

SOME TYPICAL NEW REGULATIONS OF THE LAND LAW 2024

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On January 18, 2024, the National Assembly promulgated Law on Land No. 31/2024/QH15 (**Land Law 2024**) replacing the Law on Land No. 45/2013/QH13 dated November 29, 2013 (**Land Law 2013**) and taking effect from January 1, 2025. The Land Law 2024 has many outstanding amendments and supplements that address the limitations of the previous law. This article will not analyze the new regulations of the Land Law 2024 that have been introduced and evaluated by many other agencies and organizations such as land price determination, land allocation, land lease but will focus on some important contents of this Law related to the operation of enterprises, especially real estate and energy businesses. Some of these contents are researched and contributed by lawyers of NHQuang&Associates during the development of the Land Law 2024, specifically as follows:

Firstly, supplementing specific regulations on projects in the vicinity of traffic connection points and traffic routes with potential for development. Previously, the Land Law 2013 does not have any specific definition of the vicinity but only mentions that "for projects of technical infrastructure, construction, and embellishment of urban areas or rural residential areas, the location and area of recovered land in the vicinity must be simultaneously determined for auction of land use rights for implementation of housing projects, trade, services, production and business" (Article 39, Article 40, and Article 146).

The Land Law 2024 has supplemented the definition of the vicinity in clause 49 Article 3, which writes "vicinity is the land adjacent to traffic connection points and traffic routes with potential for development according to the plan". Thus, the concept of "vicinity" under the Land Law 2024 has narrowed down the scope of the vicinity as mentioned in the Land Law 2013. The Land Law 2024 also sets forth the State's responsibility for land acquisition to implement projects in the vicinity of traffic connection points and transport routes with development potential as one of the cases of land acquisition for socio-economic development in the national and public interest as stipulated in clause 26 Article 79 of the Land Law 2024. This regulation will



adjust the provisions of the Law on Urban Planning 2009 related to the determination of "vicinity", specifically "land fund along both sides of a road", including:

"Article 31. Planning for renovation and refurbishment of urban centers; development of new urban quarters and new trunk roads in urban centers
3. Detailed planning for new trunk roads in an urban center must ensure the following requirements:

- a) The planned area must be at least 50 m outward from the red line boundary of a planned road;*
- b) To effectively exploit the land fund along both sides of a road; to study the space, architecture and shape of construction works and the setback of each specific work, ensuring the integrity and peculiarities of the area."*

"Article 62. Preparation of land funds for urban development according to planning

4. When implementing projects to develop roads under approved planning, competent state agencies shall concurrently organize the recovery of land along both sides of roads according to planning and hold auctions or bidding to select investors under law."

The new provision on "the vicinity" of the Land Law 2024 is the basis for the State to consider and acquire land under planning for the development of transport routes (including roads, railways, waterways, and roads) as planned. Connection points include not only areas connecting transport routes but also railway stations and piers, etc., which are the locations that are convenient for urban development. This new regulation helps to create the basis for the State and makes it more favorable to

acquire land with the goal of urban development oriented towards public transport in the spirit of Resolution 06-NQ/TW of the Politburo on planning, construction, management and sustainable development of Viet Nam's urban areas until 2030 with the vision to 2045, or Resolution 15-NQ/TW of the Politburo on orientations and tasks for the development of Ha Noi to 2030 with a vision to 2045. In addition, the land acquisition mechanism for "the vicinity" is expected to increase revenue for the State budget from geographical differences when the State plans and invests in technical infrastructure development.

Second, supplementing detailed regulations on cases where the State acquires land for the construction of energy projects. According to point e clause 2 Article 10 of the Land Law 2013, the land for energy projects is recognized as land used for public purposes in the group of non-agricultural land. The Land Law 2024 continues to affirm that the land for energy projects is the land for public purposes by stipulating the construction of energy projects as one of the cases in which the State acquires lands for socio-economic development in the national and public interest.

According to clause 5 Article 79 of the Land Law 2024, the acquisition of land for socio-economic development in the national and public interests aims to *"build energy and public lighting works, including power plants and auxiliary works of power plants; dams, embankments, reservoirs and water pipelines serving hydroelectric power plants; power transmission line systems and substations; service, repair and maintenance business works within the scope of power plants; public lighting"*. Compared to the Land Law 2013, this regulation has listed the specific types of energy projects in the case of land acquisition in order to solve problems in land acquisition for the construction of energy projects, especially renewable energy projects and power transmission.

Third, supplementing detailed regulations on land for underground construction. Previously, the Land Law 2013 has mentioned and regulated the land for underground construction. However, the regulations are not yet specific and there are still several limitations, which lead to difficulties in the management and exploitation relative to underground construction, such as the impossibility of solving problems related to the rights of a subject to the ground, water surface, above-ground space, and

underground in case such land use right belongs to another entity.

Clause 1 Article 216 of the Land Law 2024 has detailed the land for underground construction. This regulation aims to clearly define the content of "surface rights" stipulated in the Civil Code 2015 (from Articles 267 to 273). Specifically, according to the Land Law 2024, the land for underground construction includes *"land for construction of above-ground works for the operation, exploitation and use of underground works and underground space to build underground works that are not underground parts of above-ground constructions"*. The Land Law 2024 has (i) stipulated that land users are entitled to transfer, lease, or sublease underground spaces after they are determined by the State in accordance with law; and (ii) adopted support and preferential policies to encourage organizations and individuals to use capital, techniques, and technologies for the implementation of underground construction projects. This new regulation aims to maximize land resources, use land efficiently and economically, and create favorable conditions to encourage organizations and individuals' investment in the development of underground works (such as underground parking lots, urban railways, and underground stations), especially in urban areas.

Fourth, supplementing detailed regulations on multi-purpose combined land. Multi-purpose combined land reveals the real demand in the context of Viet Nam's strong socio-economic development, typically the combination of developing renewable energy sources (such as rooftop solar power, wind power) on the same land area with agricultural development, fishery, etc. The implementation scheme of the Political Declaration establishing a Just Energy Transition Partnership (JETP Declaration) has also set out one of the requirements and tasks to ensure equity in energy transition, namely *using multi-purpose land for renewable energy production in combination with agricultural, aquaculture development to promote access to energy, generate investment opportunities, create jobs and increase the initiatives of enterprises in the process of changing agricultural land use purposes for renewable energy development*.

However, the Land Law 2013 only stipulates the principle of land use for the right purposes and there is no mechanism to regulate the land area used for

different purposes, leading to difficulties in implementation, causing many obstacles in land access for renewable energy power projects in recent years. Therefore, the Land Law 2024 has specified cases in which land is used for multiple purposes (for example, agricultural land is also used for commercial, and service purposes) and conditions and requirements for multi-purpose land use in Article 218. This is one of the important new points of the Land Law 2024 to promote the efficient use of land and resolve the problems in recent years, especially for renewable energy power projects.

Fifth, supplementing specific regulations on the contribution of land use rights and land readjustment. Land accumulation is a necessity in economic development, especially in agricultural development to expand the scale of land area based on the consolidation of many plots, creating conditions for households from small, autarkic/self-sufficient production to large-scale production of goods. In fact, there are also many cases in which people wish to donate their land to pave roads in rural residential areas or cooperative plots to avoid the situation of "super thin" and "super distorted" land and houses. The contribution of land use rights helps to address the above needs, but the provisions on land use right contribution have just been referred to in the Land Law 2013 and are not specific and clear about the procedures for contributing land use rights, cases of contributing land use rights and conditions for implementation, resulting in practical entanglements.

To solve the above problems, Article 219 of the Land Law 2024 stipulates that contribution of land use rights, land readjustment is a method of rearranging land in a certain land area based on the consent of land users to adjust all or part of the land area under their use in that area according to the plan approved by the competent authority. Article 219 specifies the cases in which the contribution of land use rights and land readjustment are permitted, including:

- (i) Concentrating agricultural land for the implementation of production.
- (ii) Implementing projects on embellishment, development of rural residential areas, expansion and upgrading of rural roads.
- (iii) Implementing urban embellishment and development projects; renovating, upgrading or rebuilding apartment complexes; expanding and upgrading roads in urban areas.

It can be seen that the Land Law 2004 has provided many amendments and supplements to complete the legal framework on land and resolve the outstanding issues of the Land Law 2013. Businesses should update and study the provisions of the Land Law 2024 as well as further guiding documents for application in their business investment activities. They should also pay attention to the transitional provisions in the Land Law 2024 such as transitions in land use planning; transition in land acquisition; compensation, assistance and resettlement when the State acquires land; transition in land allocation, land lease, and change of land use purposes. For your better understanding of the new policies and regulations of the Land Law 2024, NHQuang&Associates is willing to provide relevant answers and legal opinions upon request./.