

The Real Property in Billboards as a Taxable Property

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ABSTRACT

Purpose: Billboards have been neglected by the Local Government as a taxable property in spite of the broader definition of land which includes anything permanently affixed to the ground. This study sought to examine the attitude of tax authorities towards billboards using Ada-George Road in Port Harcourt metropolis as the study area. **Methodology:** The study adopted a descriptive survey design where which respondents (billboards stakeholders - owners of lands/buildings bearing billboards, staff of the Rivers State Signage and Advertisement Agency, Rivers State Ministry of Urban Development and Obio/Akpor Local Government Council) sample was obtained based on a census sampling technique. **Findings:** The findings of the analysis revealed that billboards possess the unique characteristics of tenement building which can be valued and assessed as ratable hereditaments. **Implications:** The authors are of the stance that billboards are real property due to its inherent characteristics of being permanently attached to land and as it can be assessed for local taxation, thus proving the Rivers State Government wrong in imposing arbitrary fees on billboards, therefore recommends that rather than imposing arbitrary fees on billboards, they should be properly valued for taxation and associated revenues collected by the rating authorities. **Originality:** This study adds to the body of knowledge as no other study of its kind has been carried in Nigeria, hence can be used to guide policy formation in Nigeria on billboard taxation.

Keywords: Billboards, Real Property, Tenement, Taxable Property, and Rating Authority.

INTRODUCTION:

The status of an asset describes its current state; in real property, its characteristics define the status. A billboard could be a giant-outside-advertising-structure, usually found within the high-traffic areas like in busy roads, intentionally designed to function as a guide on company's products informing pedestrians and drivers (Everipedia, 2022). Billboards structures loosely considered as fixtures to the land are mainly classified on certain broad bases according to the types and materials used, present large advertising features generally classified as either static or digital, typically arranged according to display faces such as stacked and tri-build, single face, V-build, back-to-back, side-by-side, configurations (Oregon Department of Revenue, 2007). The impression to be deduced from this article on outdoor advertising billboard relates to the freestanding off-premise types existing in the study area which include the gantry, iconic, large format multiple mast (single and double faces) and lamp post on iron/steel frame stands and pole supports affixed to land, and wall signs on buildings, fences, over-head bridges etc., which falls within the context of improvements on land specified in the LUA, LFN, Cap L5, 2004 (FGN, 2004a) Section 29(4)(b). Billboard exist on permit and considered as both real and personal property in taxation in some climes; leading to conflicting decisions from various courts on its status thereby making its description difficult in its assessment for taxation.

An overview of land shows that structures permanently affixed to land (improvements), and possess the unique attributes of real property form part of the land; a position deduced from statutory provisions, but limited to local legislations applicable in Port Harcourt. The following statutes are enacted on billboards and land use development which border on control/permits only but exclude the statutory guidelines to specify the procedure

and valuation method appropriate for billboard assessment for taxation that defines its actual status as a rate-able hereditament. The laws are: (i) the Rivers State Physical Planning and Urban Development Law (RSPPUDL), No. 6, 2003, (RSG, 2003); (ii) the Nigeria Urban and Regional Planning Decree (NURPA), LFN, Cap N138, 2004, (FGN, 2004b).; (iii) the Land Use Act, LFN, Cap L.5, 2004; and (iv) the Rivers State Outdoor Signage and Advertisement Law (RSOSAL), No.2, 2015, (RSG, 2015), which impose arbitrary fees on billboards is specifically defective as it contravenes provisions in Constitution of the Federal Republic of Nigeria (CFRN), 1999, Section 7, 4th Schedule, items 1(j),(k)(i) thus voidable in accordance with Section 1(3) as amended (FGN, 1999).

However, the Rivers State Local Government Law (RSLGL), No.5, 2018 (RSG, 2018), though, also crafted with fundamental defects including inadequate definition for tenement, possess the operational concept which if applied, presents a proper approach to billboard assessment for taxation through its valuation, shall in this study be further examined to define its loopholes and possible adoption or amendment. Under the RSPPUDL, No.6, 2003, Section 105, and the NURPA, LFN, Cap N138, 2004, Section 91, land is defined to buildings and its attachment and excluding include natural minerals.

Also, under the LUA, LFN, Cap. L5, 2004, Section 50(1), land is defined as ‘improvements’ or “unexhausted improvements” means that something of any quality for good connected to the land, directly ensuing from the expenditure of capital or labour by associate occupier or any individual engaged on his behalf and increasing the productive capability, the utility or the pleasantness. While the constituents of land as defined in Section 50(1) includes installations permanently attached to land as improvements thereon, installation as specifically defined in Section 29(7). However, the existent law on property rate/tax in Port Harcourt defines rate-able land as apartment building. This is consistent with Evans & Evans (2007), tenements are any structures hooked up to the land, and hereditaments are any interests in realty capable of being transmitted. Also, Chapman, (1973) views hereditaments thus: in terms of city and country coming up with, “the mixture of the land that forms the topic of one entry within the valuation list for the present in force”. Again, Opara (2013) whereas corroborating, outlined hereditaments as “a property that is or could become ratable, being a unit of such property that is, or would be shown as a discrete item in the valuation list.”

Furthermore, corporeal hereditaments are visible and tangible objects such as land and houses or improvements on it which includes billboard as provided in the Nigeria Land Use Act, 2004. Incorporeal hereditaments are intangible objects such as tithes, levies, easements, profits and gains, and rent (Bird, 1983) which includes the billboard permit. Accordingly, billboard being permanent fixtures with advertising rights qualifies it as rate-able hereditament with reference to the definitions of land stated above; and its peculiar attributes considered as both personal and real property makes it necessary for the determination of the distinguishing inherent factors between the interests of land owners and billboard owners all existing in the asset.

Under the Rivers State Local Government Law No.5, 2018, Section 79, the definition of tenement expressly excludes certain improvements on land such as billboards thereby limiting the scope of taxable constituents of land (rate-able hereditaments). This definition falls short of the stipulation under Section 50 of the LUA. But, under the general concept of tenements, billboards is included which makes it rate-able, being mostly used through the holdover principle and can be owned. The Collins Dictionary, (2022) defined tenement in part thus: “(1) land, buildings, offices, franchises, etc. held by another person under a tenure;...”: which definition generally means real property covering “lands, tenements and hereditaments”; and being immoveable property which could be recovered by a real action (Bird, 1983), therefore should incorporate billboards as real property; especially the existence of ground rent (N5,000/m² income extracted from Rivers State Land Use “Fees” Regulation 2019 (Government Official Gazette) (RSG, 2019), and used in the valuation of billboard for illustration) that is capitalized to determine the value of the land element creating leasehold or easement. Ground rent is a form of ownership in real estate where the land is owned by the landlord, however, the real property (such as billboard, buildings) on the land is owned by another entity, the tenant (Udechukwu, 2016). By the same concept, the sign site is a real property possessing real value which produces land rent to the real estate; thus can be valued for just compensation (Wright & Wright, 2001), which is also applicable to taxation.

To carry out assessment of outdoor advertising billboards for taxation purposes, Wright & Wright (2001) and Gelineau (2003) proposes three fundamentals of cost that define the worth of the possessions as: (i) the interest of the location (Land), (ii) the physical structure or improvement on the site (billboard structure), and (iii) the nature of the permit (which is site specific otherwise called advertising right). While items (i) and (ii) are corporeal hereditament, item (iii) is incorporeal that gives the structure authority to function, and qualifies it for the assessment. Considering the fact that items (i) and (ii) alone put together doesn’t qualify billboards to operate intrinsically as the prerequisite requirement is the permit granted for such location, hence the land must be valued with the permit to determine the actual rate of the billboard. It is therefore, necessary to establish the status of

billboard that defines its cost elements from the provisions of the relevant laws, before its fair value can be determined effectively. Thus, billboards being a real property for local taxation is valued based the income, sales comparison, and replacement cost less depreciation approach. Property rate assessed according to the value of the property is an annual tax on the occupation of real property with the owner primarily liable (Akujuru, 2000; The Biren Law Group, 2020). It is a local tax based on the concept of obligation for being real property owner and the responsibility of the state for providing property assurance by the law, hence a source of revenue for local governments (Udechukwu, 2016).

The study therefore, is structured on the premise of establishing billboard as a real property and taxable property since it possesses the characteristics of incorporeal hereditaments (the advertising right permit), and not a mere fixture.

STATEMENT OF THE PROBLEM:

Over the years there has been a vital want for the determination of simply tax for billboards, of which scholars have determined it involves several complicated and confusing legal and valuation issues. In this study a, the following questions are posed based on fundamental asset allocation such as; how will appraisers objectively determine the particular assets being assessed by the authority? What's the state of an outside advertising business? Taking a square measure are hoarding structures real or personal property? Are the organizations responsible for outdoor advertising a real estate based business or advertisement service-based business offering buildings services or broadcasting services, respectively? However, if billboards are compensable, the opposite question remains if billboards will be an assessable fixture or personal property. Solutions to billboard valuation issues needs an understanding of the relationships and interconnections between assets of a commercial enterprise as a going concern (North Carolina Department of Revenue, 2022; Oregon Department of Revenue, 2007).

Since the identification of assets is relevant to resolve this controversial issue, it is expedient to state that improperly known assets is an imperial unit to forestall, as it is the first reason for the dispersing values between skilled appraisers. Hence, it is possible that the billboard, if sufficiently substantial and erected permanently as structure attached to land, could be considered an *improvement thereon* (real property) and not a "fixture." As typically accepted, something for good hooked up to the real property is land. Thus, the essence of this study is to ascertain the status of billboards that guides its assessment appropriately in rating exercise.

Aim and Objectives of the Study:

The aim of this study is to examine if billboard is a real property. Its objectives is structured to determine:

- i. The status of billboards in the study area.
- ii. If real and personal property is appraised in Port Harcourt.
- iii. The interest of companies in outdoor advertising.
- iv. The lawful characteristics of billboards.

CONCEPTUAL REVIEW:

Status of Billboard:

The status of billboards is deduced from statutory provisions defining land and interests in land, which are: (1) any structure or other improvement fastened to land, and any item so joined or appended to such structure, design or improvement as to be a fundamental and vital part thereof, (2) any object fastened or connected to such property in such way that it can't be eliminated without material injury to itself or to the property, (3) any item so planned, developed, or explicitly adjusted to the reason for which such property is utilized that (a) it is a fundamental embellishment or part of such property; (b) it isn't equipped for use somewhere else; and (c) would lose significantly the entirety of its worth whenever eliminated from such property (N.J.S.A., 2013). In light of the way that the land and bulletin structure parts are substantial components while the grant is an immaterial, The Public Laws of 2004, Chapter 42, State of New Jersey, Department of the Treasury Division of Taxation, USA determines that billboards as real property, which expresses that a billboard is expected to be allowed (New Jersey State Laws, 2004), compliant with the "Road Sign Control and Outdoor Advertising Act", PL 1991, C.413 (C.27:5-5 et seq.) (New Jersey State Law, 1991), thus, the sign's supporting construction having the basic role of supporting the billboard, if any, to which the supporting design is appended are considered to be real property, and also, so appraised (N.J.S.A., 2013).

Although, there is no law expressly providing guideline for valuation of billboards for taxation in Port Harcourt, the guidelines specifying the cost approach which considers value of site element as a component of the capital

value of improvements on land in two principal legislations on assessment stated below can apply to define the real property in it. They are, (i) LUA, LFN, Cap L5, 2004, Section 29(4) which states compensable assets and (ii) RSLGL, No.5 of 2018, Section 86(1) which states thus:

“Section 86(1)

A rate upon tenements, other than tenements required by Section 87 to be assessed at their depreciated capital value, shall be at uniform rate per Naira of the assessed value of each of the tenements in the area subject to the rate after the test for impairment of the asset or property.”

Wherein section 87 gives guideline on the assessment of public utilities properties.

The item(s) identified and described to be assessed in provisions above are in consonance with those defined in RSPDL, No.6 of 2003, Section 105, NURPA, Cap No.138, 2004, Section 91 and LUA, LFN, Cap. L5, 2004, Section 50(1) all describing land which provides the latitude that allows billboard having the same characteristics to be seen as real property in the assessment of tenement for rating purposes.

Appraising Billboards as Real or Personal Property:

Throughout the long term, there have been numerous contentions concerning whether a billboard is personal or real property particularly in tax collection. Johnson (2005) affirms that billboards structures are trade fixtures and hence private property resources of the publicizing business owing the rented land. More so, some court choices in the United States likewise supported this view, hence are not commonly compensable in those wards, but, it is the conflict of this article that a billboard structure is a real property in light of the guidelines utilized in hypothesizing the idea and meaning of real property by Johnson (2005) which expresses that "an item that was once private property, yet has since been joined to the land or working in a fairly long-lasting way; could be viewed in regulation as a component of the land, hence a real property. Johnson further postulates that is instance is acceptable by considering:

- i. The way in which the thing is joined. By and large, a thing is viewed as private property in the event that it tends to be eliminated without serious injury to the land or to itself. (There are exemptions for this standard).
- ii. The nature of the thing and its transformation to the land. Things that are explicitly developed for use in a specific structure or introduced to complete the reason for which the structure was raised are by and large viewed as long-lasting pieces of the structure.
- iii. The aim of the party who connected the thing. Habitually, the details of the rent uncover whether the thing is long-lasting or is to be taken out at some future time."

A billboard structure obviously meets the models stated above since it is permanently joined to the site; it is designed to show notice; and the party will probably make the design a long-lasting installation. Likewise, the District Court of Appeal of the State of Florida, fifth District, determined in the case of "Division of Transportation v. Heathrow Land and Development Corporation (Fla. Dist. Ct. App., 1991) that; the worth of a billboard is considered by its contributive worth as an improvement to the denounced real property or the worth of the actual billboard and thus payment for compensation should be granted by utilizing the strategy of applying standard evaluation methods, which gives the best remuneration to the board proprietor". In support of this, the Florida Department of Transportation said that "the worth of the billboard ought to be founded on the proliferation cost less devaluation." However, the billboard proprietor contended that the worth of his announcement should include the contributive worth of the bill as an improvement of the sum of the denounced property, or the worth of the bill as an improvement itself. Hence, billboard is seen as being appraised as real property for taxation purposes (Nation & Oehrich, 1999).

Also, Olusegun (2013) asserts that in rating valuation principles, two elements that qualify a property to be rate-able are identified namely: rate-able occupation and rate-able hereditament. Rate-able Occupation comprises of: (i) Actual Occupation (property being in use); (ii) Exclusive Occupation (occupier's right to exclusive use); (iii) Beneficial Occupation (enjoyment of pecuniary benefits); and (iv) Not Too Transient a period (it should have some level of permanency. These rules are applicable to billboard valuation except item (iv) because the tenets of rate-able occupation especially the rule of permanency stated above is not strictly necessary since an advertising right exercised just for one day, and then removed qualifies it as a hereditament, makes billboard's entry into the valuation list appropriate (Wright & Wright, 2001), as practiced in other climes. A careful evaluation of hereditament resolves the issues listed below to define the status of the property in the assessment for taxation, and they include:

- i. The hereditament(s) being valued must be assumed to be vacant and to let;
- ii. The hereditament(s) must be valued "*Rebus sic stantibus*" i.e., in its present physical state;

iii. If the property was let at rack rent; (Merriam-Webster, 2021) states that, this is the highest rent that can be earned on a property; i.e. rent paid based on market value, other evidence may be examined, and this includes rents passing on comparable properties which may be considered in the absence of better evidence.

Nature of Billboard Company's Interest:

As indicated by (Stoops and Wolverton, 2006; North Carolina Department of Revenue, 2018), the worth of a billboards includes three particular parts that characterize the evaluation unit. These are: the leasehold (or freehold) land on which the announcement is erected; the bill structure itself including its actual characteristics; and the utilization license that empowers the billboard to work on the site, but not the operating business. Furthermore, nature of interest can be determined by examining scenario, the billboard owner (tenant) takes a lease of the site from the land owner who sells or let out billboard spaces to advert companies. Hence the landowner and the tenant take responsibility of their respective tax liabilities. In Port Harcourt, the person(s) primarily liable to pay land-based tax "property rate" is specified in Rivers State Local Government Law, No.5 of 2018, Section 79, who is the owner and occupier, but without an agreement, the rate is solely borne by the owner.

This means that the land owner (the lessor) pays ownership taxes [property tax, Kagan *et al.*, (2022)] for the land usage as assessed, while the billboard owner (the lessee) pays the operational taxes [personal tax; as Zodrow (2006) states that under the advantage got charge view, the local charge is viewed as a client charge for public administrations received] to the public authority for use of the improvement subsequently of which he possesses. Thus, the real property status in billboard is further established by evaluating the effect of its operations on the land; especially when the business enterprise is inextricably tied to the real estate, there may be no way to separate out the business value in any truly defensive manner as stated by (Wright & Wright, 2001).

Legal Characteristics of Billboards:

As per the Advertising Code, "all commercials in Nigeria or coordinated at the Nigerian market will be lawful, good, genuine, honest, deferential, and aware of Nigeria's way of life. As per Steward (1993), billboards evolved to its present status because of the advancement of signs, which were at first connected with signal or movement. Billboards in Nigeria grew in European standards, whose position typically is constrained by rules as; the suitable square feet, level of bill, consistency with the constructed climate and metropolitan beautification, however neglected to measure up to the ideal assumptions because of absence of proper regulations to direct these activities. As such, the state authorities essentially order improper regulations which mirror the mentalities of local authority towards signs in contradiction to the dictates of the Nigeria constitution. And that is why in Port Harcourt, the law provides arbitrary permit fees not generated through standard valuation process and procedure founded in statutory provisions defining the status of billboards to establish its actual rate-able value/rate payable. Oftentimes, the courts have upheld the rights of government entities to regulate, and even ban developments on land on both safety and aesthetic grounds using the following laws as reference which applies to billboard. But, the Land Use Act, Sections 5(1) (a), (b) and 43(1) makes it mandatory to obtain a legal permit before development of land for any use including billboards in Nigeria.

On the appropriate authority to grant the permit (Wright & Wright, 2001) asserts that in the United States, states issue permits for signs on state-controlled roadways, and local municipalities issue permits for signs in their jurisdiction. Local or state authorities can require removal of a sign if it does not have a valid permit; so a sign with a permit is referred to as "legal." But in Nigeria, the local government councils are vested with absolute powers to function as the appropriate authority "Rating Authority" to assess and collect rates/taxes on tenements including billboards, and also grant permit to control and regulate outdoor advertising and hoarding, thus makes the taxation of such items appropriate. Unfortunately, however, in practice the local governments are disallowed to perform these functions especially those in items (k) and (i) as they are usurped by the various state governments, which actions are considered ultra vires, and not sustainable, thus calls for a review. These powers vested exclusively in the local government councils are provided in the CFRN, 1999, Section 7, 4th Schedule, items 1(j),(k)(i) as amended which states that the local government through its legislative power invested in them grants the permit for control and regulation of outdoor advertising including signs which covers assessment of tenements.

The provisions in S.5 and 43 of the LUA notwithstanding, the constitutional authority vested in the local government exclusively to perform these functions (FGN, 2004c) prevails over all other authorities in Nigeria following the *locus classicus* laid in the decision in Knight Frank & Rutley Nigeria v Attorney-General of Kano State ([1998] 4 SC 251) (Supreme Court of Nigeria, 1998) that voided a valuation for rating contract between the parties, and was used to determine a case between Grinaker LTA Limited v Board of Internal Revenue Rivers

State (Suit PHC/2842/2010) (RSG, 2010) which the Rivers State High Court voided the authority of the Rivers State Government over property tax as contained in the State's Property Tax Law, No.2 of 2015. From the preceding sub-headings, we defined real property as it relates to the land, improvements thereon and ownership rights over the site as "the real property"; in this case the "ownership rights" (right of use e.g. leases, easements) and the permit granted over the site constitutes "the legal authority" for the development/improvement or uses of that particular site only. This is applicable to billboard since this rate-able hereditament comprises of the land, structure thereon and the permit (advertising right) authorizing such use for that specific site. Therefore, billboard being permanent fixtures on particular sites, disqualifies bills on moveable trucks to fall within the category of real property due to the non-existence of permanency in them. Thus, a billboard approved for a particular site, but moved to another location renders it illegal because the permit is site-specific. Generally, every land is unique which translates into its rate-ability, because the peculiar characteristics of a specific location are inherent part of value. Also, in compensation, value is site-specific hence, unless a suitable replacement site can be found, which is often very unlikely, the loss of a location is the loss of value (Wright & Wright, 2001). Furthermore, billboards might be available or absolved as per prior state regulation, and whether billboard is classified as real property (fixed to land; Wright & Wright, 2001; Feldman, 2015) or personal property (trade fixtures; Charles *et al.*, 1998) as argued by some researchers, it possess taxable value for its firmness to land (Charles & Cheng, 1995), thus the burden of this tax is primarily on the owner while the tenant pays operational taxes. The tax burden is defined by the characteristics of the asset, which determines the valuation requirement, thus the cost approach method prescribed in the law which produces a fair value in the absence of market evidence in billboard assessment establishes its status as real property hence more acceptable in taxation, especially in Nigeria, and must be valued by an Estate Surveyor and Valuer as licensed under FGN (2004d) to practice as such.

The research is posed at supporting the argument that anything eternally fixed to the real property converts to being land and thus would be owned by the landlord (Feldman, 2015). Hence, billboard in its valuation for taxation requires determination of the value of the structure, which is then added to the worth of the land or site to establish the capital value of the asset existing legally under the permit granted for that particular site use only.

Theoretical Review:

This study expounded on relevant theories, first by adopting the theory of identifying potential of properties developed by Rolfe (2018) which determines what sort of sign will turn out best for an expected property, the amount it will cost to raise that sign, and what measure of pay you are probably going to create from leasing that commercial space. The next step is to make the property unique and value it so as to generate the price for would be client! "Many individuals believe billboards can be erected just anywhere, however, Rolfe, disagrees. This is because, there is an exceptionally restricted supply of choices, this is fixated on demonstrating that the license given by the public authority for the utilization and activity of the bill is site explicit, consequently whenever it is eliminated from its area goes in opposition to the law of real property. Moreover the real property hypothesis affirms that real property, immoveable property, is land, which is the property of some person(s) and all designs (likewise called upgrades or installations) incorporated with or fastened to the land, including crops, structures, hardware, wells, dams, lakes, mines, waterways, and roads. We likewise examined the advantages the hypothesis of benefits received theory which expresses that the area of the billboard and the advantages it gets as determinants in the assessment for taxation.

METHODOLOGY:

The research design was based on quantitative descriptive research design; the area of the study was "along commercial routes of Ada-George Road, Obio/Akpor Local Government Area, Port Harcourt, Rivers State, Nigeria" from a population of 96 respondents which includes, Owners of Billboard Structures, and Lands/Buildings bearing billboards, and Staff of Rivers State Signage and Advertisement Agency, Rivers State Ministry of Urban Development and Obio/Akpor Local Government Council (RSG, 2021 a & b). Obio/Akpor Local Government Council, 2021), who are saddled with the task of billboard installation and usage, of which the researcher considered the total number (96) as the study sample size determined using the census method. The reliability of the result was based on the test-retest method, while results were determined from the percentages and mean based on the sample population.

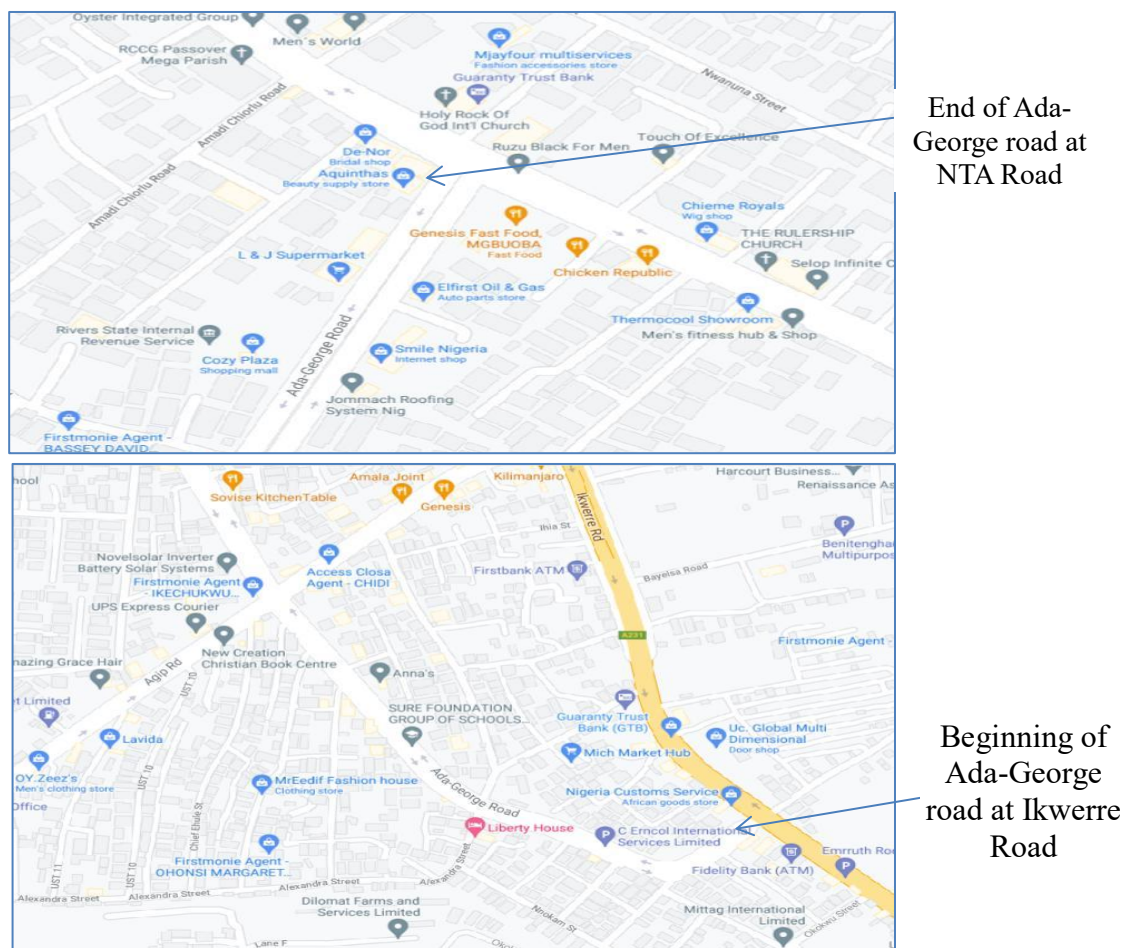


Fig. 1: A Composite Map of Ada-George Road Showing the Terminals at NTA Road Junction and Ikwerre Road Junction Respectively in Port Harcourt

Source: Google Search, 2021

Objective 1: Status of billboard Structures in Port Harcourt Metropolis?

Table 1: Responses on the Types of Billboards in Port Harcourt Metropolis

S/N	Types of Billboards	SA 5	A 4	U 3	D 2	SD 1	Mean (\bar{X})	Decision/ Result
i.	Large Format, Multi Mast, Single face	49 (245) 51.04%	27 (144) 28.13%	10 (30) 10.42%	5 (10) 5.21%	5 (5) 5.21%	4.52	Accepted
ii.	Multiple poles, double faces	47 (235) 48.96%	28 (112) 29.17%	9 (18) 9.36%	5 (10) 5.21%	7 (7) 7.29%	4.11	Accepted
iii.	Centre monopole, V. face	59 (295) 51.95%	25 (100) 26.04%	1 (3) 1.04%	6 (12) 6.25%	4 (4) 4.17%	4.31	Accepted
iv.	Centre monopole, Tri- sided faces	52 (260) 54.17%	29 (116) 30.21%	5 (15) 5.21%	7 (14) 7.29%	3 (3) 3.13%	4.25	Accepted
v.	Gantry, Double Face/Cantilever	57 (285) 59.37%	27 (108) 28.13%	5 (15) 5.21%	3 (6) 3.13%	4 (4) 4.17%	4.35	Accepted

S/N	Types of Billboards	SA 5	A 4	U 3	D 2	SD 1	Mean (\bar{X})	Decision/ Result
vi.	Wall sign	58 (290) 60.42%	28 (112) 29.17%	-	7 (14) 7.29%	3 (3) 3.13%	4.41	Accepted
Vii	Iconic, Light emitting diode	10 (50) 10.42%	16 (64) 16.67%	8 (24) 8.33%	29 (58) 30.21%	33 (33) 34.38%	2.39	Rejected
viii.	Lamp Post signage	15 (75) 15.63%	7 (28) 7.29%	10 (30) 10.42%	29 (58) 30.21%	35 (35) 36.46%	2.35	Rejected
Grand Mean							4.33	Accepted

The result in Table 1 shows that items (i), (ii), (iii), (iv), (v) and (vi) are accepted as types of billboards existing within the study area. This implies that monopole, single face, double cantilever with Mean (\bar{x}) 4.52 is type of billboards; Multiple poles, double face with Mean (\bar{x}) 4.11 is again type of billboards; Centre monopole, V. face with Mean (\bar{x}) 4.31 is type of billboards in the study area; Centre monopole, Tri-sided faces with Mean (\bar{x}) 4.25 is also type of billboards in the study area; Gantry with Mean (\bar{x}) 4.35 is type of billboards and Wall sign with Mean (\bar{x}) 4.41 is also type of billboards existing in the study area. Items (vii) and (viii) in Table 1.1 are rejected as not types of billboards in the study area. This implies that Iconic, light emitting diode with Mean (\bar{x}) 2.39 and Lamp Post signage with Mean (\bar{x}) 2.35 respectively are not types of billboards existing in the study area. More so, with the Grand Mean of 4.33, confirmed that monopole, single face, double cantilever with (51.04 and 28.13 = 79.17%); Multiple poles, double face with (48.96 and 29.17 = 78.13%); Centre monopole, V. face with (51.95 and 26.04 = 77.99%); Centre monopole, Tri-sided face with (54.17 and 30.12 = 84.29%); Gantry (59.37 and 28.13 = 87.50%), and Wall sign with (60.42 and 29.17 = 89.59%) are types of billboards existing in the study area as seen in their respective high percentages of Agreed responses. While Iconic, Light emitting diode (30.21 and 34.38 = 64.59%) and Lamp Post signage with (30.21 and 36.46 = 66.67%) do not exist in Ada-George road due to their respective high percentage of Disagreed responses. The billboards which are erected permanently on public and private lands held under easements and leases respectively, and are covered with permits which are intended for the specified site forms part of the land.

The findings of Table 1 is supported by Wright & Wright (2001) who expressed that proprietors contended that bulletins are land since signs are attached to the land and expected to be long-lasting, very much like an apartment complex or some other real property improvement, and most convincingly, they contended that billboard is site-specific.

Objective 2: Ascertain Real and Personal Property is appraised in Port Harcourt.

Table 2: Responses on the Principal Statute Governing the Assessment of Billboards in Port Harcourt Metropolis

S/N	Laws	Mean (\bar{X})	Criterion Mean	Decision/ Result
i.	Rivers State Outdoor Signage and Advertisement Law, No. 2, 2015 governs the assessment of billboards in Port Harcourt Metropolis.	2.21	3	Rejected
ii.	RSPPDL, No. 6 of 2003 also regulates the assessment billboards in Port Harcourt Metropolis for taxation.	2.19	3	Rejected
iii.	The Land Use Act, LFN, Cap L5, 2004 is used by government for regulating the assessment of billboard.	2.10	3	Rejected

S/N	Laws	Mean (\bar{X})	Criterion Mean	Decision/Result
iv.	Rivers State Local Government Law No. 5 of 2018 provides the guideline for the assessment of billboards in Port Harcourt metropolis.	1.79	3	Rejected
v.	The Rivers State Property Tax Law Cap. 10, 1995 gives the guidelines for assessing billboard for taxation purposes.	2.41	3	Rejected
Grand Mean		2.14	3	Rejected

Result obtained from Table 2 shows a critical review of responses from the respondents in all items revealed that the statutes mentioned above, though presently enforced in Port Harcourt Metropolis are all rejected, thus considered invalid and do not provide appropriate guidelines for the assessment of billboards for taxation as seen in mean responses on items (i-v) with Mean (\bar{X}) responses (2.21, 2.19, 2.10, 1.79, and 2.41) giving a Grand Mean of 2.14 below the criterion mean of 3.0 further strengthens the views of lands owners, billboards owners and the regulatory agencies on their respective positions on the laws. The research proposes adequate laws be structured for the fair assessment of billboards being hereditament (real property), hence rate-able.

Objective 3: Ascertain Nature of Outdoor Advertising Company's Interests in Billboards in Port Harcourt Metropolis.

Table 3: Responses on the Method of Valuation used for the Assessment of Billboards Structures in Port Harcourt Metropolis for Rating Purposes

S/N	Methods of Valuation	Mean (\bar{X})	Criterion Mean	Decision/Result
i.	Cost approach is a current method used in the assessment of billboard for taxation in the study area.	2.25	3	Rejected
ii.	Income approach is a method of valuation used in assessing value of billboard for taxation in the study area.	2.06	3	Rejected
iii.	Effective Gross Income Multiplier (EGIM) method is used for assessment of billboard for taxation purpose in the study area.	2.30	3	Rejected
iv.	Earnings Before Interest, Taxes, Depreciation and Amortization method is used for assessing billboard structures for taxation purpose in the study area.	2.03	3	Rejected
v.	Profits method is used in determining the value of billboards for rating/ revenue generation in the study area.	2.21	3	Rejected
Grand Mean		2.17		Rejected

From Table 3 it is evident from items i-v that the respondents were of the view that none of these methods are used for valuation of billboards in the study area since there is no guideline providing for its assessment; despite the fact that the Billboard Company is a tenant. The billboard owner takes a lease from the land owner and subsequently grants a sub-lease or sells adverts space to the advertising company. Thus, the billboard owner pays land rent, permit and allied taxes while the company pays rent to the billboard owner for space occupied, and also pays other operational cost including advertisement sales taxes, hence, this table establishes billboard as a real property.

Objective 4: Legal Characteristics of Billboards in Port Harcourt Metropolis?

Table 4: Responses on the Probable Annual Income from Billboard in Port Harcourt Metropolis

S/N	Agency/ Authority	Fees Payable	SA 5	A 4	U 3	D 2	SD 1	Decision/ Result
i.	Rivers State Signage and Advertisement Agency (RISAA)	RISAA (Permit): Free standing, "Spectacular" Multimast Single face (18.6) sqm = ₦28,000.00 Per annum. RISAA: 1. Application Form = ₦5,000.00. 2. Inspections- (One site = ₦10,000.00; then add ₦5,000.00 for each extra site. 3. Registration / Certification = ₦100,000.00; Certificate Renewals = ₦25,000.00 Per annum.	96 (480) 100%	-	-	-	-	Accepted
ii.	Rivers State Ministry of Urban Development (Regulation in gazette)	Installation of billboards on Registered Private Landed Properties: 1. Temporary change in use (< 3yrs) = ₦500 /m ³ / Per annum. 2. Permanent change in use = ₦2,000.00 m ³ (Gazette) Rivers State Ministry of Urban Dev. "Installation of billboards on State Land": 1. Temporary Occupation License (< 3yrs) = ₦800/m ³ / Per annum. 2. Permanent allocation = ₦5,000.00/m ³ (Extract from Gazette)	96 (480) 100%	-	-	-	-	Accepted
iii.	Rivers State Ministry of Urban Development (Non- gazette).	Rivers State Min. of Urban Dev. (Permit): = ₦250,000.00 (Non-Gazette)	96 (480) 100%	-	-	-	-	Accepted
iv.	Obio/Akpor Local Government		-	-	-	-	-	Accepted
v.	Prescribed Valuation Procedure	₦ 39,882.21	-	-	-	-	-	Proposed

From Table 4 we determined that the fixed taxes are paid for billboard permit in Port Harcourt metropolis, thus strengthening its status as a real property, however, since the taxes are not generated from standard valuation procedure as stated above, is rejected for this study (see pages 4, 5 and illustration beneath), where the researcher had proposed a valuation using the cost approach that considers value for land which defines its status and also explains the legal concept of billboard value as being site specific for valuing this real property in line with best practices.

Illustration:

Model valuation for the assessment of a single face multi-mast billboard structure located at Ada George road/ Ikwerre road junction in Port Harcourt Metropolis using the cost approach for rating purposes is used to illustrate its suitability and adoption for application canvassed by the researcher in this study. First we must know that the following three tasks for identifying land value, sign value, and total value; is to (1) gauge the contributory worth of the billboard as an improvement to the censured real property, (2) gauge the worth of the billboard leasehold interest and (3) select a last worth gauge of the billboard, which should be the more prominent of the aforementioned two (1&2) strategies and based on the new devalued generation cost. Thus:

Note:

- (i) The cost estimates used in this valuation is developed from information provided by the outdoor advertising sign builders (construction contractors) (Latif and Abideen, 2011).
- (ii) The basis for this method is to regulate the net annual price of the single faced billboard to establish its revenue potential for fair tax or probable annual income.
- (iii) The procedure is to estimate the elemental costs of the structure, covering all tangible costs relating to the display face; adjustments are made for height, design features, platforms and apron, and the intangible costs covering legal, accounting, engineering, management and entrepreneurial profit were added to the tangible cost estimates.
- (iv) The replacement cost is depreciated based on inaccurate physical deterioration and any other evident forms of depreciation.
- (v) Lastly, land appreciation price is added by underwriting the yearly land rent pay since the site appreciation is the market worth of the land as it were.
- (vi) The result is equal to the effective capital worth or the depreciated capital worth of the property.

Following the constitutional authority vested in the local government to control outdoor advertisement structures exclusively, the rate-able values of all the billboards affected in a rating exercise can be presented in a list (Valuation List) for administrative convenience. Opara (2013) states that by long usage and with the approval of the courts, the percentages-used by valuers to arrive at Gross Value (G.V) or Net Annual Value (N.A.V) in valuation for rating purposes, as shown in Table 5 below is applicable and can be adopted. The Net Annual Value is the ongoing worth of a property's net yearly lease (by regulation net yearly worth should be no less than 5% of capital superior incentive for business property like board and precisely 5 % of capital superior incentive for private property).

Table 5: Calculation Parameter with Gross Value and Net Annual Value Figure

Calculation Parameter	G.V	N.A.V
Commercial hereditaments (e.g. billboards)	6 %	5 %

Source: Opara, (2013)

Below is a proposed model valuation procedure for rating of billboards in Rivers State using the Cost Approach applied to assess the billboard structure in Figure 2 used for illustration in this study.



Fig. 2: Multiple Mast Structure or Large Format Billboard located at Ada-George Road by Ikwerre Road Junction

Table 6: Determination of Rate-able Value of the Billboard in Figure 3 above

Existing Billboard (Single face Panel)	18.61 m ² @ ₦	(₦)		(₦)
(i)Display panel (ii)Foundation Add for No. of Additional faces		3,442,850 278,150 -		
Sub Total for Panel Faces Add for:		3,721,000		
(i)Stacked Steel display @ 25 % of ₦ 3,721,000 (Panel Faces)		930,250		
(ii)Catwalk platform 6.1 m @ N50,000/m	₦ 185,000/m ²	305,000		
Sub Total for Tangible Cost	(Provisional sum) Nil	[4,956,250] 186,050		
Less for no illumination @ 5% of ₦ 3,721,000 (Panel Face(s))			=	[4,770,200]
Total Base Cost		2,146,590 715,530 7, 632,320	= = =	2,862,120 7,632,320
Add Intangible costs: Including Professional – Legal fees, Accounting fees, Engineering costs, Management fees, etc. @ 45 % of ₦ 4,770,200 (Base Cost)				

Add Professional Entrepreneurial Profit @ 15 % of ₦4,770,200				
Current Replacement Cost of structure (New)				
Less Estimated Accrued Depreciation:				
(i) Curable physical defects (Damage) @ 0 %	-	0	=	0
(ii) Incurable physical defects @ 12 % for 6 years old (i.e. 88 % remaining life for steel structure)	$7,632,320 \times 0.12$	915,878.40	=	6,716,441.6
Depreciated Replacement Cost for Structure rounded up to			=	6,716,442
Add Lease Value for Land approx. 20.16 m² let for ₦ 5,000/m² (Rent) = ₦100,800 capitalized @ 8 %			=	1,260,000
Effective Capital Value (Depreciated Capital Value) of Billboard	$₦ 100,800 \times 12.5$		=	7,976,442
Net Annual Value (NAV) @ 5 %			=	₦ 398,822.10
∴ Rate-able Value is rounded up to			=	₦ 398,822.00

Determination of Rate Nairage of the Tax or Rate Payable for Billboard:

In deciding the actual amount of the property rate to be paid on hereditament, two things need to be figured out namely, the annual value and the rate Nairage as posited by (Nasidi, 2006).

The rate Nairage for a rating year is arrived at using the formula: $R = \frac{(T-C)}{V} \times 100$

Calculation of the applicable rate (R) to fix the tax payable is presented as follows:

$$R = \frac{(T - C)}{V} \times 100$$

Where:

R = Rate Nairage

T = Total Budget of the LGA for the rating year (Financial Year Estimates)

C = Total income from other sources in that year (expected)

V = Total rateable values for all billboards (Estimated)

$$\therefore \text{Rate} = \frac{(\text{Total budget} - \text{Total income from other sources})}{(\text{Total rateable values for all billboards})} \times 100\%$$

$$R = \frac{₦ 1,000,000,000 - ₦ 990,000,000}{₦ 100,000,000} \times 100\%$$

$$R = \frac{₦ 10,000,000}{₦ 100,000,000} \times 100\%$$

$$R = 0.1 \times 100\%$$

$$R = 10 \%$$

[Note: All figures used in this calculation of the rate nairage (R) are assumed to illustrate].

From the above, the assessed tax payable at a rate nairage of 10 % of the ₦398,822.00 rate-able value (net annual value) of the billboard is ₦ 39,882.20 for the rating year. The Net Annual Value is the basis for calculating this local tax.

CONCLUSION:

The study has shown that billboard is an improvement on land, being part of hereditaments. This status makes it a real property. More so, the study had established that laws in Rivers State have failed to rate billboard as real property but have rather ascribed arbitrary fees on billboards.

RECOMMENDATIONS:

The study thus makes the following recommendations:

- i. Billboards should be properly rated like other real properties in Nigeria as practiced all over the world.
- ii. The outright stoppage of arbitrary fees charged on billboards.
- iii. The implementation of the Local Government mandate as the appropriate authority responsible for rating of billboards in Nigeria.

AUTHORS CONTRIBUTIONS:

The authors have made a case for the scrapping or amendment of all laws contriving the CFRN, 1999 (as amended) in Rivers State, because this study has shown that billboards are real properties, hence rate-able. Furthermore, the method for its valuation especially in environment where evidence of market transactions does not exist has been provided. The researchers due to limiting factors suggest that further studies can be carried such as “benefits associated to local government authority in determining rates for taxation on hereditaments.”

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CONFLICT OF INTEREST:

The study makes trite the fact that the Rivers State Outdoor Signage and Advertisement Law, No.2, 2015 which impose arbitrary fees on billboards is specifically defective as it contravenes provisions in CFRN, 1999, Section 7, 4th Schedule, items 1(j),(k)(i) thus voidable in accordance with Section 1(3) as amended, which establishes the supremacy the constitution.

The provisions in Sections 5 and 43 of the Land Use Act which gives legal permit for development and control of land uses for and purposes to Governor and the Federal Government in Federal lands, contravenes constitutional authority vested in the local government exclusively to perform these functions in the Nigerian Constitution.

This *locus classicus* on which this study bases its findings was established in the decision reached by the Supreme Court of Nigeria in the case of ([1998] 4 SC 251) that voided a valuation for rating contract between the parties, and was used to determine the case in (Suit PHC/2842/2010) which the Rivers State High Court voided the authority of the Rivers State Government over property tax as contained in the State's Property Tax Law, No.2 of 2015.

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