

Government comments on RAR

In general, the government thinks this report clearly describes the complainants' concerns but didn't completely include government's concerns. And they feel this report has kind of inclination towards the complainants.

Remark 1

Executive Summary, Para 2

RAR: Since they are not originally from this area, under government rules, they are not entitled to the same compensation as persons who are registered as local residents.

Comment:

Please revise this above sentence as follows: Since they are not originally from this area, they are not entitled to same policy on housing land in Gaohu Village as the registered local residents according to the stipulations in China law of land management. Note: It is the government's policy that all houses without property rights, no matter who owns them—either local resident or non-local resident, should be compensated on same standard, that is cost of structure + incentive for removal.

Remark 2

Executive Summary, Para 3

RAR: while the government wants to expedite its environmental improvement program in Fuzhou

Comment:

Please revise this sentence as follows: Under compliance with ADB policies and domestic policies on land acquisition and resettlement, the government wants to expedite its environmental improvement program in Fuzhou.

Remark 3

Background, Para 2

RAR: “this would entail relocation of 1,148 households (5045 people) and demolition of 197,230 sq meters of houses”.

Comment:

Please revise this sentence as follows: The updated 2008 RP for the Longjin and Yuejing river rehabilitation works states that this works would entail relocation of 1,148 households (5,045 people) and demolition of 197,230 sq meters of houses.

Remark 4

Para 4

RAR: “their fundamental concern: that because of the project they may be left with no house and no livelihood”.

Comment:

According to the stipulations in China Law of land management, the fundamental cause for the complainants to be left with “no house and no livelihood” is that they illegally bought land and built house in Gaohu village. The stipulations are not to

take blame for this situation, but our policies won't leave them with no house to live.

Remark 5

Para 4

RAR : “Such persons referred to as 'floating population' are not entitled under government rules to the same compensation as residents with local papers, who qualify for replacement houses with an area of 45m² per household member. The complainants note that treating them differently from those with local papers is not consistent with the statement in the 2004 RP that all APs would receive the same compensation: "For this project, all legal and illegal affected persons, irrespective of title and tenure rights, will be protected, including 'floating population.' Compensation will be made on the same basis according to the ADB requirements”

Comment:

Please revise the above description as follows: “The Implementation Details for Demolition Compensation and Resettlement for the Rehabilitation Project (Longjin River and Yuejing River)” states that irrespective of title of the house builder (owner) ,either local residents with registered local Hukou or non-local “floating population”, the compensation standard for houses without property rights is same, that is to compensate for those houses without property rights that were built between Jan 5th ,1984 and Oct 26th ,2004 based on different structures. Actually the policy of 45 sq meters /person is compensation just for the housing land.

The implementation details stipulate that those affected villagers who are member of local RCEO, irrespective of position of land/tenure right, are entitled to 45 sq meters /person. The above policy is set according to Clause 8, China Law of Land Management, which says “the land in rural area and suburban area is owned collectively by the peasants except those parts that are owned by the state (government) according to laws; housing lands, plots and hills for peasants' private use are owned collectively by peasants; and Clause 62 stipulates that “Each peasant household is entitled to one housing land only and the area of his housing land should not exceed the standard provided by the provincial, autonomous region and municipal government. The building of peasant houses should comply with the township general programming on land using and should take full use of the vacant lands in the village. The application of occupying land for peasant houses should be examined by the township government and approved by the county –level government; and when the housing land occupies agricultural land, procedures of examination and approval should be handled according to stipulations of Clause 44 of this Law. The villager's re-application for housing land after he sells his original housing land or rents original house should not be approved”.

That is to say each qualified peasant household is entitled to application for housing land. The complainants are not villagers of the affected Gaohu Village, so they are not entitled to the collective land ownership rights in Gaohu Village, they should exercise the right of one housing land for one household only in the regions where their hukous are registered. This is stipulated by the China Law of Land Management, not by the implementation details.

Remark 6

Para 12

RAR: “Most of the complainants are engaged in casual labor, some work outside Fuzhou City and in other provinces, and one person has a permanent job with the local government.”

Comment:

According to the complainants’ statements here, the resettlement of this project has no effect on their livelihood at all. Livelihood is a comprehensive thing, and effect on house is one part of it.

Remark 7

Para 12

RAR: “the land for the seven houses was acquired in two plots in 1994.”

Comment:

Please revise this sentence as follows: “the land for the seven houses was acquired in two plots in 1994 (the two plots total 132 sq meters, so 396 sq meters of house can be built on them).”

Since the houses are not qualified for belated property certificates, explanation here is redundant as no matter how many sq meters there are, it is illegal.

Remark 8

Para 12

RAR: “On one plot, four houses were built, on the other plot three houses”

Comment:

The 7 houses occupy a land of 420 sq meters and the actual building area is 1325.52 sq meters.

Remark 9

Para 12

RAR: “They said they also paid a transaction fee to the village committee”.

Comment:

Payment of a transaction fee to the village committee is the first step to apply for a legal housing land. According to China law, the village committee doesn’t have the authority to approve housing land. Since they are not members of local RCEO, actually they couldn’t get approval from land management authorities for this application.

Remark 10

Para 17

RAR: “The complainants refer to the 2004 RP which says that compensation will be made on the same basis for all APs. They are also aware that ADB’s *Policy on Involuntary Resettlement* includes the requirement that APs must be at least as well-off after the project as they were before. The complainants expect ADB to make sure that the principles set out in the RP and the policy are followed and that they will be treated fairly and equally with other APs.”

Comment

Actually the compensation is made on the same basis for all APs. For houses of same status with the complainants', other affected persons get same compensation with the complainants, and every body is treated fairly and equally.

Remark 11

Para 18

RAR: "The various government agencies involved in the project consider that the complainants do not have the same rights as APs who are registered members of the local Rural Collective Economic Organization (RCEO). They say that the complainants are members of RCEOs in their original home towns and it would be unfair to local villagers for them to have the same rights in Gaohu village"

Comment:

Please revise the "the same rights" into "the same rights on housing land".

Remark 12

Para 18

RAR: They say that the complainants are members of RCEOs in their original home towns"

Comment:

Please revise as follows: "the complainants are members of RCEOs in their original home towns and they should exercise their rights in housing land in regions where their hukous are registered."

Remark 13

Para 18

RAR: "and it would be unfair to local villagers for them to have the same rights on housing land"

Comment:

Please add following sentence after the above one: "furthermore, it would violate relevant rules in China Law of Land management".

Remark 14

Para 19

RAR: "that the compensation offered is not sufficient to allow them to rebuild or to buy replacement houses of the same or similar area as their existing ones and to reestablish their livelihoods in a new location."

Comment:

The compensation offered to them for this project would not change the status of their current houses (without property rights), but is sufficient to allow them to build houses in their original hometown where their Hukous are registered and reestablish their livelihood there.

Remark 15

Para 20

RAR ; "The new standards also have several time limits and one of them has already passed: to receive the maximum compensation, the APs must have accepted the

compensation by 10 Mar 2009, while the next tier of compensation expires on 25 Mar and the final one on 31 Mar”.

Comment:

The time limits can be ignored for this case.

Remark 16

Para 21

RAR: “the delay has already caused a substantial increase in the costs for resettlement.”

Comment:

More importantly, the delay will cause problem of flood protection with the coming of rainy season.

Remark 17

Para 23

RAR: The Fuzhou government stressed that it is currently managing over 50 projects to improve the city and this project is only one out of many.”

Comment:

It should be “The Cangshan district government stressed that it is currently managing over 50 projects to improve the city and this project is only one out of many”.

Remark 18

Para 24

RAR: “They feel that they were also not consulted in developing the new compensation rate and that this new is not in line with the principle of being as well off after the project as before”.

Comment:

It is a serious thing to establish a compensation standard and no standard is targeted just on these 7 complainants. As for being in line with the principle of being as well off after the project as before, how about offering them houses without property rights to live in?

Remark 19

RAR : Identification of options

Comment:

As option is concerned, it'd better provide houses for them to live; if low-rent housing is not available, is it ok to rent those resettlement houses that are sold at rmb2800/sq meter for them to live in? ADB probably can't accept the option proposing that those complainants go back to their original hometown.

Remark 20

Para 25

RAR Option 4: Provide monetary compensation to APs, based on evaluation of the

total cost the 7 households spent on buying land and building the houses (in present value)

Comment:

“In present value” should be deleted from this sentence

Remark 21

RAR: Compensation amount = **land acquisition cost** + house building cost + reward for removal + cost of removal + transitional fee

Comment:

“Land acquisition cost” should be replaced by “the then cost of buying the house”.

Remark 22

Para 28

RAR: “but this might expose the complainants’ houses to demolition under other (non-ADB) development projects in the future”

Comment:

The above sentence should be deleted because ADB’s description in this report should be objective and fair and shouldn’t comment on Fuzhou government’s future action which is not related to ADB.

Remark 23

Para 28

RAR: “.....making the living conditions difficult”

Comment:

This sentence should be revised as follows: “temporarily making the living conditions difficult but after the project is completed, the surroundings will be improved greatly.”