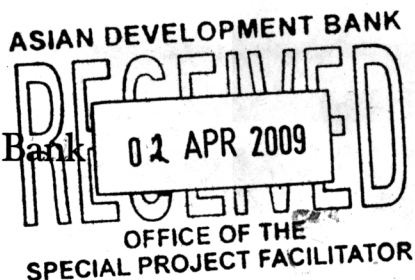




Asian Development Bank



Memorandum

East Asia Department
Urban and Social Sectors Division

31 March 2009

To: Robert C. May
Special Project Facilitator, OSPF

Through: Amy Leung
Director, EASS

From: Madhumita Gupta
Social Development Specialist, EASS

Subject: **Loan 2176-PRC: Fuzhou Environmental Improvement Project**
— EASS Comments on Review and Assessment Report: March 2009

A. Background

1. EASS received the Review and Assessment Report (RAR) sent from OSPF on 23 March 2009. The ensuing sections provide the comments of EASS on the RAR. These comments were also shared verbally with the government, complainants and OSPF during the mediation process held on 27-28 March 2009 in Fuzhou.

2. In September 2004, the Fuzhou Urban Visual Construction Development Company (FUVCDC) and ADB had prepared the resettlement plan (RP) for the Nantai Island Inland River Rehabilitation project. The RP was endorsed by the Fuzhou Municipal Government and also approved by ADB. In the RP, it was agreed that households with and without property rights would be treated in a fair and equal manner. In order to ensure that the affected people (APs) do not get worse-off adequate compensation rates would also be provided to them.

3. It was also agreed that replacement housing would be offered to households with and without property certificates. This provision was included in the RP with the assumption that all APs were local residents. Although Chinese regulations do not compensate for illegal acquisition of houses or land, it was agreed that all demolished structures, both legal or illegal, would be compensated on the same basis to comply with ADB involuntary resettlement policy.

4. When EASS received the complaint letter from these 7 households, FPMO was requested to investigate the matter and resolve the issue. When the updated RP for Longjin and Yuejin river was submitted by FUVCDC in August 2008, it did not mention the specific details of this category of non local households and their circumstances. At that time, it was assumed that the initial complaint lodged by the complainants was resolved. Later, when EASS got the information that the complaint was not yet resolved; the FPMO was advised that these households should be provided with the option of economy housing or any other alternative housing arrangement agreed by the APs.

B. Compensation Rate and Adequacy

5. In August 2008, the RP for the Longjin and Yuejin River was updated. In order to implement the RP, the compensation rate for land and structure was calculated separately. This facilitated the process of calculating the total compensation amount for each household with both registered and un-registered structures. This method of calculation benefits households with land titles, are local residents, and have a portion of registered property along with illegal/unregistered extensions built at different periods of time. Legally occupied land and house get a higher rate of compensation while for the illegal extension only get 350CNY/m² for the structure. In effect, their total compensation rates enable them to purchase replacement housing in the resettlement area, or economic housing at the rate of 2800CNY/m² as offered by the government.

6. The 7 complainants have no titles to land or housing and had purchased land from the village collective. Although EASS has been informed that purchase of land from a village collective is an illegal transaction, these households will nonetheless be treated as illegal settlers/households without property rights and should get access to economy housing by ADB definition.

7. Based on the updated RP of 2008, these 7 households will be compensated only for structure at the rate of 350 CNY/m² and was increased recently to 490 CNY/m². With this compensation rate, they cannot afford to purchase economy housing at 2800 CNY/m². The government has also not offered them the option of purchasing of economy housing primarily because they are not local residents. The intent of the RP approved in 2004 was to ensure adequate compensation or replacement housing being provided to house owners with or without property certificates. However, the current compensation rate adopted for these 7 complainants who are non-local residents is inadequate.

8. ADB abided by the cardinal principle ensuring that the APs are not worse-off. To this end, EASS advised the Government that the issue raised by the 7 complainants should be assessed based on the adequacy of the compensation rate, so they can afford economy housing and not end up worse-off. It is also understood that the compensation rate adopted for both legal and illegal structures is the same. However, the application of the rate of 350 CNY/m² or 490 CNY/m² for this particular category of AP with non-local registration would definitely lead to their impoverishment and will be worse-off. EASS requested that this category of APs with non-local registration should be treated as a special category. EASS also cited examples of ADB projects where households with non-local registration have been given preferential policy of housing provision of 30 m² per capita or the compensation rate has been adequate enough for the APs to purchase economy housing.

C. Conclusion

9. EASS recommended that the government and the APs need to discuss and identify realistic options to ensure that the complainants get adequate compensation to purchase economy housing and they are not worse-off.

cc: R. Wihtol, Country Director, PRCM
 K. Oswald, Senior Project Facilitation Specialist, OSPF
 S. Ferguson, Senior Social Development Specialist, EATC
 M. T. Villareal, Senior Urban Development Specialist, EASS (on return)
 B. Debnath, Social Development Specialist, RSES