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MATRIC NUMBER: 16/LAW01/011

LAND LAW TEST

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ANSWER.

LEGAL ISSUE

Whether the governor's action to demolish the hotel in the light of the constitution and the land use act was legal and constitutional.

A right of occupancy could be terminated by revocation of that particular land. *Section 28 of the LUA* says that a right occupancy may be revoked but only due to overriding public interest and not for personal purpose.

Overriding public interests include: alienation by the occupier of any right of occupancy or part thereof contrary to the provisions of the act or any regulations made thereafter; requirement of the land by the government for public purpose, requirement for mining etc

S28(5) goes further to state that a governor may revoke a right when there is breach of any of the provisions which C of O is meant to contain, a breach of term contains or any special contract made under section 8 of the act.

Any revocation order outside of the act is constitutionally null and void.

To buttress this point further is the case of *the administrators of the estate of general saani abacha v. Samuel david eke spiff*

in this particular case, revoking a right of occupancy and re allocating it to someone else was termed to be unconstitutional because it wasn't in accordance with the act.

Also, when it comes to revocation, notice must actually be served. According to S28(6), a notice of revocation must actually be given to the holder.

S44 LUA, gives and elaborates how and ways it is actually meant to be served no matter the cost

It is important to note that publication in the gazette doesn't amount to sufficient notice, such notice must be served personally. This is emphasized in the case of *goldmark(nig) ltd v. ibafon co. ltd*

Applying the principle of law to the scenario, the governor demolished the hotel due to chief Ajah's defiance of the order issued by the governor.

Section 1 of the CFRN 1999 as amended speaks on the supremacy of the constitution and goes ahead to say that any other law which is inconsistent with its provisions should be null and void. It is important to note that the Land use act is included in the constitution. As a result, any other law, when it clashes with the land use act, is inconsistent with it is null and void.

Indeed, Chief Ajah's act was a defiance of the quarantine order, however, demolishing his building is inconsistent with the constitution as well as the land use act as it wasn't for public purpose rather insubordination to the order of the governor.

A lesser punishment would have been more practical.

In conclusion, it can be said that, the act of the governor was unlawful and unconstitutional as it contravened upon the rights of chief Ajah and wasn't in accordance with the constitution and Chief Ajah can proceed to court with this argument and have a very high chance of winning.

Precedence to buttress this argument are; *Obi v. minister of FCT, the administrators of the estate of general saani abacha v. Samuel david eke spiff* and *Amale v. sokoto local government*.

These cases mentioned above illustrate that according to **section 28**, the government can only take over a land if it's for the purpose of overriding public interest and not for any other purpose. When it is done outside this, it is unconstitutional and void.