

ON THE POLICY ON LAND CLEARANCE AND COMPENSATION

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1. Current policy on land clearance and compensation

After the Land Law was promulgated on July 14, 1993, many decrees relating to this law were also issued, including the list of land categories and compensation after the state takes possession of real estate (referred to hereafter as compensation policy). From then on, local tax authorities have worked out fee of land use, taxes on transfer of land use right and compensation paid after land clearance based on the market price of land. Generally, the compensation policy provides for two cases:

- Real estate with legal title-deed: owners receive compensation set by the state for land, building, crops, trees, and other things exist on the land.

- Real estate without legal title-deed: residents receive some allowance needed for moving.

The price list used for working out the fee of land use is the list of compensation levels for land cleared.

2. Who benefit from this policy?

Many people are of the opinion that the compensation policy is of great benefit to the state because the compensation is always lower than the market price, thus the state can acquire land at low price while the owners suffer great losses if they have no legal title - deed.

In fact, it isn't certainly the state benefits from the compensation policy. Prices of a piece of land or a house differ greatly before and after the development blueprint is made. If the blueprint is carried out and promises to have a bright future, the market price of the house or piece of land will skyrocket.

There is no denying that the development blueprint could turn houses in alleys into houses with street frontage or make small alleys

wider and more beautiful, or make slums nice residential areas. And as a result, prices of houses included in the blueprint always soar.

However, detailed blueprints haven't been publicized right after they were made. Knowing them is still a privilege. Those who enjoy it can make a lot of money by buying land or houses and reselling them after the blueprint is made public.

Knowing that the compensation can't bear comparison with the market price, many state-owned development companies, private companies and even individuals with good relations asked local governments to grant land to development projects they had submitted. After that, they connive with local land authorities to submit the projects to district, municipal or central governments for approval if necessary. In their projects, the compensation, fixed at the price list set by the state, was very low. After being approved, they could sell the land they were granted at much higher prices without carrying out the development project. They even demanded some advance or the whole payment from potential buyers for the piece of land they promised to sell. In certain projects, all land has been sold for billion đồng for years but buyers received no land and no title-deed. In others, buyers had to pool their money to build roads, sewerage or power lines. Developers have made easy money from great differences between compensation and market prices of land.

Under this mechanism, persons of position, especially those who have something to do with blueprint making and deciding process have become rich quickly. They have many pieces of land and houses for rent or summer and winter villas. They are individuals who benefit a lot from the compensation policy. As for residents, most of them are peasants, in areas included in the blueprints, after receiving compensation or payments for their land, they throw their money about instead of starting a new business. As a result, they get poor quickly and have to join the army of the unemployed who migrate to towns for jobs. In short, the Government has failed to anticipate the situation and make post-clearance scheme for moved residents.

For this reason, governments of all levels have made development blueprints and some individuals followed in their footsteps. Many of these blueprints have been made carelessly and their makers didn't know whether they were feasible or acceptable or not. Consequently, all

land and houses, both legal and illegal ones, aren't allowed to traded or rebuilt before the blueprint is made. These are disastrous consequences of the compensation policy set by the Government that causes harm to the grass roots and brings persons of position in super-profits.

Most companies responsible for development projects in HCMC avoid paying the fee for land use right. They want to pay it after all land is sold and only pay the compensation price set by the state. In fact, they are living on the land and compensation policy while the central government only makes small incomes from the fee for land use right. It doesn't make big profit as many people thought.

3. Failure to perfect town planning and accelerate the economic growth

Some projects prepared for HCMC could change the face of the city and turn slums into beautiful residential areas with good infrastructure. But it's hard to carry out these projects because they meet difficulties in land clearance. The main causes are the unreasonable compensation and the lack of post-clearance schemes.

Some projects that promise high profits and are of good service to the economic development couldn't be realized because of the same difficulty. Some development companies that want to buy houses and land at reasonable prices in order to clear the land quicker have found it impossible because existing residents had no legal title - deeds. Even if they had, local governments didn't want them to do so without depending on public services. Companies were forced to have everything done by local authorities, from drawing maps and housing plans to fulfilling procedures for getting title-deeds for all houses in the site, and pay a lot of money for these services. Some projects that were granted land, building permits, etc. for ten years but land clearance couldn't be done. The companies have sold out all pieces of land in the housing estate but they couldn't build infrastructure and houses for their customers because they couldn't finish land clearance.

Moreover, in carrying out these development projects, officials at local level have violated the Land Law and compensation policy causing a lot of social unrest and the central government had to set up working parties to handle complaints from the public.

An overall housing investigation in HCMC shows that there are only some 40,000 houses (or 3%) with legal title deeds, and the rest (some 1.5

million houses) aren't legalized. The same situation could be found in all southern provinces.

Under the current mechanism, most residents don't want to apply for title-deed for their house because they have to pay the fee for the land use right and they will receive the same amount in compensation when the state wants to take possession of their houses. If all of them apply for title-deed, the whole administrative machinery will be flooded with their applications and the workload will become too heavy to bear.

4. Suggested solutions

The compensation policy is reasonable and unpopular. It is of benefit to certain persons of position, instead of the national budget income, and causes harm to the grass roots. So it needs adjustments. The urbanization around, and reconstruction of, big cities will certainly lead to many cases of land clearance and this policy still has its far-reaching effects.

The following are our suggestions about adjustments to the policy:

- When making the development blueprint, it's necessary to limit land clearance and move of residents to the minimum in order to reduce compensation.

- Management and realization of technical infrastructure building projects in HCMC should be under control of the central government.

- The HCMC government had better stop granting land to projects of under 100 hectares or to companies that want to build the infrastructure on their own.

- All detailed blueprints should be publicized in mass media or in form of books.

- Compensation should be based on negotiation and agreement between residents and local government and on the market price. If no agreement could be reached, the real estate is to be up for auction.

- Based on the compensation agreed on, district authorities could sell the land use right to companies that want to buy the land. The selling price is the compensation plus expenses on infrastructure and payments for taxes and registration. Proceeds from the sale are used for paying compensation.

Besides reconstructing and developing the city, the town planning should aim at ensuring a better life for local residents, that is, they are to be provided with new housing and jobs after land clearance.

In the market economy, all policies should be carried out using financial and market measures, instead of administrative ones ■