



Australian Government
Refugee Review Tribunal

Country Advice China

China – CHN36230 – Hebei Province –
Gaocheng City – Land requisition –
Compensation
23 February 2010

1 Please advise whether there a Dongcheng Street in Gaocheng City?

Yes, Dongcheng Street is a major street in the centre of Gaocheng City. It is described below.

Gaocheng City (藁城市) is a county-level city belonging to Shijiazhuang, Hebei, China. The city has an area of 836 km² and a population of 743,000.¹



Dongcheng St (东城街) is a large north-south street in the centre of Gaocheng. It is divided into North Dongcheng St (东城北街), which runs north from Yong'an Rd (National Road 307) which runs to Shijiazhuang) and South Dongcheng St (东城南街) which runs south from Yong'an Rd.

¹ 'Shijiazhuang' 2010, Wikipedia http://en.wikipedia.org/wiki/Shijiazhuang#Administration_divisions – Accessed 18 February 2010 – Attachment 1.

Note: Wikipedia is a Web-based free-content encyclopaedia which is compiled collaboratively by volunteers. Wikipedia articles can be useful introductory reading for a new topic, and the list of references in Wikipedia articles can provide useful leads to reliable sources. Many Wikipedia articles can be highly reliable, especially in regards to non-controversial historical or factual matters, and Wikipedia uses preventative measures against vandalism, bias and inaccuracy. However, the collaborative nature of Wikipedia makes it vulnerable to contributors with overt or covert agendas, and Wikipedia articles are thus prone to unacknowledged bias.

North and South Dongcheng St (东城北街) are identified on the map at Attachment 2 below.²



2 Has urban development taken place there?

No written information was found on any particular urban development projects in Gaocheng. However, given that China is undergoing a sustained period of economic growth and change, which includes the upgrading and extension of its road and urban infrastructure³, it is quite probable that urban development projects are taking place in Gaocheng as it is across the rest of China.

A satellite photo from Google Earth (below) appears to show a large construction site on the east side of Dongcheng North St., near the corner of Shengli Rd, and on both sides of

² 'Map of Gaocheng City (Hebei)' Google Maps

<http://maps.google.com/maps?hl=en&ie=UTF8&ll=38.028724,114.847298&spn=0.024238,0.049438&z=15> – Accessed 18 February 2010 – Attachment 2.

³ For example, the United States Commercial Service recently stated that “The Chinese Government is in the midst of a massive upgrade of its transportation infrastructure” and “In the past few years, China has been rapidly developing its highway system. The investment for highway construction has increased enormously from 2000 owing to increased government attention” (U.S. Commercial Service 2010, ‘China: Transportation (Non-Aerospace)’ <http://www.buyusa.gov/china/en/transportation.html> – Accessed 18 February 2010).

Dongcheng North St, south of Shengli Rd. This photo is dated April 2002⁴. The photo indicates recent urban redevelopment in the area.



3 What are the rules for compensation?⁵

Compensation is allowed by law for land or property which is acquired for development by the government. People seeking compensation are required to register their claim with the land administrative departments of the local people's governments. However, conflicting laws and regulations have allowed local governments to both override safeguards for property owners and reduce compensation to below market prices.

The *Land Administration Law of the People's Republic of China* (2004)⁶ allows for expropriation of land in the public interest with compensation:

⁴ <http://earth.google.com/support/bin/static.py?page=guide.cs&guide=22358&topic=22362&answer=148188> notes that "Google Earth displays the approximate date of displayed imagery in the status bar at the bottom in the 3D viewer ...Note that this date is only approximate".

⁵ The documents on file mention the Urban Property Demolition and Relocation Law and the Urban Real Estate Management Law.

⁶ National People's Congress of the People's Republic of China 2004, *Land Administration Law of the People's Republic of China* (2004 Revision), (1986 – revised 28 August 2004), Invest in China website http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939 – Accessed 4 June 2007 - Attachment 3.

The state may make expropriation or requisition on land according to law for public interests, but shall give compensations accordingly. (Art.2)

Owners or users of the land expropriated shall, within the time limit specified in the announcement, go through the compensation registration for expropriated land with the land administrative departments of the local people's governments on the strength of the land certificate. (Art.46)

Other laws and regulations also call for appropriate compensation:

- Chapters 2 and 3 of the 2001 *Urban Housing Demolition and Relocation Management Regulations*⁷ deal in detail with the procedures for compensation and relocation, noting the need for written compensation agreements (Arts. 13-16) and adjudication by the people's government (Art.16).⁸
- Article 42 of the 2007 *Property Rights Law*⁹ also provides for the expropriation of houses in the public interest and compensation.¹⁰
- Article 6 of the 2007 *Real Estate Management Law*¹¹ likewise provides for the expropriation of houses in the public interest and compensation.¹²

A number of Chinese legal experts argue that the 2001 Demolition Regulations conflict with the other laws¹³, and do not contain the same safeguards for property owners. This situation has allowed local governments to demolish buildings illegally by following the Regulations rather than the Laws.¹⁴ The Chinese government has acknowledged the problem and is currently drafting a revision of the regulations.¹⁵

Dr Mareike Schmidt of Basel University has criticised the compensation system, noting that in practice the local government officials usually back the developer against the evictee,

⁷ Also called the *Regulation Governing House Demolition and Resettlement in Urban Areas* (城市房屋拆迁管理条例).

⁸ State Council of China 2001, *Urban Housing Demolition and Relocation Management Regulations*, 6 June US Congressional-Executive Commission on China (CECC) website <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=2335> – Accessed 23 February 2010 – Attachment 4.

⁹ Also called “Real Rights Law” (物权法).

¹⁰ National People's Congress 2007, *Property Rights Law of the People's Republic of China* (Promulgated 16 March 2007 & Effective 1 October 2007), Lehman, Lee & Xu PRC Law Firm website <http://www.lehmanlaw.com/resource-centre/laws-and-regulations/general/property-rights-law-of-the-peoples-republic-of-china.html> – Accessed 23 February 2010 – Attachment 5.

¹¹ Also called the *Law of the People's Republic of China on Administration of the Urban Real Estate* (房地产管理法).

¹² National People's Congress of the People's Republic of China 2007, *Law of the People's Republic of China on Urban Real Estate Administration*, (1994 – amended 30 August 2007), Lawinfochina website <http://www.lawinfochina.com/law/display.asp?db=1&id=6353&keyword=real%20estate> – Accessed 23 February 2010 – Attachment 6.

¹³ The *Land Administration Law*, *Property Rights Law* and *Real Estate Management Law* listed above.

¹⁴ Smith, Jennifer G. 2009, ‘Beijing Law Professors Petition for Housing Demolition Reform’, 9 December, China Elections & Governance Website¹⁴ <http://chinaelectionsblog.net/?p=236> – Accessed 18 February 2010 – Attachment 7; Wang, Jingqiong 2009, ‘Demolition regulation ‘contradicts the law’’, *China Daily*, 11 December http://www.chinadaily.com.cn/china/2009-12/11/content_9158728.htm – Accessed 18 February 2010 – Attachment 8.

¹⁵ Wang, Jingqiong 2009, ‘Demolition regulation ‘contradicts the law’’, *China Daily*, 11 December http://www.chinadaily.com.cn/china/2009-12/11/content_9158728.htm – Accessed 18 February 2010 – Attachment 8.

leaving the latter with much less bargaining power.¹⁶ She also notes that the evictee rarely receives the market value of their property.

The PRC State Council General Office acknowledged the shortcomings of the compensation system in 2004:

Presently, China's urban construction industry has developed rapidly, but in the area of housing demolition in cities and towns, there are a number of outstanding problems: some local governments have not taken a correct view of official achievement and have blindly enlarged the scope of demolition; some cities have failed to implement adequate measures for housing demolition compensation and resettlement and **artificially reduced standards for compensation and resettlement; some have even abused official power and illegally engaged in forced demolitions.** These phenomena not only seriously violate the legal rights of residents in cities and towns and trigger large numbers of petitions by the masses ...¹⁷

For more detailed information on the procedures involved in land requisition and compensation, as well as the problems many people encounter in gaining fair compensation, see Question 2 of *Research Response CHN32921* (2008) and Question 1 of *Research Response CHN31747* (2007).

4 Is the Shijiazhuang City Government the appropriate authority for this district?

Since Gaocheng City is a county-level city belonging to Shijiazhuang (see Q1), Shijiazhuang City Government would be the appropriate authority.¹⁸

5 Can you find any reference to Property Development Headquarter Company of Gaocheng?

Many Chinese language reports were found of the “Gaocheng Property (Real Estate) Development (Headquarter) Company” (藁城市房地产开发总公司), but none in English. Although it was unclear whether the company has a project in Dongcheng St, it appears clear that it is active in real estate development in Gaocheng.

Chinese speakers at the RRT deciphered the Chinese name of the company as follows (藁城市房地产开发总公司). There are many reports of this company¹⁹ in Chinese including:

- An annual report of the company is on the Gaocheng City website at <http://www.gc.gov.cn/UploadFiles/20091228105739547.doc> (Google translate can be used to get the gist of this)

¹⁶ Schmidt, Mareike 2009, ‘Compensation Standard for Urban Demolition and Relocation’, abstract of paper given at the ECLS 4th Annual Conference in Vienna, 20 June 2009, Basel University website http://ius.unibas.ch/uploads/publics/3528/Schmidt_Extended_Abstract_Compensation_upload_website.pdf – Accessed 18 February 2010 – Attachment 9.

¹⁷ PRC State Council General Office 2004, ‘Notice on Controlling the Scope of Housing Demolition and Relocation in Cities and Towns and Tightening Up Demolition and Relocation Management: No.46’, 6 June US Congressional-Executive Commission on China (CECC) website <http://www.cecc.gov/pages/virtualAcad/index.php?showsingle=2337> – Accessed 23 February 2010 – Attachment 10.

¹⁸ ‘Shijiazhuang’ 2010, Wikipedia http://en.wikipedia.org/wiki/Shijiazhuang#Administration_divisions – Accessed 18 February 2010 – Attachment 1.

¹⁹ 7,000 hits on Google.

- A map showing the company office in Gaocheng and a number of news stories about the company are at <http://poi.mapbar.com/shijiazhuang/MAPISPYAQWZOFAQWZMTEC> – Translation

A search for the company name with Dongcheng St (东城街) produced 6 hits. None of these made it clear whether or not the company has a project in Dongcheng St.

Attachments

1. 'Shijiazhuang' 2010, Wikipedia
http://en.wikipedia.org/wiki/Shijiazhuang#Administration_divisions – Accessed 18 February 2010.
2. 'Map of Gaocheng City (Hebei)' Google Maps
<http://maps.google.com/maps?hl=en&ie=UTF8&ll=38.028724,114.847298&spn=0.024238,0.049438&z=15> – Accessed 18 February 2010.
3. National People's Congress of the People's Republic of China 2004, *Land Administration Law of the People's Republic of China* (2004 Revision), (1986 – revised 28 August 2004), Invest in China website
http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939 – Accessed 4 June 2007.
4. State Council of China 2001, *Urban Housing Demolition and Relocation Management Regulations*, 6 June US Congressional-Executive Commission on China (CECC) website
<http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingl=2335> – Accessed 23 February 2010.
5. National People's Congress of the People's Republic of China 2007, *Property Rights Law of the People's Republic of China* (Promulgated 16 March 2007 & Effective 1 October 2007), Lehman, Lee & Xu PRC Law Firm website <http://www.lehmanlaw.com/resource-centre/laws-and-regulations/general/property-rights-law-of-the-peoples-republic-of-china.html> – Accessed 23 February 2010.
6. National People's Congress of the People's Republic of China 2007, *Law of the People's Republic of China on Urban Real Estate Administration*, (1994 – amended 30 August 2007), Lawinfochina website
<http://www.lawinfochina.com/law/display.asp?db=1&id=6353&keyword=real%20estate> – Accessed 23 February 2010.
7. 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.
8. Wang, Jingqiong 2009, 'Demolition regulation 'contradicts the law'', *China Daily*, 11 December http://www.chinadaily.com.cn/china/2009-12/11/content_9158728.htm – Accessed 18 February 2010.
9. Schmidt, Mareike 2009, 'Compensation Standard for Urban Demolition and Relocation', abstract of paper given at the ECLS 4th Annual Conference in Vienna, 20 June 2009, Basel University website
http://ius.unibas.ch/uploads/publics/3528/Schmidt_Extended_Abstract_Compensation_upload_website.pdf – Accessed 18 February 2010.

10. PRC State Council General Office 2004, 'Notice on Controlling the Scope of Housing Demolition and Relocation in Cities and Towns and Tightening Up Demolition and Relocation Management: No.46', 6 June US Congressional-Executive Commission on China (CECC) website
<http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingl=2337> – Accessed 23 February 2010.