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**“THE MAKING OF A HYBRID  
TENANCY/LEASE AGREEMENT:  
A GUIDE FOR LAWYERS AND  
LANDLORDS IN NIGERIA”**

By **ONYEKACHI UMAH, ESQ. LLM. ACI Arb (UK)**

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#DailyLawTips, #SabiLawLectureSeries

**SAT. 6TH JULY 2019**  
8pm-9pm

 **THE YOUNG LAWYERS GROUP,  
NIGERIA BAR ASSOCIATION,  
JALINGO BRANCH.**

Materials will be made  
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# “THE MAKING OF A HYBRID TENANCY/LEASE AGREEMENT; A GUIDE FOR LAWYERS AND LANDLORDS IN NIGERIA”

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# PROFILE OF ONYEKACHI UMAH

- Onyekachi Umah is a private legal practitioner and arbitrator with amazing experience in intellectual property, transaction and regulation advisory, corporate, commercial and investment law and energy law as well as litigation and arbitration arising from them.
- Among other, he has a certificate in Law of Contract from a program of Harvard University, a certificate in International Environmental Negotiation from United Nations Institute for Training and Research, Geneva and a master of laws degree from University of Jos. He is Ph.D student at the Faculty of Law, Nasarawa State Univeristy.
- He is the managing partner of a leading law firm; Bezaleel Chambers International.
- He is the founder and President of a free law awareness platform known as [www.LearnNigerianLaws.com](http://www.LearnNigerianLaws.com) that delivers lectures, essays and free daily law tips across Nigeria.
- He is the convener of the Sabi Law Lecture Series, travelling around Nigeria delivering free law awareness lectures.



# 1. Presentation Plan & Outcome

1. Establishment of baselines
2. Definition of key terms
3. Overview of real estate investment, particularly rentals.
4. Discussion on expectations of landlords(investors)
5. Discussion on making of a reliable hybrid tenancy agreement.
6. Participants will understand the realities, opportunities and challenges of renting properties.
7. Participants will be able to prepare hybrid tenancy agreements that protect landlords and their property.

# 2. Assumptions

It is assumed we all understand the following terms;

1. Landlord
2. Tenant
3. Tenancy
4. Income
5. Revenue
6. Management Cost
7. Basics of simple contract
8. Statutory guides for eviction of tenants



# 3. Facts

1. You are either a landlord or tenant and even both now or later.
2. All the states in Nigeria, have laws guiding landlords and tenants relationship.
3. The laws protect tenants more than landlords
4. Gone are the days tenants were often poor and uninformed
5. Many tenancy relationships end up in court and even police stations.
6. Landlords and their agents cannot use self-help at all.
7. Cost of litigation and dispute resolution (justice) is very high
8. Judicial process is very slow, unpredictable and not business friendly.
9. Arbitration is expensive and tenants frustrate it through courts
10. There is often loss of revenue in eviction of tenant

# 4. What Landlords want from Lawyers and Tenants

Every landlord is an investor that wants to safeguard his investment (property) while income (rent) hits his bank account at agreed time with little or no management cost. Landlords want;

1. Safety of property at all times
2. Sustainably buoyant tenants
3. Constant and gainful occupation of property
4. Quick termination and eviction of non-complying tenants with least cost
5. Quick delivery of property upon expiration of term
6. Delivery of property in good tenantable condition.
7. Assurance of high mesne profit while t seeking eviction of tenant
8. High sustainable revenue



# 5. Contents of a reliable Hybrid Tenancy Agreement

Tenancy agreement can be oral or written but preferably written. When tenancy agreement is written, it gives landlord opportunity to clearly spell out his desires and with consent of the tenant, it also gives landlord opportunity to limit the rights and powers of a tenant. From practice experiences, case laws and statutes, below are what a hybrid tenancy agreement should contain to maximally protect a landlord and his property in Nigeria;

1. No arbitration Clause
2. Tenant must appoint a Guarantor
3. Guarantor must be part of the tenancy agreement (tripartite agreement)
4. Bank details of Guarantor and Tenant for possible Garnishee proceedings.
5. Tenancy period must be for a certain term, avoid yearly terms.

# Contents of a reliable Hybrid Tenancy Agreement, Cont'D.

6. Guarantor's Indemnity Clause
7. Waiver of issuance of Notice to Quit, expressly
8. Business/office address of Tenant and not his former or new address
9. Renewal rent clause of at least 6 months written application
10. Payment of tenement rate, estate fees and utilities by tenant
11. Payment of punitive daily mesne profit (example; N50,000 per day)
12. Attached copies of government issued means of identification of Tenant and Guarantor
13. Attached personal data forms showing personal information of Tenant and Guarantor
14. Attach coloured recent passport photographs of Tenant and Guarantor
15. Terms Transcending (Continuity) Clause



# Contents of a reliable Hybrid Tenancy Agreement, Cont'D.

15. Electronic & Social Media Service of processes Clause
16. Pre Judgment and Post Judgment Interest Rate Clause
17. Payment of Cost of Litigation Clause
18. Physical Delivery of Keys/Access Code Clause
19. Post Delivery of Property Assessment Clause
20. Caution Fee and Repair of Excess Clause
21. Waiver of Rent Increment Consent Clause
22. Tenant's Insurance Undertaking Clause
23. Waiver of Insecurity liabilities Clause
24. Waiver of Devices and Property Performance Clause

# 6. SabiLaw Master's Interlude

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3. Sabi Election Laws (#SabiElectionLaws)
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# 7. The Way Forward.

1. Ensure all tenancy agreements are written
2. Offer Personal Data forms very early
3. Ensure tenancy agreements are signed by prospective tenants and their guarantors.
4. Collect signed agreements from prospective Tenants and Guarantors before handing over keys/access codes
5. Ensure all pages of agreements are initialled by all parties
6. Email executed copies of agreements to all parties



# The Way Forward, Cont'D.

7. Set electronic reminders for all timelines in agreements
8. Don't ever go emotional with Tenants.
9. Avoid holding received rents for more than 24 hours
10. Always give a "7 days Notice of Owner's Intention to Recover Premises".
11. Send emails/messages instead of phone calls.
12. Reduce every agreement made via phone call to message and quickly seek written acknowledgment.
13. Avoid engaging and using Police officers and touts. Use police only for criminal matters.

## 8. Conclusion:

“Real Estate Investment is good but the part of it that deals with tenants is often not fruitful unless you engage a smart lawyer. With a hybrid tenancy agreement in an unpredictable slow judicial system, your property will be secured from often uncultured tenants while it safely yields sustainable revenue, with a very reduced management cost. In a word, auto-pilot.’

Saturday 6<sup>th</sup> July, 2019.

Abuja.

Thank you!

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