

New trend on the reform of China land grant system

A frequent policies and regulation regarding the land grant system is recently under implementation. In this article, we are briefing on some of the policies and legislative trend, in order to give a picture of what are happening in the reform of the China land grant policies.

Online land grant system

In August, a trial of online land grant is introduced by State Land Bureau in some pilot cities, such as Changsha and Dalian, aiming to establish an online land auction and listing system that enables bidders to conduct the whole process of land acquisition including application, bidding, and publish result of deal on internet.

As of 2002, it is required that land for commercial and industrial purpose shall be granted by bidding, auction or listing, subject to limited exceptions. If there are two or more land users intending to use the same plot of land for other purposes, land use right must also be granted by bidding, auction or listing.

If online land grant system is tested to be efficient, is it probably to be implemented in other cities. Then it will be easier for real estate investors to update the status of land acquisition and take part in.

Land for residential purpose is subject to different restrictions

In order to provide more affordable houses for people with low or middle-level income, and therefore curb the real estate bubble, some restrictions on residential land has already been imposed in big cities, such as Beijing and Guangzhou.

One big challenge for developers in land auction or listing procedure is that they shall analyze carefully their payoffs in a different way, because instead of making the deal by offering the highest price, the government is going to bid the price that developer is planning to sell their houses or the amount of subsidy houses developer promised to provide to local government. In other words, investor who offers the lowest selling price or provides the greatest amount of subsidy houses might be the winner of one land auction or listing procedure, and furthermore their promises on such conditions will be included in the land grant contract.

Pre-application before land grant

Pre-application, a procedure before land use right bidding officially kicked off, was first empowered by the State Land Resource Bureau to be applied in pilot cities in early 2006. The procedure, introduced from Hong Kong, aims to attract more developers before specific land use right is officially to be granted. Take Shanghai for instance, as of 2009, more than 200 pieces of land use right are published through pre-application procedure, but turn out that nearly 50% of the land has no response for purchase and therefore as a result of the procedure, land grant procedure of these lands are suspended. It seems to be more transparent, maybe a way to curb the rise the land price but not working under a "bear market".

Guangzhou is the first city promulgated regulations on the pre-application procedure. According to its regulation of this August, the pre-application procedure is not mandatory, and one big progress is the notice period for pre-application is shortened to at least 7 days, lesser than Shanghai's 3

months. It also stipulates the apply deposit, responsibilities of applicants, etc. Whether the Guangzhou model works, time will see.

Severe sanctions on illegal land use

Meanwhile, starting from the end of last year, a series of supervision and self-test in the land grant regime is rolling out, from punishment to idol land to illegal use or requisition of farming land.

Since end of 2009, voices from central government on preserving agricultural land is emphasized publicly very often, and as a result, sanctions on local government for illegal using, requisition or granting of agricultural land are heard in some cities, most of which are big deals. For those land acquisition from local government, going through a standard procedure perhaps is not secure enough for their projects. Vanke's (China's biggest listed real estate company) project in Hebei Xianghe is an example. Due to illegal requisition of agricultural land that violates mandatory approval from central government, the convert of land use from agricultural to construction is deemed void, result in a retrieve of land use right from Vanke.

Additionally, we advise investors that intent to acquire land use right from private parties pay more attention on checking the construction commencement date and project construction period, among others, in their due diligence checkouts. Sanctions on idol land (meaning construction on a plot is not started for more than a specific or required period) is expect to be an imminent storm.

Adapted to some local requirements

Developers shall also consider local regulation on some special issues.

A controversial reform of "Dipiao" in Chengdu and Chongqing has witnessed dramatic changes since early 2010. In order to balance the agricultural land ratio on a nation-wide basis, developers who intent to acquire constructive land use right from government should firstly acquire relevant quota, namely Dipiao via two ways: one is from specific exchange market, another by taking part in re-cultivate of unused construction land in suburban areas. By adjusting several times upon implementation, now the policy has been loosened that Dipiao can be acquired after land grant, which enables developers without Dipiao to take part in land bidding procedure.

It is worth mention in some southern cities, such as Guangzhou and Shenzhen, making good use of industrial land that evacuated by factories thanks to industrial upgrade is a priority for local government, and reconstruction or renewal of old areas also need some specific treatment in policies to some extent. Therefore, we advise developers to be aware of such local policies when reaching their projects to these areas.

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