

Keeping in touch

newsletter



Land Law – where do we stand?

by Miguel Evaristo

Law 10/2013 (Land Law) entered into force on March 1, 2014. Since then, much has been said and written about this Law. Although well drafted, it may be misinterpreted and consequently misapplied in several circumstances – especially when the land concessions end.

In fact, many Court cases have arisen on this issue, i.e., cases of provisional concession contracts' ending for the lease of a certain land. Many of the concessionaires have been claiming in Court against decisions that declared the end of the respective concession contracts. Those decisions, usually taken when the deadline of the lease was reached, were based on lack of land utilisation within the term provided in the contract. The concessionaires demand the annulment of the decision of the Administration on ending the lease.

It is also worth to mention that the consequence of the end of a concession not only implies the reversion of the land to the MSAR as the main consequence, but it also makes it impossible for the concessionaire to recover the incurred costs and improvements added to the land.

At a glance:

The concessionaires claim that they have lost months and years of the utilisation period, and that the responsibility for the delays in the works and the unavailability for using the land within the term granted is attributable to the Administration.

The Macao SAR Government (as Granting Entity), sustains that if after a period of 25 years of the provisional concession (provided that no other term is laid down in the contract) the utilisation clauses have not yet been fulfilled, the Chief Executive is legally bound to declare the term of the concession.

The Macao Courts have been ruling that:

- The new Land Law applies to previously granted concessions;
- The expiration of the provisional concession term automatically determines the end of the concession, if the concessionaires do not provide proof of the land utilisation by presenting the building use license;
- The Chief Executive is legally bound to declare the term of the concession, and it is not necessary for the Chief Executive to determine the reason for non-compliance with the utilisation clauses and whether such reason is attributable to the Concessionaire;
- Such decisions don't breach the general principles of Administrative Law (e.g. justice, trust, impartiality, good faith and proportionality).

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Further Reading

Pearl Horizon buyers allowed to apply for replacement housing from June 17 to August 16

"Buyers involved in the failed residential project Pearl Horizon will be allowed to apply from June 17 to August 16 for an opportunity to buy replacement housing, a dispatch on Official Gazette revealed.

Buyers have to decide whether to apply for the purchase within this period, otherwise they will lose their eligibility to buy a replacement housing after the deadline.

Applicants who filed lawsuits against the Macau SAR government must attach those related documents and information in applications."

Read more in macaubusiness.com

Rui Cunha Foundation hosts Land Law training course

During the month of June, the **Rui Cunha Foundation** will be hosting a training course on the Law 10/2013 (Land Law), which will be conducted by former Portuguese judge Dr. João Torrão. The course goes through the historical origins of the bill and culminates with an analysis of some of the decisions issued by the Macau courts.

The training will be held in Portuguese with simultaneous translation in Cantonese.

Read more in [Tribuna de Macau](#) (*in Portuguese*)

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