

Correctional Direction of Housing Juristic Person According to the Land Allocation Act (2543) Using Delphi Technique

Chanuan Uakarn¹

Uthai Shinawatra²

Kasem Bundit University, Thailand

¹cuakarn@gmail.com

²shinawatre@gmail.com

Kajohnsak Chaokromthong³

Rajamangala University of Technology Nonthaburi, Thailand

³kajohnsak7@gmail.com

Nipaporn Puttpong⁴

and Nittaya Sintao⁵

Stamford University, Thailand

⁴ni.puttpong@gmail.com

⁵nitppm2@gmail.com

Abstract - Research and data gathering will be conducted three rounds. First, an opened end interview of 15 expertise on land law and land allocation, district land officials and housing committee is carried out which will cover all issues related to research problem on correctional direction of housing juristic person according to the Land Allocation Act (2543), then idea of each expertise group will be gathered, grouped and synthesized to set out the framework of the problem in the second round. The second round is carried out by a rating scale interview which a result of an interview in the first round will be sent back to the same expertise group. In this round, expertise will provide an idea on how to prioritize the importance of each questions and specifies reason why he or she agrees or disagrees at the end of each question for a data analysis, median, mode or Interquartile Range (IR) Round 3, a rating scale interview, results of an interview will be developed from those of the second round by considering interquartile range (IR). It shows low IR value which means that idea from expert group is quite

corresponded. If IR value was minimum, the process can be concluded due to an agreeable idea of expert group. Then, research and research summary can be concluded, and followed by a Delphi Technique. Ideas of expert from the second and third round have minimum differences. Thus, research summary can be concluded from the third round interview which reveals that IR value from each question is minimize due to idea of the expert is limited. Then, the fourth round data gathering is unnecessary. Researcher can summarize the result from each issue from interview question to conclude the result and report what has been founded in the future regarding to a correctional direction of housing juristic person according to the Land Allocation Act (2543) for further usage.

Keywords - Land Allocation Act, Housing Juristic Person, Establishment of Housing Juristic Person, Delphi Technique

I. INTRODUCTION

To establish a housing juristic person according to Section 43 of the Land Allocation Act (2543) prescribes that infrastructure within housing project is servitude and it is a responsibility of land allocation person to maintain that infrastructure and could not perform any act that will reduce or minimize the convenient of the benefit of that servitude. Moreover, it also set out that the land allocation must provide bank or monetary institution guarantee to maintain those infrastructure (7% of construction value according to the announcement of Land Allocation Committee on procedures, criteria and methods relate to a project plan, land allocation and amendment in project plan No 4) and also a responsibility of land allocation and the committee and must also apply Section 24 as well [1].

II. THEORY

Laws that apply in the establishment of Housing Juristic Person.

1. Land Allocation Act (2543), Section 43 infrastructure which land allocation provided according to plan and project that has been approved such as roads, gardens, playground is a is a servitude. It is a responsibility of land allocation to maintain those infrastructures and could not perform any acts that will reduce or minimize the convenient of the benefit of that servitude. Section 44 and 45, to establish housing juristic person, land buyer who has bought land not less than half of the number of project plan should set out and appoint a representative to submit a request to register in front of Provincial Land Official or Sub-Provincial Land Official with the following details: 1) name of housing juristic person, 2) objectives, 3) office location, 4) detail on the number of committee, election, working period, end of duty and the meeting of housing committee, 5) detail of account, budget and finance, 6) detail on right and responsibility of members, and 7) detail on meeting, registration, merging, cancellation and the administrative of housing juristic person which

should conform with procedures and methods as set out in Ministerial Regulation Section 46, 47, 48, 49, 50, 51, 52, 53, and 70 [2, 3].

2. Ministerial Regulation on Registering the Establishment, Administrating, Merging and Cancellation of Housing Juristic Person (2545).

3. Regulation of Central Land Allocation Committee on the Establishment of Housing Juristic Person or other Juristic Person and Seeking an Approval for Maintaining Infrastructures (2545).

4. Regulation of Central Land Allocation Committee on Setting up Expenses, Procedures and Methods in Collecting Expenses to Maintaining Infrastructures (2545) [4].

5. Announcement of Central Land Allocation Committee on Procedures and Methods in Considering Project Plan and Methods in House Allocation and Amendment of Project Plan, No. 4.

III. OBJECTIVE

1. To clarify the establishment of housing juristic person to land allocation and land buyer according to Land Allocation Act (2543).

2. To set a standard for the establishment of housing juristic person for the whole country and to standardize it to the international standard.

IV. RESULT OF THE RESEARCH

A. For Land Allocator

Housing Juristic Person will be appointed by land allocator since the land allocator will be free from the responsibility in maintaining infrastructure (according to Section 43) which has been provided according to plan and project approved from committee. Once the timeframe has due in maintaining infrastructure as approved by the committee according to Section 23 (5), and half of the land in the allocation project has been bought must follow the following steps:

1. set up an account for assets which are infrastructures and public services according the approved plan and allocation project comprised of the following:

- Land Entitle document and other related document
- Amount of money to maintain infrastructure which is a responsibility of land allocator which must not less than money guarantee for infrastructures (7% of the estimate value of infrastructures of the whole project according to an official average construction price during carrying out guarantee contract for maintaining infrastructures which not include preparation of electric and water supply system.)
- Identify public services that would be transferred

2. Notify all land buyer to acknowledge with the asset account in No.1 to carry out the establishment of housing juristic person or other juristic person to be transferred those assets and carried out a maintaining process by setting out a timeframe for buyer to establish housing juristic person and to be transferred assets not later than 180 days from the day when the last buyer has been notified. Such notification must conducted by a registered mail to the buyers' residences.

3. Publish on newspaper circulated in that area at least 3 days.

4. Post a notice of a copy of that notify letter to land buyer and asset account which are infrastructure and public services in an open location for the period that specify in the letter and there should be signatures of at least 5 buyers as witness. It would be considered that buyers have been informed by land allocator on the day that land allocator has completed those 3 steps which are sending letter via registered mail, publish on newspaper and post a notice.

5. Facilitate on list of land buyers and meeting location as discretion for buyers to

establish housing juristic person or other juristic person.

The process of establishment of housing juristic person should be completed within 180 days from the announcement day to buyers on the meeting of establishment of housing juristic person.

B. For Buyer

Once buyers receive letter notified from land allocator to establish housing juristic person or other juristic person to be transferred assets as set out in asset account to maintain, they should carried out the following:

1. Set up a meeting for buyer:

- To reach a resolution in establishing housing juristic person

- To reach a resolution to appoint a representative to submit a request to register housing juristic person with regulations of housing juristic person (to reach such resolution, there should be at least half of buyer of those land and in casting one's vote, each buyer has one vote. If lands have been separated according to project plan, each ownership has the total of accumulating 1 vote as the previous owner before the lands have been separated.)

- To reach a resolution to approve regulation for housing juristic person according to Ministerial Regulation on establishing, administration, merging and cancellation of housing juristic person (2545) No.3 which buyer has a resolution to approve in the meeting. It should be at least comprised of the following:

- (1) Name of housing juristic person
- (2) Objectives
- (3) Office location
- (4) Detail on the number of committee, election, working period, end of duty and the meeting of housing committee
- (5) Detail of account, budget and finance
- (6) Detail on right and responsibility of members

- (7) Detail on general meeting
- (8) Detail on regulation amendment
- (9) Detail on the cancellation of housing juristic person

2. Prepare meeting report for every meeting

3. An appointed representative submits a request to register and establish housing juristic person in front of Provincial Land Official or Sub-Provincial Land Official with the following document:

- Meeting report of the buyer at least half a land according to project plan which reach a resolution to establish housing juristic person agree on regulation and appoint a representative to submit a request on their behalf.

- Copy of the regulation of housing juristic person.

- Evidence of notification to buyer to establish housing juristic person and time period that land allocator set up for buyer.

- List of land which are infrastructure and public service have provided to allocate land according to project plan with copy of letter to indicate the right over relevant land.

C. For Official

1. Once the Provincial Land Official or Sub-Provincial Land Official has receives a request to establish housing juristic person, he or she should consider the completion of following document and list:

- Request form and document
- Copy of regulations
- Objective of housing juristic person

2. In case that the request is not comply with the regulations set up by law, he or she should not register the establishment of housing juristic person.

3. In case that document and list referred to No.1 are not right, he or she should inform the responsible person to make a correction within the agree timeframe which should not later

than fifteen days since the day that has been notified. Once the responsible person has finished the correction, the next process will be carried out.

4. Once the Provincial Land Official or Sub-Provincial Land Official has considered that document and list referred to No.1 are completed and correct according to the stipulated law, one announcement should be posted in an opened area at the Provincial Land Office, Sub-Provincial Land Office, District Office, Sub-district Office, Village Office, Local Administration Office where the land is located and another one at the allocated land for the period of 30 days.

5. Once the time has come to an end and no objection, the Provincial Land Official or Sub-Provincial Land Official should order the registration of the establishment as set out in the Ministerial Regulation on establishment, administration, merging and cancellation of housing juristic person (2543) No.8, paragraph 3.

6. In case that there will be an objection within the time period with an accuse that the request to establish housing juristic person is not carried out according to procedures and methods as stipulated by law, the Provincial Land Official or Sub-Provincial Land Official should investigate and conclude the issue to consideration committee in due course. Once the consideration committee has reach its decision, the objector and the Provincial Land Official or Sub-Provincial Land Official should be informed within 15 days.

- If considered that such objection will result in the establishment of housing juristic person to be illegal, the Provincial Land Official or Sub-Provincial Land Official will order an cancellation of the request of the establishment of housing juristic person.

- If considered that such objection will not result in the establishment of housing juristic person to be illegal, the Provincial Land Official or Sub-Provincial Land Official will accept the request of the establishment of

housing juristic person. The process in establishing housing juristic person show in fig. 1.

Once the buyer can register to establish housing juristic person after receiving registration letter to establish housing juristic person, he or she should:

1. Call on the general meeting to reach a resolution on:

- Appointment of committee
- Agree on central fund

2. Notify land allocator and designate registration date to transfer assets and to deliver infrastructure maintaining expenses which need to be carried out within the timeframe that set out in the letter and land allocator will be free from responsibility in maintaining infrastructure according to the approved project plan. Once asset transfer and infrastructure maintaining expenses have been carried out according to asset list to housing juristic person.

3. All land buyers (according to Section 47) will be member of housing juristic person. In case that no one has purchase small land plots or transfer back to land allocator, land allocator will be member of housing juristic person.

4. Show registration letter to establish housing juristic person at an opened area and can be seen by the public at the office of the legal office of housing juristic person.

V. CONCLUSIONS

Result of the establishment of housing juristic person related to land allocator, buyer and housing juristic person are as follow:

1. Land allocator will be free from responsibility in maintaining land which is an

infrastructure by transferring and delivering infrastructure maintaining expenses.

2. Land buyers are member of housing juristic person.

3. Housing juristic person is a juristic person. Housing committee will carry out affairs of housing juristic person according to the law and delegations under the supervisory of general meeting of member. Housing juristic person will be a representative of housing juristic person on all affairs related to the outsider.

4. Privileges on fee, tax, revenue stamp and expenses in land transferring will be waive from any charges, revenue withholding tax, specific business tax, revenue stamp. Money that housing juristic person receive from member to pay as a maintaining infrastructure expenses will be waived from VAT and duty according to the Royal Decree on the Revenue Exemption (No.378) Year B.E. 2544.

REFERENCES

(Arranged in the order of citation in the same fashion as the case of Footnotes.)

- [1] Nonthaburi Land Office. (2005). "Handbook for Registering a Housing Juristic Person according to Land Allocation Act Year B.E. 2543". (1st Ed). Nonthaburi Land Office: Nonthaburi Province.
- [2] "Land Allocation Act Year B.E. 2543".
- [3] "Ministerial Regulation on Requesting for Establishment, Administration, Merging and Cancellation of Hosing Juristic Person Year B.E. 2545".
- [4] "Regulation on Central Allocation Committee on the Establishment of Housing Juristic Person or Other Juristic Person and Approval for Maintaining Infrastructure Year B.E. 2545".

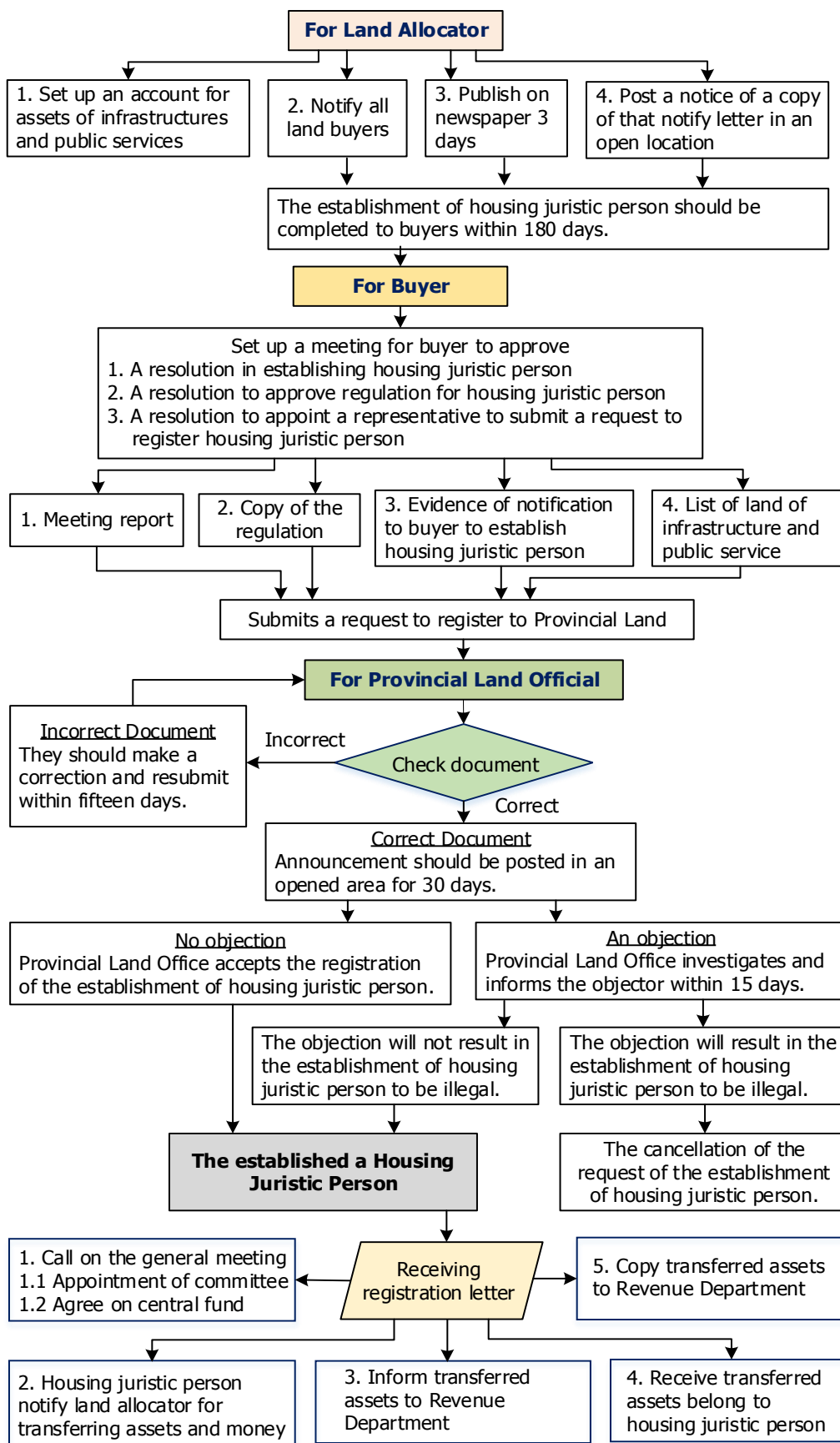


Fig 1. Flowchart shows the Establishment of Housing Juristic Person according to Land Allocation Act Year B.E. 2543