



Lawyers

## **DNH Law Alert**

October 30, 2009

**Decree N°. 69/2009/ND-CP dated 13 August 2009 promulgating supplemental regulations on land use planning, re-determination of land prices in certain situations, land recovery, compensation, support and resettlement**

越南政府有关土地利用规划，土地价格，土地收回，补偿，补助及再安置之补充规定

**DNH LAW LLC**

**Suite 101, Seeds Office Villa, 4 Phung Khac Khoan Street, District 1, Ho Chi Minh City, Vietnam**

**t: +84 8 3822 7201 f: +84 8 3822 7202 e: [info@dnhlaw.com](mailto:info@dnhlaw.com)**

**The Decree provides regulations supplementing and/or amending some of the current regulations promulgated after the Law on Land was enacted in late 2003. The supplemental regulations contained in this Decree focuses on areas including land use planning; land price redetermination in certain situations such as where the land is allocated without bidding or auctioning the land use right; compensation, resettlement and support for people on land recovered by the State; orders & procedures for land recovery, allocation or lease; the establishment and organization of land development funds; issuance of land use right and house ownership certificates to enterprises under certain conditions, and extension of time period of land use right certificate.**

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**Scope**

Decree N°. 69/2009/ND-CP issued on 13 August 2009 effective October 1, 2009 sets out in 3 chapters and 41 articles the relevant regulations on the land use planning, land price, land recovery procedures and compensation, support and resettlement for the current user of land recovered, organization of land development fund, issuance to land use right certificate and ownership of houses and assets attached to the land to those enterprises who have not yet been issued certificate but use the land for production and/or businesses, as well as extension of land user right certificate. A table of contents is provided at the end of this alert.

**Land Use Planning**

Contents, formulation, evaluation, and implementation of the land use planning and plans at different levels (national, provincial, district and commune) are specified under the Decree, with the Ministry of Natural Resources and Environment being the lead agency in charge.

**Land Prices Re-determination**

The regulation directs that the provincial People's Committees re-determine, based on "actual market prices" in certain situations where the State allocates land with collection of land use levy or lease or approves plans for compensation without conducting auctioning or bidding for the land use right; and in situation where enterprises while going through equitization process the value of the land use right is below the market price.

**Compensation, Support and Resettlement**

The Decree sets forth elaborated regime on compensation, financial support, and resettlement for the current user of residential and agricultural land which are being recovered by the State.

Recovery of residential or agricultural land though both entitled compensation, impact on the livelihood of current users may differ thus requiring different treatment in terms of support. For example when the State recovers agricultural land, the current user (farmers) will be provided with job training and creation, support for life stability for certain period.

Additionally buildings attached to land will also be

compensated based on price of new construction published by the Ministry of Construction.

**Order & Procedure for Recovery, Allocation or Lease**

Order and procedures are set forth in the Decree for recovery, allocation and lease of land, including requirements for application, notification, project formulation, organization of local compensation councils, plan for compensation, support and resettlement, decision and approval for land recovery & plan (compensation, support and resettlement), execution and procedures and conditions for conducting forced recovery.

**Land Development Fund**

Such funds, a newly created part of the State financial institution are set up at the local level by the decision of People's Committees which are authorized to keep 30-50% of the land levies, land auction proceeds, rentals, and other revenues collected from land each year to set up such funds. Ministry of Finance is in charge of promulgating regulations on such funds.

**Extension of Duration of Land Use Right**

The Decree provides the time of submitting a request for extension, documents required to be submitted, and the consideration by the government agency in charge, and the time limit for the agency to issue a decision on such extension request.

**Effective Date**

This Decree takes effect on 1 October 2009. The Decree once become effective also amends and annuls a number of provisions of previously issued regulations.



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For further information, please contact

**Mr. John Yue 岳強律師**

Ho Chi Minh City, Vietnam 越南胡志明市  
+84 91 864 9890

[john.yue@dnhlaw.com](mailto:john.yue@dnhlaw.com)

**Mr. Pham Trung Hau**

Ho Chi Minh City, Vietnam  
+84 91 360 3729

[hau.pham@dnhlaw.com](mailto:hau.pham@dnhlaw.com)

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