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Study On Safeguard Measures for Implementing Overall Planning of Land Use

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Abstract Based on minutely analysing the main problems existing in safeguard measures for implementing a new round of overall planning of land use, this paper constructs implementation security system of overall planning of land use, and puts forward the principles and basis of formulating safeguard measures for implementing overall planning of land use. Finally, this paper establishes the content system of safeguard measures: effectively strengthen social supervision; strengthen administrative management of land use planning; strengthen economic management of land use planning; reinforce the legal status of planning; establish incentive and constraint mechanism for reinforcing implementation; improve support system of planning.

Key words Planning, Planning implementation, Safeguard measures, China

The overall planning of land use, as a strategic planning, plays a very important role, in development and utilization of land, land consolidation and protection, regulating urban and rural construction land and other construction land, strengthening macro-control of land, achieving control over land use, and promoting socio-economic development and ecological protection of land resources. But in the process of planning and implementation, the implementation effect of overall planning of land use is not satisfactory. It adopts the top-down planning method of issuing various land use directive from the higher authorities to lower-level departments, for want of adequate research on the actual situation in all places, therefore, the phenomenon of neglecting the actual situation often arises.

1 Status and role

The implementation and management of land use planning directly affects regional land resources utilization, layout adjustment, ecological environment and socio-economic development. In terms of laws, administration, economy, and technology, the existing planning formulates a series of safeguard measures, to guide and regulate the urban and rural land, contain considerable occupation of land and farmland arising from urban construction and industrial agglomeration area construction, promote conservation and intensive use of arable land, strengthen the farmland protection, especially basic farmland protection. But such effect depends mainly on administrative means, especially the means of administrative examination and approval, and the social, economic instruments have not been fully used, which to a certain extent affects the planning goals. Therefore, the study on strengthening the planning, implementing safeguard measures, and improving the security mechanism of planning and implementation, is of great significance.

2 Main problems existing in safeguard measures for implementing current planning of land use

2.1 The legal measures are unsound The legal status of planning is yet to be further improved in legislation and practice. The perfect law and regulation system of land use planning has not taken shape at present, and especially it is devoid of *Land Use Planning Act* or the relevant implementing regulations. In addition, in the existing laws and regulations, the related provisions regarding land use planning lack maneuverability.

Land Management Law clearly states: the state formulates overall planning of land use; the lower-level planning should be subject to higher-level planning; various kinds of special planning related to land use should be connected with overall planning of land use. However, in practice, since legislative construction lags behind, many places put undue emphasis on economic development, and require the planning to be subject to the development. In addition to department fragmentation, namely each doing things in its own way, the relationship between the special planning and the overall planning is easily distorted, thus the role of overall planning control and comprehensive coordination is difficult to be played effectively^[1].

2.2 The guarantee extent of administrative management is not enough The planning and management system has not yet been fully unraveled^[2], and the setting, planning method, and content of the annual plan target can not meet the actual needs. The work before examination and approval on construction land is not sufficient, and especially it lacks inspection and review on rationality of land use, so that the limits of authority of pre-examination and limits of authority of land use examination and approval is inconsistent, affecting the convergence of the relevant work and leading to widespread phenomenon of emphasizing land approval and neglecting planning as well as review.

2.3 It lacks social supervision We need to further

strengthen public administration on social safeguard measures. There are few people participating in the current planning, with insufficient participation degree and weak democracy. The content of planning that can be provided for the public participation is very limited, basically remaining at the level of publicity of planning results. It is just the passive acceptance of planning. The role of National People's Congress supervision, the public supervision and the public opinion supervision on implementation of the planning is not played fully, and we have not yet established effective social control mechanism^[3].

2.4 It lacks pertinence The safeguard measures for implementation of a new round of planning are basically uniform. The safeguard measures for county planning are almost identical with the safeguard measures for municipal planning, and the safeguard measures for planning in plains are basically the same as those in hill and mountain regions. In terms of the overall direction, it lacks perspicacious analysis on macroscopic prospect of local economic and social development and land use characteristics, so the pertinence of implementation is not strong.

3 Principle and basis of formulating safeguard measures

3.1 Principle of formulating safeguard measures

3.1.1 Principle of operability^[4] The formulation of safeguard measures for implementing overall planning of land use and relevant policies must be based on reality, the facts and the economic and social development situation of all regions. In accordance with the problems existing in the implementation of land use planning in all regions, it should focus on solving the major contradictions in implementation of the current planning.

3.1.2 Principle of integrity. The safeguard measures for implementing overall planning of land use and relevant policies are a whole composed of different parts, such as legal means, administrative measures, economic means, and social means, to achieve the best implementation effect through comprehensive coordination.

3.1.3 Principle of development. The operation of land use planning is a dynamic process of ceaseless implementation, vulnerable to the impact of different factors. It is required to view the safeguard measures for implementation of planning and policy system as well as all elements as objects to be developed and upgraded. In the beginning of system design and in the process of operation, we should take into account the complex mutual relations within the object, and the nature, direction and trend of external environment. Moreover, we should take appropriate measures to adjust and improve the procedures, structure and content, to maintain relative stability of overall system and give play to new function.

3.1.4 Principle of correlation^[5] In the process of implementing safeguard measures and making policies, we should pay attention to mutual relationship and interaction of all constituents. Under the premise of reflecting unique functions of different levels, we should make the composition of different levels and elements tend to be harmonious and orderly, in order to fa-

cilitate the realization of overall function.

3.2 Basis

3.2.1 Basis of laws and regulations. They are *Land Administration Law of the People's Republic of China*, *Basic Farmland Protection Regulations*, *Urban-rural Planning Act of the People's Republic of China*, and *Environmental Protection Law of the People's Republic of China*.

3.2.2 Basis of technique. They are *Overall Planning of Land Use Regulations at the County Level (Trial)* (No. 140, 1997) issued by the former State Bureau of Land Management, *Classification of Urban Land Use and Planning Standard of Construction Land in China* (GBJ137-90), *Town Planning Standard in China* (GB50188-93), *Tourism Planning Law in China* (GB/T18971-2003), *Technical Guidelines for Assessment of Planning Environmental Impact in China* (HJ/T130-2003), and *Technical Guidelines for Assessment of Regional Environmental Impact in Development Zones of China* (HJ/T19-1997).

4 Content system of safeguard measures

4.1 Effectively strengthen social supervision The implementation of land use planning needs to consider many factors, coordinate various relationships, and have wide participation of the community. In the process of formulation of land use planning, we should invite some related functional departments, academia, public interest groups and the people of all circles to participate, convey the government's planning intention to the public, and gather people's opinions. Once the overall planning of land use is ratified, it should make announcement in conformity with the law^[6]. We should use a variety of transmission media, to publicize the purpose, significance and role of the planning revision, so as to strengthen the understanding of the masses on the importance and necessity of planning revision, so that the planning sinks deep into the hearts of the people.

4.2 Strengthen administrative management of land use planning First, according to this planning, we are to formulate basic farmland protection planning, land consolidation, reclamation and development planning, and other special planning. We should also strengthen overall planning of land use at township level, focus on specific implementation of all land use directives in this planning to land patches, and designate land use area.

Second, in accordance with this planning and the relevant regulations, we are to scientifically formulate the annual land use plan. The main indicators include the protection of farmland, farmland occupied by various kinds of construction, and land consolidation, reclamation and development for increasing farmland. The annual land use plan implements the mandatory program management, and once it is issued, it must be strictly implemented. From now on, as for those people do not implement this planning, resulting in waste of land resources and destruction of land resources, we should ascertain where the responsibility lies and punish the leadership.

Third, according to overall planning of land use, we should examine and assess the land use scale in the overall urban planning and the planning of village and township, and the land

use scale in other industrial planning. The overall urban planning and planning of town and village should be connected with overall planning of land use, the land use scale must not exceed overall planning of land use, and the industrial land use scale should be in line with overall planning of land use.

Fourth, we should implement strict use control, and establish the system of construction land pre-examination and conversion permit of land use. According to relevant regulations of overall planning of land use and construction land use, we should carry out pre-examination on the construction use land. On when the construction projects are in line with purposes of land use planning, land conservation, and implementation of balancing occupation and compensation of farmland, can the land use conversion be permitted; as to the construction projects inconsistent with purposes of land use planning that really need to be adapted for use for another purpose, according to the provisions of relevant law, only when the planning is revised and ratified, can the conversion of land use planning be permitted. As for the case that farmland is converted into other agricultural land, causing difficult restoration of farming conditions, we can refer to the relevant regulations of construction land control for implementation.

4.3 Strengthen economic management of land use planning First, we should develop sound real estate market, implement paid use of land, and gradually establish the land constraint mechanism of efficiently using the available land and controlling increment of non-agricultural construction land.

Second, as for the farmland occupied due to non-agricultural construction, according to the provisions of *Land Administration Law of the People's Republic of China*, we should levy land reclamation fees and use fees of newly-added construction land in full charge.

Third, we should formulate economic support policies for land consolidation, reclamation and development. We are to offer financial support for the collective and individual to consolidate, reclaim and develop agricultural land. The investment in land consolidation, reclamation, and development in construction institutions, is included in the production costs or total investment in construction projects.

Fourth, according to the principle of "what is taken from the land is used in the land", the county and township government should use a variety of land use benefits to establish special funds for land use, which can be used for farmland protection, land consolidation, land reclamation and land development. In addition, we should offer preferential policies to the key areas.

4.4 Reinforce the legal status of planning It mainly includes the following two aspects: one is to crystallize "one the planning is ratified, it has the legal effect"; the other is to strengthen law enforcement, combine regular monitoring and inspection of law enforcement, and seriously crack down on illegal behaviours, such as laws being not fully observed or enforced and using one's power instead of taking legal proceedings. For those running afoul of overall planning of land use, destructing farmland, and committing other illegal behaviours,

they should be prosecuted for their criminal liability according to *Criminal Law*.

4.5 Establish incentive and constraint mechanism for reinforcing implementation We should include the implementation of overall planning of land use into the category of target management. According to the need of planning, the county and township governments should lay down the land management objective that they can achieve within term of office, and sign letters of responsibility with the government at higher levels. In the mean time, the county and township governments should lay down comprehensive index evaluation system and detailed incentive and punishment methods. And the effect of implementation should be considered as one of important parts in performance evaluation on the related leaders.

4.6 Improve support system of planning We should strengthen village and town building planning, transformation planning of middle-and-low-yielding fields, development planning of high-yielding and high-quality farmland, and other supporting planning of overall planning of land use. Moreover, we should strengthen the connection with overall planning of land use and improve the overall benefit of the land.

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