NAME: KEGHKU ANNE-MARY.

MATRIC NO.: 16/LAW01/119.

LAND LAW TEST.

\*For the purpose of this answer, ‘The Act’ is the ‘Land Use Act, 1978\*.

The legal issue for determination whether the government action in demolishing the hotel is legal or whether the governor had the right to revoke the statutory right of occupancy for Mr. Ajah and whether his action against the governor would be successful. By virtue of Section 28 of the Land Use Act, states that a right of occupancy may be revoked by the governor for overriding public interest. This power is exercisable in respect of right of occupancy granted or deemed granted by the government. Furthermore, Section 28(5)provides grounds on which the statutory right of occupancy may be revoked. Although, the Land Use Act does not expressly states that the specific ground(s) of the revocation of a right of occupancy must be stated in the notice, however, following judicial decisions, where a right of occupancy is stated to be revoked for public purpose, there is the need to spell out the public purpose in the notice of revocation.

In terms of 28(6) of the Act, as seen in the case of Mulima V. Usman any revocation of any right of occupancy shall be signified under the land of a public officer duly authorized in that behalf by the Governor and notice therefore shall be given to the holder demonstrating notice the revocation is very important after the Land Use Act . The governor is empowered to revoke a right of occupancy only after issuing the land is required. It is also important to note by virtue of Section 44 of the Act, the mode of service of the notice must comply with provision of the Act otherwise the notice would be void. The purpose of giving notice of revocation of a right of occupancy is to duly inform the holder thereof the steps being taken to extinguish his or her right of occupancy. In absence of a valid notice of revocation, the purported revocation of the right of occupancy will be ineffectual. Service of notice of revocation of a right of occupancy is very crucial. By virtue of Section 28(6) of the Land Use Act, a notice of revocation must be given to the holder. Section 44 A-C provides that the notice must be given to the person either in their homes, land known place of abode or served on him or her as seen in the case of Estate of General Sani Abacha V Samuel David Eke-Spiff & 3 others.

As seen in the given scenario, the governor gave an executive order stating the sanctions for breaching the order which demolition was among. Although the Quarantine Law under S.5 provides fines and imprisonment as the penalty for default, the executive order overrides that law hence making the act of the governor legally binding. There is a big but. Subject to S. 28(6) and S. 44 of the Land Use Act however before there is a revocation of right of occupancy, the revokee is entitled to direct notice by the revoker or the revocation would be considered null and void hence making the revokee entitled to compensation. The announcement made by the governor was not a direct serve of notice hence making his actions unconstitutional.

In conclusion, Mr. Ajah would be bring a successful action against the governor for not properly serving him notice before demolishing Tarzan Hotel. He is entitled to compensation by the governor who did not act in accordance to S.28(6) and 44 of the Land Use Act.