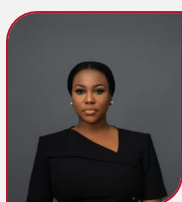


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ASSESSING THE SHIFT IN PAYMENT STRUCTURES IN NIGERIA'S REAL ESTATE SECTOR: BENEFITS, CHALLENGES, AND IMPLICATIONS.

INTRODUCTION

During his book launch in February 2024, the former Minister of Works and Housing, Mr. Babatunde Raji Fashola, advocated for the adoption of monthly rental charge in the Nigerian Real Estate Industry. His argument was premised on the ground that yearly rental payment in a country like Nigeria can be overwhelming for the low-income earners and suggested that other states should be inspired by the Tenancy Law of Lagos State 2011, which criminalizes the collection of rent over one year in advance from any tenant¹.

Following the above, the Special Adviser to the Lagos State Governor on Housing, Barakat Odunuga- Bakare announced sometime in March 2024 that the Executive Governor of Lagos State, His excellency Mr. Babajide Sanwolu, has advocated for the adoption of monthly rental scheme in Lagos State, and has also clamored for its enforcement before the end of the year 2024 or early 2025². The scheme is set to cater for low and middle – income earners pressured by yearly rent obligations.

In this briefing note, we have analyzed the legality of adopting monthly rental charge system in Nigeria, its benefits, challenges, and implication.

LEGALITY OF MONTHLY RENTAL CHARGE IN NIGERIA.

In Nigeria, rent for a tenancy period is typically paid for annually in advance however, it is worthy to note that there are other options available for making rental payments. The Tenancy Law of Lagos State, 2011 (“Tenancy Law”) recognizes the various tenancy arrangements which may be adopted. Section 13(1) of the Tenancy Law provides that *“where there is no stipulation as to the notice to be given by either party to determine the tenancy, the following shall apply-*

- (a) a week’s notice for a tenant *at will*;
- (b) one (1) month’s notice for a *monthly tenant*;

¹ Section 4 (1) & (2) Tenancy Law of Lagos State, 2011

² <https://punchng.com/lagos-vows-to-enforce-monthly-rental-policy/?amp>

- (c) three (3) months notice for a *quarterly tenant*;
- (d) three (3) months notice for a *half-yearly tenant*; and
- (e) six months notice for a *yearly tenant*

The implication of the above referenced section is that the Law recognizes that there exists a tenant at will, a monthly tenant, a quarterly tenant, a half-yearly tenant, and a yearly tenant.

Although the idea of monthly rental charge is not the norm in the Nigerian Real Estate Industry, it is worthy of consideration given the current economic factors being faced by Nigerians. Real Estate investors and stakeholders have argued about the viability of encouraging the adoption monthly rental charges in Nigeria on a larger scale, while some are in support of the idea including the Minister of Works and Housing, others believe that the Nigerian market is not ready to accommodate same.

BENEFITS OF MONTHLY RENTAL CHARGE SYSTEM

Today, fewer Nigerians can afford the opportunity of becoming homeowners before age 50(fifty) in comparison with the previous generations who had the privilege of being born in the era of affordable housing schemes. Most people now depend on paying annual rent at their residences and this option is fast becoming a source of nightmare when the expiration of the tenancy year draws near consequently, it is important we briefly analyze the possible benefits of adopting monthly rental charge in Nigeria.



1. **Flexibility:** a monthly rental charge system offers tenants greater flexibility in managing their living arrangements as it enables them to align their accommodation with their evolving needs and preferences. This flexibility can lead to increased financial efficiency for tenants, as they have the freedom to make changes to their living situation without being locked into long-term leases or commitments. Additionally, it provides tenants with the opportunity to explore

different living arrangements, such as downsizing or relocating to a more affordable area, without facing significant financial penalties. Overall, the monthly rental charge system empowers tenants to adapt their housing choices to better suit their individual circumstances, promoting greater financial control and flexibility.

- 2. Real Estate Investment:** Implementing a monthly rental charge system encourages real estate investment by facilitating the provision of affordable housing to diverse sectors of the population. Under this structure, property owners have the flexibility to rent out their properties at the current market rate without being bound by the mandatory notice period of at least six months before adjusting the rental amount to reflect the property's value. This approach not only encourages property owners to engage in rental ventures promptly but also ensures that rental rates remain competitive and reflective of market dynamics. As a result, it promotes a more fluid and responsive rental market, ultimately benefiting both landlords and tenants alike.
- 3. Encourage Better Budgeting:** Paying rent monthly encourages better budgeting by the medium to low-income earners, thereby avoiding waste or the hassle of calculating unutilized rent where the need arises. Sometimes, certain bills or financial need would arise, and a person would need to prioritize such financial need above paying annual rent. In such a case, such a tenant should have the option of moving into a more affordable space for the next couple of months until his/her finances can accommodate a more expensive living arrangement. Another example can be found in the Nigerian Tertiary Institution, where students leave their accommodation during strike periods and are not refunded for time lost or rent not utilized, especially if the ongoing strike spans for a long period of time.
- 4. Easy decision making:** For tenants, the ability to rent on a monthly basis provides them with greater flexibility to evaluate their living situation regularly. This means they can make decisions about moving to a new apartment or location more easily, without being tied down by long-term leases. Similarly, for landlords, having a monthly rental charge system in place streamlines the process of dealing with defaulting tenants. If a tenant fails to meet their rental obligations or breaches the terms of the Tenancy agreement, landlords can take action promptly. With a shorter notice period of typically around two weeks, landlords can initiate eviction proceedings or take other necessary steps to address the situation without undue delay. This ensures that landlords can protect their property interests and maintain the financial stability of their rental investment.
- 5. It reduces the Risk of Default:** Monthly rental payment tends to reduce the risk of default by the tenant, and it helps the landlord to track default. This is because the total sum of rent payable is broken into piecemeals, and a fraction of the total sum obtainable for yearly rental payment is what is required as payment for the monthly rent. This makes it easy for the tenants to make payment timeously, and where the

tenant is in default, the landlord can easily identify and employ appropriate mechanisms to address such default.

Essentially, the monthly rental structure provides a predictable and consistent income stream for landlords, facilitating better financial planning and property management. Tenants, in turn, benefit from the convenience of monthly payments, aligning with standard salary cycles and easing budgeting efforts. This arrangement fosters a sense of stability and helps build long-term relationships between landlords and tenants.



CHALLENGES OF MONTHLY RENTAL CHARGE SYSTEM

Just as we have taken a look at the benefits of adopting and implementing a monthly rental charge system in Nigeria, we shall also analyze the possible challenges below:

6. The Nigerian Bureau of Statistics in its 2022 report stated that about 63% of the Nigerian population are multidimensionally poor³, as most of the population in the Nigerian economy are low to mid- income earners, and according to the National Bureau of Statistics, it was reported that as at Q3 2024, about 92.7% of the Nigeria population⁴ work in the informal sector of the economy, a percentage which is inconsistent with the value of wages generated by individual households at every given month of the year. The variability in monthly rental payments could present significant challenges for rent payment, particularly since income generated each month is often unstable. This instability has the potential to

³ <https://nigerianstat.gov.ng/news/78>

⁴ <https://nigerianstat.gov.ng/download/1241429>

constrain a large portion of the population, leading to late payments or financial difficulties among individuals and families.

7. Another potential challenge that could arise is the risk of continuous price increases, as landlords may exploit the monthly charge system, particularly in the absence of strong regulatory measures to oversee their actions and prevent abuses. Without effective oversight, landlords might opt to regularly raise rents, leading to housing shortages and inflationary pressures.
8. Additionally, it was reported by the Central Bank of Nigeria (“CBN”) in its article on “Addressing Housing Deficit in Nigeria: Issues, Challenges and Prospects” that the Housing deficit in Nigeria stands at Twenty Million units⁵. This housing gap and the mismatch in the supply to demand of houses in the residential real estate market has made tenants to be at the mercy of their landlords, especially in very populated parts of the country, for instance Lagos State. We have seen instances where a landlord would demand huge upfront payment of rent from the tenant or in fact a huge sum as security deposit. We are of the opinion that until the gap in the supply to demand ratio is bridged the tenant will continue to be at the mercy of the landlords.
9. The issue of computational challenges might arise in determining the amount that has been paid and that is meant to be paid as rent, as a tenant may find it cumbersome to track the amount that has been paid which could also lead to conflict and dispute between the tenant and the landlord.
10. Another challenge lies in the risk of delayed or missed payments, especially if tenants face financial difficulties. On the tenants’ end, the monthly burden can sometimes strain budgets, leading to potential financial stress if not planned adequately.

CONCLUSION

The choice of whether to charge rent monthly should be influenced by factors such as the local rental market dynamics, the financial stability of tenants, and the preferences of both parties involved. Striking a balance that accommodates the needs of both landlords and tenants is essential for fostering a positive and sustainable rental experience. It is crucial

⁵<https://www.cbn.gov.ng/out/2020/rsd/efr%20vol%2057%20no%204%20december%202019%20addressing%20housing%20deficit%20in%20nigeria%20issues,%20challenges%20and%20prospects%20moore.pdf>

for landlords to assess their financial goals and risk tolerance, while tenants should consider their budgeting preferences and ability to meet monthly payment obligations. Finding a middle ground through open communication and transparent lease agreements can help create a harmonious and mutually beneficial rental arrangement.

In essence, it is crucial that our judicial system adapts to tackle the intricacies that may arise from the monthly rental charge system. This involves ensuring the enforcement of appropriate laws and regulations tailored to support monthly rental charges. By doing so, we can effectively navigate the complexities of the system, guaranteeing fairness and stability for both landlords and tenants. Ultimately, this will foster a more resilient and thriving housing market in Nigeria.

Disclaimer: The foregoing should not be treated as legal advice. Kindly contact any of the key contacts if you need further clarification on this briefing note.