

# LAND AND WATER USE, REGULATIONS AND POLICIES

# 4

## 4A MAKOKO LAND LEGALITY, OWNERSHIP AND JURISDICTION

Typically a planning permit is required to develop property in Lagos State. The Lagos State Physical Planning Permit Authority (LaSPPPA) is the government agency responsible for issuing the permit to owners/developers in the State. The Lagos State Urban and Regional Planning and Development Act 2010 in section 102 defines “development” to include the carrying out of any building, mining, or other operations in, on or under any land. “Land” is defined to include “land covered with water and everything attached to the earth or permanently fastened to anything which is attached to the earth”.

**It appears therefore that the intention is to extend the authority of the LaSPPPA to “buildings” resting on (or fastened to permanent structures in) water bodies such as the Lagos Lagoon.**

The question remains whether a structure such as the proposed school constitutes a building for planning approval purposes.

LaSPPPA (through its supervisory ministry, the Lagos State Ministry of Physical Planning and Urban Development) says that although large swathes of Makoko is Federal Government (FG) property, Lagos State Government (LaSG) has made and continues to make a claim over the area, as a result of the Federal Government’s continued lack of plans for the area. The official we talked to added that ownership of “land” in the area is complicated: some areas are FG owned, some parts have been reclaimed by LaSG, and others are areas which have been allocated to owners by the FG. He then advised that the best way to obtain land in the area is to buy from the local owners who have been allocated land by the FG.

## 4B LAGOS INLAND WATERWAYS AND JURISDICTION

The National Inland Waterway Authority Act establishes the National Inland Waterway Authority (NIWA) and empowers the Authority to exclusively manage, direct and control all navigable waterways, inland waterways, river-ports and internal waters of Nigeria. The NIWA Act defines “inland waterways” to include all waterways, rivers, creeks, lakes, tidelands, and lagoons below the low water baseline. The Interpretation Act gives a similar definition for “inland waters”. Section 11 of the NIWA Act vests the duty of management, direction and control of, amongst others, inland waterways, in NIWA. This duty was affirmed by the Court of Appeal in *Gani-Tarzan Maritime Enterprises v. Caravelle Resources and Investments, Ltd* CA/L/10/09.

However, the Lagos State Government (LaSG) has variously asserted that NIWA has no right over the “land” comprised in the Lagos Lagoon. We are not aware of any instance in which this issue has had to be decided, or even resolved in practice. However, it may be the case that LaSG’s case is premised on the fact that the FGN’s constitutional authority to legislate on inland waterways is limited to shipping and navigation thereon. It is possible that, if the matter comes before the courts (which have the ultimate authority to interpret statute law), the position

advanced by LaSG may not or may be accepted. But the position now is that the NIWA Act remains valid law until overturned (we note however that the Supreme Court has held in the case of *Attorney General of Lagos St. v. Attorney General of the Federation*, 2003 12 NWLR pt.833 p.1 that the power of making planning laws is reserved exclusively by the constitution to the States).

**NIWA claims to be responsible for regulating the construction of “buildings” within the area. They have however refused to give any information on the regulatory requirements for the construction of a school within the area without embarking upon a physical inspection of the proposed site.** Allegedly this is because the Makoko area is zoned for different uses and until they get to the site in order to ascertain the use to which the specific area was zoned to, it would be impossible to provide us with the relevant guidelines.

By the NIWA Act, legal title to the “land” comprised in the Lagoon is vested in NIWA, and the authority may grant permission to construct the “building” or moor the watercraft without necessarily granting title to the “land”, LaSG however asserts the right to approve the development plans.

# 4C APPLICABLE BUILDING REGULATIONS, PERMITS/WAIVERS, RIGHTS AND LICENSES

## BUILDING REGULATIONS

Some building restrictions/regulations do apply in the Makoko area. The Lagos State Government has zoned different parts of Makoko for different uses, each with their own set of specifications and guidelines. **A survey plan of the property would need to be submitted to the Lagos State Ministry of Physical Planning and Urban Development in order to determine what restrictions, if any, apply.**

## CONSTRUCTION PERMIT

The following documents must be submitted in order to obtain a building/development permit (the typical case being on land):

- Survey plan of the property
- Structural/architectural drawings of the proposed building;
- Physical planning report (to be prepared by a town planner); and
- Tax clearance certificate of the applicant (in the case of a corporate applicant, of its directors).

The procedure is outlined below:

1. Submit survey plan of the property. The survey plan would be charted by the officials of LaSPPPA, in order to ascertain what the area has been zoned for, and whether the property has been or is intended to be acquired by the Lagos State Government. It is only after this has been done that specific guidelines on the height of the building, approved density, etc. may be obtained. LaSPPPA will also assist to ascertain if the government has an operational plan for the area in which the property is located.
2. Complete the purchase of the property and perfection of applicant's title in the property (the application would not be processed without the Governor's consent).
3. Submit a formal application with the requisite documents (an application form will be provided after we have submitted the above documents).

Barring any complications, the process usually takes about a month to complete if all the documents are satisfactory.

## **SCHOOL CONSTRUCTION PERMIT**

An additional construction permit is required for schools from a department of the Lagos State Ministry of Planning and Urban Development. The cost of this permit will be determined only upon presentation of the survey.

## **WATERCRAFT PERMIT**

The National Inland Waterway Authority (NIWA) Act dictates that all watercraft in Nigeria’s inland waterways be registered with NIWA. Niwa also claims to be responsible for regulating the construction and operation of “buildings” within the area. However, they have refused to give any information on the regulatory requirements for the construction of a school within the area without embarking upon a physical inspection of the proposed site. Allegedly this is because the Makoko area is zoned for different uses, and until they get to the site in order to ascertain the use to which the specific area was zoned to, it would be impossible to provide us with the relevant guidelines.

## **SCHOOL OPERATION PERMIT**

A person intending to establish and operate a private educational institution (any pre-primary, primary, post-primary, technical, vocational, remedial, training centers or any similar

institutions but does not include any institution established by the State Government) anywhere in Lagos State is required to obtain approval from the Lagos State Ministry of Education. The application for approval is required to be made at least 12 months prior to the commencement of the private institution. The procedure for obtaining such approval involves the submission of the following information to the Commissioner for Education:

- Name and address of the proprietor of the institution
- Type of institution
- Situation of the institution and plan of the buildings
- Number and type of classes and the medium of instruction proposed

The Commissioner may give the approval where he is satisfied that the building proposed to be used as a private institution is properly constructed and equipped.

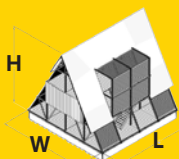
Source:  
Ikeyi & Arifayan, Legal Practitioners

# PERMISSIONS PROCESS

## WATERCRAFT PERMIT

NATIONAL INLAND WATERWAYS AUTHORITY

**NIWA HAVE REFUSED TO GIVE ANY INFORMATION ON THE REGULATORY REQUIREMENTS FOR THE CONSTRUCTION OF A SCHOOL WITHOUT EMBARKING UPON A PHYSICAL INSPECTION OF THE PROPOSED SITE**



$$L \times W \times H \times \text{₦}128 = \text{₦}288,000$$

## CONSTRUCTION PERMIT

LAGOS STATE PHYSICAL PLANNING PERMIT AUTHORITY

### PROCESS

1. REQUEST SITE SURVEY
2. COMPLETE PROPERTY PURCHASE
3. SUBMIT DOCUMENTS:
  - application form
  - site survey
  - structural/architectural drawings of the proposed building
  - physical planning report
  - tax clearance certificate

### COSTS + TIMEFRAME

1. ₦288,000 to the Lagos State Government
2.  $L \times W \times H \times \text{₦}128$  to the Lagos State Government
3. Plus ₦28,800 (10%) to the Town Planning Authority
3. Plus ₦30,000 to the Local Government

## SCHOOL CONSTRUCTION PERMIT

LAGOS STATE PHYSICAL PLANNING PERMIT AUTHORITY

### PROCESS

APPLICATION MADE CONCURRENTLY WITH CONSTRUCTION PERMIT

FURTHER DETAILS ON THE PROCESS WILL BE DETERMINED ONLY UPON PRESENTATION OF THE SITE SURVEY

### COSTS + TIMEFRAME

THE COST OF THIS PERMIT WILL BE DETERMINED ONLY UPON PRESENTATION OF THE SITE SURVEY

## SCHOOL OPERATION PERMIT

LAGOS STATE MINISTRY OF EDUCATION

### PROCESS

1. SUBMIT DOCUMENTS:
  - application form
  - name and address of institution's proprietor
  - type of institution
  - site survey
  - plan of buildings
  - number of classrooms and proposed medium of instruction

### COSTS + TIMEFRAME

COSTS NOT YET KNOWN

THIS APPLICATION MUST BE MADE AT LEAST TWELVE MONTHS PRIOR TO THE COMMENCEMENT OF THE INSTITUTION



[NLÉ Online video: Makoko Floating School Research Document Video](#)

# MAKOKO FLOATING SCHOOL

## VISION PLATFORM

Innovative way to address social and physical needs in relation to climate change in an urbanizing African context

Makoko Community

NGOs

Government/  
Authorities

Sponsors

Technical Partners

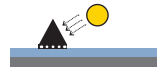
## RESEARCH & DEVELOPMENT



Architecture  
& Building  
Construction



Environmental &  
Climatic  
Dynamics



Energy & WATER  
Infrastructure



Social &  
Educational  
Issues

Innovative Building  
Solution



# CURRENT STAKEHOLDERS / COLLABORATORS / ALLIANCES

**MAKOKO  
COMMUNITY**



## TECHNICAL COLLABORATORS



## POTENTIAL STAKEHOLDERS / COLLABORATORS / ALLIANCES



## OUR INTEREST

Our interest is to contribute to responsible and economically viable developments of African coastal cities. With our increasing alliances and supporters, we share a collective vision to develop contemporary African Cities on water.

With the unique combination of our background, experience, and global network, our interest is in the establishment of a solutions and advisory platform for cities, while focusing on our core competences of architecture and urban design.

We have started... with a small step by building prototype - a Floating School in Makoko. This prototype will be developed into other building types - a home, a shop, a playground - to gradually cultivate a new type of architecture and urbanism on water.

## SPECIAL THANKS

Heinrich Böll Stiftung -  
Monika Umunna and Christine K.

Makoko Community, Chief Emmanuel Shemedede,  
Noah Shemedede, Peter Jeunbete Shemedede, Daniel  
Ayinde, Robert van Kats, Leslie Ebony, Ade  
Adekola, Jaap Dijks, Prof. Emmanuel Oladipo,  
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Please visit our website [nleworks.com](http://nleworks.com) and follow  
us on Facebook – NLÉ – Shaping the Architecture  
of Developing Cities.

## COLLABORATORS

Ikeyi and Arifayan, Legal Practitioners;  
Solarmate, Renewable Energy Engineers;  
Peters Bouwtechniek, Engineering advice in  
Construction; Blok Kats van Veen, Architects.

## NOTE

The information contained herein is based  
on reliable sources and subject to further  
verification, research and development.



## **NLÉ IS AN ARCHITECTURE, DESIGN, AND URBANISM PRACTICE FOCUSED ON DEVELOPING CITIES**

In the 21st (mega) century, the world faces a trend of rapid urbanization and de-ruralization.

Megacities in the developing world are at the forefront of this trend...

...and therefore at the forefront of finding solutions.

The solutions uncovered and deployed here will be critical in shaping the near future of entire human civilization.

We believe rapidly developing cities are the home of global advancement. Like Silicon Valley is to modern technology, the developing cities are the birthplace of innovative, new sustainable solutions for today's developing world. As thinkers, creatives and agents of change, our role is to reveal these solutions and apply them

to responsibly shape physical, human and commercial structures around the world. We are starting in Africa and other developing regions.

Our activities are focused on city development research and strategy advisory service, conceptualization and creative structuring, architecture and products design, infrastructure design, arts and cultural urban interventions.

With our global network of experts and collaborators, our products and services are of world-class quality and integrity. At the same time, we ensure value and relevance through local resources, capacity building and economy of means.

## **AT HOME IN THE CITY**

NLÉ means 'at home' in Yoruba, the language of Africa's first truly urbanized population. From the 11th century onwards, the Yoruba lived in a network of West African cities characterized by sophisticated commercial and governing structures.

But within NLÉ's philosophy, the 'home' is much more than walls, floors and ceilings. For us it refers to the fundamental building blocks of the city, to everyday life and the uses of public space in the emerging and endlessly complex urbanisms of the so-called developing worlds.

Due to rapid urbanization and the forces of globalization, the people in such cities have redefined our understanding of cities through their innovative and economical appropriation of spaces, materials and infrastructure. The environment—streets, bridges, sidewalks, raw materials and junk—are acquired, cultivated and reconstituted to achieve maximum necessities through minimum means. This creates unique organisations and advanced social structures in which people live, work, trade and play in ways that are now rarely seen in the developed world, which is now ironically the ‘less developing world’.

## **SOLUTIONS FOR THE MEGACENTURY**

We believe that these colorful and seemingly chaotic worlds hold some of the solutions to the problems faced by cities in this century of mega needs. Our aim is to work with, and be inspired by, these worlds so that we create more economical and responsible interventions for/with the people who have made them home.

In doing so, we explore the infusion of relevant global ideas and advanced technologies that add sustainable values to architecture, urbanism and everyday products. Our international network of experts and creatives from diverse fields contribute to this process. In this way, NLÉ is a new language for shaping and advancing the

multiple physical and human architectures of the megacentury.

## **BACKGROUND**

NLÉ is led by Kunlé Adeyemi, an architect, designer and urban researcher with a track record of conceiving and completing high profile, high quality projects internationally.

Born and raised in Nigeria, Adeyemi studied architecture at the University of Lagos and began his early practice. He later received a post professional degree at Princeton University. In 2002 joining the world renowned Office for Metropolitan Architecture (OMA). At OMA, working closely with founder Rem Koolhaas, he led the design, development and execution of numerous projects in Europe, Asia, Africa and the Middle East. In 2010, Kunlé Adeyemi founded NLÉ to focus on the architecture of developing cities.

In addition to practice, Adeyemi is a Distinguished Visiting Lecturer of the University of Washington, teaching and researching ‘The Modern City in the Age of Globalization’ in Chandigarh – India’s first planned modernist city.

See NLÉ website [www.nleworks.com](http://www.nleworks.com) for more information, full profile and portfolio.



**The Heinrich Böll Foundation is part of the Green political movement that has developed worldwide as a response to the traditional politics of socialism, liberalism, and conservatism.**

Our main tenets are ecology and sustainability, democracy and human rights, self-determination and justice. We place particular emphasis on gender democracy, meaning social emancipation and equal rights for women and men. We are also committed to equal rights for cultural and ethnic minorities and to the societal and political participation of immigrants. Finally, we promote non-violence and proactive peace policies.

To achieve our goals, we seek strategic partnerships with others who share our values. We are an independent organisation, that is, we determine our own priorities and policies.

We are based in the Federal Republic of Germany, yet we are an international actor in both ideal and practical terms.

Our namesake, the writer and Nobel Prize laureate Heinrich Böll, personifies the values we stand for: defence of freedom, civic courage, tolerance, open debate, and the valuation of art and culture as independent spheres of thought and action.

## OUR CULTURE

Commitment, expert and social competence, and flexibility are features of our employees, both in Germany and abroad. They are highly qualified, team-oriented and, with their high level of motivation, they constitute the most important asset of the Foundation.

Equality of opportunity and respectful dealings between women and men of different ages, religions, ethnic origins and sexual orientations are constitutive for the foundation. Intercultural competence and a productive engagement with diversity are part of our corporate culture.

Mutual respect and trusting co-operation among ourselves and with our partners are the bases of our business relationships.

We constantly evaluate and improve our work. We undertake and take seriously both internal and external evaluations. We handle the funds at our

disposal economically and efficiently and assure transparent operations.

We work in close co-operation with our co-foundations in all of Germany's 16 states. We are a reliable partner for volunteer work and for co-operation with third parties.

As a political foundation, we act independently; this also applies in respect to our relationship with the German Green Party. We are autonomous in selecting our executive officers and staffing our committees.

## **HBS - ABUJA OFFICE**

The Foundation is active world-wide with more than 25 regional and country offices. It is active in Nigeria since 1994 and established a Nigeria Country Office in Lagos in May 2002. Since April 2011, the Foundation works from its Abuja office. Programs on sustainability, women's rights and good governance form the core of the Foundation's work in Nigeria.

HBS Nigeria co-operates on a long-term basis with Nigerian partner organisations, both at the grassroots and policy-making levels. Internationally, the Foundation provides an interface that links national and international debates, and supports training and exchange programs for its partner organisations.

In its Abuja office, HBS Nigeria organises workshops and media-oriented events on current issues, as well as capacity building workshops for non-governmental organisations exploring new fields of activities, helping to establish networks among themselves and with other actors, and supporting them with practical advice and training on project and financial management.

HBS Nigeria receives the major part of its funding from the German Ministry for Economic Co-operation and Development. Its work in Nigeria is based on a co-operation agreement with the National Planning Commission of the Federal Government of Nigeria

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