Allocated lands in China: a gold mine for the few people

Description

Allocated lands in China refers to those lands that are assigned to their users for free or in other words without charging the land grant fee. China had relied on the allocated system in utilizing its land as part of the old planned economy till early 1990s when China promulgated its regulation on grant and transfer of land use right.

Bear in mind that all land in China is either owned by the state or by the so-called “collectives” at law. In other words, any individual and organization shall not have ownership in any piece of land. In practice, individuals or corporations can only obtain the land use right for a certain period of years depending on the designated use of the said land.

In the past, many state-owned companies have occupied a lot of allocated lands, esp, in urban areas. For these allocated lands, the state-owned companies can always use them without paying money. Even in cities like Shanghai, Beijing where land prices have rocketed in the past decade, there are still a lot of allocated lands used by state-owned enterprises. Remeber, Chinese state-owned companies play dominant roles in many industries. Many state-owned companies have their own buildings sitting on allocated lands.

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With the land granting system introduced and developed over time, China government started to allow the allocated land to be offered to market for paid use subject to local government consent. The central land ministry has also issued guidelines with respect to how to marketize allocated lands occupied by companies. Here is a summary on the guidelines:

1. the company occupying the allocated land will apply to local government for selling buildings on the allocated land. Building ownership certificate shall be accompanied in the application;

2. local government will look into the zoning plan to see whether the land in question will be in compliance with zoning plan after being transferred by the company;

3. once passing the zoning scrutiny, the land will be appraised to determine its market value as granted land. In this appraisal, the interest of the user of the allocated land will also be appraised, the value of which will be deemed as the equity interest of the user in the allocated land and will be deducted from the market value of the granted land. The result after the said deduction will be the value to be paid by the new user of the granted land.

4. local land bureau will then work out a grant scheme for the land in question with respect to other conditions such as term of use, nature of usage, land grant fee and etc..

5. the grant scheme will be submitted for approval by local government and once approved, a Notice of Approval for Granting Allocated Land will be issued to user of the allocated land;

6. **Upon issuance of the Notice of Approval for Granting Allocated Land, the land shall be put on open market for public bidding. The buyer shall be decided through the public bidding process.**

Generally, the market for public bidding is the platform operated by local government for land transactions.

7. Then the buyer shall enter into the land grant contract with local government and pay the land grant fee. The deal shall be published to the public.

The problem with converting allocated land into granted land in accordance with the procedures described above is that corruption can easily find its position in this process.

Because the process is not so closely watched by the market as new land put up for granting and the rules regarding the public bidding section are loose, the public bidding section could readily be omitted or ignored, which makes it easy for connected people to make deals good for themselves, leading to heavy loss of state asset.

Just recently, in the process of negotiating an office property deal, I came to find out that the seller is a new company set up just about a year ago by a real estate investment fund, and the property was bought from a state-owned company. The seller has not done much to improve the building, and quickly they started to offer the property to the market at a price that almost doubles their purchase price, with a promise to rebuild the facade of the building and renovate its inside. But come on, such improvement won't lift the value of the building that much as to double its value at the time of purchase. There must be untold story behind the scene. By the way, I even heard of rumor about behind-door deal in respect of the property. I should not forget to tell you that the property mentioned here is located in the heart of Shanghai, Jing'an district of Shanghai.

Real estate investors, either domestic and foreign, may find it a good deal to purchase old building sitting on allocated land from state-owned companies. There are still many opportunities out there in the market in Shanghai and other hot cities.

But I am not telling you to do anything wrong under Chinese laws.

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