

# Discussion on Land Expropriation Compensation System

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## Abstract

Land expropriation is a necessary means for the public construction of country. The study results show that the public in Taiwan is rather satisfied with the current land expropriation at the land market value. "Estimation of land value by real-estate estimators" and "Compensation based on values listed on the Actual Price Registration" are much accepted by the public. It is also suggested that the existing land expropriation compensation shall adjust to meet the public wish to reduce incidences of struggles and improve administrative proficiency.

*Keywords: Land Expropriation Compensation, Real-estate Estimators, Compensation Standards, Construction Improvements*

## 1. Introduction

### 1.1 Background

Since almost all resources of human living depend on land supply, land expropriation is often necessary in each country for the need of public works. Land expropriation contains four major elements, namely public interest, legal process, compliance to necessity and need of compensation. In case of small expropriation facing extensive resistances and conflicts, the reasons behind include public suspicion of owners' rights ignored during expropriation and mostly importantly, dissatisfaction against amount of compensation from expropriation. In order to achieve smooth expropriation that balances public and private interests, it is important to discuss from method of compensation system for expropriation, where expert's opinions are referred to draft more suitable method of land expropriation that addresses difficulties faced under current execution of

land expropriation, so mutual benefits can be obtained between the government and citizens.

### 1.2 Motive and Purpose of Research

Due to its compulsory nature and difficulty on defining the compensation standard, land expropriation is often criticized and opposed by landowners. Should disputes arise from compensation on land expropriation and further cause conflicts between the government and its people, the social cost is often much greater than the expense of compensation on expropriation. According to revision on Article 30 of the Land Expropriation Act in 2012[1], the method of compensation has changed from original context of "extra proportion of announced current land value upon expropriation as additional compensation" to "compensation according to current market value upon land expropriation." One of the prerequisites of land expropriation is realizing public interests; when damage to citizens' rights becomes necessary, reasonable measures shall be taken to minimize such

loss. The purpose of this research includes the following:

- Compile literature to discuss unreasonable systems and phenomenon during the operation of land expropriation.
- Use questionnaires to investigate satisfaction from the owners of land expropriated against compensation system based on current market value of expropriation.
- With reference to foreign study on compensation of expropriation, domestic experts' suggestions on compensation of expropriation are compiled for finding an improved strategy that suits the status in Taiwan.

## 2. Discussion on current compensation system for land expropriation in Taiwan

The content of relevant regulations to land expropriation in Taiwan was mostly duplicated from the Land Acquisition Act in Japan. To address the need of social and economic development during the period from 1980 to 1990, the government made massive investments to commence major public works and actively acquired lands needed. Since the development of relevant public facilities induced significant boost of land price at then, great difference occurred between current land price announced and market price, which caused reluctant acceptance by landowners towards compensation of expropriation. Furthermore, inconsistent compensation standard on expropriation triggered citizen opposition, which not only affected the progress of land acquisition for public works, but also caused conflicts between citizens and the government. After revision of relevant regulation in Taiwan in 2011, the compensation standard in Land Expropriation Act followed requirements under Article 30: "The value of expropriated land shall be compensated based on its current market value. The value of land reserved for public facilities in the urban planning area shall be compensated based on the average market value of its adjoining lands not reserved for public facilities. The market value referred to in the preceding paragraph shall be forwarded by the municipal or county (city) competent authority to the Land Evaluation Committee for determination." According to requirements under the Land Expropriation Act and actual situation, items qualified for compensation upon expropriation of land or land improvements include: (1) Compensation for land value; (2) compensation for construction improvements or agri-

cultural improvements; (3) compensation for paid land improvements on improved farm land that is deemed legal with possession of building license yet works terminated; (4) compensation for loss from legitimate business; (5) relocation fees. Relevant parties of land expropriation include the government (applicant), landowner and general public (see Fig. 1). Among them, the general public pays taxes to the government. The government sets budget for expropriation listed and releases compensation to the landowner that transfers property to the government and thus completes the public construction with feedback of mutual benefits to general public's use. The relationship among these three parties is closely related and inseparable.

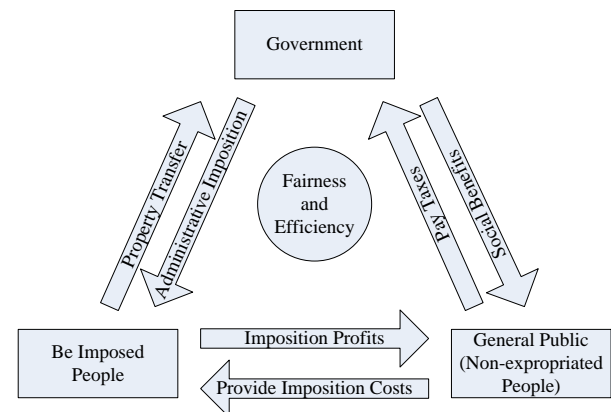


Fig. 1. Relationship among the three parties in compensation for land expropriation

## 3. Various compensation standards

The compensation standards for land expropriation include the following:

### 3.1 Compensation for land value

For land expropriated, compensation shall match current market price upon expropriation. Should an inconsistency between area reported for expropriation and area actually used after land expropriation, correction shall be implemented according to actual situation and compensation for land value of increase area will be calculated with compensation standard counted 15 days from expiration of correction notice. (Article 5, Subject and collection rules of compensation for expropriation on land or land improvements)

### **3.2 Compensation for construction improvements or agricultural improvements**

Land improvements can be divided into construction improvements and agricultural improvements. The former include buildings or construction works attached to the land; the latter include improved crops, plants and irrigation works attached to the land. The compensation for expropriation on land improvements is assessed by authorities from the Special Municipality or County (City) together with relevant agency [2]. For agricultural improvements such as fruit trees, tea trees, bamboos, flowers / trees for viewing, trees for afforestation and other crops, the Government of Special Municipality or County shall base on “Assessment criterion of compensation for expropriation on agricultural improvements” issued by the Ministry of Interior and refer to actual local status and latest data announced by the agricultural authorities to set its own basis of assessment of compensation for expropriation on agricultural improvements, which is then submitted to the Standard Land Value Determination Committee for reassessment [3].

### **3.3 Compensation for land improvement**

- Improvements on building foundations include leveling or excavation, water and soil maintenance, piping, earth retaining work, trench excavation and road construction.
- Improvements on farmland includes earthworks, water and soil maintenance, soil improvements, as well as constructing farm roads, irrigation works, wind breaks, sand breaks and embankments.
- Improvements for other land developments.

Damages arise from the cessation or down-scaling of trading due to expropriation shall be compensated. The relevant terminologies are defined as follows:

- “Legal business” means entity that lawfully acquired relevant license needed for operation and carried out proper trades.
- “Cessation of trade” means the termination of trading activity due to full expropriation on the land or land improvements for trading.
- “Down-scaling of trade” means reduction of original trading size due to partial expropriation on the land or land improvements for trading.

### **3.4 Compensation for loss from business**

The above-mentioned area of trading is limited to area of land or land improvements registered or applied for trading, and excluding the non-operational parts. Should the main structure or facilities of operation be expropriated, where the remaining parts cannot continue to operate, compensation shall be provided as per requirements under Point 3) mentioned above (Point 4, Compensation criterion for business loss from land and land improvements expropriated)

### **3.5 Relocation fees**

Upon expropriation of land or land improvements, relation fees shall be dispensed for any of the following situations (Paragraph 1, Article 34 of Land Expropriation Act).

### **3.6 Compensation for tenanted farmland**

In case the compulsorily purchased land is tenanted farmland, Article 11 of the Equalization of Land Rights Act stipulates that the government shall compensate the lessee for the expenses he has incurred in making land improvement as well as for any crops not yet harvested. In addition, the lessor shall pay to the lessee one third of the compensated land price after a deduction for land value increment tax through the government.

### **3.7 Compensation for loss from adjoining land**

In case the use of expropriated land affects the adjoining land and causes an inability in its original use or reduction of original performance, the owner of such adjoining land is entitled to request appropriate compensation from the land applicant. The amount of compensation shall not exceed the land value reduced due to the use of expropriated land. The regulations on relevant executions include Article 216 of Land Law, Tai-Nei-Di-Zi Letter no. 8886374 dated 1999/7/27 and Tai-Nei-Di-Zi Letter no. 8911895 dated 2000/9/5 from the Ministry of Interior.

### **3.8 Compensation for superficies**

Rules governing the compensation for superficies shall be prescribed jointly by the central competent authority in charge of the relevant industry and the Central Com-

petent Authority. At present, the Ministry of Transportation and Communications, Ministry of Economic Affairs and Ministry of National Defense together with the Ministry of Interior have followed the above regulations and set the "Rules governing the compensation for transportation / water / defense undertakings passing through the private lands from above or underneath" (Paragraph 1 and 4, Article 57, Land Expropriation Act). Furthermore, Article 19 of the Mass Rapid Transit Act stipulates that the construction of a mass rapid transit system may pass through, over or under any government or privately owned land or any improvement on the land under work necessity.

### 3.9 Compensation for requisition

Compensation for the use of land shall be calculated starting from the date of public announcement of requisition and paid to the landowners or the holders of superficies, servitude of real property, agricultural right, right of permanent tenancy or the right of cultivation in one lump sum within 15 days after the expiration of the public announcement period. (Paragraph 5, Article 58, Land Expropriation Act).

## 4. Conclusions

Since 1st September 2012, the land expropriation policy in Taiwan has been implemented according to compensation with market price, where public benefit and necessity are in place. However, both acquirers and landowner think improvements are still needed for the land expropriation system. The conclusions are as follows:

- On topic of unreasonable compensation for expropriation

In order to comply with budget of the current year, the assessment units would make assumptions and portion of citizens would perceive this as the government controlling prices, which further lead to difference between market price recognized by the citizens and the market price assessed by the governmental unit, hence the extensive difference on the standard of price assessment between government expropriating land from the citizen and vice versa. When changing into national land with greater use, the citizens deem that price shall be calculated according to the value after development.

- Citizens showed satisfaction towards compensation at market price for land expropriation

The analysis from statistics showed that, after adding 40% of compensation on top of publicly announced current value for land expropriation, the percentage of very satisfied and satisfied citizens was greater than unsatisfied and very unsatisfied citizens. This means that government's change provides further protection of citizens' properties and reduces resentment towards expropriation, so public works can proceed smoothly. In the case of real estate valuation, it was found out-source commissioning received greater satisfaction, where citizens showed lack of trust when the government carried out its own assessment on market price for compensation.

- Improvement on strategy of compensation for expropriation

It is recommended to increase real estate valuation, where cases processed by out-sourced evaluators can be reviewed by land valuers in public sectors. Since compensation for expropriation falls under enforcement, citizens may build up a grudge easily and file appeals; thus responsibilities shall be defined precisely. The results from statistical analysis show that citizens believe the compensation for land expropriation has not reached the principle of full compensation. Therefore, such compensation shall elevate from appropriate compensation to full compensation, where economic and non-economic loss suffered by landowners can be included within compensation for expropriation.

## References

1. Land Expropriation Act, Department of Land Administration, Ministry of Interior (2012)
2. Department of Land Administration, Ministry of Interior (2011), "Assessment criterion on compensation for expropriated construction improvements", URL: <http://www.land.moi.gov.tw/law/chhtml/lawmain1.asp>
3. Department of Land Administration, Ministry of Interior (2011), "Assessment criterion on compensation for expropriated agricultural improvements", URL: <http://www.land.moi.gov.tw/law/pda/lawappend.asp?lid=3132>