



## ***LAND USE REGULATION UPDATED TO LOWER INVESTMENT COSTS FOR ELDERLY CARE FACILITIES***

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The new year is ahead of us and we are entering a new era—so is the China senior living industry. In our previous article, we’ve recapped the Legislation Evolvement of China’s Elderly Care Industry over the last decade<sup>1</sup>. In our projection, policies will continue adjusting its direction in reaction to the development of the market itself and upgrading of consumer demand. In the new era, strengthening the government's post-event supervision, further encouraging and guiding investment from private capital, and providing convenient and accessible elderly services for the majority will become the main theme of the market.

Against this backdrop, the Ministry of Natural Resources recently issued the Guiding Opinions on Strengthening the Planning and Land Provision to Support the Development of Elderly Care Services ("New Policy") to update a Previous Measure implemented since 2014. Among other detailing measures, main focuses of the New Policy are on broadening the way for land acquisition and lowering the land price for elderly care facilities.

Over the last decade, new construction of senior care communities has been found all over the country, at an amazingly rapid pace. However, the land and property market are less regulated than other aspects of the industry, in such context that China is switching its real estate dependent economy to consumption and technology driven one. Many projects in high-profile cities and prime locations were acquired at high prices, an unaffordable burden even for insurance companies and SOEs who may have stronger financial capability. The New Policy is set to pave the way for a more affordable and varied market of land acquisition.

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1. [The Legislation Evolvement of China’s Elderly Care Industry](#)





The New Policy firstly categorizes the land for elderly care facilities as institutional service facilities and community service facilities. The former includes retirement communities, nursing homes for elderly, senior care institutions, etc., and the latter includes elderly care service centers, day care centers, etc. Unlike the previous measure which limited the provision of land use right for the elderly care service facilities only as medical, health and charity purposed land, the New Policy encourages local government to formulate the land-use scale, standard and arrangement of elderly care service facilities according to the demographic structure, aging trend and local conditions, so that land in other usage may also be included in the scope for provision under the New Policy regime.

Although adopting the same principle as in the previous measure of separate provision of land for elderly care facilities and a controlled scale of within 3 hectares, the New Policy empowers local governments to provide land use right without restriction to a single purpose. Given the successful experience of "bundled" provision of land for elderly care facilities along with other functional buildings in many localities, as well as the encouraging investment environment and simplifying administration and supervision to senior care institutions, it is expected that the planning and land supply measures for elderly care service facilities in the future will be more diversified and multi-channeled.

To avoid the traditional land bidding process where prices are set at a market level and tend to be pushed high if more than one participant attend a bidding, breakthrough of the New Policy is manifested in three-fold: (a) encourage the land supply by means of leasing (at a maximum term of 20 years) or lease-first-and-grant-thereafter, which will significantly lessen the land acquisition burden at the very beginning of an investment; (b) if there is only one intended land user for the land of an elderly care service facility, it can be granted or leased by agreement, which will effectively avoid the land price from increasing as a result of bidding process; and most importantly (c) for the land of social welfare usage that is supplied by granting, the base price can be determined at not less than 70% of the benchmark land price against the same level of public service land. The adjustment will positively impact the land price market for senior living and ultimately encourage private investment in the sector.



In addition to land acquisition from government, the New Policy also touches upon there other channels that acquisition of plots/properties to operate elderly care facilities is possible. They are:

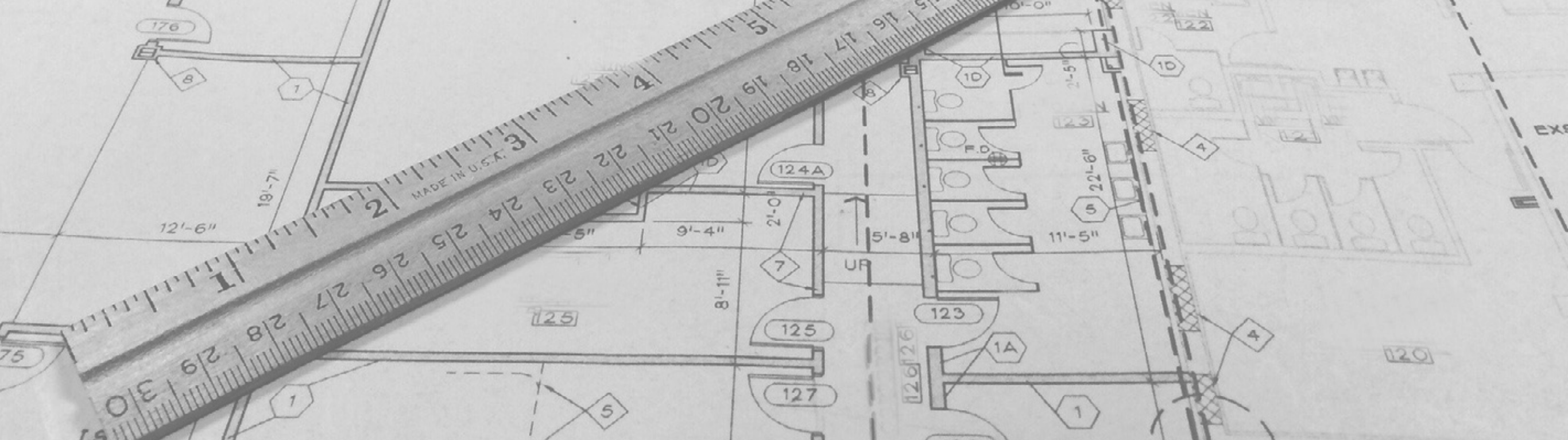
## New Construction in Residential Communities

Along with many other regulations, the New Policy again requires that mandatory space for elderly care service facility in newly-constructed urban and residential areas shall be planned, constructed and accepted simultaneously with the residential component, as well as sets up very restrictive supervisory measures in the course of construction approval and acceptance. It is expected that with more community-based facilities put into operation, the challenge for the government to effectively utilize these infrastructures will become imminent. In the 13th Five-Year Plan of the State Counsel, it is suggested to strengthen the integrated utilization of community elderly care service facilities and community comprehensive service facilities, and encourage localities to use entrusted management and other ways to handover the community elderly care service facilities to professional home-and-community-based elderly care service team for operation for free or at low cost. This suggests big opportunities for professional elderly care services providers to acquire projects at a very affordable consideration.

## Repurposing Existing Buildings

Policies on utilizing existing land under the use right of commercial, office, industrial, warehouse or residential which are converted into elderly care service facilities have not been very clear for a long while. By retaining the current “5-year Transitional Period” incentive that allows the utilization of existing properties without having to change the land usage and ownership type within 5-year’s period provided that the repurposing is in compliance with detailed planning, the New Policy is clear on the treatment after the transitional period, where it allows for-profit business owner to acquire the land and property in operation by way of agreement according to the new usage, new right type and then applied market price. It is worth noting that there are some local regulations which are not fully consistent with the New Policy but shall not be ignored. For example, Shanghai has implemented a policy which, in principle, requires existing industrial or warehouse properties to go through the City Refurbishment Process, in which a land-owner/user may apply through the local Ministry of Civil Affairs to the district people’s government and usually supplementary land premium needs to be paid.





## Obtaining Collective-Owned Land

The New Policy supports the use of collective-owned construction land to develop elderly care service facilities. Given that rural collective economic organizations often lack the necessary funds and capacity to plan and operate elderly care service facilities, the New Policy allows rural collective economic organizations to open elderly care service facilities with other entities and individuals by means of contributing construction land use rights as shares or through joint ventures. In response to the provisions of the amendment to the PRC Land Administration Law in August 2019 which paves the way for marketing of

collective-owned construction land, the New Policy makes it clear that legitimately acquired collective-owned construction land can be granted or leased to senior care institution for the construction of elderly care service facilities subject to meeting the requirements of land planning and use control. Thanks to this opening up, city market such as Beijing and Guangzhou's may add quite a few circulations of plot and property under this category in the years to come.

Having all that said, the New Policy is not set without any supervisory measures. Aside from emphasizing the restriction of real estate development under the elderly care land by stipulations such as: (a) the land use right for an elderly care facility shall be registered as a whole, instead of being registered separately; (b) the land for elderly care facilities determined in the detailed planning shall not be changed unless through legitimate modification procedures; and (c) the utilization of land use right by elderly care services institutions shall be included in the land market credit system dynamically in order to enforce incentives and punishment where necessary, the New Policy does not follow the strict management methods as adopted in the previous measure with respect to the size of unit areas, the length of residency term, among others. Instead, it allows further legislation to fit in when necessary in the areas such as design specifications of elderly care facilities,

industry service standards and dynamic supervision on the operation of senior care institutions, etc.

The New Policy is implemented in a five-year's term, during which we believe rapid development of the industry can be seen again. With more possibilities and flexibilities for investors and operators to acquire land and properties to engage in the senior living business, challenges and risks will also emerge given the complexity of project particularity and local practices. The legally protected use right of the facility is especially important for every senior care operator that any oversight or mistake in this respect may cause irreparable damages to the long-term operation, and therefore due diligence on the regulation as well as on the land status is a must-have step for every new project.

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