

【Statute Title】 Measures for the Investigation and Handling of Disputes over Land Title
[Effective]

【法规标题】 土地权属争议调查处理办法 [现行有效]

Promulgation date: 11-30-2010

Effective date: 03-01-2003

Department: Ministry of Land and Resources

Subject: Land

发布日期: 2010-11-30

生效日期: 2003-03-01

发布部门: 国土资源部

类别: 土地

Measures for the Investigation and Handling of Disputes over Land Title

(Order No.17 of the Ministry of Land and Resources of the People's Republic of China, issued on January 3, 2003, and amended on November 30, 2010 according to the Decision of the Ministry of Land and Resources on Amending Some Regulations)

土地权属争议调查处理办法

(2003年1月3日中华人民共和国国土资源部令第17号公布 根据2010年11月30日《国土资源部关于修改部分规章的决定》修正)

Article 1 To do a good job in the investigation and handling of disputes over land title in a legal, impartial and timely manner, protect the legitimate rights and interests of the parties concerned, and safeguard the socialist public ownership of land, these Measures are formulated in accordance with the Land Administration Law of the People's Republic of China.

第一条 为依法、公正、及时地做好土地权属争议的调查处理工作,保护当事人的合法权益,维护土地的社会主义公有制,根据《中华人民共和国土地管理法》,制定本办法。

Article 2 The term "disputes over land title" as mentioned in these Measures shall refer to disputes over land title or use right.

第二条 本办法所称土地权属争议,是指土地所有权或者使用权归属争议。

Article 3 Disputes over land title shall be investigated and handled according to the laws, regulations and the rules on land administration, and under the principle of starting from the actualities, respecting history and facing reality.

第三条 调查处理土地权属争议,应当以法律、法规和土地管理规章为依据。从实际出发,尊重历史,面对现实。

Article 4 The land and resources administrative department at or above the county level shall be responsible for investigating and mediating the cases on disputes over land title (hereinafter referred to "dispute"); and if a handling decision shall be made according to law, draft handling

opinions, and submit them to the people's government at the same level for decision. The land and resources administrative department at or above the county level may designate a special department or personnel to be responsible for handling the relevant matters on a dispute.

第四条 县级以上国土资源行政主管部门负责土地权属争议案件(以下简称争议案件)的调查和调解工作;对需要依法作出处理决定的,拟定处理意见,报同级人民政府作出处理决定。

县级以上国土资源行政主管部门可以指定专门机构或者人员负责办理争议案件有关事宜。

Article 5 A dispute among individuals, between individuals and entities, or among entities shall be investigated and handled by the land and resources administrative department at the county level in the place where the land involved in the dispute is located.

The term "a dispute among individuals or between individuals and entities" as mentioned in the preceding paragraph may be accepted and handled by the people's government at the township level upon the request of either party.

第五条 个人之间、个人与单位之间、单位与单位之间发生的争议案件,由争议土地所在地的县级国土资源行政主管部门调查处理。

前款规定的个人之间、个人与单位之间发生的争议案件,可以根据当事人的申请,由乡级人民政府受理和处理。

Article 6 The land and resources administrative department of a districted city or autonomous prefecture shall investigate and handle the following disputes:

1. disputes involving two or more administrative regions at the county level; and
2. cases assigned by the people's government at the same level or the land and resources administrative department at a higher level, or transferred by another department.

第六条 设区的市、自治州国土资源行政主管部门调查处理下列争议案件:

- (一)跨县级行政区域的;
- (二)同级人民政府、上级国土资源行政主管部门交办或者有关部门转送的。

Article 7 The land and resources administrative department of a province, autonomous region or municipality directly under the Central Government shall investigate and handle the following disputes:

1. disputes involving two or more administrative districts of a city or autonomous prefecture;
2. a dispute to which a party is a central state organ or any entity directly under the administration thereof, and which involves a relatively large tract of land;
3. a dispute to which a party is an army unit, and which involves a relatively large tract of land;
4. disputes which have a big impact in its administrative region; and
5. cases assigned by the people's government at the same level or the Ministry of Land and Resources, or transferred by another department.

第七条 省、自治区、直辖市国土资源行政主管部门调查处理下列争议案件:

- (一)跨设区的市、自治州行政区域的;
- (二)争议一方为中央国家机关或者其直属单位,且涉及土地面积较大的;
- (三)争议一方为军队,且涉及土地面积较大的;

- (四)在本行政区域内有较大影响的;
- (五)同级人民政府、国土资源部交办或者有关部门转送的。

Article 8 The Ministry of Land and Resources shall investigate and handle the following disputes:

1. cases assigned by the State Council; and
2. cases which have a significant impact across the nation.

第八条 国土资源部调查处理下列争议案件:

- (一)国务院交办的;
- (二)在全国范围内有重大影响的。

Article 9 Where the parties concerned fail to settle a dispute over land title through consultation, they may file an application for resolution with the people's government at or above county level or the people's government at the township level according to law, or file an application for investigation and settlement with the relevant land and resources administrative department according to Articles 5, 6, 7 and 8 of these Measures.

第九条 当事人发生土地权属争议,经协商不能解决的,可以依法向县级以上人民政府或者乡级人民政府提出处理申请,也可以依照本办法第五、六、七、八条的规定,向有关的国土资源行政主管部门提出调查处理申请。

Article 10 The following conditions shall be met for an application for investigating and settling a dispute over land title:

1. The applicant is a party of direct interest in the land involved in the dispute; and
2. There is a specific counterparty, specific claims, and a factual basis.

第十条 申请调查处理土地权属争议的,应当符合下列条件:

- (一)申请人与争议的土地有直接利害关系;
- (二)有明确的请求处理对象、具体的处理请求和事实根据。

Article 11 To apply for investigating and settling a dispute over land title, the party concerned shall submit a written application form and the relevant evidentiary materials, and submit as many duplicates thereof as the number of respondents.

The application form shall state the following:

1. the name or title, domicile, and postal code of the applicant and the respondent, as well as the name and position of their legal representatives;
2. specific claims, facts and reasons; and
3. the name, entity, domicile and postal code of the witnesses.

第十一条 当事人申请调查处理土地权属争议,应当提交书面申请书和有关证据材料,并按照被申请人数量提交副本。

申请书应当载明以下事项:

- (一)申请人和被申请人的姓名或者名称、地址、邮政编码、法定代表人姓名和职务;
- (二)请求的事项、事实和理由;
- (三)证人的姓名、工作单位、住址、邮政编码。

Article 12 A party concerned may authorize an agent to apply for the investigation and settling a dispute over land title on its/his behalf. Where it/he files an application through an agent, it/he

shall submit a power of attorney, which shall specify the commitment and the extent of authorization.

第十二条 当事人可以委托代理人代为申请土地权属争议的调查处理。委托代理人申请的，应当提交授权委托书。授权委托书应当写明委托事项和权限。

Article 13 An application filed by an applicant for investigating and settling a dispute over land title shall be examined by the land and resources administrative department according to Article 10 of these Measures, which shall give its opinions on whether to accept the application or not within seven workdays after receiving the application form.

Where the department holds that the application shall be accepted, it shall send a duplicate of the application form to the respondent within five workdays after making the decision on acceptance. The respondent shall submit its/his defense and the relevant evidentiary materials within 30 days after receiving the duplicate of the application form. The respondent's failure to submit a defense within the prescribed time limit shall not affect the handling of the case.

Where the department holds that the application shall not be accepted, it shall timely draft a proposal of non-acceptance, and submit it to the people's government at the same level to make a decision on non-acceptance.

The party concerned may apply for administrative reconsideration or file an administrative lawsuit against the non-acceptance decision according to law.

The dispute cases assigned by the people's government at the same level or the land and resources administrative department at a higher level or transferred by the relevant department shall be examined and handled according to the relevant provisions of this Article.

第十三条 对申请人提出的土地权属争议调查处理的申请，国土资源行政主管部门应当依照本办法第十条的规定进行审查，并在收到申请书之日起 7 个工作日内提出是否受理的意见。

认为应当受理的，在决定受理之日起 5 个工作日内将申请书副本发送被申请人。被申请人应当在接到申请书副本之日起 30 日内提交答辩书和有关证据材料。逾期不提交答辩书的，不影响案件的处理。

认为不应当受理的，应当及时拟定不予受理建议书，报同级人民政府作出不予受理决定。当事人对不予受理决定不服的，可以依法申请行政复议或者提起行政诉讼。

同级人民政府、上级国土资源行政主管部门交办或者有关部门转办的争议案件，按照本条有关规定审查处理。

Article 14 The following cases shall not be accepted:

1. cases involving land-related torts;
2. disputes over the boundary of administrative regions;
3. land-related illegal cases;
4. disputes over the right to contracted management of rural land; and
5. other cases not regarded as disputes over land title.

第十四条 下列案件不作为争议案件受理：

- (一)土地侵权案件；
- (二)行政区域边界争议案件；
- (三)土地违法案件；
- (四)农村土地承包经营权争议案件；

(五)其他不作为土地权属争议的案件。

Article 15 The land and resources administrative department shall, after deciding to accept a case, timely designate someone to find out the facts of disputes between the parties concerned.

第十五条 国土资源行政主管部门决定受理后，应当及时指定承办人，对当事人争议的事实情况进行调查。

Article 16 Where the person handling the disputes is a party that has an interest in the dispute, he shall apply for withdrawal; and if any party concerned deems that the person handling the disputes has an interest in the dispute, he shall be entitled to request such person to withdraw. The withdrawal of the person handling the dispute shall be decided by the land and resources administrative department which accepts the case.

第十六条 承办人与争议案件有利害关系的，应当申请回避；当事人认为承办人与争议案件有利害关系的，有权请求该承办人回避。承办人是否回避，由受理案件的国土资源行政主管部门决定。

Article 17 The person handling the case may, in the course of investigating into the dispute over land title, investigate and take evidence from any of the relevant entities or individuals. The entities or individuals under investigation shall provide assistance and faithfully provide the relevant certification materials.

第十七条 承办人在调查处理土地权属争议过程中，可以向有关单位或者个人调查取证。被调查的单位或者个人应当协助，并如实提供有关证明材料。

Article 18 Where, in the course of investigating and handling the dispute over land title, the land and resources administrative department deems it necessary to conduct a field investigation of the land involved in the dispute, it shall notify the parties concerned and other related personnel to be present, and when necessary, invite the relevant department to dispatch personnel to assist in investigation.

第十八条 在调查处理土地权属争议过程中，国土资源行政主管部门认为有必要对争议的土地进行实地调查的，应当通知当事人及有关人员到现场。必要时，可以邀请有关部门派人协助调查。

Article 19 Both parties to the dispute over land title shall bear the burden of proof as to the facts and reasons presented by them respectively, and timely submit the relevant evidentiary materials to the land and resources administrative department responsible for investigating and handling the case.

第十九条 土地权属争议双方当事人对各自提出的事实和理由负有举证责任，应当及时向负责调查处理的国土资源行政主管部门提供有关证据材料。

Article 20 The land and resources administrative department shall, when investigating and handling a dispute, examine the following evidentiary materials submitted by both parties:

1. the certificate on land title issued by the people's government;
2. the document of the people's government or competent department approving the expropriation, allocation or assignment of land or approving land use in another form;

3. the written agreement concluded by both parties to the dispute according to law;
4. documents or diagrams of the people's government or judicial organ on handling the dispute;
- and
5. other relevant certification documents.

第二十条 国土资源行政主管部门在调查处理争议案件时，应当审查双方当事人提供的下列证据材料：

- (一)人民政府颁发的确定土地权属的凭证；
- (二)人民政府或者主管部门批准征收、划拨、出让土地或者以其他方式批准使用土地的文件；
- (三)争议双方当事人依法达成的书面协议；
- (四)人民政府或者司法机关处理争议的文件或者附图；
- (五)其他有关证明文件。

Article 21 Only the evidentiary materials submitted by the parties concerned, which are verified to be true upon investigation by the land and resources administrative department, can be determined as the basis for affirming the facts.

第二十一条 对当事人提供的证据材料，国土资源行政主管部门应当查证属实，方可作为认定事实的根据。

Article 22 No party shall change the status quo of the land before the dispute over land title and use right is settled.

第二十二条 在土地所有权和使用权争议解决之前，任何一方不得改变土地利用的现状。

Article 23 The land and resources administrative department shall firstly mediate the accepted disputes on the basis of finding out the truth and distinguishing the title relationship, and persuade the parties concerned to reach an agreement in the form of consultation. The mediation shall be carried out under the principles of free will and legality.

第二十三条 国土资源行政主管部门对受理的争议案件，应当在查清事实、分清权属关系的基础上先行调解，促使当事人以协商方式达成协议。调解应当坚持自愿、合法的原则。

Article 24 Where an agreement is reached upon mediation, a mediation agreement shall be prepared, which shall state the following contents:

1. name of the parties concerned, as well as the name and position of the legal representatives thereof;
2. main facts of disputes; and
3. contents of the agreement and other relevant matters.

第二十四条 调解达成协议的，应当制作调解书。调解书应当载明以下内容：

- (一)当事人的姓名或者名称、法定代表人姓名、职务；
- (二)争议的主要事实；
- (三)协议内容及其他有关事项。

Article 25 The mediation agreement shall come into effect after both parties affix their signatures

or seals, and the person handling the dispute affixes his signature and the seal of the land and resources administrative department to it.

The mediation agreement that comes into force shall be legally binding, and serve as the basis for land registration.

第二十五条 调解书经双方当事人签名或者盖章，由承办人署名并加盖国土资源行政主管部门的印章后生效。

生效的调解书具有法律效力，是土地登记的依据。

Article 26 The land and resources administrative department shall, within 15 days after the mediation agreement comes into force, serve it upon the parties concerned and send a copy to the land and resources administrative department at the next higher level according to the relevant provisions of the Civil Procedure Law.

第二十六条 国土资源行政主管部门应当在调解书生效之日起 15 日内，依照民事诉讼法的有关规定，将调解书送达当事人，并同时抄报上一级国土资源行政主管部门。

Article 27 Where no agreement is reached upon mediation, the land and resources administrative department shall timely put forward investigation and handling opinions, and submit them to the people's government at the same level for decision.

第二十七条 调解未达成协议的，国土资源行政主管部门应当及时提出调查处理意见，报同级人民政府作出处理决定。

Article 28 The land and resources administrative department shall, within six months after accepting a dispute over land title, put forward its investigation and handling opinions, and if it fails to do so within the prescribed time limit due to the complexity of the situation, the time limit may be extended upon the approval of the principal of the land and resources administrative department.

第二十八条 国土资源行政主管部门应当自受理土地权属争议之日起 6 个月内提出调查处理意见。因情况复杂，在规定时间内不能提出调查处理意见的，经该国土资源行政主管部门的主要负责人批准，可以适当延长。

Article 29 The investigation and handling opinions shall include:

1. the name and domicile of the parties concerned, as well as the name and position of the legal representatives thereof;
2. the facts, reasons and claims of the dispute;
3. the facts ascertained and the applicable laws, regulations and other basis; and
4. the handling conclusions.

第二十九条 调查处理意见应当包括以下内容：

- (一) 当事人的姓名或者名称、地址、法定代表人的姓名、职务；
- (二) 争议的事实、理由和要求；
- (三) 认定的事实和适用的法律、法规等依据；
- (四) 拟定的处理结论。

Article 30 The land and resources administrative department shall, within five workdays after putting forward its investigation and handling opinions, submit them to the people's government

at the same level for decision.

The land and resources administrative department shall, when submitting its investigation and handling opinions to the people's government at the same level, send a copy to the land and resources administrative department at the next higher level.

第三十条 国土资源行政主管部门提出调查处理意见后,应当在 5 个工作日内报送同级人民政府,由人民政府下达处理决定。

国土资源行政主管部门的调查处理意见在报同级人民政府的同时,抄报上一级国土资源行政主管部门。

Article 31 The party concerned may apply for administrative reconsideration or file an administrative lawsuit against the handling decision made by the people's government.

Where it fails to do so within the prescribe time limit, the handling decision shall come into force immediately.

The effective handling decision shall be the basis for land registration.

第三十一条 当事人对人民政府作出的处理决定不服的,可以依法申请行政复议或者提起行政诉讼。

在规定的时间内,当事人既不申请行政复议,也不提起行政诉讼,处理决定即发生法律效力。

生效的处理决定是土地登记的依据。

Article 32 Where, during the investigation and handling of a dispute over land title, any functionary of the land and resources administrative department neglects his duties, abuses his powers, practices favoritism, or makes falsification, he shall be subject to criminal liability according to law if a crime is constituted; and if a crime is not constituted, he shall be given an administrative disciplinary action by the entity where he works or its superior organ according to law.

第三十二条 在土地权属争议调查处理过程中,国土资源行政主管部门的工作人员玩忽职守、滥用职权、徇私舞弊,构成犯罪的,依法追究刑事责任;不构成犯罪的,由其所在单位或者其上级机关依法给予行政处分。

Article 33 The people's government at the township level shall handle disputes over land title by reference to these Measures.

第三十三条 乡级人民政府处理土地权属争议,参照本办法执行。

Article 34 The formats of the documents on the investigation and handling of dispute cases shall be uniformly formulated by the Ministry of Land and Resources.

第三十四条 调查处理争议案件的文书格式,由国土资源部统一制定。

Article 35 The expenses for investigating and handling dispute cases shall be governed by the relevant provisions of the state.

第三十五条 调查处理争议案件的费用,依照国家有关规定执行。

Article 36 These Measures shall come into force on March 1, 2003. The Interim Measures for Handling Disputes over Land Title as issued by the former State Land Administration on

December 18, 1995 shall be abolished simultaneously.

第三十六条 本办法自 2003 年 3 月 1 日起施行。1995 年 12 月 18 日原国家土地管理局发布的《土地权属争议处理暂行办法》同时废止。

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