



Asian Development Bank

**REVIEW AND ASSESSMENT REPORT**

**OF THE**

**SPECIAL PROJECT FACILITATOR**

**ON**

**FUZHOU ENVIRONMENTAL IMPROVEMENT PROJECT  
PEOPLE'S REPUBLIC OF CHINA**

**ADB Loan 2176-PRC (29 July 2005)**



March 2009

## ABBREVIATIONS

ADB	– Asian Development Bank
AP	– affected person
CNY	– yuan (currency unit)
EA	– executing agency
EASS	– Urban and Social Sectors Division, East Asia Department
FDHDED	– Fuzhou Diyuan Housing Demolition Engineering Department
FMG	– Fuzhou municipal government
FPMO	– Fuzhou Project Management Office
FUVCDC	– Fuzhou Urban Visual Construction and Development Company
IA	– implementing agency
IEM	– Independent External Monitor
NEULADRH	– New East Urban Land Acquisition and Demolition and Resettlement Headquarter of Fuzhou City
OSPF	– Office of the Special Project Facilitator
RAR	– review and assessment report
RCEO	– Rural Collective Economic Organization
RP	– resettlement plan
RRP	– report and recommendation of the president
PRC	– People's Republic of China

## CONTENTS

	<b>Page</b>
EXECUTIVE SUMMARY	(ii)
MAP	(iii)
I. BACKGROUND	1
A. The Project	1
B. The Complaint	1
C. Determination of Eligibility	2
II. REVIEW AND ASSESSMENT	3
A. Objectives and Methodology	3
B. Identification of Stakeholders	4
C. Identification of Issues	5
D. Identification of Options	7
E. Assessment of Problem-Solving Probability	8
III. RECOMMENDATIONS AND PROPOSED COURSE OF ACTION	9
A. Remedial Action and Recommendations	9
B. Proposed Course of Action	9
APPENDIXES	
1. Doc. No. 040 issued by NEULADRH on 23 Feb 2009 (in Chinese language)	11
2. Ground Rules	15
3. Terms of Reference of Mediator	16

## EXECUTIVE SUMMARY

The Fuzhou Environmental Improvement Project in the People's Republic of China is intended to improve the urban environment of the municipality of Fuzhou, a major and rapidly growing city and the capital of Fujian Province. The project comprises three components: (i) expansion of the Yangli sewer networks serving the eastern part of Fuzhou, (ii) construction of the Lianban sewer networks on Nantai Island on the southern part of Fuzhou, and (iii) rehabilitation of 12 rivers for pollution control and flood protection on Nantai Island.<sup>1</sup> Currently, rehabilitation works on the first two of the 12 rivers are beginning, and resettlement of affected people (APs) is taking place.

The Office of the Special Project Facilitator (OSPF) on 15 January 2009 received a complaint letter from APs representing a group of 37 people who are to be resettled under the Nantai Island river rehabilitation component of the project. The complainants expressed concern that the compensation offered to them was inadequate and not in accordance with the Resettlement Plan (RP) and the Asian Development Bank's (ADB) *Policy on Involuntary Resettlement*, and they were worried that they might be left with no houses and no incomes after resettlement. The complainants moved to the area in 1994, bought land from a local farmer, and built houses where they have been living ever since. 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. OSPF conducted an eligibility mission, met with the complainants and other stakeholders, and on 12 February 2009 determined that the complaint was eligible for the consultation phase of ADB's Accountability Mechanism. In March, OSPF reviewed and assessed the complaint based on written documents, interviews with stakeholders, and a field-based assessment.

The complainants are concerned about losing their houses and livelihoods, while the government wants to expedite its environmental improvement program in Fuzhou. ADB wants to see the project successfully implemented so it can deliver its benefits. These interests are not mutually exclusive and can form the basis for working out a resolution acceptable to all parties. All the stakeholders agree that the project is important and needed, a number of options for reaching agreement have already been mentioned, and the parties are willing to sit at the same table and discuss the issues. Nonetheless, there are important constraints to reaching agreement, including the time pressure that all parties feel and various worst-case scenarios that could complicate the dialogue.

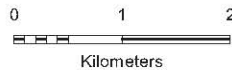
OSPF believes there is need for a structured participatory consultation process assisted by an independent facilitator. This will improve communication among the parties and help them understand each other and support a joint search for solutions. OSPF recommends the recruitment of a Chinese and English speaking, accredited mediator to work out and implement a course of action with the three parties, with OSPF acting as the convener. OSPF proposes to visit Fuzhou from 27 to 29 March to discuss this Report with the parties, introduce the mediator, and agree on the course of action and its implementation.

---

<sup>1</sup> Loan No. 2176-PRC for \$55.8 million, approved on 29 Jul 2005.

# MAP

## FUZHOU ENVIRONMENTAL IMPROVEMENT PROJECT IN THE PEOPLE'S REPUBLIC OF CHINA Fuzhou City



PROOF ONLY





## I. BACKGROUND

### A. The Project

1. Fuzhou, the capital of Fujian Province, is a major commercial, industrial and financial center, and one of the high-growth cities of the People's Republic of China (PRC). Fuzhou has a population of 1.85 million<sup>1</sup> and with its important harbor, has always been at the forefront of PRC's contacts with the outside world (see map). The Fuzhou Environmental Improvement Project<sup>2</sup> is intended to improve the urban environment of the municipality of Fuzhou. The Project comprises three components: (i) expansion of the Yangli sewer networks serving the eastern part of Fuzhou, (ii) construction of the Lianban sewer networks on Nantai Island on the southern part of Fuzhou, and (iii) rehabilitation of 12<sup>3</sup> rivers for pollution control and flood protection on Nantai Island. The Fuzhou Municipal Government (FMG) is the executing agency and the Fuzhou Project Management Office (FPMO) is responsible for overseeing, coordinating, and monitoring project implementation.

2. The Project's Report and Recommendation of the President (RRP) stated that 74.81 ha of land would need to be acquired, mainly for the rehabilitation of creeks on Nantai Island. This would entail relocation of 1,148 households (5,045 people) and demolition of 197,230 m<sup>2</sup> of houses. Draft resettlement plans (RPs) were prepared in accordance with PRC land law and Asian Development Bank's (ADB) *Policy on Involuntary Resettlement* and provided as supplementary appendixes to the RRP. The RP prepared in September 2004 provides for both internal and external monitoring. The external monitoring is to be undertaken every six months by an independent monitoring agency, and terms of reference for the independent monitoring of resettlement activities are given in an appendix. In Aug 2008, a revised RP for the Nantai Island creek rehabilitation component-Longjin and Yuejin River rehabilitation works<sup>4</sup> was issued that provides more specifics regarding the compensation offered to different categories of affected persons (APs).

### B. The Complaint

3. A letter in Chinese dated 25 November 2008 was addressed to the Office of the Compliance Review Panel (OCRP) and sent by e-mail to the ADB Resident Mission in Beijing, where it was translated into English and then sent to the OCRP at the ADB Headquarters in Manila. OCRP passed the letter to the Office of the Special Project Facilitator (OSPF) on 15 Jan 2009.<sup>5</sup> OSPF clarified that the complainants included seven households living in seven adjacent houses and comprising a total of 37 persons.

4. The complainants in their letter state clearly their fundamental concern: that because of the project they may be left with "no house and no livelihood". They explain that their houses

---

<sup>1</sup> In 2003.

<sup>2</sup> Loan No. 2176-PRC for \$55.8 million, approved on 29 Jul 2005.

<sup>3</sup> Originally, the Project was intended to rehabilitate 13 rivers but the number was reduced to 12 as a result of changes made during the design stage. The total length of rivers to be rehabilitated, however, was extended by 2 km to 47.85 km.

<sup>4</sup> People's Republic of China: Fuzhou Environmental Improvement Project. Nantai Island Creek Rehabilitation Component – Longjin and Yuejin River Rehabilitation Works. Resettlement Plan, Revised, August 2008. Prepared by Fuzhou Engineering Consulting Center. Fuzhou Urban Visual Construction and Development Company.

<sup>5</sup> According to ADB's Accountability Mechanism policy, complaints should first be addressed to OSPF. OSPF's eligibility mission discussed with the complainants in detail the procedures under the consultation phase and under the compliance review phase, and explained at which stages in the process they could file a request for compliance review.

are to be demolished under the Longjin and Yuejin river rehabilitation works of the Nantai Island component of the project, and they want to receive adequate compensation for losing their houses. They say, however, that the agency responsible for demolishing houses, the Fuzhou Diyuan Housing Demolition Engineering Department, has published "Implementation Details for Demolition Compensation and Resettlement" which provides them only CNY350 per square meter, which is much less than needed for them to purchase houses in Fuzhou of the same area as their current houses, which are about 180m<sup>2</sup>.<sup>6</sup> The core of the problem is that the complainants are not registered local residents but moved to the area in 1994 when they purchased land from local farmers and constructed the houses. The government considers the land purchase illegal. 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 45m<sup>2</sup> 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".<sup>7</sup>

5. The complainants describe in their letter a series of attempts to raise their concerns with successive levels of government and project management. They first complained to the Gaohe village committee at the beginning of February 2008, then in March 2008 to the Cangshan district government using the e-mail address of [fzcangshan@sina.com](mailto:fzcangshan@sina.com). They then complained to the Fuzhou Municipal Government, lodging a complaint at the website of the Fuzhou Municipality, <http://www.fz12345.gov.cn>. They voiced their concerns to the Fujian Provincial Government, also in March 2008, and in April to the ADB Project Management Office in Fuzhou. In May, the complainants sent a letter to the Country Director at ADB's PRC Resident Mission. They stated that then, on 16 June 2008, they submitted a complaint by e-mail to OSPF, but OSPF never received this e-mail.<sup>8</sup> In July and again in November 2008, the Independent External Monitor (IEM) visited the complainants, and they described their problems to him (in November he was accompanied by two ADB staff), but these visits did not lead to any decision known to the complainants. Since their series of complaints had not solved their problem, and since they had not received a response from OSPF, the complainants decided to file a request with the Compliance Review Panel at the end of November 2008.

### C. Determination of Eligibility

6. OSPF held initial discussions with the Urban and Social Sectors Division of ADB's East Asia Department (EASS) on the complaint and whether it had been addressed to them before. EASS confirmed that the first complaint letter was received in May 2008 and the key issue was on the compensation of illegal buildings and resettlement of population with non-local household registration certificates before 26 October 2004.<sup>9</sup> According to EASS, the Fuzhou Urban Visual Construction and Development Company (FUVCDC), the implementing agency (IA), the external independent monitoring agency and the supervision consultant Black and Veatch conducted consultations on the complaint.

<sup>6</sup> The seven houses have 3 floors each. Six houses range between 183 and 187 m<sup>2</sup> in total floor area, and one house is 211 m<sup>2</sup>.

<sup>7</sup> Resettlement Plan Nantai Island Inland River Rehabilitation Project, Fuzhou Urban Visual Construction Development Company, section 3.3.2 Lack of Rights, September 2004.

<sup>8</sup> OSPF was unable to find a record of the e-mail in ADB. OSPF and the complainants jointly checked the complainants' account in the internet café from which the e-mail had been sent but could not find the e-mail.

<sup>9</sup> This date was adopted as the cut-off date for land acquisition and resettlement for the project.



7. From 11 to 13 February 2009, OSPF conducted a mission to determine whether the complaint met the eligibility criteria for the consultation phase of the Accountability Mechanism. The mission met local officials in Fuzhou, explained the Accountability Mechanism and the procedures of the consultation phase and informed the officials of the purpose of the mission and the possible future actions. The mission also met several times with the affected people who had submitted the complaint, including a first meeting as a group, and then individual interviews with each of the seven complaining families. After checking the various exclusions of the accountability mechanism policy, reviewing the eligibility requirements of the consultation phase and assessing the probability of resolving the problem through assisted negotiation, the mission concluded that the complaint was eligible for handling under the consultation phase. OSPF also debriefed the Ministry of Finance and the ADB Resident Mission in Beijing. The complainants stated that confidentiality was not needed and gave OSPF permission to publish their letter. Some, however, felt that the complaint letter should not be published with their names. On 12 February 2009, OSPF determined the complaint eligible and informed the complainants, EASS and FPMO about the decision. The complaint letter was posted on the OSPF website in Chinese and in an English translation without the complainants' names.<sup>10</sup>

## II. REVIEW AND ASSESSMENT

### A. Objectives and Methodology

8. The objectives of the review and assessment were to (i) explore the history of the complaint; (ii) confirm the key stakeholders; (iii) identify the key issues of the complaint; (iv) explore the stakeholders' readiness for joint problem-solving; and (iv) recommend a course of action.

9. The review and assessment included (i) a desk-based review of documents, including the RRP, back-to-office reports, Memoranda of Understanding, the RP of 2004 and the updated RP for the Yuejin and Longjin rivers, which was released in August 2008; (ii) interviews with ADB staff currently involved in the project; (iii) a field-based assessment consisting of site visits, a workshop with the complainants' representatives and interviews with household members, and interviews with government stakeholders, the executing and the implementing agencies, the external independent monitoring agency, and the supervision consultants. The interviews were conducted using semi-structured questionnaires.

10. This Review and Assessment Report (RAR) seeks to present the issues as the different parties explained them to OSPF and is intended to assist the stakeholders to better understand each others' needs, interests and concerns, and to help them consider options to address those concerns. It is not intended to provide judgments on any issues related to the project, or evaluations of any stakeholder groups or individuals, or a set of expert recommendations on how issues should be solved.

11. OSPF's role is to facilitate solutions to the issues as described by the different stakeholders, and to initiate and guide the consultation process. OSPF offers help to the parties involved in the project to resolve their issues through (i) setting the stage for the complainants' decision-making, (ii) providing opportunities for them to meet and discuss strategies, and (iii) providing processes conducive for all parties to arrive at solutions. It is OSPF's responsibility to treat all parties with respect and assure a fair process. It is not OSPF's role to decide whether parties' actions, opinions, or perceptions are right or wrong or to arbitrate in favor of one of the parties.

---

<sup>10</sup> <http://www.adb.org/Documents/SPF/Fuzhou-Project.pdf>; and <http://www.adb.org/Documents/Translations/Chinese/Fuzhou-Project-cn.pdf> .

## **B. Identification of Stakeholders**

### **1. The Seven Households**

12. The complainants include seven households living in seven houses (about 180m<sup>2</sup>/house) and comprising a total of 38 persons. The seven households moved into the present locations in 1994. They say that in 1994 there were only basic structures and they built the 3-story houses over time. Their family sizes vary between 4 members and 8 members.<sup>11</sup> For this complaint each household is represented by one family member, usually the husband. In one case, the daughter, who is not part of the household, represents her old and sickly mother and her brother, who is working outside the city. In another case two brothers share representation in the complaint. 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. All of them have identification cards and residence registration books<sup>12</sup> from their home towns. Two complainants seem to have residence certificates for Fuzhou City. The complainants explained that they have no houses anywhere else and nowhere to go since they have lived in the current location for the past 15 years. The land for the seven houses was acquired in two plots in 1994. On one plot, four houses were built, on the other plot three houses. Both plots were bought from a farmer. They said that they also paid a transaction fee to the village committee. Some of the families take care of their elderly parents, and some have children at university and financial obligations to support the students. Only one complainant said that he had a permanent income.

### **2. Government and Related Agencies**

13. A number of different agencies play a role in relation to the project, the complaint, and particularly resettlement. These include the FMG, which is the executing agency of the project, with the FPMO set up within the Fuzhou Municipal Reform and Development Commission (FMRDC). The FUVCDC is the implementing agency and responsible for the implementation of the resettlement plan. The Fuzhou Diyuan Housing Demolition Engineering Department (FDHDED) is carrying out resettlement investigation, consults on compensation rates, signs resettlement and compensation agreements, negotiates compensation rates with APs, disburses compensation payments, assists APs to restore incomes and rehabilitate livelihoods, and assists jobless APs. The New East Urban Land Acquisition and Demolition and Resettlement Headquarter of Fuzhou City (NEULADRH) among other tasks is in charge of (i) organizing people to participate and helping them to understand resettlement policies; (ii) implementing, examining, supervising and recording resettlement activities; (iii) organizing land handover activities; (iv) handling AP relocation; (v) disbursing and managing land compensation funds; and (vi) supervising land acquisition, demolition of houses and affiliated buildings, relocation, and house reconstruction. A township resettlement office has been set up and is located in the project area. The Village Committee in charge of the area is also involved in the project. Supervision consultants, including a local resettlement consultant and an international resettlement consultant, support the project.<sup>13</sup> The Center for Involuntary Resettlement Research in Wuhan University was recruited as the IEM.

<sup>11</sup> The household with eight members is effectively two households – two brothers, their wives with one child each and the older parents. Each brother takes care of one of the parents.

<sup>12</sup> These books are called hukou books in Chinese. Five families have one hukou, 3 families have separate hukous for the husband and the wife.

<sup>13</sup> Most of this information is from the revised Resettlement Plan, August 2008. [http://www.adb.org/Documents/Resettlement\\_Plans/PRC/Fuzhou-Environmental/default.asp](http://www.adb.org/Documents/Resettlement_Plans/PRC/Fuzhou-Environmental/default.asp).

### 3. East Asia Urban and Social Sectors Division

14. The EASS is responsible for the administration of the project. The project officer and the resettlement specialist conduct regular missions to review the progress of project implementation, including resettlement, the physical works, procurement, the disbursement of funds and adherence to loan covenants. They discuss areas of concern and seek agreement with the FMG on activities, schedules, targets, and changes in the scope of the project if needed.

#### C. Identification of Issues

15. Depending on the stakeholders' perception and situation, they mentioned different sets of concerns: some related to concrete physical expectations and changes, others to a broader view on the project or the context within which the project is operating. This section summarizes the views expressed by the various stakeholders and organizes them around a manageable set of the most pertinent issues. The purpose is not to validate or deny any issue but to describe the issues and concerns from the perspectives of the different parties.

16. The issues have been grouped into the following broad categories:

- Fair and equal treatment of APs
- Resettlement and compensation
- Safety and security
- Information sharing and dialogue

#### 1. Fair and Equal Treatment of APs

17. 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. To them this means that they should receive a replacement house of 45m<sup>2</sup> per household member, just like qualified local residents, or at the least they should receive replacement houses of the same area as the houses they are losing so they can lead a life comparable to the one they had before the project started. They consider that the "Implementation Details" for house demolition and resettlement being applied by FDHDED are not consistent with ADB's policy.

18. Equal treatment is also a major concern for the government: they believe that one policy should apply to all of the Fuzhou East New Urban Area, and that they cannot treat the complainants differently from the other residents in the area. 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. In the Government's view, the complainants' houses have been built on land that was illegally acquired, and therefore, while they are willing to compensate them for the houses according to certain standards, they believe they cannot provide compensation for the land that still belongs to the RCEO. The government is thus convinced that the "Implementation Details" are consistent with the RP, and that the complainants do not fully understand the policies governing this case. They said the different agencies have tried many times to explain this to the complainants. EASS views the complaint as an opportunity to work out a solution to the problem raised by the complainants, and as a chance to learn so that future projects can benefit.

## 2. Resettlement and Compensation

19. The complainants are afraid that resettlement will leave them without adequate housing and 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. While they are not opposed to the project and in fact think it is justified and beneficial to the community, they want to receive fair compensation for losing their houses.

20. The government believes that it has done a lot to provide proper compensation to the APs. After OSPF's eligibility mission in February, NEULADRH announced new compensation standards which are considerably higher than those offered before (see Appendix 1), although not high enough in the view of the complainants. 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.

21. Government stakeholders are concerned with the slow pace of project implementation which has resulted in part from the complications in land acquisition and resettlement, and they are aware that there could be further delay if this problem is not solved soon. The delay has already caused a substantial increase in the costs for resettlement. EASS is also concerned with the delays because the disbursements are behind schedule and the closure of the loan will have to be extended. The government has declared the project a priority for 2009 and there is considerable pressure on FUVCDC and FDHDED to meet their targets. Considering that the seven complainants are probably not the only APs in this particular situation,<sup>14</sup> both EASS and the government would like to find a solution that is applicable to all similar cases.<sup>15</sup>

## 3. Safety and Security

22. Living conditions in the complainants' neighborhood have deteriorated since the demolition of nearby buildings started. Their houses are now surrounded by rubble and there are no streets or walking paths, making daily life difficult. They would like the current insecure and inconvenient situation to end as soon as possible. Three of the families have already moved out of their houses because of the difficult environment and are renting small rooms; one couple now lives in a 15m<sup>2</sup> room. The "Implementation Details" for house demolition mention mandatory demolition in certain cases, and the complainants are fearful of this possibility and feel under pressure because of the deadlines given to move out and to receive different levels of compensation.<sup>16</sup>

23. Government officials said that they had to consider the well-being of *all* residents in Cangshan District, and they are afraid that the rainy season (expected to start at the end of April) could cause flooding further upstream of the complainants' houses if the rivers

<sup>14</sup> It appears that it was quite common in PRC to build under similar conditions, that is without a building certificate or property certificate.

<sup>15</sup> The Nantai Island Inland river rehabilitation includes 12 rivers: the Yuejin and Longjin Rivers are the first two, and there will be 10 more. RPs are submitted for ADB's approval on a staggered basis. Some stakeholders said that the number of APs along the other rivers who were in a situation similar to that of the complainants was not known at present and would be known only after detailed surveys are completed for the remaining rivers, others estimated the number to be over 100, and still others believed that the seven households would be the only such cases.

<sup>16</sup> These are some quotes showing the complainants' situation: "We have nothing but the house. If we have to leave, we have nothing left and we have nowhere else to go." "We have been away for so long, we cannot go back. We have no more houses in our former home towns." "We left for a better future in the city. If we have to leave Fuzhou again, we will be homeless." "Our children study in the city. Their future is here."

downstream are not rehabilitated on time. The project is already delayed and may be delayed further if this problem is not resolved, causing difficulties for other residents of the District. 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.

#### 4. Information Sharing and Dialogue

24. It appears that the ways information has been provided and the dialogues on the issues conducted were not conducive to finding solutions to the complainants' concerns. The Government feels that the efforts it made in offering a new compensation rate, which is much higher than the initial one, have not been acknowledged by the complainants.<sup>17</sup> The complainants feel under even more pressure due to the deadlines the government has set, and they are not certain of the government's position since they have been approached by different agencies and are not sure who is speaking authoritatively. They feel that they were also not consulted in developing the new compensation rate and that this new rate is not in line with the principle of being as well off after the project as before.

#### D. Identification of Options

25. OSPF identified a number of options on how the issues could be addressed. Some of these options were suggested by the complainants, some by the government and some by the IEM. There may well be other options that emerge from consultative dialogue among the parties. OSPF is presenting the following wide range of options as a starting point for the discussions:

1. Apply the same standard as for qualified Gaohu villagers, i.e. 45m<sup>2</sup> of resettlement house per person in each household.
2. Apply the Eastern New District resettlement policy: compensate for the houses at CNY350/m<sup>2</sup>, to a maximum of 180m<sup>2</sup>.
3. Apply the Sep 2006 policy (Document No. 68): compensate 70% of 180m<sup>2</sup>, with payment by APs of CNY700/m<sup>2</sup> for multi-floor buildings or CNY900/m<sup>2</sup> for tall buildings. This would give the APs complete property rights, like regular Gaohu villagers.<sup>18</sup>
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). Compensation amount = land acquisition cost + house building cost + reward for removal + cost of removal + transitional fee.<sup>19</sup>
5. Apply the new policy on house demolition and resettlement for non-local residents: a house buying quota is provided of CNY2,800/m<sup>2</sup> based on the current house area, up to 30m<sup>2</sup> per capita. The APs would be compensated for their current house at CNY350/m<sup>2</sup>.<sup>20</sup>
6. Apply NEULADRH Document No. 040 dated 23 Feb 2009, under which the highest rate of compensation (equivalent to CNY788/m<sup>2</sup>) will be provided with a deadline of 10 Mar 2009; 60% of that after 10 Mar and up to 25 Mar; and 40% from 25 to 31 Mar (see Appendix 1). This is the government's current proposal.

<sup>17</sup> See para. 20 above, and Appendix 1.

<sup>18</sup> Suggested by the IEM. See Resettlement Independent Monitoring Report, No. 1 2008, Vol. 6, July 2008.

<sup>19</sup> Suggested by the IEM, *ibid*.

<sup>20</sup> Suggested by the IEM. See Resettlement Independent Monitoring Report, No. 2 2008, Vol. 7, December 2008.

7. Assist the complainants to return to their home towns and acquire land there.
8. Reroute the river so as to avoid the need to demolish the complainants' houses.
9. Provide additional government assistance, such as for education or health, depending on family needs.
10. Establish under the ADB-financed project a community development fund, or fund for vulnerable people, as mentioned in ADB's Resettlement Handbook.<sup>21</sup>

#### **E. Assessment of Problem-Solving Probability**

26. The parties each have underlying concerns that influence their positions and approaches but that also offer scope for problem solving. The complainants are concerned that they may be left with "no house and no livelihood." The government wants to expedite its program to improve the environment of Fuzhou. ADB wants to see the project successfully implemented so it can deliver its benefits. These varied interests are not mutually exclusive and can form the basis for working out a resolution acceptable to all parties.

27. There appears to be substantial common ground among the stakeholders. All three parties are convinced that the project is important and will bring progress to Fuzhou City. For different reasons, they are also interested in solving the problems as soon as possible and—to varying degrees—have thought about options that could be the starting point for a problem-solving process. They are ready to sit around the same table and discuss the issues, the options and the possibilities for resolving the issues. EASS and the Government want the problems to be solved not only for the seven complaint households, but also for other APs in similar situations within the scope of the ADB-supported project, so that guidelines will be available for such cases in the future.

28. Obstacles to the problem-solving process include the time pressure on all parties due to the short time before the rainy season begins. In addition, the stakeholders described several worst-case scenarios which could create difficult situations. The Government has already told the complainants and OSPF that it is considering re-designing the river route so that the seven houses do not need to be demolished, but this might expose the complainants' houses to demolition under other (non-ADB) development projects in the future. Also, the surroundings have already been altered by the demolition of buildings, making the living conditions difficult. If the consultation process does not lead to a solution, the complainants would consider requesting ADB's Compliance Review Panel to undertake a compliance review of the project. The Government has mentioned cancellation of the loan as a last option. Some stakeholders also referred to possible mandatory demolition of the seven houses. It appears that the consequences of these options have not been fully thought through and need to be further explored.

29. A major concern is that the patience of the Government towards the complainants, and the complainants towards the Government, is wearing thin. This is made worse by the time pressure referred to above. The Government wants to continue negotiating despite the parallel consultation process and this might further constrain the relationship.

---

<sup>21</sup> Handbook on Resettlement. A Guide to Good Practice. ADB, Manila. Pages 64-65.

30. EASS highlighted that the experiences from this project can serve as lessons learned and will help improve future project preparation and the management of land acquisition and resettlement.

### III. RECOMMENDATIONS AND PROPOSED COURSE OF ACTION

#### A. Recommendations

31. There is need for a structured participatory consultation process that follows rules agreed by all parties and utilizes an independent facilitator. Such an independent facilitator should act in the interest of all stakeholders, help to assure a fair process, enhance openness and transparency, and manage the dialogues. A set of ground rules is proposed in Appendix 2. Such a process will improve communication among the parties and make the dissemination of information easier. It will also help the different parties understand each other better and support a joint search for solutions.

32. OSPF recommends the recruitment of a Chinese and English speaking, accredited mediator with at least 10 years of experience in mediation to work out and implement the course of action with the three parties. OSPF will act as the convener, help to identify and frame the issues for mediation, identify the parties, and bring the parties to the table. The terms of reference for the mediator are in Appendix 3. The parties at the table should be primarily Chinese speaking and not be rotated or replaced during the mediation process. The complainant households will be represented by seven members, one for each household. It is recommended that the executing agency be represented by FPMO (three persons) with the supervision consultant and the international resettlement specialist as additional members. EASS will be represented by its resettlement specialist, and the resident mission-based resettlement specialist will also participate. When needed, the Director EASS, and the project officer for this project can be requested to participate.

#### B. Proposed Course of Action

33. The next steps were discussed with the parties separately in meetings (with the government and the complainants) and in a telephone conference (with EASS). Both the complainants and the government thought that the initially proposed time frame was too long. OSPF therefore adjusted the timeframe, which is now proposed as follows:

Item	Date
RAR in English for translation into Chinese	18 Mar 2009
RAR translated into Chinese and cross-checked by 2 <sup>nd</sup> translator	22 Mar 2009
Submission of RAR to parties by e-mail and courier	23 Mar 2009
3 days for parties to read	24–26 Mar 2009
OSPF's next mission: <ul style="list-style-type: none"> <li>• Discussion of RAR with parties, specifically ground rules, options, time frame</li> <li>• Introduction of mediator</li> <li>• Discussion of proposed course of action and its implementation</li> </ul>	27–29 Mar 2009
Complainants' decision to continue – 7 days*)	
Parties provide comments to RAR – 14 days*)	
Mediator works out course of action with parties Result: agreement to course of action	These dates will be agreed between the parties, the mediator, and OSPF
Implementation of course of action	Estimated: until end of Jun 2009

\*) Can be waived if complainants/parties feel confident enough to take a decision and provide comments during OSPF's mission.

34. Further dates will be agreed between the parties, the mediator and OSPF during the mission planned for 27–29 March 2009.

# 福州市东部新城征地拆迁安置指挥部文件

榕东指综〔2009〕040号

## 关于福州市东部新城重点建设项目被拆迁房屋补贴奖励、 搬迁奖励及奖励期限的通知

城门、盖山、螺洲分部，仓山镇，各拆迁单位：

为加快推进东部新城重点建设项目拆迁交地工作进度，根据福州市东部新城建设领导小组例会精神，经指挥部会议研究，决定对符合如下条件的房屋给予房屋补贴奖励和搬迁奖励，条件与标准如下：

### 一、关于房屋补贴奖励

1、对1984年1月5日至2004年10月26日间(以航拍图为准)建造的结构完好的无产权房屋(不含简易房及认定视同产权的房屋)，扣除已结合人口进行安置的面积后，在第一协商期内搬迁交房的，除按原重置价结合成新给予补偿外，另按下表给予房屋补贴奖励：

(单位：元/平方米)

类别	钢筋砼结构		砖混结构		砖木结构		木结构		
	一	二	一	二	一	二	一	二	三
补贴金额	200	150	140	110	120	90	180	130	90



2、对2004年10月26日至2006年8月26日间(以航拍图为准)建造的结构完好的无产权房屋(不含简易房),在第一协商期内搬迁交房的,扣除已结合人口进行安置的面积后,除按原规定进行补偿外,另按上表标准的50%给予房屋补贴奖励。

## 二、关于搬迁奖励

1、对1984年1月5日至2004年10月26日间(以航拍图为准)建造的结构完好的无产权房屋(不含简易房及认定视同产权的房屋),在第一协商期内搬迁交房的,除按原规定进行补偿外,扣除已结合人口进行安置的面积以及前期已享受过按2007年23次市东部例会纪要中规定的每户240平方米以内200元/平方米搬迁奖励后,每平方米另给予300元的搬迁奖励。

2、对2004年10月26日至2006年8月26日间(以航拍图为准)建造的结构完好的无产权房屋(不含简易房及木构房),在第一协商期内搬迁交房的,除按原规定进行补偿外,扣除已结合人口进行安置的面积后,每平方米另给予150元的搬迁奖励。

## 三、关于不同协商期补贴及奖励标准

在第一协商期内搬迁交房的按上述标准计发;

在第二协商期内搬迁交房的按第一协商期标准的60%计发;

在第三协商期内搬迁交房的按第一协商期标准的40%计发;

超过协商期限的一律不予上述的房屋补贴奖励与搬迁奖励。

## 四、关于各项目搬迁交房的补贴及奖励期限

1、福峡路一期:第一协商期截止至2009年3月10日,不再设第二、第三协商期。

2、福峡路绿化景观带：第一协商期截止至 2009 年 3 月 10 日；第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 4 月 15 日。

3、三环二期：盖山段第一协商期截止至 2009 年 3 月 10 日，不再设第二、第三协商期；城门、螺洲段第一协商期截止至 2009 年 3 月 10 日，第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 3 月 31 日。

4、鼓山大桥：第一协商期截止至 2009 年 3 月 10 日，第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 4 月 15 日。

5、三江路：第一协商期截止至 2009 年 3 月 10 日，不再设第二、第三协商期。

6、林浦路：第一协商期截止至 2009 年 3 月 10 日，第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 3 月 31 日。

7、龙津河、跃进河：第一协商期截止至 2009 年 3 月 10 日，第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 4 月 20 日。

8、浦下河：第一协商期截止至 2009 年 3 月 10 日，第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 4 月 20 日。

9、南江滨休闲路 C1-C3 段：第一协商期截止至 2009 年 3 月 10 日，第二协商期截止至 2009 年 3 月 25 日；第三协商期截止至 2009 年 3 月 31 日。

10、霞洲路：第一协商期截止至 2009 年 2 月 28 日，不再设第二、第三协商期。

### 五、关于其它事项

1、自本通知下发之日起，前期制定的东部新城重点建设项目被拆迁房屋搬迁奖励政策中与此相抵触的自动废止。

2、本房屋补贴及奖励办法于签订协议并交房后方予以兑现。

3、以上政策调整望各镇分部会同拆迁单位严格组织实施，将本办法公示并印发到户、做好宣传工作，加快推进东部新城重点建设项目拆迁交地工作。

特此通知

东部新城征地拆迁安置指挥部

二〇〇九年二月二十三日

报：东办、市财政局、市房管局、市房管局拆迁办、林瑞良副秘书长、  
区包项目领导

抄送：动迁组

## PROPOSED GROUND RULES

Interactions of all parties involved in the dialogue process are suggested to be as follows:

- (i) Only one person will speak at a time and no one will interrupt when another person is speaking;
- (ii) Each participant will wait to be recognized by the mediator before speaking;
- (iii) Each person will express his or her own views, or the views of his or her organization rather than speaking for others;
- (iv) In view of time constraints and in order to allow for maximum participation participants will keep their comments short and to the point;
- (v) All cell phones must be switched off or put on silent mode;
- (vi) Disagreement is inevitable, but must be focused on the issues, not on one another; participants will not make personal attacks and respect each others' views;
- (vii) Participants address one another in respectful ways, avoid side conversations and keep the discussion focused and constructive;
- (viii) It is important to find creative, innovative solutions; therefore, participants avoid judging ideas prematurely, look for ways to improve proposals and try to remain open minded;
- (ix) The mediator will help implement the ground rules once they are accepted by all participants.

The parties should discuss and agree on ground rules, add or remove and change as they work out the course of action. Ground rules can always be revised if and when the parties consider that changes are necessary.

**TERMS OF REFERENCE  
FOR THE MEDIATION OF A COMPLAINT  
ON THE FUZHOU URBAN ENVIRONMENTAL IMPROVEMENT PROJECT**

**A. Background**

1. The Office of the Special Project Facilitator (OSPF) is part of ADB's Accountability Mechanism and provides a venue for people adversely affected by ADB-supported projects to voice and solve their problems. On 15 January 2009 OSPF received a complaint (<http://www.adb.org/SPF/registry>) from seven families who will be relocated in order to make way for the Fuzhou Urban Environmental Improvement Project.<sup>22</sup> The families moved to this area in 1994 and although they paid the local farmers for the land they are occupying, they do not have local residence papers, and therefore, under government rules they do not qualify for the same compensation as those with local papers. They say the compensation they will get is not enough to allow them to acquire new houses of the same area as the ones which will be demolished. On 12 February 2009 OSPF declared the complaint eligible and recommended during its review and assessment the recruitment of a mediator for the design and conduct of the problem solving process.

2. The project involves the construction and rehabilitation of 12 rivers in Nantai Island, Fuzhou City. The East Asia Department/Urban and Social Sectors Division (EASS) of the ADB administers the project. The Fuzhou Municipal Government is the executing agency and the Fuzhou Urban Visual Construction and Development Company is the implementing agency. A resettlement plan was prepared in 2004, and an updated RP for two rivers was released in August 2008.

**B. Objectives of the Assignment**

3. The objectives of the assignment are to (i) design the problem solving process with its steps and activities, (ii) manage the dialogues and meetings required in the problem solving process; (iii) help the parties generate options and make decisions, and (iv) help the parties negotiate an agreement that serves their interests.

**C. Specific Tasks**

- (i) Review existing documentation, including the complaint letter, resettlement plan, OSPF's review and assessment report, and any other documents needed to understand the complaint history and to prepare for the mediation;
- (ii) Facilitate the acceptance by the parties of a problem solving process based on the agreement in principle that mediation is the accepted means to reach a detailed and mutually accepted agreement;
- (iii) Re-confirm that the parties are willing to fully participate in the mediation and agree to the timing;
- (iv) Explore the scope for mutual gain and the readiness of the parties to make concessions;
- (v) Determine the best means to reach agreements between the parties based on the agreement in principle to use mediation for problem solving;
- (vi) Facilitate discussions between parties involved with the objective of finding common ground and mutually acceptable solutions;

<sup>22</sup> Loan no. 2176-PRC, approved on 26 July 2005.

- (vii) Re-assure that ground rules are understood;
- (viii) Determine areas of agreement between the parties;
- (ix) Clarify the parties' expectations regarding individual activities in the process;
- (x) Encourage honest, good faith efforts of the parties for the implementation of the course of action;
- (xi) Assure that views of all parties are heard, respected and taken into consideration in the mediation process;
- (xii) Use methods (individual interviews, focus group discussions, small workshops, etc.) appropriate for heterogeneous groups of stakeholders, taking into consideration the widely diverging views and possible polarization;
- (xiii) Use any other method appropriate and recognized as a mediation tool to support the parties in carrying the negotiation process forward;
- (xiv) Provide timely information to and closely cooperate with OSPF on the developments in the mediation process;
- (xv) Prepare a settlement agreement agreed to by the complainants, ADB-EASS, and the executing and the implementing agencies; and
- (xvi) Prepare a report on the mediation process for OSPF and any other documentation as needed and deemed necessary by the parties.

#### **D. Reporting**

4. The various written outputs should be submitted as follows:
  - (i) The proposed problem solving process including its steps and activities, the draft agreement and the final agreement to the parties and OSPF within a time frame agreed by the parties and OSPF; and
  - (ii) The final report on 30 April 2009.

#### **E. Consultant's Role and Responsibilities**

5. The consultant acts as a neutral third party, having no authority to resolve the disagreement or impose a settlement to the disagreements between the parties. The consultant is engaged to assist the parties in arriving at a mutually acceptable solution to the disagreement and is expected to assist the parties in confirming the issues at hand and to help create alternative solutions to the problem.

#### **F. OSPF's Role and Responsibilities**

6. OSPF will act as the convener, help to identify and frame the issues for negotiation, identify the parties, and bring the parties to the table. OSPF will initiate the process, recruit the mediator, provide an opportunity for meaningful dialogue, and supply logistical support for the organization of the dialogues.

7. OSPF will provide necessary documents, contacts and guidance in carrying out the above tasks. The timing of different activities and logistics will be discussed and agreed with OSPF in the course of the assignment.

#### **G. Consultant Requirements (International)**

- (i) The consultant should be accredited as a mediator, have at least 10 years of experience in mediation, in particular in conducting dialogue processes across cultures using culturally appropriate structures and strategies. The consultant

should have experience in managing complex organizational and public policy issues and should have an excellent capacity to analyze complex problems involving diverse groups of stakeholders and the ability to deal with complex facts. Experience in mediating in the People's Republic of China is highly desirable. Knowledge of ADB's project cycle and exposure to ADB-assisted projects would be an additional advantage. Excellent English and Chinese (Mandarin) language skills are required.

#### **H. Time Requirement and Schedule**

9. The assignment will require 12 person-days, served intermittently between 23 March and 30 June 2009.