

The Need for Residential Tenancy Databases in Nigeria

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Abstract

Bad tenants can be a real problem for not paying rent on time or leaving properties in a mess. Lodged information about bad tenants in tenancy databases assists estate agents and landlords make more informed decisions. The study examines the need for residential tenancy databases in Nigeria. Often times, details on a tenancy application form may not be enough to make an informed decision about whether or not the applicant will be a good tenant. The study employed study focus groups using semi-structured face-to-face interviews to gather data among ten principals of estate surveying and valuation firms in Ikeja, Lagos on the one hand; ten prominent local estate agents; five prominent practicing lawyers, ten landlords of multi-tenanted properties and forty tenants within Baruwa/Ipaja neighbourhood in Alimosho Local Government Council area of Lagos State, on the other hand through purposive sampling method. The survey was carried out between September and December, 2013. Data were analysed using tables, percentages and ranking. The study showed that landlords, estate agents and lawyers ranked ability to guide and guard against loss of income to all participants in the real estate business as first and paramount reason for the call for tenancy database. The need to minimize capital loss to landlords was ranked second with ensuring a reduction in overhead expenses by landlords as third. However, public feelings about landlord's rights on control of building use and character or emotions have no strong weight since for any business venture to be sustainable, a balance of power to a certain level, must exist between the investor and the product consumers.

Key words: residential housing, tenant database, estate agents, Nigeria

Introduction

Informal lists of 'bad tenants' have been in existence for as long as the rental industry in Nigeria at the neighbourhood level. Landlords and estate agents share information about their experiences of particular types of tenants in relation to tribe or race, religion, language, business, employment, social standing or marital status. High demand for rental accommodation has been experienced as a result of the creation of thirty-six States and Abuja, the Federal Capital Territory because of the need to house people moving into new States in addition to new ones being employed to fill up created vacancies in the new State and Local Government Council Departments. There is bound to be an increasing dependency on the private rental market for a long time to come in view of the high cost of various building materials, high interest rates on mortgage loans and the challenges facing applicants for the certificates of occupancy. The absence of many large corporate or institutional investors in the rental property market has widened the gap. According to Burke (2000), the relative poor quality of tenancy management coupled with the polarization of estate agency practice have led to conflicts and disputes between or among landlords, estate agents and tenants.

Bad tenants can be a real problem for not paying rent on time or leaving properties in a mess. Lodged information about bad tenants in tenancy databases assists estate agents and landlords make more informed decisions. Residential tenancy databases are sometimes referred to as 'blacklists' or 'bad tenant databases'. It contains information about the tenancy history of tenants. If a person's name is listed on a tenancy database, he may find it difficult to get a property to rent.

There are three reasons why an estate agent can list a tenant on a database. First, a tenant can be listed if he vacates a rented premises owing money at the end of the tenancy and having received a notice to remedy the breach about rent outstanding, failed to comply. It may arise if after vacating the premises, he still failed to pay money by the due date stated under a conciliation agreement or Tribunal order. The action may also arise if the tenant unilaterally abandoned the premises without notice. Second, a tenant can be listed if the Tribunal made an

order to end his tenancy due to a report on his objectionable behaviour. Third, a tenant's name may be listed if the Tribunal makes an order to end a tenancy due to repeated breaches of tenancy acts which could amount to breach of peaceful co-existence among tenants in a building or neighbourhood.

The efficient and effective residential tenant administration depends upon the availability of reliable information. Many countries are encouraging the creation of records on national, State and local government databases on a number of activities that can ensure stable economic and social climate. Availability of reliable data is recognised as a fundamental tool in the support of effective administration. Various types of data concerning residential buildings can be linked together to include data for defining building ownership and transfer, mortgaging, and investment; data for assessing the value of landed property (for example, for taxation or calculating compensation during government acquisition); data for land or property market support and analysis, and for identifying trends in rents and prices and their relation to location; data for the planning and management of utilities such as water, sewerage, electricity, telecommunications and cable television.

Benefits of Residential Tenancy Database

Information drives the business and aids in business decision making. Businesses make decisions based on data. Without a clear understanding of the meaning and rules, business decisions can be negatively affected. Bad tenants can be a real problem for not paying rent on time or leaving properties in a mess. Often information provided in application form by prospective tenants are not enough to make an informed decision about whether or not the applicant will be a good tenant or not. From the view of financial stability, real estate is one of the main forms of security for loans. That is why a downturn in real estate prices together with deterioration in the ability of households to make loan repayments could threaten the stability of the banking system and give rise to serious macroeconomic consequences.

Lodged information about bad tenants in tenancy databases assists estate agents and landlords make more informed decisions. Statistics on residential property rental values have a significant effect on household spending and indebtedness, the mortgage market, real estate investment or development and ultimately on financial and monetary stability in the medium and long term. As regards monetary stability, the development of residential property prices has a significant impact on economic activity and on overall price changes. Growth in apartment prices provides a boost to economic activity as the wealth effect generated by increasing residential property prices stimulates household consumption. However, the intensity of the effects varies between States, cities and towns. Simply put, it depends on the extent to which houses and apartments are in private ownership.

Constraints to Residential Database Production

Constraints to residential tenancy database production can be analysed under data reliability and institutional constraints. The reliability of data on real estate rental figures is affected by factors such as geographic coverage, apartment type, different collection periods, none specification for new and existing buildings; data on houses not structured according to available facilities except a breakdown into housing units.

With reference to institutional constraints, some difficulties in integrating data amongst agencies arise from traditional attitudes and a concern to protect jobs. The creation of wide area land information networks often raises more substantive issues. Although none of these issues is unique, yet agreed procedures must be established in each area if the implementation is to be successful. First procedure should relate to the legal liability of data quality. Data held within a land registry office are often guaranteed by the State whereas other sources of data hold no liability. Second, copyright is designed to protect data owners' lack of agreement over its collection and distribution of royalties. This can inhibit the use of such generated information. Free access to information is often perceived as a threat to copyright. Third, is the issue of data ownership especially where different agencies, both government and private, pool their data, questions of ownership and the control of these data may arise. Fourth challenge concerns data protection. Citizens have rights to privacy hence the use of data for purposes other than that for which they were collected may be constrained. Access to land-related data may be politically or socially sensitive and may need to be controlled by appropriate legislation. Fifth challenge relates to data quality. With time, while the raw text data for land related activities could be fit for a purpose, old survey data may be less accurate either because technology has improved or because boundaries have legitimately changed since the original survey. Surveys of adjoining properties must match along the common boundaries even if they are undertaken at different times. Sixth challenge is on the adoption of specific standards across board. However, some agencies may be reluctant to change their own well-tried and tested procedures or to delay implementation until legacy systems can be replaced. Finally, there is a cost for generating reliable data over time hence its use must be paid for even as a token. In this regard, procedures for the pricing of products and services and for sharing the costs and benefits of data integration must be consistent amongst agencies.

Prices should bring benefits to the data producers without discouraging the use of their data. Too often prices are influenced by the cost recovery levels for a specific agency rather than wider economic benefits.

Methodology

Alimosho Local Government Council Area has the highest population of 2,321,893 in Lagos State and for this reason was chosen as the case study for this exercise. Focus group interviews and semi-structured face-to-face interviews were employed to gather data. Ten estate surveying and valuation firms with their head offices in Ikeja were randomly selected from the list of estate surveying firms obtained from Estate Surveyors and Valuers Registration Board; ten landlords with at least a block of 2-storey block of 4 No. 3-bedroom flats each and ten prominent local estate agents and forty tenants in addition to five prominent practicing lawyers involved in estate agency operations within the study area, were involved in the exercise. Prominent local estate agents and lawyers were involved because of the volume of real estate agency activities they engage in throughout the length and breadth of Lagos State.

Only tenants who had, at one time or the other, faced challenges with either landlords or estate agents were considered. All interviews were structured to explore the possible uses and impacts of tenancy databases at different stages of tenancy (application, occupancy and vacation of premises) from different stakeholder perspectives. The researcher employs the use of focus groups as a means of providing opportunities for 'free-flow of discussions'. Discussions were structured around researcher interests and supplemented by semi-structured one-on-one follow-up interviews with selected informants from each of the stakeholder groups – property owners, professional estate managers and local estate agents.

Literature Review

Data is a fact, something upon which an inference is based. Information or knowledge has value but data has cost while a database is a computerized collection of interrelated stored data that serves the needs of multiple users within one or more organizations. Information drives the business and its business decisions. Businesses make decisions based on data. Without a clear understanding of the meaning and rules yet, many business people don't understand the value it provides around this data, business decisions can be negatively affected. Residential database can be grouped on three main aspects: new and existing residential properties; residential properties in urban, sub-urban and rural areas as well as residential properties broken down into houses and apartments. Often a combination of sources is used to collect reliable data. Contributions can come from national statistical offices, ministries, real estate agents, property managers as well as mortgage lenders. For the purposes of this study, tenancy databases hold information about tenants relating to their tenancy history. They are used by real estate agents and lessors to decide a tenant's suitability when assessing tenancy applications.

Government housing programmes are expected, under normal conditions, to be executed as planned so as to allow all working class people within each community have equal opportunity to own accommodation according to their means or affordability level. Olokesusi and Okunfulure (2000) however noted that despite several attempts at housing for all by the Federal Government of Nigeria, they were of the view that most government housing programmes in Nigeria were frustrated by corruption, politicization, insufficiency of technical staff and lack of infrastructure. Okewole and Aribigbola (2006) also viewed that housing provision should not focus on some 'chosen' segments of the society in selected neighbourhoods with a view to creating pockets of elites.

The real estate industry in Western Australia, as reported by Short et al., (2008) is similar to what is obtainable in Nigeria. First, a property owner is not under compulsion to engage the services of a registered real estate agent for the letting of his property. However, it is mandatory for real estate agents to be members of the Nigerian Institution of Estate Surveyors and Valuers in Nigeria though there are many unregistered estate agents operating freely in the real estate business in Nigeria. For these reasons, many residential dwellings in the country's private housing rental market still pass through local estate agents referred to by registered estate surveyors and valuers as 'quacks'. Girvan (1999) noted that in Jamaica, there is a persistent refusal of the privileged few to accept that their long term interests are bound up with those of the masses of the society as a whole.

Short et al., (2008) noted that lack of knowledge on real estate matters has led to increasing levels of disputes between parties to tenancy agreements. Property managers have concerns about a higher level of risk concerning capacity to pay annual rents as well as maintain the rented apartment especially in cases where tenants go through prolonged unemployment, have large family sizes, experience domestic violence or endanger a neighbour's safety, marital breakdown, ethnicity challenges, physical incapacity, using a rental premises for an illegal purpose; or sub-letting a rented premises without the consent of the landlord or property manager as the case may be. No matter the status of any human being socially, economically or spiritually, housing is an

essential service and access to it is recognised as a human right. However, since human wants are unlimited and fortune is a variable in life, the provision of adequate and affordable shelter to all who need it cannot be guaranteed by the property market. For this reason, only government's intervention in the land and property market, through strong and enforceable regulation can ensure that all people, no matter their individual financial status, can have access to housing.

Residential tenancy databases are privately owned databases that contain information about a tenant's rental history. These electronic tenancy databases are used by real estate agents and landlords to select prospective tenants. Their uses and impacts in the Australian private rental market have received growing attention among housing analysts as recorded by Gregory (2001). Tenancy databases have provided a legitimate means of tenant screening. The principal categories of information required were those that enabled property managers to assess each tenant applicant's ability to afford the rent being asked, their capacity to pay on a regular basis without interruption and the likelihood that they would not damage the property. Among professional property managers, it has become routine practice to use this information not only to obtain references from listed referees but to verify the information supplied.

Lyon (2001) argues that the perceived need to maintain stability in the real estate market can be understood as a response to the reduction of traditional means of establishing trust relationships in the context of face-to-face interactions. Information and communication technology, and specifically databases, are increasingly acknowledged as playing an important role in the management of risk. Poster (1996), points to the role of databases in promoting stability and providing organisations with vast stores of accessible information on market interactions among landlords, estate agents and tenants to guide government policies on residential housing provisions and needs.

Tenancy databases are operated by commercial market providers selling subscriptions mainly to registered real estate agents or owner-managers with large property holdings (Adkins et al., 2003). They are designed and marketed as a professional tool for identifying 'difficult' or 'problem' tenants in the screening phase of property letting. While Seeling (1997) and Guthrie (2002) considered the management of risk as an important element in their adoption and use, Kipnis (2000) noted that they also provide a tool for speeding up the approval process for tenancy applications and, thus, minimising the time taken to lease vacant rental property.

Assessing risk is a complex and multi-faceted process, the outcomes of which depend on the relative economic power of the lessor and lessee on local demand and supply. Would-be information required to enable a property manager to assess each applicant's ability to afford the annual rent payable as well as his capacity to maintain the property. Seeling (2011) noted that blacklists of 'bad tenants' have been in existence for probably as long as the rental industry operating informally, with real estate agents sharing information about their experiences of particular tenants. The study found that with the application of tenant databases, letting of properties to 'bad' tenants; rent arrears, bad debts, abandonment of the property and 'malicious tenants, have almost disappeared from the radar of tenancy management problems.

Galstaldon (2011) examined the common themes of concern about tenant databases from four perspectives. First is on the side of the landlord 'blacklisting innocent' tenants as a result of a lack of transparency regarding why tenants might be listed; threatening tenants with listing; listed tenants experiencing significant difficulty in securing future private rental accommodation. Second, on the part of tenants, they may be unaware that they had been listed on a database thereby facing considerable difficulty and expense accessing and challenging any listing. Third, the operators, being on private business may engage in inappropriate listing practices; unfair or poor database operating practices. Fourth is the desirability of a national approach to the regulation of tenancy databases taking cognizance of the high mobility of people as a result of business and employment activities/opportunities and the fact that many databases may need to be operated across a country.

Findings

Investment in real estate is capital intensive and is expected to yield uninterrupted streams of income over time. Buildings also need regular maintenance from time to time due to usage and environmental factors such as the effects of atmospheric conditions. For these reasons, the inability of an investor to obtain value for his investment may jeopardizes his ambition. Findings based on the analysis of data as in Table 1 shows that landlords, estate agents and lawyers ranked ability to guard against loss of income to all participants in the real estate business as paramount to them all. This result is not unexpected in that real estate investors, as well as estate agents would normally expect regular incomes and do everything in their powers to ensure its regularity. For this reason, they have to collectively protect their sources of family sustainability.

Table 1: Opinion towards Establishment of Tenancy Database

S/N	Reasons	Estate Agents	Landlords	Lawyers	Overall scores	Ranking
1	Minimize capital loss to Landlord	8 (80%)	8 (80%)	5 (100%)	260	2
2	Reduce infringement of landlord's rights	6 (60%)	6 (60%)	5 (100%)	220	4
3	Guard against loss of income to self	8 (80%)	10 (100%)	5 (100%)	285	1
4	Maintain rights to control use of managed property	7 (70%)	2 (20%)	4 (80%)	170	5
5	Enhance performance	9 (90%)	0 (0%)	4 (80%)	170	5
6	Reduce overhead expenses	8 (80%)	8 (80%)	4 (80%)	240	3
7	Favour unscrupulous Landlords	2 (20%)	3 (30%)	2 (40%)	90	6

Source: Survey, 2012

The need to minimize capital loss to landlords was ranked second. It is by ensuring that tenants use the properties with utmost care it deserves that the value of such investments can be guaranteed. Although there is an expected natural wear and tear as buildings are put to use, yet the duty of care rests also with the occupiers. This factor must have influenced the ranking of the need to ensure a reduction in overhead expenses by landlords as third. Under normal circumstances, the cost of overhead expenses must be a function of the quality of building materials used during construction. A closer look at the results in Table 1 shows that the public feelings about landlords' rights to control the use to which their properties are put into and character or emotions have no strong weights, since for any business venture to be sustainable, a balance of power, to a certain level, must exist between the investor and the product consumers.

Tenants' fears over the adoption of tenancy database were examined and analysed in Table 2. Eight reasons were adduced as fears over the introduction of tenancy databases in Nigeria. 72.5% of tenants identified the lack of fast, cheap and adequate dispute resolution mechanisms in the country as the major challenge envisaged. Also, 67.5% of respondents strongly agree that estate agents lack best practice guides and for this reason, it follows that Blacklisting' of 'innocent' tenants may occur very often (62.5%). There is a strong feeling (60%) by respondents that tenants may be listed on a database without their knowledge thus causing them to face considerable difficulty and expense accessing and challenging such a listing when discovered. 50% of respondents feel that tenants who had been listed on a database would subsequently experience significant difficulty securing private rental accommodation no matter how simple the offence committed may be or no matter the efforts of the tenant to seek a redress.

Data analysis has shown that majority (62%) of respondent' tenants were opposed to the introduction of tenancy database. Such a result is not unexpected bearing in mind the level of illiteracy among tenants and the culture of the Nigerian populace where falsehood thrives unabated. In most cases, stubborn landlords get away with their crude ways of handling disputes with tenants because of the costs of litigation and the endless period of litigation which more often do not favour the tenants.

Recommendations and Conclusion

Residential tenancy databases are not openly applicable in Nigeria. That does not mean that it is not yet been applied in the country. Experienced Estate Surveyors and Valuers do contact themselves on the value judgments of most corporate organizations in their domain of operation in terms of regular annual rent payments and use of premises let to them. In the same vein, attitudes of certain professionals in their relationships with respect to family sizes, residential history, and attitude towards litigation, credit records and life-styles are monitored. In conclusion, bearing in mind the various challenges experienced by landlords, tenants and estate agents coupled with the high number of litigations in various courts; there is the need to document records of 'bad tenants' for public consumption through tenancy databases backed by law in the hope of reducing, as far as is possible, property owners' risk of exposure to rent default, damage to property or prolonged litigation. Also, noting that the cost of housing construction is always on the increase while the cost of building renovations is even higher year by year because of uncontrolled prices of building materials and artisans' labour charges, there is the need for all tiers of government in Nigeria to ensure the existence of residential tenancy databases. Tenancy databases, if operated properly, used fairly, maintained accurately and monitored correctly, are legitimate tools to protect lessors' interests however their operation must meet the tests of fairness, accuracy and openness.

Table 2: Tenants' Fears over Adoption of Tenancy Database

S/N	Reasons	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	(score)/ Ranking
1	Blacklisting of 'innocent' tenants	25 (62.5%)	6 (15%)	6 (15%)	2 (5%)	1 (2.5%)	(147) 4 th
2	Lack of transparency regarding why tenants might be listed	2 (5%)	1 (2.5%)	4 (10%)	24 (60%)	9 (22.5%)	(83) 8 th
3	Tenants being threatened with listing	12 (30%)	9 (22.5%)	6 (15%)	10 (25%)	3 (7.5%)	(137) 5 th
4	Tenants listed subsequently experiencing difficulty securing rental accommodation	20 (50%)	15 (37.5%)	1 (2.5%)	1 (2.5%)	3 (7.5%)	(168) 2 nd
5	Privacy concerns on nature of information	1 (2.5%)	9 (22.5%)	10 (25%)	14 (35%)	6 (15%)	(105) 7 th
6	Tenants being unaware that they had been listed thus facing difficulty and expense accessing and challenging a listing	24 (60%)	8 (20%)	3 (7.5%)	2 (5%)	3 (7.5%)	(136) 6 th
7	Lack of fast, cheap and adequate dispute resolution mechanism	29 (72.5%)	4 (10%)	2 (5%)	4 (10%)	1 (2.5%)	(176) 1 st
8	Lack of best practice among estate agents	27 (67.5%)	4(10%)	1 (2.5%)	6 (15%)	2 (5%)	(168) 2 nd
	Cumulative score	350	140	82.5	157.5	70	
	%	44	18	10	20	8	

Source: Field Survey, 2012

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Table 3: Local Government Council Areas in Lagos State by population

S/N	Local Govt. Council Area	Population (2010)
1	Agege	1,171,780
2	Ajeromi/Ifelodun	1,628,021
3	Alimosho	2,321,893
4	Amuwo Odofin	595,462
5	Apapa	592,528
6	Badagry	431,501
7	Epe	367,090
8	Eti-osa	1,115,578
9	Ibeju-Lekki	112,906
10	Ifako-Ijaiye	844,268
11	Ikeja	735,828
12	Ikorodu	781,567
13	Kosofe	1,060,110
14	Lagos Mainland	975,306
15	Lagos Island	713,992
16	Mushin	1,498,965
17	Ojo	1,067,947
18	Oshodi/Isholo	1,286,891
19	Shomolu	1,162,773
20	Lagos Mainland	975,306
21	Lagos Island	713,992
22	Mushin	1,498,965
23	Ojo	1,067,947
24	Oshodi/Isholo	1,286,891
25	Shomolu	1,162,773
26	Surulere	1,445,478
	TOTAL	19,909,884

Source: Lagos State Government (2011): Ministry of Economic Planning and Budget, Secretariat, Alausa, Ikeja. Lagos State, Nigeria

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