

## CHALLENGES OF ENFORCING LEASE AGREEMENT IN THE MANAGEMENT OF COMMERCIAL PROPERTIES IN PORT HARCOURT METROPOLIS. RIVERS STATE, NIGERIA

<sup>1</sup>NKPITE, Bari-Ene Samuel and <sup>2</sup>WIKE, Emmanuel Okas

<sup>1&2</sup>Department of Estate Management, Rivers State University, Port Harcourt.

<sup>1</sup>[nkpitebariene@gmail.com](mailto:nkpitebariene@gmail.com) & <sup>2</sup>[emmawike@yahoo.com](mailto:emmawike@yahoo.com)

**ABSTRACT:** *Managing commercial properties presents both opportunities and challenges. Lease enforcement stands out as a critical aspect requiring meticulous attention, but it is yet to be considered in critical aspect of commercial property management. This study delves into the complexities surrounding lease enforcement in commercial property management, focusing on the Port Harcourt Metropolis in Rivers State, Nigeria. Employing a mixed-method research approach, data was gathered from registered Estate Surveying and Valuation firms using purposive sampling techniques. Questionnaires and interviews were administered to 12 Head of Practice representatives, resulting in a 62% response rate. Analysis of the collected data revealed significant challenges including legal procedural delays, tenancy laws, eviction procedures, tenant financial stability, dispute resolution hurdles, tenant legal knowledge, socio-political factors, property documentation, regulatory and legal compliance, zoning laws, tenant selection, liability, breach of lease, and taxation issues. The study underscores the importance of understanding lease agreements, maintaining accurate records, managing rent effectively, and fostering strong tenant relationships. It also advocates for compliance with legal requirements and leveraging technology and professional assistance to optimize lease enforcement processes. By addressing these challenges proactively, landlords can enhance the profitability and sustainability of their commercial property investments.*

**Key Words:** Challenges, Enforcement, Management, Lease Agreement, Commercial Properties

### INTRODUCTION

The effective management of commercial properties hinges significantly on the enforcement of lease agreements, which serve as the cornerstone of landlord-tenant relationships. In Port Harcourt Metropolis, a dynamic urban center characterized by a burgeoning commercial real estate sector, the enforcement of lease agreements presents multifaceted challenges that impede the smooth operation of property management. However, property owners, property managers, governments and investors in the real property sector the world over, have invested enormous resources in developing model leases, tenancy agreements, mortgages, purchase and sale agreements, licenses and other instruments that are routinely used in connection with the development and operation of land and landed properties. The rights and obligations contained in these instruments are of great

practical use when they are enforced in an efficient and effective manner (Gilbert, 2008). According to Akomolede (2006), for most applicants of commercial properties there is a lack of information available about their future landlord and their track record, and the condition of the properties available for letting. Most tenants sign a tenancy agreement with typically only a brief, largely subjective viewing of the demise property.

In Nigeria, the rights of parties involved in the commercial lease agreements are not protected by The Landlord and Tenant Act during enforcement. Tenant rights primarily concern the protection against notice of termination and against unreasonable rental fees. As a main rule the landlord cannot terminate the tenancy contract without just cause, and the rental fee in new tenancy agreements shall not exceed the current market rent (Mary, 2010). Rights in the tenancy market can be defined by a number of factors, and categorized by weak rights in the rental market by the following factors: renting from an employer; leasing property; subletting in apartment buildings; subletting in housing cooperative societies or shareholding housing societies; borrowing a dwelling; leasing a fully furnished dwelling and tenancy contracts with a time limit of less than 3 years (Ojo, 2003; Francis, 2011). The intricate fabric of challenges encountered in enforcing lease agreements within the context of commercial property management in Port Harcourt Metropolis is considered cumbersome and very difficult to address. By illuminating these challenges, a deeper understanding of the complexities inherent in the local real estate landscape, thereby offering insights that could inform policy interventions and managerial strategies in enforcing commercial lease agreement can be addressed.

Port Harcourt Metropolis stands as a vibrant economic hub within Nigeria, attracting diverse commercial activities ranging from retail outlets and office spaces to industrial facilities. The management of commercial properties in such a dynamic environment demands robust lease agreements that delineate the rights and obligations of both landlords and tenants. However, the enforcement of these agreements often encounters obstacles stemming from legal, economic, and social factors. Legal intricacies, including ambiguities in lease terms, inadequate legal frameworks, and lengthy legal processes, pose significant challenges to enforcing lease agreements. Economic factors such as fluctuating market conditions, rent default, and financial constraints faced by both landlords and tenants further complicate the enforcement landscape. Moreover, socio-cultural dynamics and tenant-landlord relationships influence enforcement outcomes, highlighting the need for nuanced approaches tailored to the local context.

By scrutinizing these challenges through empirical research methods, including surveys, interviews, and case studies, this study aims to provide a comprehensive assessment of the impediments to enforcing lease agreements in commercial property management in Port Harcourt Metropolis. The findings of this research endeavor to offer actionable insights for stakeholders, including property owners, managers, policymakers, and legal practitioners, to address these challenges effectively and foster a conducive environment for sustainable property management practices. Hence, this question is asked; What are the problems inherent in the enforcement of the commercial property agreement as a shield in property management? The answer to this question is central to identifying the problems inherent in the enforcement of tenancy agreement as a shield in property management in Nigeria, as well as provision of viable recommendations that will ensure the protection of all parties in the rental housing sector in the country. In essence, this research seeks to illuminate the complexities surrounding the enforcement of lease agreements in the management of commercial properties in Port Harcourt Metropolis, thereby contributing to the advancement of knowledge in real estate management and facilitating informed decision-making within the sector.

## **2.0 LITERATURE REVIEW**

### **2.1 Commercial Property Management**

Commercial property management encompasses the comprehensive administration, operation, and oversight of commercial properties, including office buildings, retail spaces, and industrial complexes (Akomoledé, 2006). This multifaceted role involves diverse responsibilities aimed at optimizing property value and profitability while meeting the needs of both tenants and property owners. Lease management stands as a central task, encompassing activities such as marketing available spaces, tenant screening, lease negotiation, and rent collection. According to Chika (2008), effective lease management ensures favorable terms for all parties, sustaining high occupancy rates and rental income. Tenant relations management is pivotal, with property managers serving as primary liaisons, addressing concerns, fostering positive relationships, and minimizing turnover. Maintenance and facility upkeep are prioritized to meet safety standards and enhance property appeal. Financial management, including rent collection, budgeting, and financial reporting, ensures alignment with owners' financial goals. Moreover, compliance with legal and regulatory requirements is diligently ensured, mitigating legal risks for property owners. Commercial property managers thus play a crucial role in the success and sustainability of commercial real estate ventures.

Property managers in commercial property management undertake a variety of responsibilities and services, typically at the request of property owners for a fee. These duties vary depending on factors such as property type, management contract terms, and compensation. Overall, property managers oversee daily operations, supporting property owners (Araloyin and Olatoye, 2011). They require a solid understanding of the relevant real estate industry, be it housing or industrial. Their tasks encompass tenant management, maintenance, rent collection, budgeting, and record-keeping to achieve owners' objectives. Knowledge of state and national laws is essential for tasks like tenant screening, security deposits, evictions, lease terminations, and safety compliance (Akomoledede, 2006). Property managers coordinate maintenance, address tenant concerns, lease vacant units, handle rent collection, and maintain regular communication with owners (Chika, 2008). Acting as the owner's representatives, they ensure prompt issue resolution and professional property upkeep.

## **2.2 Commercial Property Lease Agreement**

A commercial lease agreement serves as a legal contract delineating the relationship between a landlord and a tenant within a commercial property (Araloyin and Olatoye, 2011). This formal document precisely outlines each party's obligations to the other, typically drafted by a real estate attorney for a fee. However, a concerning trend emerging in Nigeria involves landlords opting to retain the legal fee, thus prompting tenants to cover the cost and receiving a preexisting or internet-sourced tenancy agreement. This practice poses a risk of producing legally insufficient documents that may not hold up in court, potentially exposing both parties to unnecessary risks (LNREA, 2012). The commercial lease agreement serves to succinctly delineate the rights and responsibilities of both the landlord and the tenant, ensuring clarity and preventing ambiguity. Unfortunately, some landlords fail to treat their tenants respectfully, adopting a boss-subordinate relationship dynamic, which can lead to unfair treatment of tenants in various instances (Segun, 2011; Francis, 2009).

According to UN-HABITAT (2006), there are two types of leases, each governed by different laws: periodic leases, typically month-to-month tenancies, and leases for definite terms, specifying rental periods usually of six months or a year. Whether oral or written, a commercial lease agreement is intended to safeguard the interests of all parties involved in the commercial rental property sector, clearly stating the responsibilities of both the landlord and the tenant. A written agreement is preferable and should be carefully read and understood by all parties before being duly signed. Commercial lease agreements are generally more complex and negotiable, with terms varying

widely based on the needs of the tenant and the nature of their business (Francis, 2009). These leases may include provisions for rent escalations, tenant improvements, standard area maintenance charges, percentage rent (based on the tenant's revenue), and options for renewal or expansion (Bello, 2008). Commercial rental contracts are more complicated, as tenants will want to negotiate everything. Preparing yourself for the stressful task of drafting commercial contracts by partnering with a real estate lawyer. Or, one would opt to hire a commercial property management firm with its own in-house team of real estate lawyers.

The relationship between the landlord and the tenant is based on an agreement. While their relationship is usually reasonable, some common problems are experienced in African cities: the landlords complain that their tenants don't take good care of the rental housing, pay their rent late, misbehave in general and do not understand that rising costs of utilities, maintenance and repairs make it necessary to raise the rent (Dabara, Olatoye, and Okorie, 2012). The tenants also complain that their landlords fail to maintain the housing properly, don't repair things when they break, charge unfairly high fees for utilities, increase the rent without warning, turn hostile when the rent is paid a little late, threaten eviction or fail to return security deposits when they move out. It is observed that the relationship between landlord and tenants in Nigeria, in most cases is not cordial (Kumar, 2001; Francis, 2009).

Many rental agreements between landlords and tenants in Nigeria are personal and informal in nature, concluded outside of any government regulatory framework or formal legal system. According to Dabara, Olatoye, and Okorie (2012), this informality and lack of official documentation makes going to court an extremely impractical way of dealing with landlord-tenant conflicts. In some cases, landlords will try to avoid problems by only accepting tenants who have been recommended by people they know. But in other cases, landlords use a different strategy and actively seek to attract strangers and outsiders, because they want to avoid being too close to their tenants to maintain a more business-like relationship, in the hopes that the tenants will take care of their rental unit, respect the rental conditions and leave when they are asked to (COHRE., 2003). There can also be a "dark side" to the informal agreements between tenants and small-scale landlords, where a landlord takes advantage of the lack of a written contract to constantly raise the rent, squeeze more and more tenants into limited space (Chika, 2008), let the building deteriorate into slum conditions, or in other ways disregard the needs of tenants and the terms of their agreement (Akomoledede, 2006). Where there is a serious shortage of commercial property in a city, unscrupulous landlords will know that tenants have little option but to put up with exploitative and

often illegal rental conditions (Brzowski, 2008), because they lack the resources to find better commercial property or challenge the landlord's actions using the legal system.

### **2.3 Challenges of Enforcing Lease Agreements in Commercial Property Management**

Property management, according to Christudason (2008) must be based on the terms of the contractual agreement between the parties on the one hand, on an appreciation and interpretation of the particular owner's objective on the other hand. This thus requires a high degree of compliance with the provisions and terms as well as performance on the part of the parties. The in-ability of any of the parties to perform fully or in part his/her own part of the agreement brings about management problems. Management problems hinders effective operations of property management activities. Enforcing lease agreement managing a commercial property comes with its own set of challenges. According to Oladokun and Ojo (2012), the common enforcement challenges faced in commercial property management include: legal instruments and frameworks, economic forces, and relationship between landlords and tenants. And they are as discussed below:

#### **2.3.1 Legal Framework Governing Commercial Property Lease Agreements in Nigeria**

In Nigeria, commercial lease agreements are primarily governed by various legal instruments and frameworks, including statutes, common law principles, and regulatory guidelines. Understanding the legal framework is crucial for both landlords and tenants engaging in commercial property transactions to ensure compliance and protect their rights and interests. And the legal framework governing commercial lease agreements in Nigeria is multifaceted, comprising statutory provisions, common law principles, contract law, regulatory guidelines, registration requirements, tenant protection laws, and dispute resolution mechanisms. The legal framework governing commercial lease agreements in Nigeria encompasses a combination of statutory provisions, common law principles, contract law, regulatory guidelines, registration requirements, tenant protection laws, and dispute resolution mechanisms (Funmilayo and Olatoye, 2011). The Land Use Act of 1978 stands as the primary legislation governing commercial lease agreements in Nigeria. This act vests land ownership in the government, granting individuals and corporate entities the right to use land through statutory rights of occupancy. Commercial leases are structured within this statutory framework, with leasehold interests not exceeding 99 years. Additionally, common law principles, rooted in English law and judicial precedents, significantly influence commercial property lease agreements (Langsether, Gulbrandsen and Annaniassen, 2003). These principles encompass landlord and tenant rights, leasehold covenants, and remedies

for breach of lease terms. Courts often rely on common law principles to interpret lease agreements and resolve disputes.

According to Francis (2009), contract law principles govern commercial property lease agreements, where parties enter into legally binding contracts defining lease terms, including duration, rent payments, maintenance responsibilities, and dispute resolution mechanisms. Contractual provisions must align with statutory requirements and common law principles. Regulatory guidelines issued by relevant government agencies, such as the Nigerian Investment Promotion Commission (NIPC), may impact lease agreements involving foreign investors. State governments may also impose specific regulations governing commercial leases within their jurisdictions (Gilbert 2008). Commercial property lease agreements exceeding three years or containing renewal options for more than three years must be registered with the relevant land registry under the Land Instrument Registration Law. Registration provides evidence of the lease's existence and safeguards the interests of both parties. Furthermore, tenant protection laws, such as rent control and eviction procedures outlined in the Recovery of Premises Act, afford legal safeguards to tenants (Dabara, Olatoye, and Okorie, 2012). Disputes arising from commercial property lease agreements may be resolved through negotiation, mediation, arbitration, or litigation, with alternative dispute resolution mechanisms increasingly favored for their efficiency and cost-effectiveness. Commercial real estate is subject to various laws, regulations, and compliance requirements. Staying updated with changing regulations, addressing legal issues, and ensuring compliance with building codes, zoning laws, and safety standards can be overwhelming. A commercial real estate company has a deep understanding of legal and regulatory matters, mitigating risks and ensuring adherence to all necessary requirements (Christudason, 2008).

### **2.3.2 Economic Forces Influencing Commercial Property Lease Enforcement**

Economic forces play a pivotal role in lease enforcement within the commercial real estate sector, affecting the behavior of landlords and tenants, investment returns, property valuation, and regulatory compliance (Novac, Darden, Hulchanski, Seguin and Berne`che, 2002). By understanding these economic dynamics, stakeholders can navigate lease enforcement challenges effectively and optimize outcomes for all parties involved. Economic forces are integral to lease enforcement in the commercial real estate sector, influencing landlords, tenants, investment returns, property valuation, and regulatory compliance. By comprehending these economic

dynamics, stakeholders can adeptly navigate lease enforcement challenges, optimizing outcomes for all parties involved. Market conditions and supply-demand dynamics directly impact lease enforcement. In competitive markets with high demand, landlords possess greater leverage, while oversaturated markets empower tenants in negotiations. Rent levels agreed upon in leases significantly shape enforcement, as landlords rely on rental income for financial stability (Olatoye, 2005). Conversely, tenants' ability to meet rental obligations may fluctuate based on economic variables like business performance.

Financial pressures, including economic downturns and interest rate fluctuations, pose challenges for both landlords and tenants, affecting their ability to fulfill lease commitments (Mondel, 2001). Landlords may opt for lenient approaches to retain tenants during financial constraints, while tenants facing difficulties meeting obligations could lead to conflicts. Economic rationality guides decision-making in lease enforcement, with landlords weighing enforcement costs against benefits in upholding compliance, while tenants assess risks and costs associated with non-compliance (Ojo, 2003). Lease enforcement impacts investment returns and property valuation, influenced by factors such as rental income and occupancy rates. Effective enforcement measures enhance property values by ensuring stable income and reducing vacancy risks. Economic policies, including regulatory frameworks and taxation, shape lease enforcement dynamics (Okupe, 2002). Changes in tax laws or regulations influence landlords' strategies in enforcing leases, impacting lease structures and pricing strategies (Mary, 2010). Understanding these economic forces influencing lease enforcement, such as market fluctuations, rent levels, and financial pressures faced by landlords and tenants entails how economic conditions impact lease compliance and rental payments.

### **2.3.3 Impact of Tenant-Landlord Relationships on Commercial Property Lease Enforcement**

The relationship between landlords and tenants holds significant sway over contractual terms within the real estate rental market, as observed by Itoh (2023) and Pfrang and Wittig (2008). Lease terms are often subject to negotiation between both parties, with agreed-upon terms becoming legally binding, establishing a mutual relationship, as highlighted by Baum (2003). The tenancy agreement delineates the rights and obligations of landlords and tenants, as noted by Dabara,



Olatoye, and Okorie (2012). This relationship is integral to property management activities and crucial for realizing real estate investment objectives, according to Bankole (2011). Despite regulatory efforts, inequalities may persist, potentially tilting negotiation power in favor of one party, as discussed by Oni, Ajibola, and Oloyede (2007) and Onakoya (2017). Goss and Campbell (2008) emphasize the significance of tenant and landlord characteristics in determining investment success, underscoring the impact of their relationship. Concerns surrounding the landlord-tenant relationship have escalated in both the property management sector and academia, with studies by Gbadegesin and Ojo (2012), Akogun (2013), Gbadegesin and Oletubo (2013), and Gbadegesin and Ojo (2013) indicating strained relationships in the Nigerian rental property market. Disputes between landlords and tenants, often leading to legal battles, underscore the challenges inherent in the relationship, potentially affecting tenancy arrangements and lease renewals. Despite the influence of environmental and situational factors, limited research has examined the impact of the landlord-tenant relationship on lease compliance in Abuja. Consequently, investigating this influence is essential for fostering sustainable and efficient commercial property management practices, facilitating the identification of common ground and long-term solutions to prevailing challenges. This endeavor will promote adherence to best practices in commercial property management. Commercial leases can be intricate, involving complex clauses, renewal negotiations, and legal considerations. Tracking lease terms, ensuring compliance, and managing lease expirations can be time-consuming and challenging. A professional commercial real estate firm has experience in lease administration, ensuring proper documentation, compliance, and facilitating lease renewals or negotiations.

Studies of Yiu, et al (2005) and Lai (2006) examined the study via the roles of property management from an institutional economies' perspective and the potential contribution of innovative property management to sustainable development. A critical examination of these past studies revealed that none of them have paid detailed attention to challenges of enforcing lease agreements in the management of commercial properties in Nigeria. The work of Oladokun (2010) examined the preparedness of Nigerian real estate practitioners for sustainable property management practice. The study focused on mitigating risks, enhancing tenant compliance, and contribution to the overall success of their commercial property portfolios in African countries like Nigeria. In summary, there is lack of empirical evidence about the problems of enforcing lease agreements in the management of commercial properties in emerging markets like Nigeria. The study is therefore significant more to some pertinent legal challenges encountered in the management of commercial properties within the country.

### 3.0 RESEARCH METHODOLOGY

The study on assessing the challenges of enforcing lease agreements in managing commercial properties was conducted in Port Harcourt Metropolis, Rivers State, Nigeria. Port Harcourt was chosen due to its status as the hub for 75% of practicing Estate Surveyors and Valuers (ESVs) involved in commercial property management (NIESV Membership Directory, 2022). The area boasts a diverse range of large, complex, and modern commercial properties akin to those found in global commercial centers. Employing a mixed-method approach with triangulation, the study combined quantitative analysis through a cross-sectional survey with qualitative insights garnered from personal interviews. The research targeted 388 registered ESVs in Port Harcourt, Rivers State, sourced from the Rivers Branch Directorate of the Nigerian Institution of Estate Surveyors and Valuers (2022). Purposive sampling was utilized to select a sample of 270 ESVs directly involved in Estate Surveying and Valuation firms in River State. This sample represents the principal partners of registered firms engaged in commercial property management within the metropolis. The use of purposive sampling ensures a representative and statistically valid sample, facilitating meaningful conclusions about the population.

To determine the sample size, statistical estimation theory was applied to ensure a 95% confidence level with a maximum probable error of 0.05%. Questionnaires were distributed to 270 practicing firms of estate surveying and valuation firms in Rivers State, as listed in the NIESV directory of members (2022). The scope of the study focused on practitioners' perceptions of daily challenges in property management. Respondents provided data on factors considered significant in enforcing lease agreements for commercial properties in Port Harcourt Metropolis. The self-administered questionnaires were chosen for their reliability and ability to elucidate responses where needed. Out of 270 questionnaires distributed, 167 were completed, resulting in a response rate of 62%. This response rate was deemed adequate for meaningful discussion in the study. Fifteen variables from literature were used to determine the respondent's significant index (RII). Respondents rated each variable using Likert's scale, with weights of 5 to 1 assigned to ratings from highly significant to very insignificant. RSI for each variable was calculated by dividing the summation of weighted values (SWV) by the total respondents. SWV is the sum of products of responses and weighted values. RSIs ranged from 5 to 1. Descriptive statistical techniques, including weighted mean score and relative importance index (RII), were employed to analyze the data. Additionally, qualitative data were collected through in-depth semi-structured interviews with 12 ESVs deeply involved in land title perfection. These interviews were conducted via phone calls, each lasting approximately

45 minutes. Qualitative responses were manually analyzed using data reduction, content analysis, and thematic analysis methods.

#### 4.0 DATA PRESENTATION AND ANALYSIS

Table 1 shows the challenges of enforcing lease agreements in managing commercial properties in the study area. Respondents were given to rate challenges of enforcing lease agreements in managing commercial properties based on their understanding and know-how. The response rate shows a high-level average mean value of >3.00 with RII of >0.60. This indicates almost all of the respondents agreed on the challenges of enforcing lease agreements in managing commercial properties. This shows legal procedural delays, tenancy laws and eviction processes, tenant solvency and financial constraints, alternative dispute resolution challenges, tenant's knowledge of legal rights, and political and socioeconomic factors having the most major influence with RII = 0.75 to RII = 0.78 on the challenges of enforcing lease agreements in managing commercial properties.

Other challenges having significant effect on enforcing lease agreements in managing commercial properties include; property documentation and title issues, non-regulatory compliance, non-legal compliance, urban planning and zoning laws, choosing the wrong tenants, liability and insurance, breach of lease agreement, lease termination and taxation challenges having RII value of >0.60. Since the RII of every item listed in Table 1 are >0.60; it implies legal procedural delays, tenancy laws and eviction processes, tenant solvency and financial constraints, alternative dispute resolution challenges, tenant's knowledge of legal rights, and political and socioeconomic factors, property documentation and title issues, non-regulatory compliance, non-legal compliance, urban planning and zoning laws, choosing the wrong tenants, liability and insurance, breach of lease agreement, lease termination and taxation were the challenges of enforcing lease agreements in managing commercial properties.

**Table 1: Challenges of Enforcing Lease Agreements in Managing Commercial Properties**

Challenges of Enforcing Lease Agreements	Weigh: N=167					$\sum fx$	$\frac{\sum fx}{\sum f}$	RII	Rank
	SA	A	U	D	SD				
Legal Procedural Delays	60	59	30	10	8	654	3.92	0.78	1 <sup>st</sup>
Tenancy Laws and Eviction Processes	58	50	40	10	9	639	3.83	0.77	2 <sup>nd</sup>
Tenant Solvency and Financial Constraints	55	55	35	15	7	637	3.81	0.76	3 <sup>rd</sup>
Alternative Dispute Resolution Challenges	55	49	43	10	10	630	3.77	0.75	4 <sup>th</sup>

Tenant's Knowledge of Legal Rights	60	45	32	16	11	619	3.71	0.74	5 <sup>th</sup>
Political and Socioeconomic Factors	55	50	25	19	18	607	3.63	0.73	6 <sup>th</sup>
Property Documentation and Title Issues	50	44	40	20	13	599	3.59	0.72	7 <sup>th</sup>
Non-Regulatory Compliance	49	46	33	29	10	596	3.57	0.71	8 <sup>th</sup>
Non-Legal compliance	48	45	34	25	15	587	3.51	0.70	9 <sup>th</sup>
Urban Planning and Zoning Laws	48	45	34	25	15	587	3.51	0.70	9 <sup>th</sup>
Taxation Challenges	45	39	36	27	20	563	3.37	0.67	10 <sup>th</sup>
lease termination	45	39	36	27	20	563	3.37	0.67	10 <sup>th</sup>
breach of lease agreement	40	38	36	34	19	574	3.27	0.65	11 <sup>th</sup>
liability and insurance	38	37	36	36	20	538	3.22	0.64	12 <sup>th</sup>
choosing the wrong tenants	33	34	33	34	33	501	3.00	0.60	13 <sup>th</sup>

**Legend:** <3.00= Disagree, >3.00= Agree. **Note:**  $\sum f$  = Number of values;  $\sum fx$  = Sum of Values;  $\frac{\sum fx}{\sum f}$  = Sum of Values divided by Number of values (mean). and RII = relative importance index.

**Source: Author's Field Survey, 2024.**

From an in-depth interview, one of the key informants asserts that:

*'A property management agreement is a legal contract that outlines the roles and responsibilities of both the property owner and the property management firm. This agreement is important as it defines important terms such as the duties belonging to the owner and the fees due to the property management firm for services rendered. And there are some benefits of a property management agreement. A commercial real property manager most have a deep understanding of legal and regulatory matters, mitigating risks and ensuring adherence to all necessary requirements.'*

Another key informant's interview stated that:

*'Compliance with local, state, and federal regulations, including building codes, zoning ordinances, environmental regulations, and fair housing laws, is a constant challenge for property managers. As one of the most important aspects of these lease agreements that created challenges is to ensure they compliance with the local, state, and federal laws and regulations. This includes fair housing, anti-discrimination, privacy, security deposit, eviction, maintenance, and disclosure rules. If one violates any of these laws, one could face lawsuits, fines, penalties, or loss of license. To avoid legal risks, a tenant or landlord should consult with a professional property manager or a lawyer to draft and review your lease agreements and keep up to date with the changes in the law.'*

Another interviewee stated that:

*'Another risk that property managers face with lease agreements is ending them. There are different scenarios that could lead to lease termination, such as expiration, renewal, early termination, or eviction. Each scenario has its own procedures and implications that you have to follow and consider. For example, one has to give proper notice, return security deposits, conduct a final inspection, and handle any claims or disputes. To avoid lease termination risks, one should have a clear and detailed lease agreement that covers all the possible outcomes and contingencies.'*

Another key informant stated that:

*‘Another risk that property managers face with lease agreements is choosing the wrong tenants. And if tenancy is given to tenants who are unreliable, dishonest, or problematic, the property manager could end up with unpaid rent, property damage, disputes, or eviction. To prevent tenant issues, one should conduct a thorough screening process that includes checking credit history, criminal background, rental history, income, and references. And should also have clear and consistent criteria for accepting or rejecting applicants and document your decisions’.*

Furthermore, another key informant stated that:

*‘Lease enforcement should be consistent and fair; following the procedures and remedies outlined in the lease agreement and the applicable laws and regulations. A good property management system should be able to support and facilitate the enforcement process, by providing tools and features such as automated alerts, notifications, escalations, communications, documentation, evidence, and analytics. Depending on the nature and severity of the lease violation, landlords can use different methods of enforcement, such as warnings, fines, deductions, repairs, evictions, lawsuits, or arbitration. However, landlords should always act in good faith, respect the tenant's rights, and seek to resolve disputes amicably and efficiently’.*

Further explanation by triangulations of the quantitative data; once a lease agreement has been signed with a tenant, one has to enforce its terms and conditions. This means collecting rent, inspecting the property, handling repairs, resolving complaints, and enforcing rules. However, some tenants may breach the lease by paying late, causing damage, subletting, or violating policies. To mitigate lease enforcement risks, communicating clearly and frequently with the tenants is key, by documenting everything in writing following the due process, and seek legal advice if necessary are the major considerations for property managers. Furthermore, compliance with legal and regulatory requirements is crucial in lease administration. Laws governing commercial leases can vary across jurisdictions and may encompass areas such as lease termination, security deposits, tenant rights, and building codes. Therefore, staying up-to-date with relevant laws and regulations is essential to avoid legal disputes and potential financial penalties.

## **5.0 DISCUSSIONS OF FINDINGS**

As detailed in Table 1; more half of the respondents with RII > 0.60 agree that legal procedural delays, tenancy laws and eviction processes, tenant solvency and financial constraints, alternative dispute resolution challenges, tenant's knowledge of legal rights, and political and socioeconomic factors, property documentation and title issues, non-regulatory compliance, non-legal compliance, urban planning and zoning laws, choosing the wrong tenants, liability and insurance, breach of lease agreement, lease termination and taxation were the challenges of enforcing lease agreements in managing commercial properties. As a follow up to the above assertion, majority of the respondents stated that commercial property management agreement typically covers a wide

range of topics, such as the property manager's responsibilities, the owner's responsibilities, and the fees and charges associated with the management of the property. And some of the key areas covered in the agreement include:

- a. **Rent collection:** The property manager is responsible for collecting rent from tenants on behalf of the property owner.
- b. **Tenant screening:** The property manager is responsible for finding and screening potential tenants.
- c. **Property maintenance:** The property manager is responsible for ensuring that the property is well-maintained and in good condition.
- d. **Inspections:** The property manager is responsible for conducting regular inspections of the property to ensure that it is being properly maintained.

Furthermore, the main content of this study on the challenges of enforcing lease agreements have established that management of commercial properties encompass a comprehensive exploration of the various obstacles and complexities encountered in ensuring compliance with lease terms within the commercial real estate sector. This study identified several key areas on the challenges of enforcing lease agreements to be:

**Legal compliance:** The property manager is responsible for ensuring that the property is in compliance with all relevant laws and regulations

**Legal Procedural Delays:** Enforcing lease agreements often involves navigating the legal system. Regrettably, the Nigerian legal framework occasionally experiences delays, impacting the timely resolution of disputes. Estate surveyors and valuers face challenges in ensuring swift legal remedies for breaches, such as non-payment of rent or violation of lease terms, to safeguard the interests of property owners.

**Tenancy Laws and Eviction Processes:** The complexity of tenancy laws and eviction procedures in Nigeria can pose hurdles in enforcing lease agreements. Striking a balance between protecting tenants' rights and swiftly addressing breaches requires a nuanced understanding of legal nuances. Estate professionals must navigate these intricacies to execute effective enforcement strategies.

**Tenant Solvency and Financial Constraints:** Commercial property management encounters challenges when tenants face financial constraints or insolvency. Evicting financially distressed tenants involves legal and procedural complexities. Estate surveyors and valuers must carefully

navigate these situations to protect the interests of property owners, often requiring a delicate balance between legal recourse and negotiations.

**Alternative Dispute Resolution Challenges:** Opting for alternative dispute resolution mechanisms, such as arbitration or mediation, is a common strategy. However, challenges may arise in convincing parties to engage in these processes willingly. Overcoming resistance and ensuring a fair and impartial resolution can be demanding, impacting the effectiveness of enforcing lease agreements.

**Tenant's Knowledge of Legal Rights:** Tenant awareness of legal rights and potential consequences affects the ease of enforcing lease agreements. In situations where tenants are well-informed or receive legal counsel, estate surveyors and valuers must be prepared to navigate more sophisticated legal defenses, emphasizing the importance of proactive legal strategies.

**Political and Socioeconomic Factors:** External factors, including political and socioeconomic dynamics, can impact the enforcement of lease agreements. Changes in government policies or economic downturns may influence legal processes and tenant behaviors, introducing additional challenges for estate professionals in ensuring effective enforcement.

**Taxation Challenges:** The evolving taxation framework in Nigeria poses challenges for estate surveyors and valuers tasked with managing commercial properties. Navigating the intricacies of property taxation, including business rates and other levies, requires a thorough understanding of the legal landscape to avoid potential financial implications for property owners.

**Urban Planning and Zoning Laws:** Adherence to urban planning and zoning laws is essential in the management of commercial properties. Estate surveyors and valuers often face challenges related to changes in zoning regulations, which can affect the permitted use of properties. Staying abreast of such legal developments is imperative to guide clients through potential issues and ensure compliance.

Besides staying up-to-date with these changing regulations and understanding local laws is another big challenge. Property managers should prioritize staying updated on laws and regulations and implementing proper procedures to overcome this challenge. Some of the most important legal issues that property managers need to be aware of are: fair housing laws, documentation and record-keeping, zoning and building regulations as indicated by most of the respondents. Therefore, Understanding the complexities of property management is no easy task, especially when it comes to commercial lease enforcement. It requires walking a tightrope of legalities,

logistics, and negotiations. As a commercial property manager, you must ensure lease compliance without compromising tenant relationships. Doing so requires a keen understanding of best practices and diligent oversight. Through insights from industry veterans, this study will guide to compass, help to streamline lease enforcement while creating healthy landlord-tenant relationships. Hence by mastering lease enforcement, the property manager can optimize property's performance and create a positive and profitable commercial real estate investment.

## **6.0 CONCLUSION AND RECOMMENDATIONS**

This study has undertaken a comprehensive assessment to identify the challenges of enforcing lease agreements in managing commercial properties in Port Harcourt Metropolis, Rivers State, Nigeria. Managing commercial properties in Nigeria involves navigating various challenges, particularly when it comes to enforcing lease agreements. In order to ensure a smooth and effective management process, it is crucial that this study had addressed these challenges proactively. As some professional solutions to enhance the enforcement of lease agreements in the management of commercial properties in Nigeria: the study identified legal procedural delays, tenancy laws and eviction processes, tenant solvency and financial constraints, alternative dispute resolution challenges, tenant's knowledge of legal rights, and political and socioeconomic factors, property documentation and title issues, non-regulatory compliance, non-legal compliance, urban planning and zoning laws, choosing the wrong tenants, liability and insurance, breach of lease agreement, lease termination and taxation as the challenges of enforcing lease agreements in managing commercial properties.

The findings showed that the legal framework governing commercial lease agreements in Nigeria is multifaceted, comprising statutory provisions, common law principles, contract law, regulatory guidelines, registration requirements, tenant protection laws, and dispute resolution mechanisms. Adherence to these legal requirements is essential for ensuring the validity, enforceability, and protection of rights under commercial lease agreements in Nigeria. as the dynamics of tenant-landlord relationships are complex and multifaceted, significantly influencing lease enforcement within the commercial real estate sector. These relationships are characterized by a delicate balance of rights, responsibilities, and mutual dependencies, which shape the behavior and interactions of both parties. Understanding these dynamics is crucial for comprehending the challenges and motivations involved in lease enforcement. Here's a professional explanation of the dynamics of tenant-landlord relationships and their impact on lease enforcement: and the dynamics of economic forces play a pivotal role in lease enforcement within the commercial real estate sector, affecting



the behavior of landlords and tenants, investment returns, property valuation, and regulatory compliance. By understanding these economic dynamics, stakeholders can navigate lease enforcement challenges effectively and optimize outcomes for all parties involved.

Enforcing lease agreements in the management of commercial properties in Nigeria requires a multifaceted approach that combines legal expertise, proactive communication, and the use of technology. By implementing these solutions, property managers can mitigate risks, enhance tenant compliance, and contribute to the overall success of their commercial property portfolios. Conclusively, the challenges faced in enforcing lease agreements in the management of commercial properties in Nigeria demand a multifaceted approach. Estate surveyors and valuers must continually adapt to evolving legal landscapes, collaborate closely with legal professionals, and employ strategic solutions to overcome these obstacles and protect the interests of property owners.

By addressing these key areas comprehensively, the study has offered valuable insights into the multifaceted challenges of enforcing lease agreements in the management of commercial properties and provide actionable recommendations for enhancing compliance and mitigating enforcement obstacles. They include:

- i. **Enforcement Mechanisms and Legal Remedies:** Assessing the efficacy of existing enforcement mechanisms, including lease provisions for remedies in case of breaches, eviction procedures, and dispute resolution processes. Identifying challenges in implementing these mechanisms and exploring alternative approaches to enforcement.
- ii. **Regulatory Compliance and Institutional Support:** Examining the role of regulatory agencies, industry associations, and other institutional stakeholders in facilitating lease enforcement. Assessing the effectiveness of regulatory oversight and support services in addressing compliance issues and resolving disputes.
- iii. **Technological Solutions and Innovation:** Exploring the role of technology in enhancing lease enforcement processes, such as digital lease management systems, online payment platforms, and data analytics for monitoring tenant behavior. Assessing the potential of technological innovations to overcome enforcement challenges.
- iv. **Case Studies and Best Practices:** Drawing insights from real-world examples and best practices in lease enforcement within the commercial real estate sector. Analyzing case studies of successful enforcement strategies and lessons learned from instances of lease disputes or non-compliance.

- v. **Stakeholder Perspectives and Recommendations:** Gathering perspectives from stakeholders involved in commercial property management, including landlords, tenants, property managers, legal experts, and regulatory authorities. Soliciting recommendations for improving lease enforcement practices and addressing identified challenges.

## REFERENCES

- Akogun, I.T. (2013). Relative Incidence of Tenant Eviction in Residential and Commercial Properties in Ilorin Metropolis, Nigeria between 1998 – 2007. *Greener Journal of Social Sciences*; 3 (7):340-348.
- Akomolede, K. (2006). *Estate Agency Practice in Nigeria*. Lagos: Bamboo Books
- Araloyin, F. M. and Olatoye, O. (2011). An Analysis of Real Estate Consumers' Perception of Service Quality in Estate Agency Practice in Lagos Metropolis, Nigeria. *Journal of Economics and International Finance*, 3(3), 139-145.
- Bankole, B.O. (2011). *Landlord-Tenant Relationship in Residential Property Management: Case Study of Selected Housing Estates in Ikeja*. Being a Dissertation Submitted to the Department of Estate Management, College of Science and Technology, Covenant University, Ota, Nigeria.
- Bello, M. O. (2008). Tenants Performance or Housing Discrimination: Evidence from A Nigerian Real Estate Market. *Journal of the Nigerian Institution of Estate Surveyors and Valuers*, 31(1), 54-73.
- Brzowski, C. (2008). Managing Tenants Part Three: Written Criteria for Tenant Selection. February 9, 2008: In "The Bigger Pockets" An Online Real Estate Magazine.
- Chika, E. U. (2008). *Professional Practice for Real Estate Practitioners*. Lagos, TREEM Nigeria Limited.
- Christudason, A. (2008), Legislations Affecting Common Property Management in Singapore, Confusion or Solution through Fragmentation. *Property Management*. 26 (3), 207-219
- COHRE. (2003). *Global Survey on Forced Evictions: Violations of Human Rights No. 9*, COHRE April 2003. Accessed from: <http://www.cohre.org/downloads/survey9.pdf> (21st April 2012)
- Dabara I.D., Olatoye, O, and Okorie, A. (2012). An Examination of the Tenancy Agreement as a Shield in Property Management in Nigeria. *International Journal of Business Administration*; 3 (4):54 – 66.
- Francis, M. (2009). Nigeria: Landlord and Tenant; the Right to Shelter and Statutory Protection of Tenants. Daily Independent, Lagos. Accessed from: [http://www.iut.nu/members/Africa/Nigeria\\_articleMarch4\\_2009.pdf](http://www.iut.nu/members/Africa/Nigeria_articleMarch4_2009.pdf) (9th April 2012)

- Funmilayo, M. A. and Olatoye, O. (2011). Factors Affecting the Provision of Quality Service in Real Estate Agency in Lagos Metropolis, Nigeria. *International Journal of Business Administration*, 2, 71-79.
- Furman, W. and Rose, A.J. (2015). Friendships, Romantic Relationship and Other Dyadic Peer Relationships in Childhood and Adolescence: A Unified Rational Perspective. In Lerner (Series ed.) and Lamb & Coll (Volume eds.). *The Handbook of Child Psychology and Developmental Science vol. 3 Social and Emotional Development*, Hoboken, NJ US. John Wiley & Sons Inc.
- Gbadegesin J.T. and Oletubo A. (2013). Analysis of Tenant Selection Criteria in an Emerging Rental Market. *Global Journal of Management and Business Research Interdisciplinary*;13(7):1-12
- Gbadegesin, J.T. and Ojo O. (2012). "Menace of Recalcitrant Tenants in Metropolitan Ibadan Area's Residential Property Market, Nigeria", *Property Management*; 30 (1):65 – 85.
- Gbadegesin, J.T. And Ojo, J.T. (2013). "Ethnic Bias in Tenant Selection in Metropolitan Ibadan Private Rental Housing Market", *Property Management*; 31(2):159–178.
- Gilbert A. (2008). Slums, Tenants and Home-Ownership: On Blindness to The Obvious. *International Development Planning Review*, 30(2), 1-10.
- Goss, R.C. and Campbell, H.L. (2008). The Evolution of Residential Property Management: From Caretaker to Income Maximization Managers. *Housing and Society*; 35(1):5-20
- Itoh, H. (2023). What Do Contracts Do to Facilitate Relationships? *The Japanese Economic Review*;74:333-354. Available: <http://doi.org/10.1007/s42973-023-00132-7>.
- Kumar S. (2001). *Social Relations, Rental Housing Markets and the Poor in Urban India*. London: London School of Economics and Political Sciences
- Kyle, R.C. (2005). *Property management- 7th ed.* Dearborn Financial Publishing, Inc; ISBN 0-7931-9175-0
- Lai, L.W. (2006). Private Property Rights, Culture, Property Management and Sustainable Development. *Property Management*. 24(2), 71-96
- Langsether, A. Gulbrandsen, L. and Annaniassen, E. (2003). Leiemarkedet og leietakernes rettsvern (The Rental Market and Renters' Legal Protection) Report No. 2 (Oslo: Norwegian Social Research Institute)
- Ledingham, J.A. (2015). Managing Relationship Management: A Holistic Approach. In E.JKi JN. Kim JA. Ledingham (Eds). *Public Relations as Relationship Management: A Relational Approach to the Study and Practice of Public Relation (40-60)* Abingdon: Routledge.
- Mary, A. S. (2010). Social Assistance Recipients and Tenancy Conditions in the Private Rental Market. *Journal of Housing Studies*, 25(5), 591–605.

- Mondel, P. (2001). Unlocking the Opportunity for a National Rental Housing Strategy. Presentation to the Federal, Provincial and Territorial Ministers of Housing, *2001 Housing Ministers' Conference, Quebec City, Quebec*.
- Novac, S., Darden, J., Hulchanski, D., Seguin, A. M. and Berne`che, F. (2002). Housing Discrimination in Canada: What Do We Know About It? *Research Bulletin 11* (Ottawa: Centre for Urban and Community Studies).
- Ojo, B. (2003). *Management and Maintenance of Multi-Tenanted Properties in a Depressed Economy: A Case Study of Okunola Shopping Complex, Osogbo, Osun State*. Thesis Submitted for Election into Corporate Membership of the Nigerian Institution of Estate Surveyors and Valuers.
- Okupe, O. (2002). Problems of Real Estate Developers in Nigeria. A Paper Presented at a *Workshop Organized by the Nigerian Institute of Quantity Surveyors*. Abuja.
- Oladokun, T.T. (2010), Sustainable Property Management Practice in Nigeria. In Rameezdeen, R., Senaratne, S., and Sandanayake, Y.G., ed. *International Research Conference on Sustainability in Built Environment*, Colombo, Sri Lanka, pp157-165.
- Oladokun, T.T. and Ojo, O (2012). An Evaluation of the Problems of Commercial Property Management Practice in Nigeria. The Estate Surveyor and Valuer, *Journal of the Nigerian Institution of Estate Surveyors and Valuers*. Lagos, Nigeria; 36 (2), 23- 38.
- Olatoye, O. (2005). Borrowers' Perception of the Degree of Cumbersomeness of Lenders Requirements in Housing Financing in Southwestern Nigeria. *Conference Proceedings, Brisbane, Australia*.
- Onakoya, O. (2017). Landlords Versus Tenant: A Critical Appraisal of Conflict in Tenancy Law in Nigeria. *KIU Journal of Social Sciences*.;3(1):279-292.
- Oni, A. O. (2010). Harnessing Real Estate Investment through Decision Process for Selecting Tenants in Nigeria. *Paper Presented at the 10th African Real Estate Society Conference Organized by the African Real Estate Society held at Naivasha, Kenya*.
- Oni, A.O, Ajibola, M.O. and Oloyede, S.A. (2007). Rent Control and Residential Property Values in Lagos State Nigeria. *Journal of Land Use and Development Studies*.;3(1):78- 94.
- Pfrang, D.C. and Wittig, S. (2008). Negotiating Office Lease Contract. *Journal of European Real Estate Research*.;1(1):88-105.
- Salloum, T. (2010). *Communication: The Key to a Thriving Landlord-Tenant Relationship*. London: The Rent Lobster.
- Yiu, C., Wong, S.K., Yau, Y. (2006), Property Management as Property Rights Government: Exclusion and Internal Conflict Resolution. *Property Management*. 24 (2), 87-97.
- Zayed N. (2016). *Romantic Relationships Effects Academically and Psychologically*. Accessed from: <http://doi.org/10.13140/RG.2.2.3.6729.19045>.