

Enhancing Procedures for Land Use Applications and Registration for Investors in Can Tho City

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Key words: Land management

SUMMARY

Since the enforcement of the 2003 Law on Land in Vietnam providing detailed regulations on the implementation of the 2003 Law on Land, the processing of land use applications has been much improved. The processing time has been reduced and the checklist of required documents have been transparent and simplified, which has benefited the enterprises greatly in their implementing the essential land use procedures. Especially, since the appearance of the administration reform promulgated by the Government and the single ‘window’ one-stop-shop model (OSS), many administrative procedures have been processed and solved in a quicker and simpler way thanks to the establishment of OSS model at many departments including the Department of Natural Resources and Environment (DNRE).

Despite certain improvements, there have been several limitations in administrative procedures for the enterprises. Some state departments have applied OSS division; however, the investors still have to work separately with many various state departments while applying for enterprise establishment such as applying for investment license at the DPI, construction license at the Department of Construction (DC), land assignment, land allocation or land lease at the DNRE. These procedures mostly follow a sequential process, which is time consuming and most enterprises have to wait for a long time before they start their business and production. The consequences are the loss of investment chances and profits. In this paper, new procedures for land applications and registration in a new OSS were proposed in Can Tho City with three main objectives. Firstly, this aims to simplify and shorten the time to process land use applications in order to optimize the conveniences for enterprises. Secondly, a more transparent procedure for land use application based on a publicity of all the processing steps was created. Finally, the cooperation among relevant state departments was strengthened to create a parallel processing in land use procedures via OSS division so as to help the enterprises conduct their business and production in the earliest time.

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1. BACKGROUND

Since the enforcement of the 2003 Law on Land and Decree 181/2004/NĐ-CP of the Government of the Socialist Republic of Vietnam providing detailed regulations on the implementation of the 2003 Law on Land, the processing of land use applications has been much improved. The processing time has been reduced and the checklist of required documents have been transparent and simplified, which has benefited the enterprises greatly in their implementing the essential land use procedures. Especially, since the appearance of the administration reform promulgated by the Government and the single ‘window’ one-stop-shop model (OSS), many administrative procedures have been processed and solved in a quicker and simpler way thanks to the establishment of OSS model at many departments including the Department of Natural Resources and Environment (DNRE).

To effectively implement the governmental policies mentioned above, the People’s Committee of Can Tho City (Can Tho City PC) promulgated Decision No.71/2006/QĐ-UBND dated on October 03, 2006 on the cooperation scheme within relevant state departments in processing related tasks and documents. Basing on this Decision, inter-department OSS has been implemented effectively in Can Tho City so as to reduce inconveniences for the local people in general and for the enterprises in particular. OSS in granting an investment license to investors in the Department of Planning and Investment (DPI) of Can Tho City is a typical example that should be applied in other sectors and departments.

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2. PROPOSED SOLUTIONS

2.1 Objectives

The project “The enhancement of the procedures for the processing of land use applications” has three major objectives:

- To simplify and shorten the time to process land use applications in order to optimize the conveniences for enterprises.
- To create a transparent procedure for land use based on a publicity of all the processing steps and the templates of the application documents on the Internet and in the offices of the state departments which are relevant to the land procedures.
- To implement cooperation among relevant state departments to create a parallel processing in land use procedures via OSS division so as to help the enterprises conduct their business and production in the earliest time.

2.2 Proposed solutions for enhancing the procedures

In order to achieve the above objectives, according to international experts, the project ‘The enhancement of the procedures for the processing of land use applications’ has been formed based on four (04) proposed solutions to enhance the procedures as follows:

- First, to create OSS division where all procedures will be processed. There should be enough OSS staff to meet the requirement of receiving and examining the enterprise’s file. The newly established OSS Division to Receive Documents and Deliver Results (new OSS) is the one that provides providing direct support to the enterprise with all related procedures, particularly those of land use ones, during the whole process. In the new OSS, each application form will be numbered by a code and considered by an OSS official. This OSS official plays the role of “account manager” and responsible for the processing of application form for the investors. Whole the process is monitored and overviewed by the manager of the OSS who is mainly responsible.
- Second, to implement ‘parallel processing’ among state departments. (This method will reduce unnecessary time waiting for the results in the sequential process). The investors can both apply for investment certificate and implement the procedures of land use, planning, construction so that as soon as the investment certificates are granted and their planning approved, they can immediately finish the land use procedure.
- Third, to implement ‘periodical conferences’ among relevant state departments to process the investors’ documents. At these conferences, the results of investigation and assessment by various departments will be reported and agreed on site, which is the background for the permit of investment project.

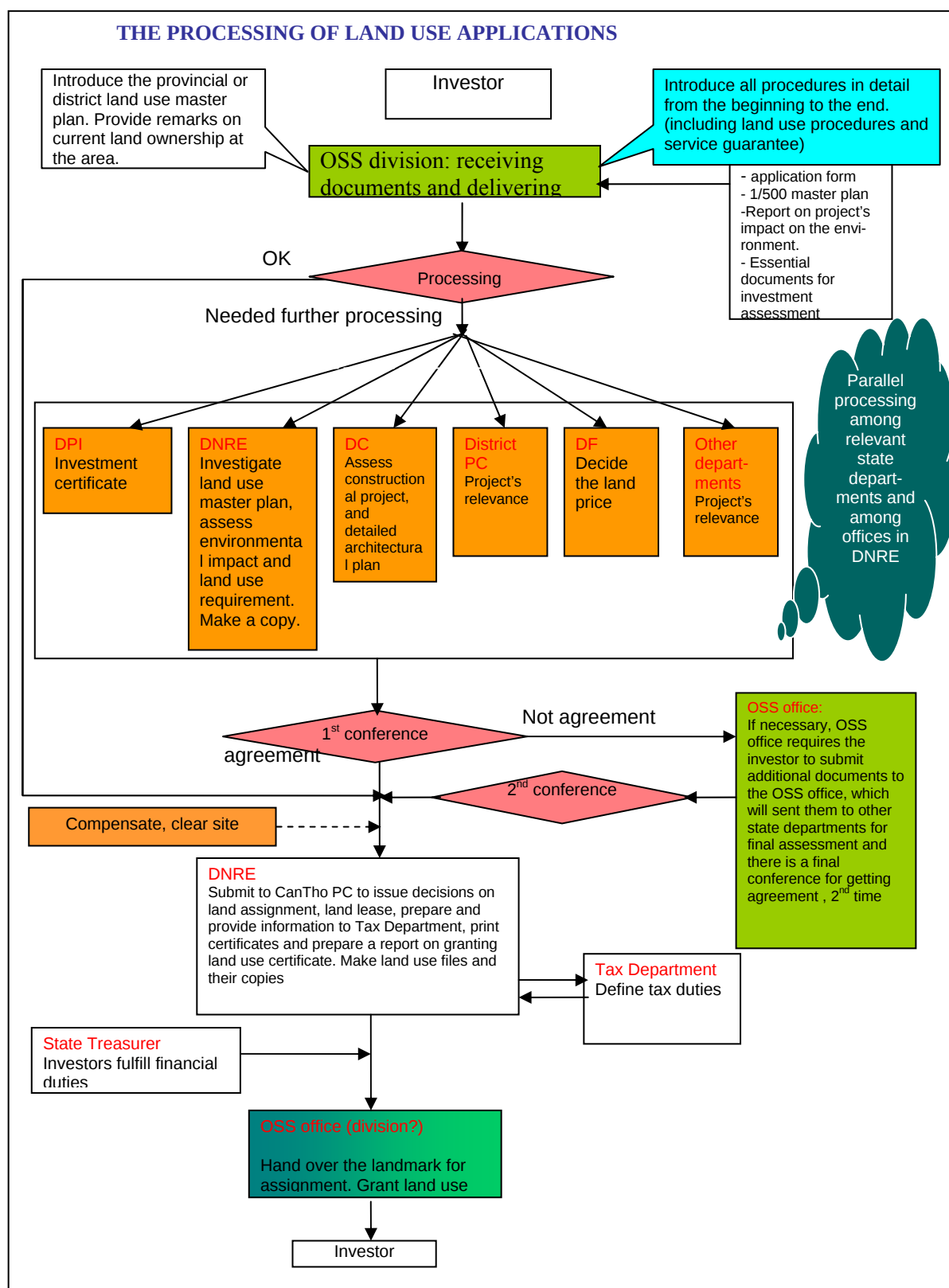
- Fourth, to provide ‘a checklist of essential procedures’ to each relevant state department for parallel processing. Based on this checklist, each relevant state department will be responsible for definite tasks and clearly determine ways to process the document in close cooperation with other departments.

2.3 General model

Based on above proposed solutions to enhance administrative procedures such as to establish ‘OSS’, to implement ‘parallel processing’ all procedures, to approve investment projects via ‘periodical conferences’ and to follow ‘the checklist of essential procedures’, the project team has proposed a processing model as follows:

In the above process, when the investor wishes to conduct an investment project in Can Tho City, he/she has to implement the following procedures:

Step 1: The enterprise contacts ‘the Division of receiving documents and delivering Results’ to get instructions on procedures for investment registration, land assignment or land lease. This division is responsible for acknowledging the investor’s needs, providing the process of essential procedures. It also provides information on all fees they have to pay for the business registration. They are compulsory expenses and other procedures including master plan, architecture, land use, financial duties etc.



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Step 2: After obtaining the investment agreement in which the location of the project is approved, Enterprises apply for land assignment or land lease at the Division to Receive Documents and Deliver Results within DRRE. This division will receive the documents after checking that they have enough documents required in the checklist. During the investment agreement process, the state department such as the DC, DPI (Or the other organization appointed by the People committee according to the Decesion 5020/UBND), Department of Finance (DF), DNRE and the other state departments were all basically agreed to assign, to lease to the investor or to allow the investor to change the type of land use. Therefore, after receiveing the application documents, if the DNRE evaluates that the investor is eligible to be provided, or leased or to be allow to change the land use type, the procedure will jumb to *Step 5*. In case the leaders of DNRE evaluate that it is necessary to have more processing, the procedure will continue to *Step 3*, *Step 4*. Then, this division will send the documents to relevant state departments for assessing their completion within 03 days, and inform the investors of additional documents they need to submit (if necessary).

Step 3: After the investors submit enough documents, the Division to Receive Documents and Deliver Results will send them to relevant state departments for assessment in the parallel processing model. They are required to finish assessment in allocated time.

Step 4: Hold the first conference to ratify land assignment or land lease for the enterprise. Relevant state departments report the results of their assessment and grant certificates.

If the results show that all documents are complete and meet all requirements, go to *Step 5*.

In contrast, if the results show that the documents need some changes or completion, the Division to Receive Documents and Deliver Results will inform the investors about additional documents to submit or investment option to change before the second conference (05 days at most after the investors provide additional documents). Then, go to *Step 4.b*.

Step 4.b: In “ periodical conference”, relevant state departments will reassess the document for the second time. If the results show that the projects does not meet the requirements for land assignment or land lease, the Division to Receive Documents and Deliver Results will return the documents to the investors and

inform them the results. If all results show that the documents are satisfactory, go to *Step 5*.

Step 5: DNRE prepares the report on land assignment, land lease application (in the case of clean land) and drafts the decision on land assignment, land lease; prints land use right certificate to submit Can Tho City PC for review. After the enterprises fulfill their financial duties, DNRE and the Division to Receive Documents and Deliver Results will grant land use right certificates and the site to the investors. Recently, the Prime Minister of Vietnam has issued Decision 216/2005/QĐ-TTg dated 31st August 2005 to indicate that all the clean land must be sold in auction. The decision on what kind of project land must be sold in auction and the establishment of the procurement committee are implemented by the Department of Finance.

In the case which requires to clear the site and compensate, the Division to Receive Documents and Deliver Results will contact relevant state departments to assign their staff to support the investors by providing land use documents of the proposed area, making compensation plan, and establishing a council for compensation.

2.4 Implementation plan

The detailed procedure for land use application from the time the investors start their contact with DPI to apply for investment permit to the time they receive the land use right certificates is divided into two stages.

The first stage is time for contact in order to examine the enterprises' needs, introduce the order of the procedure and necessary information. At the present, DPI (or the other departments stipulated as in the Decision 5025/UBND-QH) has the primary responsibility in assessing the investment capacity and consulting Can Tho City PC to review the investment projects. In order to hasten the processing of land use procedures in the future, the enterprises should be given detailed instructions on the whole procedure and on how to prepare essential documents such as preparing 1/500 plan, reporting the project's impact on the environment etc. and choosing investment location, and having Can Tho City PC's approval to the project. In this stage, the primary responsible department must inform the investor to contact with the Division to Receive Documents and Deliver Results therefore the investor will be instructed about the land procedures and document preparation

The second stage is since the project is reviewed and approved by Can Tho City PC to the time the investors receive the land use right certificates. This is the stage when the new processing of land use procedures is applied. DNRE is the state department assuming the primary responsibility in this stage and land use procedures are processed in parallel.

First stage: Reviewing the investment policies including the agreement on investment site

At this stage, the agreement for the investment project which includes the agreement on the location of the investment project. The resulted documents of this stage is an agreement

document shows that the investment project basically approved by the local government. This document is the necessary condition for the application for land assignment, land leasing or land use purpose changing. At present, depending on the types of projects, various state bodies follow the instruction of Document No. 5025/UBND-QH dated 11/12/2006. In order to achieve the synchronous processing of the land use procedure for the investors, this project team has consulted the project on implementing administrative procedures for investors by DPI.

Second stage: Procedures for land assignment, land leasing and land use type changing.

The state department who has main responsibility is DNRE. According the latest regulations, the procedures such as: environment impact assessment, investors competence assessment are processed in the first stage (investment agreement). The legal background documents for creating the procedures on

- Land Law 2003
- Decree 181/2004/NĐ-CP for detail instruction of Land Law
- Decree 84/2007/NĐ-CP supplement instruction the the land procedure
- Decision 216/2005/QĐ-TTg of the Prime Minister for procurement of land use right
- Decree 142/2005/NĐ-CP on the land leasing fees for the earth and water surface
- Joint Circular 01/2005/TT-BTNMT for instruction of the Decree 181/2004/NĐ-CP

Based on the general model designed above, several new procedures were developed for the land acquisitions such as: Land assignment, land lease in case of ‘clean’ land, Land assignment, land lease in case of compensation and site clearance, and transferring land use purposes

The procedure will take 23 days from the application documents completion date to the land use certificate granting date (land compensation and tax fulfilment time are not counted) if it is not necessary to have a second conference (the time for land use right auction and the time for investor to implement financial duties are not calculated). If the conferences are not necessary, the duration of the procedures reduces to 16 days. If the second conference is needed, the procedure will take 33 days (the time for land use right auction and the time for investor to implement financial duties are not calculated). Comparing with time limitation of the procedure promulgated by the Decision 71/2006/QĐ-UBND, the procedure are simplified by using parallel processing in the Step 4, the peoriodical conference and the merging of the land assignment, land leasing decision and land use certificate granting. Furthermore, the time limitation and the check list for application documents are clearly and transparently promulgated to make it easier for the investors.

3. SUGGESTIONS

This designed model is expected to be applied in the early of 2009, however, the change in the People’s Committee Board of the City and leaders of DONRE have delayed the starting of up to now. To effectively implement the model, the project team and Vietnamese and foreign experts suggest that:

1. Strong and throughout leadership is vital factor for success of this kind of the project. This is very important to win the inertia of the old mechanism and force the whole system moving forward.

2. In this project, there should be a close cooperation between DNRE and other relevant state departments such as DC, DPI, Department of Internal affairs etc.
3. For the project to be successful, it is suggested that Can Tho City PC support this project and VPSSP sponsor the computerization of the procedure in terms of management, implementation, supervision of the management. The procedure should be done thanks to the professional software and intranet. The transfer of documents, and communication between the investors and relevant state departments can be conducted via emails in order to reduce time for transferring documents.
4. To ensure for the success of this administrative reform project, it is necessary for the Can Tho PC to support for a policy to computerise the proposed land use procedures. These procedures will be managed, monitored and implemented with the support of the computer software and computer the network environment. The transferring of documents between the state departments can be implemented based on email so the time for processing will be reduced.

REFERENCES

2003 Land Law and Instruction documents, Labor and Social Publishing House, Hanoi, 2009.

Decree 181/NĐ-CP of Vietnamese Government on 2003 Land Law enforcement, Ministry of Justice Website, Ministry of Natural Resources and Environment.

Decision No.71/2006/QĐ-UBND dated on October 03, 2006 on the cooperation scheme within relevant state departments in processing related tasks and documents.

Decree 84/2007/NĐ-CP supplement instruction the the land procedure

Decision 216/2005/QĐ-TTg of the Prime Minister for procurement of land use right

Decree 142/2005/NĐ-CP on the land leasing fees for the earth and water surface

Joint Circular 01/2005/TT-BTNMT for instruction of the Decree 181/2004/NĐ-CP

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