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CIRCULAR OF THE STATE COUNCIL ON STRENGTHENING LAND CONTROL

Circular of the State Council on Strengthening Land Control

Guo Fa [2006] No. 31

The people's governments of all provinces, autonomous regions and municipalities directly under the Central Government and all the ministries and commissions and institutions directly under the State Council,

The CPC Central Committee and the State Council pay great attention to the land administration and control. Such aspects as strict law enforcement of land, intensification of the planning administration, guaranty of the peasants' rights and interests, promotion of intensive utilization of land and improvement of the responsibility bylaws have been comprehensively stipulated in the Decision of the State Council on Furthering the Reform and Rigidly Intensifying the Land Administration (Guo Fa [2004] No. 28), which was issued in 2004. All the localities and departments have adopted the related measures for effective implementation and made some achievements as well. However, some new trends and problems arise in land administration, especially the land control, namely, the overgrowth of the aggregation of construction land, the over-expansion of low-cost industrial land, illegal or irregular use of land, and reckless occupation of useable farmland are hard to be banned despite every effort, so the land restriction remains an arduous work. For the purpose of further implementing the concept of scientific development and ensuring the sustainable development of economy and society, more rigid measures for administration shall be adopted to enhance the land control earnestly. Therefore, related issues are hereby notified as follows:

1.

Further Specifying the Responsibility of Land Administration and Protection of Useable Farmland Protection

The principals of the local people's governments at all levels shall be wholly responsible for the reservation amount of useable farmland, protection area of basic farmland, overall planning of land use and annual plan of implementation within their administration localities. The controlling indicators of new construction land use (including the occupied agricultural land and undeveloped land) shall be incorporated into the annul plan of land use and the an annual plan examination of land use, land administration and object examination of the responsibility of useable farmland protection shall be based on the actual reservation amount of useable farmland and the area of new construction land. Where there is any actual land use in excess of the planned quota in the current year, the planned quota of the following year shall be deducted correspondingly. The Ministry of Land and Resources shall strengthen the examination of actual construction land use and land expropriation.

The mode of examination and approval of the land used for urban construction shall be adjusted subject to the principle of consistency between power and responsibilities. Within the scope of the land used for urban construction as determined in an overall plan of land use, the change of agricultural land use and

land expropriation shall be changed from examined and approved in batches by the State Council to the annual submission after summarized by the people's government at the provincial level, which shall, upon the examination and approval of the Ministry of Land and Resources as well as the State Council, be carried out specifically by the people's government at the provincial level, and then an implementation scheme shall be submitted to the Ministry of Land and Resources for filing.

The accountability system shall be implemented vigorously. In case of any serious consequence resulted from law-breaking or rule-breaking land use within any administrative region, if the related organ fails to prevent the aforesaid problems or fails to investigate and deal with them, even has any concealment or hiding of such problems, the responsibilities of the related principal of the local people's government shall be investigated. The Ministry of Supervision and the Ministry of Land and Resources shall attach great importance to perfect the measures for prosecuting into the responsibilities of those principals liable for any law-breaking or rule-breaking land use.

2.

Earnestly Guaranteeing the Long-term Livelihood of the Rural Residents Whose Land Has Been Expropriated

The allocation of compensation for land expropriation shall be performed under the principles of ensuring the original living conditions of the rural residents whose land has been expropriated and guaranteeing their long-term livelihood. All the localities shall seriously implement the provisions of the Document (Guo Ban Fa [2006] No. 29) and do well the employment training as well as social security of the rural residents whose land has been expropriated. The social security premiums of these rural residents shall be incorporated into the expenses for compensation and relocation upon land expropriation subject to related provisions and the unbalanced part shall be supplemented by the local people's government by means of the incomes as generated from the paid use of state-owned land. No land requisition may be approved in the absence of a full contribution of the social security premiums.

3.

Regulating the Administration of Revenue and Expenditures in Land Alienation

The total price of the alienation of the state-owned land use right shall be incorporated into the local budgets in full amount, and then be turned over into the state treasury and be subject to the separate administration of revenue and expenditures. The total price of land alienation must, in full amount, be firstly applied to pay the expenses for land compensation, relocation subsidies and above-ground fixtures as well as the expenses for young seeds, expenses for housing demolition and subsidies for the unbalanced part as to the social security premiums of related rural residents. The rest part shall be used for raising the proportion of the expenses for agricultural land development and rural infrastructure construction, for the construction of renting affordable housing and construction of the supporting facilities for the improvement of utilization functions of state-owned land.

4.

Adjusting the Related Policies for Taxes and Fees for Construction Land Use

To enhance the standards for paying the fees for compensated use of new construction land. The payment scope of the fees for compensated use of new construction land shall be determined according to the area of construction land actually added. The fees for compensated use of new construction land shall be used exclusively for the construction and protection of basic farmland, land sort-out and development of the useable farmland. Any illegal deduction or defaulted payment of the fees for compensated use of new construction land shall be checked and recovered within a time limit. In particular, any deducted or exempted or defaulted amount upon the distribution of the Document (Guo Fa [2004] No. 28) shall be cleared up before the end of this year. If it fails to clear up within the time limit, the related inspection and approval for land use shall be suspended. The Ministry of Finance shall, jointly with the Ministry of Land and Resources, promptly formulate the paying standards for compensated use of new construction land and the specific measures for proper adjustment, as well as

further improve and perfect the administration of distribution and utilization of the fees for compensated use of new construction land.

The Ministry of Finance and the State Administration of Taxation shall, jointly with the Ministry of Land and Resources as well as the Office of Legitimate Affairs, promptly formulate the specific measures for improving the standards of collecting the taxes on urban land use and on occupation of useable farmland. The departments of finance and taxation shall enhance the collection and administration of taxes and rigidly control the tax deduction and exemption.

5.

Establishing a System for Uniformly Publicizing the Standards for Minimum Price for Industrial Land Alienation

The state shall uniformly formulate and publicize the minimum rates for industrial land alienation for all localities in accordance with the grade of land as well as the policies for regional land use. The minimum rates for industrial land alienation shall not be less than the sum of the cost of obtaining land, the cost of land development in the prior period and the related expenses as collected in light of related provisions. The industrial land must be transferred by means of bid tendering, auction or hanging out a shingle at a price not less than the minimum rates as publicized. Where any land is transferred at a price no more than the rates for the industrial land alienation, or any subsidy or refund is given in any form, within the range of illegally transferring the state-owned land use right, for which the person concerned shall be investigated of legal liabilities subject to related laws.

6.

Prohibiting any Unauthorized Transition of Agricultural Land into Construction Land

The transition of agricultural land into construction land, must conform to the overall planning of land use, overall urban planning, planning of villages and towns, and must be included into the annual plan of land use and go through the formalities for examination and approval of a transition of agricultural land use according to related laws. Using agricultural land as collectively owned by rural residents to carry out any non-agricultural construction by way of lease instead of expropriation or expanding the scale of construction land without authorization shall be prohibited. The circulation of the use right of construction land under a collective ownership of rural residents must be consistent with the planning and be strictly limited within the range of construction land as legally obtained. If it fails to go through the formalities for inspection and approval of a transition of agricultural land, or any functionary of the government organ approves any construction land by way of lease instead of expropriation, it is an illegal distribution of land. Where any entity or individual unlawfully occupies any land for construction by way of lease instead of expropriation, it is an illegal occupation of land, for which the person concerned shall be investigated of legal liabilities subject to related laws.

7.

Strengthening the Surveillance and Examination of Land Administration

The government organs of land surveillance shall sincerely perform its functions and duties as distributed by the State Council and strengthen the surveillance and examination of land administration by the local people's government. With respect to any law-breaking or rule-breaking problem found in the surveillance and examination, related opinions on correction or rectification shall be timely brought forward. In case any correction or rectification fails to be exerted to a full extent, correction and rectification shall be ordered within a time limit in accordance with related provisions. During the period of correction and rectification, the transition of agricultural land and land expropriation in this region shall be suspended.

The administrative organs of land and resources as well as the personnel thereof shall rigidly carry out the related laws and regulations as well as guidelines and policies for state land administration, perform administration subject to related laws and be responsible for the genuineness and legality of land use.

Where anyone neglects his duties and functions, abuses his official capacities, commits irregularities for

personal interests or fails to implement or comply with the related laws and regulations on land administration, the liable principals and personnel shall be investigated of legal liabilities in accordance with related laws and regulations.

8.

Severely Punishing any Law-breaking or Rule-breaking Act of Land Use

If any functionary of the government organ illegally approves any expropriation or occupation of land or illegally alienation the state-owned land use right at a low price, thereby breaking the criminal law, criminal liabilities shall be investigated. If it fails to perform the state policies for land control, approves any quota-overstepping land use, fails to pay the fees for compensated use of new construction land or other due taxes and fees within a time limit, fails to pay in full amount the fees for compensation and relocation upon land expropriation within a time limit before conducting expropriation, or illegally changes the location of any basic farmland by adjusting an overall planning of land use in order to avoid a report of occupying the basic farmland for construction to the State Council for inspection and approval subject to related laws, the person concerned shall be investigated of administrative liabilities.

The coordination mechanism of investigating into and punishing the illegal acts in any land case shall be improved and the strength of investigating into and punishing any law-breaking or rule-breaking act of land use shall be enhanced. The Ministry of Supervision shall, jointly with the Ministry of Land and Resources, conduct special actions emphasizing on investigation into and punishment of any act of unlawful approval for land use, land use without any approval, over-use of land than what has been approved or illegal alienation of state-owned land use right at a low price. Any major law-breaking or rule-breaking case of land use shall be disposed publicly. If any crime is committed, it shall be transferred to the judicial organ for investigation of criminal liabilities.

All the localities and departments shall, taking Deng Xiaoping's theory and the important thoughts of Three Represents as our guide, fully implement the concept of scientific development, completely understand the importance of applying the strictest bylaws of land administration and closely follow and resolutely implement all the measures of the Central Government for strengthening the land control. All the localities shall perform this Circular while making an overall self-examination on the land administration and use since the implementation of the Document (Guo Fa [2004] No. 28) and seriously punish any law-breaking or rule-breaking act as checked out. The National Development and Reform Commission, the Ministry of Supervision, the Ministry of Finance, the Ministry of Labor and Social Security, the Ministry of Land and Resources, the Ministry of Construction, the Ministry of Agriculture, the People's Bank of China, the State Administration of Taxation, the Statistics Bureau and the Office of Legislate Affairs, etc. shall go about their respective terms of references, coordinate with each other closely, formulate the related supporting documents for the implementation of this Circular and jointly improve the land control. The Ministry of Land and Resources shall, jointly with the Ministry of Supervision and other related departments, do a good job in the surveillance and examination of the implementation of this Circular. All the localities and departments shall submit the implementation of this Circular to the State Council before the end of 2006.

The State Council

August 31, 2006

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