LAND LAW / STAMP DUTY IN MYANMAR
Seminar, 4 August 2016
IMPORTANT LAND LAWS

- Transfer of Property Act 1882
- Upper Myanmar Land and Revenue Regulations 1889
- Land Acquisition Act 1894
- Lower Myanmar Town and Village Lands Act 1899
- Registration Act 1909
- Land Nationalization Act 1953 (repealed)
- Transfer of Immovable Property Restriction Act 1987
- Constitution 2008
IMPORTANT LAND LAWS

- Farmland Law 2012
- Vacant, Fallow and Virgin Lands Management Law 2012
- Foreign Investment Law 2012
- Special Economic Zones Law 2012
TYPES OF LAND

- Farmland (paddy land and several types of non-paddy land)
- Non-farmland:
  - Town land
  - Village land
  - Grant land
  - Permit land
  - Freehold ("ancestral") land
  - Licensed land
TYPES OF LAND

- Religious land
- Vacant land and fallow land
- Virgin land
- Forest land
- Farmland that is allowed to be used in other ways (according to section 30 (a) or 30 (b) Farmland Law; previously “LaNa 39” land)
LAND DOCUMENTS

- Land grant certificate (lease agreement)
- Land permit
- Land license
- Land use certificate (form 7)
- Receipt for land tax
- Land forms 105, 106
- Certificate according to section 30 (a) or 30 (b) Farmland Law (formerly: “LaNa 39”)
LAND GRANT

- Technically, a transferable lease
- Previously: Only for residential purposes
- Now: Residential and business purposes
- Land grants are available for 90, 60 or 30 years
- In Yangon: Issued by the Department of Human Settlement and Housing Development (DHSHD) or YCDC
LAND GRANT
LAND GRANT
LAND PERMIT

- Document allowing temporary residence
- Period: One year
- Allows the building of a house
- Prohibition to sell or transfer
- Permit shows the name of the land holder and the location of the land
- Categorized as “town land”
- Verification possible at land record department
Preferably, issued under section 7 Lower Myanmar Town and Village Lands Act for specific types of businesses:

- **Industry**: e.g. rice mill, oil mill, timber factory
- **Agriculture**: e.g. teak, *dhani*

- Extendable after paying the annual tax
- Not issued any more
LAND USE CERTIFICATE (FORM 7)

- Issued according to section 7 Farmland Law 2012
- Can be sold, transferred and inherited
- Changing the use requires permission from the Central Farmland Management Committee (paddy land) or Regional/State Farmland Management Committee (other types of farmland)
LAND USE CERTIFICATE (FORM 7)

Farmland Form 7
Farmland Rule 14 (a)

Nay Pyi Taw/ Ayeyawady Region/State
Pathein District, Pathein Township

Details of the farmland for which there is a right to use:

1. Name of Township
   Pathein
2. Name of Ward/Village Tract
   Mo-gyi-da
3. Field/Plot No.
4. Name of Field/Plot
   Paw-kha-a-thaing (Pya-ma)
5. Holding No. of Plot
   45
6. Type of Land
   Garden
7. Area (acre)
   22.54
   1217/Lyu(2013)
9. Date of Permit
   24.10.2013
10. Remark

Certificate of the Right to Use Farmland

Permit so long as there is no breach of terms and conditions under section 6, 7 and 8 of the Farmland Law.

(Map is attached as evidence)

(Official Seal)

Secretary
Township Administrative Body of the Farmland
Pathein

(Official Seal)
LAND USE CERTIFICATE (FORM 7)

Details of the person who has the right to use the farmland

1. Name of person/organization
2. Name of father
3. N.R.C No.
4. Address: (42/988), Shwe Op Daung St. 1, North Dagon, Yangon

Sticker

Conditions

1. The farmland must be worked on as prescribed in the Farmland Law.
2. Land revenue and other taxes levied by the Ministry relating to the farmland must be paid.
3. Sales, mortgages, leases, transfers and gifts of the right to use farmland must be registered with the relevant Township Department by paying the stamp duty and registration fees stipulated by the Department for the contract.
4. If the right to use the farmland has been acquired by inheritance in accordance to existing laws, this must be registered with the relevant Township Department in accordance with the stipulations.
5. The right to use the farmland may only be mortgaged for the purpose of obtaining funds for investments in cultivation, and it must be mortgaged to a Government bank or a bank recognized by the Government.
6. Without authorization by the relevant administrative body for the farmland, the farmland shall not be trespassed on and worked on.
7. Without permission, the farmland must not be used for other purposes.
8. Without permission, the crops originally cultivated must not be changed for other kinds of crop.
9. The farmland must not fall in disuse without sufficient reason.
10. The farmland must not be sold, mortgaged, leased, transferred or given as a gift before the right to use the farmland is registered with the relevant Township Department.
LAND TAX RECEIPT (FORM 8)

- Issued for paddy land, garden land, *ya* (dry field) land, *khai* (dry field) land
- Shows the name of the land user, use period, holding no., *kwin* name and number, land type, land location; shows the paid amount
- Form states that “this form does not prove ownership”
LAND TAX RECEIPT (FORM 8)
FORMS 105 AND 106

- Form 105: Map of a plot of land
- Form 106: Land history
- Available from the Township Land Record Department
- Issued for both farmland and non-farmland
- Form 105: Shows the name of the “owner, grant holder, lessee”, land identification (plot no., etc.), status of the land (e.g. “government land”), land type (e.g. “garden land”), land map
FORMS 105 AND 106
USING FARMLAND IN OTHER WAYS

Central Farmland Management Committee

Regional/State Farmland Management Committee

District Farmland Management Committee

Township Farmland Management Committee

Land Record Department

Paddy land

Non-paddy land
USING FARMLAND IN OTHER WAYS

- Application letter (form 10)
- Statement as to the current land usage
- Forms 105, 106
- Location map (1 inch representing 1 mile)
- Location map taken from Google
- Non-objection letters from the neighbours
- Resolution of the meeting of the Village Farmland Management Committee
- Site plan
USING FARMLAND IN OTHER WAYS
Every Land Record Department is different
At the very least, landlord, tenant and two witnesses have to appear in person
Landlord and tenant can be represented with a power of attorney; power of attorney has to be notarized
Other documents that a land record department may request to see: form 105 (purpose: “lease of land”), form 7, permission according to section 30 (a)/30 (b) Farmland Law
REGISTERING LEASE AGREEMENTS

- Documents have to be presented for registration within four months from the date of signing (section 23 Registration Act)
- Documents have to be revenue stamped first (“before or at the time of signing”; section 17 Stamp Act)
- Stamp duty for lease agreements: 1.5% of annual rent if term <= 3 years; 3% of annual rent if term is longer
- Penalty: duty amount x 10 for late stamping (section 35(a) Stamp Act)
LAND GRABS

- Land taken away by force or through coercion
- Difficult to spot by looking at the land documents only; but a large plot of “virgin” or “vacant and fallow” land could be an indication, as well as names connected to the former junta or cronies
- Check on the ground: Speak with residents and the local NLD office
- Committees investigating land grabs: See here http://tinyurl.com/jlvesu4
YCDC

- Administers 33 of the 45 townships of Yangon Region
- Created in 1990; now operates “almost ... as a dominant [additional] ministry under the Region government”
- Legal basis (now): Yangon City Municipal Law 2013 (Yangon Region Hluttaw Law)
- Committee partly elected, partly appointed by the Regional Government
- Mayor = (i) YCDC chairman and (ii) Region Minister for Development Affairs; is appointed by the Union President
YCDC

- Responsible, among others, for urban planning (zoning and building permits)
- Further reading: *UNDP Myanmar - The State of Local Governance: Trends in Yangon*
HIGH-RISE BUILDINGS IN YANGON

- Application for approval in principle to Yangon Region Government, filed with the High-Rise Building Inspection Committee HIC (application documents include architectural drawing and information as to location, height above sea level, spacing (i.e. distance between buildings), parking space)
- Several of HIC’s departments review the application
- Secretary of the HIC reports on the result of the review to the YCDC Chairman (i.e. the mayor of Yangon)
If the mayor agrees, HIC forwards the application to: (i) YCDC Executive Committee if building <= 12½ floors or (ii) Yangon Region Government

If YCDC Executive Committee or Yangon Region Government approve in principle: Application for building permit to Engineering Department (Building)
HIGH-RISE BUILDINGS IN YANGON

- Application documents have to be prepared and signed by a licensed engineer, licensed contractor and building engineer and include the information already submitted to the Yangon Region Government, but in more detail and with proper calculations.
- Engineering Department (Building) forwards, after reviewing, the application to the High-Rise Building Inspection Committee (HIC).
HIGH-RISE BUILDINGS IN YANGON

- HIC reviews applications for construction permits for buildings with 8½ to 12½ floors
- Applications for buildings with more than 12½ floors are reviewed by the Committee for Quality Control of High-Rise Building Construction Projects (CQHP)
- HIC or CQHP gives recommendation to Engineering Department (Construction) on: pile load test, deep excavation, foundation, piling, superstructure and M&E
HIGH-RISE BUILDINGS IN YANGON

- Engineering Department (Building) issues a building permit and, after construction is finished, a building completion certificate
ZONING IN YANGON

- Inside “Shwedagon Pagoda Restricted Area”: Buildings <= 190 feet above sea level; must not obstruct the view on Shwedagon Pagoda by worshippers in public areas
- Outside “Shwedagon Pagoda Restricted Area”: Buildings <= 417 feet above sea level
- Zoning plan so far only a draft
ZONING IN YANGON

Taken from: U Than Myint, “Provisional Myanmar National Building Code and Guidelines for High-Rise Buildings”
LEGAL RE COURSE AGAINST ACTS BY THE GOVERNMENT

- Section 45 Specific Relief Act: “The High Court may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office whether of a permanent or a temporary nature or by any corporation or inferior Court of Judicature”
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