

พระราชบัญญัติการจัดสรรที่ดิน พ.ศ. 2543

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**THE LAND DEVELOPMENT ACT,  
B.E. 2543 (2000)**

Translation

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B.E. 2543 (2000)

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BHUMIBOL ADULYADEJ, REX.

Given on the 4<sup>th</sup> Day of May B.E. 2543;

Being the 55<sup>th</sup> Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on land development;

Whereas it is aware that this Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29 in conjunction with section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of the provisions of law;

Be it, therefore, enacted by the King, with the advice and consent of the National Assembly, as follows:

**Section 1.** This Act is called the "Land Development Act, B.E. 2543 (2000)".

**Section 2.** This Act shall come into force after sixty days as from the date of its publication in the Government Gazette.\*

**Section 3.** There shall be repealed the Annoucement of the National Executive Council No. 286, dated 24<sup>th</sup> November B.E. 2515 (1972).

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\* Published in the Government Gazette, Vol. 117, Part 45a, dated 23<sup>rd</sup> May 2000.

**Section 4.** In this Act:

"land development" means the sale of land divided into sub-lots from one main lot of land or from several lots of adjoining land, in return for property or benefit as remuneration, provided that at least ten sub-lots are sold altogether, and shall include such procedure wherein the division of land is made into less than ten sub-lots but the subsequent division of land is additionally made within three years which results in the combined land being at least ten lots in number;

"right in the land" means the ownership and shall include the possessory right;

"licence" means the land development licence;

"land developer" means the person to whom a land development licence is granted and shall also include the transferee of the licence;

"purchaser of the developed land" means the person entering into a contract with the land developer for the purpose of acquiring the developed land and shall also include the subsequent transferee of the rights in the land;

"public service" means the provision, in a land development project, of services or facilities as specified in the project for which the application for land development under section 23 (4) is submitted;

"Commission" means the Bangkok Land Development Commission and the Provincial Land Development Commission;

"competent official" means the land official performing the registration of rights and juristic acts in accordance with the Land Code;

"Minister" means the Minister having charge and control of the execution of this Act.

**Section 5.** This Act shall not apply to:

(1) the land development by a Government agency, State agency, State enterprise, local government organisation or other State authority having powers and duties to carry out the land development under the law;

(2) the land development permitted under other laws.

**Section 6.** The Minister of Interior shall have charge and control of the execution of this Act and shall have the power to issue Ministerial Regulations prescribing fees not exceeding the rates annexed hereto and prescribing other activities in the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.



CHAPTER I

Land Development Commission

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**Section 7.** There shall be the Central Land Development Commission consisting of the Permanent-Secretary for the Ministry of Interior as the Chairman, Prosecutor-General, Secretary-General of the Consumer Protection Commission, Secretary-General of the Office of the Environmental Policy and Planning, Director-General of the Department of Local Administration, Director-General of the Department of Town and Country Planning, Director-General of the Royal Irrigation Department, Director-General of the Department of Civil Engineering and six qualified persons appointed by the Minister from persons having knowledge, capability and experience in the field of real estate development, town planning, community management or law, as members, and Director-General of the Lands Department as a member and secretary.

One-half of the qualified members under paragraph one shall be appointed from representatives of the private sector engaging in the activities in connection with the real estate improvement.

**Section 8.** The Central Land Development Commission has the powers and duties to exercise supervision of land development in general, including the powers and duties as follows:

- (1) to formulate land development policies;
- (2) to lay down Rules with regard to land development;
- (3) to give approval to stipulations with regard to the land development as proposed by the Commission under section 14 (1);
- (4) to formulate a standard form of an agreement to sell the developed land for use by an applicant for a land development licence in the operation of business under this Act;
- (5) to make the determination of issues in connection with the land development upon request or appeal by an applicant for a land development licence or by a land developer;
- (6) to perform other activities as provided in this Act or other laws.

The Rules under (2) shall come into force upon their publication in the Government Gazette.

**Section 9.** The qualified member shall hold office for a term of two years.

An outgoing member may be re-appointed but may not serve for more than two consecutive terms.

**Section 10.** In addition to the vacation of office at the expiration of the term under section 9, the qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Minister by reason of improper behaviour, malfeasance, corruption or lack of proficiency;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent person;
- (6) being sentenced to imprisonment by a final judgment except for an offence committed through negligence or a petty offence.

**Section 11.** In the case where the qualified member vacates office before the expiration of the term, the Minister may appoint another person to replace the outgoing member and the replacing member shall hold office for the remaining term of the replaced member.

**Section 12.** At a meeting of the Central Land Development Commission, the presence of at least one-half of the total number of the existing members is required to constitute a quorum.

At the meeting of the Central Land Development Commission, if the Chairman is not present or is unable to perform the duty, the members present shall elect one among themselves to preside over the meeting.

A decision of the meeting shall be by a majority of votes. In casting votes, each member shall have one vote. In the case of an equality of votes, the member presiding over the meeting shall have an additional vote as a casting vote.



**Section 13.** There shall be, in every Province, the Provincial Land Development Commission, as follows:

(1) in Bangkok Metropolis, there shall be the Bangkok Land Development Commission consisting of Director-General of the Department of Lands or Deputy Director-General of the Department of Lands as entrusted by the Director-General as the Chairman, the representative of the Office of the Prosecutor-General, the representative of the Bangkok Metropolitan Administration, the representative of the Department of Town and Country Planning, the representative of the Royal Irrigation Department, the representative of the Office of the Environmental Policy and Planning and four qualified persons appointed by the Permanent-Secretary of the Ministry of Interior as members, and the representative of the Lands Department as a member and secretary;

(2) in any other Province, there shall be the Provincial Land Development Commission consisting of the *Changwad* Governor or Deputy *Changwad* Governor entrusted by the *Changwad* Governor as the Chairman, *Changwad* Public Prosecutor who is the chief of the *Changwad* Office of Public Prosecution, *Palad Changwad*, *Changwad* Town and Country Planning Official, *Changwad* Public Works Official, the representative of the Royal Irrigation Department, the President of the *Changwad* Administrative Organisation and four qualified persons appointed by the Permanent-Secretary of the Ministry of Interior as members, and a *Changwad* Land Official as a member and secretary.

In the case where the consideration or approval must be made or given in connection with the development of the land located in the territory of any local government organisation, one representative of administrators of each of such local government organisations shall also be a joint member.

In appointing the qualified members under (1) and (2), the Permanent-Secretary of the Ministry of Interior shall make the appointment from persons in the private sector, who are not land developers and who have knowledge, capability or experience in the field of real estate improvement, town planning, community management or law.

**Section 14.** The Commission has the powers and duties to exercise supervision of land development within the Province to ensure its compliance with this Act, including the powers and duties as follows:

(1) to issue stipulations with regard to the land development, with the approval of the Central Land Development Commission;

(2) to consider applications for the land development and the issuance, transfer or revocation of the transfer of a land development licence;

(3) to inspect the land development in order to ensure its compliance with the approved map, project or procedure;

(4) to perform other activities as provided in this Act or other laws.

The stipulations under (1) shall come into force upon their publication in the Government Gazette.

**Section 15.** In the performance of duties under this Act, the Central Land Development Commission and the Commission have the power to summon in writing any person to give statements of fact, explanations, opinions or technical advice or to furnish documents or information in connection with the land development or other activities incidental to the land development, as it deems appropriate.

**Section 16.** In issuing stipulations with regard to the land development under section 14 (1), the Commission shall prescribe the rules regarding the preparation of the map, project and procedure for the land development in the interest of public health, environment quality maintenance, communication, traffic, safety, public facilities and town planning and other activities necessary for the land development in order for them to be suitable to local surroundings of that Province. For these purposes, conditions regarding the following matters shall also be prescribed:

(1) the minimum width and length or the minimum space of a sub-lot of land which may be brought under development;

(2) the system and standard of various types of roads, all passageways and footpaths in the land to be developed, including their connection with the main road or ways outside the land to be developed;

(3) the water drainage, waste-water treatment and garbage eradication systems;

(4) the system and standard of public facilities and public services necessary for the environment maintenance, well-being promotion and community management.

**Section 17.** Section 9, section 10, section 11 and section 12 shall apply to the Commission *mutatis mutandis*.

**Section 18.** In the performance of duties under this Act, the Central Land Development Commission and the Commission have the power to appoint a sub-committee or any particular person for considering or performing any act as entrusted by the Central Land Development Commission or the Commission, except the acts under section 14 (1) and (2).



The sub-committee and the person appointed by the Central Land Development Commission or the Commission have the same powers and duties as those of the Central Land Development Commission or the Commission in respect of the entrusted act.

**Section 19.** Section 12 shall apply to a meeting of the sub-committee *mutatis mutandis*.

**Section 20.** In the performance of activities under this Act, a member of the Central Land Development Commission, the Commission or the sub-committee and the person appointed under section 18 shall be officials under the Penal Code.

## CHAPTER II

### Application for Land Development

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**Section 21.** No person shall carry out land development unless upon permission by the Commission.

The application for permission and the issuance of a licence shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

**Section 22.** When any person applies for the division of land into at least ten sub-lots upwards and fails to satisfy that such division is not for the purpose of land development, the competent official shall notify the applicant to submit an application for land development and defer the division of the land. If the applicant disagrees therewith, the applicant shall have the right to appeal to the Commission within thirty days as from the date the notification is received.

The Commission shall give a decision on the appeal within forty five days as from the date the Commission receives the appeal. If the Commission fails to give a decision within such period of time, the competent official shall proceed with the division of such land



When the Commission has given a decision on the appeal, the decision shall be notified in writing to the appellant within seven days as from the date of the Commission's decision. The decision of the Commission shall be final.

**Section 23.** Any person who intends to carry out land development shall submit an application to the *Changwad* Land Official or Branch *Changwad* Land Official of the locality in which the land is situated, together with the following supporting documents and particulars:

(1) the land title deed or the certificate of land exploitation bearing the name of the applicant for the land development as the holder of rights in the land, provided that such land must be free from any preferential right other than the preferential right on account of a sale of an immovable property;

(2) in the case where the land to which the application for the land development relates is subject to the preferential right on account of a sale of an immovable property or is encumbered with a mortgage, there shall be produced the memorandum of the preferential right holder's or the mortgagee's consent to the land development specifying the amount of money which the preferential right holder or the mortgagee will receive as payment out of each sub-lot of land; in this instance, there shall also be specified that the land which is to be used for public facilities or for public services shall not be subject to such preferential right or mortgage;

(3) the map displaying the number of the sub-lots of land intended to be developed and the approximate space of each sub-lot;

(4) the project for the improvement of the land intended to be developed, the provision of public facilities and public services, including other improvement suitable to local surroundings; for these purposes, there shall be displayed a map, details and particulars of the construction, an estimate of the construction expenses and the time within which the construction is to be completed. In the case where the improvement of the land intended to be developed has been carried out or where the public facilities or public services have been erected, whether wholly or partly, prior to the application for the land development, the map, details and particulars of the construction already carried out shall also be displayed;

(5) the plan, project and duration for which public facilities are to be maintained;

(6) the procedure for a sale of the developed land and payment of prices or remuneration;

(7) encumbrances in which other persons are interested in relation to the land intended to be developed;

(8) the form of an agreement to sell the developed land;

(9) the place of business of the applicant for a land development licence;

(10) the name of the bank or financial institution designated by the Central Land Development Commission, which will be the guarantor for the provision of public facilities or public services or the improvement of the land and the guarantor for the maintenance of public facilities and public services.

**Section 24.** In the case where the Commission deems it appropriate to permit any person to carry out land development and such person has not yet provided public facilities or public services or carried out the land improvement or has not yet accomplished the same in accordance with the map and project, the Commission shall require the applicant for a land development licence to request a bank or a financial institution designated by the Central Land Development Commission to conclude a guarantee with the Commission to the effect that if the applicant for a land development licence fails to accomplish the provision of public facilities or public services or the land improvement in accordance with the approved map, project and time, or there is a reasonable cause to believe that it cannot be accomplished within the approved time, then, the bank or the financial institution which provides the guarantee shall pay the Commission such amount of money as specified by the Commission in the guarantee within the time fixed by the Commission in order for the Commission to expend such money on the provision of public facilities or public services or the land improvement in accordance with the approved map and project. The residue sum, if any, shall be returned to the guarantor without delay.

The Commission may, in lieu of requiring the guarantor to make payment, request the guarantor to carry out the provision of public facilities or public services or the land improvement and cause it to be completed within the time specified by the Commission. If the guarantor fails to commence the act within the reasonable time or fails to complete it within the specified time, the Commission has the power to demand the guarantor to make the payment under paragraph one.

In the case where the Commission requires the applicant for a land development licence to request the bank or financial institution to conclude a guarantee under paragraph one, the Commission shall also require the applicant to give the Commission a written covenant that if the amount under the guarantee given by the guarantor is not sufficient for the act under paragraph one or if the guarantor fails to make payment under the guarantee wholly or partly, the applicant shall pay the difference to the Commission for the purpose of completing the act.



In the case of a breach of a contract made with the Commission, the Chairman of the Commission shall have the power to institute an action and carry out legal proceedings on behalf of the Commission.

The retention, remittance and disbursement of money shall be in accordance with the Rules prescribed by the Central Land Development Commission.

**Section 25.** The Commission shall complete the consideration of the map, project and procedure for the land development within forty five days as from the date the *Changwad* Land Official or the Branch *Changwad* Land Official receives the application. If the Commission fails to complete its consideration within such time without due reason, it shall be deemed that the Commission has given approval to the map, project or procedure.

The consideration of the map, project or procedure for the land development under paragraph one shall be in accordance with the process, rules and procedure prescribed by the Central Land Development Commission.

**Section 26.** In the case where the Commission does not approve, or issues an order refusing, the application for the land development, the applicant for a land development licence has the right to appeal to the Central Land Development Commission within thirty days as from the date the order is known. The Central Land Development Commission shall give a decision on the appeal within sixty days as from the date of the receipt thereof. If the Central Land Development Commission fails to give a decision within such time, it shall be deemed that the appellant has been given approval or permission to carry out the land development.

The decision of the Central Land Development Commission shall be final.

**Section 27.** The issuance of a land development licence shall be made by the Commission within seven days as from:

(1) the date on which the Commission gives or is deemed to have given approval to the map, project and procedure for the land development under section 25; or

(2) the date on which the decision of the Central Land Development Commission is known in the case where the Central Land Development Commission approves the land development, or the date on which it is deemed that the appellant has been given approval to carry out the land development under section 26.

When the Commission has issued a land development licence to any person, the Commission shall inform the land developer thereof within seven days as from the date of issuance



**Section 28.** When a land development licence has been issued to any person, the Commission shall without delay furnish the licence together with the map, project and procedure approved by the Commission to the competent official of the locality in which the land is situated for the purpose of recording in the title deeds or the certificates of land exploitation, within fifteen days as from the date of receipt of the licence from the Commission, that the land is under development. In this connection, when title deeds or certificates of land exploitation have been allocated for the individual sub-lots of land, such record shall also be made in all the separate title deeds or certificates of land exploitation.

**Section 29.** In advertising a land development project in respect of the particulars specified in section 23, the statements in the advertisement shall also correspond to the indications and details presented in the application.

**Section 30.** In the case where the land under development is subject to a preferential right on account of a sale of an immovable property or is encumbered with a mortgage, the competent official shall, when title deeds or certificates of land exploitation are allocated to the individual sub-lots of land, record such preferential right or mortgage in all the separate title deeds or certificates of land exploitation. For this purpose, there shall also be specified in the register the amount of money which the preferential right holder or mortgagee is entitled to receive out of each sub-lot of land, and it shall be deemed that each sub-lot is subject to the preferential right or the mortgage to the extent of such specified amount.

The land which is for public facilities and the land which is for public services shall be free from the preferential right on account of a sale of immovable property and from the mortgage.

### CHAPTER III

#### Land Development Procedures

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**Section 31.** A land developer shall display the licence, map, project and procedure approved by the Commission in an open and conspicuous place at the office used for the land development.

If the licence is lost or substantially damaged, the land developer shall, within fifteen days as from the date of the knowledge of the loss or damage, submit to the Commission an application for a substitute in accordance with the form prescribed by the Central Land Development Commission.

**Section 32.** If the land developer intends to make amendment or variation of the approved map, project and procedure, the land developer shall submit an application to the *Changwad* Land Official or the Branch *Changwad* Land Official in accordance with the form prescribed by the Central Land Development Commission which shall be accompanied by the map, project or procedure intended to be amended or varied as well as the letters evidencing the consent of the bank or the financial institution, for further submission to the Commission for consideration.

Section 25, section 26, section 27, section 28 and section 30 shall apply *mutatis mutandis* to the consideration of the amendment or variation of the map, project or procedure submitted under paragraph one.

**Section 33.** Upon receipt of a licence, the land developer shall not enter into any juristic act with any person which results in encumbrance to the land which is for public facilities and the land used for public services unless permission in writing is obtained from the Commission, in accordance with the rules and procedure prescribed by the Central Land Development Commission.

Encumbrance to the land other than that which is for public facilities and that which is used for public services shall be in accordance with the rules and procedure prescribed by the Central Land Development Commission.

**Section 34.** An agreement to sell the developed land between the land developer and the purchaser of the developed land shall be in accordance with the form prescribed by the Central Land Development Commission.

Any part of the agreement to sell under paragraph one which is not in the form prescribed by the Central Land Development Commission and not favourable to the purchaser of the developed land shall not be given effect.

**Section 35.** In accepting from the purchaser of the developed land the payment of the price of the land or the payment of the debt under a preferential right on account of a sale of an immovable property or the debt under the mortgage, the recipient shall provide the purchaser of the developed land with a document in writing evidencing such payment signed by the recipient, and it shall be deemed that such document is the proof of payment of the price of the developed land.



**Section 36.** In the registration of rights and juristic acts with regard to a transfer of the developed land to the purchaser of the developed land under an agreement to sell the developed land, the land developer shall transfer the land to the purchaser of the developed land in a manner in which the land is free from a preferential right on account of a sale of an immovable property or from a mortgage thereon.

If the land developer fails to comply with paragraph one, the purchaser of the developed land has the right to pay the debt which is under the preferential right on account of the sale of the immovable property or the debt which is under the mortgage to the preferential right holder or the mortgagee. In this connection, such payment shall be deemed as part of the payment of the price to the land developer.

**Section 37.** When the purchaser of the developed land has made full payment of the price of the land under the agreement to sell, it shall be deemed that such land is discharged from all seizures or attachments. The purchaser of the developed land shall produce the document evidencing such payment together with the instrument evidencing the right in the land for the purpose of registering the rights and juristic acts under the agreement to sell with the competent official. Upon receipt such document and evidence, the competent official shall proceed with the registration of rights and juristic acts in favour of the purchaser of the developed land.

If the developed land under paragraph one is under a registered preferential right on account of a sale of an immovable property or a registered mortgage and there appears proof of full payment of the debt to which the preferential right or the mortgage relates, that land shall be free from the preferential right on account of the sale of the immovable property or from the mortgage thereon, and the competent official shall effect the registration of rights and juristic acts in favour of the purchaser of the developed land.

In the case where the purchaser of the developed land is unable to produce the instrument evidencing the right in the land to the competent official because it is held or possessed by other person, the competent official shall have the power to, upon request by the purchaser of the developed land, summon the instrument evidencing the right in the land from the person holding or possessing it for the purpose of proceeding with the registration of rights and juristic acts in favour of the purchaser of the developed land.

At the expiration of thirty days as from the date the person holding or possessing the instrument evidencing the right in the land receives or is deemed to have received the notification of the order of the competent official under paragraph three, the competent official shall, if the instrument evidencing the right in the land has not yet been delivered to the competent official, have the power to issue a document in substitution for the instrument evidencing the right in the land for the purpose of proceeding with the registration of rights and juristic acts in favour of the purchaser of the developed land.



**Section 38.** If the land developer intends to transfer his or her licence, the land developer shall submit an application to the Commission in accordance with the form prescribed by the Central Land Development Commission.

When the Commission considers that the transfer is not detrimental to purchasers of the developed land and the bank or the financial institution which is the guarantor under section 24 or section 43 paragraph two has given consent thereto, the Commission shall give permission to the transfer of the licence to the transferee.

The fee for the transfer of a licence shall be as prescribed in the Ministerial Regulation.

**Section 39.** When the licence is transferred to the transferee, all rights and duties of the transferor *vis-à-vis* the purchaser of the developed land are transferred to the transferee.

**Section 40.** In the case where the land developer deceases, the administrator of the estate or the heir shall submit to the Commission an application for taking the transfer of the licence in accordance with the form prescribed by the Central Land Development Commission within sixty days as from the date of the land developer's death or within the time extended by the Commission as appropriate. When the Commission has made an inquiry and is satisfied that the applicant has the rights in the developed land, the Commission shall transfer the licence to the applicant, and the Commission shall notify it to the bank or the financial institution and the purchaser of the developed land.

If the land developer who deceases has no administrator of the estate or heir or has the administrator of the estate or the heir but such person does not submit an application to the Commission within the time under paragraph one, the purchaser of the developed land shall pay the price of the land under the agreement to sell at the deposit office and section 24 paragraph one shall apply *mutatis mutandis*.

When the purchaser of the developed land has made full payment of the price of the land under the agreement to sell, section 37 shall apply *mutatis mutandis*.

In the case where the land developer deceases, whether there is the administrator of the estate or the heir who shall be the transferee of the licence or not, it shall be deemed that the bank or the financial institution which is the guarantor under section 24 or section 43 paragraph two shall remain liable under the guarantee



**Section 41.** When an execution is made against the developed land of the land developer, the purchaser of the developed land shall make payment of the price of the land under the agreement to sell by remitting it to the executing officer or the receivership officer, as the case may be, in lieu of making payment to the person specified in the agreement. While the purchaser of the developed land does not commit any breach of the agreement to sell, a sale by auction or the distribution of that developed land shall be deferred except it is the case of a sale by auction of the developed land covering the entire project under paragraph four.

When the purchaser of the developed land has made full payment of the price of the land under the agreement to sell, such developed land shall be discharged from the seizure, attachment or execution and section 37 shall apply *mutatis mutandis* to the registration of rights and juristic acts.

When the registration of rights and juristic acts has been made in favour of the purchaser of the developed land, the competent official shall notify the executing officer or the receivership officer of the registration and the discharge of that land from the seizure, attachment or execution, within seven days as from the date of the registration.

In a sale by auction of the developed land covering the entire project, the purchaser shall take the transfer of the land development licence and shall assume both rights and duties which the land developer has *vis-à-vis* purchasers of the developed land.

**Section 42.** In the case where a juristic person carries out the land development and such juristic person dissolves without having carried out the acts in accordance with the approved map and project or without completing such acts, section 40 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

#### CHAPTER 4

#### THE MAINTENANCE OF PUBLIC FACILITIES AND PUBLIC SERVICES

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**Section 43.** Public facilities provided by the land developer for the purpose of the land development in accordance with the approved map and project, such as the road, park or children playground, shall be subject to the servitude in the interest of the developed land. In this connection, the land developer shall have the duty to maintain such public facilities to be in the original condition and shall refrain from doing any act which tends to diminish the utility of the servitude or to make it less convenient.



The land developer shall request a bank or a financial institution to conclude a guarantee with the Commission with regard to the maintenance of public facilities which have been provided by the land developer and remain within the responsibility of the land developer to maintain under paragraph one, and section 24 shall apply *mutatis mutandis*.

**Section 44.** The land developer shall be discharged from the duty to maintain the public facilities under section 43 when any of the following acts has, in order, been carried out at the expiration of the duration for which the land developer shall assume the responsibility to maintain the public facilities under section 23 (5). viz:

(1) the purchasers of the developed land have established a developed-estate juristic entity under this Act or a juristic person under other law for the purpose of taking the transfer of such property for its operation and maintenance within the time specified by the land developer, which shall not be less than one hundred eighty days as from the date of the receipt of the notification by the land developer;

(2) the land developer has obtained an approval from the Commission to carry out any particular act for the purpose of maintaining the public facilities;

(3) the land developer has registered the transfer of such property to be the property for public use.

The acts under (1) and (2) shall be in accordance with the Rule prescribed by the Central Land Development Commission, provided that such Rule shall also hold the land developer liable for part of the public facilities maintenance expenses.

**Section 45.** In establishing a developed-estate juristic entity, purchasers of developed land of not less than one-half of sub-lots in the map under the project shall pass a resolution for such purpose and shall appoint a representative who shall submit to the *Changwad* Land Official or the Branch *Changwad* Land Official an application for the registration thereof together with the articles of association containing particulars as prescribed in the Ministerial Regulation. For this purpose, the following particulars must, at the minimum, be included:

(1) the name of the developed-estate juristic entity;

(2) the objects;

(3) the place of business;

(4) the stipulations regarding the number of executive members, the election, the term of office, the vacation of office and the meeting of the developed-estate executive committee;



- (5) the stipulations regarding the operation, accounting and finance;
- (6) the stipulations regarding rights and duties of members;
- (7) the stipulations regarding the general meeting.

The application for the establishment, merger, dissolution and management of the developed-estate juristic entity shall be in accordance with the rules and procedures prescribed in the Ministerial Regulation.

**Section 46.** The developed-estate juristic entity which is registered shall be ascribed the status of a juristic person.

The developed-estate juristic entity shall have the developed-estate executive committee for managing its operation in accordance with the law and articles of association applicable to it under the supervision of the general meeting of the members.

The developed-estate executive committee shall be the representative of the developed-estate juristic entity in the acts *vis-à-vis* third persons.

**Section 47.** When the developed-estate juristic entity is established under section 45, all purchasers of the developed land shall be its members.

In the case where there is a sub-lot which has not yet been bought or which is transferred back to the land developer, the land developer shall be the member of the developed-estate juristic entity.

**Section 48.** In the interest of purchasers of the developed land, the developed-estate juristic entity shall have the powers and duties as follows:

- (1) to prescribe the regulation with regard to the use of public facilities;
- (2) to prescribe the regulation with regard to the habitation and traffic within the developed land;
- (3) to levy from members fee for the maintenance and management of public facilities which are within the developed-estate juristic entity's duty to maintain;
- (4) to lodge a complaint or to institute an action on behalf of members in the case where it involves the rights or interest of at least ten members;
- (5) to provide public services for the welfare of members or to allocate money or property for public interest;

(6) to carry out any other act in the implementation of the Ministerial Regulations, Rules of the Central Land Development Commission or regulations of the Commission issued by virtue of this Act.

The acts under (1), (2) and (5) must be approved by a resolution of the general meeting of members.

**Section 49.** The fee for the maintenance and management of public facilities shall be levied on a monthly basis from every sub-lot of land under the project. For this purpose, different rates of fee may be fixed by reference to the type of use of land or the space, in accordance with the Rule prescribed by the Central Land Development Commission.

The purchaser of the developed land shall be liable to pay the fee for the maintenance and management of public facilities in respect of the developed land bought, and the land developer shall be liable to pay the fee incurred in the maintenance and management of public facilities in respect of the sub-lots not yet bought.

The prescription and variation of the rate of fee for the maintenance and management of public facilities shall be approved by a resolution of the general meeting of members under section 44 (1) or the Commission under section 44 (2).

The levy of the fee for the maintenance and management of public facilities shall commence upon the establishment of the juristic entity and juristic person under section 44 (1) or upon obtaining the approval from the Commission under section 44 (2). For this purpose, the juristic entity or juristic person under section 44 (1) or the person carrying out the maintenance of public facilities as approved by the Commission under section 44 (2), that has the duty in connection with the maintenance and management of public facilities, shall have the power to levy it.

The rules and procedure for the levy of the fee for the maintenance and management of public facilities and the book-keeping shall be in accordance with the Rules prescribed by the Central Land Development Commission.

**Section 50.** The person liable to pay the fee for the maintenance and management of public facilities under section 49 paragraph two who makes such payment later than the specified time shall be liable to a fine for the late payment at the rate prescribed by the Commission.



The person who fails to pay the fee for the maintenance and management of public facilities for three consecutive months upwards may have the service or the exercise of right in the public facilities suspended, and in the case of failure to make payment for six consecutive months upwards, the competent official has the power to suspend the registration of rights and juristic acts in respect of the developed land of the person whose payment is in arrears until full payment is made, in accordance with the rules and procedure prescribed by the Commission.

It shall be deemed that the obligation arising from the fee for the maintenance and management of public facilities is the obligation which is subject to the preferential right on account of the preservation of an immovable property over the developed land of the person whose payment is in arrears.

**Section 51.** The registration of rights and juristic acts in connection with the transfer of the property used for public facilities and public services to the juristic entity or juristic person under section 44 (1) shall be exempted from fees, taxes and duties.

The money which the juristic entity or juristic person under section 44 (1) receives from the land developer or purchasers of the developed land for the purpose of expending on the maintenance and management of public facilities shall be exempted from taxes and duties.

The exemption from taxes and duties under paragraph one and paragraph two shall be made by the Royal Decree under the Revenue Code which may also prescribe rules, procedure and conditions.

**Section 52.** In the case where the land developer does any act which tends to diminish the utility of the servitude under section 43 or make it less convenient, or does any particular act in derogation from the map, project or procedure for the land development as approved by the Commission, the Commission, sub-committee or the person entrusted by the Commission shall have the power to order the land developer to refrain from such act and maintain the public facilities to be in the original condition or to carry out the act in accordance with the map, project or procedure for the land development as approved by the Commission within the specified time.

**Section 53.** The provisions of section 50 shall apply *mutatis mutandis* to the provision and maintenance of public services, provided that the charge for the use, and the charge for the maintenance, of public services may be levied at the rates approved by the Commission.

**CHAPTER V**  
**THE CANCELLATION OF THE LAND DEVELOPMENT**

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**Section 54.** In the case where the land developer intends to cancel the land development, the land developer shall submit an application to the *Changwad* Land Official or the Branch *Changwad* Land Official in the locality in which that land is situated.

The application for the cancellation of the land development shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

**Section 55.** The *Changwad* Land Official or the Branch *Changwad* Land Official shall post the application for the cancellation of the land development in a conspicuous place at the *Changwad* Land Office or the Branch Land Office, the Office of the land developer, the site of the land to be developed, the *Amphoe* Office and the Office of the *Tambon* Administrative Organisation for the period of sixty days. The land developer shall also publish it in a newspaper widely circulated in that locality for not less than seven days and notify it in writing to purchasers of the developed land.

**Section 56.** The person who has interest incidental to the land development and intends to raise an objection to the application for the cancellation of the land development shall submit an objection to the *Changwad* Land Official or the Branch *Changwad* Land Official within thirty days as from the expiration of the time within which the posture under section 55 is to be made.

If no person raises an objection within the time under paragraph one, the *Changwad* Land Official or the Branch *Changwad* Land Official shall refer the matter to the Commission for the purpose of issuing an order cancelling the land development.

In the case where a purchaser of the developed land raises an objection, the *Changwad* Land Official or the Branch *Changwad* Land Official shall cancel the application for the cancellation of the land development. But, if there is an objection by a person who is not a purchaser of the developed land, the *Changwad* Land Official or the Branch *Changwad* Land Official shall refer the application for the cancellation of the land development and the objection to the Commission for consideration.

The land developer or the person making an objection may appeal against the decision of the Commission under paragraph three to the Central Land Development Commission within thirty days as from the date the notification of the decision is received.



**Section 57.** When the Commission issues an order of cancellation of the land development, the licence issued under section 27 shall be cancelled accordingly.

## CHAPTER VI

### PENALTIES

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**Section 58.** Any land developer or any interested person who fails to give statements or fails to furnish the documents as summoned or ordered by the Central Land Development Commission or the Commission under section 15, or any land developer or possessor of the developed land who fails to render convenience to the Central Land Development Commission, the Commission, the sub-committee or the person appointed by the Central Land Development Commission for the performance of the act under section 18 shall be liable for a fine not exceeding ten thousand Baht.

**Section 59.** Any person who violates section 21 shall be liable to imprisonment for a term not exceeding two years and to a fine from forty thousand to one hundred thousand Baht.

**Section 60.** Any person who gives statements or presents evidence or particulars under section 23 (7) which are false or conceals the truth which should have been revealed shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

**Section 61.** Any person who advertises a land development project in violation of section 29 shall be liable to a fine from fifty thousand to one hundred thousand Baht.

**Section 62.** Any land developer who fails to comply with section 31 shall be liable to a fine not exceeding ten thousand Baht.

**Section 63.** Any land developer who violates section 34 shall be liable to a fine not exceeding five thousand Baht.

**Section 64.** An person who violates section 35 shall be liable to a fine not exceeding five thousand Baht.

**Section 65.** Any person who violates the order of the Commission, the sub-committee or the person entrusted by the Commission under section 52 shall, in addition to the duty to comply with such order, be liable to a daily fine at the rate of one thousand Baht per day throughout the continuance of the violation.

**Section 66.** In the case where the person committing an offence punishable under this Act is a juristic person, then, the director or manager of the juristic person and any person having the responsibility in the operation of such juristic person shall also be liable to the penalty provided for such offence unless it is proved that he or she has no part in the commission of such offence.

### Transitory Provisions

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**Section 67.** All Ministerial Regulations and stipulations issued under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 (1972) shall continue to be in force insofar as they are not contrary to or inconsistent with the provisions of this Act until Ministerial Regulations and stipulations are issued under this Act.

**Section 68.** The Land Development Control Commission under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 shall perform the duty of the Central Land Development Commission and that of the Bangkok Land Development Commission until the Central Land Development Commission and the Bangkok Land Development Commission are appointed under this Act.

The provincial sub-committee on the land development control under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 shall perform the duty of the Provincial Land Development Commission until the Provincial Land Development Commission is appointed under this Act.

**Section 69.** Any licence granted, or the granting of any licence made, under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 which remains valid and effective on the date this Act comes into force shall be deemed the licence or the granting of the licence under this Act.

**Section 70.** Section 45, section 46, section 47, section 48, section 49, section 50, section 51 and section 52 shall apply *mutatis mutandis* to the land development under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 in respect of the maintenance of public facilities.



Section 53 shall apply *mutatis mutandis* to the land development under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 in respect of the maintenance of public services.

Section 44 shall apply *mutatis mutandis* to the discharge of the responsibility in the maintenance of public facilities of the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24 November B.E. 2515 or the transferee of the ownership of the land which is for public facilities.

In the case where the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 or the transferee of the ownership of the land which is for public facilities fails to perform the duty in connection with the maintenance of public facilities, the purchasers of the developed land of not less than one-half of the sub-lots of land shown in the map under project may submit an application to the *Changwad* Land Official or the Branch *Changwad* Land Official for the purpose of establishing a developed-estate juristic entity.

Upon receipt of the application for the establishment of the developed-estate juristic entity, the *Changwad* Land Official or the Branch *Changwad* Land Official shall post it in a conspicuous place at the Land Office, *Khet* Office, *Amphoe* Office, *King-Amphoe* Office, *Khwaeng* Office or *Kamnan* Office of the locality in which the land is situated and on the site of the developed land for thirty days and notify it in writing to the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 or the transferee of the ownership of the land which is for public facilities at the address given to the competent official.

When the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 or the transferee of the ownership of the land which is for public facilities raises an objection to the establishment of the developed-estate juristic entity, the *Changwad* Land Official or the Branch *Changwad* Land Official shall refer the matter to the Commission for consideration. If the Commission has considered it and is of the opinion that the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 or the transferee of the ownership of the land which is for public facilities has not actually performed the duty in connection with the maintenance of public facilities, the provisions of section 43 paragraph two shall apply *mutatis mutandis*. If the Commission is of the opinion that the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 or the transferee of the ownership of the land which is for public facilities has performed the duty in connection with the maintenance of public facilities, the proceeding for the registration of the developed-estate juristic entity shall be cancelled.

In the case where the licensee or the transferee of a licence under the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515 or the transferee of the ownership of the land which is for public facilities does not raise an objection or fails to comply with the resolution of the Commission under paragraph six, the *Changwad* Land Official or the Branch *Changwad* Land Official shall effect the registration of the developed-estate juristic entity and shall have the power to effect the registration of a transfer of the property which is for public facilities to the developed-estate juristic entity.

**Section 71.** While the Central Land Development Commission has not yet prescribed the standard form for the agreement under section 8 (4), the provisions of section 34 and section 63 shall not apply.

**Section 72.** All the applications and the issuance or transfer of the land development licence which are pending the consideration of the Land Development Control Commission or the sub-committee on the date this Act comes into force shall be proceeded with in accordance with this Act, except that the appeal shall be proceeded with in accordance with the Announcement of the National Executive Council No. 286 dated 24<sup>th</sup> November B.E. 2515.

Countersigned by:

Chuan Leekpai

Prime Minister



### Rates of Fees

- |   |                         |
|---|-------------------------|
| (1) A Land Development Licence                            | 500 Baht per <i>rai</i> |
| A fragment of <i>rai</i> shall be taken as one <i>rai</i> |                         |
| (2) A Transfer of a Land Development Licence              | 5,000 Baht each         |

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**Remark:** The reason for the promulgation of this Act is as follows. As the Announcement of the National Executive Council No. 286, dated 24<sup>th</sup> November B.E. 2515 (1972), as the law on land development control, had been in force for a long period of time with several inappropriate principles and details being contained therein, it is expedient to revise it with a view to formulating measures for the protection of purchasers of developed land, in particular, with respect to the acquisition of rights in the developed land and the requirement that there be a particular person who shall assume the responsibility in the maintenance of public facilities and public services. In addition, in the interest of flexibility in the operation of the land development business, the powers to grant permission and exercise the supervision of land development should be decentralised to a provincial level. The exact time-limit for the consideration as to whether to grant permission should also be prescribed. It is, therefore, necessary that this Act be enacted.