal Govt. grants & loans)	2,611,150	2,768,000	1,544,600	1,094,470	3,002,040	2,421,360	983,098
(b) General Development Expenses	233,610	270,850	157,510	114,390	355,260	264,060	144,790
(c) % of Board's Total Annual Revenue+	82.6	91.5	70.0	58.2	81.2	76.7	29.6
(d) Net Operating or Recurrent Expenditure	186,514	220,897	245,160	239,140	324,560	359,430	418,841
(e) Net Surplus/Deficit**	+47,096	+49,953	-87,650	-124,750	+30,700	-95,370	-274,051

Source: LEDB Tribunal of Inquiry, 1966, p. 117.

* GDE - General Development Expenses

+ See Column 3 of Table 4.4

** This is arrived at by subtracting (d) from (b)

...prior to 1962, enough capital works were forthcoming from the Federal Government, but as from that year, there had been a considerable scarcity of such capital projects from Government sources. This had created some difficulties for the Board which more often than not finds itself with inadequate funds to run effectively the expanding social aspects of its work in the estates and in connection with some of the projects being ordered by the Federal Government.³⁷

The Board further pointed out in this respect that,

Essential expansion and improved running standards were usually out of reach to the Board owing to the limitations imposed by the insufficiency of the General Development Expenses.^{37b}

In fact, the Board argues that it invariably managed to keep its actual total Revenue Expenditure below the level of the budgeted total Revenue Expenditure, but that the savings which could have accrued to it as a result of this financial management had always been lost because of the Board's inability to earn the total estimated General Development Expenses, due to insufficient execution of capital projects,* thus underscoring the dependence on the General Development Expenses source for operating expenditures. In a similar vein, the Tribunal of Inquiry that probed the affairs of the Board in 1966/67 concluded that,

There is no doubt that the Board's dependence for its income on capital projects undertaken on behalf of the Government is a very vulnerable financial position as the fluctuation in the number of such projects

³⁷ Report of the Tribunal of Inquiry into the LEDB 1966, p. 101.

^{37b} ibid.

* ibid.,

in recent years has clearly shown. This is more so in view of the expansion of the activities of the Board in fields that do not yield appreciable financial returns.^{37c}

It has to be pointed out that ordinarily most public agencies, to varying degrees experience financial problems. In this general sense, the experience of the LEDB was not peculiar. The peculiarity of the Board's case arises from being tied to this General Development Expenses formula rather than being provided for in the normal annual Government budgetary process. The acuteness of the Board's financial problem was therefore greater as a result of this than the ordinary problem of financial insufficiency as experienced by most other agencies. Also, unlike most other public agencies whose capital and recurrent funds are provided for or appropriated in the annual routine government budgetary process, the formula of the Board's funding was "approved project-based", or rather more appropriately, the formula was "approved capital-project-based". This meant that before the government made grants or loans to the Board, there must have been a definite and specific capital project which the Board had planned to execute and this capital project must have been approved by the Government.

This manner of funding in spite of the Board's pressures for a change or modification of it, was further reaffirmed by the Commission that investigated the affairs of the Board, which after recommending that the Government give substantial amounts of revolving loan to the LEDB, insisted that,

^{37c}
ibid., p. 117.

...any such loan made to the Board should in the first instance be granted on the basis of a major capital project or projects acceptable to the Government and whose economic viability has been clearly demonstrated by way of a feasibility report. Accordingly, the amount of loan would have to depend on the estimated cost of the projects to which the loan is tied in the first instance...We do not, therefore, envisage a situation in which the Board will first be granted a loan of any magnitude and then allowed to think of how to make use of it. Funds made available in this way may easily be misused or applied at the discretion of the Board to projects that may be far down in the list of priorities having regard to the present financial situation of the country.³⁸

These were fairly stringent conditions for funding, and it was not often easy to have projects that could meet these criteria and pass the Government's scrutiny.

The Government, too, did not make loans or grants to the Board for recurrent or running (operating) expenses. The Board was expected to get money for such expenses from the fees it was authorized to charge on its capital projects (general development expenses) and from proceeds of its established commercial projects, including rents on land leases, or housing rentals, and building and development application fees, whose collection mechanisms were very weak. The 'project basis' of the Board's funding was therefore another major source of its financial weakness.

Table 4.8

Sources and Amounts of Loans Secured by the LEDB up to 1966

<u>Project or Scheme</u>	<u>Amount of Loan (£)</u>	<u>Source of Loan</u>
Apapa Estate Project	1.25 million	Commonwealth Dev. Corp.
	0.6 million	Federal Government
Freehold Land Scheme No. 3	196,000	Bank.
Freehold Land Scheme No. 4	50,000	Bank
Freehold Land Scheme No. 7	60,000	Bank
Surulere Light Industries	55,000	Bank
Freehold Housing Scheme No. 2	50,000	Nigerian Bldg. Society
Freehold Housing Scheme No. 4	60,000	Bank
Freehold Housing Scheme No. 4a	50,000	Bank
Freehold Housing Scheme No. 5	500,000	Bank
Freehold Housing Scheme No. 6	50,000	Bank
Surulere Shops & Flats	50,000	Bank

Source: Report of the Tribunal of Inquiry into the Affairs of the LEDB 1966, p. 6.

(£ 1 = \$3.04)

As had been pointed out, the Board's power to negotiate commercial loans, and the amount of such loans that it could negotiate, was very limited. Such loans were required to be guaranteed by the Federal Government, who was often not disposed to give the Board a wide discretion or free rein as far as this was concerned, perhaps in order to retain and ensure strict government financial control, or possibly because the Government had not adjudged the Board as being capable of handling larger sums of money efficiently. The amount of non-government loans it was allowed to take out at a time and that were guaranteed by the Government were often small and very limited. From records, it is inferred that such loans were limited to around sixty thousand pounds at a time or per project. Table 4.8 on the sources and amounts of loans

by the LEDB indicates that most of the bank or commercial loans were limited to about ₦ 50,000. And these were mainly short-term loans, which required repayment in relatively short periods of time, so as to maintain the credibility and credit-worthiness to obtain further loans in the future. Also, as these loans were government guaranteed, should the Board default the government would be liable to repay the loans, and this would prejudice government's willingness to guarantee further loans for the Board. And the Government, not overlooking the possibility of such a default, keeps a tab on the amount of loan that the Board can take at any given time. All these constraints had inhibiting effects on the scope of operations of the Board. The use of such short-term commercial bank loans was the main explanation by the Board of why it sold its freehold plots and houses on a commercial basis -- that is, to those who could pay the prices demanded, arguing that the interest rates on such loans were very high and the loans themselves were required to be repaid in a relatively short period of time.

The other factors in the relatively weak financial position of the LEDB can be attributed to the traditional inefficiency of public agencies, which has to do with the integrity and devotion or otherwise, of the civil servants or bureaucrats, and the corresponding level of public confidence in them. The LEDB, for example, was unable to collect a substantial bulk of the rents due on its many projects and facilities. This inability could be attributed to weaknesses in its management mechanisms, to the incompetence of its personnel, to the corruptibility of its officials, to the reluctance of people to pay for Government-produced goods or to exert themselves to pay for such debts promptly. Considerable sums of potential

revenue due from rents on the Board's projects remained uncollected every year. In 1966, the uncollected revenues due from rents stood at ₦ 124,000 (which was equivalent to 25.3% of its total revenue in that year -- see Table 4.4) with over 1500 persons defaulting in rent payments to the Board, many of them for several months in a row. The principal cause of this was attributed to the "culpable indifference of officials of the Board in handling the Board's financial affairs".³⁹

Other Implications of the Board's Financial Weakness

Such was the financial weakness of the LEDB that in many of its land acquisitions, it could not pay compensation promptly to land owners, as required by law. This tended to confound the Board's difficulties with the land owners. Although, for example, the notice for acquisition by the Board with respect to the Central Lagos land acquisitions (Section 4.3) was published in 1951, and the various areas became vested in the Board from 1956-1961, yet up to 1966 (over six years after the legal acquisitions) the LEDB was still not in a position to and had not paid compensation to many of the owners; while the Board collected rents from shops erected on the sites. The same such problem existed with the Abule-NIa/Iganmu Development Scheme. In either case, the Board could not settle the compensation involved in the acquisitions, because according to it, it "hadn't the funds to do so". The result was that the owners of land in the affected areas were severely handicapped and disadvantaged in dealing with their properties with regard to selling, mortgaging or leasing such properties. Such non-payment or non-timely

³⁹
ibid., p. 119.

payment of compensation after acquisition contributed to intensification of resistance by land owners whose property was to be acquired by the Board. These problems of non-payment were so rampant that the LEDB Inquiry Report* recommended that,

The LEDB should be prohibited from acquiring a property without first making adequate provisions of funds for the payment of compensation, and seeing to it that cash is actually available to meet such payments. Where however, the LEDB has acquired a property without payment of compensation on the due date, the LEDB should pay interest at 6% per annum, or at the current bank rate whichever is higher.

On the other hand, even where the Board had acquired and paid for the lands, they remained undeveloped for a long time owing to lack of sufficient funds. This resulted in further losses to the LEDB as the little capital it had became tied up in such lands. The problem of insufficient funds was all-pervading in the operations of the Board.

Another implication of the financial weakness of the Board was that it could not afford to embark on massive and comprehensive land acquisitions that could achieve the effect that public urban land banks or land reserves are normally associated with -- control of land values and control of land use. The alternative was the isolated, uncoordinated and incremental pattern of acquisitions which tended to raise land values and land prices around the adjoining areas to the Board's schemes -- which were higher quality and amenity areas. As a result, when eventually the Board decided to acquire more land to expand a particular scheme, it had to pay higher prices for such adjoining lands to its scheme -- higher prices

*Tribunal of Inquiry into the Affairs of the LEDB, 1967.

brought about by its own policies. (See Chapter 5 for factors in the determination of "Fair Market Value", p. 15, 16). This process was particularly obvious in the Board's Surulere Land acquisitions. If the Board had the financial strength to do a more comprehensive acquisition, it would not have had to be paying for higher prices brought about by its own mechanisms.

The problem of insufficiency of funds affected the "goals -- effectiveness" or purpose of the LEDB in another way. Because of the understandably less revenue accruing from residential and social schemes, which did not very much help its already weak financial situation, the Board embarked on a major shift of emphasis to industrial and commercial projects, which was envisaged to command more ready revenue incomes, and this meant a commensurate shift of emphasis away from the residential and other social (including environmental) problems of the metropolitan area which was the *raison d'etre* of the Board's creation. The LEDB explained this shift as necessary for its continued existence and operation, stating that,

Because of the heavy competitive demand on Government funds for its various National Economic Development Plan projects, the Board is no longer able to rely exclusively on Government funds for the execution of all its schemes, and it is therefore continually exploring the possibility of long-term external or internal finance for its commercial development projects, and from Finance Institutions with the Federal Government providing the necessary guarantees. To this end, the Board is endeavouring to shift emphasis to planned commercial and industrial development schemes which will not only help to stabilise its finance but should also enable it to plough back substantial surpluses for promoting further development and thereby

minimizing its reliance on Government funds for the execution of its projects.⁴⁰ (emphasis mine)

The process of this planned shift involved: (a) In the first instance, securing permission from the Federal Government to make such a shift; (b) Requesting substantial amounts of long-term revolving loans from the Federal Government in order to make this expansion feasible; (c) Requesting authorization from the Federal Government to issue Debenture stocks in the Lagos money market, with a view to putting funds thus realized into such planned commercial ventures. The Board envisaged to use proceeds from these ventures to pay the interest on the debentures and still accumulate reasonable surplus. In the process of this came the administrative changes in Nigeria (creation of states) in which Lagos State was created. As a result, the LEDB came under the control of the Lagos State, rather than the Federal Government, and thereby was automatically transformed into a state-wide agency from being a metropolitan agency. With this transformation it was given many of the powers it requested for expansion by the new Lagos State Government.

The implication of this expansion and change of emphasis is that the preparation of residential building land became low in the priority of the Board, and this meant that most of the lands to be acquired henceforth would be devoted more to non-residential uses. Table 4.9 reflects this change in emphasis and direction, in which most pre-1970 projects were mainly residential; and while still maintaining substantial residential developments, most post-1970 projects were increasingly devoted to industrial and commercial land uses.

⁴⁰ Annual Reports and Accounts of the LEDB 1965/66, p. 35.

Table 4.9

LEDB: Trend and Scale of Allocation of Land to Use Types

Scheme or Project	Year	Total Area (in Acres)	Land Uses (Acres)		
			Residential	Indust./Commer.	Other Use
Idumagbo Scheme	1931/32	10	10	--	--
Isalegangan Scheme	1933	9.3	9.3	--	--
Oke Awo Scheme	1933	7.5	7.5	--	--
Yaba Estate	1933/34	700	700	--	--
Apapa Estate	1950/53	1000	678	230	102
Central Lagos Scheme	1951	70	43	22	5
Surulere Scheme	1956/58	1463	1400	63	--
Lagos Housing Scheme	1955	56	56	--	--
Housing Schemes	1958/63	400	400	--	--
Rehousing Scheme	1958	120	120	--	--
Victoria Island Scheme	1957/58	1600	1300	--	300
S.E. Ikoyi Scheme	1956/57	270	270	--	--
S.W. Ikoyi Scheme	1959/60	258	258	--	--
Ijora Industrial Estate	1960/63	376	--	376	--
Metropolitan Housing Scheme	1964/65	63	63	--	--
Ilupeju Estate Scheme	1965	476	140	245	89
Iganmu Industrial Estate	1966	166	--	166	--
Oshodi Scheme	1972	507	140	300	167
Isolo Scheme	1972/73	216	28	112	76
Ilasamaja Scheme	1972/73	300	120	97	45
Matori Scheme	1973	163	--	117	46
Gbagada Scheme	1973	650	200	300	150
Ogba Scheme	1972/73	551	160	280	111
Shomolu Scheme	1973/74	47.1	32	15	--
Amuwo-Odofin (New Town)	1971/72	2460	819	231	1390
Iponri Scheme		87.6	23.4	32.4	31.8

Sources: Tabulated from the various Annual Reports of the LEDB/LSDPC.

Notes - Table 4.9

- (1) "Other Uses" include roads, recreation and open spaces, and other urban infrastructural services that require space. Where no separate figures are given for "Other Uses", the major land use allocations include spaces for these infrastructural facilities.
- (2) The post-1972 figures are for the Lagos State Development and Properties Company, Ltd. into which the LEDB and a few other agencies were merged in 1972.

This was a radical departure from the purposes for which the Board was created, which were mainly to attain certain acceptable residential and sanitary (environmental) standards and goals. The shift of emphasis and direction away from the purely environmental (sanitary) and residential land activities obviously fostered further deterioration in the housing condition and general urban environmental and sanitary quality.

The commercial shift nevertheless seemed to have improved the Board's financial standing, in the sense that it could then of itself finance a relatively higher proportion of its total annual expenditure than before (Table 4.10), even though these were financed through small short-term, on-call loans from commercial banks (See Table 4.8). Table 4.10 shows that during each of the first two years (1960 and 1961), Government loans and grants made up over 75% of the total annual expenditures of the Board. This dropped to 47% in the third year (1961/62), to 56% and 57% respectively in the fourth and fifth years, and was 62% on the sixth year (1964/65). Correspondingly, the Board's independent share of its annual expenditures rose from 22% in 1959/60 to 24%, 53%, 44%, and 35% respectively during 1961 through 1965.

With the creation of the Lagos State in 1967, the Board underwent further transformation from a Federal Urban Development and Planning Agency with jurisdiction within the Federal Capital Territory of Lagos alone into a state-wide urban development agency. This transformation gave the Board a new lease on life by providing it with an expanded jurisdictional area for its operations. With this change came also a revolution in its sources and scope of financing. It acquired more authority from the new Lagos State Government to negotiate for more

Table 4.10

Government Sponsored Schemes and the Board's Sponsored Commercial Schemes as a Percentage of the Total Capital Works
Executed by the LEDB 1959/60 -- 1964/65

	1959/60	1960/61	1961/62	1962/63	1963/64	1964/65
I.						
(a) Scheme in which Federal Govt.* has interest (loans & grants) amount	2,037,064	2,106,897	718,925	616,966	1,706,813	1,505,801
(b) % of the Board's Total Annual Expenditure	78%	75%	47%	56%	57%	62%
II.						
(a) The Board's Independently Financed Schemes (Commercial)+	574,087	661,104	825,677	477,503	1,295,222	915,560
(b) % of the Board's Total Annual Expenditure	22%	24%	53%	44%	43%	38%

Source: Report of the Tribunal of Inquiry into the Affairs of the Lagos Executive Development Board for the Period 1st, October 1960 to 31st December 1965. (Federal Ministry of Information, Printing Division, Lagos, 1968).

- * These are direct Federal Government capital projects, which are assigned to the Board to execute as an agent of the Government. The Board earns its 6%-15% fee (General Development Expenses) from such projects or schemes.
- + The Board's commercial schemes are those projects usually directly or independently financed by the Board which earns revenue through rents or other periodic charges. 'Commercial' here is used in the sense that the particular project was planned and intended to make profits or at least bring in income.

copious loans than before, and from outside sources, too. The Board also continued its industrial/commercial orientation which it deemed more profitable, and an easier means of financing itself. Table 4.11, for example, shows the Board's scheduled expenditures during the Four Year National Development Plan 1970-74. The Table confirms the increased emphasis on purely industrial/commercial projects -- constituting over 50% of the Board's projected £ 30.0 million development program during that period. Item 7 on the Table (Amuo-Odofin New Town Development) with 2,460 acres of area was planned more than one-third industrial/commercial development.

Secondly, the Table indicates some revolution in the Board's sources and scope of financing. From an almost total dependence on Government and Government-guaranteed sources, the Board had become independent in negotiating bank loans, private loans, and had begun to derive substantial proceeds from its established projects, which had by then become mature and revenue-yielding. And with orientation to industrial/commercial projects, more of the Board's projects became self-financing. So it can be said that with its shift of orientation and emphasis to industrial/commercial development, and with the fortuitous event which transformed it from a city-wide to a state-wide development agency, and had its funding sources and capabilities improved, it can be said that the Board assumed a better financial shape than hitherto. This in some way, too, meant reduced attention or no attention at all to non-profit-making projects, including such social ones as low income developments.

As funding was one of the main instruments of control of the Board by the

Table 4.11

LEDB: Spending Plan on the Development of Residential and Industrial Estates

<u>Project or Scheme</u>	<u>Total Estimated Expenditure (₦)</u>	<u>Method of Financing</u>
1. Adeniran Ogunsanya Shopping Centre	385,000	Private loan term account; guaranteed
2. Adeola Odeku Shopping Ctr.	300,000	Private loan term account, guaranteed
3. Ilupeju Commercial-Community Residential Scheme	860,000	Self-financing
4. Ilupeju & Shomolu Recreation Centre	50,000	Self-financing
5. Falomo Shopping Centre	720,000	Private loan long-term account guaranteed
6. Lagos Central Shopping Precinct	9,000,000	Private loan long-term account guaranteed
7. Amuwo-Odofin New Town Development	10,000,000	Bank loan
8. Victoria Island/Surulere Housing Scheme	2,000,000	Bank loan
9. Iganmu Industrial Estate Development	100,000	
10. Victoria Island Estate Development	400,000	Private long-term, bank loan; short term
11. Northern Foreshore, Adeniji-Adele/Okesuna	2,000,000	Private loan, short-term
12. South Iganmu Industrial Estate Central Lagos Planning Scheme	3,000,000	Private loan, short-term
	500,000	Proceeds of sale of land already cleared & developed; bank loan, short-term, private long-term
TOTAL	29,315,000	

Source: Compiled from the Lagos State Government: Four Year Development Plan 1970-74.

Government, with its greater leverage for funds, the Board became less directly controlled by the Government. With this, too, was a tendency to less responsiveness to popular and social pressures. With its strengthened funding sources, it also meant that the Board's potential impact on the physical landscape (note items 6 and 7 on Table 4.11) was becoming more noticeable.

The shift of emphasis from residential to industrial/commercial projects meant that less of the acquired lands would be devoted to residential plots. And land owners cannot be given back industrial or commercial plots. The logical deduction is that more resistance would be encountered in the process of compulsory acquisitions, as the owner would not expect to get back lands that are acquired for such purposes.

Whereas, therefore, the primary initial objective of the creation of the LEDB was sanitation to control the outbreak of epidemic or endemic diseases, the emphasis in its latter years was on housing, industrial, and commercial development activities. The Board itself was later to acknowledge that, "Housing schemes, regarded by most people as the main spine of the Board's activities were in fact by-products largely brought about by the Rehousing Scheme at Surulere."^{41b} As was observed by Baker,

In its latter day form, the LEDB... incorporated as an interim agency with limited functions, became an ostensibly permanent structure with sweeping powers; conceived as an urban renewal body to serve the public, it evolved into an instrument serving higher authority. Both in form and in function, the LEDB little resembled in the sixties, the unobtrusive slum clearance agency it was meant to be when it was created four decades earlier.⁴¹

⁴¹ Baker, Pauline H: Urbanization & Political Change: The Politics of Lagos 1917-1967 (University of California Press, 1974), p. 184.

^{41b} LEDB: What is the LEDB?, p. 19.

While the peculiar land tenure and insufficiency of both capital and operating funds constituted serious difficulties and problems for the Board -- problems that were external to it, the more serious problems of management quality and skills, administrative inefficiency and integrity were internal to the Board, and constituted a real weak link in its chain of operations. The ways these affected the degree of success of the Board and the people's perception of the Board will become apparent from the analysis and discussions of the next three chapters.

SUMMARY

The chapter has attempted to profile the Lagos Executive Development Board (LEDB). The circumstances which necessitated the establishment of the Board were discussed, and the background of the housing and general environmental conditions with which the Board had to deal with and which actually were the *raison d'etre* of the Board's creation were presented.

It was noted that the British Colonial Administration in Nigeria at the time wanted to develop Lagos into a prestigious "Capital city of a vast and important dependency -- a town in which the observant eye will pick to assess at a glance the results of British Colonial Policy since its inception".

The starting point was the clearance of existing slums, to which the bubonic plague of 1924/25 was attributed. To achieve this objective, in order to achieve the general objective of developing Lagos into an enviable capital, it was deemed necessary that the agency for this development (the LEDB) should have great control over the disposition of land and its mode of development in the city. The Board was therefore given enabling legal powers of compulsory acquisition of land for these purposes, and also given overriding powers over most other government agencies operating in the city, including the City Council. In time, the Board came to absorb the functions of these other agencies, the Lagos Town Planning Commission having recommended that,

In order that the development of Lagos may be successful, it is indispensable that there should be one Authority responsible for all aspects of that development, and that there should be repre-

sented on that body, all the interests which are concerned.

But in spite of the lofty intentions of the Government, and in spite of the overriding legal powers of compulsory acquisition, the Board was seriously hindered by two formidable problems, namely:

- 1.) The traditional land tenure situation which made it difficult for the Board to acquire much of the lands it needed in order to achieve the goals of its creation, made its operations extraordinarily expensive by increasing the Board's 'transaction costs'.

- 2.) The financial weakness of the Board, which prevented it from engaging in as many and as large projects as it would have wanted to undertake. It inhibited both its ability to directly construct and develop housing and other facilities as well as its ability to pay required compensation for pre-empted property or to meet its general operating expenses and obligations.

The Chapter also traced the general evolution of the Board from a small, semi-autonomous sanitary and urban planning agency to a giant, almost independent, state urban development agency, as a result of various events in the history of the country, and how its focus gradually shifted from a mainly social service institution to a highly commercialized concern.

Appendix 4.1

Housing Standards in England
(Used for judging Nigeria's (Lagos') Housing Standards, 1945)

The statutory standard in England aimed at sufficient sleeping accommodations in a house to secure proper sex separation and adequate floor area per person. Overcrowding was then defined as the state existing when the number of persons sleeping in the house either:

- (a) Is such that two persons, ten years of age, or more, of opposite sexes, and not living together as husband and wife, must sleep in the same room; or
- (b) In relation to the number and floor area of the rooms exceeds the permitted number as set out in Tables I and II. For this purpose, no account is taken of children under one year old, children over one and under ten being reckoned as half a unit.

Table I

When a house consists of:

One room	2 persons are permitted
Two rooms.....	3 persons are permitted
Three rooms	5 persons are permitted
Four rooms	7½ persons are permitted
Five or more rooms.....	10 with an additional 2 for each room over five.

Table II

Where the floor area is:

110 sq. feet or more	2 persons
90 sq. feet or more	1½ persons
70 sq. feet or more	1 person
50 sq. feet or more	½ person
Under 50 sq. feet	Nil

Appendix 4.2

**Classification of Houses in Lagos Island (Table 4.1)
Explanation of Classification Categories**

Type "A" indicates houses in good all-round condition which comply with the existing building regulations.

Type "B" indicates houses in good all-round condition, but requiring major alterations to bring them up to the standards of existing building regulations.

Type "C" indicates houses constructed of mud and/or bricks which are insanitary and/or dilapidated.

Type "D" indicates houses constructed of wood, bamboo, and/or corrugated iron sheets, irrespective of their general conditions.

Vacant Plots are areas properly demarcated with boundary marks and which do not contain any structures.

CHAPTER FIVE:
LEDB LAND ACQUISITIONS: PATTERNS AND PROCESSES

Chapter Five

LEDB LAND ACQUISITIONS: PATTERNS AND PROCESSES

The last chapter examined and discussed the objectives of the LEDB, and the circumstances of its creation. It examined the Board's early history and the evolutions in the scope of its functions; its relationships with other government and quasi-government bodies; its legal powers of compulsory acquisition of lands and the effectiveness of those powers in the face of traditional land tenure resistance. The chapter also examined some of the Board's operations, and attempted an analysis of the sources of the weaknesses on the effectiveness of the Board, which were noted to include: (i) the nature and characteristics of the traditional culture-bound system of land tenure (as earlier depicted in Chapter 2) with its traditional indisposition to free market land transactions and resistance to the Board's taking; (ii) the funding problems of the Board with all its ramifying implications for the Board's operations, and (iii) the effects of the perception by the land owners as to what use such lands will be put when pre-empted from them, or as to who would benefit from the taking.

This chapter examines the actual patterns and processes of land acquisitions by the LEDB. While it is an extension of the last chapter, it concentrates on the analysis of the rules and procedures governing the Board's land acquisitions, and to what extent these help or hinder the operational effectiveness of the Board. It also examines the question of compensation and their methods of assessments in the process of acquisition; the equity of these processes and methods, and how far they affect the effectiveness of the Board, and the confidence of the populace on it.

One of the main postulates of this study is that the degree of success of public land ownership and management depends on the form the public ownership and management

takes and on the conditions of the exercise of such authority in the process of the management; it also depends on the quality of the personnel involved in the public administration.

This chapter begins the examination and evaluation of the conditions of the exercise of public (LEDB) authority in the process of its land acquisitions, ownership and management, as it affects the success of the system. As a corollary, the chapter also reflects on the quality of the personnel in the public administration and management of urban lands.

5.1 Modes of Land Acquisition

The Lagos Executive Development Board has general powers to acquire lands, either by agreement or compulsorily. In addition to these general powers, the Board is given specific powers (extraordinary powers) of acquisition where extraordinary difficulties are expected in the process of a given acquisition. The Board's most active period of land acquisitions was during the 1950-1970 period, during which time about ten thousand acres of land were acquired in Lagos and its environs. Three major modes of acquisition have been used in this process:

- (i) By Purchase: in which there is mutual agreement between the Board and the land owners, over both the willingness to sell on the part of the land owners, and on the price. Only about 700 acres (about 7%) of the area involved in the series of acquisitions were by this mode.
- (ii) By compulsory Acquisition: in which there is no agreement between the Board and the land owner, either on the willingness to sell or on the price, and the Board invokes its powers of compulsory acquisition, paying adequate compensation as required by the law.
- (iii) Reclamation: where either due to swamps or other natural causes, a piece of land is not readily developable, or is only marginally so, the Board decides to reclaim it, improve and bring it into the market for development. An examination of LEDB land acquisition projects shows that a large proportion of these involved some partial reclamation. This has been due to two major factors:

- (a) The inherent physiographical nature of the Lagos region which is essentially riverine and swampy, and the restricted area of the region both geographically and politically.*
- (b) The degree of potential resistance expected from owners of such lands against their acquisition. As discussed before, partly owing to the lack of the money and the technology to develop them themselves, land owners were expected to be less relentless in their resistance against LEDB acquisitions of such swamp or other marginal lands.

Table 5.1 shows the trend and proportion of acquisitions by each of these modes -- purchase, compulsory, and reclamation. It is pertinent to point out, however, that many overlaps exist in the mode of acquisitions, particularly between the compulsory acquisition mode, and reclamation, or even purchase, as all 'taking' is compulsory by definition.

*Lagos had expanded in area over the years, both by the reclamation of swamp lands and by jurisdictional extensions of political boundaries. The following Table shows the trends of these extensions:

<u>Year</u>	<u>Area in Square Miles</u>
1871	1.55
1881	1.55
1891	1.55
1911	18.0
1921	20.17
1931	25.51
1950	27.0
1963	27.0
1972	40.0 approx.

The former Western Region Government whose jurisdictional area was contiguous with the Federal Territory of Lagos, successfully continued to resist Federal Government's attempts to extend the political boundaries of Lagos until 1967, when the Lagos State was created.

Table 5.1

The Trend and Modes of LEDB Land Acquisitions 1931-1972

Scheme or Project	Year	Total Area (Acres)	Mode of Acquisition		
			Purchase	Comp. Acq.	Reclamation
Oko-Awo	1928/30	7.5		X	
Idumagbo	1931/32	10		X	
Isalegangan	1933	9.3		X	
Yaba Estate	1933/34	700.0	X		
Apapa Estate	1950/53	1000.0		X	X
Central Lagos	1951	70.0		X	
Lagos Housing	1955	56.0		X	
Surulere	1956/58	1463.0		X	X
S.E. Ikoyi	1957	270.0		X	
Housing Schemes	1958	400.0		X	X
Rehousing Schemes	1958	120.0		X	X
Victoria Island	1958	1600.0		X	X
S.W. Ikoyi	1960	258.0		X	
Ijora Industrial Est.	1960	376.0		X	X
Metro. Housing	1965	63.0		X	
Ilupeju Estate	1965	476.0		X	
Iganmu Industrial Est.	1966	166.0		X	X
Iponri	1966	88.0		X	
Amuwo-Odofin New Town	1971/72	2460.0		X	
Oshodi Scheme	1972	507.0		X	
Isolo	1972	216.0		X	
Ilasamaja	1972	300.0		X	

Sources: Calculated and tabulated from the various Annual Reports and Accounts.

Note: The figures for any particular year are approximate, as the process of acquisition flows from one year into another, and in many cases, a single acquisition extended over many years.

There are also probabilities of some small double counting.

Acquisitions by whatever mode, therefore, is not mutually exclusive. As swamp lands are owned by individuals and families as well, the acquisition of such lands often involved both processes of compulsory acquisition and reclamation. One thing is clear from Table 5.1, however, and that is that most of the acquisitions (over 90%) were compulsory, even those involving reclamation, which in the socio-cultural climate of the context is not unexpected.

Relatively very small proportion was by purchase as such, even though the context of the "sales" and "purchases" were compulsory by implication. The first three projects on the table were carried out under the arrangement whereby the LEDB returned 80% of the original land to the owners, after renewal and servicing. So that these, though compulsory, could also be said to have been by agreement between the Board and the land owners. This arrangement was very profitable to the land owners, and they were willing to release their lands to the Board under this formula -- regarding the Board as "layer of the golden egg". However, the Board did not find the formula profitable to itself and so, soon abandoned it after 1935. It is inferred that opposition to its acquisitions hardened up once more, with this change in policy, as evidenced by later events discussed in Chapter 4 (Section 4.3).

Considering the nature of the land tenure and the attachment to it and the significance of land in the society as depicted in Chapter 2, the disproportionate number of compulsory acquisitions is not unexpected, as has already been discussed in previous chapters.

One of the major features of LEDB's land acquisition activities was that acquisitions were project-based. That is to say, lands were acquired for specific proj-

ects, and lands were not acquired until and unless a project had been conceived and designed. There were, therefore, no attempts at 'land banking'. The result was an uncoordinated sporadic manner of land acquisition. This pattern was followed in spite of the fact that its enabling legislation empowered it to acquire land for a scheme or other purposes and well in advance of the time it actually needed the land. But the land tenure situation and the consequent problems involved in the acquisitions were such that the troubles were considered not worth taking unless it was really necessary -- that is, unless an important project is planned. The result of the sporadic pattern of acquisitions was that its activities were without the advantages often associated with advanced public purchases of urban land or urban land banks (control of land prices and land values, or even rationalizing of land use development in the city). Because of this pattern of acquisition, the decision as to what mode of acquisition to employ in a given case depended on three main factors:

- (i) The need or purpose or type of project for which a particular piece of land is needed. If it were an urban renewal project, it involved displacing people and activities, and most people to be affected would not willingly sell or otherwise dispose of their land or houses or their business activities. In such cases, the only option for the Board was the compulsory acquisition mode. This was the case in the Central Lagos Planning Scheme (1951), the Victoria Island acquisitions (1958), and the Ikoyi acquisitions (1960) among others.
- (ii) The location of the proposed project or scheme. A project that is place- or area-specific does not offer flexibility for alternatives of sites or location choices. In such cases, the locations are relatively defined and land for them must then be acquired in the area even if it entails compulsory acquisition and condemnation. But if the project location is relatively foot-loose, that is, that it could be located in any part of the city or metropolitan area and still serve its purpose and its desired target group, then there is flexibility in negotiating for alternative sites, and the options of acquisition by purchase, compulsory, and reclamation would be open.

- (iii) if the costs of delays or expected delays to be occasioned by law suits, compensations, and resettlement processes for a given site are considered too high or higher than the costs in money and time of reclaiming a hitherto unusable land (swamps and water-logged land, etc.), then acquisition by reclamation is likely. In fact, it could be conjectured that the relatively high proportion of acquisitions involving part reclamation (Table 5.1) are explained by the difficulties and delays involved in the compulsory acquisition of ready usable lands or occupied land from their owners. Though reclamation is a more expensive mode of land acquisition (in terms of money costs involved), it is easier to handle in human terms, as resistance and delays occasioned by them are minimal. It was not often likely that the owners would in many cases have the financial resources to reclaim their swamp lands themselves, and that naturally would restrain their opposition to the acquisition of such lands.

However, in most of the cases, the LEDB assumed (and rightly so) that owners would not willingly part with their lands, and proceeded from the start to acquire the lands compulsorily. It did not therefore often go through the sequential process of first trying to induce a willing sale before invoking its compulsory acquisition powers. Even willing sale, as has been pointed out, required pro forma condemnation, anyway.

5.2 The Process of Land Acquisition

Before it acquires any land, the Board is required by law to publish a notice, including at least one in the Official Government Gazette, stating: (a) the fact that a scheme or project has been prepared for the given area; (b) the boundaries of the area comprised in the scheme; (c) the place or places at which a copy of the scheme or plans of the area, and a statement of the land which is proposed to acquire or such particulars as the Authority may deem necessary, may be seen at reasonable hours; (d) such a notice (together with the plans for the scheme) shall be deposited as designated in paragraph (c) above, for a period of fourteen days, during which period the scheme and plans shall be open to the inspection of all persons interested. This is

to insure that all those who might have an interest or estate in the lands to be acquired have good opportunity of access to such information, and therefore had the opportunity to take steps to protect or safeguard such interests by applying for compensation due them; (e) the LEDB is also required within one month of the publication of such notice to specifically bring to the notice of every affected owner of property in the scheme area the fact that his or her property is affected and be required to lodge with the Board a statement of his rights or interest, and of the evidence thereof, and of any claim made by him in respect of such right or interest. This explicit provision is to ensure that people's property is not pre-empted without their knowledge. The Board's notice is required to clearly warn that lands in respect of which no statement is received are liable to be dealt with as unoccupied lands, in which case no compensation would be awarded.¹

Section 45 of the Ordinance² requires that:

The land to be acquired shall vest in the Board upon service of a notice by the Board on the owner that such land is required by the Board. All leases and rights of occupancy under any tenancy in respect of such land or building which are existing at the time of the notification shall be deemed to be terminated if not previously terminated by agreement at the time of the service of the notice, but without prejudice to any leasees or occupiers rights in any compensation payable under Section 41 or 49 of the Ordinance.

Provisions had also been made in the enabling legislation to ensure that the Board is not deliberately or unreasonably held up or obstructed by land owners, to the

¹Public Lands Acquisition Ordinance, 1917.

²Lagos Town Planning Act, Cap. 95 of 1958, Part VI, Section 45 (Laws of the Federation of Nigeria and Lagos, Vol. VIII, 1958).

effect of waiving for the Authority any requirements and conditions that would otherwise ordinarily be entertained in other land transactions. But in spite of these provisions, and in spite of the fact that many provisions are designed to ensure that the Board gets the lands it requires, the evidence (as presented in Chapter 4) is that there is a wide gap between the theoretical provisions of enabling laws and the practical effectiveness of the implementation and realization of the intents of such laws. The LEDB or any other Government agency still experiences as much difficulty (if not more than) as ordinary private individuals in attempts to acquire land in Lagos.

The Lagos Central Planning Scheme Acquisition and the Apapa Acquisitions, among others, are some of the evidences of this.

Besides the problem of the people's resistance to a taking, the other major problems in public land acquisition are the costs involved in the process and the problem of compensation. The Second National Development Plan³ confirmed, for example, that,

Although there is an enabling legislation for purposes of compulsory acquisition of land for public use, the compensation claimed and paid by Government hitherto have generally been much higher than the true opportunity cost of land. The historical upward trend in land prices has been introduced mainly through the activities of land speculators in the urban areas, especially for government-sponsored projects. Consequently, some of the projects established on such land were over capitalised right from the start thus prejudicing their economic viability.

While this statement is of general application, however, substantial undervaluation and under-compensation take place in LEDB land acquisition processes.

³Federation of Nigeria: Second National Development Plan 1970-74 (p. 219).

In fact, it is shown by the cases on Table 5.4 that the LEDB generally pays less than what the particular piece of land is worth at market value.⁴ Although it is generally true that land prices are jacked up by owners where the LEDB or any other public agency is involved in an acquisition, it does not necessarily follow, as the above Development Plan statement implies, that all the costs attributed to compensation in Government accounting were paid to the land owners. That is to say, the high costs to the Government did not necessarily mean equivalent high prices or revenues to the land owners. A substantial portion of these "high costs" to the Government in land acquisition processes actually went to the various "fees," high overheads, and other 'extraneous' costs -- costs that are invariably attributed to compensation processes and payments, but which do not necessarily accrue to the landowners, as such.

That land prices are raised high where public or LEDB acquisition is involved is exemplified by the acquisition of land for the Lagos Island Master Plan, and the comments of the Hoskyns-Abrahall Report in that respect. The Plan was prepared by the LEDB in 1945, and cost £ 4.0 million to implement. This amount only included land acquisition, engineering works, water, and street lighting. Out of the £ 4.0 million, nearly £ 2.75 million (69%) was for land acquisition alone (involving a net area of about 8 square miles), and only a little over £ 1.0 million left for engineering works and services over this period. The cost of this land was that high because of the escalating of the land prices by owners and their agents for the simple reason that it was a Government acquisition. The Hoskyns-Abrahall Report⁵ impugned to this effect

⁴It is also likely that the reverse could be true in some cases, depending on the circumstances, and who the persons involved are, and sometimes on the personal interests of the officials doing the valuation and negotiations on behalf of the Board (see also next page, for example).

⁵T. Hoskyns-Abrahall, op. cit., p. 20.

that,

...the figure for land acquisition is capable of considerable reduction. It seems quite wrong that a plan for improving and modernizing Lagos for the ultimate benefit of the people should be vitiated because of the disproportionate sums to be paid in compensation to landlords, many of whom have for years been making money by charging excessive rents and have done little or nothing to improve their property. In other words, it is surely axiomatic that the needs of the community as a whole must prevail over the interests of the minority: Lagos must not remain in a slum simply because Government cannot afford to buy out the slum lords.

But such has always been the hopes and intentions of public policy -- hopes that sometimes have little relation to the real world's situation in which the average citizen's (including those of the Government's own servants) perception of the Government is that of an infinitely rich entity, which also is the equal property of every citizen. The prevailing attitude, then, is that of exacting whatever an individual can from such an entity. Often all these amounts are not paid for the plots of land per se. Lawyers', agents', and other extraneous fees often take a substantial proportion of the so-called cost or price of the land. It could be hypothesized, on the other hand, that many of these high prices or extraordinarily high compensation demands on the part of the land owners are not made for the money per se, but rather employed with a view to possible scaring away of the Government from the acquisition. This is further explored in Section 5.4. This notwithstanding, however, the officials bargaining on behalf of the Government apparently often display the same biased attitudes towards Government's interests as do the land owners, and show no urge to bargain as astutely as they would for their personal businesses. To many such officials, Government business is nobody's business.

At times, for example, some compensation assessments were unnecessarily inflated on selfish consideration. There were such cases, for example, where compensation was initially assessed at £ 11,575, but for some unexplained reason, the compensation was later revised upwards to £ 21,000,⁶ an increase of about 82% over the initial amount assessed. The LEDB Tribunal of Inquiry Report⁷ regretted in this regard that, "It is a pity, however, that there were cases where the amount involved was unnecessarily inflated (e.g., £ 11,575 increased to £ 21,000)." The reverse of such a situation was also possible, depending on the circumstances. The levity and lack of a sense of mission with which the Board officials treat "Government" (public) business (Board operations) is further underscored by the Report of the Tribunal, which observed that,

...We have at the same time tried to point out those sources of income which have either not been fully exploited or not exploited at all. We consider that the failure of the Board in this respect is attributable to the sluggishness or the ineptitude of some of the officials of the Board who manifest culpable indifference in their handling of the Board's financial affairs. Surprisingly, these officers show very keen business acumen in the execution of their own private affairs... Their lapses in the conduct of the Board's financial affairs can therefore be traceable to the fact that they give more attention to their personal ventures than they give to those of the Board. (emphasis mine)

⁶ Report of the LEDB Tribunal of Inquiry, pp. 119-120.

⁷ Ibid., p. 5.

The point being made, therefore, is that the enabling legislation, although it forms the basis of the Board's existence and operation, is often less effective in the critical areas of facilitating land acquisition, because of the human and culture-bound factors at play. These human (including management competence) factors are more powerful in determining what actually happens in practice. This fact and the constraints of the land tenure situation are not, however, peculiar to the LEDB, but pervades the society as a whole, and plagues most other government agencies. All Government agencies, for example, still complain of,

...disputed and complicated claims, which combine with congested cause lists in the courts to drag out compulsory acquisitions over many months or even years, while a great deal of work may go into assessing the suitability and cost of proposals which are later abandoned.⁸

And in spite of the overriding legal enabling powers of compulsory acquisition, the Government's review of all development programs in the 1970-1974 Development Plan concluded that,

Virtually all public agencies have cited difficulties in land acquisition as the most intractable factor which delayed the implementation of their development projects and schemes during the Second National Development Plan period.⁹

Although a greater part of the delays referred to result from the inherent nature of the land tenure (as discussed in Chapters 2 and 4), and its traditional reluctance to sell or permanently part with land, a substantial proportion of the delays arise also from compensation assessment disputes between the Board and the land

⁸Annual Report of the Federal Land Department, 1954.

⁹Federation of Nigeria: Third National Development Plan 1975-1980, Vol. I, p. 37 (Central Planning Office, Federal Ministry of Economic Development, Lagos, 1975).

owners, even if the compensation disputes on the part of land owners might sometimes be pretexts for refusal to sell their lands. The next section examines the processes, criteria, and problems of these compensation assessments.

5.3 Problems of Compensation Assessment and Payment.

Tracing the right title to land and all the interests on a plot of land, as required by law, is a very expensive process. It has been pointed out that even a public agency with powers of compulsory acquisition does not find the land acquisition process any easier. In addition to overcoming the resistance of the people to the acquisitions per se, it has also to locate all members of all the families who have interest on the land to be acquired and pay due compensation to each such member. This is by no means an easy process. In the LEDB acquisition of land for the Lagos Central Planning Scheme, for example, it was observed that,

By far the most difficult problem in connection with the payment of compensation is the tracing of the rightful owners of the land. Since the majority of the buildings in the scheme area are on family land, the root of title is normally Crown Grant made after the treaty.¹⁰

Since then, the land has devolved through the customary rules of inheritance to children, grandchildren, and great-grandchildren, none of whom can normally produce any evidence of title other than Original Crown Grants and a Statutory Declaration of interest made before the Commissioner for Oaths.¹¹ Consequently, there are

¹¹ "Planning Lagos: Central Scheme Progress", in Commerce in Nigeria, Vol. 6, 1964, p. 29.

¹⁰ The Treaty in reference is the so-called "Treaty of Cession", by which the reigning King (Docemo) of Lagos was purported to have ceded the Territory of Lagos to the British Crown in 1861/62.

serious problems of ascertaining who holds the genuine titles. In addition to this particular scheme, the Lagos Executive Development Board has also undertaken many other urban land acquisitions and housing schemes in the city and around it. Table 5.2 shows the number of claimants of interests in the title of the lands acquired in each scheme.

For the 22 projects of 1,180 acres in areal size, 2,500 claims were made and these have to be investigated and the genuineness of the titles and interests ascertained before negotiations for compensation payments could be initiated. In Table 5.2, joint claims by many people are recorded as one claim. Comparison of the size of the area involved with the number of claimants shows a relatively very small size of land per claimant, which can be ascribed to the family group pattern of ownership. "In all cases of acquisition of land," reports the Federal Land Department, "great difficulty is experienced in establishing the persons entitled to compensations, and most of such cases have to be referred to the Supreme Court for decision."¹² The facts of this problem were further underscored by Reports of the LEDB which explained that, "Where clear title is readily available, compensation for land acquired is paid instantly, but in the majority of cases where titles conflict, this is required to be settled in court before the Board can make its compensation award."¹³ It is then not surprising that the LEDB has to contend with numerous Court suits in connection with those claiming interests in lands it acquired, or who are left out of a compensation paid. Many of the suits also result from outright unwillingness to sell or release land

¹²Annual Report of the Federal Land and Survey Department, 1946/47, p. 1.

¹³LEDB; Annual Reports and Accounts for the Year 1955/56, p. 22.

TABLE 5.2
Acquisitions and Claims for Compensation

Scheme	Area in Acres	No. of Claimants
1. Rehousing Scheme No. 1	108	282
2. Lagos Housing Scheme	56	431
3. Link Road Area		49
4. National Stadium	78	94
5. Mainland Hosp. Access Rd.		52
6. Rehousing Scheme No. 2		138
7. Rehousing Scheme No. 2 Phase 1 Ext.	117	17
8. Freehold Housing Scheme No.5		272
9. Freehold Housing Scheme No. 5, Ext. 1	236.60	107
10. Freehold Housing Scheme No. 5, Ext. 2		2 +
11. Freehold Housing Scheme No. 5, Ext. 3		21
12. Low Density Housing Scheme		83
13. Light Ind. Sites	12.0	45
14. Animashaun Dev.		11
15. Randle Avenue Dev.	10.56	109
16. Metro. Housing Scheme	63	352
17. South Surulere (Phase I)	180	25
18. South Surulere (Phase II)		190
19. Iganmu Ind. Estate	165.60	155
20. Freehold Housing (Iponri)	107	+
21. Shopping Site Odejayi Cresc.	1.508	19
22. Shopping Site Nathan St.	1.0	16

+ : Claims were still being received at the time the above record was compiled.

Source: Lagos Executive Development Board. Annual Reports and Account 1965-66.

to the Government or to the Board, and are therefore suits attempting to restrain the Board from acquisitions completely. Table 5.3 shows the trend of such Court suits from 1957 to 1962.

Table 5.3

Suits Against LEDB Land Acquisitions 1957/58-1962/63*

Year	No. Suits During Yr.	No. Settled During Yr.	Balance
1957	426	334	92
1958	822	730	152
1959	472	351	121
1960	284	262	22
1961	290	168	122
1962	142	122	20

These averaged some 400 suits every year during the peak period of the Board's land acquisitions. In the Lagos Central Planning Project, for example, a total compensation of ₦ 3,325,851 (\$10,110,587) for the 70 acres of land had been paid up to 1964. And all the claims had not been settled. This worked out at ₦ 47,512 (\$144,440) per acre. These had not included resettlement and rehousing costs for the displaced residents. Though this was a Central Business District area, and a built-up area, too, this cost was not due so much to the high per unit cost of property as to the number of claimants that had to be paid. The amount of compensation paid, for example, varied from only a few pounds to ₦ 70,000 per person or family. 30% of the payments were amounts of less than ₦ 1,000 (\$3,040), while the majority of payments were around ₦ 2,500 (\$7,600).¹⁴

¹⁴"Planning Lagos: Central Scheme Progress", op. cit., pp. 29-31.

* Source: Respective years of the Annual Reports of the Board.

Besides, therefore, the cultural values attached to land and the consequent reluctance to sell or permanently part with land, the next most serious factors that cause the difficulties and delays in the Board's acquisition of lands is the determination of land ownerships and the assessment of compensation and/or the manner of the Board's disposition or distribution of the land after it had acquired and serviced these lands. Generally, the Board is required by law to pay adequate compensation for any lands that it acquired. But the manner of assessment of "adequate" compensation that satisfied both sides have been a bone of contention whenever the occasion arises. The Board had had to encounter stiff opposition in acquisitions, particularly so where the acquisition involves urban renewal -- which involves destruction and demolition of people's homes, as in parts of the Lagos Central Planning Scheme. The Board over the years had tried different arrangements to accommodate the opposition of those people whose lands and possibly houses had to be acquired. Three different arrangements have been tried as follows:

- (1) In the early period of the Board (1928-1935) when it was more pre-occupied with slum clearance projects, the Board in order to contain the strong opposition of the people against its land acquisition, evolved an arrangement whereby it offered back to the people affected, land equivalent in area to 80% of their original holding. The remaining 20% was assumed to have been taken up by the infrastructural facilities and services -- roads, drains, sewers, electricity, and water installations. Moreover, it was calculated that the greatly increased value consequent on the renewal and/or servicing, adequately compensated for the lost 20% of the land. This arrangement was generally accepted by the people, as with its introduction and use, it was reported that opposition to LEDB acquisitions died rapidly. With the increased value of the land due to the Board's servicing, the "Board was looked on as the layer of the golden egg".

While this arrangement appeared satisfactory to the land owners, however, the Board was not satisfied with it, and so introduced another policy to replace it.

- (2) The Principle of "Value for Value".¹⁵ Later on, when the Board felt that opposition to its land acquisitions was dead and that the people had begun to appreciate the benefits of quality environment, it introduced the principle of "value for value". Under this arrangement, a land owner could either sell his land outright to the Board, or in place of cash or outright sale, he could receive freehold improved land to the cash value of the unimproved land from which he had been parted. An obvious problem here was that in some cases, the "equivalent value" improved land was very small relative to the unimproved land that it was being exchanged for, and sometimes not even large enough to accommodate an acceptable plot. The risk to the land owners in this arrangement was considered very high as the amount of land he would get in return depended on the Board's improvement costs, which can be quite high, and relatively indeterminate beforehand, that is, before the improvements are completed. It also proved very complicated to administer in practice. It was, for example, in part tried in the Central Lagos Clearance Scheme and the S.W. Ikoyi Land Scheme, but proved politically complicated. With the introduction of this policy, opposition to the Board's land acquisition exercises intensified once again. It proved completely unacceptable to the people because it was apparently making "cheap land" very expensive, and at the expense of the land owners.
- (3) A modification of the Board's first arrangement (80% of the land back to the owner) was tried in the middle to the early 1960's, particularly with the Central Lagos Clearance Project. In this arrangement, the Board agreed to sell back plots of land to the original owners at 120% of the cost of renewal, improvements and servicing. This strategy proved much less effective, as with the cost of improvements obviously very high, many of the original owners could not afford to buy back their land at 120% of the improvements cost, and were therefore permanently displaced and lost their lands. A subsequent study by the Board itself established that only 34% of compensation paid out to various people exceeded the amount of down payment required for a plot of land in the redeveloped areas.¹⁶ Property, for example, which "comprised a house with twelve rooms and five trading shops and of concrete walls with an area of 288 square yards was acquired by the Board for £ 3010, while a lesser area of 255 square yards was allocated to the original owner for £ 3212".¹⁷ While the reasons for this is understandable, the effects

¹⁵See the Lagos Local Government Act, Cap. 93, Laws of the Federation of Nigeria and Lagos (1958, Vol. IV., s. 160 (1).

¹⁶LADB: A Review of the Lagos Central Planning Scheme (Mimeo, January 1959).

¹⁷Association of Residents of Central Lagos (cited in Aribia, O.: "Social Aspects of Urban Rehousing in Lagos", Lagos Notes and Records, Vol. III, No. 2, January 1972, p. 45.

on the accessibility of urban land to the low income land owners involved is very evident. In contrast to the first type of arrangement in which all cash costs were internalized by the LEDB, the land owners had to bear all the costs in this third option, in addition to the fact that in no way could any land owner hope to get back 100% of his original land. On its part, the Board over-promised, but was in no position to offer back land to all the original owners involved, given what it had planned to do with the land cleared. It could be said, however, that this third option of 120% cost re-purchase was peculiar and specific to renewal or redevelopment projects and was not planned to be applied to ordinary land acquisitions. What is important, however, is the failure of the strategy and the reasons for that failure.

Each of these three arrangements tried was abandoned in each case, either because it proved unacceptable to the Board, or because it proved unacceptable to the people.

The Board, however, continued with the general compensation processes and procedures as provided for in the Act creating it and in the Public Lands Acquisition Ordinance. As has already been pointed out, the LEDB is required to pay compensation to the land owners that is equal to the "fair market value" of the land affected. The general procedure is usually for the LEDB to make an offer of an amount of compensation to the land owner, based upon an assessment made by its own Valuation Officers. The law stipulates that, if for six weeks after the service of a notice under the scheme, no objection to the offer made in such notice shall have been lodged with the Board, the amount specified in such offer shall be paid forthwith to the owner in full discharge of any claim for compensation. If the amount is accepted by the land owner, the matter rests. The amount of compensation therefore depends in the first instance upon agreement between the acquiring Authority (the LEDB) and the persons entitled to the compensation (the land owners).

If, however, the offer by the Board is not accepted by an owner, and agreement between them cannot be reached after a series of negotiations, recourse is had to the Court by either party, often by means of a summons. The Court then determines what the equitable compensation should be, on the basis of the "fair market value" of the land. This value is supposed to take into consideration "the value of the land, estate, interest or profits which such land if sold in an open market by a willing seller to a willing buyer, is expected to realise."¹⁸ This process does not recognize any emotional or sentimental values placed on land, values which in this particular context are valued higher than the "fair market value".

The role of the Court, however, is to determine in each case what this "fair market value" is. Not unexpectedly, the interpretations and determinations have differed with individual judges and individual cases. One Judge noted that, "Compensation means something more than the 'fair market value'. It is basically the value in money to the expropriated owner which will recompense him for what he has lost."¹⁹ But how to determine this value of what he has lost, especially the intangible and psychic ones, remains the crux of the problem. In a society, too, in which land transactions are not "commercialized", or "monetized" as such, this determination is obviously a difficult one to make. The situation is not helped by the activities of lawyers and professional valuers rendering unsolicited advice to affected land owners, advice that invariably includes their own professional fees in the amount of compensation demanded by the land owner.

¹⁸Public Lands Acquisition Ordinance, 1917.

¹⁹Bennett, J. in *Chairman, LEDB v. Olopinkwu*. Justice Bennett was quoting an English precedent and dictum. (cited in Umeh, J.A., "Compulsory Acquisition of Land and Compensation in Nigeria" (London, Sweet & Maxwell, 1973).

Nevertheless, the Courts, in determining the amount of compensation to award in any particular case, take into consideration a number of factors. These include:

- (1) The assessment made by LEDB Valuation Officers;
- (2) The amount demanded by the land owners or the assessment made by the Valuation Officers hired by the land owners;
- (3) The assessment of the Court appointed Valuation experts, if any were appointed. Often the Court appoints its own independent valuation officers and compares the three sets of valuations in deciding on the final compensation figure to award;
- (4) The price paid by the owner for the land, if he ever bought it;
- (5) The price at which the owner had sold land forming part of an area compulsorily acquired (if there had been any such sales);
- (6) The price at which land has sold generally in the locality;
- (7) The rate at which compensation has been paid for lands acquired in the locality;
- (8) The value of any rent payable in respect of the land.

The weight attached to any of the above factors in determining the amount of compensation depends on the particular circumstances and on the evidence before the Court.

The weakness of these factors, however, in determining the "fair market value" is that they mix basically contradictory concepts in measuring this value. It had been pointed out that transactions in land are largely intra-group, and that the basis for fixing prices for this intra-group transaction is not the "commercial market value". Land in the society has special significance rooted in values that transcend immediate economic considerations. Many interrelational transactions are consummated at below

"market rates". The implication of this is that consideration of factors 4-6 above does not reflect the "fair market value" of the land, but the non-market value on which the intra-group transactions are based. If it also happens that a precedent compensation paid in a given locality was on the basis of 4-6 above, it would also mean that a determination based on factor 7 above -- "the rate at which compensation has been paid for lands acquired in the locality", does not reflect the "fair market value" either.

On the other hand, the assessment by professional valuation officers is based on modern and purely commercial or economic factors and considerations as (i) location in relation to access to economic activities and public facilities; (ii) "good will" in the case of commercial land uses or locations; (iii) income foregone by relocation including both social and money income; (iv) the costs and difficulties of setting up in a different location, if displacement is involved. Given the implications of all these factors, the determination of the amount of compensation cannot but be considered a subjective exercise after all.

The LEDB, however, has tried to streamline its compensation assessment rules and conditions. These were aimed at tightening up some of the above factors and conditions, and systematizing the mechanisms for its acquisition and compensation. These streamlines include:²⁰

- (1) That estimates of the value of such lands or interests be based upon the "fair market value", as estimated at the time when the scheme for acquisition was published, or if a later date shall have been appointed in relation to that scheme at a later date, due regard be had to the nature and conditions of the property, the probable duration of the buildings in their existing state, and to the state of repair thereof without any additional allowance in respect of the acquisition being

²⁰Lagos Town Planning Act, Chapter 95 (1958).

compulsory. This clause is meant to ensure that increment in land values as a result of its public acquisition does not go to the land owner who supposedly had done nothing to earn such an increment in value.

- (2) Award no compensation on account of any building erected on, improvements, additions or other things done to the land after the publication of the scheme, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair. This provision obviously was designed to check speculation and excessive claims by property owners and speculative buying and development by speculators.
- (3) Disregard so much of the increase or decrease in the value of which arises from such land falling within or near to the alignment of a projected public street. This was to ensure that individuals did not unnecessarily benefit or lose from rises in values consequent on public investment location.
- (4) Ignore such increase in the value of land as is due to any improvements made by the owner or his predecessors in title within two years before the publication of the scheme for acquisition, if it is proved to the satisfaction of the court that the improvement was made in contemplation or anticipation of proceedings for the acquisition of the land being taken under the acquisition Ordinance.
- (5) When part only of the land is taken, the Agency may award additional compensation in respect of the depreciation of the remainder consequent on the severance.

Most of these streamlining provisions were aimed at preventing speculations from the Board's actions and unduly profiting from such actions by private speculators.

On the other hand, these streamlining-of-compensation determining rules and conditions, led to the Board's generally undervaluing the compensation due for acquired lands in a good many cases. While it makes some sense to ignore and discount land values or prices arising from land speculation when assessing compensation payments, to assess a piece of land for far less than what the owner paid for it a number of years back is to go to the other unfair extreme. Table 5.4, for example, shows

the disparities between the valuation of the Board's officers in three given cases and what the owners had paid for such lands when they bought or leased same. And this in many cases were many years after these lands were bought, which implies that these lands must have appreciated in values.

Table 5.4

The Divergences Between LEDB Compensation Assessments and the True Value of the Land

<u>Case</u>	<u>Assessment by LEDB</u>	<u>Price paid by Owner for the Land When Bought Originally</u>
Chairman, LEDB v. Olopinkwu ²¹	1.5s	3.125s
Chairman, LEDB v. Soleye ²²	£ 35.625	£ 65.0
Chairman, LEDB v. Williams ²³	£ 34.0	£ 55.0

(All are in prices of land per square yard)

Still, the Board's valuations are that low -- in each case only about half the price that was paid for the land by the owners. The margin of the differences are too wide to be attributed to random effects or errors.

The Courts, however, often rejected the Board's valuations where no satisfactory evidence was led to show how the valuations were arrived at, and often held that, "The price at which the purchasers bought their lands must outweigh the opinion, however experienced, of the Land Department as to its actual value", reasoning that,

²¹ L.L.R. 25; (1958); 4. Federal Supreme Court 53 (1959).

²² (1950) 19, Nigerian Law Review, 71.

²³ (1963) 1, All Nigerian Law Review 267.

"Unless the owner had paid a high price due to over-anxiety, the price at which he bought is a better guide of its market value, since willing sellers do not normally want to sell at a price below what they paid."

The Courts, however, often stopped there -- at what the owner paid for the land when he bought it, and overlooked whatever was the value of the land at the material moment, that is, ignoring whatever might be the appreciation in the value of the land between the time the land was bought and when these considerations for compensation were taking place -- that is, the actual "fair market value". And at this, it was probable that what the land owner got was not the "fair market value" of the land, as stipulated by the laws, and defined by Court precedents. The values, even assuming the unlikely case of their not having appreciated over the given time interval, are not likely to have depreciated either, and so any assessments below the original purchase price may understandably not have been a "fair deal".

The LEDB Tribunal of Inquiry observed in this respect that, "The present (LEDB) Valuers profess to be more meticulous but appear to be conservative" (emphasis mine), and went on further to point out that,

There were complaints of the discourtesies meted out to owners of property or their agents. It is essential that the staff of the LEDB should regard the Board as a 'purchaser' and should treat claimants (land owners) as purchasers would treat vendors. It is sufficient penalty that the property of a citizen is compulsorily acquired, leading sometimes to his means of livelihood being stopped. Money cannot sometimes adequately compensate for the value of his property. The claimant must be treated with sympathy and understanding, and at all times be made to feel that a fair compensation was being bargained.

The whole method of approach to claimants by the Estate Department of the LEDB needs to be revised.²⁴
(emphasis mine)

While, therefore, the processes and procedures for land acquisition and compensation by the LEDB were clearly and systematically set out in the laws governing it, the practical effectiveness of these processes and procedures were impaired by the difficulties of objectively applying and translating them into practice.

The undervaluations in the Board's assessments are very difficult to understand. But various explanations are possible. One is that, "Valuation is basically a subjective exercise, an imprecise science, and the fact that valuation officials are influenced by many other extraneous factors, many of them unrelated to the land or its value per se". Or it could be as had been observed by one Appeals Court Judge that, "...from experience, it is almost always a case of the owner asking too much rather than the valuer giving too little",²⁵ but the reverse seems to have been the case, in the instances cited in Table 5.4. There have been cases, on the other hand, where (owing perhaps to some unexplained extraneous factors already referred to) the assessed value of given plots of land get inexplicably inflated (re: £ 11,575 increased to £ 21,000).²⁶

²⁴Federal Republic of Nigeria: Report of the Tribunal of Inquiry into the Affairs of the Lagos Executive Development Board, 1966, p. 5.

²⁵Nwabueze, op. cit., p. 231.

²⁶It is therefore possible and likely that the Board sometimes pays less and sometimes pays more, depending on the circumstances and who the persons are that it is dealing with. But because it is those that are paid less than what they consider fair or that get aggrieved and go to Court from whence these data become more easily available. For those that get more or get what they deem their due, there are no grievances and therefore no recourse to Courts, and their data and information remain in confidential files of the Board, and therefore are not available.

The subjectivity of determination of the amount of compensation paid in many cases is evidenced by the remarks of the Judge in one such case to the effect that, "In such a state of things, any amount fixed by the Court as payable by a claimant must be arbitrary assessment".²⁷

It has been pointed out that the "fair market value" of land compulsorily acquired is determined as of the date of the service on the owner of notice of intention to acquire. No regard is had to any appreciation in value resulting from any improvement or works resulting from any improvements or works constructed on the land after that date. This is ostensibly to ensure that the increment in value as a result of such a public exercise accrues to the "public" and not to the individual private owner who supposedly had done nothing to merit and earn such increments. On the other hand, it is possible to argue that with its implicit assumptions of the willing seller, compulsory acquisition obscures the equity, satisfaction and aspiration connected with ownership or interest by denying them the full money value in the assessment rhetoric of "fair market value". Moreover, the Courts would usually only interpret and apply the law, and therefore often would not allow anything above what the law prescribes, which goes to imply that a claim to compensation to offset a redistributive change in resource use, is usually dismissed simply by asserting that the particular redistribution having been determined upon by the law, must necessarily be deemed just. Even the Courts have held that, "The rental value should not be the basis of computing compensation for property in an urban centre like Lagos because in such congested places, the rents charged are out of proportion to the capital value of the

²⁷Chairman, LEDB v. Williams.

property."²⁸

Furthermore, when land is acquired by the LEDB, its owner is compensated according to the "fair market value" of the property (however determined by the particular judge in any particular case), but neither are "tenants only" generally entitled to anything, nor are owner-occupiers (in cases involving residential buildings) compensated for the disruptive effects of changing neighborhoods and sinking new roots, or even in the case of uprooted businesses, for good will destroyed, or for the cash outlay entailed in moving. No attempt is made to recognize by monetary payment the sentimental or psychic injury, or the loss of valued society, or the inconvenience and annoyance which a forced move or forced dispossession may occasion. It has been rightly observed in an analogous circumstance that,

A planner or public official accustomed to transferring all responsibility for the fairness of his decisions to the judiciary, will fail to take into account the significant costs entailed in displacements or dislocations -- that being the demoralization cost, or sense of injustice remaining after the court has exerted its inadequate even if maximum effort to secure the payment of "just compensation".²⁹

But it is the duty of planners and public officials to take such costs into account.

In determining the boundaries of a proposed public improvement, the head of a Federal Agency concerned should take into account, human considerations, including the economic and social effects of such de-

²⁸ Butler, Lloyd, Acting C.J. in Chairman, LEDB v. Joye and Others (1939) 15 N.L.R. 50.

²⁹ Michelman, Frank I.: Property, Utility and Fairness: Comments on the Ethical Foundations of "Just Compensation Law" (Harvard Law Review, Vol. 80, No. 6, April 1967.

termination on the owners and tenants of real property in the area, in addition to engineering and other factors.³⁰

In redevelopment programs particularly, relatively small numbers of people get handed a distinctly disproportionate share of the cost of whatever social or public purpose gain that is involved. And those dislocated or displaced are likely to be the poor or mostly so. If, then, it is assumed that a proposed reallocation of resources is "fair" (efficient) only if, after negotiated compensation has been offered by those who stand to gain (in this case, the LEDB in the immediate period) from the proposal to those who stand to lose by it (the land owners), the proposal can win unanimous approval, then it could be inferred from the foregoing that the Board's reallocations of resources through urban land have not met this criterion. Most of the compensation cases arising out of the Board's land acquisitions end up with judicial adjudication, which implies that the Board cannot without such judicial intervention, make a "fair" reallocation of resources by offering compensation that is acceptable to the land owners. The divergence of the owners' claims and the Board's offers (Table 5.4) and the judicial awards that often come out to be higher than the Board's offers attests to this.

The foregoing discussions indicate that generally the LEDB was not paying adequate compensation to the land owners, at least as defined by the compulsory acquisition law. But even if the Board were assessing compensation accurately, as prescribed by the law, was the people's (land owners') perception of adequate com-

³⁰ H.R. 13725, 89th Congress (U.S.A.) 2nd Session 101(a) (12) (1966).

pensation the same as the law's definition? The evidence is that the two were very divergent, and in a way underscores the point already made in the previous chapter that as far as the land owners were concerned, the question of compensation was not the fundamental issue. The fundamental issue was the total reluctance to sell or permanently part with land -- that is, part of the local culture and custom. Assuming compensation were the issue, we briefly examine in the next section what the land owners consider an adequate compensation and the implications of that for the Board's operations.

5.4 People's (Land Owners') Perception of Adequate Compensation Versus Legally Defined Adequate Compensation

It had been implied in Chapter 4 that one possible way of acquiring the lands and property in question 'successfully' was by brute force -- that is, use of all necessary force to remove the land owners and take control of the property. This, it was noted would have been too politically and socially costly, if not suicidal, especially with an elected government, as was the case at that time. Thus the compromises which ultimately didn't help much either.

Given, then, that the use of the law and the use of 'brute force' were ineffective and politically expensive respectively, one other option was open: Buy them out! -- or, in other words, "Make them offers they cannot refuse!" We have noted that the Board paid inadequate compensation, sometimes not even as much as the law stipulates, but what if it is decided to overwhelm the owners with generous payments. This would involve paying the land owners such large amounts of money that would practically off-set their feelings of loss and insecurity, sentimental or material. Using Michelman's³¹ concepts and framework (modified), this would involve the

³¹ Michelman, Frank I.: op. cit., p. 1214. 'Efficiency gains' are defined as the excess of benefits produced by a measure over losses inflicted by it, where benefits are measured by the total number of dollars which prospective gainers would be willing to pay to secure adoption, and losses are measured by the total number of dollars which prospective losers would insist on as the price of agreeing to adoption. 'Demoralization costs' are defined as the total of (1) the dollar value necessary to off-set disutilities which accrue to losers and their sympathizers, specifically from the realization that no compensation or not-enough is offered; and (2) the present capitalized dollar value of lost future production (reflecting either impaired incentives or social unrest) caused by demoralization of uncompensated or inadequately compensated losers, their sympathizers, and other observers disturbed by the thought that they themselves may be subjected to similar treatment on some other occasion. 'Settlement costs' are measured by the dollar value of the time, effort, and resources which would be required in order to reach compensation settlements adequate to avoid demoralization costs. Included are the costs of settling not only the particular compensation claims presented, but also those of all persons so affected by the measure in question

Board's offsetting the demoralization costs incurred by the land owners through giving up their lands by radically increasing some aspects of its (the Board's) 'settlement costs'. For the Board to offset the 'demoralization costs' to the land owners and to itself suggests that the Board would reckon with and recognize in its considerations for compensation assessments and payments the capitalized value of lost future production and income, caused by the demoralization of uncompensated or inadequately compensated losers (land owners), their sympathizers, and other observers disturbed by the thought that they themselves may be subjected to similar treatment on some other occasion.³² For the Board to do this presumes that it considered the level of 'efficiency gains' from the schemes to be worth these costs, as calculated. That such a trade-off was possible, however, is evidenced by the success of the Board's earlier strategy of offering back to the affected land owners land equivalent in area of 80% of their original holdings, while using the remaining 20% to off-set the costs of infrastructural developments. The 'efficiency gains' envisioned by the Board in that scheme included: (1) the elimination of slums and securing of a better sanitary urban

or similar measures as to have claims not obviously distinguishable by the available settlement apparatus. 'Settlement costs' would also include: (a) the costs of bargaining to out-of-court settlements of all, some, or none of the claims occasioned by that measure which seem indistinguishable from the claim recognized; (b) the added (marginal) cost of operating the judicial system to settle those of the indistinguishable claims not settled by agreement; and (c) the costs of disposition, whether by agreement or by judgment, of all claims arising out of other measures, which claims would never have been urged had not the claim in question been recognized, reduced by any savings in the demoralization costs which those other measures would have entailed had no such claims been recognized.

³²
ibid.

environment; (2) the building up of a more elegant and prestigious national capital worthy of national pride.

In broad terms, therefore, the concepts contained in this framework -- efficiency gains, settlement costs, and demoralization costs in material and immaterial terms -- can be said to be really what the problems were about, from the point of view of each side in the conflict, the LEDB/Government and the land owners. The Board considered the 'efficiency gains' to the public (society) to be greater than the costs to the land owners of their displacement and dispossession, after the Board made what it considered equitable compensation offers to the land owners. On their side, the land owners considered the costs to themselves (tangible and intangible) of the Board's intended action to be too high to bear. Assuming, therefore, (for the sake of discussion) that the framework was acceptable to the land owners -- that is, that they were ready to allow their emotional, cultural, and material values and attachments to their lands and to their tradition to be 'bought out' by an 'off-set money price', as they perceived it, would the Board still have considered the anticipated 'efficiency gains' to be worth the money costs? How much would this money cost be? In other words, what is 'adequate compensation' in the perception of the land owners, and how likely is it that the Board could meet it?

- (a) The money cost to the land owners of the Board's contemplated action (as the land owners perceived it) could be said to be tremendous, if not overwhelming. This is deduced from the line of argument the land owners advanced. Pointing out that they held freehold titles to the lands in question, they argued that the Board acquiring the lands meant dispossessing them entirely and forever. Their attorney emphatically argued, for example, that,

The position of my clients is that they would be dispossessed entirely, so that if they are given, say £ 5,000 compensation, this amount would soon fritter away. Whereas, if they leave these plots to my clients to lease, they can be earning £ 1,000 or £ 5,000 per annum forever on this land. This is better for them than the Board acquiring it.³³

They further argued that even if they did not have money to develop the lands to the quality standards that were acceptable to the Board,

...they could pass it on (lease) to a wealthy Nigerian, or an Indian or anybody who can. Say 'A' is earning £ 1000 per annum on the plot, it is better for him to earn that £ 1000 per annum, and his children, and his children's children to continue to earn that £ 1000 per annum than for you (the Board) to dispossess him altogether and constitute yourself the owner, and the man (the real owner) having no means of income forever.^{33a}

This line of perception of costs or loss or income-foregone is certainly equivalent to outright reluctance to sale or to part permanently with the lands in question. It had been hypothesized earlier that the apparent concern for money income-foregone notwithstanding, the fundamental issue was the socio-religious abhorrence to permanent disposal of land and that the impossible amounts of compensation demands are used as an added ploy to ward off the attempted acquisitions by the Board. But even assuming that compensation per se were the point at issue, and the implied line of cost/loss calculation (perception) by the landowners were to be accepted and adopted in calculating the demoralization costs (perceived money income-foregone only) to the land owners, it would mean that the Board had to pay these sums calculated for at least three generations (about 100 years) ("Himself, his children, and his children's children"-- i.e., present value of future streams of income) in order that their 'demoralization costs' (as they

³³Chief Akinyede - Attorney representing the Central Lagos land owners at the Tribunal of Inquiry into the Affairs of the LEDB, 1966, cross-examining the Chairman of the LEDB. (Verbatim Report of the Tribunal, Day 2, p. 74.)

^{33a}ibid.

perceived it) might come near being off-set, and they becoming agreeable to the acquisition. If, for example, 600 persons (families)³⁵ were to be compensated at, say £ 1000 per annum for 100 years. This would come to £ 60,000,000, and this for only a 70-acre sized urban land.

Given this implied perception of what they would lose by the Board's acquisition, the 'settlement cost' to the Board would have been prohibitive and unlikely to be acceptable to the Board. The Board's anticipated efficiency gains from the scheme were not worth such costs, and the logical decision rule is that no project ought to be undertaken unless 'efficiency gains' exceed demoralization costs plus settlement costs.³⁶ Any project that is undertaken also ought to be organized in such a way as to maximize efficiency gains minus the sum of demoralization and settlement costs. This decision rule also presumes that the society can justifiably forego projects that appear to be efficient when demoralization and/or settlement costs are considered too high.³⁷ The "buy out" alternative would therefore fail.

- (b) Secondly, the Board's funding had been very tenuous and erratic from the start, and could not have sustained such costs, as would have been involved in the 'settlement costs' as conceived above.³⁸

In sum, it means that each of the three possible approaches -- use of the law, use of 'brute force', and use of 'high financial inducements' -- would meet as much difficulty as the others in attempting to acquire these urban lands. Use of legal provisions would not do it because respect and obedience to the 'modern law'

³⁵The Annual Report of the LEDB for 1959/60 (p. 20) reported that compensation had been agreed in 617 cases to date and that compensation amounting to £ 2,252,479 had been paid. But this wasn't the end of compensation cases, for in 1964 compensation paid had risen to £ 3,325,851 (see Commerce in Nigeria, Vol. 6, 1964, p. 29), which means the number of compensation cases was still on the rise.

³⁶As a modification to Michelman definitions, we take 'settlement costs' to include 'demoralization costs', but this latter does not presume inclusion of all components of 'settlement costs'.

³⁷Tideman, Nicolaus T.: Land Use Control through Administered Compensation (Discussion Paper No. 59, Program on Regional & Urban Economics, Harvard University, February 1970.)

³⁸A more detailed examination of the funding mechanisms of the Board was presented in Section 4.5 of Chapter 4.

(which is of foreign derivation) had not been fully understood and the seriousness of disobeying it not fully internalized. The society involved is not yet a 'society of laws' in the Anglo-Saxon framework or concept of laws. The local customary and traditional laws still had deep roots and were more generally understood and internalized.

Use of all-out 'brute force' was not practicable because that would have caused such social and political turmoil that could have threatened the political legitimacy of the Government and that of the individual decision-makers in the Government -- a risk which for both social and selfish reasons elected officials, as were then in office, would not have taken; and the 'high financial inducements' option, or full off-setting of land owners' losses, was not feasible because neither the Government nor the LEDB would have had the financial resources to meet what in the perception of the land owners would be inducement enough to make them willingly release their lands in return for such inducements.

It could be said that, while various other factors (perceived inadequacy of compensation, loss of jobs or means of income, inertia, etc.) were also at play, a substantial proportion of the explanation for this apparently 'no-choice solution' (impasse) can be accounted for by the history and peculiarity of the land tenure situation in Lagos and the fairly unique significance of land to the whole life of the people and the 'traditional' society. The demands for impossible amounts of compensation could have been a deliberate device to scare off the Board entirely from the acquisitions per se, rather than a demand for adequate compensation as such.

SUMMARY

This chapter has examined the modes and processes of land acquisition by the Lagos Executive Development Board, as well as its processes of compensation assessments and payments. The rules governing compensation assessments were examined in detail, and the conclusion was made that these rules notwithstanding, compensation assessments are largely subjective exercises in practice.

From the information available, it was found that in a good many cases, the compensation that the Board assessed and paid was 'inadequate' even by the criteria of the laws governing compensation assessments. It was also noted that a wide divergence existed between what the land owners considered to be 'adequate' compensation and what the LEDB enabling laws defined as 'adequate compensation'; the one, in essence, perceived adequate compensation as the "present value of future streams of income" (for an almost indefinite future), while the other defined it simply as the 'fair market value' of the land at the time of acquisition.

The Michelman framework and concepts of 'efficiency gains', 'demoralization costs' and 'settlement costs' were applied to the compensation issue and it was shown by calculation that the Board could never have afforded the 'settlement costs' of the land acquisitions if the line of perception of demoralization costs by the land owners were adopted for the compensation calculations.

This tended to strengthen the hypothesis that the demand for 'impossible' amounts of compensation is basically a device to forestall the Board's acquisitions of lands per se.

Whatever the case, however, it was obvious that the conditions of the ex-

ercise of LEDB (public) authority in land acquisitions was unacceptable to those disadvantaged by the Board's activities, and this in various ways adversely affected the degree of success of the Board.

CHAPTER SIX:

LEDB: LAND SUPPLY AND PRICE.

Chapter Six

THE LEDB: LAND SUPPLY AND PRICE

Previous chapters have examined LEDB land acquisition activities -- the rationale, the processes and the problems involved in them. Chapter 5 specifically examined the processes and procedures of the Board's land acquisition exercises, including the processes of compensation. Various problems of equity were noted about these processes and procedures, and it was inferred that much of the problems militating against the effectiveness of the Board basically arose from the complexity of the land tenure situation and the general cultural reluctance to part permanently with land. The demands for 'impossible' amounts of compensation may be a pretext for furthering this general reluctance to sale of land and the apparent under-compensation by the Board does not in any way help in off-setting this general reluctant attitude or opposition to a taking by the Board.

One of the most important objectives of public urban land policy and one of the main reasons why public land ownership and management are often advocated is that of making land available in adequate quantities at the right times and places and at reasonable prices to both public authorities and private individuals. Proponents of public land ownership and management insist that it has the potentials of facilitating and supporting a steady flow of land to all user groups, thereby reducing land speculation and distortions in land pricing -- that is, controlling land values and land prices.

It has been noted that the LEDB had authority under Part VII of the Act creating it to acquire land either by agreement or compulsorily and to let, hire, sell, lease, exchange, or otherwise dispose of any such land. It had the authority,

if it chose, to develop, build, maintain, manage, and control such lands or housing it built on them and to collect reasonable rent from these properties. The underlying rationale for this authority was to enable the Board to provide adequately prepared and serviced building land that would be consonant with good quality sanitary environment and to prevent the development or expansion of slum and other unsanitary areas in the city -- the principal objective for which the Board was created. The extent to which the Board achieved these purposes, including those of controlling land values and land price rises is debatable.

In this chapter, then, it is intended to assess the performance of the Board in this area -- how much land it supplied or provided and at what costs or prices, as compared with what supplies that were available from other (non-public) sources. The efficiency of its supplies or conditions of supplies is assessed and the Board's costs or prices of land supplies and development are compared both with those in the private sector and with the costs/prices of similar agencies or institutions in other countries. This latter provides added perspective with which to assess the impact and effectiveness of the LEDB in urban land problems and their management.

6.1 Land Supplies.

It was noted in the earlier chapters that the most active period of LEDB land acquisition was between 1950 and 1972. It was therefore the period it supplied the greatest amounts of building land¹ in the urban area. From the data that is avail-

¹ Building (plots) land includes houses directly constructed by the Board.

able in this respect, land supplied from the LEDB constituted a significant proportion of building land available in Lagos each year (for the years in which information is available)(Tables 6.1 and 6.2). Table 6.1 shows building land available in Lagos each year from 1957 to 1966. Column 2 of the table shows the number of building applications made to the Town Planning Department for permission to build. Because any building to be put up in the city and its metropolitan area must submit building plans and receive approval from the Town Planning Department, we assume that the number of building applications submitted to the Department each year (column 2) is a good proxy of the amount of building plots available for development each year -- from all sectors, private and public. This means that between 3,000 and 4,000 building plots were available for development during the years 1957 to 1966 in all sectors of the urban land market. Column 7 (sum of columns 3, 4, and 6) is the share of the LEDB in urban land supplies, in each of the relevant years. The percent share provided by the LEDB is shown in Column 8. It shows that the Board supplied about 11% of total annual building plots available in the metropolitan area, and the indication from the Table (though inconclusive) is that this proportion was increasing with the years into the 1970's. Nevertheless, the Table (6.2) shows by implication that more plots of land were available from the private sector (private-communal mainly) than from LEDB sources. This was to be expected because the bulk of the lands were still held in private family and communal ownerships. In terms of actual houses produced, disparities exist, especially within the private sector, between the number of building applications registered and the number of houses actually built and completed during the year. Best estimates show that only about 25% of building applications approved in any particular year get

TABLE 6.1

The LEDB: Share in the Urban Land Supply Market.

1 Year	2 No. Bldg. Appli- cations in City	3 No. of Plots Leased by LEDB	4 No. of Plots Sold by LEDB	5 Total 3 & 4	6 Freehold Houses Sold by LEDB	7 Gross Total (3 + 4 + 6)	8 Percent of Total (2)
1957/58	3,400	151	154	305	75	380	11.2
1958/59	3,671	18	220	238	178	416	11.3
1959/60	3,854	72	196	268	181	449	11.6
1960/61	3,923	32	22	54	282	336	8.6
1961/62	3,530	46	29	75	297	372	10.5
1962/63	3,988	44	166	210	604	814	20.4
1963/64	2,315	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
1964/65	2,217	--	--	356	n.a.	356	16.1
1965/66	1,173	n.a.	n.a.	n.a.	n.a.	--	--

Source: Calculated and Tabulated from the various Annual Reports & Accounts of the LEDB.

* For purposes of analysis, we also consider houses built (column 6) as plots of land because the houses are built on plots of land and constitute supplies and additions to the stock of building land available to the urban area.

completed during that year. An indication of this estimate is shown on Table 6.2, which shows the annual building completion rates, ranging from 13% to 50%, but with 25-26% yearly average.

Table 6.2

Lagos: Ratio of Building Completions to Building Applications

1 Year	2 No. Building Applications	3 No. Completed Buildings	4 Proportion of Building Applications Completed (%)
1961	3,923	860	22.0
1962	3,530	684	19.4
1963	3,988	524	13.1
1964	2,315	625	27.0
1965	2,217	605	27.3
1966	1,173	597	51.0

Source: Derived from Column 2 of Tables 6.1 and 6.3.

This relatively low completion ratio applies more to buildings in the private sector than it does to the LEDB housing schemes.

Most LEDB housing starts are completed within the year they are started, and from all indications (see Table 6.3), LEDB houses constitute a preponderant proportion of the completed houses in the city each year since the Board started direct house construction in 1957.

This proportion is anywhere between 30% and 80% of all completed houses in the city each year -- a relatively high proportion in view of the fact that its overall share in the annual land supplies is only about 11% (Table 6.1). However,

Table 6.3

LEDB Produced Houses as a Proportion of all Houses Produced in Lagos 1957-1970

1	2	3	4
Year	Total Houses Completed in Lagos *	Total Houses Produced by the LEDB	LEDB-Percent of Completed Houses
1957	n.a.	75	--
1958	n.a.	178	--
1959	n.a.	181	--
1960	n.a.	282	--
1961	860	297	34.5
1962	684	604	88.3
1963	524	--	--
1964	625	--	--
1965	605	--	--
1966	597	--	--
1967	454	--	--
1968	520	--	--
1969	643	--	--
1970	598	--	--

Sources: Column 2: Lagos City Council, November 1970
 Column 3: From the various LEDB Annual Reports & Accounts
 Column 4: Calculated from 2 and 3

* It is likely that completed houses from the private sector are under-registered and therefore under-represented. A comparison of Table 6.2 (column 2) with Table 6.3 would tend to suggest this. With the number of building applications submitted averaging 3,000 per year, it is likely that more houses are completed in the private sector than are actually recorded for that sector.

it is to be expected that the LEDB made a more complete registration of completed houses with the city Council than would or did the private communal sector — which is usually apprehensive about official registration of which means incurring taxes and charges of one type or another. It can therefore be inferred that the actual number of completed houses from the private sector was under-registered, and therefore under-represented, and this had inevitably exaggerated the share of the LEDB.

Even then, although there were numerically more houses completed annually, ~~by the Board~~ by the Board than were realized from the private sector, this did not necessarily mean greater addition to the housing stock by the Board, given the type and character of its housing developments — which were dominantly low-density, single family detached bungalows,² as opposed to the mainly apartment and rooming type houses from the private sector. The claim by the Board, therefore, that,

Since 1955, when the Lagos Executive Development Board built the first rudimentary low rent resettlement blocks in Surulere to accommodate the low income workers, and those evicted from the Central Lagos and Olowogbowo areas, this Corporation has become a 'non-profit making' landlord to nearly 30% of the population³ of Lagos State⁴

can therefore hardly be sustained. The real impact of the contribution of the Board in this regard was much less than the figures indicate, as the accommodation potential

²See Chapter 7.

³The population of Lagos State is between 2.5 million and 3.0 million.

⁴Lagos State Development and Properties Corporation: Towards a Better Environment.

of its lands and house designs was relatively low. There was large-scale waste of land in the Board's developments as similar sized plots (50' x 100') built by the private sector could decently provide accommodation for three to four typical⁵ urban families, and for more if it were a storied building. Except for about three of its schemes that were designated as low income housing (The Lagos Housing Scheme, the Rehousing Scheme, and the Metropolitan Housing Scheme), there were no LEDB plots or houses developed as multi-family apartment blocks. The ratio of apartment buildings to bungalows was negligible, as will be shown in Chapter 7.

The lease or conveyance agreements between the LEDB and the lessor or buyer contained such restrictive clauses or injunctions as requiring the lessor "not to assign, sub-let or otherwise part with the possession of the land" leased or conveyed; and "not to permit any person other than the lessee, his family, and domestic servants to reside upon the land" leased or conveyed, so that the houses to be built had to be such as to be occupied by a single unitary family.

While the effectiveness of such restrictive clauses in limiting the number of occupants of the plots and houses were uncertain, they certainly inhibited the building and development of multi-family apartments -- the type of development that most people in the metropolitan area needed and could better afford, and which makes an optimal use of the land that is available. Accommodation of more people in a given space constitutes increases in the effective supply of urban land as much as does release of undeveloped land in urban areas, and as much as reclamation.

⁵ Average 'urban family' size in Lagos is about 7. 'Urban family' in this context is taken to mean a family whose traditional roots of origin are not in the urban area -- i.e., a migrant family. The average size for Lagos indigenous families is in the 10-20 range.

The Board's supplies, because they catered principally for a small middle to upper income section of the population, did not make much impact on the land and housing problem of the metropolis, principally because they were inaccessible to most people who needed them (the mass of the low income group). The Board itself explained that, "The Board...in pursuing this policy⁶ does so in order to meet the continuous housing demand in Lagos for those persons who can never be considered for any future subsidized housing schemes" (emphasis mine), and these were the burgeoning diplomatic, academic, foreign consultant and the middle-to-high bureaucratic community who were all demanding luxury housing. The building plots scheme for example was designed according to the Board, to "...provide developed land for both middle-class and better class residential developments".⁷ Significantly, the bulk of these beneficiary classes had not 'moved up' from the multi-one-roomed and such lower quality dwellings, but rather were principally foreigners, and the indigenous young educational, military, and commercial elite who had been recruited directly into the middle and upper rungs of the social-economic ladder. Contrary to the conventional 'conversion (filtering) process', they had left no vacancies for the poorer classes to move into and occupy. "Had the bulk of them moved up from below they would have created vacancies in housing at the lower levels",⁸ which would have helped make the impact of the LEDB supplies to

⁶Policy of building freehold houses.

⁷LEDB: Annual Reports and Accounts, 1957/58, p. 26.

⁸Oberu Aribia: "Social Aspects of Urban Rehousing in Lagos" (Lagos Notes and Records, Vol. III, No. 2, January 1972).

the market better felt.

Nevertheless, between 3,000 and 4,000 units were built and specifically designated as low income housing (asterisked items on Table 6.4). The Rehousing Schemes are not included in this because in these rehousing schemes, the Board was only trying to rehouse people it had displaced. So it was not adding any new units to the city's stock of housing by so doing, and then it could not rehouse all that it had displaced.

A more detailed breakdown of LEDB projects involving land and housing supplies is shown on Table 6.4. It covers most of the period of the Board's existence from 1928 to 1972. It is classified approximately into three forms of supplies:

- (i) Land Schemes in which building plots (on which to build houses of a given and approved specification) were prepared, serviced, and either leased or sold to the public. The approximate areal size of each project (in acres) and the approximate number of building plots are given in the second and third columns respectively. It is not suggested that the areal size of each project was entirely devoted to building plots. Most projects divide up between building plots, direct construction of houses, and sometimes industrial and commercial facilities. But the number of plots shown against each project is as far as records are available and accessible the approximate number of residential building plots in the given scheme. The total number of such serviced plots was about 7,533 during the period under review (1928-1972).
- (ii) Housing and Rehousing Estates are the projects in which the LEDB acquired

TABLE 6.4: Composite Projects of the Lagos Executive Development Board

1 Project	2 Area in Acres	3 No. Plots or H/HU's*	4 Total Capital Expenditure (₦)	5 Total Income (₦)	6 Profit(+) Loss(-)	7 Capital Cost/ Plot or H/HU* ₦	8 Cost of Un- serviced Plot	9 % of ser- viced Pl
Freehold Land Schemes								
Yaba Estate (1933/34)		698				512		
Idumagbo Scheme (1931/32)		100	51,243			512		
Isalegagan 1933	9.3							
Oke Awo	7.5	111	34,500			310		
Apapa Estate (1947/52)	770.0	1,122	2,075,718	2,085,894	+	1,850	15	0.8
Itire Road (Freehold Land Scheme)	132.0	750	442,442	291,984	-	621	75	12.0
Akangba Freehold Land Scheme (No. 2)	53.0	800	157,975	203,783	+	197	56	28.0
Animashaun Freehold Land Scheme (no.3)		275	148,396	200,713	+	540	7	1.3
W. Avenue Freehold Land Scheme (No. 4)	57.0	76	150,570	129,051	-	1,981	758	
Freehold Land Scheme (S.S/Iere)(No.6)		186	88,793	800		478	147	30.8
Randle Avenue Freehold Land Scheme No.7	11.0	128	48,527	110,862	+	380	86	22.6
S.W. Ikoyi-Obalende Dev. Scheme	170.0	900	794,371	819,255	+	883	23	2.6
S.E. Ikoyi	270.0	274	603,223	603,223	0	2,201	1,191	54.1
Victoria Is. Phase I	600.0		762,887	762,887	0			
Victoria Is. Phase II	500.0	1,000	417,475	417,475	0			
Victoria Is. Phase III	500.0		3,069,537	3,069,537	0			
Lagos Central Planning Scheme	70.0	179	4,191,808	4,330,846	+	2,342	13,164	
2nd Mainland Bridge Property Acq.	28.0	972	35,914			40	32	80.0

* Note: The abbreviation "H/HU's" stands for "Houses/Housing Units".

TABLE 6.4 (cont.)

1 Project	2 Area in Acres	3 No. Plots or H/HU's	4 Total Capital Expenditure (£)	5 Total Income (£)	6 Profit(+) Loss (-)	7 Capital Cost/ Plot or H/HU	8 Cost of Un- serviced Plot	9 % of ser- viced Plots
<u>Housing Schemes</u>							£	
Freehold Housing Scheme No. 1		104	173,038	179,256	+	1,664		
Freehold Housing Scheme No. 2		24	71,013	74,939	+	2,959		
Freehold Housing Scheme No. 3		143	346,121	360,215	+	2,420		
Freehold Housing Scheme No. 4	152.0	37	140,763	148,424	+	3,805		
Freehold Housing Scheme No. 4a		29	82,030	95,866	-	2,829		
Freehold Housing Scheme No. 5	236.60							
Freehold Housing Scheme No. 6		24	64,588	74,275	+	2,691		
*Lagos (workers') housing Scheme (1955)	56.0	1,368	1,155,184	1,147,600	-	845		
Surulere Rehousing Estate No. 1		913	642,055	648,375				
Surulere Rehousings Estate No. 2		628	700,399	718,500				
Surulere Rehousing Estate No. 3	117.0	59						
Surulere Rehousing Estate No. 4		800	15,525	50,000	+			
*Metropolitan Housing Scheme Jalupon Estate	63.0	1,638	136,176					
<u>Industrial/Commercial Schemes</u>								
Iganmu Industrial Est.	166.0		105					
Surulere Lock-up Shops & Flats			7,883	22,649				
Ijora Site Devel.	376.0		34,634	34,634	0			
Apapa Shops & Flats	350.0		108,030	112,500				
Total	4694.4	15,261						

*Schemes designated as low cost or low income schemes

SOURCE: Various Annual Reports and other documents of the LEDB

land and directly built houses itself, then either sold or rented the houses out to people. Most of the houses in the housing schemes were sold freehold to the public. The Rehousing Scheme components of this were those housing schemes which the Board built and used to re-house or re-settle some of the 20,000 people it had displaced in an urban renewal or slum clearance project in central Lagos (item 14 on Table). Most of the houses were single-family detached houses, and many were in rooming and apartment units. It is, however, very difficult to disaggregate those that were in rooming and apartment units from those that were single-family detached houses. It is, therefore, difficult to say definitely how many houses and/or housing units that were produced by the Board. This would, however, lie in the region of 5,000 to 7,500 houses and/or housing units.

- (iii) Industrial/Commercial Schemes: In this, industrial and commercial estates were built and serviced by the Board, and let out to industrialists, traders, and businessmen. These were mainly let as leaseholds rather than as freeholds.

6.2 Forms of Tenure in the Supply Process.

Two major forms of land allocation or disposal (tenure) were used by the LEDB: the freehold tenure and the leasehold tenure.

(i) Freehold or Out-right Sale

In this, the ownership of a plot of building land was transferred permanently from the Board to the buyer on payment of the Board's stipulated prices. For very obvious reasons (security and permanence in perpetuity), people preferred freehold

titles to land, and often whether they have freehold or leasehold titles to a piece of land affects the quality of development that is undertaken on the given plot.

Generally, freehold tenure has very obvious advantages. It provides the best form of security for credit, and the sense of absolute ownership is a powerful incentive to development. It has been claimed⁹, for example, that when Arthur Young declared that, "the magic of property turns sand into gold", that he had freehold property in view. This was further underscored by Young's subsequent assertion that, "Give a man the secure possession of a bleak rock and he will turn it into a garden. Give him a nine years' lease of a garden, and he will turn it into a desert."

Freehold also provides opportunities for large profits when the value of land has substantially increased. It confers freedom from control by landlords whether they are private individuals or Governments. It also confers social and political status as ownership of land constituted an electoral qualification in the earlier political histories of many countries.

But it is often considered a short-sighted policy for a public urban land management agency to dispose of land in a very highly urbanized or urbanizing area on a freehold basis. The need for renewal or replanning could be very potent in such areas within a relatively short span of time.

Freehold disposal system means that the public agency would have to buy back such lands when the time comes for renewal, at which time the price (with

⁹ Meek, C.K.: Land Law and Custom in the Colonies (Frank Cass & Co., Ltd., 1968, p. 243.)

the developments on it) might have become overwhelming. Granting freehold tenure by such a public agency as the LEDB would also potentially limit the ability of the agency to exercise control and enforce articles of its own covenants with grantees of such land in respect of proper land-use planning or abuse of public instruments. When there was a widespread scandalous transfer of LEDB lands, for example, in spite of the existence of covenants not to do so, the Board could not enforce such covenants on the grounds that,

...as the interest conveyed was a fee simple absolute, the Board has no means of enforcing any covenants not observed for the benefit of the building scheme as a whole, such as covenants to develop or to control transfers.^{10a}

Freehold mode of disposing public lands would therefore tend to defeat some of the assumed advantages of public land ownership and management, particularly with respect to control of land-use and control of land prices.

While the Nigerian Colonial Government policy at the time was ordinarily against granting freeholds, socio-cultural reasons initially, and later financial reasons, compelled the LEDB to adopt the freehold tenure in disposing of lands under its control. During the mid-1930's and early 1940's, plots were leased to members of the 'public' for building, but it was said that, "The response was so poor, and the need for expansion in view of the plague so great that permission was reluctantly obtained from the Secretary of State to offer freeholds. Since that time, plots have been disposed of without difficulty."¹⁰ The principle of selling land freehold was, therefore, adopted by the LEDB from its early beginnings and was dictated by the prevailing attitudes of the people to such tenure and the prevailing circumstance at the time. The Hoskyns-Abrahall Report¹⁰ observed that, "It will take time and propaganda to convert the Lagosian from his conviction that to build a house, he must have the freehold of the plot on which it is build." While acknowledging that such was a natural desire, the Report suggested that it should be resisted.

^{10a} Tribunal of Inquiry into the Affairs of the LEDB.

¹⁰ T. Hoskyns-Abrahall: Report with Recommendations on the Planning and Development of Greater Lagos, June 1946.

"The work of the Lagos Executive Development Board (LEDB) would be made a good deal easier and opposition reduced if an exception were made to the rule that neither Government nor the Board will offer freeholds." The objection of this Report to freehold mode of disposal was, however, based on other reasons than the usual ones of avoiding the expense to the public purse of buying back freehold land and property from owners, if ever an urban renewal becomes necessary in the future. Its opposition to freehold tenure was based on the potential dangers of such lands falling into the hands of money lenders whose activities were prevailing in Lagos at the time. Observed the Report,

Eighty-three percent of all money lenders in Nigeria live in Lagos. Security for advances must in very many cases be afforded by houses and land, both of which I believe in an alarming number of cases eventually become the property of the money lenders. Many of them are 'non-natives', and are as a class not likely to make the best type of landlord.¹¹

British Colonial policy in this regard not only in Nigeria but also in most of its Colonial territories, was against any extension of freeholds and this policy was said to be based on "weighty political arguments". It was noted that the Dependencies were not culturally homogeneous, but rather made up of different ethnic groups.

That,

The local Colonial Government is the only Authority which can protect the rights of the various component sections and at the same time promote their integration. But it would prejudice its ability to do this

¹¹ T. Hoskyns-Abrahall, op. cit., p. 33.

if it were to grant or continue to grant extensive rights in freehold, more especially if the grants were made to one section or society and not to another.¹²

The questionable premise of this assertion notwithstanding, it nevertheless conveys one of the bases of opposition to freeholds by Nigeria's Colonial administration.

Another objection to the freehold tenure, especially in the Nigerian inheritance structure, is that in the absence of specific and effectively enforced laws against partition, there is the danger of excessive fractioning or fragmentation, so that what is left of a holding may not be able to support a standard house. This was one of the major problems encountered in the Central Lagos Planning Acquisition Scheme discussed in Chapter Four (Section 4.3). This danger is increasing with the increasing population and the corresponding decreases in available land.

Although freehold plots are sold for a lump sum which recovers the capital costs immediately, the public agency that sells land freehold nevertheless loses the large increases in land values which take place in the fast-growing urban area, and which increases in value are reaped by the various owners of freehold plots or titles. One of the assumed advantages of public land ownership and management is that it facilitates the recapture by the public of the unearned increments ("plus values") resulting from the rise in land values which is a result of public investments or decisions or due to the general growth of the community. This recapture of "plus values" may not be achieved in a freehold disposal of public lands, because freehold is a "once and for all" transaction.

Another objection against freehold tenure as a mode of disposition of public lands is that it is discriminating in its beneficiary incidence. It favours the group

¹² Meek, C.K., op. cit., p. 245.

- 41 -

of persons who can make heavy down payments or are credit-worthy enough to obtain a mortgage or have income enough to make savings that can enable them to pay lump sums of money on freehold. It was pointed out in Chapter Two and fuller discussed in Chapter Seven that housing finance or mortgage markets hardly exist in Nigeria and the little there are, are restricted to a very small segment of the population -- senior civil servants and people employed in other "formal sector" firms.

Table 6.45, for example, shows the sources of existing housing finance schemes in Nigeria (as of 1966)* and the structure of their beneficiaries. It can be seen that these housing finance schemes serve mainly the high and middle income groups who constitute less than 25% of the population. The remaining 75% of the population had very limited housing finance available to them -- limited subsidy schemes and the Roof-Loan Scheme, whose scale of operation was very low and still restricted to "formal sector employees". The commercial banks, for reasons already referred to in Chapter Two, do not grant loans for residential housing developments. Disposition of public lands by freehold tenure is therefore tantamount to excluding over 75% of the population that are not likely to have the financial resources to pay for a freehold.

In addition to deferring to the people's natural preference for the freehold tenure, as earlier pointed out, the Board's use of the freehold tenure to dispose of its lands could also be explained by other reasons:

- (1) The Board's urban land and housing policy emphasized 'home ownership' as a desirable policy. The rationale seemed to be that people have greater stake at and incentive to keep their homes up in sanitary conditions when they have freehold tenure of their property. Reference was

*It remains basically the same to date.

Table 6.45

SOURCES OF EXISTING HOUSING FINANCE IN NIGERIA (1966) AND THE STRUCTURE OF BENEFICIARIES

Beneficiary/Source	High Income Group (about 1-5% of pop.)	Middle Income Group (15-25% of Pop.)	Low Income Group (35-40% of Pop.)	Very Low Income Group (25-30% of Pop.)	Scale of Program
1. Government (rental)	X	X	X (subsidy)		Moderate
2. Private Companies and Industries (Hire Purchase)	X	X			Low
3. Savings & Loan Societies	X	X			Low
4. Roof-Loan Scheme			X	X	Low

Source: Report of the International Conference on Housing Finance and Housing Techniques ,
Held in Lagos, Nigeria, 1966.

(Abstracted from Table X of Asenuga, John M.O.: "Housing Policy for Nigeria",
M. Arch. Thesis, Graduate School of Design, Harvard University, Cambridge, Mass., 1970.

always made to the 'life-long' desire of Nigerians to own homes of their own, and the Board's policies were directed at satisfying these ownership desires through freehold land disposals. According to the Board, land schemes continued to be undertaken,

...with the object of ensuring continuity of sale of freehold building plots to the public. Not only does the Board wish to continue to encourage the purchase of freehold plots for building by the general public generally, but also to ensure in its planning control restriction of undeveloped land, that positive action can be taken with such persons by the offer of alternative land upon which building can be readily permitted.¹³

- (2) The second very important explanation, and perhaps the main reason for The Board's long retention of use of the freehold tenure is the fact that, even at market rates of rent leases ordinarily do not return capital or revenues quickly enough to sustain such an agency's operations. Moreover, one of the main financing sources for most of the Board's land and housing customers was the Nigerian Building Society. The Society preferred financing freeholds rather than leaseholds. This was understandable business practice that would enable the Society to easily take over the property in cases of default by their customers, so as to recover the Society's money. The Board, realizing that this Society was the major funding sponsor for those buying the Board's lands, and from which it was consequently assured of a more ready flow of cash, provided the

¹³ LEDB: Annual Reports and Accounts, 1959/60.

tenure (freehold) that was acceptable to the financing agency.

The Board commenced its freehold housing scheme in 1957/58 envisaging large-scale estate development and building of houses for sale to the public, whereby houses could be purchased either out-right or by installments in accordance with normal Building Society practice, with the assistance of the Nigerian Building Society, or in the case of Government staff, with the assistance of the Government Housing Scheme...

explains the Board.¹⁴

At other times, however, whether the Board disposed of any particular lands by freeholds or leaseholds depended on direct orders from the federal Government. This was the case particularly in projects that were designated direct Government projects with the Board acting only as agents of the Government. In the Southwest Ikoyi/Obalende Development Scheme, for example, Government directive was that,

The allocation of plots be apportioned between three categories, namely, freehold disposal to owners displaced under the current slum clearance operations in central Lagos and leasehold disposals first to Government Officers, and secondly to general public.¹⁵

The result was that most of the lands that the Board acquired, prepared, and/or developed for residential use were given out as freeholds (plots of land or houses). As pointed out before, the Board's most productive years in terms of residential land and housing were the 1950-1972 period and over 80% of its allocations during this period were of freehold tenure. Table 6.4 shows some of these freehold allocations both in building plots and in housing.

¹⁴ Ibid., p. 30.

¹⁵ Ibid., p. 33.

The other form of land disposal by the Board was by:

(ii) Leaseholds

By this form of tenure, the use of a plot of land is granted by the Board to the prospective lessee for a stipulated number of years, on payment of the stipulated premium and annual rent. This is the mode of disposal that has often been favoured because of its flexibility and particularly because it would enable such land to revert to the Board or to any such agency at the expiration of the lease period which varies between 30 and 99 years, generally. If at such time urban renewal becomes necessary, or public purpose demands that the land be put to a more important use, then the difficulties, complexities, and expenses of re-acquisition would be obviated, as title to the land would automatically revert to the Board, who in anticipation of renewal would refuse to renew such leases. The cost of this to the public agency and to the public purse would be minimal and the shocks of displacement to the owners would be less traumatic as this would have been anticipated for a reasonable time.

Another strong argument, often advanced in support of the leasehold tenure, is that as land values rise, leases can be re-negotiated to recapture, theoretically forever, the increased values of land resulting from urbanization and/or inflation. To achieve this, periodic rent revision clauses every ten to fifteen years are written into most public lease agreements in Nigeria. In this way, the lessees expect it and consequently, less pressures or resistances are experienced when the time comes

for the reviews. This periodic rent review in leaseholds and the residual right to re-acquire the property at the end of the lease period also permit the public body to bring land uses into conformity with modern needs of the city.

A third form of allocation or disposal is renting, in which the Board rents out housing units or industrial plots and collects monthly or annual rents. It differs slightly from the leasehold form by the fact that the Board retains continuous management and maintenance responsibility for such land, housing, and property. Closely related to this is the Rent Purchase Agreement, in which land is given out on short-term leases of about 7-12 year terms, or 15 yearly at the longest.

The leasehold mode of land disposal has hitherto been dominantly used for industrial and commercial land allocations, but increasingly with residential plot allocations.

A particular advantage of the leasehold system is that the price of the leasehold plots can be received as an annual land rent over the period of the lease. This reduces the capital cost of housing and can extend the opportunities for home ownership to the low and moderate income people, as the price (rent) is generally very much lower than freehold prices, and are paid over an extended period. It has, however, been argued on the other hand that the leasehold tenure impairs a leaseholder's ability to obtain financing on a proposed building, since creditors consider leaseholds a much less desirable asset as collateral than if the structure were on owned land (freeholds).¹⁶

¹⁶Doebele, W.A., op. cit., p. 80.

LEDB, however, seemed to have recognized the greater advantages of the leasehold system since the late 1960's, and have increased its use as a mode of land disposals.

Impact of the Board on the Cost/Price of Urban Land

One of the main rationales of public management of urban land in Nigeria is to counter the constraints of the traditional land tenure system by making urban land more available to the private sector for development according to planned specifications. By maintaining substantial supplies of urban land to the market, too, the price of urban land would be held within reasonable limits.

It has also been asserted that, "The most important element in the cost of a house is the price paid for the land", and that, "Efforts to reduce the cost of housing must undoubtedly start with reductions in the cost of building plots. This is an element of cost which is dominated almost exclusively by the laws of supply and demand and it can only be influenced by an active policy of bringing more land into use for housing."¹⁷ Supply expanding policies, it is said, control land prices more 'naturally' than trying to control such prices artificially by laws and edicts. This is certainly true where such supply expanding policies are well applied.

Land prices vary considerably depending on factors of general availability and by particular location, size, terrain characteristics and soil quality, frontage, accessibility and access to facilities, 'prestige' value, freedom from blight and other

¹⁷ Koenigsberger, Otto, et al.: Metropolitan Lagos, (New York. Report of U.N. Technical Assistance Mission to Study the Urban Problems of Metropolitan Lagos, Nigeria, 1964.)

factors. Land prices, for example, vary from ₦ 30 to ₦ 350 for a 50' x 100' plot on the outskirts of Lagos,¹⁷ and according to the distances from the nearest developed part of town to over ₦ 30,000 for similar sized plots in the Lagos Central Business District. The extent to which these factors precisely determine the cost/price of the plot of land admittedly are very difficult to accurately pin down. This is because the factors that influence land prices are myriad -- consisting of both economic, social, political, physical, geographical, and even cultural factors. Many of the factors are so incipient and vary from time to time as well as from place to place (even over very short and ostensibly insignificant distances) that it is really difficult and pretentious to attribute to any one real determinant factor.

They are all the more so in the Lagos context with which we are dealing. There, in addition to the usual factors of location, space or size, and the various social quality and amenity variables, certain cultural and legal factors further complicate the picture, so much so that rational economic comparisons of prices of land in the traditional or customary transactions context with prices of land sold by the public agency (the LEDB) may not be a very useful exercise.

A brief review of those hard-to-quantify factors in urban land prices determination would be in order at this juncture.

6.3 Problems in Objective Land Price Determination

The factors that create problems in objectively determining the actual price of land in the context and in the use of land price data for analytical purposes include the following:

¹⁷ Ibid., p. 166.

(a.) 'Non-Market' Pricing

It was explained in the introductory chapter (Chapter 2) that sale of land outside the 'group' is not looked on with approval. In fact, in earlier times it was an anathema. It was also explained in the Chapter that sale or lease or exchange of land within the 'group' was permissible.

This transfer within the group does not take a 'pure market' transactions context in which the seller tries to extract from the buyer the highest value of the land as price. As had been pointed out, most land in Lagos is still 'family land', and their prices are influenced by the relationship of the buyer or leasee to the seller or lessor.¹⁸ Relations or good friends are not expected to extract or bring to bear the full force of the market on their fellow relations. As most land transactions are intra-group transactions, the implications of this feature is that prices of land on the basis of such intra-group transactions would not reflect the 'market' prices for land and it is therefore difficult to generalize with for purposes of the desired comparisons.

(b.) Falsification of Actual Prices

Generally, people are reluctant to disclose the prices at which they sell or buy land, so that even interviewing sellers or buyers of land does not produce accurate prices for land. Sellers generally tend to under-declare their sale price, while buyers tend to inflate and exaggerate the price they paid, depending on the purpose in view.

¹⁸ Interview with the Chief Registrar of Titles, Lagos State Land Registry, January 29, 1976.

Most of our data on price of land under both the private and public sources of land are derived from the Registration of Titles and Deeds at the Lagos Land Registry. It is, however, known to be common practice by buyers and sellers in the private and traditional transactions market to collude to minimize the stamp duty and other fees they have to pay to register their title. This they do by declaring less than the transaction's value or price. Stamp duty is taxation on land and it increases with cost of land. It is usually charged at 6% of the value of the lease or sale, and about 2% of the improvements premium. The amount of each increases with the value (cost or price) of the land. These duties are in addition to the standardized and fixed charges for the preparation of deeds, registration of deeds and survey fees. The registration fee also increases with the cost (price) of the plot of land being registered. The fee schedule for conveyances, assignment and charges is represented in Table 6.5.

Although they increase at a decreasing rate, they could constitute a substantial burden if the cost or price of the land for registration is high. Generally, every effort is made by people to minimize such extra costs.

The implication of this practice is that the prices of land reflected in the Register of Titles and Deeds on 'private' or traditional transactions may be erroneous and may not reflect the actual prices paid in respect of such lands. Calculations and comparisons based on them, therefore, could be misleading, and therefore should be taken with caution.

(c.) Designation of "Title Areas": Effects on Land Prices

Land in Lagos is informally legally divided into two categories: 'title areas'

TABLE 6.5

Fee Payable Under Titles for Conveyances, Assignments, and Transfers

<u>Value (₦)</u>	<u>Section I (First Registration) (₦)</u>	<u>Section II (Other Charges) (₦)</u>
100	1.0	1.0
200	1.5	1.25
300	2.0	1.75
400	2.5	2.0
500	3.0	2.25
600	3.5	2.25
700	3.25	2.375
800	3.5	2.5
900	3.75	2.625
1,000	4.0	2.75
1,100	4.25	2.875
1,200	4.375	3.0
1,300	4.5	3.125
1,400	4.625	3.25
1,500	4.75	3.375
1,600	4.875	3.5
1,700	5.0	3.625
1,800	5.125	3.75
1,900	5.25	3.875
2,000	5.375	
2,100	5.5	4.125
2,200	5.625	4.25
2,300	5.75	4.375
2,400	6.0	4.5
2,500	6.125	4.625
2,600	6.25	4.75
2,700	6.375	4.875
2,800	6.5	

Source: Lagos Land Registry

and 'non-title areas'.

The 'Title Areas' are areas of the city and its metropolis where, if there is an application for registration of plots of land in those areas, the Land Registry conducts an investigation to establish the genuineness of the titles being applied for registration before registering them. It ensures that the same parcel or plot of land had not been previously registered by another ostensible owners. In short, in 'title areas', the Registry assures the genuineness of title before registering such title.

Title Areas in Lagos include all of Lagos Island (except Maroko), Victoria Island, Ikoyi, and all of Lagos Mainland embracing Ebute-Metta East and West, Apapa, Surulere, Yaba, Yaba Estates, Onike, Iwayale, Abule-Ijesha, Abule Oja, and any areas added to the list from time to time. The title areas approximate areas that have been properly surveyed and demarcated into recognized plots and probably mostly already registered. They are areas that have in one way or another come under the influence of the code enforcement areas and planning controls of the LEDB.

Non-Title Areas are areas where the genuineness of titles is not investigated or guaranteed by the Land Registry or any other public agency. Registration of titles from such areas is simply considered as a depository of deeds only.

The implication for land prices of this designation of Title and Non-Title areas is that prices in the title areas would tend to be relatively higher than those in the non-title areas, as the security of the titles there are ensured, and a prospective buyer knows relatively for sure what he or she is paying for. On the other hand, in non-title areas the security of the titles is in no way assured, and

therefore involves a greater risk. Prices of land in such areas are consequently lower than those for parcels in the title areas.

Absolute price differences among 'private-traditional' and 'private real estate firm' and 'public' land therefore may not tell us much under these circumstances. One thing certain is that if the costs of site preparation and servicing of LEDB lands are commercially reflected in their prices, they would naturally be relatively more expensive than the private-traditional lands. This would reflect their higher quality and amenity levels, and their greater security. If the preparation and servicing costs are 'not fully' reflected, it would mean that such land is being subsidized and therefore does not reflect their actual costs and prices. That LEDB plots of land, therefore, should, because of their higher amenity and quality levels, command higher prices than private and traditional plots of land is all too obvious. The interesting thing about land cost in the public sector (LEDB) and in the private sector, therefore, is not so much their differences, or why they differ; rather, the point of interest is on how much the difference and whether or not the degree of this difference could be reduced while still maintaining acceptable standards of land and housing services.

6.4 Sector Price Comparisons

One of the most reliable* sources of land prices in the private sector is what the LEDB pays for the lands it acquires. These are reliable only in the sense that what is recorded is what is paid for land, and therefore there is no falsification of prices to evade fees and duties, as is the case with the private sector prices. These were

*The word 'reliable' here as applied to land prices does not imply 'demand and supply' prices or the objective land price levels, as these are difficult to determine.

supposedly based on the 'fair market' value of such land and notwithstanding the weaknesses and problems in the determination of this value and the chances that they may be on the low side of the 'fair market' value, they are the best (unfalsified) data available, given factors discussed earlier as making it difficult to obtain the real prices of land in the private sector, particularly in the traditional transactions market.

Table 6.6 shows these prices which the LEDB paid for land in some sample acquisitions. It also shows what the LEDB sold such land after preparation and servicing. Column 2 shows the size of each piece of land, column 3, the price (cost) of the land, and column 4, the price/cost per unit (square yard) of the land. Column 5 then shows the price at which the LEDB sold such lands after preparation and servicing. As can be seen from Column 4, the prices per unit (square yard) of land varied greatly, from 0.1 shillings to over 8.0 shillings per square yard, depending on the location of the piece of land, the nature of the piece of land (whether swampy or dry, etc.), and on the relative time period of the acquisition or purchase which takes the effects of inflation into account. In light of the experience of the processes and problems in LEDB determination of the prices it pays for compulsorily acquired lands, as depicted in Chapter 5, it would be fair to infer that most of the prices represented in Column 4 are generally lower than the prices in the 'private communal' land market.

The Board's leaseholds are priced at least ten times that of the traditional leaseholds. From the Table, Column 5 shows that the LEDB sells at about five to six times the price at which it 'bought' such land. It would follow, then, that if it is assumed that buyers in the private-traditional market buy land at the prices

TABLE 6.6

Comparative Prices of Land: LEDB and the Private Market

Scheme	Size in Acres	Price of Raw Land (₦)	Price per Sq. Yd. (in shillings)	Sale Price by LEDB (per sq. yd.)
1. Apapa Estate (Leasehold Land Scheme)	1,000	16,650	0.07	0.7
2. Freehold Land Scheme Est. Itire Road 1	132	53,680	1.68	1.5 leasehold 1.0 industrial 12.5
3. Freehold Land Scheme Akangba Estate 2	53	44,813	3.5	15.0
4. Freehold Land Scheme Animaschaun Estate No. 3		1,865		20.0
5. Freehold Land Scheme Western Ave. No. 4	57	57,577	4.2	25.0
6. Freehold Land Scheme No. 6		27,350		25.0
7. Freehold Land Scheme Randle Avenue No. 7	11	11,003	4.13	25.0
8. Victoria Island*	1,600	134,461	0.35	
9. S.E. Ikoyi**	270	326,457+	5.0	
10. S.W. Ikoyi/Obalende Dev.**	258	20,092	0.32	
11. Rehousing Estate No. 1		20,952		
12. Rehousing Estate No. 2		66,684	3.1	
13. Rehousing Estate No. 3	117			
14. Rehousing Estate No. 4				

Table 6.6 (cont)

Scheme	Size in Acres	Price of Raw Land	Price Per Sq. Yd. in Shillings	Sale Price by LEDB
15. Freehold H. Scheme 1		22,990		
16. Freehold H. Scheme 2		7,537		
17. Freehold H. Scheme 3	152	47,330		
18. Freehold H. Scheme 4		13,163		
19. Freehold H. Scheme 4a		8,925	5.5	
20. Freehold H. Scheme 5	236.60	311,939	5.5	
21. Freehold H. Scheme 6		4,054		
22. Metro. Housing Scheme 1966	63.0	127,607	8.36	
23. Lagos Housing Scheme 1955	56	55,170	4.07	

* Costs of compensation, removal, and resettlement of villagers are taken as the cost of the land in the absence of a separate figure as cost of land

+ Cost of reclamation

** Crown Land and therefore Government land which need not be paid for.

that the LEDB acquires them, then the sale price of LEDB lands is five to six times higher (more expensive) than prices of land in traditional land markets.¹⁹ The Board, however, sells fully-serviced land, so what this implies is that the cost of the preparation and servicing of a plot of land is four to five times the cost of the land itself. This is proportionately very high, and has serious implications for accessibility of land resources to a majority of the urban population.

The basis for fixing the 'fair market value' for land acquired from the people and the problems of the process as has been referred to earlier, were fully examined in Chapter 5. We shall proceed to briefly examine the bases for LEDB setting of the prices for its own lands.

6.5 Land Prices Determination in LEDB Schemes

The Lagos Town Planning Act (Cap. 95 of the Laws of Nigeria) under which the Board operates stipulates that,

In determining the rate to be fixed for leasing or selling, the Board shall take into account the costs of all works, development and overhead expenses for the land being leased or sold.²⁰

This means that the price of the Board's plots of land is determined by the price at which the Board acquired the land, plus the cost of development and ser-

¹⁹ The second part of the Table (Nos. 11-23) are the schemes where the LEDB acquired the land (at the prices shown) but built houses for sale on them so that there is no way of separating the cost/price of land from the price of the house.

²⁰ Lagos Town Planning Act, Part VI, Cl. 28(3).

ricing, plus of course whatever profits the Board wants to make on the project, or what it calls the "General Development Expenses". This principle was affirmed by the Board in its Surulere Freehold Land Schemes (Nos. 2-7 on Table 6.9) where it pointed out that,

The selling price ranges from 20s to 25s per square yard depending on the cost of acquisition and development. And with the development cost on the increase, it is possible that the Board may have to charge more in the future.²¹

Land reclamation, where it is involved, adds some £ 4,000 to the cost of land per acre, so that the price of the Board's lands also varied from place to place, as well as from scheme to scheme.²² Column 7 of Table 6.4 shows the capital cost per plot of land or per house in most LEDB schemes. By this pricing principle, therefore, these figures, plus the projected profit, would approximately be the cost of the Board's lands, at each of the relevant locations or schemes.

Another factor in determination of land price in LEDB schemes was the proposed land-use and planned land use intensity in the scheme. The Board charged the highest prices for industrial/commercial land use; and within residential land use, the price was almost twice higher for low-density residential than for high density residential.

In the Apapa Estate Scheme (which was disposed of as leaseholds), for example:

Industrial/Commercial plots were leased at £ 350-400 per acre, per annum.
Low density residential plots were leased at £ 120-170 per acre per annum.
and High density residential plots were leased at £ 75 per acre per annum.

²¹ LEDB: What is the LEDB?, p. 18.

²² Koenigsberger, *op. cit.*, p. 39. This figure of £4,000 addition to the cost of land per acre was in respect of Victoria Island and was likely to vary from scheme to scheme depending on the degree of reclamation.

This is quite understandable, considering the higher returns to lessees of industrial/commercial land and policy of the Government to capture some of such returns. High density residential costs are much less than the low density because more people make use of a given unit of land and there is economy of agglomeration in the provision of services which is less so in a low density residential.

Intended beneficiary target groups and Government policy in respect of such target groups also determined the price of LEDB lands. At times, the allocation of plots and their prices were subject to change on the decision of Federal Government, so that these policies and pricing varied from time to time. Land for the low income and public servants is often subsidized by the Government. The LEDB prices such lands or housing at or below costs. But otherwise such plots are sold at prices that would at least recover the costs of their acquisitions and servicing.

In spite of its public character, however (but in tune with its authorized pricing principle), the Board's prices were also influenced by the pressure of demand for land, and by the general inflationary situation. Table 6.7 in part reflects this factor. It shows substantial increases from year to year in the prices of land sold by the Board. Column 4 (using 1959-60 prices as the base) shows that the price of a unit of LEDB land more than tripled within the decade. These rapid increases mainly reflect the inflationary pressures of the period which the Board could not control by itself as inflation is an economy-wide phenomenon. This fact also suggests that LEDB did not or could not control or keep down land prices (due to speculation and much

²²Koenigsberger, *op. cit.*, p. 39. This figure of £4,000 addition to the cost of land per acre was in respect of Victoria Island and was likely to vary from scheme to scheme depending on the degree of reclamation.

Table 6.7

Increases in Prices of LEDB Land Sold to the Public 1959-1970

1 Year	2 Price of LEDB Land Per Sq.Yd.(in shillings)	3 Percent Increase	4 Price Change with 1959- 1960 = 100
1959/60	12.5		100.0
1960/61	15.0	20.0	120.0
1961-1964	20.0	33.3	160.0
1964-1965	25.0	25.0	200.0
1965/1966	27.0	8.0	216.0
1966-1970	30.0	11.1	240.0
1970-	40.0	33.3	320.0

Source: Computed from Land Price Information Obtained from the Estate Department of the LEDB.

less to those due to inflation), as the literature on public urban land management agencies would imply, they do, although the relatively higher quality level of the Board's plots has always been pointed to as a justification for higher prices and the rapid increases from year to year could be explained as being due to cost increases caused by inflation of the costs involved in its site preparation and servicing and accordingly reflected in its land prices. The problem here, however, is where such cost increases leave the question of accessibility of land resources to people if such costs keep rising, and keep being reflected in the Board's land prices, and if this must be so, what difference, then, is it from the private or traditional system? The Board may not have been in a position to control inflation (which was an economy-wide phenomenon). It is, however, possible that its standards and quality of land preparation were "too sophisticated" and "over-designed" for the majority of the people concerned. It might have been possible to have simpler preparations and designs without adversely affecting necessary quality of the environment.

The results of very high increases in land costs, either in public lands or in private ones, is that new dwellings in many cases become too expensive for people with ordinary incomes, because either the rents or the down payments have been too high. A Report, for example, on one of the Board's schemes in Surulere, stated that,

The cost of development of this site was rather high, and consequently the rents on the plots were too high for the class of persons for which the plots were meant. As a result, most of the persons to whom these plots were allocated had not been able to pay for them.....²³,

²³Tribunal of Inquiry into the Affairs of the LEDB, 1966, p. 116.

thus underscoring the fact that a rise in the proportion of total building costs taken up by outlays on land is a grave development. Even if in some cases special public subsidies are used to off-set the impacts of these high costs, the subsidies themselves represent a charge on public budgets, a solution which should be considered only as a social necessity, as public budgets come out of tax burdens.

Table 6.8 shows the generalized land prices for the Lagos metropolitan area. Three reasonable comparisons that can be made are in reference to these generalized prices. The generalizations can be made as follows: (1) Land prices vary with the three major sources of land -- the traditional land market, the LEDB, and the private real estate firms in the ratio of 1:2:5. The highest prices for land (very much higher than the generalized prices) is found in the private real estate land market. This is the market controlled principally by the very few real estate firms that exist in the city. It operates along modern commercial legalistic lines, and it deals principally in freeholds. Whereas private plots transacted freehold by the traditional co-ethnics cost about \$6.00 per square metre, those sold by the real estate firms cost about \$15.00 per square meter.²⁴ The land prices here are 40% to 75% higher than the generalized land prices, in spite of the fact that they are raw unserviced land. The scope of this 'market' is, however, very small and relatively negligible. The patrons are "mainly private commercial firms or companies, and the 'stranger' elements which includes other Nigerians of non-Yoruba group". These are the groups that otherwise would find it very difficult buying or leasing land from the traditional land market. In a sample of 87 sale transactions in land

²⁴ Calculated from Registration Records, Lagos Land Registry, February 2, 1976.

TABLE 6.8: LAND PRICES IN THE DIFFERENT 'MARKETS' (in shillings per square yard)

1	2	3	4	5	6
<u>Neighborhood</u>	<u>DCBD</u>	<u>Price of Land</u>	<u>LEDB Price</u>	<u>Private Market</u>	<u>Traditional* Market</u>
Marina, Broad St.	0	2,000			--
Idu Mota	0	100			--
Olowogbowo	0	500			--
Onikan	1	200			--
Obalende	1.5	17			--
Ikoyi S.W.	2.0	35			--
Victoria Island	3	42			--
Iddo-Ijora	1	17			--
Apapa	2	21			
Ebute Metta	3	25			
Surulere	4	25	30.0		34.0
Ajegunle	5	16	30.0		20.0
Mushkin	6	16		100.0	44.3
Isolo	7	11		100.0	37.5
Oshodi	9	14			
Ikeja	11	17			24.8
Alagba	13				
Ojo	14	2			
Gbogbo	12	2			
Ikorodu	20-25	2		87.0	
Shomolu	7	15	30.0		17.7
Omole	14	2	40.0		12.0
Bariga	5	15		100.0	20.8
Ilasamaja (Mishin)	6	16			90.0
Akangba	4	25	40.0		33.7
Ikate	4	25	30.0		8.0
Bariga	5	15	30.0		13.9-

* 'Traditional' market here means the 'not completely monetised' markets -- markets transacted within the traditional value context -- not 'rational economic'.

Source: Column 3 is from Draft Master Plan for Lagos (1971); columns 4-6 are calculated and compiled from data obtained from Deeds and Titles Registrations files, Lagos State Land Registry.

in Lagos metropolitan area in 1975, only 8 (9.2%) were by real estate firms.²⁵

Land prices in this market vary less from location to location or from person to person than would land prices in the traditional land market. Its prices averaged 100s (\$15) per square yard in 1975. The prices in this 'market' are followed by the Board's prices which lie above the generalized prices but below the 'private real estate market price' in spite of its relatively higher quality. The customers in this market are, of course, generally the Government itself, its agencies, civil servants, and then the general public, in that order. Other pricing factors in this market, as has been pointed out, were the direct and indirect subsidy considerations involved in most public and semi-public undertakings. The Board controlled under 20% of the Lagos metropolitan lands, and the average prices of its land is 40s to 50s per square yard. Like the private (real estate firm) land market, its prices vary less from place to place or from person to person than do prices in the traditional market.

The third and lowest prices are found in the 'private (traditional) communal market' and these are generally below the generalized prices, but vary more widely from place to place and from transaction to transaction than either the LEDB prices or private market (real estate firms) prices. This is due to the peculiar nature of the transactions within the traditional culture. As had been pointed out, most transactions in land are intra-group and inter-relational. Given the subjective considerations and treatment that follow the transactions, they are consummated at less than the pure commercial market prices. The degree of personal relationship between the buyer and the seller often greatly influences the price asked for and paid.

²⁵
ibid.

The price here ranged from 0.2 s to 90s per square yard (1975). With respect to leaseholds, the annual rent in the traditional transactions market is as low as 5% of the rent charged in LEDB leaseholds.²⁶ In freeholds, too, the proportion and relative disparity between the two sources is almost similar, with the LEDB prices generally much higher than the "private traditional/communal land" prices. But, as has been pointed out, the relatively higher prices of the LEDB follow from the higher quality of its lands. Section A of Table 6.9 shows that site development (column 7) (land preparation and servicing) constitutes on the average about 50% of the total cost of serviced land, and the cost of raw land averaged 17-20% of serviced building plots of land. In schemes where reclamations are involved, the cost of reclamation (Column 6) can claim between 30 and 50% of the cost of a plot of building land depending on the degree of reclamation involved in the scheme. "The value of LEDB reclaimed land is increased approximately threefold -- that which was bought at 7 shillings per square yard will sell for 20 shillings, that costing 10 shillings, for 30 shillings, and so on."²⁷ The cost of land preparation, then, constitutes a serious problem in public land supply and availability in Lagos -- in fact, a more serious problem, price and accessibility-wise than the bare land supply itself. Although the evidence is not very conclusive, indications are that the cost of land preparation and servicing have risen more rapidly than has the cost for raw land acquisition.²⁸

²⁶ From data obtained from the Lagos Land Registry, Jan. 2, 1976.

²⁷ T. Hoskyns-Abrahall, op. cit.

²⁸ This section is based on the data and information contained in the Lagos Land Registry with respect to these three modes, and the problems with this data have been discussed on p.226-30 of this chapter.

Table 6.9

Relative Cost Proportions of Land Development Elements in LEDB Schemes

1 Project or Scheme	2 Size (acres)	3 Cost of Raw Land (in ₦)	4 Total Cost of Land & Development (₦)	Elements as % of Total Cost of Each Scheme					
				5 Raw Land	6 Reclam- ation	7 Site De- velopment	8 Erection of Houses	9 Gen. Develop- ment Expenses	
A. Building Plots Scheme									
1.	Apapa Estate	1,000	16,650	2,075,718	0.8	38.4	49.7	--	11.0
2.	Itire Rd. Freehold	132	53,680	442,441	12.0	--	78.0	--	10.0
3.	Akangba Freehold	53	44,813	157,975	28.0	--	62.0	--	9.5
4.	Animashaun Freehold	275	1,865	148,396	12.6	--	73.8	--	24.9
5.	W. Avenue	57	57,577	150,570	38.2	--	46.0	--	15.8
6.	Freehold L.S. #6	n.a.	27,350	88,793	30.8	--	60.4	--	8.8
7.	Randle Avenue #7	11	11,003	48,527	22.7	--	55.5	--	22.0
8.	S.W. Ikoyi- Obalende Dev.	258	20,092	794,371	2.5	34.0	51.0	--	12.6
9.	S.E. Ikoyi	270	326,457	603,223		54.1	38.6	--	7.3
10.	Victoria Island Phase I		5,950	762,887	0.8	34.6	53.0	--	11.6
11.	Victoria Island Phase II	1,600	17,986	417,475	4.3	38.9	44.0	--	12.7
12.	Victoria Island Phase III		110,525	3,069,537	3.6	80.0	4.0	--	12.8
13.	Lagos Central Plng.	70	2,356,236	4,191,809	56.2	--	11.3	--	6.2
B. Housing Schemes									
14.	Freehold No. 1		22,990	173,038	13.3	--	--	76.4	10.2
15.	Freehold No. 2		7,573	71,014	10.7	--	--	78.7	10.6
16.	Freehold No. 3	152.0	47,331	346,121	13.7	--	--	76.5	9.8
17.	Freehold No. 4		13,163	140,763	9.4	--	14.6	62.0	14.1
18.	Freehold No. 4a		8,926	82,030	10.9	--	--	75.7	13.4
19.	Freehold No. 5	234	311,939	3,413,092	9.1	--	9.1	68.0	13.7

Table 6.9 (cont.)

1 Project or Scheme	2 Size (acres)	3 Cost of Raw Land (in ₦)	4 Total Cost of Land & Development (₦)	Elements as % of Total Cost of Each Scheme				
				5 Raw Land	6 Reclam- ation	7 Site De- velopment	8 Erection of Houses	9 Gen. Develop- ment Expenses
<u>B. Housing Schemes (cont.)</u>								
20. Freehold No. 6	n.a.	4,054	64,588	6.3	--	--	67.5	26.2
21. Lagos Housing 1955	56	55,170	1,155,184	4.8	--	19.1	65.8	10.3
22. Surulere Rehousing Estate No. 1		20,952	642,055	3.3	--	14.9	71.2	10.5
23. Surulere Rehousing Estate No. 2	117	66,684	700,399	9.5	--	12.3	66.0	12.3
24. Surulere Rehousing Estate No. 4		13,500	15,525	--	--	87.0	13.0	--
25. Metropolitan Housing	63	127,607	136,176	93.7	--	0.6	--	5.7
<u>C. Industrial/Commercial Schemes</u>								
26. Iganmu Industrial	166	90.8	105	n.a.	86.6	--	--	13.5
27. Surulere Shops & Flats	n.a.	518.3	39,417	6.5	--	--	77.8	15.7
28. Ijora Site Dev.					--	87.0	--	13.1

Section B of the same Table (6.9) shows that the erection of houses (Column 8) alone makes up about 70% of most LEDB's housing schemes and raw land constituted 9-10% of a fully developed house in the Board's scheme. Site development make up some 12-20% of a fully developed house.

6.6 Comparison of LEDB Land and Housing Costs with Those of Other Public Land Management Agencies (in Other Countries)

Although LEDB building plots and houses are considered expensive by local standards, and this expensiveness is a result of the costs of land servicing and site development, comparison of the different proportions of the cost elements in land development by LEDB and other agencies in other countries shows that the proportions in the LEDB schemes compare favourably with those of other countries, if not better. Table 6.10, for example, shows the weight of land in housing costs in European countries and in the U.S. during the same period that the LEDB schemes were undertaken. Although proportions can be very different from actual cash costs, and therefore deceptive, yet the proportions give a very useful idea of the relative cost weights of the elements or inputs that go into land development and that very definitely affects people's accessibility to shelter in the urban environment. The significant point to note is the difference in the land cost proportions between single and multi-family housing. The proportion of land cost in multi-family or apartment housing is in the range of 3-8% (Denmark, Sweden, Norway, Nigeria (LEDB)). For single family housing (which in our context is synonymous with middle and higher income housing) it is often in the range of 10-20%. This implies that the use of land involved in apartment or multi-family structures minimizes per unit cost of land as more units of housing could be built on a given unit of land, although it has been

Table 6.10

THE WEIGHT OF LAND IN HOUSING COSTS

<u>Country</u>	<u>Land as Percent of Housing Cost</u>
Nigeria (LEDB) 1959-66	9-10% for single-family housing 4-5% for apartment or multi-family housing
Norway (1962)	8%
Denmark (1962/63)	10-12% for single-family houses in suburbs 3-5% for apartment housing
Sweden (1962)	6.3% for multi-family dwellings 10-15% for single-family housing
Spain (1965)	15-20%
France (1965)	20%
U.S. (1962)	17.5%
Israel (1965)	35% for privately owned lands 9-13% for publicly owned land

Source: The figure for Nigeria is derived from Table 6.9. The European, U.S., and Israeli figures are from U.N. Proceedings of the Seminar on the Supply, Development and Allocation of Land for Housing and Related Purposes (Paris, France, 28 March - 6 April, 1965), Vol. II, p. 216.

generally accepted that higher densities provide lower costs only when land is very expensive.²⁹ Apartment houses, however, permit greater economy in the use of land than detached single family dwellings,³⁰ -- offering "greater economy of land, of street and utility improvements and of construction materials because of fewer end walls, etc."³¹ Further comparison of LEDB raw land costs with same such costs in other developing countries (Table 6.11) shows the proportion of raw land costs for an LEDB low income housing compare favourably with same from other developing countries' major cities -- 5% for LEDB and 10-12% for cities in other developing countries; but land servicing for LEDB low-income housing developments are comparatively on the high side (15%) as compared with an average of about 6% for other developing countries. The basic construction costs are all within the same range in all the countries represented in Table 6.10.

But on moderate income housing, while the proportion of basic construction costs again remains in the same range in all the categories, the LEDB shows higher raw land cost proportions and very much higher proportion of land servicing costs. One of the reasons for the increasing unit infrastructure costs may be the tendency to provide services incompatible with the general level of development and income levels in the society. Taking the LEDB freehold building plots schemes alone, site preparation accounts for 50-70% of the cost (see Table 6.9).

²⁹Stone, P.A.: "The Economics of Housing & Urban Development" (Journal of the Royal Statistical Society, Vol. 122, Part IV (1959), pp. 418-483.

³⁰Colean, Miles L.: "The Factual Finding", American Housing: Problems and Prospects, N.Y.: Twentieth Century Fund, 1944, pp. 52-56.

³¹Ludlow, W.H.: "Urban Densities and their Costs: An Exploration into the Economics of Population Densities and Urban Patterns", in Urban Redevelopment: Problems and Practices, ed. by Coleman Woodbury, University of Chicago Press, 1953.

TABLE 6.11: COST OF BASIC CONSTRUCTION, LAND SERVICING AND RAW LAND AS PERCENTAGE OF TOTAL HOUSING COST FOR LOW- AND MODERATE-INCOME HOUSING IN SELECTED CITIES (1)

City	Housing Type	Low-Income Housing			Moderate-Income Housing		
		Basic Construction	Land Servicing ²	Raw Land	Basic Construction	Land Servicing	Raw Land
Mexico City	Single family	44.9 ⁴	9.3	45.8 ⁴	58.8	3.8	37.4 ⁴
	Multi family	79.9	6.3	13.8 ⁴	80.1	4.7	15.2 ⁴
Hong Kong ³	Multi family	68.1		29.4		n.a.	
Nairobi	Single family	64.5	21.5	14.0 ⁴		n.a.	
Bogota	Single family	69.5	12.2	18.3 ⁴	78.5	9.1	12.4 ⁴
	Multi family	91.5	3.8	4.7 ⁴	95.6	1.9	2.5 ⁴
Seoul ³	Multi family		n.a.		71.4	15.0	6.9 ⁴
Ahmedabad	Single family		n.a.		68.7	8.4	22.9 ⁵
	Multi family	84.1	8.6	7.3 ⁴	77.5	8.0	14.5 ⁵
Madras	Single family	48.1	23.0	28.9 ⁴		n.a.	
	Multi family	76.9	12.4	10.7 ⁴	80.4	6.1	13.5 ⁵

¹With individual toilet and services

²Includes utilities and land development

³Percentages do not add up to 100 because administrative costs have not been included

⁴Located at the periphery of the city

⁵Located inside the city

Sources: C. Araud et al., *Studies on Employment in the Mexican Housing Industry* (Paris: Organisation for Economic Cooperation and Development, 1973); Hong Kong Housing Authority; National Housing Corporation, Kenya; DANE and Caja de la Vivienda Popular, Bogota; Korea Housing Corporation; Gujarat Housing Commission; and Tamil Nadu Housing Board.

By far, then, the most important factor in the price of LEDB building plots is the cost of site preparation. But usually, one would expect raw land costs to have a far stronger effect on the cost of developed plots than do the costs of preparation and servicing, because unlike cost of most municipal services, which are only weakly related to lot or plot size, raw land costs are proportional to area,³² i.e., dependent on lot size or net residential density than on either the costs of municipal services or other lot improvements.

The relatively very high proportion of site preparation and servicing costs on the cost/price of LEDB freehold plots, therefore, reflects rises in the unit cost of developments, and much more certainly, reflects increases in the Board's perceived required standards -- which apparently is out of tune with the level of development of the society, having regard to income levels. The natural concern, therefore, about the high costs of developed (serviced) plots is that these higher costs, insofar as they are reflected in the prices of these plots, might be depriving large numbers of people of good accommodation through their inability to afford such plots or houses that reflect these costs.

In most other countries, much of land policy is concerned with 'controlling' and keeping down the price of land. This had not been the direct objective of the LEDB. Rather, it can be said that the Board had been an agent of land price increases through substantial expenditures on land preparation and servicing which served to raise its land prices, and also through the external effects of these, other lands in the proximity of its projects became higher valued.

³²In such a study in the San Francisco-Oakland Bay area of the U.S., Sherman Maisel found that 63% of the price of a typical lot in 1963 (around the same time as LEDB schemes under review), was accounted for by raw land costs and that increases in the cost of raw land accounted for 52% of the increase in the cost of developed lots between 1950 and 1962 (Maisel, 1963, Table 4, p. 226).

SUMMARY

While the bulk of the land in Lagos remained in private communal hands, the Board certainly controlled a substantial proportion of urban lands in the metropolitan area. It accounted for about 11% of the annual land supplies to the urban land market, but the impacts of these supplies were limited by the character and type of the developments, as well as by the conditions which the LEDB required of the prospective beneficiaries. The costs of the Board's plots of land were generally high, owing largely to the very high site preparation costs incurred. It had been suggested that the LEDB site preparation costs could be reduced by about 10-15% through improved design and mass manufacture or production of component parts,³³ the improved design under reference would involve simpler rather than more sophisticated land equipment or standards. The Board probably accounted for some 30-80%* of all houses completed in the city of Lagos during each year between 1960 and 1970, but again, the impact of these on the housing problems were hardly felt because the character and type of the housing were for such a restricted and limited clientele for whom the problem did not exist in the first place. They were generally single-family detached or semi-detached houses, which involved uneconomical use of land. In a way, the Board's acquisition of lands could be considered a withdrawal of land from the general residential land market, given the very limited impact of such lands on the existing urban land and housing problems when used for single-family developments.

³³ Otto Koenigsberger, et al., op. cit., p. 162.

*It has been suggested that this proportion is that high because of possible under-registration or non-registration of completed houses by large segments of the private sector, which has the effect of exaggerating the proportion accounted for by the Board.

With respect to land prices, comparisons are very difficult, as much is unknown in the private communal sector. However, indications are that land prices are lowest in this sector, higher in the public sector (LEDB plots) for reasons of quality, amenity, and security and highest in the small private sector real estate market because in this market, foreigners and other Nigerian 'strangers' who for social, cultural, or political reasons are excluded from the private-traditional/communal market and from the LEDB market, find their only market. The clients of this market have very little if any choice, which explains the high price level. Prices here are more than double the LEDB prices and many times over those in the private/traditional-communal market. Urban land supply does not only have to do with the magnitude of physical output or availability of urban land. It also has to do with, more importantly, the accessibility of these to urban residents.

From the character and type of LEDB land supplies, and from the criteria and conditions for beneficiary allocation, the LEDB supplies were as constrained in scope, if not more, than were the traditional communal sources which it was meant to improve upon. Its building plots were, however, obviously of higher quality and amenity levels. But permanent improvements in quality are obtained only after the problem of quantity has been largely solved -- that is, when the production of new houses has caught up with the needs of a growing urban population -- which suggests the use of 'conservative therapy' rather than 'radical surgery'* , as a more permanent and effective approach.

*Patrick Geddes on India, 1928. 'Conservative therapy' refers to small, gradual or incremental but sure improvements in housing quality and one at a time, taking into consideration the incomes of the person or persons involved, and their cultural disposition to appreciate and maintain the given quality. 'Radical surgery' refers to sudden changes in the living conditions of a people, by the imposition of a high standard to which such people are not used to and may not be able to maintain, given their income levels and training.

CHAPTER SEVEN

**THE CHARACTER OF LEDB LAND AND HOUSING DEVELOPMENTS
AND THE CRITERIA AND PROCESSES OF THEIR ALLOCATIONS:
DISTRIBUTIONAL IMPLICATIONS FOR ACCESSIBILITY AMONG INCOME GROUPS**

Chapter 7

CHARACTER OF LEDB LAND & HOUSING DEVELOPMENTS AND THE CRITERIA AND PROCESSES OF THEIR ALLOCATIONS: DISTRIBUTIONAL IMPLICATIONS FOR ACCESSIBILITY AMONG INCOME GROUPS

The last chapter assessed the impact of LEDB sources on the urban land and housing market in Lagos. It noted that that source accounted for about 10-11% of annual land and housing supply during the relevant periods, and that the bulk of the land still remains in communal hands. The chapter also noted that while the prices for LEDB land and housing were higher than the "traditional" land market prices, they were lower than the prices for land in the "commercial real estate market" of the city. The relatively higher price of LEDB land and housing over the "traditional" land market prices was understandable on grounds of their better quality servicing and development, and it was noted that site preparation costs made up on the average a considerable 50-70% of LEDB land costs/prices, as the Board is authorized to reflect all these costs on its leasehold and sale prices of the property concerned. "In determining the rate to be fixed for leasing or selling," states the enabling Lagos Planning Act (Cap. 95), "the Board shall take into account the costs of all works, development and overhead expenses for the land being leased or sold." This explains the Board's pricing principle except in cases where Government subsidies are as a matter of policy applied.

It was explained that the yet small commercial real estate market caters mainly to 'strangers' (who might be non-Lagos Nigerians) and commercial firms who otherwise find it very difficult to obtain land because of the customary or traditional land tenure constraints, and therefore have to pay higher to overcome those constraints

through the few real estate firms. It is recalled that among the many advantages said to be inherent in public land ownership and management are that it facilitates easier access to land and housing by all segments of the society's population, and that it increases the efficiency of land use and development. In this chapter, it is intended to examine the distributional aspects of the Board's land resources, and the efficiency or otherwise of this distribution, as well as the efficiency or otherwise of the Board's modes or forms of land development practices.

The way in which urban land and housing markets and Government interventions in them have determined housing alternatives for urban residents in general, and the urban poor in particular, is analyzed and discussed. The character of the Board's outputs of land and housing is examined along with the criteria and processes of allocation of the Board's plots and houses to beneficiaries. The implications of the allocation criteria and processes (which define who benefits from LEDB lands and housing) on the distributional accessibility of the Board's land resources among income groups, and its impacts on the resolution of the urban land and housing problem is also analyzed. The implications of the Board's pattern of beneficiary distribution on the pattern of urban land wealth distribution and the general income distribution structure is also discussed.

It is concluded that the Board's beneficiary distribution of its land resources was significantly regressive and the forms of development involved significant inefficiencies in the use of urban land.

7.1 Criteria and Processes of Beneficiary Allocation

Generally, one or all of three factors would define who (what type of people)

benefits from LEDB schemes in general , or from any particular scheme:

(1) The Board's or Government's policy objective in a given scheme:

Certain schemes were designated for certain classes or groups of people — low income, workers, middle and high income, resettlements, senior civil servants, as may be the case. Whether the actual distribution or allocation strictly goes to the intended beneficiary group and how much is another matter. A not surprising experience is that there is always a wide gap between the official stated objective and the actual application of those objectives, particularly with respect to low income housing beneficiaries.

Table 7.1 shows some of LEDB residential schemes (both housing schemes and building plots schemes). Sometimes the objectives of a given scheme or project are not explicitly stated with respect to the intended beneficiary group, but they become clear from the statements and actions of the Board as each scheme progresses and becomes completed. The objectives of each scheme given in Column 4 of Table 7.1 are taken from the various LEDB publications, particularly various Annual Reports. A careful examination of these, along with the acreages involved in each, gives a fairly good idea of beneficiary distribution among income groups. Taking the schemes and their stated objectives broadly, 3,768 acres (92.4%) (Apapa, Victoria Island, S.E. and S.W. Ikoyi, and Freehold Housing and Land Schemes, numbers 5-9 on Table 7.1) were addressed to the middle and high income groups (variously referred to in LEDB publications as "middle class and better class", "persons who can never be considered for any future subsidized schemes", "the high income", "Senior Civil Servants". This group constitutes between 5-10% of the urban population and has

TABLE 7.1: LEDB: Target Beneficiary Groups in Public Urban Land Projects

<u>Scheme or Project</u>	<u>Size in Acres</u>	<u>Type of Scheme</u>	<u>Goal of Land or Housing Allocation (or Beneficiary Target Group)</u>
Apapa Estate	650	leasehold building plots	Sundry persons
Lagos Central Planning Sch.	70	slum clearance	as Return or reconvey much of the land as possible to the original owners after slum clearance & redevelopment*
Surulere Rehousing Scheme	120	rehousing scheme	To provide accommodation for persons displaced under the Lagos Central Planning Scheme (above)
Lagos Housing Scheme	56	workers housing	Intended to accommodate low income group workers* (p. 22)
Metropolitan Housing Scheme	63	workers housing	Intended to accommodate low income group workers* (p. 22)
Land (building plots) Scheme	600	freehold building plots	Sale of freehold building plots to the general public to be purchased by anybody who can pay for the land (p. 24) and can develop it within a reasonable time.
Freehold Housing Sch. Surulere	390	freehold housing	To meet the continuous housing demand in Lagos for those persons who can never be considered for any future subsidized schemes.* (p. 25) Provided the much needed opportunity for the people in the civil service and those in the public sector to buy homes of their own"**.*
S.E. Ikoyi	270	building plots	"For better class housing development"* (p. 26)
S.W. Ikoyi	258	building plots	"The scheme provides developed land for both middle class and better class residential development"* (p. 26).
Victoria Island	1,600	building plots scheme	"Primarily to Senior civil servants"*** (p. 87). For the high income and high social status persons, mostly residences for diplomats, oil executives and other industrialists.**

* LEDB: Annual Reports and Account 1957/58.

** Lagos State Development and Property Corporation: Towards a Better Environment

*** Report of the Tribunal of Inquiry into the Affairs of the LEDB, p. 87.

devoted to it some 92% of the land and housing resources of the Board.

The remaining 310 acres (7.5%) was addressed to the low income, though strictly speaking the displaced people from the Lagos Central Planning Scheme were not all of low income, nor were all of those who secured accommodations in the schemes designated as low income. Even then, as has been rightly pointed out by Aribia,¹ "The problem with low income housing schemes is that they often cater for employees of governments and sometimes industry, while leaving out those sections of the population who though equally poor, are self-employed as petty traders, way-side mechanics and such other occupations."

(2) The second factor that influenced the beneficiary distribution of the Board's land and housing resources was the criteria of allocation for such resources. While this factor is closely related to the first (stated objective for the scheme), they could differ in actual application or implementation. The criterion of allocation defines what category of persons that should benefit from a given scheme and ostensibly all persons not within that category would not benefit from the scheme. This, however, only proved a theoretical guiding principle, as the criteria were often "more honoured in the breach than in the observance." Some proportion of S.W. Ikoyi Land and Housing Scheme, for example, was stipulated to be allocated to the people affected (displaced) by the Central Lagos Slum Clearance scheme, but in practice, eleven of the 24 houses were allocated to persons who were not affected by the slum clearance scheme,² and the 243 plots previously marked for this purpose were

¹ Oberu Aribiah: "Social Aspects of Urban Rehousing in Lagos" (Lagos Notes and Records, Vol. III, No. 2, Jan. 1972, pp. 41-42).

² Report of the Tribunal of Inquiry into the Affairs of the LEDB, Appendix VB, p. 248).

withdrawn and re-allocated to Senior Civil Servants.

Specific provisions for the poor were made in some of the housing schemes by designating some of the Board's schemes as low cost housing schemes. One of these officially designated low cost houses for the low income was the Lagos Housing scheme (1955) which had about 1,368 low cost houses. The insufficiency of supplies of houses in this category and the consequent subjectivity in the choice of beneficiaries in this scheme (as in most scarce commodities), provides a good illustration of how easy it is to sidetrack objective criteria during the pressures of implementation, and thus the sources of the divergences between intended policy goals, and their final outcome in practice.

The criteria of tenancy in these subsidized low income houses as laid down by the Government and the Board, included the conditions that the prospective tenant applicants have:

- (i) Incomes not exceeding £300 (about \$1,000) per annum. This income was presumably considered the upper edge of the low income group at that period;
- (ii) At least five years continuous employment in the city. This would exclude the unemployed and recent migrants, and was possibly meant to discourage the migration of the unemployed into the city to exacerbate the already bad situation;
- (iii) Not less than 10 years' residency in the city of Lagos at the time of application. It is likely that significant public housing (as this could encourage further migration into the city) and ostensibly public policy would not want to do anything to encourage this trend. Thus, conditions (ii) and (iii) were ostensibly designed to discourage rapid migration into the city -- a policy of doubtful effectiveness, as migrants did not depend on such housing for migration decisions, and such houses at any rate were too few to influence such movements;
- (iv) Size of family in relation to existing living conditions of the applicant.

The larger the size of the family, the better an applicant's chances of getting into this low cost housing scheme; and

- (v) Implicitly assumed or understood is that the applicant must be a 'worker', which in that context means a Government worker (civil servant) or at least 'formal' sector worker, as opposed to the self-employed or 'informal' sector worker, who, by implication, is not eligible.

As in most of the designated low income housing schemes, however, applications were over-subscribed. Some 4,400 applications were received for the available 1,368 houses. This meant that more of the resources were wanted than were available at the privileged prices or conditions. Faced with this, the LEDB adopted a "points" system of priority, and the priority awards were then determined by: (i) the length of continuous employment in the city; (ii) the length of residence in the city; and (iii) size of family in relation to the existing living conditions of the applicant. The up-shot was that the income limit criterion was side-tracked, presumably because too many people qualified under that criterion; but then, many more people became theoretically eligible under the revised three criteria used in the "points" rating system. Other people, not of the low income category, could fit into the latter three rating and awarding criteria, including people with middle and moderate income means; and even the methods of determining the veracity and authenticity of those claiming to meet these criteria remained very open to question. Because low income designated housing was generally highly subsidized by means of capital grants from the Government to the Board, there was always heated competition to get into them, by even the middle income persons, and with the objective income criterion dispensed with, or at best relegated to background, subjective criteria and the personal interests of those doing the allocations prevailed. The result was

that many of those who ultimately benefited from the so-called low cost houses of-
ficially set aside for the low income people, were in actual fact not of the low
income. The Surulere Rehousing Scheme (No. 3 on Table 7.1), for example, was
meant to rehouse at subsidized rent, people who had been displaced by the Central
Lagos Slum Clearance Scheme (No. 2 on Table 7.1), but the Board allocated many
of those houses to persons not affected by the displacements, on the pretext that,
"these tenants would pay economic rents."³ Using the pretext of securing economic
rents, some officials of the Board helped into these houses, their friends and relations
who, to confuse the public, are charged so-called "economic rent" of £4.8 for a
two-roomed house, instead of the subsidized rent of £2.5 per month, for the first
few months, but are reduced to the subsidized rent later on,⁴ even though these il-
legal tenants might be of the middle income group. Likewise, some lands in the Lagos
Central Planning Scheme were not reconveyed to their original owners as laid down
by the law governing the scheme, but were rather sold to other people by the Board
because, according to the Board, the original "...owners were not prepared to pay
the re-purchase price of these plots". Thus, the old truth applies, that scarcity,
competition, and discrimination are inseparable, and where they exist, new elements
(criteria) are introduced for discriminating among the competing claimants. The
result in such cases is that the officially stated goals are ignored and lost.

(3) The third set of factors that determine the beneficiary distribution con-
figuration of the Board's land and houses is the Board's conditions for allocation and
the terms of the covenant that the prospective beneficiary is expected to fulfill.

³Ibid., p. 160.

⁴Ibid.

After land for residential schemes has been acquired, surveyed, and mapped, the building plots are demarcated, prepared, and serviced with the necessary facilities. Then public notices are published inviting members of the 'public' who are interested to apply for allocation of the plots.

Ostensibly, any member of the public can apply and be allocated a plot, but in practice the conditions and criteria of allocation definitely exclude by implication certain economic groups from getting land.

The prospective applicant is required to fill out an application form in which among other things he is required to state:

- (i) What size of building plots he is applying for;
- (ii) What type of building he wants to put up on the land and whether he could build houses of a particular value if requested to do so by the Board;
- (iii) The particular plot or location of plot in scheme area that he wants;
- (iv) Within what time he would be able to develop the land;
- (v) His income and sources of finance for the proposed building;
- (vi) His occupation, etc.

Generally, in selecting applicants to purchase or be allocated plots of land or houses in schemes that are not specifically designated 'low income' or subsidized as such, the Board is principally guided by ability to pay for the plots or houses and ability to develop the land within a reasonable time. The rationale for this has been that some of these schemes had been financed from short-term loans from the commercial banks which have to be repaid within very short periods of time,

and that the best means of ensuring re-payments of the loans within the stipulated periods was to sell the plots of land or houses to those who can pay for them so that these costs could be quickly recovered.

The conditions for being allocated a plot by the Board, therefore, generally included among other things:

- (a) The ability to make a down payment of from 25% to 100% of the cost of the land or housing;
- (b) The applicant be preferably a wage or salary earner; it helps further if the applicant is a Government employee or an employee of a Government agency. This is because the salary or wage earner, particularly in Government, is more likely to be eligible for a loan credit for housing. The mortgage and other housing credit facilities in the country are designed for the benefit of wage or salary earners because most of these are Government-sponsored or guaranteed.⁵ Moreover, in a country where record-keeping is as yet an exception rather than the rule, the incomes of the self-employed or 'informal' sector persons are not known, and can hardly be guessed. Tracking such persons in the event of a default is a near impossible task. The salary or wage earner, therefore, has the best known income 'track record' and it is easier to enforce re-payment of debts through his employers in case of default -- and so his better credit standing. This requirements of wage or salary-earning implies also that the large group of people engaged in self-employment are virtually excluded from the available public or quasi-public financed housing development credit facilities -- the possible exceptions to this being those self-employed persons who are wealthy enough to make complete or near-complete down-payments for the land or housing allocated -- that is, those who require no credit.
- (c) The applicant's current and regular monthly salary or wage and other incomes must be at least four times the amount of the monthly installment re-payment of the loan which might be applied to the purchase of the plot of land or housing. Often times these loans are operated by the Board itself. This condition is designed to ensure that the applicant can pay the monthly installment on the land or housing and

⁵ See also Table 6.45 of Chapter 6.

still have enough left to take care of his family or household expenses.

- (d) The applicant must be under 45 years of age, since he is required to be able to amortize the whole loan before age 55, which is the official retirement age in the country.

An applicant who is over 45 years of age, or is of low income, or is not a wage or salary earner, requires a guarantor with acceptable collaterals, which in most cases is simply either not available or are not acceptable to the Board. The very limited amount of credit available to would-be low income land and housing purchasers or home builders, therefore, contributed powerfully to limiting their access to the urban land and housing opportunities offered by the Board.

The criteria and conditions of allocation of plots or housing to prospective applicants is summed up in the declaration which the Board requires applicants to sign with their applications. It reads:

I wish to purchase a freehold plot of land with the details and conditions set out in this application...I understand that if I am offered a plot and accept the offer, I must pay the full purchase price within 30 days of the date of offer. I understand and undertake to commence building on the plot within six months of its being allocated to me and I will not sell the plot, or any part thereof, without the written authority of the Board. I understand that in the event of my not complying with these conditions, the allocation may be withdrawn from me without notice, or if a conveyance has been executed, legal action may be taken against me to enforce surrender of the plot.

In fact, in most of its freehold housing schemes, the Board required applicants to either (i) pay the full purchase price in cash, or (2) be sponsored by the "African Staff Housing Scheme" of the federal and state Governments (which, as had been pointed out, implies that the applicant must have to be a civil servant, as only

civil servants are eligible for this scheme), or (3) obtain loans from the Nigerian Building Society or any other qualified loan association, which again has essentially the same eligibility conditions as (2). Most of these loan associations are guaranteed by the Government, for which only civil servants are eligible. Referring to the type of people who benefit from its land and housing schemes, for example, the Board pointed out that,

By far the biggest customer are the civil servants, who receive 100% loans from the Federal Government African Staff Housing Board; and in this respect, this Department (the Estate Department of the LEDB) works in close cooperation with the Ministry of Establishments.

The N.B.S. is another financial institution where civil servants and others receive loans⁶ for the purchase of the Board's lands. In addition to the manner of payments for the Board's lands, the Board on its letter of allocation stipulates the conditions (covenants) and specifications to be complied with by the allocatee, conditions some of which further constrain or limit the beneficiary types and define the form and type of development required by the Board. Some of these conditions include provisions that the allocatee:

- (a) Pay all taxes, rates, development charges, duties assessments, or outgoings of whatever description that may be imposed, charged, or assessed at such rate per centum as may seem to the lessor (the Board) or seller expedient and reasonable on the land or the buildings thereon or upon the occupier thereof or on the proceeds of transfer, assignment or sale of the demised property. These rates, taxes, and charges are subject to periodic upward revisions in the case of leaseholds.

⁶ LEDB: Annual Reports and Accounts for the Year 1965/66, p. 22.

- (b) To fence and erect on the land allocated within two (2) years from the date of allocation, residential buildings sited and constructed in accordance with plans and specifications approved by the Board.
- (c) Not to permit any articles to be exposed for sale on the land allocated, nor to use or permit to be used the land allocated for trading or business purposes. This presumably is to prevent subsidiary use of residential buildings (which is common in Nigeria), and therefore to prevent slumification.
- (d) The offer of the plot of land or house can only be accepted by the allocatee and he is not to assign, sublet, or otherwise part with the land except when developed, and this with the consent of the Board. The consent may be given with new or additional conditions imposed by the Board. This is supposedly to prevent trafficking in the Board's lands in a way to defeat the objectives of the Board and public policy.
- (e) The Board must be given the first option to re-purchase the property on the developed plot, if it is to be sold.
- (f) Not to permit any person other than the lessee, his family and domestic servants to reside upon the land allocated. This implies that only single-family, ostensibly owner-occupied houses are allowed to be put up on such Board-allocated plots; rental apartments, therefore, are not allowed.
- (g) Only first-class development, the building plans and specifications of which must be approved by the appropriate authorities, will be permitted.
- (h) That if the allocatee shall absent himself from Lagos for a period exceeding three months, he shall appoint an agent whose name shall be notified to the Board prior to the departure of the lessee and who shall be responsible for the due performance of all the obligations of the allocatee under the lease and the Board may require such appointment to be by power of attorney. This clause is ostensibly to prevent absentee landlordism, and ensure that only those who live permanently in the city benefit from the allocations.

From the foregoing conditions for allocation, it is clear that a prospective beneficiary has to have a fairly strong resources base to meet these conditions and qualify for allocation. A greater proportion of the Board's schemes were specifically designed for such people with the ability to pay which may be reasonable ordinarily. The point in this case, however, is that the Board's or public lands are by definition

subsidized and this beneficiary class of people were proportionately very small in relation to the rest of the urban population, and if the criterion of access in public ownership and management is that of the "highest bidder wins" or "ability to pay", then public ownership and management may be no better than the private market system in this respect, and certainly not the traditional system -- all of which it seeks to replace. The proportional size of the Board's schemes devoted to the high and middle income segment of the population and the proportion of resources devoted to these schemes were disproportionately very high. An examination of the income and employment structure of the general population in the next section shows that this "middle and high income" class for whom over 60% of the Board's schemes (in both size and resources costs) were devoted constituted less than 10% of the urban working population of Lagos.

From the point of view of the resolution of the other objective problem -- the amelioration of the urban housing situation and improvements of its quality -- the various restrictive conditions imposed on those who got the plots with respect to the type of development, militated against the achievement of these objectives. The constraints placed on type of development would tend to constrain the maximizing of housing units production, which could have helped relieve the acute housing deficit, which in turn would provide the leverage for improvements in the quality of housing and that of the general urban environment.

7.2 Lagos: Employment and Income Distribution Structure

Lagos had grown up as both the administrative capital and as the industrial and commercial hub of Nigeria. The rate of in-migration to it is a result of its po-

tential for employment, and its housing and other social problems are a result of this concentration of people.

The employment structure consists broadly of civil servants, industrial and commercial workers, and a host of the self-employed -- mostly traders and tradesmen of one commodity or another. Table 7.2 shows the occupational structure of Lagos in 1950 and in 1963, according to the census figures of those years.

In either year, craftsmen, production workers, and labourers are the largest group -- 45% in 1950 and 33% in 1963. These are followed by sales workers and clerical workers. The professional, technical, administrative, and managerial groups constitute about 5-6% of the work force. There was no significant agricultural population -- only about 2.4% -- the only large Nigerian town without a significant agricultural population.

A 1961 Lagos Housing Enquiry also surveyed the employment in Lagos by type of employers (Table 7.3). It reflected the characteristics of Lagos as the national administrative capital, as well as the industrial and commercial hub of the nation. Approximately 38% of adult males employed in establishments of ten or more employees were Government or quasi-Government employees, and approximately 30% were employed in industrial and commercial establishments. The self-employed were the next largest group, with about 19% of the adult male employees. These were composed mainly of traders and other service and craft workers. If pensioners are added to the self-employed category, the proportion of the self-employed will rise to approximately 25%.

TABLE 7.2 : Occupational Groups in Lagos 1950 and 1963

Occupational Group	No.	1950*	No.	1963
		% of Total		% of Total
Professional, technical & related ^a	2,836	3.9	15,692	5.53
Administrative, Executive & Managerial ^b	1,560	2.15	4,188	1.48
Clerical	9,953	13.7	41,811	14.74
Sales Workers (traders)	6,678	9.2	73,780	26.01
Farmers, fishermen, hunters, loggers, and related	1,788	2.5	6,651	2.34
Miners, quarrymen & related	-----	----	235	0.08
Transport & communications ^c	3,326	4.58	19,360	6.82
Craftsmen, production workers & labourers	32,850	45.3	92,583	32.63
Service, sport & recreation ^d	10,643	14.68	26,632	9.39
Unspecified or Inadequately described	2,859	3.9	2,773	0.98
	72,493	100.0	283,705	100.00

* 1950 was for gainfully employed males only. 1963 was for both male and female.

^a Includes scientists, University lecturers, artists, etc.

^b Includes also traditional Chiefs, diplomats, directors, managers, and working proprietors

^c Includes engineers, canoemen, chauffeurs, transport managers, etc.

^d Includes policemen, hotel managers, cooks, domestic servants, wardens, photographers, hospital workers, cleaners, etc.

SOURCE: Tabulated from Population Census of Lagos 1963 (F.O.S. Lagos 1963).

Table 7.3: Lagos: Employment of Adult Males 15 Years and Over, 1961

<u>Type of Employer</u>	<u>No. of Employed Adult Males</u>	<u>% of Total Adult Males</u>	
Federal public service	22,200	16.9	} 38.3
Public corporations	25,500	19.4	
Lagos Town Council	2,700	2.0	
Industrial/Commercial firms	39,850	30.3	
Voluntary Agencies	3,250	2.5	
Self-Employed and those employed by businesses of less than 10 employees	25,050	19.1	
Students	5,600	4.26	
Unemployed (including the aged)	7,250	5.5	
TOTAL	131,400	100.0	

Source: Prepared from "Report on the Lagos Housing Enquiry, 1961 (Federal Office of Statistics, Lagos, 1962).

As Table 7.2 on occupational groups shows, only 6% of the work force are in the professional and technical occupation group. This group received between ₦2,000 and ₦ 4,000 (\$6,000-\$12,000 approximately) per annum in the early 1960's. A relatively small middle class earned between ₦ 400 (\$1,216) and ₦ 800 (\$2,432) per annum, and the much larger class of low paid (low income) workers earned between ₦ 120 (\$365) and ₦ 400 (\$1,216) per year. The ratio of the disparity in income between the upper and lower income classes was approximately 20:1.*

Table 7.4 depicts the full income structure of the population of Lagos in 1961-62. The mean income per month in 1961-62 for income-earning adult males was ₦ 18.2 (\$56.00). This worked out at approximately ₦ 218.0 per annum (\$663.00). This income reflected basic income (wages and salaries) plus over-time pay. Women were ostensibly not widely employed in income-earning occupations at the time, so that if they were taken into account in these computations, the average monthly income of about ₦ 18.2 (\$56) would in all likelihood have dropped significantly below that figure.

This income enquiry also showed that 95% of adult males employed in large firms earned below ₦ 570 (\$1,733) per annum, and 58% earned below ₦ 210 (\$638) per annum.

Given these facts, if a maximum of ₦ 400 (\$1,216) per annum were assumed to be the upper limit of low income at the time (which amount in actual fact was considered a middle-income level at the time), it meant (based on Table 7.4) that 91,000

*The comparable ratio in London at the time was 8:1. (Source: Report of the Working Party on Statutory Corporations and State-owned companies; Appendix II: Analysis of Government and Corporations Salary Structure, p. 48, Lagos Ministry of Information, 1966).

Table 7.4: Lagos: Basic Income Distribution Structure

Income £ p.a.	A		B		C		Total No. of Persons
	No.	Estimated Total Income £ '000	No.	Estimated Total Income £ '000	No.	Estimated Total Income £ '000	
0	300	--	1,600	--	10,900	--	12,800
Under 90	6,900	400	8,100		450	30	15,450
90 - 150	16,400	2,000	8,100	1,000	700	80	25,200
150 - 210	13,200	2,400	1,800	300	100	20	15,100
210 - 270	9,300	2,200	1,900	500	350	90	11,550
270 - 390	9,100	3,000	1,700	600	200	70	11,000
390 - 570	5,100	2,400	800	400	150	70	6,050
570 - 810	1,800	1,200	500	300	--	--	2,300
Over 810	1,200	1,200	500	500	--	--	1,700
Total	63,300	14,800	25,000	4,100	12,850	360	101,150.
Avg. Income Per Month	£ 19.5		£ 13.7		£ 15.4*		

- A: Employed in Federal Public Service, by a Public Corporation, by Lagos Town Council, by a Voluntary Agency or by a Commercial Firm employing 10 or more persons
 B: Other Employees and Self-employed
 C: Other adult males
 * Those with an income

Source: Federal Office of Statistics, Lagos, "Lagos Housing Enquiry". (1961).

persons out of a total of 101,150, or 90%, were in the low income group. The middle income group people at the time were people who earned between ₦ 400 and ₦ 800 (\$1,216-\$2,432) from regular wages and salaries. Only 8,350 persons out of a total of 101,150, or 8.2%, were in this group. Only 1,700 or 1.6% of the work force earned over ₦ 810 (\$2,500 approximately).

Chart 7.1 more succinctly brings out the income distribution structure of the city. The distribution is extremely positively skewed with the modal income group being the ₦ 90-150 (\$275-\$450) income group. The median income was ₦ 194 (\$590) which implies that there were as many people below this income (₦ 194/\$590) as were above it at that time; the maldistribution being underscored by the fact that the median income is lower than the mean income.

Since this survey was undertaken, however, there had been some wages and salaries revisions which had culminated in the doubling of wages and salaries. The lowest wage and salary now is ₦ 360 (\$1,100 approximately) (that is for those who are 'formally' and regularly employed). The official estimate of Nigeria's per capita income in 1975 was ₦205 (\$312 approximately).⁸

To have a full appreciation of their implications for accessibility to the Board's lands under discussion, these income levels and their distribution structure have to be seen in relation to the cost of living trends during that same period. Table 7.5,

⁷ Federal Office of Statistics: Urban Consumer Surveys -- Report on Enquiries into the income and Expenditure Pattern of Lower and Middle Income Wage-Earner Households in Lagos, 1950-1960, p. 2 (Published by the Chief Statistician, Lagos, 1963).

⁸ Federal Republic of Nigeria: First Report of the Anti-Inflation Task Force 1975, p. 14.

CHART 7.1

LAGOS: INCOME DISTRIBUTION STRUCTURE

1962

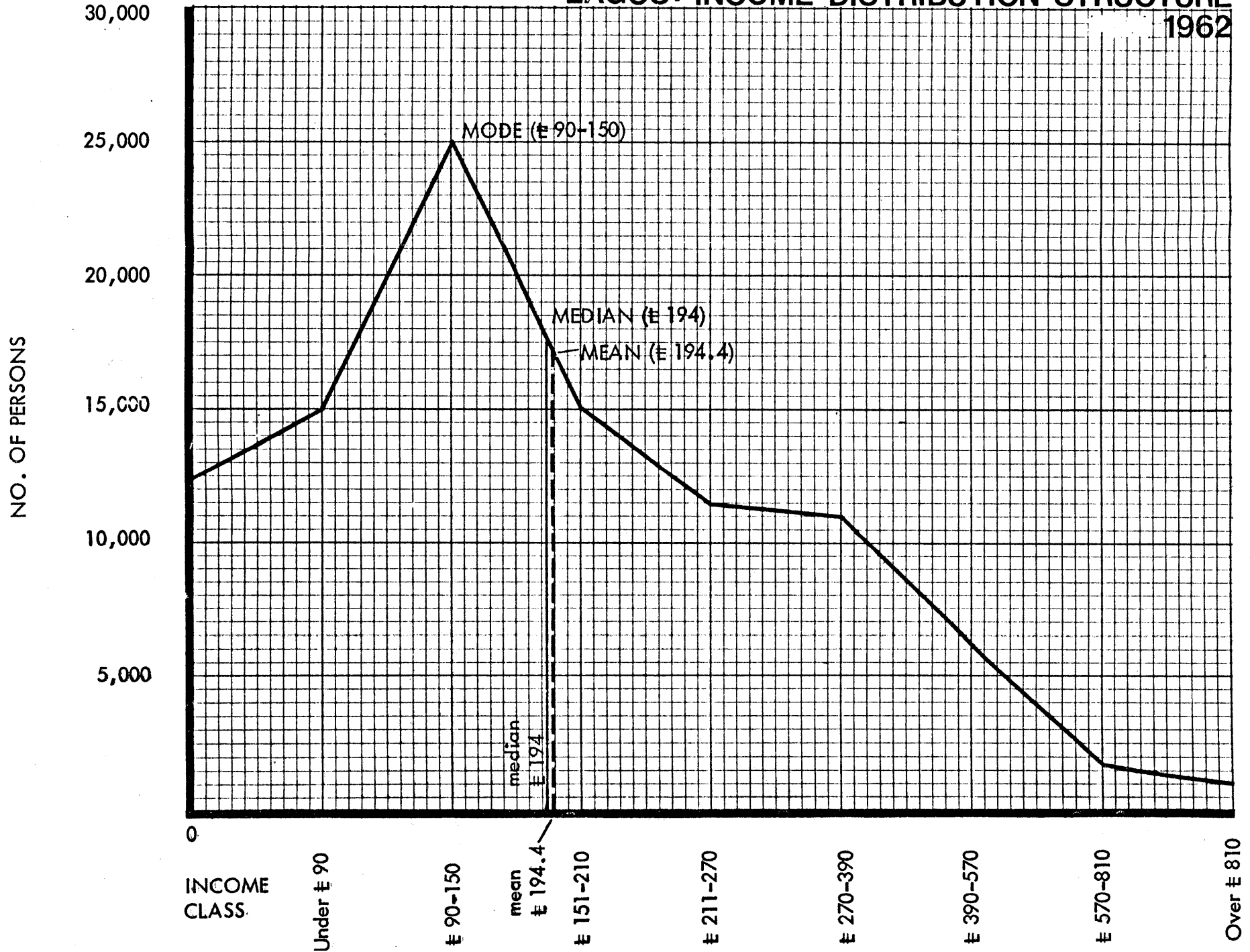


TABLE 7. 5.: Lagos Consumer Price Index 1966-1972

Period	All Items	Group Incides							
		Accommodation	Food & Drinks	Tobacco & Kola	Fuel & Light	Clothing	Other Purchases/ Household goods	Trpt.	Other Services
Weights	1.000	128	502	37	31	99	60	72	71
Yearly Average									
1966	127	128	131	91	120	128	121	127	128
1967	122	132	119	90	122	130	125	128	127
1968	124	137	117	91	124	136	130	134	127
1969	136	142	144	95	127	143	132	135	124
1970	154	147	166	106	145	155	145	142	125
1971	175	151	205	107	140	166	157	142	120
1972	180	155	207	108	144	171	164	156	121

Source: Federal Office of Statistics, Lagos: Digest of Statistics, 1972 (p. 72).

for example, shows the Lagos consumer price indices from 1966 to 1972. In addition to a consistent 4-5 point annual increase, the weighted yearly average for expenditure on accommodation was clearly and consistently above the weighted yearly averages for expenditures on all items throughout the 1960's. The same persistent annual increases in the cost of housing (accommodation) continued through to 1975 (Table 7.6) with no less than 2% points annual increase throughout the period. This is despite the generally low quality level of housing in Lagos. The average monthly rent per room (100 square feet) was 52 shillings in 1961 and today (1976) it is more than double that figure, at about 120 to 140 shillings. Increase in rents between the three year period 1957-1960 was 24%, an average increase of 8% per year. Rent as a proportion of income of the residents of Lagos had risen from about 13-15% in the late 1960's to about 30-40%⁹ for all income groups in the mid-1970's. The 1975 Report of the Anti-Inflation Task Force, noting that rents had moved in step with the general price level, if not faster, observes, however, that, "What has made rent such a sensitive issue is not so much its rate of increase, but rather the fact that it accounts for a substantial proportion of total consumer spending."⁹ This, of course, is due to the fact that there was and still is an acute housing shortage. Table 7.7 shows the rents paid for Federal Government rented accommodation in different areas of Lagos, in 1975. The relative economies in the different types of housing costs is evident from the table, i.e., the cost of apartments compared with the cost of duplex/bungalows and single family houses.

Although for various reasons the Government is often a high cost purchaser ("bad bargainer") as well as a high cost producer, these rents would still be considered

⁹ibid., p. 42.

TABLE 7.6 : Percentage Annual Variations in Consumer Prices (Lower Income Group) 1960 to 1975

Year	All Items	*Accommodation	Clothing	Drinks	Food	Fuel & Light	Tobacco & Kolanuts	Transport	Other Purchases	Other Services
1961	6.3	2.6	3.9	7.9	10.0	10.0	-0.5	1.0	1.0	1.7
1962	5.3	3.2	4.9	5.8	7.5	1.1	-0.5	1.6	1.7	4.2
1963	-2.8	2.6	7.7	0.0	-9.6	3.1	-1.1	2.6	1.9	8.6
1964	1.1	2.4	4.1	3.7	-0.9	-5.1	-0.9	3.0	3.1	2.7
1965	3.9	2.8	2.0	6.2	4.5	9.8	-11.2	11.9	2.0	3.2
1966	9.7	2.3	2.5	-1.9	20.5	0.6	-0.7	1.0	3.3	1.2
1967	-3.7	2.5	1.6	0.2	-10.4	7.2	-0.3	1.3	3.8	-1.6
1968	-0.4	2.4	6.1	9.9	-5.6	-0.1	1.6	4.6	9.7	0.2
1969	10.0	2.9	7.8	1.8	18.9	2.8	3.7	1.4	14.5	0.2
1970	13.8	2.9	8.2	1.9	23.5	9.5	5.3	8.6	12.4	3.6
1971	16.0	2.1	3.9	4.3	28.5	11.5	1.8	0.4	8.6	1.0
1972	2.8	2.3	0.4	4.0	2.5	10.3	3.9	3.8	2.7	2.8
1973	5.4	2.3	15.2	18.4	3.2	-2.4	-3.4	9.9	1.5	9.0
1974	13.4	1.8	16.8	1.2	15.7	3.8	7.0	30.5	12.7	9.5
Avg. 1969-74	10.2	2.0	8.0	4.5	3.2	5.7	3.5	7.8	7.5	3.7
Avg. 1961-74	6.8	2.0	6.1	4.5	10.1	4.4	0.8	5.8	5.6	3.3
Avg. 1975 (Jan.- June 1975)	4.7	0.5	2.6	5.4	6.0	8.1	0.3	1.9	5.9	0.8
% Contribution to avg. 1970-74	----	2.6	8.3	4.8	66.5	2.4	1.1	6.8	4.2	3.3

Source: Federal Republic of Nigeria: First Report of the Anti-Inflation Task Force, October 1975 (p. 80); Federal Ministry of Information, Printing Division, Lagos, 1975.

exceedingly high even when the additional cost arising from the Government's "bad bargaining" has been taken into consideration. The relevant point, however, is that what the Government pays for accommodation has impacts on the general rent level as builders and developers take the cue and prefer to rent or sell only to the Government, rather than to private individuals. Supplies, too, are adjusted by builders and developers to the type of houses or accommodations that the Government prefers to buy or rent -- duplex/bungalows and single-family houses. The resulting reduction or withdrawal of investments from apartment or rooming-type housing that the majority of people demand means that the Government is pricing the ordinary citizen out of the housing market and thereby further exacerbating the problem. This is much more serious because of the magnitude of housing demanded and rented by the Government to meet its present policy of providing housing for senior civil servants.

This very point, or its effect, was referred to in the World Bank Report¹⁰ some ten years previous. The Report noted then that,

Private investors preferred to build for high income¹¹ tenants who could afford to give them a good return on their investments. This inevitably led to a bias against low income groups. In the context of the Development Plan, this had an undesirable effect, i.e., it made

¹⁰ IBRD: Nigerian Economic Growth: Problems and Prospects, Vol. IX (p. 4) (November 29, 1965).

¹¹ A substantial proportion of these "high income tenants" in reference are senior civil servants and foreign consultants personnel and contractors for whom the government is obliged to provide housing. As had been explained before, these are not so much "high income" as such, as they are of "high social status", and because of their positions in the Government and in contractual relations in the Government respectively, they have their housing provided or highly subsidized by the Government. Because the government generally pays more for housing it rents, it tends to price out the ordinary people in the housing market.

Table 7.7

Annual Rents Paid by the Federal Government for Rented
Accommodation in Lagos in 1975

Type of Accommodation	Location	
	Mainland	Victoria Island
3 Bedroom Flats (Apartments)	₦1,400 (\$2,128)	₦12,000 (\$18,240)
Duplex/Bungalow	₦4,000 (\$6,080)	₦20,000 (\$30,400)
Single Family House	₦4,500 (\$6,840)	₦25,000 (\$38,000)

Source: Tabulated from the First Report of the Anti-Inflation Task Force 1975, p. 14.

the gulf between rich and poor more obvious than it had been in the past. It also tended to increase the demand for imports.

Given then this income and employment structure of the population as has been described, and given the cost of living trends, it is reasonable to assume that only a very small proportion of the Lagos urban population were in a financial position to meet the conditions of land or housing allocation by the LEDB, as outlined in Section 7.1. The next section summarizes this.

7.3 Pattern of Beneficiary Distribution Among Socio-Economic Groups.

Given the various conditions, specifications, and criteria outlined for accessibility to the Board's lands and houses and given the structure of income distribution and general cost of living levels and trends, inferences could be made with respect to what type and what proportion of people could benefit from the Board's land resources. They would in all probability be those than can afford to pay for these lands and can afford to develop them as required -- that is, the 5-6% of the population that apparently could financially afford to meet these conditions . On first thought, this sounds very reasonable, natural, and 'as it should be'. It makes sense to allocate lands to those who can afford to pay for them and can develop and build such land with a view to providing more housing supplies to the city, particularly rental housing for all segments of the urban population.

But from the foregoing conditions and criteria for qualifying for allocation and from the terms of the covenants to be complied with by allocatees, and from the character of the Board's directly constructed housing and other forms of its land de-

velopment, the conclusion is inevitable that LEDB land and housing were not oriented in the direction of increasing housing supplies to all segments of the urban population, nor were they oriented to the segment where the need was greater. About 90% of the urban population could not possibly meet the Board's specifications and criteria for the allocation of most of its lands and houses.

Table 7.8 shows the distribution of the Board's houses/housing units, and the costs according to the intended beneficiary socio-economic groups. Noteworthy is that 62% of the total housing expenditure was used to produce the least number of housing units -- 1,308 out of a total of 6,714 (approximately 20%). This 20% of the total housing units was produced on 62.5% (400 acres) of the total area (640 acres) involved. The moderate and low income units (1,638 and 1,368 units respectively) were produced on 9.8% (63 acres) and 8.8% (56 acres) respectively of the total area involved. As would have become obvious, most of the freehold houses by the LEDB (which claimed 62% of the Board's total housing expenditure of the period; 62.5% of the total land area devoted to the Board's housing and which produced only 20% of the total housing units) were meant by the Board for the high and middle income persons who could afford to pay for them. The Board explained that, "The Board, in pursuing this policy, does so in order to meet the continuous housing demand in Lagos for those who can never be considered for any future subsidized housing schemes."¹² This implies of course that the high and middle income group would have to be provided for first and now, lest they no longer be provided for in the future, whilst the poor who presumably are certain to be subsidized would have to wait. The underlying rationale for such reasoning is difficult to understand. More so when, in most of these housing schemes, there was

¹²LEDB: Annual Reports and Accounts, 1957/58.

TABLE 7.8: Distribution of LEDB Housing Units & Expenditures According to Beneficiary Income Groups

Income Group	Size of Area (Acres)	No. of Units	Total Cost (£)	Percent of Total Housing Program
High & medium income (freehold housing)	400	1,308	4,290,645	62.0%
Moderate income (Metropolitan scheme)	63	1,638	136,176	2.0%
Low Cost (low income)	56	1,368	1,155,184	17.0%
Rehousing*	120	2,400	1,357,979	19%
	640	6,714	6,939,984	100.0

Source: Calculated from Annual Reports of the LEDB 1957/58 - 1965/66

- * The Rehousing program which makes up 19% of the total housing program is a special case. Firstly, the people being rehoused were displaced by the LEDB, therefore had the obligation to re-house them, even though it was for a temporary period. And at any rate, these houses were not additions to the housing stock, as they were cancelled out by the greater number demolished by the Board. In fact, there was a net loss of housing stock in the demolition as all the 20,000 displaced could not be re-housed. Secondly, the 20,000 people involved included both the rich and the poor, and therefore it is difficult to disaggregate them into income groups. The 2,400 units are mostly one-room units.

no limitation as to the number of the Board's houses that could be acquired by a single person. The Board had argued that the loans for their development were secured from commercial banks and that, "It was in the interest of the Board to dispose of these houses as quickly as possible, so as to reduce the interest charges and to further the next phase of the programme."* The conditions or mode of payments were therefore designed to achieve this quick recovery of costs, and underscores the point made in Chapter Six, that the freehold mode of public land disposition favours only the economically strong who are able to make heavy down payments for the plots of land or houses.

Thus, during this period (1950-1970) the only housing projects designated low cost by the LEDB (which is not necessarily synonymous with 'low income housing') is the Lagos Housing Scheme, or what was called the Workers' Scheme. This cost £1,115,184, or 17% of the Board's total housing schemes during the period. Although this scheme was designated for the low income, however, and the criteria for its allocation specifically outlined by the Government, it was clear that many of the people who got them were not low income as defined by the criteria set out, which was not surprising, as it is a general experience that during extreme shortages of housing as have been perpetually experienced in Lagos (when all economic groups except the very rich suffer from the lack of housing), subsidized houses seldom go to those for whom they are intended -- being often covered by groups that are economically stronger. In this case, many middle-class families repurchased houses from poorer families who lacked the resources to make regular payments on their lots or houses or to pay for urban services, even though most of these property transfers were illegal under Government and the Board's regulations.

*Federal Republic of Nigeria: Report of the Tribunal of Inquiry into the Affairs of the LEDB, op. cit., p. 158.

The overwhelmingly high cost and therefore high income housing allocation bias of the Board was despite the stated policy of the National Development Plan of the period¹³, which had piously planned that for Lagos, "At least 24,000 housing units must be provided, of which 60% will be for low income receivers; 30% for middle income groups and 10% for persons in the upper income brackets."^{*} This meant 14,400, 7,200, and 2,400 housing units respectively. A comparison of this with Table 7.8 brings out the wide gap in theoretical public policy goal setting, between the 'expected' and the 'observed' (actual).

Freehold land (building plots) schemes were both as a matter of explicit policy and by implication, not designed for the other than the well-to-do. The natural presumption was that the poor would not have the resources to develop and build on such plots, the standard or specifications of houses that would be acceptable to the Board.

As had been pointed out earlier, the building plots schemes were designed to "provide developed land for both middle class and better class residential development."¹⁴ Policy in this regard (mode of distribution of urban land and housing resources among income groups) was also outlined in the First National Development Plan, which, recognizing the close inter-relatedness of housing and land policy, went on to set out a series of guidelines for tackling it as follows:

¹³ Nigerian National Development Plan, 1962-68, p. 94.

¹⁴ LEDB: Annual Reports and Accounts 1957/58, p. 94.

It is intended to develop land for lease at economic rates for upper income housing. For this purpose it is intended to auction Government-owned building plots, a reserve price of not less than half the present market value being fixed. By this method, the profit of land developments will become available for investment in further development.

For middle income housing, it is intended to supplement land development and leases at economic rents with the provision of adequate financing facilities at unsubsidized interest rates.

And for low income groups, it is intended to develop the land, and to turn out by mass-production methods shell houses at a cost which will allow individuals to purchase them at a price which is lower than the rent paid at present.¹⁵

While theoretically, this was a very sound line of approach to urban land and housing policy a great gap existed between policy statements of objectives of this nature and the actual practice or implementation of those stated objectives. The policy was being implemented as stated for the first two income groups -- upper income and middle income, which is not surprising because these are the groups that make and implement the policies. Table 7.9, for example, shows the distribution of a sample LEDB plots scheme at Apapa, among socio-economic (occupational and professional groups).¹⁶ Most, if not all, of these groups are what one would regard as the upper and middle income groups of the society in question.

¹⁵ Nigeria, First National Development Plan 1962-68, p. 94.

¹⁶ Occupational and professional grouping is used as a proxy for income group, as it is very difficult to obtain accurate money incomes of the individuals concerned. Occupational and professional grouping also has the added advantage of giving an indication of the social and political power and influence of those concerned, which in the context of the society under consideration, is more potent than mere economic power alone, and in this society, socio-political power and economic power could be mutually exclusive.

Table 7.9

Beneficiary Distribution of LEDB plots among Socio-Economic Groups.

Socio-Econ. (Occupational) Group	No. of Beneficiaries	% of Total
Legal* (Lawyers and Judges)	21	12
Medical Doctors	12	6.9
University Academics	2	1.1
Politicians and Civil Servants*	50	28.6
Other(Traders & Businessmen, Bankers and Traditional Chiefs)	30	17.1
Institutional/Commercial Firms	38	21.7
LEDB Officials	10	5.7
Classification uncertain	12	6.9
Total	175	100.0

Source: Calculated from the Report of the Tribunal of Inquiry into the Affairs of the Lagos Executive Development Board, 1966, Appendix VIII:"Apapa Plots: Allocation between 1-10-60 to 31-12- 65" (p.250); and Appendix III:"Rent Arrears in respect of Apapa plots as at 31-12-66", (p.231).

* These classifications are just approximate, for most of the time, these groups are not mutually exclusive. Most lawyers are politicians and most politicians belong to one other profession or occupational group, or the other. A more strict classification would show the political class with over 70% of the plots.

The Table shows the politicians as usual, the lawyers, doctors, and businessmen controlling the urban land resources. The same pattern of distribution is repeated in most of the Board's building plots schemes in Surulere, Ikoyi and Victoria Island; and in most of its freehold housing schemes (see Table 6.4). The LEDB or public land management seemed therefore, by use of public (state) legal instruments, to have been assembling land for the elite which they could not assemble for themselves.

As had been pointed out earlier, these LEDB plots, backed as they were by Government instruments, were of the very best titles in a society where genuine title to land is hard to ascertain. Coupled with this is the fact that they sold at less than the private real estate market prices -- the stated Government policy being "...to auction Government-owned building plots, a reserve price of not less than half the present market value being fixed."¹⁷ The result was a lot of trafficking in LEDB/Government (public) lands, as these professionals used their powers and influence to obtain such lands and re-sell them at enormous profits to themselves. The LEDB itself acknowledged at a point that the plots were "changing hands at a fantastic premia (six), in some cases, ten times more than the Board's annual rent."¹⁸ Of the 175 plots shown on Table 7.9, for example, 32, or 18.4% were transferred or re-assigned or re-sold at great profits. Table 7.10 also shows a list of LEDB staff who used their positions to secure these LEDB plots and houses and re-sell at enormous profits. The Table shows profit ranges of 32% to over 100% in such transactions.

¹⁷ Nigeria: First National Development Plan 1962-68, p. 93.

¹⁸ LEDB Memorandum to the Tribunal of Inquiry into the LEDB.

TABLE 7.10: Profit Scale in the Re-Sale of Publicly (LEDB) Allocated Lands

Serial No.	Purchase Price Paid to LEDB (₹)	Private Re-sale Price (₹)	Profit (₹)	Profit Percent
1	497	1,000	503	101.2
2	461	800	339	73.5
3	460	800	340	73.9
4	461	700	239	51.8
5	534	800	266	49.8
6	510	895	385	75.5
7	1,135	1,500	365	32.2
8	430	800	370	86.0
9	6.25 leasehold	930	923.75	14,780.0*
10	6.0 leasehold	1,200	1,194	19,900.0*

* Leaseholds

Source: Calculated from Appendix XII: "List of LEDB Staff who have transferred plots and houses allocated to them", p. 260 of Report of Tribunal of Inquiry to the Affairs of the LEDB.

Such racketeering by officials certainly underscores the point made in the analogous issue of land banking, to the effect that,

The existence of public corporations with broad powers of land acquisition requires a high level of public confidence in the integrity of the civil servants concerned...

and that,

...for developing countries, land banking raises serious questions on civil service incorruptibility on the disposal, as well as the acquisition, side of the process.¹⁹

Such a concern also had prompted a public commission report²⁰ to advisedly insist that,

LEDB plots of land, being of the very best title at present available in Lagos, care should be taken that these plots of land, the genuineness of which is guaranteed by the State, should not fall into the hands of financiers to the detriment of the common man. We take the view that a scheme of this sort should cater for and build houses to suit the pocket of the common man whose interest, we are sure, the State has in mind.

It was not certain, however, that the State had the interests of the 'common man' in mind in its urban land and housing policies during this period. This is borne out by the acknowledgement by the Government itself that,

¹⁹ Doebele, William A.: A Commentary on Urban Land Policy in Sweden (IBRD Draft Discussion Paper, December 1974, p. iii).

²⁰ Federal Republic of Nigeria: Report of the Tribunal of Enquiry into the Affairs of the Lagos Executive Development Board for the Period 1st October 1960 to 31st December 1965. (Federal Ministry of Information, Printing Division, Lagos, 1968).

The Government has traditionally tended to leave the field (urban land and housing) almost wholly to private effort, restricting itself to the provision of a limited number of residential quarters for its officers. The late 1950's and early 1960's saw increased, but still rather limited, intervention by Government in the provision of housing. This took the form of the development of a few middle class housing estates (using the newly created regional housing corporations), the introduction of mortgage lending through the establishment of the Nigerian Building Society and the Staff Housing Loan Schemes designed to promote owner-occupation by civil servants. Until very recently, the Government did not explicitly accept any social responsibility for providing houses for the masses and therefore did not deem it necessary to participate actively in mass housing programmes, apart from re-housing schemes necessitated by occasional slum clearance activities.²¹

Seen, therefore, in the light of the privileges which the Board's staff had of purchasing these plots of land at reduced rates, it was not surprising that those of them who ordinarily had not the need for these plots, found it profitable to purchase them nevertheless at reduced rates, and sell or transfer them to members of the public at prices much higher than they paid for them; this is much less surprising when the loans they used for purchasing the lands in the first place, were as a matter of policy subsidized by the Board itself. "When a member of the staff purchases a house/land under the Staff Housing Scheme, he is charged 4% of the loan from the Nigerian Building Society, and the Board subsidized the cost by paying the difference of what the Building Society charges to outsiders."²² The full Nigerian Building Society interest rate at the time was 8.5%, which means that the member

²¹ Federal Republic of Nigeria: Third National Development Plan 1975-1980, Vol. i, p. 308.

²² LEDB: Memorandum to the Tribunal of Inquiry into the Affairs of the Lagos Executive Development Board, Lagos, 1967.

of staff is subsidized to the tune of 4.5% interest on his loans for purchase of the Board's lands.

These profiteering transfers or sales, and these official privileges that abetted them, were on lands that had been compulsorily, and often times, forcibly, acquired from their owners (who more often than not are the poorer elements of the society), by the invocation of "public purpose" instruments. The Board, often in such transfer cases, appeared helpless (albeit connivingly) to do much about such situations, even though specific clauses in the covenants stipulate that lands gotten from the Board could not be transferred or sold without the written permission of the Board, which in any case is required to be given the first option to repurchase such plots of land or houses. Rather, the Board preferred to resignedly argue that, "As the interest conveyed is a fee simple absolute, the Board has no means of enforcing any covenants not observed for the benefit of the Building Schemes as a whole, such as covenants to develop or to control transfers."* The evidence, however, was that the Board was not enthusiastic in preventing these transfers when many of its senior officials were themselves involved in the practice, and when it found it politically inexpedient to enforce such covenants. After all, the Board had the power of compulsory acquisition. These facts tend to underscore the point often made by opponents of public ownership or management of land, to the effect that public ownership or management simply, "...personifies the state on a few fallible human beings who often use such state powers to enrich themselves, leaving the general public interest the loser in many cases."[†]

Given also that in the process of compulsory acquisition of land for some

*Report of the Inquiry into the LEDB, op. cit., p. 157.

[†]Walters, A.A. et al.: op. cit., p. 45.

of these schemes, a lot of people got moved out and displaced (e.g., the Victoria Island scheme in which four villages were moved out, or the Central Lagos Clearance Scheme in which 20,000 people were displaced), the equity of the processes and criteria that excludes most of such people from access to some piece of land which they had owned, simply on grounds of their income inadequacy or imposed standards, remain very questionable. This is more so when the eventual beneficiaries make economic fortunes out of the plots by manipulation of public instruments or by taking undue advantage of the loop-holes in the letters of the law.

7.4 The Character of LEDB Land Development and its Impact on Urban Land and Housing Supplies

Closely related to the question of land supply is the density of development. Generally, the lower the density, the greater the amount of land needed for a given quantity of housing; conversely, the higher the density, the smaller the amount of land needed for a given quantity of housing. Within reasonable limits, higher residential densities would mean more efficient use of land. The criteria and conditions for obtaining land from the LEDB emphasize development on such lands of owner-occupied single-family houses. Apartment housing development was not encouraged. Ostensibly, the Board was pursuing a policy of improving the quality of housing in the metropolitan area. As overcrowding was the most serious housing problem, the Board might have thought that low density forms of development and putting restrictions on occupancy rates, was an effective way to improve housing quality. In a situation of acute housing shortage, however, improvements in housing standards are generally only possible when the production of new housing has caught up with the housing deficit. Moreover, in addition to

the numerical physical shortages of housing, as such, the housing problem is often essentially an income problem, and one of the major goals of public urban land management policy has generally often been to facilitate access to urban land and housing resources for those with income problems.

The Board's conception of land development and its appreciation of the problem of access were by implication best demonstrated in the lands and houses it developed and constructed itself. In most of these developments, as has already been pointed out, the middle and high income were the major target groups, by virtue of the prices of the houses, in relation to the general income levels. Table 7.11 shows some details of the different types of houses built by the Board under its freehold housing schemes, the numbers and prices of each type. A careful examination of the Table shows that most of the developments were detached and semi-detached single-family bungalows. These totalled about 1,308 by 1966, and cost about £ 4,291,000, or 62% of the Board's housing and re-housing expenditure program during the period. The price for the cheapest of the freehold types (£1,120, or about \$3,405) was higher than the annual income of 95% of the city's population (it had been noted that 95% of the city's adult male work force earned below £ 570 (\$1,733 at the time).

Public urban land management is said to make for efficiency in land use and management -- efficiency in this context implying the goodness of maximizing the use of the quantity of land available without increasing environmental dangers. Higher residential densities could be maintained without necessarily endangering the environment. Low densities are not necessarily synonymous with good quality

HOUSING TYPE

DENSITY IN DWELLING UNITS PER ACRE

5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 105 110 115 120 125 130 13

One- and Two-Family

1-Family Detached

1-Family Semidetached

1-Family Attached

2-Family Detached

2-Family Semidetached

Multifamily

2 Story (Garden Apts.)

3 Story

6 Story

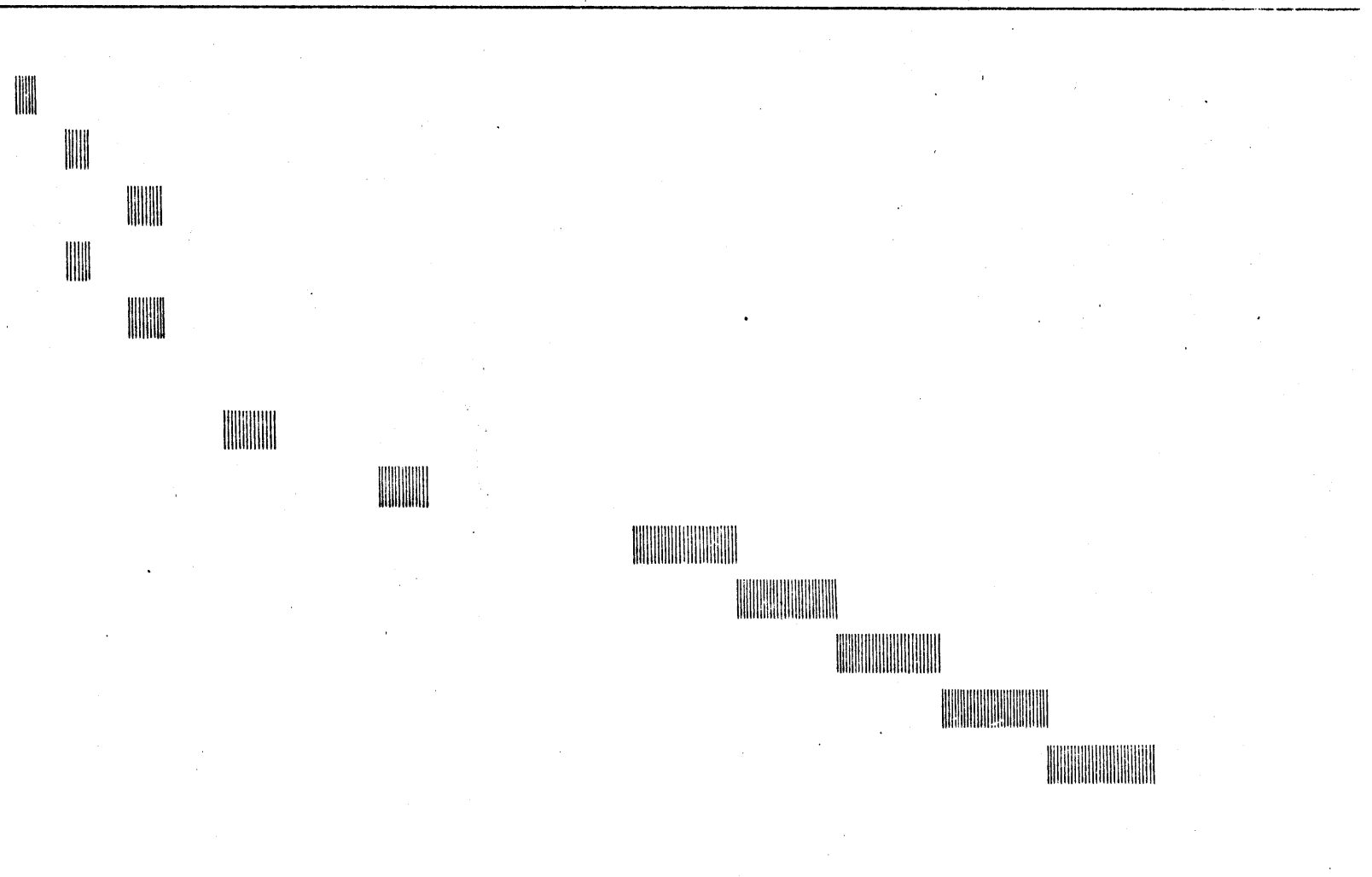
9 Story

13 Story

18 Story

24 Story

25 Story and Over



NOTE: All densities indicated are approximate and should be used as a guide only.

Source: DeChiara, J. and Koppelman, L.: Manual of Housing Planning and Design Criteria (Prentice-Hall, Inc., Englewood Cliffs, New Jersey, (p. 79).

environment. Greater efficiency in land development and housing units production could have been achieved by devoting more land to higher density development than the Board did.

The degree of inefficiency involved in the Board's forms and types of development can be inferred from a comparison of the Board's adopted housing types and residential densities, and the standard densities (that are obtainable from other housing types and characters) for conventionally acceptable aesthetic and environmental qualities. Chart 7.2 shows housing types and their conventionally associated densities in dwelling units per acre. It shows that the one-family detached house types give only about five dwelling units per acre. Table 7.11 shows that most of the Board's developments were of this type and density.

Table 7.12 by the LEDB also confirms that these freehold houses were developed at the low densities of 5 - 5.75 houses (housing units) per acre.

If these houses were developed as storeyed apartment houses, more economies in the use of land would be obtainable. The low cost housing blocks, in the Table, for example, each contains 4 housing units. At about 14 blocks per acre, this comes to about 55 to 58 housing units per acre -- a difference of at least 50 more housing units per acre than in the freehold housing schemes. And freehold housing forms occupied some 62% of the total areal size of the Board's housing schemes. Even from Chart 7.2 (which is more conservative than the LEDB low cost housing density on Table 7.12), it could be seen that a two-storeyed apartment type would provide 25-30 dwelling units per acre, as opposed to only five in the detached types; and a three-storeyed apartment 'block' would ensure a dwelling density of 40-45 dwell-

TABLE 7.11: Character and Types of LEDB Housing Development

The following tables show in detail different types of houses and the number so far built under the Board's freehold housing scheme, and low cost housing schemes.

Section A. Freehold Housing Scheme:

Scheme	Type House	Description	Total	Freehold Price (₹)	Area of Housing Units (sq. ft.)
No. 1	T1/4	4 Roomed detached bungalow	70	1,670	806
	T2/4	4 Roomed semi-detached bungalow	4	1,520	
		1			
	T1/3	3 Roomed detached bungalow	16	1,470	812
	T2/3	3 Roomed semi-detached bungalow	12	1,320	
	T2/2	2 Roomed semi-detached bungalow	2	1,120	
No. 2	A.	3 Bedroom detached house	12	2,880	1,763
	C.	4 Bedroom detached house with garage	12	3,370	
No. 3	A4.	4 Roomed detached bungalow with garage	34	2,300	1,480
	A5.	4/5 Roomed detached bungalow with garage	31	2,470	
	A6.	5/6 Roomed detached bungalow with garage	78	2,670	
No. 4	C.	4 Bedroom detached house with garage	37	3,370	1,763
No. 4A	C.	4 Bedroom detached house with garage	25	3,370	1,763
	A6.	5/6 Roomed detached house with garage	4	2,670	1,480
Phase I	T1/4	4 Roomed detached bungalow	51	1,870	1,763
	A6.	5/6 Roomed detached bungalow with garage	56	2,870	
	C.	4 Roomed detached bungalow with garage	43	3,570	
Phase II	E.	3 Bedroom detached house with garage and two boy's quarters	35	5,500	2,046
	D.	7 Bedroom detached house and two boy's quarters including garage	5	5,500	2,647
Phase III	T1/4		52	1,870	1,763
	A6.		37	2,870	
	C.		30	3,570	
Phase IV	T1/3	3 Roomed detached bungalow	100	1,850	812
	T1/4	4 Roomed detached bungalow with car port	100	2,250	
	A6.	6 Roomed detached bungalow	200	3,100	

TABLE 7.11(cont.)

Scheme	Type House	Description	Total	Freehold Price	Area of Housing Units (sq. ft.)
Phase IV (cont.)	B.	3 Bedroom detached house including garage	20	3,500	1,550
	C.	4 Bedroom detached house including garage	25	3,750	1,763
	D.	2 Bedroom flats house including car port and two boy's quarters	32	5,500	2,260
	F.	3 Bedroom including guest room, garage, and two boy's quarters			
Phase V	T1/4	4 Roomed detached bungalow with car port	56	3,500	
	A6.	6 Roomed detached bungalow	56	4,600	
	C.	4 Bedroom detached house including garage	49	4,800	1,730
Phase VI	T2/3	3 Roomed semi-detached bungalow	6	2,100	
South West	T2/4	4 Roomed semi-detached bungalow	6	2,500	
Ikoyi	A6.	6 Roomed detached bungalow	6	3,500	
	C.	4 Bedroom detached bungalow	6	4,200	
SECTION B. LOW-COST HOUSING SCHEME					
	2B	1 Bedroom in single-story block		2,098	396
	1A	Studio (efficiency) in single-story block		1,843	257
	3A	2 Bedrooms in single-story block		2,437	551
	S2	1 Bedroom in 2-story block		2,334	528
	S3	Studio or efficiency in 2-story block		3,271	683

Sources: Section A: From Annual Reports and Accounts of the LEDB for the Year 1965/66.

Section B: From Koenigsberger, Otto et al.: Metropolitan Lagos, Appendix V-A (p. 141).

ling units per acre as contrasted to 5-10 per acre in the detached and semi-detached house types that the LEDB concentrated on. On the basis of these comparisons, it is possible to calculate an index of land waste or inefficiency in the Board's forms of residential developments as follows:

$$\frac{G_x - P_{mx}}{G_x} \times 100 \quad \text{where,}$$

G_x - number of dwelling units per acre obtainable under the most efficient (economical) housing type (say, apartments)

P_{mx} - number of dwelling units per acre obtainable under the particular LEDB housing types and form of development

Using this formula and using various actual LEDB predominant development densities (5, 10) and using various 'possible' densities, based on Chart 7.2, Table 7.13 shows the relative amounts of inefficiency (waste) involved in some of the LEDB forms or densities of developments.

The table shows that these 'indices of waste or inefficiency' varied between 70% and 90% on the average. This implies that 70% to 90% more housing units per acre could be produced from given LEDB freehold schemes.

Such a degree of inefficiency becomes much more significant when considered along with the fact that housing conditions in the city over the 1953/54-1972/73 period were as shown on Table 7.14. The Table shows that over 74% of the households in the city and its metropolitan area occupied one room in 1972/73 and the average number of persons per room was over 4.1.

Table 7.12

LEDB: Analysis of Cost for Site Acquisition and Development.

Block or House Type and plot size.	Net Density of Houses/acre.	Cost of Land/House or Block Net Density Area.		Cost of Development per plot.		Cost of Reclamation per plot.		
			Percentage of building cost		Percentage of building cost		Percentage of building cost.	
			<u>LOW COST HOUSING.</u>					
'2B' Block 50' x 100'	14.4	₦235	11.1	₦147	7.0	₦190	9.0	
'S2' Block 70' x 80'	13.6	₦248	10.6	₦165	7.0	₦213	9.1	
			<u>FREEHOLD HOUSING.</u>					
'A6' House 45' x 100'	5.75	₦147.25	7.5	₦140	7.16	₦172	8.8	
'E' House 55' x 100'	5.00	₦169.4	4.73	₦172	4.8	₦210	5.86	

Source: Koenigsberger, Otto, et al: Metropolitan Lagos, U.N. Technical Assistance Mission, Lagos Nigeria, 1964 .
Appendix V-C. (p.143).

* 'Block' in the Nigerian context has a different meaning from what it is in the U.S.. It means one building, as opposed to its 'from street to street' meaning in the U.S. which always contains numerous buildings. Each of the house 'block' types in the above table contains 4 housing units, which comes to 55-58 (13.6 x 4 - 14.4x4) housing units per acre (cf. with 5-6 housing per acre for the freehold housing house types).

Table 7.13

LEDB Actual Densities or Forms of Development Compared with 'Possible' Densities, as Index of Efficiency

Form of Development	Possible* Densities (no. of housing units per acre)	LEDB Densities in the Freehold Housing Schemes (no. of housing units/acre)	Index of Waste in LEDB form of Development (per cent)	Assuming LEDB Densities (no. of housing units/acre)	Index of Waste
Assuming 2 story (apt.)	30	5	83.3	10	66.6
Assuming 3 story (apt.)	45	5	88.9	10	77.7
Assuming 4 story (apt.)	55	5	90.9	10	81.8
Assuming 5 story (apt.)	60	5	91.6	83.3	

*Acceptable limit of density that is possible without sacrificing environmental quality.

72.5% of the households were occupying one room in 1970/71 with an average occupancy rate of 3.8 persons per room. In 1952/54 and 1959/60, the proportion of households occupying one room was 79.1% and 81.8% respectively. Though the proportion of households occupying one room seems to have declined slightly, over the period (1953-1973), the level was still unacceptably high -- above 70% -- a reflection of the acuteness of the housing problem in the city.

Conventionally, the ideal adequate accommodation (occupation ratio) is one person per room. Two persons to one room is also acceptable, but upwards of three persons per room is considered unacceptable, as adequate accommodation.

Table 7.15 shows that of 385,000 people in the sample of Lagos Housing Enquiry in 1961, 231,350, or 60%, lived at least four persons to a room. 63,650, or 16.5%, live at an occupancy rate of over 6 persons per room of about 100 square feet in area.

Over 70% of all dwellings were of the rooming type. A survey conducted in 1967/68 (Table 7.16), for example, showed that about 20% of the dwellings in Lagos were of single-family types; 7.3% as flats or apartment types, and 73.2% as of the rooming type.²³

Surulere, which was almost completely developed by the LEDB, has the highest percentage of single family type housing. With the overwhelming pre-

²³ LEDB Planning Department: Draft Master Plan for Lagos (1971).

Table 7.14: Lagos Housing Conditions 1952/53 - 1972

Year	% of Households Occupying 1 Room	Avg. No. Persons/Rm.	House w/ tap water	House w/ flush toilets	House without any toilets	House w/ electricity
1972*	74.2	4.1	65.8	42.5	16.4	89.6
1970/71**	72.5	3.8	71.7	43.5	--	93.2
1959/60**	81.6					
1953/54**	79.1					

* Survey of Housing Conditions in Selected Urban Centers in Nigeria by the Physical Planning Division, NISER, Ibadan

** Federal Office of Statistics, Lagos 1970-71: Housing Conditions in Selected Nigerian Towns 1953/54 and 1959/60: Urban Consumer surveys for Lagos

dominance of rooming type housing, the right priorities would have expected the LEDB -- a public agency -- to emphasize more of apartment (flat) housing rather than house types, where such needs and demands existed, particularly with the very high average room occupancy rates of 3.8 - 4.0 persons per room in the city.

While it is true that setting high constructional standards for the housing of the poor in cities, and especially for the migrants from rural areas, may be excusable and sometimes even desirable on human grounds, it will inevitably turn out to be mistaken and counter-productive because the resources do not exist to bring those high standards to enough people. The policy would succeed only in keeping a high proportion of people from even the most basic form of shelter, and ultimately encourage overcrowding and slums.

Recognizing that the housing problem is essentially an income problem, and cognizant of the very high percentage of rooming type houses (over 70%), a realistic approach even to the sanitary problem would have emphasized more apartment housing types, to enable those in rooming type houses to gradually upgrade into apartment housing, if possible; those who need single-family houses can always build one themselves with their private funds.

As had been observed by Aribiah,²⁴ "The paradox in the housing situation is that quality has been rising at the expense of quantity, and, in the situation,

²⁴ Oberu Aribiah: "Social Aspects of Urban Rehousing in Lagos" in Lagos Notes and Records, Vol. III, No. 2, January 1972, p. 41.

TABLE 7.15 Lagos: Number of Dwellings and Rooms by Persons per Room

<u>Persons per Room</u>	<u>No. Dwellings</u>	<u>No. Rooms</u>	<u>No. Persons</u>	<u>% Persons</u>	<u>% Rooms</u>
1 or less	15,350	22,850	20,400	5.3	18.0
Over 1 but not greater than 2	20,950	33,550	60,900	15.8	26.4
Over 2 but not greater than 3	18,450	25,500	72,650	18.9	20.1
Over 3 but not greater than 4	14,900	19,750	76,250	19.8	15.5
Over 4 but not greater than 5	9,600	11,600	56,650	14.7	9.1
Over 5 but not greater than 6	5,600	5,850	34,800	9.0	4.6
Over 6 but not greater than 7	4,250	4,250	29,800	7.7	3.3
Over 7	3,750	3,750	33,850	8.8	3.0
TOTAL	92,900	127,100	385,300	100.0	100.0

Source: Federal Office of Statistics: Lagos Housing Enquiry, 1961.

the low income earner is at a considerable disadvantage."

The 67-89% land waste index would be much higher if the conventional private sector housing types²⁵ and accommodation rates are used for Gx. In this type, a standard plot of 100' x 50' conventionally contains about 3-4 dwelling units with 16-20 persons per house on the average.

The LEDB used about 400 acres for this low density type of housing between 1958 and 1965 (see Table 6.7). At 5-10 dwelling units per acre, this would be a total of 2,000-4,000 dwelling units; whereas, if it were the apartment type, assuming two or three-story apartment blocks (see Chart 7.2), this would mean 12,000 - 18,000 dwelling units. In terms of the actual number of people accommodated, and assuming an average family size of 6 (which is a conservative assumption in the Nigerian urban context), the difference between the number of people accommodated by the LEDB type housing and the number that could have been accommodated by a more economical housing type would be 84,000 people (18,000 x 6 - 4,000 x 6), or at least a difference of 210 people per acre. "Land is a scarce resource," argues proponents of public ownership and management of urban land, "whose management should be subject to public surveillance or control in the interest of the nation."²⁶ This, then, should imply that public management itself should be economical and more efficient in the use or allocation of this scarce resource. A public agency's sense of priority and appreciation of the prevailing

²⁵A conventional Nigerian house in the urban centers has 8-9 rooms and consists mostly of two-room units, and the average number of people per house is 16-20, or 2-2.5 persons per room.

²⁶U.N.: Report of Habitat: U.N. Conference on Human Settlements (Vancouver, 1976, p. 62.

Table 7.16 Types of Dwellings in Lagos Residential Areas (% Distribution)

Area	Housing Types			Total
	House Type (Single-Family*)	Flat or Apartment	Rooming Type	
Lagos Island	3.9	0.2	95.9	100.0
Ebute-Metta	4.8	4.8	90.4	100.0
Yaba	3.0	9.6	87.4	100.0
Surulere	38.1	12.0	49.9	100.0
All Areas	19.5	7.3	73.2	100.0

* Single-family here would include extended families or otherwise what might be termed 'compound housing'.

Source: LEDB: Draft Master Plan for Lagos, 1971.

problems in developing so much low density, single-family forms of housing in a densely populated urban center such as Lagos, should, therefore, be seriously questioned.

The Board devoted a substantial proportion of its lands to low density forms of development despite the fact that one of the major Government commissions that had earlier shaped its operational orientation had warned of the necessity to prevent such waste by the private building sector and suggested that the LEDB itself, as the Planning and Development Authority of the city, should prevent private builders from building bungalows where the land was physically suitable for storeyed buildings. In the words of the Report,

Space has been wasted in the past by putting up bungalow type buildings on ground which would take two or even three storey houses. Many people regret now that they did not put in the more costly foundations which would have enabled them when opportunity occurred to put another storey on to their original house....It is important that building ground on Lagos Island be used as economically as possible and I therefore suggest that the Board take powers to insist on foundations which will take two or three storey houses where the ground is suitable. Bungalows should be built only on land which in the Engineer's opinion will take nothing higher.²⁷

The indices of land wastes in the Board's character of land and housing development become more real when it is considered that,

The amount of land required for uses other than housing remains the same whatever the net

²⁷

T. Hoskyns-Abrahall, op. cit., p. 33.

residential density, and gains in gross density are most likely to be found at the Lower end of the scale.²⁸

It has been found, too, that,

By raising net density, for example, from twenty-four persons per acre to forty -- that is roughly from eight houses to thirteen -- it is possible to save 17 acres of land per thousand population; enough land to house another 500 people at the same density and with the same proportion of open space.²⁸

Greater economies of housing land use and higher indices of land waste would be obtained if we used higher storeyed apartment buildings for Gx. But this illustration has been limited to no more than three storeyes for Gx because various studies²⁹ have shown that in addition to accommodation advantages, cost economies of construction are gained in 2-3 storey blocks and these cost economies in building costs are said to be lost from 4-storeyes upwards. P.A. Stone²⁹ found (and this finding was confirmed by the various other studies) that, "There is little doubt that dwellings within two storey blocks are the cheapest." Colean (1944) found that, "The apartment is economical in the use of land improvements and undoubtedly offers the most economic means of producing very small units and of accommodating families demanding considerable services."²⁹ Developing higher

²⁸U.N.: Proceedings of the Seminar on the Supply, Development and Allocation of Land for Housing and Related Purposes (held in Paris, France, 28 March - 6 April 1965), Vol. I, p. 44.

²⁹P.A. Stone: "The Economics of Housing and Urban Development" (Journal of the Royal Statistical Society, Part IV, Vol. 122 (1959), p. 426.

Colean, Miles L.: "The Factual Findings" (American Housing: Problems and Prospects, New York, 20th Century Fund, 1944.

Colean, Miles L. & Arthur P. Davis: Cost Measurements in Urban Redevelopment (New York: National Committee on Housing, Inc., 1945).

Ludlow, William H.: "Urban Densities & Their Costs: An Exploration into the Economics of Population Densities and Urban Patterns" (Urban Redevelopment: Problems and Practices. Coleman Woodbury (ed.), University of Chicago Press, 1953.

TABLE 7.17: Lagos Housing Programme and Targets: 1962-1968

	<u>Minimum Programme</u>	<u>Maximum Programme</u>
1. Lagos population in 1951	230,000	250,000
2. Lagos population in 1961	364,000	450,000
3. Average annual rate of change 1951-1961	4.5%	9.5%
4. Lagos population in 1967 (projected by #3)	466,760	663,750
5. Population growth, 1962-1967 (rounded)	102,000	214,000
6. New housing units required*	17,000	35,666
7. Existing units necessary to house present population	60,666	75,000
8. Replacement units needed 1962-1967	7,585**	11,250***
9. Total unit requirement (#6 + #8)	24,585	46,916
10. Annual unit requirements when spread over six years	4,098	7,819
11. Average annual unit requirement: 5,959 units or 6,000 units p.a.	--	--

NOTES

* A unit is defined as housing for six persons

** Assuming units depreciated at 2.5% per annum.

*** Assuming units depreciated at 3% per annum.

Source: Nigerian National Development Plan 1962-1968, p. 97.

storeyed multiple dwelling houses would spread the land acquisition and high preparation and servicing costs over as large a number of units as possible. The land element in housing cost would therefore clearly vary with the intensity of development -- increase with decreasing intensity, and decrease with increasing intensity. In a city, therefore, whose housing conditions were and still essentially are as is depicted in Table 7.14, with over 70% of the households in the city living in one-room units and with 3.8-4.1 persons per room, and whose income distribution structure is as depicted in Table 7.4 and Chart 7.1, and whose housing needs at that time as projected by the Government itself were as shown in Table 7.17 requiring an average annual production of about 6,000 units in order to cope with the situation, public purpose action would have been expected to aim at measures to ensure the accommodation of the greatest number possible in its housing programs. This would have called for emphasis on apartment type housing on multi-story building rather than low density single-family housing emphasis, that tended to waste a great deal of the scarce urban lands.

In fact, so much was the waste and misplacement of priority in this form of development that the LEDB itself was sooner or later bound to recognize it. This came during its Metropolitan Housing Scheme in 1966, which involved some 63 acres of land and some 1,600 housing units of varying sizes. Of this, the Board emphasized that the scheme "...will be in form of 5, 4, and single-story buildings as opposed to single-story buildings of the earlier schemes. This high rise apartment is aimed at conserving building land," the Board explained. It went on to acknowledge that,

This type of development has been adopted because there is very little land in Lagos and what is available is very costly. This makes it impossible to adopt rural type sprawling single-story houses which could be erected at considerably lower cost. Such a development would involve great expenditures on land, transportation and on the provision of water, power, roads, and other amenities and the total cost of the scheme may in fact not be less when an account is taken of all the additional expenditures involved in diffused development. On the contrary, the multi-story type of development now envisaged would conserve land, lower costs of essential services, and house more people.³⁰

That the Board had not realized this earlier does not speak well of public management.

Public agencies generally, for various reasons (bureaucratic red tape, high overheads, lack of the discipline of the 'market', impersonality of costs internalization, etc.) are not efficient producers. These facts must have been in the minds of the creators of the LEDB, for the original Act creating the Board forbade it from constructing houses itself. Part V, paragraph 32(3) of the Act (1928) specifically states that,

The Board shall not itself construct dwellings or shops under a rehousing scheme, unless it is satisfied after due enquiry that no other person is willing and able to construct them, and is prepared to construct, maintain, and manage them

under the control of the Board.

But the Board later made direct housing construction such a dominant part of its activities that most people knew it as a Housing agency, as such.

The Board had later to explain that,

Housing schemes, regarded by most people as the main spine of the Board's activities were in fact by-products largely brought about by the Rehousing Scheme at Surulere.³¹

But the Board's delving into the direct housing area was understandable. It was more profitable than the mere installation of infrastructure, more profitable if not to the Board as an agency, certainly to the individual Board officials.

³¹ LEDB: What is the LEDB? (1965), p. 19.

SUMMARY

The conditions and criteria of LEDB land allocations were restrictive of accessibility to the general population. They did not encourage substantial production of housing which the situation called for at the time. The Board's land development policy emphasis was unduly oriented in favour of the "middle and upper income groups", who could afford to pay the Board's prices, and meet the high development requirements. Considering the very high proportion of the land preparation and servicing element in the Board's plots of land (which had been noted to be capable of being reduced by 10-15%), which costs had to be reflected in the sale price of the Board's lands, and considering the general income levels and distribution structure (Table 7.4 and Chart 7.1), the Board's land management and development practices were not favourable to the overwhelming majority of the urban population who were low income and had limited access, if at all, to credit facilities.

Where the Board directly constructed housing, the emphases, too, were on very low density single-family type houses -- averaging some five housing units per acre. Obviously, these low density developments involved large uneconomical use of land in the order of 60-80% wastage rate. This was despite the acute urban land and housing situation in the metropolitan area. In this respect, therefore, the saying could be said to have been true of the LEDB that, "...if public authorities acquire most of the attractive land, and do not offer land to all groups which need them, the public semi-monopoly of land may tend to create an extra pressure

of demand in the land market.³² This implies that public authorities by such actions could create or exacerbate urban land problems rather than solve them.

The Board's land management practices therefore were hardly addressed to the priority problem areas -- that of producing as many units as possible at costs that would make them accessible to a majority of the people who needed them. Rather, the Board's management practices were geared primarily to the creation of housing opportunities for the middle and high income families in luxury subdivisions. The Board, however, seemed to have been mirroring the government (public) urban land management policy of the time which,

...took the form of the development of a few middle-class housing estates, and did not explicitly accept any social responsibility for providing houses for the masses, and therefore did not deem it necessary to participate actively in mass housing programs, apart from re-housing schemes necessitated by occasional slum clearance activities.³³

Public urban land and housing policy in Nigeria could aptly be summed up in the words of the World Bank Report,³⁴ which noted that,

The housing policy of the first three years of the National Development Plan³⁵ was unsatisfactory because it produced too few houses. It also produced the wrong kind of houses (emphasis mine).

³²U.N.: Proceedings of the Seminar on Supply, Development and Allocation of Land for Housing and Related Purposes, Vol. II, p. 196.

³³Nigerian National Development Plan 1975-80, on review of past national land and housing policy.

³⁴IBRD (1965), op. cit., Vol. IX, p. 4.

³⁵The National Development Plan in reference here is the First National Development Plan 1962-1968 (Six Year Plan).

Chapter 8

SUMMARY AND CONCLUSIONS

Having examined the problems of Nigerian land tenure in the urban context, and the problems and prospects of public intervention in urban land management in this context, this chapter is intended as a recapitulation of the main themes of this thesis; and the lessons drawn from the results of the foregoing analysis. It also embodies some of our thoughts and opinions on the subject, and it suggests directions for a more effective, efficient, and equitable approach to public urban land management problems in the Nigerian society context. We begin with a summary of the impacts of the Board on the urban land development landscape.

8.1 Impacts of the LEDB on Urban Land Development in Lagos.

Its problems (caused mainly by the institutional climate within which it had to operate, and its shortage of operating funds), and its weaknesses (caused mainly by its shortage of management skills and misplacement of priorities) notwithstanding, the Lagos Executive Development Board made some noticeable and commendable impacts on urban land development in Lagos. Various residential and industrial/commercial estates (schemes) were developed by the Board, and its role in the development of basic urban infrastructure had been very outstanding. It was noted in Chapter Six that about 45% of its expenditures in the 1928-1972 period was spent on basic infrastructure, services, and related facilities. It reclaimed and developed some 2,500 acres of swamp lands and by so doing added substantial building land to the stock of land in the city. It prepared, serviced and sold or leased about 7,500 plots of land to private developers and householders (principally owner-occupiers), and directly built some 7,000 housing units for both rent and sale. As a corollary

to these, it had been instrumental in clearing and individualizing land ownership titles to a significant extent through registrations of title to lands that came under its management, and that it disposed of. By this, title to such lands were secured and were therefore made easier to transact. Most, if not all, of its operational areas or schemes are within what is classified as "Title Areas" in Lagos - that is, areas where the authenticity of land titles is relatively no longer in doubt.

In addition to these, about five major shopping centers had been developed by the Board, in addition to numerous market stalls. The presence of the Board in the Lagos Metropolitan area has been tremendously felt because of the volume of work which the Board had undertaken, and more certainly because of the controversies it had evoked in the process.

Although the LEDB had made some important contributions, it was, however, not without substantial costs in resources efficiency and equity. The unintended negative effects of its activities, sometimes to a great extent adversely affected the very goals it was striving to achieve. In this regard, it can be said that although its activities were to a significant extent inhibited by the problems of land tenure and inadequate funding -- which were essentially external to it, its internal problems of management competence and administrative efficiency were substantially responsible for some of its conceptual and operational problems and failures.

Certain concepts of the Board's land development practices, for example were particularly counter-productive to its urban land management goals and objectives. Among these, two were particularly outstanding:

- (i) The "Home Ownership" concept - which implied that houses should necessarily be owned by those who lived in them; and as a corollary,
- (ii) Low Density Development emphasis -- emphasis placed on small low-lying detached estate type houses.

By the "home ownership" concept, the Board built self-contained single family detached houses (generally bungalows), and sold them to those who could afford them. This concept or policy was a misorientation of priorities and was wasteful of land for many reasons:

- (i) It inhibited and minimized the development of multi-family story blocks of apartments, because the developments had to be self-contained and necessarily detached to be sold to people as a home. By a predominant use of this type of development (which averaged about five units per acre), the Board wasted a lot of the lands at its disposal.
- (ii) The concept of "home ownership" was a misorientation of priorities because the average Nigerian urbanite does not consider the city a home, but rather a place of work which he would leave on retirement for his town or village which he considers home. Most people then are satisfied with decent rental housing for the period of time they live in the city. In fact, most migrant city dwellers when they have money enough to build a house, first build such houses in their home towns or villages to which they will ultimately retire, and ordinarily people do not judge themselves necessarily by the quality of their housing in the city, nor do others judge them by that. Rather, people judge themselves and are judged by others more by the quality of their "home town" houses. Even then, neither the Board nor the Government itself can ever be in the financial position to help every or even most of the citizens in cities own a house in the city. It becomes then very questionable whether the general tax payer's money should be used to

help a relatively few people to own houses.

- (iii) In any case, there are always more people who require houses for rent and can rent them, than there are those who require them to own and are able to own them. Even then, a great majority of the people who needed housing in the city could not be in the financial position to fulfill the conditions required by the Board for purchase of its houses or plots of land.

The corollary concept of "low density development" has the effect of making such housing development more costly than they would be with alternative (higher density) forms of development, because low density development has the tendency to be relatively lavish with land, and therefore involve spending more ~~for~~ land. The fact that land for low density residential development is more expensive than land for high density development is fully recognized and practiced by the Board itself in its land disposal practices. It, for example, leased its residential plots of land at £ 120 - £ 170 per acre per annum for low density developments, and £ 75 per acre per annum for high density developments.^{1a} Furthermore, the proportion of land costs in the total housing development cost is often higher in low density developments because the cost of raw land is generally dependent on the lot size. In apartment type developments, for example, more units are pro-

^{1a}LEDB: Annual Reports and Accounts for the Year 1957/58, p. 14.

duced on a given piece of land, and more families are able to live on the same piece of land that otherwise would have been occupied by only one family on one housing unit. This would distribute the cost of land over many more housing units, thus reducing the per unit cost of land and at the same time accommodating more families.

Furthermore, given the inordinately high quality standards of these developments and their high costs they were only accessible to a very small proportion of the population, and this small proportion was not the strata of the population where the quantitative demand was most acute. In this sense, it could be said that the LEDB acquisition of urban land curtailed the supply of urban land as much, if not more, than the traditional tenure system, and if public authorities should acquire the land and do not make efficient use of it by offering its resources to all groups requiring them, the public semi-monopoly of land through its compulsory acquisition powers, may tend to create extra pressure of demand and shortages in the urban land market.

It could also be said that the Board's mode of land development and housing production aided congestion and environmental deterioration. This resulted from the Board acquiring large tracts of land, but producing very limited number of housing units from them. This meant withdrawing housing land from the already tight urban land market, and thereby forestalling whatever might have been produced by the private traditional system, if such lands were not pre-empted by the Board.

The result was that many more people crowded into existing units, thus increasing the potentials for slumification and environmental deterioration of the

city -- the evils which the LEDB was initially created to remedy. In this sense, the paradox that "the best can be an enemy of the good" could be said to have been true with the Board's predominant form and standard of residential developments.

Secondly, the low density mode of development unnecessarily sprawls the city with consequent diseconomies in the provision of necessary municipal services. Such a low density approach would usually call for more money to be spent on the construction and maintenance of more miles of roads and streets, more miles of pipes for water and sewage, larger numbers of poles and greater lengths of cable for electricity, telephone, and radio, thus making it more expensive to provide necessary services to all the areas. Various studies have shown that the cost of the provision of services rises the lower the density of development.¹

The Board's land acquisitions and development practices were also dysfunctional and counter-productive in yet another way. Because of the piecemeal and sporadic fashion of the Board's acquisition and development practices, there was the tendency for land prices to rise around each Board scheme -- thus creating problems of high land price spirals, and feeding speculative waves of urban land

¹ Kain, J.F. "Urban Form and the Cost of Urban Services (Discussion Paper No. 6, Program on Regional and Urban Economics, Harvard University, Cambridge, Massachusetts).

Wheaton, W.L.C. and M.J. Schussheim, The Cost of Municipal Services in Residential Areas (Housing and Home Finance Agency & U.S. Dept. of Commerce, 1955, p. 13).

Urban Land Institute. The Effect of Large Lot Size on Residential Development (Urban Land Institute Technical Bulletin No. 32, Washington, D.C., 1958, p. 13).

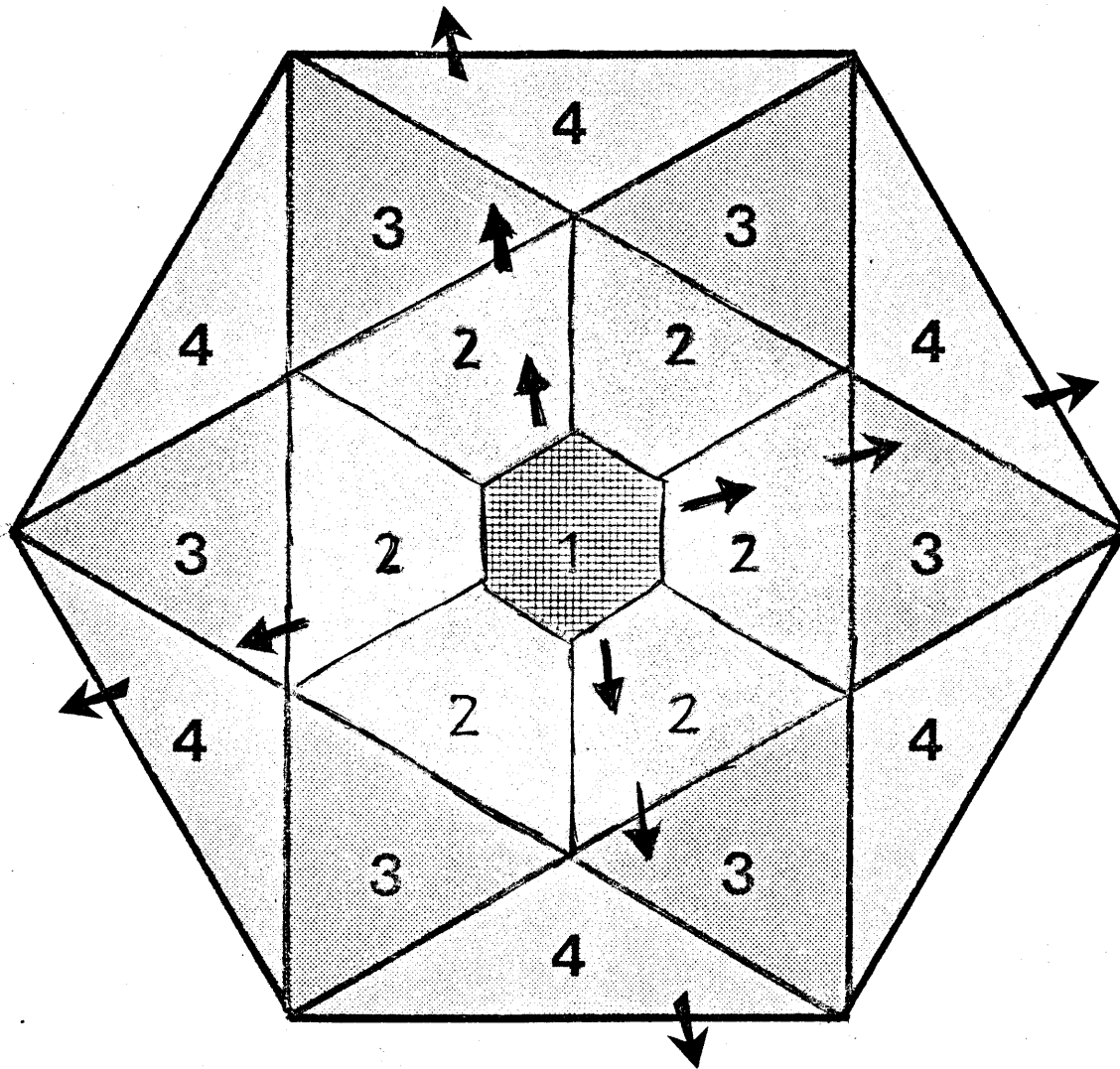
prices in the metropolitan area. This, of course, had further implications for accessibility to housing and other urban land facilities for the different income groups in the city, especially for the poor. The Board itself was often a victim of such speculative price rises, and owing also to the fact that it was required to reflect its costs on the prices of its lands and housing, the Board was actually (though inadvertently) an agent of land price increases, both in the private and public urban land sectors.

Conceptually, this phenomenon usually started with the Board acquiring land in Zone 1 (see Fig. 8.1). The Board then prepares, services and develops the land. Because of the high amenity levels in these scheme areas, the value and prices of land surrounding the scheme rises in Zone 2 -- the periphery of Zone 1. At some point in time, the Board might decide on the expansion of the scheme and proceed to acquire the lands in Zone 2. With the risen land values in this zone, the Board theoretically at least has to pay higher prices for land here ("fair market value") -- a result of its own previous action which had inadvertently raised the land values and prices before it could acquire these successive parcels of land. The same process progressively takes place with the other successive zones -- 3, 4, etc. on Fig. 8.1.

This process continues with all its ramifications -- one of which is the continued inflaming of speculative waves on surrounding land in particular, and on the urban land in general. It had not been unusual for speculators to attempt to buy up lands surrounding the Board's schemes in anticipation of the Board's expansion and further acquisition. Land owners around such schemes also are known to fake "paper sales" or "transfers" imputing speculative prices to their lands, so as to have

Fig. 8.1

Effect of LEDB schemes on the general movement of land prices.(Conceptual Illustration)



Key



MOVEMENT OF
LAND PRICES



LEDB Project.

1,2,3,4, denote zones from LEDB scheme sites.

documentary support of the "value" of their lands if and when it gets to be acquired by the Board -- having often learned or been advised by freelance lawyers and estate valuers that the principle of compensation assessment is the "fair market value", and that in determining and fixing this value, it had been judicially established that, "The price at which the purchasers bought their lands, must outweigh the opinion, however experienced the officials, as to its actual value", because, "The price at which an owner bought his land is a better guide of its market value, since willing sellers do not normally want to sell at a price below what they paid" -- these being principles of judgement in similar cases, already handed down as precedents (see Chapter 5). Just as lawyers and real estate valuers advise land owners whose lands are already in the process of being acquired, so also do they advise owners of surrounding lands about the possibilities of their lands being acquired eventually, and what to do in the interim to enhance the values of such lands, if and when it comes to be acquired. Their professional fees are, of course, invariably built into these values, and land values and land prices continue their upward trends. The 1970-1974 National Development Plan, for example, notes that, "The historical upward trends in land prices has been introduced mainly through the activities of land speculators in the urban areas, especially for government sponsored projects",² thus officially acknowledging the facts of this process and trend, though being helpless to control or prevent it.

The implication then is that the fewer public land acquisitions, the less this process and trend, and presumably, the less rapid and steep the increase in urban land prices. Contrary, then, to the claimed effects of public land ownership

²Fed. Republic of Nigeria: Second National Development Plan, 1970-1974, p. 219.

and management in controlling land prices, it in fact escalates them, particularly where public acquisition is piecemeal. On the other hand, however, this phenomenon would also suggest that if the land acquisitions were comprehensive, coordinated, and total, these effects may not occur, though problems of a different sort may present themselves. In effect, the realisation of the potentials of public ownership and management of urban land depends more on how and with what efficiency the management is effectuated than on mere public control per se as a goal.

8.2 Public Urban Land Management: Efficiency, Impact and Equity as Guiding Criteria and Measures of Effectiveness

Given the significance of urban land and considering the rationale for public involvement in its control and management, an appropriate set of expectations against which to gauge the performance and effectiveness of public control and management would include such measures as efficiency (in production and costs), impact, and equity.

Efficiency⁺ refers to the process of minimizing waste (of land) and cost in land development. It means economizing on total resources. The efficiency criterion asks the question: How economically or lavishly was public use of land in development

⁺Conventionally, efficiency measures the relationship of benefits to costs. An efficiency measure of 1.0 usually means that the total public costs incurred in the development of a given program (in this case, land and housing) are transformed into benefits of equal or maximum feasible magnitude determined by the number of such units of benefits. A measure of less than 1.0 means the benefits are less than the costs; and therefore less than efficient. (In our present context, this means that the expenditure could have been used to provide more units of housing.) An efficiency measure of .75, for example, means that \$1.0 total costs produced 75 cents worth of benefits.

or in causing land to be developed?

In our present context, therefore, efficiency would refer to the extent to which the feasible number of housing or other land development units are produced at the minimum costs. It would also refer to the adoption of residential development forms or designs that minimize these land wastes and costs.

Impact is a measure of the difference that the project or particular land ownership and management system makes in the resolution of the existing urban land and housing problem. An impact measure, therefore, would be the extent to which the average person's chances of access to land and housing are more improved by the public management mode, for example, than would have been the case otherwise, and how many more people benefit from public management than would have benefitted from the private or communal system of management. If public management of urban land and housing facilitates greater access to these facilities, the impact is noticeable or high, otherwise it is low.

Ideally, the percentage improvement in the number of more people whose access to urban land and housing facilities is improved than would have been otherwise, would be a good measure of the impact of public management and control. The extent to which public urban land development policies (in terms of forms or types of housing development) are geared to affect (better) the urban land and housing situation would also be a measure of its impact.

Equity refers to the extent to which the given management mode generally benefits the people in greater need relative to the benefits accruing to others in less need. These benefits to the more needy may accrue from the immediate effects of the program or management system or they may result from its indirect or spread effects. In any event, for the system to be efficient, it has to make its benefits more generally available to those in need or achieve that in its general outcome. "Public ownership of land," it has been aptly said, "cannot be an end in itself; it is justified in so far as it is exercised in favour of the common good rather than to protect the interests of the already privileged."⁶ One of the rationales of public involvement in urban land is the public recognition that adequate land and housing are not being made available to all families by the existing traditional mode of management. Adequate land and housing are generally not available in three senses: (a) in the sense of an absolute shortage of land and housing in

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U.N.: Report of Habitat, op. cit., p. 66.

the city; (b) in the sense that a family's dwelling fails to satisfy certain minimal standards of safety and sanitation; and (c) in the sense that the family does have satisfactory housing, but at a price which severely limits the family's ability to afford other goods and services, particularly other necessities. The degree of equity, then, is judged by the extent to which the public management mode makes urban land and housing available to those most in need of it.

Most important issues in urban land management appear to be simple extensions of these three basic concepts of efficiency, impact, and equity. A system of control and management (be it public, communal or private), however, ought not be judged on the basis of a single criterion to the exclusion of others (even though some criteria are more important than others). Furthermore, poor performance by one mode or system with respect to any one criterion has to be weighed against the potential of

alternative modes or systems to perform better under the same criterion. In general, however, these three criteria are the measures against which the effectiveness and desirability of public urban land management should be evaluated.

8.3 Comparative Performance Evaluation of Three Modes of Land Control and Management

Given these measures of effectiveness and desirability defined in the preceding section, it would be useful to make a comparative evaluation of the effectiveness of the three modes of urban land ownership and management existing in our case city (Lagos) so as to place the performance of the public mode in proper perspective. The three modes are the traditional mode of ownership and management (G), the public mode of ownership and management (Pm), and the private free market mode (M). Using the above discussed three criteria of efficiency, impact, and equity and their various extensions (making ten performance variables in all) as a checklist of effective and desirable performance, these various modes are evaluated one after the other. Table 8.1 summarises this subjective performance evaluation.

The Traditional Mode of Land Ownership and Management (G)

This mode of urban land ownership and management ranks highest in six of the ten performance variables on Table 8.1 and these include the most important variables -- degree of land supplies, quantity of housing units production, distribution across income groups; more likely to reduce the proportion of income spent on housing; price of raw land, and control of urban land prices.

In spite of the constraints on marketability and transfers exhibited by the traditional land tenure system, the traditional management system supplies most of the urban building land in aggregate terms. These supplies, however, are in the nature

Table 8.1

Performance Evaluation of Three Systems of Urban Land Management and Control

Performance Variables	Systems and Ranks		
	Pm	G	M
1. Degree of urban land supplies	++	+++	+
2. Housing Units* Production	++	+++	+
3. Price of raw urban land**	++	+++	+
4. Distribution across income groups (% low income housing)	++	+++	+
5. Potentials for credit or institutional financing	+++	++	+
6. Security of tenure	+++	++	++
7. Ease of transfer	++	+	+++
8. Control of urban land values/prices	++	+++	+
9. Quality of urban land development and environment (infrastructural and otherwise)	+++	+	++
10. More likely to reduce proportion of income spent on housing	++	+++	+

KEY

Pm = Public Management or LEDB System

G = "Traditional" system

M = Real Estate Market system

+++ = Most effective or efficient

++ = Not as effective or efficient

+ = Least effective or efficient

* Housing units here are taken to be any size units occupied by a single family. The ranking indicates which system provides the greatest amount of accommodation to the greatest number of people.

** Raw land means land before a structure is erected on it -- whether the land is serviced or not. Each mode or system gets lower mark, the higher its land prices.

of owner-development of lands and not necessarily in the nature of sales or transfers in the market transactions sense. A relatively large amount of land is developed each year by their traditional owners -- thus constituting the bulk of urban land available for development. Because the bulk of the land is still held in traditional family and communal ownerships, the bulk of land availability inevitably comes from this source.

A good proportion of the traditional owner-developments are designed for rental purposes and as many units as possible are derived. Most of such developments are rooming houses. A bungalow house on a 100' x 50' plot (which is the modal size of plots in the city) of land, for example, usually contains 8 to 9 rooms, and at an average of 2-room units this means 4 housing units per traditional development. Development on a similar size plot of land by the public mode of development would contain only one housing unit, admittedly at a high quality level, but nevertheless at the cost of overcrowding in other (low income) housing sectors. So, quality of housing aside, traditional or "conventional" developments produce more housing units than the public mode or the private free market (real estate firms) modes.

As depicted in Fig. 2.1 A of Chapter Two, in the traditional mode of ownership, land is distributed across the income groups rather than monopolised by one income group. The horizontal distribution is, however, restricted to the people indigenous to the given place (city), and does not extend to 'strangers' or migrants to that place. However, when the houses are built for rent, they are rented to anybody, indigene or migrant, so that it is only the ownership that is usually restricted to the indigenous population of a place; renting is open to all.

Because such traditional developments are generally of lower housing quality and service levels and of smaller sizes, their prices are relatively lower and generally more affordable by the general population than would be the more sophisticated developments of the public or private real estate firm developments. In this sense, too, this mode of ownership and developments are more likely to minimize the proportion of income spent on housing.

It had been pointed out that land in the traditional land tenure system is hardly sold and when exchanged or transacted, it is not done on a market pricing principle (see Chapter Six). The price is conditioned by the degree of relationships (often times consanguinal) between the seller and the buyer. Because of the limited transactions in land and the generally "below market pricing" context, urban land prices are kept in check more than would be the case in a private market situation in which speculation is more potent and in which the "highest bidder wins".

The traditional land ownership system, in spite of these good features, is not without its disadvantages.* These disadvantages have to do with its constraints on land assembly for major projects, and with its constraints on transactions in land and rationalization of land uses. The quality of its developments are generally low and with minimal servicing. The result is that they often create some environmental problems. The generally ill-defined and therefore uncertain and insecure titles to land in this mode make financing of land development in it difficult from the point of view of finance institutions. In some respects, too, it can be said that its feature of "non-sale" to 'strangers' or people non-indigenous to the given place, in some ways would tend to inhibit the social and political integration of the country.

*These disadvantages are dealt with in more detail in Section 2.6 of Chapter Two.

The Public Mode of Ownership and Management (Pm)

The Public Management System (LEDB) was the most effective in three of the ten performance variables on Table 8.1. These were the potentials for credit or institutional financing, security of tenure, and the quality of urban land development variables. Given its government backing, these features are understandable. Lending and mortgage institutions would feel safer financing public developments because the government guarantees such financing. Lands from the public management mode are more secure in their titles because the public agency has a semi-legal power to transfer and confer valid titles which cannot be questioned by anybody-- power derived from the eminent domain powers with which the management agency (LEDB) is vested.

The public management system, too, creates the best quality urban land and housing developments. It fully prepares and services its lands with the necessary basic infrastructural and housing services. Where it builds directly, it develops good housing on relatively large lots and therefore at relatively low densities.

Paradoxically, however, from its quality of developments stem many of its disadvantages. Although by our calculation, the LEDB was responsible for about 11% of all building land available in the city each year, production of housing units from these lands accounted for under 5%* of the total units produced yearly in the city. This relatively small proportion could be explained by the generally low density bungalow type developments that it predominantly produced or caused to be produced by its requirements for the development of lands that it leased or sold to people.

*Estimated.

Because of high quality land servicing and developments prices for its lands and houses understandably were higher than those in the traditional developments because it was required by its enabling legislation to reflect all costs of development in the prices for those developments when they are leased or sold. The exceptions were those developments that were as a matter of public policy subsidized, and these were relatively few.

The Public development mode had high social status emphasis. Therefore, the distribution of its land resources were skewed in favour of this group, as is shown in Chapter Seven. Given this emphasis, it was not likely (either directly or indirectly) to minimise the proportion of income spent on housing by the average urbanite. Its scale of land acquisitions would tend to affect the amount of land available in traditional hands and therefore the amount of land developed by the traditional sector which supplies a preponderant proportion of the conventional urban housing -- thus indirectly limiting the amount of housing units that could have been available. It could be said that its emphasis on attempts at tackling the housing quality problem without or before tackling the housing quantity problem had tended to exacerbate both the quality and quantity problems of urban land and housing. In sum, therefore, it could be said that although the LEDB (or the public mode) overall produced some high quality land developments, it was also true that many of the assumed advantages of public land ownership and management were not realised in its operations in spite of its public character. This was particularly true in the areas of facilitating access to land by all segments of the population, more economic use of land resources, and in the control of urban land prices.

Private (Real Estate) Market Mode (M)

This mode is as yet very negligible in scale, as a result of the still predominantly traditional land ownership pattern and as a result of the traditional tenure system's reluctance to trade on lands. Its land prices are the highest of the three modes. Its main advantage lies in the fact that it sells to the highest bidder and is an avenue through which 'strangers' (traditionally shut out of the land market) can own land in the city if they can afford it -- it ranks highest of the three in the "ease of transfer" variable.

Its main disadvantage is that it would concentrate accessibility of urban land and housing on those who are able to pay the economic rents or prices for them, and the social consequences of this outcome would be serious for the society as a whole. It is considered the least desirable of the three modes, and its negative consequences are often the rationale for public intervention in the urban land and housing market.

Given these virtues and vices of these modes, it is possible to surmise what type of city would result if one only of these modes of management were to dominate in a given city.

Taking the traditional control system first, the city would be one in which all the land and houses would be owned by the indigenous population (indigenous to the particular city), in which rental rooming houses with little housing services would predominate. There might be some dangers to environmental health at times, but it nevertheless would be a system in which the average urban family (both migrant and indigenous) might more easily secure shelter by renting.

With the public management system (assuming that present trends continue), the city would be one in which there would be a lot of high quality residential developments housing relatively very few families, while a greater proportion of the population live in very high densities with all the dangers that this portends. It would be one in which mainly public servants would own land and housing or have access to them (See Fig. 2.1C), while the host of the self-employed would be landless and have to fend for themselves.

The private (real estate) market system would result in the monopoly of land by a relatively few wealthy people (See Fig. 2.1B). As maximum profit would be the guiding operating principle, land and housing would be available to those who can pay the price and the types and forms of developments to prevail would be those demanded by the 'market'. This would mean overcrowding in the relatively fewer houses at the lower end of the quality scale, thus resulting in a city residentially segregated along economic lines. This system, too, would tend to ignore the broader desirable societal objectives which have no dollar values placed on them, but which nevertheless are very vital for the peace and stability of the society.

While the theoretical potentials of public control and management of urban land are immense, it can be deduced from the foregoing comparative performance evaluation that the realisation of these potentials is not necessarily always a truism. Rather, their realisation would depend a great deal on the social, institutional, and human setting in which they are applied, on the goals, objectives, and priorities of public policy in this respect, and above all, the administrative efficiency and competence of the public agency involved, would always have much to do with whether,

to what degree, in what ways, and which ones of the potential benefits in public ownership and management are realised.

8.4 Improving the Effectiveness of the Board (Public Management):Some Suggestions.

This thesis accepts in principle, the need for public intervention or involvement in urban land management and development, and therefore accepts the concepts of the LEDB or such similar agencies. It contends however, that the success of such intervention or involvement in realising its set goals is by no means a given. Much would generally depend on the processes and mechanisms employed in the involvement, as well as on the "quality" of the administration and management charged with the implementation of the involvement. The thesis also recognizes that the appropriate processes and mechanisms employed in a particular case or cases would vary with the goals and objectives in view. In any case, the realisation of the potentials of public urban land management should not be taken for granted.

Having profiled the Lagos Executive Development Board as an instrument of public urban land management and development, and having analyzed its operations, and noted its strengths and weaknesses, and accepting in principle the necessity for such an agency, the relevant question then becomes: How could the LEDB (or any similar agency in such a society's context) have been made to function "better",⁷ and more effectively? In what directions could the Board go operationally and structurally to improve its effectiveness in urban land management?

It is recalled that the Board's problems and weaknesses resulted from three major factors:

- (i) The land tenure situation and the problems it created for the Board in land acquisitions, mainly in the nature of high transaction costs;
- (ii) Inadequate funding;
- (iii) Problems arising from management skills and competence or administrative efficiency as well as the integrity of the personnel involved or charged with the administration of the agency and the implementation of its schemes.

Suggestions for the better functioning of the LEDB would then have to address (solve) the above listed problems -- minimizing or eliminating them, as well as re-defining the scope of functions, objectives, and goals of the Board. Various alternatives are possible. (1) The first is for the Board to continue along lines of its present direct and massive involvement with urban land acquisition, development, and allocation, but to improve its management and administrative efficiency, and its goal priorities.

⁷By functioning 'better' is meant effecting the release of urban land for development purposes, effecting the production of housing and improving access to these resources for all income segments of the population, and effecting the maintenance of a healthy and sanitary urban environment at minimal social and private costs and minimal inequities.

Each of the three problems listed above as inhibiting the performance of the Board was a serious enough problem, but it would seem that the problem of management competence and administrative efficiency was pivotal in determining the degree of success. This is in the sense that if there were sound, competent management and efficient administration, the problems arising from the other two problem areas -- traditional land tenure resistance and inadequate funding -- could have been handled with more resourcefulness, more skill, and better initiative and such skill could have minimized the degree of adverse impact or effects of these on the operations and success of the Board. It is assumed that competent management would usually pursue the right policies, goals, and priorities with the right and efficient approaches. After all, policies, intentions, goals or objectives -- be they public or private -- are only as good and effective as those who administer or implement or effectuate them.

The question of management competence and efficient administration, however, are essentially human problems, as opposed to technical ones, and therefore have no easy and straightforward equation for solution. The improvements in this area will inevitably be gradual and incremental. The raw materials or potential for competent management as such no doubt existed in the Board. Perhaps a set of mechanisms and instruments to bring about periodic public accountability of the Board and its key executives is necessary with the expectation that the awareness of such public accounting might help keep them and the operations of the Board within lines of better efficiency and integrity.

In addition to these mechanisms, other measures are possible to try to smooth out the problems of the Board or any similar agency. It had been noted, for example, that one of the serious problems that the Board encountered and in fact that all other public acquisitions of lands encounter was the opposition and resistance of land owners against compulsory land acquisition (Chapters 2, 4, and 5). It was also pointed out that these oppositions and resistances were based not only on cultural values and norms attached to land, but also that the manner and conditions of acquisition had to do with such opposition. This latter specifically refers to the processes of compensation assessment -- which is defined as the "fair market value" of such land at the time of acquisition -- often to the dissatisfaction of the land owners (See Chapter 5).

If the objective of public policy, however, is a concern for the public good of the environment or to modernize the land tenure or to implement development schemes that are intended to benefit the larger society as a whole, one can make a case for a "buying out" of the traditional land owners' resistances. To do this effectively would suggest that the present policy of paying the "fair market value" for compulsorily acquired land be deemed inadequate. Considering the subjectivities involved in calculating and arriving at the "fair market value" -- which often has the land owner at the short end of the stick, a case could be made for a revised formula that involves higher inducive compensation payments. What is being suggested is a literal "buying out" of the resistances to acquisition by offering owners of land to be acquired prices that are higher than the estimated market prices for land -- the sort of price offers "they cannot refuse". This would serve as an inducement or an "incentive for cultural change" with respect to the release of land from the cultural constraints on land transfers, which present formula of "fair market value" (which is often under-estimated) does not seem to achieve. This may not be too high a price

for the Government to pay if the long run benefits to the public are its overriding concern, and if the incidence of the costs of public acquisition actions on individual owners are considered relative to the incidence of the financial cost to the wider society. The wider public can better absorb the incidence of such financial costs than an individual or small group of individuals could.

The "buying out resistance" or "incentive for cultural change" concept will go a long way to minimizing the opposition to public land acquisition, and in fact, could prove less than the overall financial costs to the public involved in these compulsory acquisition exercises. In fact, it can be argued that given the protracted nature of compulsory land acquisition occasioned by the resistances of the land owners through the Courts, that the direct, indirect, and hidden costs involved in the present state of things, if calculated, might be higher than the suggested "greater than fair market value" formula. In another sense, this approach will ensure that lands are acquired because they are really needed, for appropriate public purposes.

(2) Alternative to this "buying out" approach would be to adopt the approach that the LEDB used earlier in its history -- turning back 80% or even lesser percentage of the land to the land owners after preparation and servicing, while applying the remaining 20% or so to defray the costs of land preparation and installation of infrastructure. It was said of this strategy then that with it, "opposition died rapidly and the Board was looked on as the layer of the golden egg."* This, how-

*Hoskyns-Abrahall, op. cit.

ever, was deemed suitable when the Board was primarily preoccupied with eradicating and preventing slums and improving the environmental quality immediately after the bubonic plague of the mid-1920's. Since then, the Board's scope of activities and interests has considerably broadened into many aspects of direct developments and may no more be acceptable to public policy now than they were when it discontinued its use in about 1935. But it is an option that is still used for city planning in some other cities of Nigeria, for example - Enugu in Anambra State - where the Planning Authority lays out the residential areas, subdivides and installs necessary infrastructure, then charges the land owners the planning fees to defray the cost of these basic infrastructure and overheads and then turns back the land to its owners, who then develop or lease out the plots for development. This approach, as a strategy, does work, then, and therefore, has the potentials of effecting some of the desired changes in the traditional land tenure and in the quality of urban land development.

(3) Another alternative might take the form of some organizational, administrative, and functional changes being made on the Board to enable it to manage and administer urban land indirectly through positive encouragement and regulation, rather than by direct massive involvement. Positive encouragement in the nature of the Board assuming the functions of a mortgage or credit agency, or of a mortgage or credit insurance agency, and using that position to create positive climate of incentives that are conducive to desired land developments, activities, and standards, could be evolved.

This would mean that having prepared and laid down the plan and standards for urban development and for the required housing types and densities, the Board would use its credit or mortgage insurance leverage to ensure that these types of developments are followed. Preferential treatment for low income and lower middle class development loans, for example, could be made to developers at incentive rates for such required developments.

As a way of taking advantage of the existing traditional land tenure system, credit or mortgage insurance could be made available to land owners to develop their lands themselves as required, and these loans recovered from the land owners from their proceeds after development.

This strategy would also obviate the need for and the consequent problems of the Board having to directly acquire lands itself and develop them directly; as well as also obviate the otherwise financial inability of many land owners to develop their lands themselves. This indirect incentives approach would enable more houses of different quality and price levels to be produced, and therefore made more accessible to all segments of the urban population who need them. It is

also likely to minimize wastes of land and other resources that are involved in the Board's direct involvements. This approach, of course, would have to be accompanied by a more strict enforcement of town planning laws, particularly with respect to the layout of plots or subdivision controls, building codes, health and sanitary codes, and zoning laws.

In effect, by this organizational and administrative role, the Board would be in a better position to support a steady flow of urban land to all user groups, thereby reducing land speculation and distortions in land pricing, than if the Board continued to involve itself, directly and massively, in adhoc land development schemes, which themselves tend to fuel land price rises.

Furthermore, the relative shortage of public investments funds and the heavy competitive demand on the available government funds for various National Development plan projects, as well as the desirability to build up a responsible class both of entrepreneurs and consumer spenders (which has been a policy goal of the government) would recommend this indirect incentives approach to public urban land management, as this would minimize demands on such public funds and at the same time achieve the envisaged goals. Moreover, this indirect approach would be likely to reduce the Board's needs for money for compensations and developments, which need was a serious source of weakness in its operations and which at a point forced its change of orientation.

The private sector has hitherto been responsible for over 80% of Nigeria's urban housing supplies, unaided by institutional financing. With credit and mortgage guarantee or insurance assistance, there is no reason why it could not do better still, including

improvements in the area of environmental and sanitary quality.

In this sense, then, the Board's function would essentially consist of administrative measures directed at:

- (i) Facilitating the development of urban land through the guaranteeing of financing to land owners and developers.
- (ii) Regulating and encouraging the design, installation and use of simple standards components and sanitary fittings, thereby ensuring that environmental quality standards in housing are improved and maintained -- standards that are not "over-designed" or too sophisticated for the people's level of development and income.

The importance of adopting simpler standards cannot be over-emphasized because insisting on idealistically high standards would worsen the situation in the city with its rapidly increasing population and already serious housing deficit. As neither the people themselves nor the Government, nor the LEDB has the resources to provide housing to all the people, much less at the ideal quality levels that the Board seemed to envisage and prescribe, insistence on unduly high standards would be reminiscent of a recommendation once made for Lagos by the Hoskyns-Abrahall report, to the effect that, "The Township regulations and by-laws be more strictly enforced with a view to forcing out unwanted people,"⁹ and this, if enforced, of course, might mean forcing out over 50% of the population of the city. It is better to have rooming houses built, even if they are potential slums, than to have no new houses or limited numbers built for letting, by an imposition of unduly high standards. Regulations defining and controlling overcrowding would usually gradually help to improve the living conditions even in the rooming houses, and be-

⁹T. Hoskyns-Abrahall: Report with Recommendations on the Planning and Development of Greater Lagos (1946), para. 28, p. 40.

cause of the very great shortage of accommodation, it would be impracticable to try to control overcrowding until the housing shortage has been substantially reduced. Consequently, if overcrowding and therefore the living environment is accepted as a serious social problem, the major aim of any land and housing policy would be to reduce the land and housing shortages by the provision of more building land and more accommodation at acceptable rent levels to a majority of those in need of accommodation. Requiring or adopting simpler standards will help towards the achievement of this purpose.

(4) Finally, the Board or any such other agency has to be adequately funded for the purposes assigned to it, if it is to function effectively. It is true to some degree that,

Institutions are ineffectual unless they are given access to and control over the resources necessary for operation. The increasing gap between the mandate of many human settlement institutions and the resources effectively placed at their disposal is one of the principal causes for the widespread crisis in urban management, in industrialized and developing countries alike.⁸

The Board should be adequately financed and provided for in the regular annual Government budgeting process. Enough funding should come from this source to take care of the Board's normal operating expenses including infrastructural developments and services. When some selected social projects need be undertaken, a separate ad hoc vote should be provided for it in the Government budget. The tying of the funding mechanism to the usual governmental budgeting process would also help to keep the Board's managerial accountability to the Government and the

⁸U.N.: Report of Habitat, op. cit., p. 80.

public (through the legislature's public accounts committee reports and debates), in constant focus and hopefully thereby keep the administration of the Board more alert to efficiency and productivity.

To aid the financing of private developments, as proposed, the Board essentially has to act as an instrument for removing institutional obstacles to financing the needs of all the people in urban land development by the administration of loan or mortgage guarantees. This would not involve need for direct funds by the Board, but only the credibility to be accepted as guarantors of loans by commercial banks and other credit institutions for those wishing to borrow for urban land development. With necessary arrangements, the Government can provide this guarantee through the Board as Government guarantees are always good for credit. The merging into the Board of the other Government or quasi-government urban housing credit institutions like the Nigerian Building Society and the Federal Mortgage Bank will greatly improve and facilitate this proposed financing function and improve urban land development goals and objectives in general.

In conclusion, it cannot be over-emphasized that the success of whatever alternative that is adopted will depend to a great extent on the efficiency, integrity, and sense of purpose of those actually charged with the organisation and management of urban land.

BIBLIOGRAPHY*

Urban Land Research Analyst Corporation (ULRAC) Monographs

- (a) Land Banks for Planning and Controls: Some General Principles and Specific Application
- (b) Municipal Land Reserve Policies: An Analytic Study of Foreign Experience
- (c) Measuring the Impact of Land Bank Policies on the Urban Land Market (Monograph No. 5), 1968.
- (d) Urban Land Value as it Relates to Policy (Lexington, Mass., 1969).
- (e) Investment Policy for Land Banks (Monograph No. 4).

Fletcher, Harvey L.: Land Banking in the Control of Urban Development (Praeger Publications, New York, 1974).

United Nations: Current Information on Urban Land Policies: A Preliminary Report (Department of Social Affairs, United Nations, New York).

Doebele, W.A.: A Commentary on Urban Land Policy in Sweden (Draft IBRD Discussion Paper, 1974).

Haar, Charles M.: Wanted: Two Federal Levers for Urban Use -- Land Banks and Urbanks (U.S. Congress, House Committee on Banking and Currency, June 1971).

Walters, A.A. et al.: Government and the Land (Institute of Economic Affairs, Reading 13, London, 1974).

United Nations: Proceedings of the Seminar on the Supply, Development, and Allocation of Land for Housing and Related Purposes, Vols. I and II (1965).

Siegan, B.H.: Land Use without Zoning (Lexington, Mass.: D.C. Heath & Co., 1972).

United Nations: Urban Land Policies and Land Use Control Measures: Volume I: Africa, Vol. VII: Global Review.

Parsons, K.C. et al.: Public Land Acquisition for New Communities and the Control of Urban Growth: Alternative Strategies (Center for Urban Development Research, Cornell University, Ithaca, New York).

The Royal Town Planning Institute: The Land Question (RTPI Planning Paper No. 4, 1974.)

Brittan, Samuel: Government and the Market Economy (Hobart Paperback No. 2, IEA, 1971).

* Arranged approximately along chapter sequences, not alphabetically.

- Elias, T.O.: Nigerian Land Law and Custom (Routledge and Keagan Paul, Ltd., London, 1960).
- Nwabueze, B.O.: Nigerian Land Law (Nwamife Publishing Co., 1972).
- Price, H.L.W.: Land Tenure in the Yoruba Provinces (Government Printer, Lagos, 1939).
- Meek, C.K.: Land Tenure and Land Administration in Nigeria and the Cameroons (Colonial Office: Colonial Research Studies No. 22, London, 1957).
- _____ : Land Law and Custom in the Colonies (Frank Cass & Co., Ltd., 1968).
- Simpson, S.R.: A Report of the Registration of Title to Land in Lagos (Federal Government Printer, 1957).
- _____ : Report of a Working Party on Registration of Ownership of Land in Lagos (Federal Government Printer, Lagos, 1960).
- McDowell, C.M.: "An Introduction to the Problem of Ownership of Land in Northern Nigeria" (Nigeria Law Journal, Vol. 1, no. 2).
- Nigeria: Working Party on Registration of Ownership of Land in Lagos.
- Speed, Edwin Amey: Report and Recommendations on the Proceedings of the Commission to Investigate Alien Land Tenure Problems in Ibadan.
- Rowling, C.W.: Land Tenure in Ijebu Province.
- Tew, Melvyn: Report on Titles to Land in Lagos (Sessional Paper No. 2, 1947, Government Printer, Lagos).
- Nigerian Land Department: Annual Reports 1925-1957.
- Chukwura, O.: "Legal Problems in Housing Provision in Nigeria" (Paper presented to the 2nd International Conference on Housing, University of Ibadan, April 21-25, 1975).
- Park, A.E.W.: "A Dual System of Land Tenure: The Experience of Southern Nigeria" (Journal of African Law, Vol. IX, No. 1, Spring 1965, pp. 1-19).
- Cook, D.S.: Land Matters in Onitsha Province (National Archives, Enugu, Nigeria, Ref. OP/270/28).
- Huth, W.P.: Traditional Institutions and Land Tenure as Related to Agricultural Development among the Ibo of Eastern Nigeria (USAID Report No. 36, July 1969).

Haar, C.M. (ed.): Law and Land (1964, Vol. 28).

Olawoye, C.O.: Title to Land in Nigeria (Evans Brothers, Ltd., Lagos, Nigeria, 1974).

Umeh, J.A.: Compulsory Acquisition of Land and Compensation in Nigeria (Sweet and Maxwell, London, 1973).

Public Lands Acquisition Ordinance, 1917.

Colonial Office, London: Housing in British African Territories: A Memorandum to Governors of British African Territories from the Colonial Secretary, 1953 (HMSO 1954, No. 303, London).

Federal Ministry of Information, Lagos: Report of the Coker Commission of Inquiry into the Affairs of Certain Statutory Corporations in Western Nigeria 1962. Vol. III, Part IV: Western Region Housing Corporation (1962).

Federation of Nigeria: First National Development Plan 1962-1968.

_____ : Second National Development Plan 1970-1974.

_____ : Third National Development Plan 1975-1980.

Nigerian Housing and Development: An Official Organ of the Association of Housing Corporations of Nigeria, Nos. 1-3.

LEDB: Annual Reports and Accounts (for various years).

Report of the Lagos Town Planning Commission with Recommendations on the Planning and Development of Greater Lagos (June 1946), (Government Printer, Lagos, 1946).

Baker, Pauline H.: Urbanization and Political Change: The Politics of Lagos 1917-1967 (University of California Press, 1974).

Lagos Notes and Records (various issues).

LEDB: What is the LEDB?

The Lagos Town Planning Ordinance No. 45, of 1928.

Federal Republic of Nigeria: Report of the Tribunal of Inquiry into the Affairs of the Lagos Executive Development Board for the Period 1st October, 1960 to 31st December 1965.

Lagos State Government: Four Year Development Plan, 1970-1974.

Harvard Law Review, Vol. 80, No. 6, April 1967.

Lagos Town Planning Act, Cap. 95 of 1958.

Cohen, M.A.: Urban Policy and Political Conflict in Africa.

Schwinn, Kent P. (ed.): Comparative Urban Structure: Studies in the Ecology of Cities (D.C. Heath & Co., Lexington, Mass., 1974).

Reilly, W.K. and S.J. Schulman: "The State Urban Development Corporation: New York's Innovation" (The Urban Lawyer, Vol. 1, pp. 129-146).

Bachelor, J.P.: "Public Agencies as Managers of Housing Quality" (M.C.P. Thesis, DUSP, MIT, September 1973).

Morris, Peter: Family and Social Change in an African City (London, Routledge and Keagan Paul, 1961).

Human Resources Research Unit (University of Lagos): Some Aspects of Population and Housing Conditions in Lagos.

Commerce in Nigeria, Vol. 6, 1964, "Planning Lagos: Central Scheme Progress" (pp. 29-31).

Williams, B.A. & A.H. Walsh: Urban Government for Metropolitan Lagos (Praeger Publications, 1968).

Cornelius, Wayne A.: Politics and the Migrant Poor in Mexico City (Stanford University Press, 1975).

Alejandro, Porfés and John Walton: Urban Latin America: The Political Condition from Above and Below (University of Texas Press, Austin & London, 1976).

Koenigsberger, Otto et al.: Metropolitan Lagos (New York, Report of a U.N. Technical Assistance Mission to Study the Urban Problems of Metropolitan Lagos, Nigeria, 1964)

Stone, P.A.: "The Economics of Housing and Urban Development" (Journal of the Royal Statistical Society, Vol. 122, Part IV (1959)).

Fisher, Ernst M.: Urban Real Estate Markets: Characteristics and Financing (Columbia University, NBER, 1951).

World Bank: Sites and Services Projects, April 1974, Housing: Sector Working Paper.

U.S.A.I.D.: Planning for Sites and Services Programs: Ideas and Methods Exchange, No. 68.

IBRD: Urbanization: Working Paper (1972).

Seminar on Urban Land Policy and Taxation in Asia (Tao-Yuan, Formosa, 1970).

Howard, John T.: "Capital Improvements Programming" in Boston Development Strategy Research Project, Massachusetts Institute of Technology, 1972).

Lagos State Development and Property Corporation: Towards a Better Environment

Federal Office of Statistics: Report on the Lagos Housing Enquiry, 1961 (Urban Consumer Surveys, 1956-1974).

Federal Republic of Nigeria: First Report of the Anti-Inflation Task Force, 1975.

LEDB: Draft Master Plan for Lagos.

Maisel, Sherman J.: "Background Information on Costs of Land for Single Family Housing", Appendix to the Report on Housing in California (California: Governor's Advisory Committee on Housing Problems, 1963).

Rothenberg, J.: "Inadvertent Distributional Impacts in the Provision of Public Services to Individuals", in Grieson, Ronald (ed.), Essays in Honor of William Vickrey, 1976.

H.M.S.O.: "Widening the Choice: The Next Steps in Housing" (MND 5280, HMSO April 1973).

_____ : Better Homes -- the Next Priorities (CMND 5339, HMSO June 1973).

United Nations: Methods for Establishing Targets and Standards for Housing and Environmental Development (DOC ST/SOA/76).

Ominde, S.H. & C.N. Ejiogu (eds.), Population Growth and Economic Development in Africa (London, Heineman, 1972).

Land Economics, Vol. 39, No. 1, 1963 (See Due, J.F.)

American Economic Review, June 1971, Vol. 55, December 1961.

Adedeji, A. and Rowland: Management Problems of Rapid Urbanization in Nigeria

Mace, R.L. and Warren J. Wicker: Do Single Family Homes Pay Their Way: A Comparative Analysis of Costs and Revenues for Public Services (Urban Land Institute, Research Monograph No. 15, Washington, D.C. 1968).

Orr, L.L.: "Municipal Government Policy and the Location of Population and Industry in a Metropolitan Area: An Econometric Study" (Unpublished Ph.D. Thesis, Department of Economics, M.I.T., 1967).

- Ellickson, B.C.: "Metropolitan Residential Location and the Local Public Sector" (unpublished Ph.D. Thesis, Department of Economics, M.I.T., 1970).
- Allaman, Peter M.: "Forecasting the Cost and Revenue Implications of the Development of a Suburban Town" (unpublished Ph.D. Thesis, Dept. of Urban Studies and Planning, M.I.T., 1975).
- Dorfman, Robert (ed.): Measuring Benefits of Government Investments (Brookings Institution, Washington, D.C., 1965).
- Perloff, H. and L. Wingo (eds.): Issues in Urban Economics (Resources for the Future, Inc. by Johns Hopkins Press, Baltimore, Maryland, 1968).
- Edel, M. and J. Rothenberg, J.: Readings in Urban Economics (The MacMillan Co., London and New York, 1972.)
- Page, Alfred N. and Warren R. Seyfried: Urban Analysis: Readings in Housing and Urban Development (Scott, Foresman, and Co., 1970).
- Seldin, M. and R.H. Swesnik: Real Estate Investment Strategy (John Wiley & Sons, Inc., 1970).
- Lupo, A., Colcord & Fowler, E.P.: Rites of Way: The Politics of Transportation in Boston and the U.S. City (Little, Brown & Co., Boston, 1971).
- Urban and Rural Planning Thought (School of Planning and Architecture, New Delhi, India).
- Samuelson, P.A.: Economics (McGraw-Hill Book Co., Ninth Edition, 1973).
- IBRD.IDA: Economic Growth of Nigeria: Problems and Prospects, Volume IX: Town and Country Planning (World Bank, Restricted Report No. AF-34C), November 29, 1965.
- U.N. Report of Habitat: United Nations Conference on Human Settlements (Vancouver, 31 May - 11 June, 1976).