



## MAJOR CHANGES IN NEW LAWS RELATED TO REAL ESTATE

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As of August 1, 2024, the three most pivotal legal documents within Vietnam's real estate legal framework, namely the Land Law 2024, the Real Estate Business Law 2023 ("**REB Law 2023**"), and the Housing Law 2023, will come into effect. Together with certain related provisions in the Credit Institutions Law 2024, these laws are set to significantly impact the real estate market in Vietnam.

*The Saigon Times* is pleased to present a series of analytical articles on the most noteworthy new regulations in these four legal documents. The series will focus on six main topics.

- (i) Methods for determining land rent and land use fees;
- (ii) Conditions and procedures for transferring real estate projects;
- (iii) Specific regulations on commercial housing projects;
- (iv) Specific regulations on industrial park projects;
- (v) **Implementation of projects in the form of subdividing land lots for sale**; and
- (vi) Expansion of business scope for enterprises with foreign investment.

## PART 5

### IMPLEMENTATION OF PROJECTS IN THE FORM OF SUBDIVIDING LAND LOTS FOR SALE

#### Is land subdivision and plot sales being tightened?

First, it is necessary to distinguish between subdividing land lots for sale and other forms of business involving land with technical infrastructure newly stipulated in the REB Law 2023. Accordingly, subdividing land lots for sale is a form of transferring land use rights with technical infrastructure to individuals for self-construction of housing, while in other forms, the transferees are organizations, and the purpose can be housing construction or implementation of other investment projects.

The listing of additional areas where subdividing land lots for sale are not allowed in the Housing Law 2023 and REB Law 2023 suggests that these activities will be more tightly controlled. However, upon closer comparison, some positive points can be seen as follows:

#### Clarification of areas where subdividing land lots for sale are not allowed

Regarding areas where subdividing land lots for sale are not allowed, the new Law adds areas such as wards, districts, and cities directly under type I, II, and III urban areas, while currently it only applies to wards in special type and type I urban areas directly under central authority (before February 2021, only special type in urban areas were prohibited from subdividing land lots for sale).

According to statistics from the Ministry of Construction in December 2023, about 105 cities and towns are immediately included in the list of areas where subdividing land lots for sale are not allowed, an increase of 81 cities and towns compared to current regulations.

However, it should be noted that areas where subdividing land lots for sale are not allowed according to Decree 43/2013/ND-CP (amended by Decree 148/2020/ND-CP), Decree 11/2013/ND-CP (amended by Decree 35/2023/ND-CP), and Joint Circular 20/2013/TTLT-BXD-BNV also list additional cases such as:

- Areas with high requirements for architectural landscapes;
- Central areas and areas surrounding architectural landmark buildings in urban areas;
- Frontages of roads at regional level or higher; and
- Main landscape routes in urban areas.

Thus, with the current regulations, investors cannot immediately determine the areas where subdividing land lots for sale are not allowed, but must depend entirely on the determination of the state management agency for construction. Therefore, there are many cases where the entire proposed project or some areas of the proposed project do not belong to the wards in special type in urban areas or type I urban areas directly under central authority but will also not be allowed for subdividing land lots for sale due to falling under the remaining cases.

With the new provisions of the Housing Law 2023 and REB Law 2023, areas where subdividing land lots for sale are not allowed have been clearly and specifically listed, making it easier for investors and local construction management agencies to determine whether their project area is in a location where subdividing land lots for sale are not allowed. However, it should be noted that the specific determination of each area allowed for subdividing land lots for sale will be regulated by each locality.

Thus, although more areas are listed as prohibited for subdividing land lots for sale, from a positive perspective, the clarity and detail of the new regulations will create more favorable conditions for investors and state management agencies in the process of implementing administrative procedures.

#### Legalizing local authority

Not only clarifying the areas, the REB Law 2023 has legalized administrative procedures, clearly stating that the authority to check compliance with conditions and confirm eligibility belongs to the "**provincial-level state management agency for real estate business on construction**" and the time limit for this procedure is **15 days from the date of receiving the notification from the investor**.

Although this regulation still needs to be detailed by the Government, the legalization of regulations on local authority has great significance for investors, while compared to the regulations before Decree 35/2023/ND-CP took effect (June 20, 2023), the provincial People's Committee needed to submit and seek opinions from the Ministry of Construction before issuing a confirmation document for investors to carry out subdividing land lots for sale in a specific area. To implement this procedure, the provincial People's Committee needed to prepare a detailed explanatory dossier to send to the Ministry of Construction for opinions on the proposed project, leading to additional effort and time in implementing administrative procedures.

In summary, subdividing land lots for sale activities will be more tightly controlled and limited, but on the other hand, these limitations as well as administrative procedures are more clearly legalized and simplified, which will certainly create more favorable conditions for investors in this type of real estate business in permitted areas.



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