

Procedural Safeguards against Unlawful Building Demolition in Uganda: Notice and the Right to Be Heard

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ABSTRACT

The use of building demolition as a mechanism through which public authorities enforce construction standards, regulate urban development and protect public safety in Uganda creates significant legal issues with respect to the relationship between regulatory enforcement, the protection of property rights, and procedural fairness. The study examines whether adequate procedural safeguard provisions exist within the Building Control Act, Cap. 136, as amended by the Building Control (Amendment) Act, 2026, regarding prior notice and the right to a hearing. Utilizing a doctrinal legal approach, the study analyzes relevant statutory and constitutional provisions as well as judicial precedent applicable to the regulation of building demolitions and the exercise of such power in Uganda. The study identifies procedural ambiguities resulting from the Building Committee's enhanced regulatory enforcement powers, including but not limited to whether or not sufficient notice has been provided, the opportunity to be heard and the effectiveness of administrative appeals and judicial remedies. It further considers the extent to which urgent threats to public safety may justify modifications to ordinary procedural requirements. Ultimately the study posits that there should be a clear and consistent process that protects private property interests, promotes administrative accountability, and allows for the proper and lawful application of regulatory enforcement authority.



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INTRODUCTION

Building demolition is an important mechanism through which public authorities enforce construction standards, regulate urban development and protect public safety (Kazan et al., 2024). For a property owners, demolition can represent the loss of their family home, their business location or the result of many years of investments (Onyebueke et al., 2020). However, government bodies cannot simply overlook buildings that have been built in contravention of the law and in the process, place members of the public at risk of injury or even death. An issue however arises when the regulatory power to enforce building regulations conflicts with the rights of those individuals who will be impacted by enforcement actions. Therefore, rather than asking the question of whether public authorities should have the power to order demolition, the main issue is whether those powers are exercised in accordance with statutory procedures and constitutional safeguards, particularly the requirements of adequate notice and an opportunity to be heard.

In Uganda, building activities are primarily regulated through the Building Control Act, Cap. 136. This Act was passed into law in 2013 (Febiano et al., 2026). The Building Control Act outlines both governmental institutions responsible for reviewing new building projects, ensuring that they comply with relevant laws governing building design and construction, as well as mechanisms that will be employed for enforcing all applicable laws (Kibwami & Tutesigensi, 2016). In addition to these roles, the Building Control Act also provides for various forms of enforcement action by government authorities (Mugabi, 2022). In 2026, amendments were made to this Act through the passage of the Building Control (Amendment) Act, 2026. Specifically, Section 28A of this revised Act expanded the powers of the Building Committees. The section gave the Building Committees the right to demolish buildings that have been constructed illegally. This power is to be exercised in conformity with specific criteria established within that section. While these amended provisions strengthen regulatory capacity, they raise additional issues about what form of procedural protections might be afforded to individuals whose building is targeted for demolition by the government.

Constitutional provisions provide an essential foundation from which to assess these concerns. Article 26 of Uganda's Constitution affords protection of private property rights (Mujuzi, 2023). Likewise, Article 42 of the same Constitution provides that all citizens shall receive fair and just treatment during administrative proceedings (Eberechi, 2020). Together, Articles 26 and 42 afford some level of protection regarding potential disputes over administrative actions taken pursuant to government enforced demolition actions affecting private property rights. Nevertheless, because the mere presence of constitutional provisions does not answer how notice and hearing requirements should function within a specific statutory context, a distinction must be drawn between a governmental agency having the authority to demolish a building and an agency's procedural legitimacy in deciding to take an enforcement action resulting in demolition.

Consideration of court cases involving demolition procedures provides further guidance. The Constitutional Court of Uganda considered the constitutional validity of certain provisions related to demolition under the Public Health Act in *Dorothy Nandugga Kabugo v Attorney General* [2014] UGCC 108. Although the decision provided insight into the interplay between statutory notice and procedural fairness regarding administrative determinations leading to demolition, it involved a separate legislative framework. Therefore, its reasoning is carefully considered in light of the enhanced enforcement authority granted to Building Committees under the Building Control Act in 2026.

The central issue addressed in this study is whether Uganda's framework for regulating buildings projects has created sufficient clarity in procedural safeguards to support the exercise of demolition authority. More specifically, attention is directed toward distinguishing between explicit statutory notice requirements and the right of affected property owners to be heard before demolition decisions are implemented, especially in light of the expanded demolition authority granted to the Building Committees under the Building Control Act as amended in 2026. Additionally, consideration is given as to whether appeal processes and judicial remedies exist to adequately protect individuals impacted by governmental action to demolish their buildings prior to a determination on a challenge thereto.

Adopting a doctrinal legal methodology, this study contributes to the comprehension of procedural fairness as it applies to the process of demolishing buildings through Ugandan legislation. This is achieved by identifying the relationships between statutory demolition powers, requirements for providing notice, and the constitutional right of being heard. Through its identification of procedural uncertainties in the current legislative framework with respect to building demolition, the study identifies possible impacts on the protections afforded to property owners. In addition to arguing for clearer and better defined processes which provide effective means of giving reasonable notice, allowing property owners to be heard, and granting them access to remedy in a timely fashion, the study also addresses scenarios where there are imminent risks to public health or safety requiring immediate action.

RESEARCH METHODS

This study adopts a doctrinal methodology. This involved an evaluation and interpretation of the legal sources such as the Constitution, statutes, and case-laws, that govern the demolition of buildings in Uganda. The primary sources include the Constitution of Uganda, especially Articles 26 and 42, the Building Control Act, Cap. 136, the Building Control (Amendment) Act 2026 and other relevant subordinate legislation. In addition to the primary source material, judicial decisions by the Courts

regarding procedural fairness, administrative discretion, and remedies related to demolitions were also evaluated. The secondary source materials utilized in conjunction with primary source materials included academic articles as they provided additional support to the arguments presented within the study. Although the study evaluates what constitutes adequate legal process in terms of notice, right to a hearing and remedies available, it does so without addressing the technical aspects of whether the structures pose risks or do not meet construction standards.

RESULTS AND DISCUSSION

Statutory Powers to Regulate and Demolish Buildings

Building regulation serves broader public interests beyond ensuring compliance with construction standards and protecting public safety. These regulations also help promote environmental sustainability through control over development which could potentially harm or destroy wetland, drainage system, parks and other environmentally sensitive areas (Collins, Mbeli, et al., 2026). Therefore, demolition of a building may be an appropriate regulatory response to unpermitted development which threatens environmental protection and sustainable land use (Ekpenisi et al., 2026). Nevertheless, the pursuit of environmental goals is not sufficient to eliminate due process requirements prior to demolishing structures. Instead, there needs to be an understanding that environmental protection and procedural fairness are two related but distinct factors that need to be considered when lawfully exercising regulatory authority.

Building regulation in Uganda is principally governed by the Building Control Act, Cap. 136, which was later amended by the Building Control Amendment Act, 2026. The statute created the National Building Review Board, Building Committees, and Building Control Officers. Each has its own specific duties to regulate the building process and enforce compliance with building regulations and standards (NBRB, 2026). It is critical to distinguish between these bodies because the ability to legally demolish a building depends, in large part, on the presence of specific statutory power granted to the entity carrying out the demolition.

The National Building Review Board regulates and supervises all aspects of the building development process pursuant to S. 8 of the Building Control Act. The Board monitors all aspects of building projects, oversees the functioning of the Building Committees, and hears appeals regarding the decisions made by Building Committees. Pursuant to S. 8A, which was added to the Building Control Act through the 2026 amendment, the Board is now able to issue stop or evacuation orders in certain situations, enter into premises for enforcement purposes, and provide guidance to Building Committees on procedural matters. While these additional powers have enhanced the Board's ability to oversee all aspects of the building approval process, they still have no responsibility for approving individual building applications or making decisions about demolition of buildings (NBRB, 2026). Those functions are for the Building Committees.

Building Committees exercise regulatory powers directly in the districts and urban councils. Pursuant to S. 28 of the Act, each committee is required to review and approve or reject plans submitted by developers, issue permits to allow individuals to occupy or build on land, and ensure compliance with the terms of the Act. Therefore, each committee makes important decisions regarding regulatory aspects of building development. In addition to reviewing building plans, Building Committees have enforcement powers in cases where building activities fail to meet statutory requirements. Under section 39, Building Committees may order the stop of a building project if the person carrying out such activity fails to comply with "the prescribed" laws or regulations. Similarly, pursuant to S. 40, a committee has the authority to compel a developer to take remedial action or it can carry out demolition if a structure is defective, dilapidated or dangerous. In this manner, both unlawful building practices and structural dangers justify governmental intervention.

Building Control Officers carry out both technical and inspection functions associated with implementing decisions made regarding building controls. Pursuant to S. 32 of the Act, Building Control Officers have several functions including recommending approval or rejection of a developer's building plans, providing opinions on various building related issues, like building materials and methods of construction, conducting inspections of buildings during construction or demolition, and verifying that developers comply with lawful orders given by Building Committees. Additionally, Building Control Officers have the right to enter into private property for compliance and for inspection

purposes (s. 42). It is therefore clear that while inspectors play a role in advising committees, they cannot unilaterally order demolition.

The 2026 amendment actually strengthened the enforcement powers of Building Committees through the insertion of section 28A. Under this provision, the Building Committees have been granted express authority to order demolition or evacuate a building constructed in contravention of the Act. This authority is particularly significant since it grants Building Committees explicit permission to demolish a building themselves instead of requiring a property owner to do so (Global Advisory Experts, 2026). Nevertheless, simply failing to comply with statutes and having an immediately dangerous structure should not be considered equivalent reasons for state intervention. As long as there exists an alternative solution to remedy the violations without ordering demolition, there remain other factors for a court or administrative tribunal to consider when evaluating whether a government agency acted within its statutorily granted discretion when deciding to order a building demolished (Collins, Gabriel, et al., 2026).

Therefore, the statutory framework distinguishes between institutional supervision, technical inspection and the exercise of enforcement powers. Nonetheless, it is argued that simply possessing powers to demolish does not eliminate an agency's duty to follow applicable legal procedure prior to exercising those powers. This power needs to be exercised within established procedural safeguards.

Notice as a Procedural Safeguard Before Demolition

Notice is an essential procedural safeguard because it can prevent arbitrary demolition of a building. Notice can help inform parties affected by the decision to demolish about the reasons why the regulator has decided to intervene and give them the chance to act in response to the intervention before their property is destroyed. In Uganda, its significance arises not merely from general principles of administrative fairness but also from specific requirements contained in the Building Control Act, Cap. 136 in relation to notice. However, these requirements depend on the statutory power being used.

The statutory requirements in respect of notice were established in Section 40 of the Act as amended by Act No. 17 of 2026. This is in relation to the decision of a Building Committee that . Pursuant to this Section, if a Building Committee determines that a building is in disrepair, dilapidated, unsafe or deteriorating, it may issue a directive to the owner requiring him or her to demolish the building, or carry out such remedial works to a specified standard. Written notice is also required pursuant to Subsection 40(2) of the Act where a building or related earthworks pose a risk to life or property or demonstrate potential for posing such a risk. Pursuant to Subsection 40(3) of the Act, a Building Committee may stipulate terms and conditions within the notice issued to the person who is liable to take action. Therefore, while statute establishes that written notice is required, the administration of notice is still subject to administrative discretion.

However, the mere issue of written notice does not constitute the establishment of procedural fairness. Whether written notice is effective depends on whether the recipient can ascertain what is claimed as defective, comprehend the type of corrective action needed, and respond reasonably. If the recipient cannot comprehend the basis for the proposed intervention then he or she may be unable to effectuate necessary remedial actions or contest the decision. While Section 40 expressly includes the requirement for written notice, it does not provide for a minimum period during which each recipient shall have complied with all of the directives included in the notice. The adequacy of the time allowed must therefore be assessed in light of the applicable legal requirements and the circumstances of the particular case.

There exists a second issue relating to Section 28A, which was introduced by the Building Control (Amendment) Act, 2026. That provision grants to Building Committees the authority to demolish buildings constructed contrary to the provisions of the Act or regulations made in accordance therewith. Different from Section 40, Section 28A did not specifically detail a formal procedure for providing written notice prior to demolition to owners whose properties are targeted for enforcement. The difference in this regard is significant since due process procedures applicable to defective buildings should not be deemed an inclusive procedural framework for any and all uses of this new demolition authority. The amendment also authorizes the Minister to make regulations regarding procedures governing demolition. Thus, the specifics and applicability of any pertinent regulations are critical.

Pursuant to Regulation 28 of the Building Control Regulations, 2020, a Building Committee approval must be obtained prior to commencing any demolition work and permit conditions should be designed to protect public safety. Approval for demolition work does not equate to a full procedure establishing due process rights prior to issuing written notice to an owner whose building is targeted for enforcement action. Furthermore, although express statutory requirements do exist in a given provision that address due process procedures in certain cases, absent specific details regarding due process requirements for notification purposes, such a provision should not preclude an Administrative Authority from fulfilling its Constitutional Duty under Article 42 which concerns fair administrative treatment. (Eberechi, 2020).

Therefore, the efficacy of notice depends on both fulfillment of express statutory requirements and fairness of procedure. When demolition is contemplated based on regulatory non-compliance with no immediate safety concern present, adequate notice would permit corrective actions for defects to be completed or an opportunity for the owner to challenge an enforcement decision. According to Villiers (2024), when enforcement intervention is warranted based on a genuine emergency situation involving imminent harm to life or property, adjustments to the procedure may be warranted. However, urgency should not be presumed simply because an agency identifies a statutory violation.

Right to Be Heard and Administrative Decision-Making

The right to be heard is an integral aspect of the process of administrative decision-making. It is guaranteed under Article 42 of the Uganda Constitution, as part of the requirement that all persons are entitled to just and fair treatment in administrative actions and decisions (Eberechi, 2020). The right to be heard, as required by Article 42, will include consideration as to whether the affected property owner has had a reasonable opportunity to address the reasons cited by the Building Committee for the enforcement of demolition of the affected structure (Kasimbazi & Kezaabu, 2026). The fact that there are statutory demolition rights provided in the statute, alone, does not indicate that those rights have been exercised in a procedurally lawful manner.

Providing an opportunity to be heard allows an affected individual to refute charges of unauthorized construction, present documentation showing compliance with regulatory requirements, or offer alternative remedial actions (Qiu & Chen, 2025). While the primary purpose of providing an opportunity to be heard is not always to stop demolition, it is intended to ensure that the decision-maker is aware of relevant facts and representations made to him or her (Young, 2017). According to Williams & Bidandi (2018), the nature of the hearing depends on the specific circumstances at hand. For example, if the issue at hand relates solely to documents or permits, then written representation may be adequate. However, in cases involving disputed structural assessments or significant factual disputes regarding issues such as safety, etc., an oral hearing may be adequate. In either eventuality, procedural fairness does not mean that a formal hearing similar to one found in judicial proceedings must occur (Perry, 2017).

The importance of the right to be heard in a constitutional sense was addressed in *Dorothy Nandugga Kabugo v Attorney General* [2014] UGCC 108, when the Constitutional Court evaluated various aspects of Section 72 of the Public Health Act (which allowed authorities to demand the destruction or removal of structures built unlawfully), including whether the above-mentioned provision violated the rights granted by Articles 26 and 28 of the Constitution, which relates to rights to property and fair hearing. The Court held that the provision did not violate the said articles, because the 28-day statutory notification afforded an affected landowner a reasonable time frame in which he or she could object to or comply with a directive issued pursuant to the statute. Therefore, although Kabugo dealt with the Public Health Act and the specific notice period established therein may inform as to whether an opportunity to be heard is properly included in a statutory notice procedure, it cannot conclusively determine whether an appropriate opportunity to be heard exists for all Building Control Act regulatory challenges. The greater import of Kabugo, in relation to the matter of demolition powers being subject to acceptable constitutional procedural arrangements, is that statutory demolition powers must operate within acceptable constitutional procedural frameworks.

In addition to establishing avenues for challenging regulatory decisions taken under the Building Control Act, the Act also provides for appeal mechanisms. Pursuant to Section 36 of the Revised Act, a person who feels aggrieved by a decision of a Building Committee may appeal with the National Building Review Board. Regs 5 and 8 of the Building Control (Appeals Procedures) Regulations 2021

stipulate that appeals shall be made in writing within thirty days after receipt of a decision, and that the Board may request parties to attend an oral hearing or submit written submissions, with Reg 10 setting out how evidence is to be presented. Reg 12 provides that the Board shall decide on an appeal within sixty days of lodging it, give written reasons for the decision and may affirm, set aside or amend the decision appealed against or require that it be reviewed again. A person aggrieved by the Board's decision may also seek leave to appeal to the High Court.

While these provisions create an institutionalized review framework, an appeal based on an administrative decision may differ from an opportunity to be heard prior to a first instance enforcement decision. An appeal after enforcement activity has commenced may not rectify a lack of procedural fairness in the first instance. Moreover, neither the Building Control Act nor the Building Control (Appeals Procedures) Regulations 2021 explicitly state that filing an appeal automatically stays enforcement activity. As a result, whether an appeal is effective in practice will depend on whether enforcement can be stayed during review.

Therefore, administrative discretion must nonetheless recognize real dangers posed by buildings to public safety. Villiers (2024) explains that if a building poses an imminent threat to life or property, holding lengthy prior hearings may defeat the purpose behind regulatory interventions. Nevertheless, alleging that a building constitutes a structural hazard should not automatically relieve a decision-maker of his obligation to follow procedural safeguards. Factors relevant to assessing whether the procedure followed was fair include whether there were urgent considerations for taking action, what evidence existed about technical matters, and what alternatives exist that would permit some constructive response as opposed to complete destruction.

Thus, the right to be heard must be viewed as a means of protecting against uninformed or capricious demolitions rather than obstructive hurdles to lawfully effecting demolitions (Ponce, 2005). Its success depends on both having the ability to express oneself and on having that expression made within a timeframe that permits meaningful review before irreparable harm results.

Judicial Remedies and the Limits of Demolition Powers

Judicial oversight offers a valuable safeguard to ensure that no person will have their home demolished illegally. If a building control authority is acting outside the scope of their lawful mandate, fails to follow mandated processes, or otherwise infringes on the rights of a citizen guaranteed by the constitution, there are options open to those persons whose homes have been targeted for demolition. The existence of these options to seek judicial redress for actions taken prior to determining if a particular enforcement decision is illegal is especially relevant due to the fact that once a structure is demolished, the damage done may be irreparable.

Under section 36 of the Building Control Act, Cap. 136, an aggrieved person may challenge a Building Committee's decision before the National Building Review Board. Furthermore, regulation 12(4) of the Building Control (Appeal Procedure) Regulations, 2021 provides the option of appealing a decision made by the Board directly to the High Court. While this appeal process established through statute is intended to provide a method for reviewing decisions made by the Building Committee or the Board regarding appeals filed by an aggrieved party, this process is distinct from what is known as judicial review. Judicial review involves examining whether administrative actions were lawful. Specifically, when considering a request for judicial review, the court seeks to determine whether the authority acted within its lawful mandate, followed the required procedures applicable to the case at hand and properly applied discretion when making its decision. Therefore, depending on the type of alleged illegality complained of and the specific facts of each individual case, the most effective form of judicial relief will vary accordingly.

An illustration of why it is desirable for courts to intervene before harm occurs is demonstrated by *Sempebwa Nsubuga v Kampala Capital City Authority* [2016] UGHCLD 69. In that case, the applicant requested a temporary injunction following threats of demolition by the respondent to structures which allegedly lacked approved building plans and violated public health regulations. The High Court noted that serious questions needed to be answered in the dispute and granted a temporary injunction until all issues could be resolved (Namakula, 2026). However, the temporary injunction was conditioned on production of evidence proving approval of building plans or an acceptable permit within twenty-one days, and failure to produce said information would result in expiration of the temporary injunction. This example shows that judicial protection against potential demolition is

generally discretionary and does not necessarily preclude legitimate regulatory authorities from performing duties assigned to them.

When demolition has already occurred, available remedies may vary. For instance, in *Ndugga Sebayigga v Matovu Charles* [2010] UGHC 245, the High Court ordered compensation and damages for loss suffered after the unlawful demolition of a charcoal vendor's kiosk. Since that matter dealt with demolition but involved the Building Control Act provisions relating to demolition powers, this example serves mainly as a demonstration of how courts award monetary compensation for wrongful destruction of private property (Dube & Plessis, 2021).

Therefore, it is essential to distinguish between preventive measures and reparative measures in cases involving demolition. A permanent injunction can potentially protect a building during consideration of an appeal to determine if a decision made by an authority to demolish a building is lawful. Damages typically compensate individuals who have suffered loss after destruction of their property (Mujuzi, 2023). Compensation cannot always replace what existed before an owner lost their property. Consequently, the ability of courts to protect individuals from the effects of demolition is based both on whether remedies are available, and whether they can be obtained before irreversible action is taken.

Nonetheless, judicial review should not be interpreted as limiting legitimate efforts by regulatory agencies to remove dangerous structures from neighborhoods. When a court determines the legality of demolition, it will evaluate three primary factors. Whether the agency possesses statutory power sufficient to take enforcement action against a building, whether the regulatory agency complied with all applicable procedural rules and safeguards prior to taking enforcement action, and whether there exists justification for enforcing removal of a structurally hazardous building that poses a threat to the safety of others.

Therefore, establishing the legitimacy of demolition necessitates demonstrating more than mere proof of non-compliance with some aspect of building codes. The authority undertaking the demolition must possess the necessary statutory powers and exercise them consistently with applicable legal safeguards.

CONCLUSION

This study shows that the legislative provisions for safeguarding demolition procedure in Uganda lack clarity as regards the linkage between formal statutory notice and constitutional entitlements to be heard. Although the existing legal framework provides mechanisms for regulating demolition, questions remain about how these safeguards operate before irreversible enforcement measures are undertaken.

Although the Building Control (Amendment) Act 2026 enhanced the ability of Building Committees to enforce compliance with regulations relating to buildings, particularly through Section 28(A), it does not provide specific detail on what form of notice or hearing process must be followed by committees prior to enforcing the power to demolish a structure. The express requirement under Section 40, providing written notice to an owner or occupier in specified circumstances provides some degree of procedural fairness but this fairness will only be fulfilled if there is both a meaningful opportunity for the building owner to respond prior to demolition taking place. Although this opportunity must be qualified by a consideration of legitimate public safety interests. Administrative appeal processes and judicial review processes may provide little practical assistance when demolition takes place before either an administrative decision or a judicial determination has taken place.

Therefore, the study concludes by recommending clear procedures for notice, rights to be heard and the mechanism for processing disputes arising out of the demolition process. In addition, such procedures should clearly differentiate between ordinary regulatory breaches and those instances where there exists an imminent danger to public safety which may justify expeditious action. The establishment of such clear procedures would enhance the accountability of administrations responsible for building regulation, decrease the likelihood of arbitrary demolitions and confirm that building enforcement powers are being used in accordance with constitutional principles.

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