



### 1. What is known about appropriation of chicken farms in Gaocheng City?

No information could be located regarding the appropriation of chicken farms in Gaocheng City. China is currently experiencing enormous economic growth and urban and rural redevelopment projects are taking place across China at a very rapid pace. Many projects involve the reallocation of land and displacement of farmers and residents. An article dated 4 July 2009 in *The Guardian* reports that “[land]confiscations are rising by about 2 million new instances every year. Local officials relying on extra-legal sources of revenue strike a bargain with developers. The best plots of land are identified and seized and farmers are given woefully inadequate compensation.”<sup>1</sup>

### 2. What mechanisms exist for farmers to appeal against appropriations of their land?

Under the *Land Administration Law of the People’s Republic of China (2004)*<sup>2</sup> Article 2, the state is permitted to appropriate land in the public interest, effectively removing any avenue of appeal if land is confiscated. The same law does, however, provide that citizens must be compensated if their land is to be appropriated. Many victims of land appropriation complain that the compensation amount they receive from the government is inadequate. There are options for appeal in the area of compensation, but success is generally limited.

Article 2 of the *Land Administration Law of the People’s Republic of China (2004)* stipulates that land may be expropriated by the state, as provided below:

The state may make expropriation or requisition on land according to law for public interests, but shall give compensations accordingly. (Art.2)<sup>3</sup>

Under the Law, Article 47 stipulates that compensation must be provided when land is expropriated. The formula for determining the compensation amount is that a citizen will receive between six and ten times the average yield of the land, using average yield figures from three years prior to expropriation. There are also guidelines to address the

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<sup>1</sup> Lee, John 2009, ‘China’s empty land reform’, *The Guardian*, 4 July  
<http://www.guardian.co.uk/commentisfree/2009/jul/04/china-land-reform> – Accessed 14 October 2009 – Attachment 1).

<sup>2</sup> 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](http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939) – Accessed 4 June 2007 – Attachment 2.

<sup>3</sup> 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](http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939) – Accessed 4 June 2007 – Attachment 2.

amount paid to resettle any population engaged in agriculture on the land. Article 47 is provided below:

In expropriating land, compensation shall be made according to the original purposes of the land expropriated.

Compensation fees for land expropriated include land compensation fees, resettlement fees and compensation for attachments to or green crops on the land. The land compensation fees shall be 6-10 times the average output value of the three years preceding the expropriation of the cultivated land. The resettlement fee shall be calculated according to the number of agricultural population to be resettled. The number of agricultural population to be resettled shall be calculated by dividing the amount of cultivated land expropriated by the per capital land occupied of the unit whose land is expropriated. The resettlement fees for each agricultural person to be resettled shall be 4-6 times the average annual output value of the three years preceding the expropriation of the cultivated land. But the maximum resettlement fee per hectare of land expropriated shall not exceed 15 times of the average annual output value of the three years prior to the expropriation.

The standards for land compensation and resettlement fees for land expropriated shall be determined by various provinces, autonomous regions and municipalities in reference to the land compensation fees and resettlement fees for cultivated land expropriated (Art.47)<sup>4</sup>

Article 46 provides the procedure for seeking compensation when land is expropriated. The law states that citizens are required to register their claim with their local administrative department office within the timeline attached to the announcement of land expropriation. Article 46 is provided below:

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)<sup>5</sup>

Many Chinese complain that compensation amounts in land appropriation actions are not sufficient, fair, or reflective of current market values. There are accusations that officials artificially reduce the value of compensation and also pocket bribes from developers when land is expropriated. If a citizen wants to challenge the amount of compensation or accuse officials of wrongdoing, there are options; including filing a court case, accessing mediation committees, and using the Chinese appeal system.

#### Filing Suit in Court:

Since 1989, a citizen may sue administrative organs of the local government through local courts under guidelines of the Chinese *Administrative Litigation Law*. The Congressional-Executive Commission on China 2009 Annual Report states that nationwide, local courts

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<sup>4</sup> 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](http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939) – Accessed 4 June 2007 – Attachment 2.

<sup>5</sup> 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](http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939) – Accessed 4 June 2007 - Attachment 2.

heard 10 711 275 various cases in 2008, but are overwhelmed by the case load and there is an extensive backlog.<sup>6</sup>

Mediation:

Dispute resolution avenues include mediation committees, labour administration committees and administration reconsideration organs. These mechanisms may not be available in all towns and the US Congressional-Executive Commission on China reports that success in these forums is limited.<sup>7</sup>

The Appeal System

Citizens with grievances against judgments by local authorities may use the Chinese system of appeal called *Xinfang* 'Letters and Visits', which operates throughout all levels of government. *Xinfang* offices receive citizen petitions and complaints on a range of issues, from minor business disputes to serious allegations of corruption and criminal activity. Personnel and offices are located in all local and provincial government offices, and at all levels. Once citizens file petitions, the complaint is supposed to be reviewed, facts investigated, and reports produced for every case. While this system has some merits, at the local level, citizens may risk official retribution from local officials, including harassment, violence, and detention. According to Human Rights Watch, if a citizen is dissatisfied with the response to their petition, they are free to continue petitions at the next level up from township, county, provincial, and on to national levels.<sup>8</sup>

## Attachments

1. Lee, John 2009, 'China's empty land reform', *The Guardian*, 4 July <http://www.guardian.co.uk/commentisfree/2009/jul/04/china-land-reform> – Accessed 14 October 2009.
2. 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](http://www.fdi.gov.cn/pub/FDI_EN/Laws/law_en_info.jsp?docid=50939) – Accessed 4 June 2007.
3. Congressional-Executive Commission on China 2009 Annual Report 10 October 2009, p. 237.
4. Congressional-Executive Commission on China 2007 Annual Report 10 October 2007, pp.148-149.
5. "We Could Disappear At Any Time": *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), pp.3-4.

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<sup>6</sup> Congressional-Executive Commission on China 2009 Annual Report 10 October 2009, p. 237 – Attachment 3.

<sup>7</sup> Congressional-Executive Commission on China 2007 Annual Report 10 October 2007, p.149 – Attachment 4.

<sup>8</sup> Congressional-Executive Commission on China 2009 Annual Report 10 October 2009, p. 237 – Attachment 4. & Human Rights Watch 2005, "We Could Disappear At Any Time": *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), pp.3-11 – Attachment 7