

## Client Alert

July 2011

### New Circular Regarding the Issuance of Certificates on Land Use Rights, Ownership of Residential Houses and Assets Attached to Land (“Certificates”)

On May 20, 2011, the Ministry of Natural Resources and Environment (“**MONRE**”) promulgated Circular 16/2011/TT-BTNMT amending and supplementing certain regulations on administrative procedures relating to land (“**Circular 16**”). Circular 16 was promulgated in order to clarify some uncertainties relating to time limits as well as the documents required for the issuance of the Certificates.

The key developments of Circular 16 are as follows:

#### 1. Reduction in the Time Limit for the Issuance of the Certificates

Article 12.1 of Decree 88<sup>1</sup> stipulates that the time limit for the first-time issuance of the Certificates will not exceed 50 (fifty) working days beginning from the submission date of the proper dossier. This time limit is arranged for the all of the administrative procedures involved in the issuance of the Certificates. However, the time limit for each stage in the procedure process is uncertain. Therefore, Circular 16 aims to clarify this uncertainty, particularly as follows:

- 1.1 In cases of households, individuals and Vietnamese people residing overseas, the time limit is divided as follows:
  - (a) *For administrative procedures at the ward-level People’s Committee*: not more than 10 (ten) working days beginning from the submission date of the proper application dossier;
  - (b) *For administrative procedures at the Land Use Right Registration Office under the district-level Division of Natural Resource and Environment*: not more than 15 (fifteen) working days beginning from the submission date of the proper application dossier;
  - (c) *For administrative procedures at residential houses, construction and agriculture management State authorities*: not more than 05 (five) working days beginning from the receiving

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<sup>1</sup> Decree 88/2009/ND-CP dated October 19, 2010 of the Government regarding the issuance of certificates on land use right, ownership of residential houses and assets attached to land;

date of the feedback written request issued by the Land Use Right Registration Office;

- (d) For the execution of the Certificates at the district-level People's Committee: not more than 03 (three) working days beginning from the submission date of the proper application dossier;

In total, it will take around 33 (thirty three) working days beginning from the submission date of the proper application dossier for the issuance of the Certificates, excluding the time for the publication of the assessment results at the district-level People's Committee.

1.2 In cases of religious establishments and organizations, Vietnamese people residing overseas, and foreign organizations and individuals, the aforesaid time limit is divided as follows:

- (a) For administrative procedures at the Land Use Right Registration Office under the Department of Natural Resource and Environment: not more than 20 (twenty) working days beginning from the submission date of the proper dossier;
- (b) For administrative procedures at residential houses, construction and agriculture management State authorities: not more than 05 (five) working days beginning from the receiving date of the feedback written request issued by the Land Use Right Registration Office;
- (c) For the execution of the Certificates at the provincial People's Committee or at the Department of Natural Resources and Environment (in cases of authorization): Not more than 03 (three) working days beginning from the submission date of the proper application dossier;

In total, it will take approximately 28 (twenty eight) working days beginning from the submission date of the proper application dossier for the issuance of the Certificates.

In conclusion, according to Circular 16, it is explicit that the time limit for the issuance of the Certificates has been reduced significantly from 50 (fifty) working days as provided in Decree 88 to 33 (thirty three) working days (for cases of households, individuals and Vietnamese people residing overseas) and to 28 (twenty eight) working days (for cases of organizations, religious establishments, Vietnamese people who reside overseas, and foreign organizations and individuals) as provided in Circular 16. Therefore, the development of Circular 16 will probably facilitate real estate transactions in Vietnam.

## 2. Other Noteworthy Clarifications

2.1 With respect to the re-issuance of the Certificates due to loss, Circular 16 supplements the corresponding regulations of Decree 88 as follows:<sup>2</sup>

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<sup>2</sup> Article 4 of Circular 16.

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- (a) For domestic organizations, foreign organizations, foreign individuals and Vietnamese people who reside overseas, it is required that they must publish the loss of the Certificates on the media 03 (three) times within a period not exceeding 10 (ten) days.
  - (b) For households and Vietnamese individuals, it is required that they must obtain a written certification from the district-level People' Committee for the post of a notice regarding the loss of the Certificates at the office of the district-level People' Committee for 15 (fifteen) days.
  - (c) In cases of loss due to natural disaster or fire, the documents mentioned in Item (a) and (b) above are not required, but it is required that the Certificate holders must obtain a written certification from the district-level People' Committee regarding the natural disaster or fire.
  - (d) Circular 16 further stipulates that the application for the re-issuance of the Certificates is only permitted to be conducted upon the expiry of the 30-day period as from either: (i) the first time of publishing the loss on the media, (ii) the date when the notice regarding the loss is posted at the office of the district-level People' Committee, or (iii) the issuance of the written certification of the district-level People' Committee on the occurrence of natural disaster or fire.
- 2.2 In cases where organizations split or merge, the receiver of the land use right must submit an application dossier, which comprises of: (i) the application in the prescribed form, (ii) the existing Certificate, and (iii) the decision of the competent authority approving such split or merger of the organization to the competent Land Use Right Registration Office in order to obtain new Certificates. Circular 16 also clarifies the time-limit for this procedure, which is from 13 (thirteen) to 28 (twenty eight) working days as from the submission date of the proper dossier, depending on the sufficiency of the application dossier.<sup>3</sup>

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<sup>3</sup> Article 7 of Circular 16.

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