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## NEW REGULATIONS ON LAND USE FEES

In Vietnam, land prices are used as the basis for calculation of land use fees, which apply mainly to the payment for the allocated land by eligible persons to the State, and land rental, which involves the payment for leased land by land users. Land prices fall under two categories: (1) those stipulated by the State and (2) those calculated on the basis of market price. In order to make the legislation on land prices more in line with market reality, the Government has amended a number of decrees on land prices. One such amendment, issued on December 30, 2010, is Decree 120/2010/ND-CP (Decree 120) on amending and supplementing a number of articles of the Decree 198/2004/ND-CP (Decree 198), dated December 3, 2004, on collection of land use fees.

Decree 120 appears to now give the People's Committee wider discretion to determine land price. Specifically, if the land price stipulated by the provincial People's Committee is later found not close to the market price for purchase of the land, the provincial People's Committee

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may redetermine the land price based on the market price (Article 1). Many residential housing investors and developers have commented that this new method of calculation of land use fees and land rental based on market land price under Decree 120 is likely to result in a 50 percent increase in the land price that existed under the previous Decree 198. Consequently, the total investment costs for a land development project would likely increase.

Another important provision of Decree 120 relates to individuals and households who are unable to pay the land use fee at the time of issuance of a Land Use Right Certificate. Specifically, such individuals and households are now allowed to defer payment of the land use fee for a maximum term of five years. Within five years from the date of issuance of the Land Use Right Certificate, the land user is entitled to pay the land use fees in accordance with the stipulated land price at

the time of issuance of the Land Use Right Certificate. However, after five years, the land use fee will be calculated based on land price at the time the payment is made. (Article 2.8).

Property developers should also note that Decree 120 provides for certain new land use fee exemptions for land assigned for the construction of houses for workers in industrial zones, economic zones, and the lease or hire-purchase of houses for low-income individuals in urban areas (Article 2.6).

Decree 120 will take effect from March 1, 2011, and will replace Article 8.2 of Decree 198 and Article 5 of Decree 84/2007/ND-CP of the Government. ⚖️

## DR. JAKKRIT KUANPOTH JOINS TILLEKE & GIBBINS

On January 4, Dr. Jakkrit Kuanpoth joined Tilleke & Gibbins' Intellectual Property group as Of Counsel. Dr. Jakkrit is a renowned lecturer, author, and public servant.

As an esteemed expert on intellectual property rights and other related global issues, Dr. Jakkrit's knowledge and advice has been sought after by organizations such as the World Intellectual Property Organization, the World Health Organization, the Ford Foundation, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP), and the International Centre on Trade and Sustainable Development (ICTSD). Dr. Jakkrit has also sat on various Parliamentary committees and National committees at the request of the Thai government.

Dr. Jakkrit is both a legal practitioner and an academic, with teaching responsibilities in intellectual property law and other legal areas at the University of Wollongong in Australia. He has penned authoritative texts on patent rights in pharmaceuticals, patent rights in developing countries, TRIPS and intellectual property, TRIPS and free trade, biotechnology, globalization, economic develop-

ment, and geographical indications. Dr. Jakkrit also previously served as a visiting Research Fellow at the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law in Germany.

Dr. Jakkrit has returned home to continue to champion intellectual property protection as a member of the firm's IP group. "As a global leader in academia and advocacy, Dr. Jakkrit brings to the firm extensive expertise in patents and other crucial aspects of intellectual property rights. Dr. Jakkrit will be an excellent addition to our IP practice," said Darani Vachanavuttivong, Co-Managing Partner of Tilleke & Gibbins.

Dr. Jakkrit was educated at Ramkhamhaeng University (LL.B.), the University of Warwick (LL.M.), and the University of Aberdeen (Ph.D.). He is a member of the Thai Bar Association.



Dr. Jakkrit Kuanpoth