Industrial land – The New Game Rules

Cody Chen Taylor Wessing Shanghai Office



□ Shanghai, changed game rules as of July 1, 2014:

- Shortened land use term: up to 20 years
- Increased land price
- Revised land planning indices, in particular increased floor area ratio (FAR)
- New version grant contract, with a lot of restrictions towards investor
- May 22, 2014: Ministry of Land and Resources ("MLR") issued the *Measures on Economical and Intensive Use of Land*, to be effective on September 1, 2014 ("MLR Rules")

Shanghai local rules in February / March 2014

- □ Is this a sudden change of land supply rules?
- What is behind the new rules?
- ❑ What is the impact to the investors?

Content

- I. Background
- II. Legal Analysis on the Major Changes
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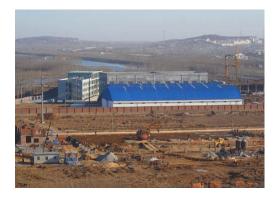


I. Industrial Land in China

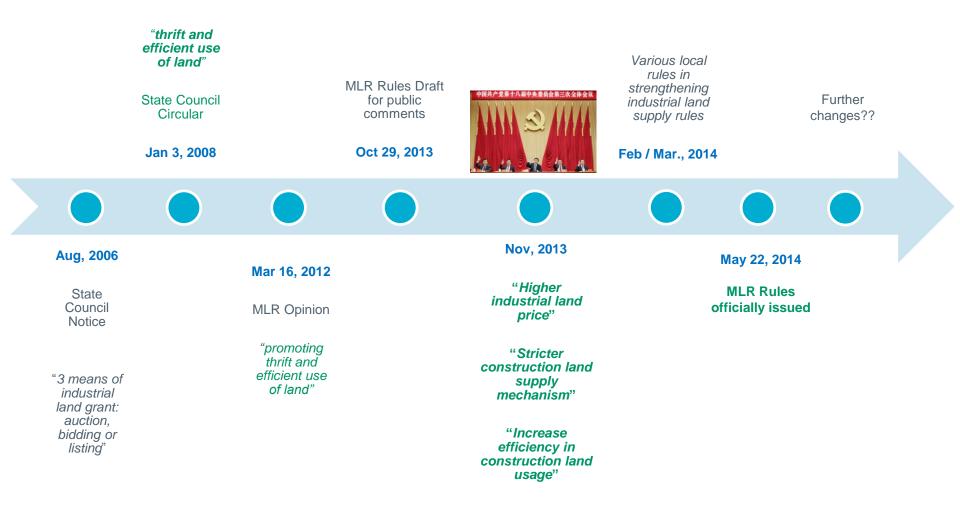
Current status according to official tone:

- > Low price
- Excessive grant
- Scarce land resources
- Low efficiency in land use
- > Low output









II. Major Changes in Various Local Rules

	Changes	Legal Comments & Remaining Issues
(1) Shortened LUR Grant Term MLR Measures: land bureau may shorten term < 50 years		Minimum land price?
Beijing ETDZ: Shandong Linyi: Hangzhou: Shanghai:	20 years (as of 15/7/2013) 20 years (as of 11/11/2013) 30 years (as of 14/3/2014) 20 years (as of 1/7/2014)	Business duration?
 (2) Promoting Alternative Industrial Land Use Models Preconditions of grant: (i) project review; (ii) increased total investment threshold: Shandong and Hangzhou (50 million). 		
(50 million)	otal investment threshold: Shandong and Hangzhou	- Legal basis of "land lease"
 Promoting 3 Alternative A. Land Lease B. Land Lease C. Plant Lease (i) Encourage 	otal investment threshold: Shandong and Hangzhou	- Legal basis of "land lease" - remaining issues:

Breach of Contract	Old Version Contract	New Version Contract
Total fixed asset investment / Investment intensity	Liquidated damages	Liquidated damages
Annual tax revenue	N/A	 Liquidated damages Termination grant contract / take-back of land
Performance review	N/A	Termination grant contract / take-back of land
Construction delay	Liquidated damages (rarely enforced)	 Performance Bond (also in Zhejiang, Shangdong, Anhui) Liquidated damages Termination grant contract / take-back of land
Contamination of underground water and soil	N/A	 Soil and underground water benchmark test report to be attached to the grant contract Serious contamination: Termination grant contract / take-back of land
Land use right transfer (as a whole)	Not prohibited in rules	 Transfer under the conditions: transferred with building; grantor's consent. Termination grant contract / take-back of land
Land separation and partial transfer	Restricted	 Prohibited (exception: R&D Headquarter Standard Industrial Land - 30%) Termination grant contract / take-back of land
Equity transfer of the project company (LUR owner)	N/A	 Grantor's consent Termination grant contract / take-back of land

III. Foresight

- local level reform ⇒ nationwide roll-out
- higher costs for acquisition of industrial land
- less greenfield investment project in cities like Shanghai, look for alternative locations, e.g. Jiangsu Province
- possible alternative greenfield investment model, e.g. built-to-lease?
- increasing acquisition of existing plants/warehouses?
- transfer / acquisition of collectively owned construction land?



Greenfield project

- Thorough research and analysis on local land supply policies and the best possible offers one may get, including local policy change possibility in about 1 year time
- Negotiate a detailed investment agreement with local government, industrial zone, including contractual protection in case of policy change
- Closely monitor the project development and legal / policy development, ideally by a designated project team
- Consider other alternatives
- Acquisition of existing factory plant?
- Lease of premises?
- Build-to-lease?
- Make the most of existing plant premises?



Thank you!

Further questions?

