**FORM NO. 1**

NOTICE OF APPLICATION FOR ORDER ENFORCING A FUNDAMENTAL RIGHT

**(ORDER 2 RULE 1)**

**IN THE FEDERAL HIGH COURT**

**IN THE KADUNA JUDICIAL DIVISION**

**HOLDEN AT KADUNA**

**SUIT NO: FHC/KD/CS/ /2023**

**In the matter of an Application by Hall 7 Real Estate Limited**

**BETWEEN**

HALL 7 REAL ESTATE LIMITED **APPLICANT**

**AND**

1. ATTORNEY-GENERAL OF KADUNA STATE
2. GOVERNOR OF KADUNA STATE **RESPONDENTS**
3. KADUNA STATE URBAN PLANNING AND

DEVELOPMENT AUTHORITY (KASUPDA)

**ORIGINATING MOTION**

Brought Pursuant to:

i. Order II Rules 1, 2 & 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009

ii. Section 44 of the Constitution of the Federal Republic of Nigeria 1999

iii. Article 14 of the African Charter on Human and Peoples Rights (Enforcement and Ratification) Act, Cap. A9, LFN, 2004.

**TAKE NOTICE** that this Honourable Court will be moved on the day of

 2023, in the hour of 9 o’clock in the forenoon, or so soon thereafter, as Counsel can be heard on behalf of the Applicant, in terms of the Reliefs sought in the Statement accompanying the Affidavit in support of the Application.

**AND TAKE NOTICE** that on the hearing of this Application, the Applicant will use and rely on the Affidavit deposed to by OLAYINKA BRAIMOH (a Director of the Applicant) and the Exhibits therein referred to.

**DATED THIS 20TH DAY OF FEBRUARY, 2023**

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**P.I.N. IKWUETO, SAN.**

CHINEDU EZEH, ESQ. (signed)

CHUKWUEBUKA OKAFOR, ESQ.

CELESTINE EZEOKEKE, ESQ.

(Applicant’s Counsel)

**Ikwueto®**

A Registered Law Firm

6B Senanga Street

Off Accra Street

Wuse Zone 5, Abuja

08034455556

**FOR SERVICE ON:**

1. **The 1st Respondent**

Attorney-General of Kaduna State

Office of the Attorney-General and Commissioner for Justice

Ministry of Justice

Kaduna, Kaduna State

1. **The 2nd Respondent**

Governor of Kaduna State

Kaduna State Government House

Sir Kashim Ibrahim House

44 Polytechnic Road

Badiko, Kaduna, Kaduna State

1. **The 3rd Respondent**

Kaduna State Urban Planning and

Development Authority (KASUPA)

No. 4 Bida Road

Kaduna, Kaduna State

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3. KADUNA STATE URBAN PLANNING AND

DEVELOPMENT AUTHORITY (KASUPDA)

**STATEMENT PURSUANT TO ORDER II RULE 3 OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES 2009**

1. **NAMES OF THE APPLICANT**

The Applicant, Hall 7 Real Estate Limited, Applicant is a Limited Liability Company registered in Nigeria with its offices at Capital Hall, off Kampala Street, Wuse 2, Abuja. It also has an office at Muhammadu Buhari Way, Hamdala Hotel, Central Business District, Gabasawa District, Kaduna North L.G.A., Kaduna, Kaduna State, within the jurisdiction of this Court.

1. **DESCRIPTION OF THE APPLICANTS**

As its name implies, the Applicant is a duly registered company in Nigerian and its object includes the business of real estate assessment, development and construction activities.

1. **RELIEFS SOUGHT**
2. **A DECLARATION** that under and by virtue of Section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999, as amended [“1999 Constitution, as amended”] and Article 14 of the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, Cap. A9, L.F.N., 2004, the Applicant is entitled to its fundamental right to property and interest and investments thereon as the lawful allottee over the properties situate and lying at **Plots 292067** and **292070** measuring approximately 6.594.35m2 and 22,314.40m2 described as No. 28 Muhammadu Buhari Wa (Waff Road), Kaduna, Kaduna State – vide Certificate of Occupancy No: v3221-0096n-62061-u3117-n2520-ra3e1 in File No: KDL 292067 dated 1st June 2021 and Building Permission No: 1460 dated 25th October 2021.
3. **A DECLARATION** that the Respondents’ interference with the Applicant’s enjoyment of its fundamental right, interests and investments over the above mentioned properties vide the 2nd Respondent’s purported letters dated 5th October 2022 and entitled “Notice of Revocation/Withdrawal of Right of Occupancy” is unconstitutional; and thereby, null and void.
4. **AN ORDER** nullifying and setting aside the 2nd Respondent’s purported letters dated 5th October 2022 and entitled “Notice of Revocation/Withdrawal of Right of Occupancy” over the subject properties as well as the letter dated 17th October 2022 and entitled “Re: Building Permission S/N. 1460 purporting to withdraw the Building Permission granted to the Applicant on the properties, for being unconstitutional, null and void, and of no effect whatsoever.
5. **AN ORDER** of perpetual injunction restraining the Respondents, acting jointly or severally and by themselves or their officers, servants, agents, privies or otherwise howsoever from interfering with and or continuing to interfere with the Applicant’s enjoyment of its rights, interests and investments on the said properties.
6. **AN ORDER** directing the Respondents, jointly and severally to pay N5,000,000,000.00 (Five Billion Naira) to the Applicant as compensation/damages for the violation of the Applicant’s Fundamental Right to its Properties stated above.
7. **SUCH FURTHER** and or other orders as this Honourable Court may deem fit to make in the circumstances of this case.
8. **GROUNDS UPON WHICH THE RELIEFS ARE SOUGHT**
9. By virtue of Section 44(1) of the 1999 Constitution, as amended, “No moveable property **or interest in an immovable property** shall be taken possession of compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by law…”
10. By Article 14 of the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, Cap. A9, LFN, 2004, “The right to property is guaranteed.”
11. On 14th October 2020, the Applicant was granted Rights of Occupancy over **Plots 292067** and **292070** measuring approximately 6.594.35m2 and 22,314.40m2 described as No. 28 Muhammadu Buhari Wa (Waff Road), Kaduna, Kaduna State (“the subject property”).

Following the prompt payment of all the necessary fees, the Applicant was issued Certificates of Occupancy dated 1st June 2021 over the subject property, confirming and certifying its title thereon.

The Applicant also obtained the necessary approvals from the 2nd and 3rd Defendants, including Building Permission dated 25th October 2021, to enable it commence development on the subject property.

1. Pursuant to the said certificates and approvals, the Applicant promptly mobilized to site with its contractors and commenced the construction of a Mall and Hotel on the property.
2. By two separate letters dated 5th October 2022, entitled “Notice of Revocation/Withdrawal of Right of Occupancy over File Number KDL 292067” and “Notice of Revocation/Withdrawal of Right of Occupancy over File Number KDL 292070”, the 2nd Respondent purported to have revoked the Applicant’s *“rights and interest”* over the subject property for alleged *“continued failure and contravention of covenanted terms and conditions of the Right of Occupany to wit: Non Payment of Statutory Ground Rent.”*

This is notwithstanding the fact that the Applicant had since paid the Ground Rent over the subject property, as evidenced in the Treasury Revenue Receipt dated 22/12/2020 issued by the Government of Kaduna State to the Applicant in that regard.

1. By a further letter dated 17th October 2022 and entitled “Re: Building Permission S/N 1460”, the 3rd Respondent wrote to the Applicant and purported to notify the Applicant *“of the* ***WITHDRAWAL*** *of the permits S/N 1460”*. In the said letter, the 3rd Respondent also asked the Applicant to ***“STOP WORK*** *on Site immediately.”*
2. The Applicant was not given any fair hearing in the processes leading to the purported revocation/withdrawal of its Rights of Occupancy and Building Permission; and the Applicant was not paid any compensation in that regard as mandatorily required by **Sections** **36(1)** and **44(1) of the 1999 Constitution (as amended)**.
3. Despite all entreaties the Respondents are bent on continuing with their interference with the Applicant’s rights and vested interest in the subject property.
4. The Applicant has suffered great difficulties and enormous financial hardship, loss of credit and inconvenience on account of the Respondents’ interference with the enjoyment of its right, interests and investments on the subject property.
5. Unless by an Order of this Honourable Court, the Respondents, acting jointly or severally, will continue to compulsorily and unlawfully interfere with the Applicant’s enjoyment of its fundamental right to the subject property, and its interest and investments thereon.
6. Unless by an Order of this Honourable Court, the Respondents, acting jointly or severally, will continue to trample and violate the Applicant’s fundamental rights.
7. It is in the interest of justice, and the need to respect, promote and protect the Applicant’s fundamental rights, to grant this Application.

**DATED THIS 20TH DAY OF FEBRUARY, 2023**

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**P.I.N. IKWUETO, SAN.**

CHINEDU EZEH, ESQ. (signed)

CHUKWUEBUKA OKAFOR, ESQ.

CELESTINE EZEOKEKE, ESQ.

(Applicant’s Counsel)

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6B Senanga Street

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**FOR SERVICE ON:**

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Attorney-General of Kaduna State

Office of the Attorney-General and Commissioner for Justice

Ministry of Justice

Kaduna, Kaduna State

1. **The 2nd Respondent**

Governor of Kaduna State

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1. **The 3rd Respondent**

Kaduna State Urban Planning and

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No. 4 Bida Road

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**IN THE FEDERAL HIGH COURT**

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**In the matter of an Application by Hall 7 Real Estate Limited**

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2. GOVERNOR OF KADUNA STATE **RESPONDENTS**
3. KADUNA STATE URBAN PLANNING AND

DEVELOPMENT AUTHORITY (KASUPDA)

**AFFIDAVIT IN SUPPORT OF THE ORIGINATING MOTION**

I, ALEX UKWUEZE, Male, Adult, Nigerian Citizen of 6B Senanga Street, off Accra Street, Wuse Zone 5, Abuja, do hereby make Oath and state as follows; that:

1. I am a Litigation Secretary at **Ikwueto®**, the Law Firm representing the Applicant in the Fundamental Right Enforcement Proceeding. By virtue of my said position, I am very conversant with the facts leading to this Suit.
2. I depose to this Affidavit for and on behalf of the Applicant and with the consent of its Directors who are, unavoidably, outside the jurisdiction of the Honourable Court at the time of filing this Suit. Except where stated, all the facts deposed to herein are within my personal knowledge and I believe them to be true and correct. They are also derived from facts as contained in the various documents I have seen and read in connection with this case.
3. I was informed by OLAYINKA BRAIMOH, a Director of the Applicant, in our Law Firm on 17th February 2023, about 4pm, and I verily believe that:
4. On 14th October 2020, the Applicant was granted Rights of Occupancy over **Plots 292067** and **292070** measuring approximately 6.594.35m2 and 22,314.40m2 described as No. 28 Muhammadu Buhari Wa (Waff Road), Kaduna, Kaduna State (“the subject property”).

Following the prompt payment of all the necessary fees, the Applicant was issued Certificates of Occupancy dated 1st June 2021 over the subject property, confirming and certifying its title thereon.

Copies of the receipts of payment issued to the Applicant by the Kaduna Geographic Information System (KADGIS) with respect to the subject property are herein collectively annexed as **Exhibit “A”**.

Copies of the said Certificates of Occupancy dated 1st June 2021 are herein annexed and marked as **Exhibits “B”** and **“B1”**.

1. The Applicant also obtained the necessary approvals from the 2nd and 3rd Defendants, including Building Permission dated 25th October 2021, to enable it commence development on the subject property.

A copy of the Building Permission S/No 1460 dated 25th October 2021 issued by the 3rd Respondent to the Applicant is herein annexed and marked as **Exhibit “C”**.

1. Pursuant to the said certificates and approvals, the Applicant promptly mobilized to site with its contractors and commenced the construction of a Mall and Hotel on the property. In this connection, the Applicant engaged its partners – Bima Shelter Limited and 3ADB Nigerian Limited, a world-class Spanish company based in Abuja.
2. The Applicant has since completed the substructure and pillars for the 8 units of the Mall. The sum of **N800,000,000.00 (Eight Hundred Million Naira)** has been expended on the property inclusive of mobilization. The hotel construction, which also involves high quality of works up to the standard of Hilton, was scheduled to start separately because it is more complex and required consultation with the Applicant’s international partners, W Hospitality Group.

Copies of the pictures showing and depicting the works already carried out by the Applicant on the property are herein collectively annexed and marked as **Exhibit “D”.**

1. I bookmarked, downloaded and printed the said pictures, which were emailed to me by Olayinka Braimoh, with my HP Laptop computer and my HP Printer during a period over which the computer and printer were used regularly to store or process such documents and information regularly downloaded from the internet.

At all material times, and in the ordinary course of business, documents of this nature are regularly processed and stored on the computer. The computer and printer have been functioning properly and are capable of creating and storing documents and data. They are capable of processing and storing images and data of this nature.

1. I was further informed by Olayinka Braimoh, as stated above, and I verily believe that:
2. By two separate letters dated 5th October 2022, entitled “Notice of Revocation/Withdrawal of Right of Occupancy over File Number KDL 292067” and “Notice of Revocation/Withdrawal of Right of Occupancy over File Number KDL 292070”, the 2nd Respondent purported to have revoked the Applicant’s *“rights and interest”* over the subject property for alleged *“continued failure and contravention of covenanted terms and conditions of the Right of Occupany to wit: Non Payment of Statutory Ground Rent.”*

The letters dated 5th October 2022 are herein annexed and marked as **Exhibits “E”** and **“E1”** respectively.

1. This above is notwithstanding the fact that the Applicant had since paid the Ground Rent over the subject property, as evidenced in the Treasury Revenue Receipt dated 22/12/2020 issued by the Government of Kaduna State to the Applicant in that regard.

A copy of the said Treasury Revenue Receipt dated 22/12/2020 confirming that the Applicant paid the Ground Rent is herein annexed and marked as **Exhibit “F”**.

1. By a further letter dated 17th October 2022 and entitled “Re: Building Permission S/N 1460”, the 3rd Respondent wrote to the Applicant and purported to notify the Applicant *“of the* ***WITHDRAWAL*** *of the permits S/N 1460”*. In the said letter, the 3rd Respondent also asked the Applicant to ***“STOP WORK*** *on Site immediately.”*

A copy of the letter dated 17th October 2022 is herein annexed and marked as **Exhibit “G”**.

1. The Applicant was not given any fair hearing in the processes leading to the purported revocation/withdrawal of its Rights of Occupancy and Building Permission; and the Applicant was not paid any compensation in that regard as mandatorily required by law.
2. The Applicant has suffered great difficulties and enormous financial hardship, loss of credit and inconvenience on account of the Respondents’ interference with the enjoyment of its right, interests and investments on the subject property.
3. Unless by an Order of this Honourable Court, the Respondents, acting jointly or severally, will continue to compulsorily and unlawfully interfere with the Applicant’s enjoyment of its fundamental right to the subject property, and its interest and investments thereon.
4. Unless by an Order of this Honourable Court, the Respondents, acting jointly or severally, will continue to trample and violate the Applicant’s fundamental rights.
5. It is in the interest of justice, and the need to respect, promote and protect the Applicant’s fundamental rights, to grant this Application.
6. I do solemnly and sincerely declare and depose to this Affidavit in good faith conscientiously believing the content to be true and correct to the best of my knowledge and information and by virtue of the Oaths Act.

Sworn to at the Federal High Court Registry \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Abuja, this day of February, 2023 D E P O N E N T

BEFORE ME:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COMMISSIONER FOR OATHS

**IN THE FEDERAL HIGH COURT**

**IN THE KADUNA JUDICIAL DIVISION**

**HOLDEN AT KADUNA**

**SUIT NO: FHC/KD/CS/ /2023**

**In the matter of an Application by Hall 7 Real Estate Limited**

**BETWEEN**

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1. ATTORNEY-GENERAL OF KADUNA STATE
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3. KADUNA STATE URBAN PLANNING AND

DEVELOPMENT AUTHORITY (KASUPDA)

**WRITTEN ADDRESS IN SUPPORT OF THE ORIGINATING MOTION**

1. **INTRODUCTION**
	1. This Written Address is in support of the Applicant’s Originating Motion seeking the following Reliefs as set out the Statement in support thereof:

1. **A DECLARATION** that under and by virtue of Section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999, as amended [“1999 Constitution, as amended”] and Article 14 of the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, Cap. A9, L.F.N., 2004, the Applicant is entitled to its fundamental right to property and interest and investments thereon as the lawful allottee over the properties situate and lying at **Plots 292067** and **292070** measuring approximately 6.594.35m2 and 22,314.40m2 described as No. 28 Muhammadu Buhari Wa (Waff Road), Kaduna, Kaduna State – vide Certificate of Occupancy No: v3221-0096n-62061-u3117-n2520-ra3e1 in File No: KDL 292067 dated 1st June 2021 and Building Permission No: 1460 dated 25th October 2021.
2. **A DECLARATION** that the Respondents’ interference with the Applicant’s enjoyment of its fundamental right, interests and investments over the above mentioned properties vide the 2nd Respondent’s purported letters dated 5th October 2022 and entitled “Notice of Revocation/Withdrawal of Right of Occupancy” is unconstitutional; and thereby, null and void.
3. **AN ORDER** nullifying and setting aside the 2nd Respondent’s purported letters dated 5th October 2022 and entitled “Notice of Revocation/Withdrawal of Right of Occupancy” over the subject properties as well as the letter dated 17th October 2022 and entitled “Re: Building Permission S/N. 1460 purporting to withdraw the Building Permission granted to the Applicant on the properties, for being unconstitutional, null and void, and of no effect whatsoever.
4. **AN ORDER** of perpetual injunction restraining the Respondents, acting jointly or severally and by themselves or their officers, servants, agents, privies or otherwise howsoever from interfering with and or continuing to interfere with the Applicant’s enjoyment of its rights, interests and investments on the said properties.
5. **AN ORDER** directing the Respondents, jointly and severally to pay N5,000,000,000.00 (Five Billion Naira) to the Applicant as compensation/damages for the violation of the Applicant’s Fundamental Right to its Properties stated above.
6. **SUCH FURTHER** and or other orders as this Honourable Court may deem fit to make in the circumstances of this case.
	1. As required by the Fundamental Rights (Enforcement Procedure) Rules 2009, the Application is supported by a Statement setting out the name and description of the Applicant, the reliefs sought, the grounds upon which the reliefs are sought, and supported by an Affidavit of six (6) substantive paragraphs setting out the facts upon which the application is made.
7. **STATEMENT OF RELEVANT FACTS**

Respectfully, My Lord, the Applicant hereby adopts the facts contained in its Affidavits in support of the Originating Motion, including the exhibits annexed thereto, as the facts relevant to the determination of this case.

1. **ISSUES FOR DETERMINATION**

My Noble Lords, the Issue for determination in this Application are these:

Whether or not the Applicant is entitled to the protection of its right to property as guaranteed under Section 44(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended (‘the 1999 Constitution, as amended) and Article 14 of the African Charter on Human and Peoples Rights (Enforcement and Ratification) Act, Cap. A9, LFN, 2004.

1. **LEGAL ARGUMENTS**
	1. Firstly, My Lord, there is no gainsaying that by virtue of Section 44(1) of the 1999 Constitution, as amended:

**“No moveable property or interest in an immovable property shall be taken possession of compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by law…”**

By Article 14 of the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, “The right to property is guaranteed.”

* 1. Interpreting the above provision in **A.G LAGOS STATE v. ZANEN VERSTOEP & CO (NIG) LTD (2016) LPELR-41402 (CA) at 30-31E-D**, the Court of Appeal held as follows:

**"...Section 44(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides thus:-**

**"Section 44(1) No moveable property or any interest in an immoveable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for purposes prescribed by law that, among other things:-**

**(a) Requires the prompt payment of compensation therefore; and**

**(b) gives to any person claiming such compensation right of access for the determination of his interest in the property and the amount of compensation to a Court of law or Tribunal on body haring jurisdiction in that part of Nigeria."**

**The wordings of the above set out provision is clear and unambiguous and gives every citizen of this country, including legal entities the right to seek redress in Court by way of enforcement of their fundamental right where their property whether moveable or immoveable is taken possession of compulsorily and without due process of law being adhered to."**

* 1. The question that arises, then, is: Whether the Applicant herein is entitled to the protection of its property in the circumstances of this case.
	2. It is our respectful submission that the answer to this question ought to be in the affirmative. This is because, as shown in the Applicant’s Affidavit in support of the Originating Motion, on 14th October 2020, the Applicant was granted Rights of Occupancy over **Plots 292067** and **292070** measuring approximately 6.594.35m2 and 22,314.40m2 described as No. 28 Muhammadu Buhari Wa (Waff Road), Kaduna, Kaduna State (“the subject property”). It is also the Applicant’s case that following the prompt payment of all the necessary fees, the Applicant was issued Certificates of Occupancy dated 1st June 2021 over the subject property, confirming and certifying its title thereon. (See **Exhibits “A”**, “**B”** and **“B1”**).
	3. It is also in evidence that the Applicant also obtained the necessary approvals from the 2nd and 3rd Defendants, including Building Permission dated 25th October 2021, to enable it commence development on the subject property. (See **Exhibit “C”**).

Furthermore, that pursuant to the said certificates and approvals, the Applicant promptly mobilized to site with its contractors and commenced the construction of a Mall and Hotel on the property. The Applicant further deposed, in this connection, that it has since completed the substructure and pillars for the 8 units of the Mall; and the sum of **N800,000,000.00 (Eight Hundred Million Naira)** has been expended on the property inclusive of mobilization. That the hotel construction, which also involves high quality of works up to the standard of Hilton, was scheduled to start separately because it is more complex and required consultation with the Applicant’s international partners, W Hospitality Group.

Copies of the pictures showing and depicting the works already carried out by the Applicant on the property are **Exhibit “D”** annexed to the Affidavit.

* 1. My Lord, the Applicant’s grouse, however, can be found in paragraph 5 of the Affidavit in support. The Applicant deposed that by two separate letters dated 5th October 2022, entitled “Notice of Revocation/Withdrawal of Right of Occupancy over File Number KDL 292067” and “Notice of Revocation/Withdrawal of Right of Occupancy over File Number KDL 292070”, the 2nd Respondent purported to have revoked the Applicant’s *“rights and interest”* over the subject property for alleged *“continued failure and contravention of covenanted terms and conditions of the Right of Occupany to wit: Non Payment of Statutory Ground Rent.”*

The letters dated 5th October 2022 are **Exhibits “E”** and **“E1”** respectively.

* 1. It is the Applicant’s case that the reasons given by the 2nd Respondent for the above letters are baseless because the Applicant had since paid the Ground Rent over the subject property, as evidenced in the Treasury Revenue Receipt dated 22/12/2020 issued by the Government of Kaduna State to the Applicant in that regard. (See **Exhibit “F”**).
	2. Worse still is that by a further letter dated 17th October 2022 and entitled “Re: Building Permission S/N 1460” (**Exhibit “G”**), the 3rd Respondent wrote to the Applicant and purported to notify the Applicant *“of the* ***WITHDRAWAL*** *of the permits S/N 1460”*. In the said letter, the 3rd Respondent also asked the Applicant to ***“STOP WORK*** *on Site immediately.”*
	3. We respectfully invite Your Lordship to find that an integral part of the Applicant’s case is that it was not given any fair hearing in the processes leading to the purported revocation/withdrawal of its Rights of Occupancy and Building Permission; and the Applicant was not paid any compensation in that regard as mandatorily required by law. See **Section 44(1) of the 1999 Constitution (as amended)**.
	4. Quite apart from the issue of lack of compensation for interfering with the Applicant’s enjoyment of its fundamental right to the property and his interest and investments thereon, the above exposition shows that the Respondents’ actions are manifestly unconstitutional and illegal. Indeed, in **UNIVERSAL MALTING CO. LTD v. MESSRS. SINGOZ & CO. NIG. LTD. (2015) LPELR-25620 (CA) at 74-75C, the Court of Appeal (per Oho, J.C.A.)** relied on the decisions of the Supreme Court and clarified thus:

**"... In the OSHO vs. FOREIGN FINANCE CORPORATION case Supra, the Supreme Court was of the view that the revocation of a right of occupancy must be by one of the modes prescribed by Section 44 of the Land Use Act and must be for public purpose and that revocation for public purpose does not include revocation of the right of one grantee for purposes of vesting it in another. The Court was of the further view that where revocation is based on breach of terms of the certificate of occupancy, the aggrieved party must be accorded a fair hearing prior to the revocation. That where there is a subsisting grant, any other deemed grant would be invalid. See the case of EMMANUEL ILONA vs. SUNDAY IDAKWO (2003) 5 SCNJ 330."**

* 1. In view of the above submissions, we respectfully urge Your Lordship to hold that the Applicant is entitled to have her right to property under Section 44 of the 1999 Constitution (as amended) and Article 14 of the African Charter on Human and Peoples Rights (Enforcement and Ratification) Act, Cap. A9, LFN, 2004, respected, protected and fulfilled.
	2. It is submitted that under the obligation to ‘*respect’* human rights, States and its agencies (such as the Respondents herein) have obligations not to interfere in a person’s enjoyment of human rights. Seeon this, **Articles 55 and 56 of the UN Charter;** and **S. Skogley, *Beyond National Borders: States Human Rights Obligations in International Cooperation* (Intersentia, 2006) at page 66**.

Under the obligation to ‘*protect’* human rights, States and its agencies (such as the Respondents herein) have obligations to prevent third parties from infringing on the rights of its citizens. Seeon this, the decision of the Inter-American Court of Human Rights in **XIMENES-LOPEZ v. BRAZIL, I-ACtHR, Judgment of 17 August, 2006 (Merits, Reparations and Costs).**

Under the obligation to ‘*fulfil’* human rights, States and its agencies (such as the Respondents herein) have “the obligation to take measures necessary to ensure that each person... have opportunities to obtain satisfaction of those needs, recognised in human rights instruments, which cannot be secured by personal efforts.” See **A. Eide, ‘Realization of Social and Economic Rights and the Minimum Threshold Approach”, 10 *HRLJ,* No 1-2,** cited in **S. Skogley, *op. cit.***

* 1. The next question, My Lord, is whether the Applicant is entitled to damages/compensation for the Respondents’ flagrant violation of its fundamental rights as pleaded and proved.
	2. My Lord, the law is trite that “damages in compensation, legally and naturally follow every act of violation of citizens fundamental right. See Section 35 (6) of the 1999 Constitution, as amended. See also Agu vs Okpoko (2009) LPELR 8286 CA.” See **IWUNUNNE v. EGBUCHULEM (2016) LPELR-40515 (CA) at 37-38, Paras. D-F**, per Mbaba. JCA.
	3. Likewise, in the recent case of **S.S.S.** v. **INCORPORATED TRUSTEES OF THE PEACE CORPS OF NIGERIA (2019) LPELR-47274 (CA)**, the Court of Appeal further clarified that:

**"The law is trite, that once it is adjudged that the fundamental rights of an Applicant has been violated, damages is inferred and activated, as the Applicant is entitled to compensation in damages. The quantum of damages awardable is always at the discretion of the trial Court, depending on the gravity of the violation and claims/parties affected. See the case of Iwununne Vs Egbuchulem & Ors (2016) 40515 CA, where it was held:**

**"On the allegation that the damages was not proved by credible evidence and that the person who, in fact, caused the damages must be established, Appellants' Counsel appeared to have forgotten that general damages need not be specifically pleaded or proved, as the same tends to flow from the act/conduct of the defendant complained against. And in fundamental rights matters, damages automatically accrue, once there is evidence of breach or violation of Applicants fundamental right(s). See Section 35(6) of the 1999 Constitution and the case of Ozide & Ors Vs Ewuzie & Ors (2015) LPELR - 24482 CA.**

**In Igweokolo Vs Akpoyibo & Ors (2017) LPELR - 41882 CA, my Lord, Ikyegh JCA held:**

**"Once violation of a fundamental right is proved, the award of meaningful damages in form of compensation must automatically follow whether asked for or not by the Claimant, in addition to the order of written apology..."** Per MBABA, J.C.A. (Pp. 26-27, Paras. D-E)

* 1. In the instant case, My Lord, the Applicant has deposed that it has suffered great difficulties and enormous financial hardship, loss of credit and inconvenience on account of the Respondents’ interference with the enjoyment of its right, interests and investments on the subject property.

We refer to the copies of the pictures showing and depicting the works already carried out by the Applicant on the property (**Exhibit “D”**).

* 1. It is accordingly submitted that unless by an Order of this Honourable Court, the Respondents, acting jointly or severally, will continue to compulsorily and unlawfully interfere with the Applicant’s enjoyment of its fundamental right to the subject property, and its interest and investments thereon.

Unless by an Order of this Honourable Court, the Respondents, acting jointly or severally, will continue to trample and violate the Applicant’s fundamental rights. It is, therefore, in the interest of justice and the need to respect and protect the Applicant’s fundamental rights, to grant this Application.

1. **CONCLUSION**

For the reasons given above, we respectfully urge Your Lordship to grant the Reliefs sought in this Application as prayed.

May it please the Honourable Court.

**DATED THIS 20TH DAY OF FEBRUARY, 2023**

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**P.I.N. IKWUETO, SAN.**

CHINEDU EZEH, ESQ. (signed)

CHUKWUEBUKA OKAFOR, ESQ.

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