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11 July 2014

Hon. Eimi Watanabe, Chair
World Bank Inspection Panel
1818 H Street NW
Mail Stop: MC10-1007
Washington, DC 20433
USA

Dear Madam:

MEMORANDUM IN SUPPORT OF REQUEST FOR REGISTRATION OF IPN REQUEST RQ 13/09

I write with reference to the letter dated 25 June 2014 requesting registration of a Request for Inspection of the Lagos Metropolitan Development and Governance Project (Project ID: P071340) originally filed and dated on 30 September 2013.

The project-affected persons who signed the 25 June 2014 letter have instructed me to act on their behalf before this Honourable Panel. The signatories to that letter include two of the original requesters along with another community leader and stand as representatives of numerous other project-affected persons in the community who share their deep dissatisfaction. I understand from my clients that the third requester had traveled out of state at the time the 25 June 2014 letter was being prepared and was consequently unavailable to sign.

The intention of the present communication is to further elaborate the grievances of my clients with regards to the handling of their Request for Inspection (IPN REQUEST RQ 13/09) since 30 September 2013, which explain and justify their present fervent request for registration.

These grievances can be summarized in four points:

1. The "pilot process" was initiated without the Requesters' consent and suffered from lack of full disclosure and engagement.
2. World Bank Management failed, at all significant moments, to offset the tremendous inequality of bargaining power between affected persons and the Lagos State Government such as would have been necessary to ensure a process and outcome in line with World Bank resettlement policies.

3. The process leading up to the Resettlement Action Plan (RAP) and the RAP itself do not comply with World Bank policies.
4. Worse, the terms of the retroactive RAP for persons affected by 23 February 2013 forced eviction changed substantially, to the affected persons' detriment, after initiation of the pilot process.

Although I have just recently been instructed in this matter, I have had the opportunity to review much of the correspondence, listen to recordings of certain meetings, and discuss extensively with the requesters, other project-affected persons, and other interested parties. All this informs the points elaborated below.

The "pilot process" was initiated without the Requesters' consent and suffered from lack of full and timely disclosure.

As an initial matter, the requesters wish to state that they never gave consent for their Request for Inspection to be handled through this Honourable Panel's "pilot process" meant to facilitate early resolution. They understand from their previous counsel that their consenting to enter into the "pilot process" was premised on three conditions, which were not met. I refer to the highlighted portions of several e-mail correspondences referencing these conditions marked **Exhibit A**.

The clear intention of these three conditions—all requests for documents or information—was to ensure that the requesters could enter into the "pilot process" on equal footing with the Bank Management they were meant to engage. As made clear from the correspondence that appears at **Exhibit A**, this Honourable Panel ignored the conditions and on 11 November 2013 pushed the matter to the "pilot process" without having met any of the conditions.

I also refer to three separate e-mails sent to Bank Management by the requesters' prior counsel between the opening of the "dialogue" and 1 December 2013, reiterating the requests for information/ documents that were the conditions for engaging in the pilot process (**Exhibit B**). Contrary to what had been promised about pilot process, the World Bank Country Director for Nigeria wrote on 29 November, *"given the fact that an inspection panel request has been filed, it restricts the nature of communication we can have with the complainant."*

We will subsequently return to the effect of the lack of proper disclosure in response to these requests, which not only meant that my clients' conditions for entering into the pilot process were never met, but further violate the World Bank's own policies for disclosure and consultation in the development of a Resettlement Action Plan.

World Bank Management failed, at all significant moments, to offset the tremendous inequality of bargaining power such as would have been necessary to ensure a process and outcome in line with World Bank resettlement policies.

My clients have repeatedly voiced their belief throughout the entirety of the “pilot process” that the World Bank would not defend their interests and, instead, that they were alone in negotiations with the Lagos State Government. To my clients, the World Bank has been visible to them via the various Bank Management representatives who have appeared as “observers” at various events and meetings and who have consistently evidenced a close relationship with the Lagos State Government, its Technical Committee, and approval of the process.

Indeed, my clients have had the sense that all Bank Management cared about was “that there is a piece of paper called a RAP,” not that this document was fair or complied with any particular standards.

Reinforcing these fears, Bank Management did little or nothing after initiation of the pilot process to assist or support project-affected persons in responding to the unilateral changes to the terms of the RAP (see discussion below) presented with a “take it or leave it” message by the Lagos State Government on 20 November 2013.

Indeed, Bank Management representatives were present at the 20 November 2013 meeting and saw the shock and dismay of the project-affected persons, who flatly rejected the new proposal and left.

Despite urgent e-mail communications from the requesters’ prior counsel (see **Exhibit B**), Bank Management failed to take decisive steps to ensure a fair process or outcome that complied with Bank resettlement standards (see further discussion below). Instead, Bank Management commissioned two independent consultants to review the lower financial assistance amounts and promised these results by 15 December. These results did not come until 23 December.

In the meantime, the Bank sent representatives to a meeting on 9 December between the Lagos State Government and community representatives at which the community representatives explained the desperation of affected persons—hungry, homeless, sick, and dying more than 9 months after the demolition of their homes and businesses—and the Lagos State Government asked for a letter of acceptance. The representatives’ letter of conditional acceptance dated 9 December 2013 (**Exhibit C**) was flatly rejected.

It is the requesters’ fervent belief, in the face of all this evidence, that Bank Management has, together with the Lagos State Government, played a “delay game” designed to exacerbate the affected persons’ desperation and sap their resolve. This is the only explanation for the acceptance letter eventually signed on 20 December 2014, after having received no sign of support for their plight from Bank Management or the independent review promised by 15 December.

The process leading up to the Resettlement Action Plan (RAP) and the RAP itself do not comply with World Bank policies.

We submit that the process of developing the RAP dated 20 November 2013 and the RAP itself fails in numerous material ways to comply with the applicable World Bank policies (OP 4.12) and the specific commitments undertaken by the Lagos State Government in relation to the LMDGP Project Agreement and Resettlement Policy Framework.

The fatal shortcomings of the RAP, among others, are summarized as follows:

1. The RAP was prepared only months after the displacement of over 9,000 project-affected persons and, more than 16 months after their displacement, implementation is still not complete;
2. The RAP does not provide for resettlement of displaced persons;
3. The financial assistance provided in the RAP is grossly inadequate to offset the harms suffered between displacement and implementation of the RAP;
4. The RAP does not provide for meaningful livelihood support for displaced persons; and
5. The RAP, which has retroactively been dated 20 November 2013, was not disclosed to project-affected persons so as to enable them to properly be consulted – nor was it made public until late February 2014 when implementation was about to begin.

Further detailed argument on these shortcomings and lack of compliance with applicable Bank standards and policies will be provided upon registration of my clients' Request for Inspection.

Worse, the terms of the retroactive RAP for persons affected by 23 February 2013 forced eviction changed substantially, to the affected persons' detriment, after initiation of the pilot process.

At the time the pilot process initiated in early November 2013, the terms of the proposed RAP were those discussed at the meetings between the Lagos State Technical Committee on Badia East, representatives of affected persons and their prior counsel on 23 September 2013. The amounts of financial assistance at that time were:

- N114,200 for tenants,
- N261,811.25 for landlords with "small" structures,
- N426,677 for landlords with "medium" structures, and
- N532,769 for landlords with "large" structures.

Affected persons also asked and were told by the Lagos State Technical Committee in the 23 September meeting that persons accepting this financial assistance would not be asked to sign any document waiving their right to pursue other claims.

Shortly after the pilot process began, the Lagos State Government unilaterally lowered the amounts of financial assistance to:

- N90,400 for tenants;
- N171,725 for landlords with "small" structures;
- N248,740 for landlords with "medium" structures; and
- N309,780 for landlords with "large" structures.

This represents a substantial reduction in financial assistance (ranging between 21% to 42%) to affected persons. Worse, it was presented on 20 November 2013 and subsequently as a "take it or leave it" option.

When implementation of the RAP began in February 2014—contrary to what had been communicated clearly in the September 2013 discussions when community representatives were assisted by counsel—affected persons were made, in order to be verified to receive financial assistance, to sign a document indemnifying the Lagos State Government against any further claim related to the 23 February 2014 demolition. See **Exhibit D**.

Further, it must be noted that the implementation of the RAP began a full year after the forced eviction at Badia East, during which affected persons had received no relief whatsoever. Indeed, some affected persons are still yet to receive any financial assistance 16 months after their eviction. This hugely unjust delay exacerbates the desperation of already impoverished persons.

It should be noted that the underlying financial assistance calculations, though hugely inadequate to the losses suffered, were premised on a period of 7 months post-demolition delay (as of September 2013). Nothing was done to update the sums to account for the further delay of 5-9 months and counting.

Lastly, after the pilot process began, terms that were meant to provide a modicum of "livelihood assistance" to affected persons and, thereby, in some small way offset the fact that they were not being resettled, as required by Bank resettlement policies, were unilaterally removed.

Requesters have the right to request registration at any time

Lastly, my clients understand from their prior counsel that throughout the e-mail correspondence and a phone conversation on 15 October 2014 about the possibility of entering the "pilot process," Mr. Peter Lallas, the Executive Secretary of this Honourable Panel, repeatedly gave them assurance that they could, at any point, withdraw from the "pilot process" and request for registration of their request. I refer to the highlighted portion of an e-mail appearing within **Exhibit A**.

This guarantee is further captured in this Honourable Panel's Notice of Receipt of Request dated 11 November 2013, which states on p. 4:

"Also, in line with the Pilot approach, the Requesters have the right at any time to indicate that they are not satisfied and would like the Panel to register their Request."

Further to the point, the Requesters have informed me that their position has been consistent since they initiated their Request for Inspection. They want resettlement and adequate compensation that is in line with World Bank resettlement policies and the Lagos State Government's commitments under the LMDGP project agreement. They have never expressed satisfaction that their concerns are being adequately addressed—nor have they instructed counsel to do so.

Indeed, 16 months after their forced displacement and 8 months after the initiation of the pilot process aimed at "early resolution," the Requesters feel quite certain in their dissatisfaction and, consequently, their respectful insistence that their Request for Inspection be registered and this Honourable Panel proceed to full inspection.

I appreciate in advance your prompt attention to this matter. Should you have any questions, please contact me at kkobuba@gmail.com.

We reserve the right to make this letter public.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Kalu K. Obuba', with a horizontal line underneath.

Kalu K. Obuba, Esq.
Counsel to the Requesters
Obuba & Obuba Legal Practitioners