



Australian Government
Refugee Review Tribunal

Country Advice

China

China – CHN39719 – Demolition – Land Confiscation – Compensation – Jurong City

13 January 2012

1. Deleted.

2. Deleted.

3. What is known of the rules for compensation for confiscation of land in Jurong City or Jiangsu Province?

No information was found regarding the Jiangsu Province rules for compensation for confiscation of land. A notice on the issuance of the *Jurong City House Demolition Implementation Methods* (2003) was located on the Jurong City Municipal Government website.¹ The notice contains a copy of the *Jurong City House Demolition Implementation Methods*, however it is in Chinese and a reliable translation for this document could not be located. The measures appear to deal with the demolition of houses as opposed to businesses but due to the poor translation this cannot be confirmed. No sources referring to this document could be found in English.²

In addition to provincial legislation, there are national laws governing compensation for land confiscation. These are examined in previous Country Advices.³ The laws that were in place in 2010 have been criticised by a number of Chinese legal experts, who argued that the laws' conflicting content allowed officials to override safeguards for property owners and reduce compensation to below market prices.⁴ Further information about corruption in land expropriation and compensation can be found in the 2011 Background Paper on Corruption in China.⁵

In 2011, the Chinese Central Government enacted the *Regulations for the Expropriation of and Compensation for Housing on State-owned Land 2011* (effective 21 January 2011),

¹ 'On the issuance of "Urban Housing Demolition Jurong implementation methods," the notice'

(关于印发《句容市城市房屋拆迁实施办法》的通知)

<http://www.jurong.gov.cn/zwgk/xxgkml/szfwj/20081107/152819281.html> – Accessed 21 December 2011 Please note: Google translations can often be poor and can contain errors – as such they give only a rough indication of the contents of a document. For any further reliance on this information, a professional translation should be obtained.

² Searches were conducted of Chinese law websites, Chinese newspaper and media websites, ISYS, CISNET, Canadian Immigration and Refugee Board, Refworld and general internet searches.

³ See: Question 4 of RRT Country Advice 2010, Country Advice CHN37490, 28 September; Question 3 of RRT Country Advice 2010, Country Advice CHN36230, 23 February

⁴ Smith, Jennifer G. 2009, 'Beijing Law Professors Petition for Housing Demolition Reform', 9 December, China Elections & Governance Website <http://chinaelectionsblog.net/?p=236> – Accessed 18 February 2010

⁵ Section 2 of RRT Country Advice 2011, Background Paper China – Corruption, July

which aimed to improve safeguards around forced eviction and compensation.⁶ These regulations deal with expropriation matters for ‘housing’, but do not define whether this includes business or commercial buildings. However, Article 23 of the 2011 regulations describes the means by which compensation ‘for the loss arising from the suspension of production and operation caused by the housing expropriation’ may be determined.⁷ Separate regulations are expected to be enacted that deal with rural land expropriation, but regulations specific to business or commercial property could not be found.⁸ It is therefore unclear whether the 2011 regulations cover expropriation of commercial property.

The 2011 regulations require that any contradictory laws at lower levels of government must be changed to comply with the national regulations by 1 October 2011.⁹ No information was found about whether this had occurred. No information was found on whether the new regulations would be applied retrospectively.¹⁰

The new regulations certify that the amount of compensation for expropriated land must ‘not be less than the market price of the real estate similar to the housing being expropriated on the announcement date of the housing expropriation decision’.¹¹ The regulations also provide an avenue for rectifying disputes over compensation. Article 26 states:

If a party with housing being expropriated refuses to accept the compensation decision, he/she may apply for an administrative reconsideration or initiate an administrative litigation in accordance with the law.¹²

It has been reported by *China Daily*, a Chinese Government news agency, that the previous national regulations regarding demolition had allowed local governments to ‘enforce

⁶ *Regulations for the Expropriation of and Compensation for Housing on State-owned Land 2011* (China), promulgated 21 January 2011, (effective 21 January 2011), West Law China, <http://app.westlawchina.com/maf/china/app/document?&docguid=i3cf76ad30000012db8553c2eca695888&hitguid=i3cf76ad30000012db8553c2eca695888&srguid=ia744dc1e00000134d00d04ad090ce5af&spos=1&epos=1&td=3&crumb-action=append&context=3&lang=en> – Accessed 12 January 2012

⁷ *Regulations for the Expropriation of and Compensation for Housing on State-owned Land 2011* (China), art 23, promulgated 21 January 2011, (effective 21 January 2011), West Law China, <http://app.westlawchina.com/maf/china/app/document?&docguid=i3cf76ad30000012db8553c2eca695888&hitguid=i3cf76ad30000012db8553c2eca695888&srguid=ia744dc1e00000134d00d04ad090ce5af&spos=1&epos=1&td=3&crumb-action=append&context=3&lang=en> – Accessed 12 January 2012

⁸ ‘Law amendment to protect farmers’ land rights’ 2011, *China Daily USA*, 31 December http://www.chinadaily.com.cn/usa/china/2011-12/31/content_14366790.htm – Accessed 13 January 2012; Li, P. 2011 ‘New Laws in China Could Protect Individual Land Rights’, *Landesa*, 22 March http://www.landesa.org/new_laws_in_china_protect_land_rights/ – Accessed 13 January 2012

⁹ ‘China to regulate land acquisitions and compensation practices’ 2011, *Radio 86*, 15 July <http://en.radio86.com/news/china-regulate-land-acquisitions-and-compensation-practices> – Accessed 11 January 2012

¹⁰ Searches were conducted of Chinese law websites, Chinese newspaper and media websites, ISYS, CISNET, Canadian Immigration and Refugee Board, Refworld and general internet searches.

¹¹ *Regulations for the Expropriation of and Compensation for Housing on State-owned Land 2011* (China), art 19, promulgated 21 January 2011, (effective 21 January 2011), West Law China, <http://app.westlawchina.com/maf/china/app/document?&docguid=i3cf76ad30000012db8553c2eca695888&hitguid=i3cf76ad30000012db8553c2eca695888&srguid=ia744dc1e00000134d00d04ad090ce5af&spos=1&epos=1&td=3&crumb-action=append&context=3&lang=en> – Accessed 12 January 2012

¹² *Regulations for the Expropriation of and Compensation for Housing on State-owned Land 2011* (China), art 19, promulgated 21 January 2011, (effective 21 January 2011), West Law China, <http://app.westlawchina.com/maf/china/app/document?&docguid=i3cf76ad30000012db8553c2eca695888&hitguid=i3cf76ad30000012db8553c2eca695888&srguid=ia744dc1e00000134d00d04ad090ce5af&spos=1&epos=1&td=3&crumb-action=append&context=3&lang=en> – Accessed 12 January 2012

demolition at their own will’, but that the new regulations ‘outlaw forced demolition’.¹³ The English copy of the regulations reviewed for this advice do not include a statement to this effect. However, the 2011 regulations do include a provision prohibiting forced eviction through the use of violence. Article 27 specifically prohibits forced evictions by methods such as ‘violence, threat, suspension of water supply, heat supply, gas supply and power supply, or block of road in violation of the provisions’. Notwithstanding this prohibition, Article 28 does allow municipal and county governments to apply to the people’s court for enforcement of the expropriation in some circumstances.¹⁴

4. Can you find any reference to the existence of the Jurong City Demolition Management Office?

No reliable reference was found to the ‘Jurong City Demolition Management Office’. A search using the Chinese characters located only one website. The website was a discussion forum site and does not link to any official government department.¹⁵

Jurong City is under the jurisdiction of Zhenjiang prefecture. The Zhenjiang Government refers to the ‘Zhenjiang City Demolition Management Office’ on its website.¹⁶ The office is responsible for the administration, planning and implementation of demolition work, as well as dealing with disputes arising from demolition.¹⁷ It is possible that the Zhenjiang City Demolition Management Office oversees demolition matters in Jurong City, though it does not specify this on the website.

¹³ ‘New rules put an end to forced demolitions’ 2011, *China Daily*, 28 January

http://www.chinadaily.com.cn/business/2011-01/28/content_11934513.htm – Accessed 11 January 2012

¹⁴ *Regulations for the Expropriation of and Compensation for Housing on State-owned Land 2011* (China), art 27-28, promulgated 21 January 2011, (effective 21 January 2011), West Law China,

<http://app.westlawchina.com/maf/china/app/document?&docguid=i3cf76ad30000012db8553c2eca695888&hitguid=i3cf76ad30000012db8553c2eca695888&srguid=ia744dc1e00000134d00d04ad090ce5af&spos=1&epos=1&td=3&cru mb-action=append&context=3&lang=en> – Accessed 12 January 2012

¹⁵ ‘[Municipal demolition office] Jurong New Town Village apricot - forced evictions ([市拆迁办]

句容市黄梅镇新塘村-强制拆迁)’ 2011, *bbs*, 12 February

<http://bbs.zj3000.cn/forum.php?mod=viewthread&tid=830298&extra=> – Accessed 11 January 2012

¹⁶ ‘Zhenjiang City Demolition Management Office (镇江市拆迁管理办公室)’ undated, Zhenjiang Government,

<http://www.zhenjiang.gov.cn/xxgk/szfznbm/szfzsdw/cqglbgs/> – Accessed 11 January 2012

¹⁷ ‘Zhenjiang City Demolition Management Office (镇江市拆迁管理办公室)’ undated, Zhenjiang Government,

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‘Zhenjiang City Demolition Management Office (镇江市拆迁管理办公室)’ undated, Zhenjiang Government, <http://www.zhenjiang.gov.cn/xxgk/szfznbm/szfzsdw/cqglbgs/> – Accessed 11 January 2012

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RRT Country Advice 2010, Country Advice CHN36230, 23 February

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RRT Country Advice 2011, Background Paper China – Corruption, July

Smith, Jennifer G. 2009, ‘Beijing Law Professors Petition for Housing Demolition Reform’, 9 December, China Elections & Governance Website <http://chinaelectionsblog.net/?p=236> – Accessed 18 February 2010 –