

SEVERANCE OF COMMERCIAL BUILDINGS DUE TO ROAD DUALIZATION AND RENTAL VALUE CHANGES IN PORT HARCOURT

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ABSTRACT

The study examined severance of commercial buildings and rental value changes along Ada-George road in Port Harcourt. A population of 325 commercial buildings was severed for road expansion and sample size of 180 commercial properties were randomly selected for questionnaire administration. The primary data were collected from the field using questionnaires which were administered to 180 commercial property users of the severed properties and 155 questionnaires were retrieved and duly completed. Frequency distribution table, percentages, and pictures were used to present and analyze the data collected. The study found that slightly over half (56.78%) of the respondents were dissatisfied with the commercial properties after severance. It was thus concluded that severance reduced users' satisfaction with commercial properties in Port Harcourt. The study, therefore recommended that Users' opinions should be taken into consideration before the acquisition of such properties and whenever part of any building is to be acquired, the whole area of the commercial building should be acquired and paid for in order to reduce some of the litigation that may arise in the process.

KEYWORDS: *Users, Rental Value, Severance, Commercial Properties, Port Harcourt*

Article History

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INTRODUCTION

Commercial buildings are those designed, built and operated for any use other than residential, manufacturing etc (Abolade, Omirin, and Dugeri, 2013). When a property, for instance, a commercial property situated along a road and is affected by severance for compulsory acquisition purpose, the rent that will be received by the owner may not be the same with the rent that was received before the severance. When a property is being severed for compulsory acquisition purpose, owners or users of such properties face impoverishment when their properties are lost to bigger interest or for the public good forcibly. The challenges that such displaced people go through in their efforts to reorganize their lives have become a phenomenon which is acknowledged worldwide. Hence it has become generally accepted that displaced people need to be recompensed for lost property, transfer and sometimes relocated (Udoudoh 2016). Johnson et al (2000) stated that the extent of loss of severance will naturally vary greatly according to the nature of the undertaking and other circumstances.

Compensation, therefore, is conceived as the means by which impoverishment which usually arises out of dislocation or displacement from natural habitat could be addressed According to the World Bank Operational Manual

(2000), people whose properties have been lost are assisted to improve their livelihood and standard of living or to restore them in real terms so as to reduce poverty.

In Nigeria today, the principle of determining the compensation value of a property compulsorily acquired is set out in the land use Decree of 1978, imposing application of contractors test to determine the value of unexhausted improvement on land; with the necessary reflection of the age of such improvements (depreciation) being added to the ground rent paid in that year and reflecting interest at bank rate for the period when the compensation sum is likely to be paid (Kalu, 2001). This case is applicable to where the properties are fully acquired. What about when the property is severed? What happens to the value of the retained property when a property has been severed? Does it lead to other defects in the building?

Along Ada George road in Rivers State, the compulsory acquisition was embarked upon for the dualization of the road. The project affected many properties, crops, graves, structures/buildings and other unexhausted improvements. After the severance, the spaces left behind are not up to the space that was needed for such use, therefore bringing about change in the rent of the severed property. Much work has been carried out on compulsory acquisition and compensation and how it has affected the commercial property's value, but they failed to consider the effects of severance on the rents of such properties. It is against this background that this study examined the effect of severance due to the road dualization on rental values of commercial properties.

Aim and Objectives of the Study

The study examined Severance of commercial buildings due to road dualization and rental value changes along Ada-George road, Port Harcourt. The objectives include;

- To identify the effects of Severance on commercial properties.
- To examine the effect of severance on rental values.

This study covered severed commercial properties due to compulsory acquisition along Ada George road in Port Harcourt, Rivers State.

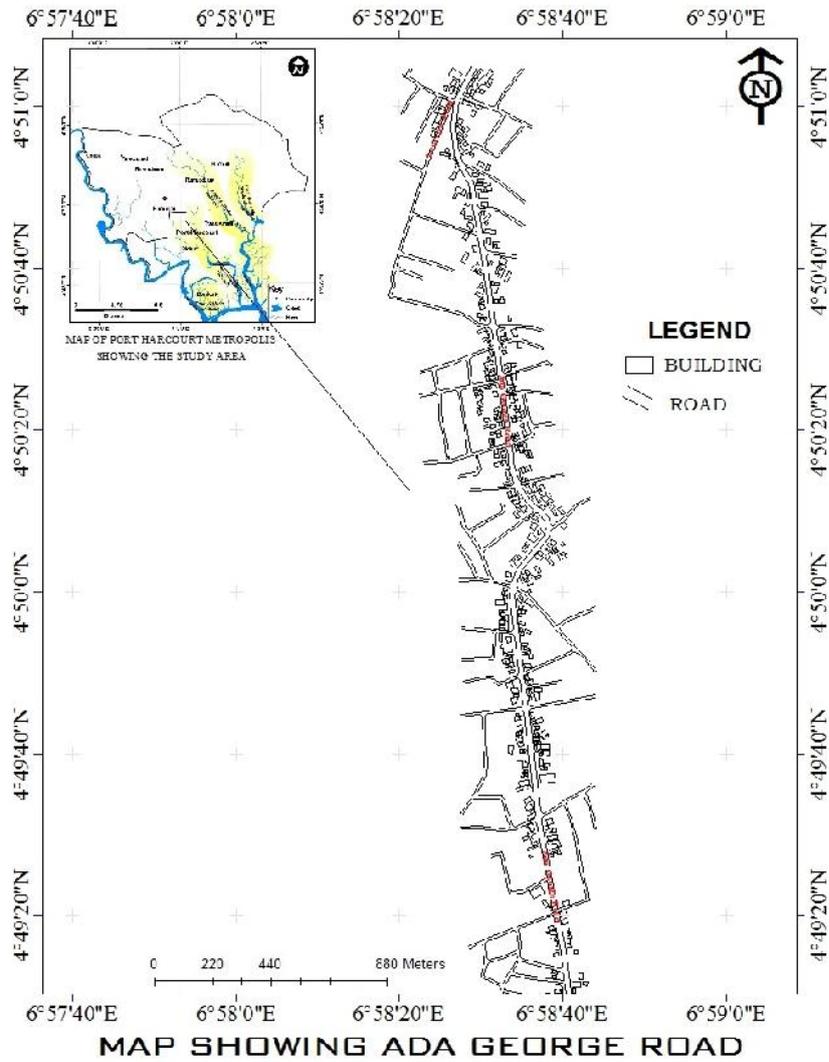
Description of the Study Area

Port Harcourt is the capital of the Rivers State in Nigeria. It is a port town lying along the Bonny River, hence the "Port" in the name Port Harcourt with "Harcourt" being the former colonial secretary, Lewis Harcourt's surname. It is located in southern Nigeria.

Port Harcourt lies right in the Niger Delta region and thus its economy is primarily based on oil and the petroleum industry. The current state of urbanization and modernization in Port Harcourt is due to the associations it shares with the petroleum industry. Port Harcourt was the chief industrial city of the former eastern region. It also serves as the center of social and economic life in the Rivers State. It is a major industrial center with many multinational firms as well as other businesses from the petroleum industry operating from there. Port Harcourt is also the chief oil-refining city in Nigeria. The main export in the Rivers State is crude oil.

Port Harcourt has a tropical monsoon climate. It is a victim to lengthy and heavy rain seasons. It has very short dry seasons. The Temperatures in Port Harcourt stay relatively constant though, and average about 25°C - 28°C.

The Ada George road is predominated with commercial buildings like shops, offices, restaurants, eatery, car wash, petrol stations. In addition to these, exists several residential, worship, hospitability, schools, hotels, churches, town halls, etc. The buildings and other structures are densely occupied and command good rental and capital values given that the road is one of the commercial hubs of Port Harcourt suburbs. The neighborhood is well serviced with functional road networks, which as at the time of inspection, it was in a good state of repair.



Source: Department of Urban and Regional Planning Rivers State University Geographical Information System, Rivers State

Figure 1: Map of Port Harcourt Metropolis Showing Ada George Road, Rivers State

LITERATURE REVIEW

Severance of Commercial Property

Commercial buildings have been defined as those designed, built and operated for any use other than residential, manufacturing, etc. These buildings can be dedicated to a single, homogeneous use such as corporate headquarters or they can be a complex combination of room for public interaction and space for commercial activity. The commercial property remains the most capitalized in term of unit value and achieving a meaningful depth. (Wyatt, 2007).

It is important to remember that “severance” compensation is one variety of “injurious affection” compensation, that is to say an owner suffers compensable loss (referred to in section 7 of the Oil Pipeline Act 1956 as “damage”) because his “other land” which he retains is depreciated by severance or some other factor (Johnson, Davies, and Shapiro. 2000). In most instances, they will be considered together as a single head of claim (see *Duke of Buccleuch v Metropolitan Board of Works (1872) LR 5 HL 418*. Johnson, et al (2000) further explains that the extent of loss of severance will naturally vary greatly according to the nature of the undertaking and other circumstances. For example, whether or not a new road or railway is situated on a level with the land remaining or is put on an embankment, or viaduct or in a cutting or tunnel, and whether or not “accommodation works” such as a private bridge or “underpass” are carried out to enable the owner to cross the road or railway. It must not be forgotten that land ownership extends physically downwards and upwards from the land surface so that viaducts and tunnels involve “severance” of land in principle just as surface works do.

According to Johnson et al (2000), “the loss by “severance” is loss whereby the market values of the land taken and the land retained an amount to less than the total market value of the land before it was severed”.

The claim for severance and injurious affection arises under section 7 of the Compulsory Purchase Act 1965, which reads: ‘In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the value of the land to be purchased by the acquiring authority but also to the damage, if any, to be sustained by the owner of the land by reason of the severing of the land purchased from the other land of the owner, or otherwise injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.’

A severance claim only arises where part of a claimant’s land is taken, and where the value of the retained land is depreciated as a result. Baum and Sams (1997) identify two instances where this can occur;

- Where a holding is divided into two parts, one being taken in the scheme, and the other being retained. The value of the retained land is consequently less than before the acquisition, by reason only of it is smaller than previously,
- Where a holding is divided into three parts, with two being retained and being physically separated by the third which is the part taken. Each retained part may suffer the loss as described in (a) above, but additionally, the two parts together may suffer through now being physically separated by a barrier of some sort i.e. the scheme.

Effects of Severance on Properties

This has to do with the damages to the retained part of the property not acquired that have been caused by the partial acquisition. In this situation, it is not so much the property that is taken that matters, but the use to which the taken or acquired portion is put and the effects on the remaining part. Basically, when a property is severed, the property owner and/or the property suffer:

Disturbance

Is used to mean a person’s monetary loss caused by disruption to the person’s property arising from severance and partial acquisition. However the compulsory acquisition (i.e. partial acquisition) of a property could involve expenses such as; removal expenses, loss of goodwill and loss of profit. Apart from those listed, the health inconveniences is important. The health problem may include noise, dust and heart related problems faced during the acquisition exercise.

Injurious Affection

This applies when part of the property is taken and the value of the rest of the property is reduced by whatever it is the acquiring authority intends to do on the property taken. In many cases, acquiring authorities intend to construct some facility which will have effects which often influence property values and the closer the property is to the facility, the greater the negative effect on the value of the property.

Defects on Building

Defects are abnormalities or deficiencies on properties. According to Oladapo (2004), defects in building are characterized by a number of factors such as unsuitable materials, incorrect assessment of loads, inadequate appreciation of condition of use and assess out of exposure to rainfall, the direction of prevailing wind, microclimate, atmospheric pollution, aspect and height of buildings. The defects can be patented or latent. Patent defects are those which can be discovered by reasonable inspection. Latent defects are those which cannot be discovered by reasonable inspection, for example problems with foundations which may not become apparent for several years.

Defects in Commercial Property Caused by Severance

Defects on buildings as a result of severance can be grouped under the following areas. They are;

Architectural Defects

According to Rowland (1999), a good building should satisfy the three principles of *firmitas, utilitas, venustas* is commonly known by the original translation – *firmness, commodity, and delight*. An equivalent in modern English would be; *durability, utility, and beauty* (wiki/architecture, 2016). Leon Battista Albertini who elaborates on the ideas of Vitruvius in his treatise, *De Re Aedificatoria*, saw beauty primarily as a matter of proportion, though ornament also played a part. Louis Sullivan in the 19th Century was looking into modern concepts of architecture, promoted an overriding precept to architectural design; “form follows function”. It was further explained that while the notion that structural and aesthetic considerations should be entirely subject to functionally was met with both popularity and skepticism, it had the effect of introducing the concept of function in place of Vitruvius’ “utility”. “Function” came to be seen as encompassing all criteria of the use, perception and enjoyment of a building, not only practical but also aesthetic, psychological and cultural. With regards to the construction, development scheme, the basic principles of all buildings, be they domestic or commercial is that they should be functional, capable of being economically maintained and aesthetically attractive (Olusegun, 2008).

Structural Defect

Structural defect is defined as actual physical damage to the designated load-bearing elements of the home caused by failure of such load-bearing elements which affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary or otherwise unlivable. (Home Buyer Warranty 307 warranty booklet). A change in the form or dimension of an element or component is an undesirable feature even if it is of no structural significance. He further posits that distress in a building may generate compressive, tensile, bending, shear stresses, or torsion. Major failures concern the structural elements, particularly the foundation, which of course will involve the walls and at times the roof (Ikpo, 2006). In Marshall, Worthing, and Heath (2003), it was also shown that failure of the foundations of a building almost inevitably leads to cracking in the walls. They further suggested that there are many other causes of cracking walls, such as the thermal movement or stress induced within. Where a wall is negligently severed the walls of the building must definitely

have crack’s thereby reducing the structural strength and stability of the retained part. Marshall et al (2003) further explained that dwellings will fail to meet the repair standard if one or more of the key building components or two or more of the other building components are old, and because of their condition, need replacing or major repair.

Mechanical (Plumbing) Defect

Plumbing defects are one of such problem that may go undetected and cause serious and lasting damage. Not only are plumbing defects a costly inconvenience, but they can cause other serious problems to a residential or commercial property.

Electrical Defects

It is important to state that before any electrical work is carried out, it is first designed on papers. If any the property is severed, the cables can be suffering mechanical damages to insulation materials Noy (1998) and this can result in electrocution or fire outbreak.

Economic Defect

This entails, how the value of the property is affected. A detailed explanation is provided under the effect of Severance on Real property value. This paper focused on the economic effect of severance.

There appears to be a dearth of literature on severance of commercial properties due to road dualization and rental value changes in Port Harcourt.

RESEARCH METHODOLOGY

The researcher adopted a descriptive research design (i.e. survey research design). The population of the study is 325 buildings that were severed. The sample size of this study is 180 properties that were severed and compensation has been paid. The researcher applied the simple random sampling technique in selecting the sample size. Taro Yamane’s formula was used to estimate the sample size. See Taro Yamane’s Formula below;

$$n = \frac{N}{1 + (e)^2}$$

Where, n= sample size sought

N= Population Size (325)

e= Level of significance (0.05)

Table 1: Questionnaire Distributed and Retrieved

Option	Respondent	Percentage (%)
Number of questionnaires retrieved	158	87.78
Number of questionnaire not retrieved	22	12.22
Number of questionnaires administered	180	100

In the study 180 questionnaires were administered and 158 were retrieved representing 87.78% response rate while 22 (12.22%) of the questionnaire were not retrieved. It is pertinent to note that out of the total number of questionnaires that were retrieved (i.e. 158), 155 of the questionnaires were duly completed by the respondents and formed the basis for data analysis.

RESULTS AND DISCUSSIONS

The results of the research work are presented below.

Properties Affected by Road Dualisation

Table 2 showed that 155 respondents representing 100% said that their properties were affected as a result of the dualization of Ada- George Road, Port Harcourt.

Table 2: Properties Affected by Road Dualisation

Response	Respondents	Percentage (%)
Yes	155	100
No	-	-
Total	155	100

Source: Researchers Fieldwork (2017)

Properties Severed (Partly Severed)

Table 3 showed that 155 respondents representing 100% agreed that their properties were severed. It is pertinent to state that none of the respondents said that their property was not severed. See Plate 1 and 2 showing severed buildings.

Table 3: Properties Severed (Partly Severed)

Response	Frequency	Percentage (%)
Yes	155	100
No	-	-
Total	155	100

Source: Researcher's Fieldwork (2017)

Effect of Severance on Rental Values of the Property

Table 4 showed that 19 respondents representing 12.26% said that the rent paid before the partly acquisition was lower than the rent paid after the acquisition. However, the remaining 137 respondents representing 87.74% said that the rent paid after the property was partly acquired is lower than the rent paid before the partial acquisition. The findings revealed that the severance has a huge negative impact on rental values. This implies that severance caused a reduction in investment returns. This could be as a result of the reduction in space occasioned by severance.

Table 4: Rent Paid After the Property was Partly Acquired

Response	Respondents	Percentage (%)
Increase in Rental Value	19	12.26
Decrease in Rental Value	137	87.74
Total	155	100

Source: Researchers Fieldwork (2017)

Effects of Severance on Commercial Properties

Table 5 indicated that 100% of the respondents stated that there was a reduction in the usable space of the property, alteration in the design of the property and negatively affected the aesthetic of the property due to severance. The findings revealed that severance general has a negative effect on the commercial properties.

Table 5: Effect of Severance on Commercial Properties

Variables	Respondents	Percentage (%)
Reduction in usable space	155	100
Alteration in the design of the building	155	100
It has negatively affected the aesthetic of the property.	155	100

Source: Researchers Fieldwork (2017)

CONCLUSIONS

The paper examined severance of commercial properties and rental value changes along Ada – George road in Port Harcourt. The study found that the severance has a huge negative impact on rental values of commercial properties. The study also revealed that severance reduced available useable space, above, altered the design of the property and changed the aesthetics of the property. The study concludes that severance due to road dualization has a negative impact on rental values, return on investment and property in general. The study recommended that instead of a part acquisition of the building, the whole building should be acquired by acquiring authority and compensation paid at the total replacement cost of land, building and other expenses in a comparable location.

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