

MINISTRY OF CONSTRUCTION

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 19/2016/TT-BXD

Hanoi, June 30, 2016

CIRCULAR

GUIDELINES FOR IMPLEMENTATION OF SOME CONTENT OF THE
LAW ON HOUSING AND THE GOVERNMENT'S DECREE NO.
99/2015/ND-CP

Pursuant to the Law on Housing dated November 25, 2014 (hereinafter referred to as the Law on Housing);

Pursuant to the Government's Decree No. 99/2015/ND-CP dated October 20, 2015 on guidelines for implementation of some Articles of the Law on Housing (hereinafter referred to as Decree No. 99/2012/ND-CP);

Pursuant to the Government's Decree No. 62/2013/ND-CP dated June 25, 2013 defining the functions, tasks, entitlements and organizational structure of the Ministry of Construction;

At the request of Director of Real Estate Market and Housing Authority, the Minister of Construction promulgates a Circular to provide guidelines for implementation of some content of the law on housing and the Decree No. 99/2015/ND-CP.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Circular provides guidelines for implementation of provisions for housing development, management and use of houses, housing transaction, house ownership, state management of housing in the Law on Housing and Decree No. 99/2015/ND-CP.

2. Provisions for social housing development, management and use of social housing not owned by the State are not regulated by this Circular.

Article 2. Regulated entities

1. Organizations, domestic households and individuals, Vietnamese citizens residing overseas, foreign entities relevant to develop, management, use, transaction of houses and house ownership in Vietnam.
2. Housing authorities.

Article 3. Formulation of local housing development plans/programs

1. The People's Committees of provinces shall provide funding from their provincial budgets to formulate local housing development plans/programs in accordance with Decree No. 99/2012/ND-CP and this Circular.
2. Funding for formulation of a housing development program/plan includes cost of formulation, assessment, management and announcement of the program/plan exclusive of VAT and cost of selection of a consultancy unit.
3. Funding for formulation of a local housing development plan/program is determined according to the formula below:

$$CT = C1 + C2$$

Where:

CT : total cost of formulation, assessment, management and announcement of the housing development program.

C1: total cost of formulation of the housing development program, which is determined as follows:

$$C1 = C_{\text{chuẩn}} \times H1 \times H2 \times K$$

Where:

$C_{\text{chuẩn}} = 400$ million VND: standard cost of formulation of a local housing development program (for an area of 1000 km²); the cost is determined in accordance with Clause 2 Article 3 of Decree No. 99/2012/ND-CP.

H1: Factor of working conditions and level of socio-economic development of the area according to Table 02 of Appendix 01 enclosed herewith.

H2: Factor of natural area according to Table 03 of Appendix 01 enclosed herewith.

K: average consumer price factor. At the time of promulgation of this Circular, $K = 1$; In case of adjustment of K by a competent authority:

$K = 0.5 \times (1 + K1)$. K1 is average consumer price factor which equals (=) consumer price index published by the State at that time divided by (:) consumer price index at the time of promulgation of this Circular.

C2: total cost of assessment, management and announcement of the program, which equals 15.6% C1. Specific costs shall be determined according to Table 01 of Appendix 01 enclosed herewith.

4. Funding for study revisions to a local housing development program depends on the revisions and shall not exceed 60% of the total funding for formulation of a new housing development program specified in Clause 4 of this Article.

Limits on funding for revisions to local housing development programs are specified in Table 01 of Appendix 01 enclosed herewith.

5. Funding for formulation of a local housing development plan:

a) Funding for formulation of a 5-year housing development plan or housing development plan of the first year of a program shall not exceed 50% of the total funding for formulation of a new housing development program;

b) Funding for formulation of an annual housing development plan (except for that of the first year of a program) shall not exceed 20% of the total funding for formulation of a new housing development program.

Chapter II

HOUSING DEVELOPMENT

Section 1. SOME PROVISIONS FOR HOUSING DEVELOPMENT

Article 4. Procedures for requesting the Prime Minister to approve investment guidelines of a housing project

Procedures for requesting the Prime Minister to approve investment guidelines of a housing project specified in Clause 4 Article 9 of Decree No. 99/2012/ND-CP:

1. An investor is not identified:

a) The Department of Construction of the province where the project is located shall cooperate with relevant agencies in preparing an application as specified in Clause 2 Article 10 of Decree No. 99/2012/ND-CP and a written request according to the form in Appendix 02 enclosed herewith and send them to the People's Committee of the same province, which will send the documents to the Ministry of Construction for appraisal. Contents about planning, drawings in the application shall comply with regulations of law on construction planning and urban planning. The request form to be submitted to the Ministry of Construction is provided in Appendix 03 enclosed herewith;

b) The Ministry of Construction shall carry out appraisal and submit a request to the Prime Minister for approval for investment guidelines of the project in accordance with Point a Clause 3 Article 10 of Decree No. 99/2012/ND-CP; the form of the request to be submitted to the Prime Minister is provided in Appendix 04 enclosed herewith.

2. An investor is identified:

a) The investor shall submit an application as specified in Clause 2 Article 10 of Decree No. 99/2012/ND-CP to the Department of Construction of the province where the project is located; Contents about planning, drawings in the application shall comply with regulations of law on construction planning and urban planning.

b) Within 03 working days from the receipt of the satisfactory application, the Department of Construction shall request relevant regulatory bodies to offer their opinions about the project. The asked agencies shall offer their ex officio opinions in writing about the project within 15 working days from the receipt of the request for opinion.

c) Within 25 working days from the receipt of the satisfactory application, the Department of Construction shall submit it and a request to the People's Committee of the province, which will request the Ministry of Construction to appraise it. The request form to be submitted to the Ministry of Construction is provided in Appendix 03 enclosed herewith;

d) The Ministry of Construction shall carry out appraisal and submit a request to the Prime Minister for approval for investment guidelines of the project in accordance with Point a Clause 3 Article 10 of Decree No. 99/2012/ND-CP; the form of the request to be submitted to the Prime Minister is provided in Appendix 04 enclosed herewith.

Article 5. Procedures for requesting the People's Committee of a province to approve investment guidelines of a housing project

1. Procedures for requesting the People's Committee of a province to approve investment guidelines of a housing project specified in Clause 5 Article 9 of Decree No. 99/2012/ND-CP:

a) An investor is not identified:

- a) The Department of Construction of the province shall cooperate with relevant regulatory bodies in preparing an application as specified in Clause 2 Article 10 of Decree No. 99/2012/ND-CP and send it to the People's Committee, which will request the People's Council of the same province to offer opinions; Contents about planning, drawings in the application shall comply with regulations of law on construction planning and urban planning.

- Within 07 working days from the receipt of opinions from the People's Council, the People's Committee shall issue a written approval for investment guidelines according to the form in Appendix 05 enclosed herewith; if the application is rejected, a written notice which contains explanation shall be sent to the Department of Construction.

b) An investor is identified:

- The investor shall submit an application as specified in Clause 2 Article 10 of Decree No. 99/2012/ND-CP to the Department of Construction of the province where the project is located; Contents about planning, drawings in the application shall comply with regulations of law on construction planning and urban planning;

- Within 03 working days from the receipt of the satisfactory application, the Department of Construction shall request relevant regulatory bodies to offer their opinions about the project. The asked bodies shall offer their ex officio opinions in writing about the project within 15 working days from the receipt of the request for opinion.

- Within 25 working days from the receipt of the satisfactory application, the Department of Construction shall submit it and a request to the People's Committee of the province, which will request the People's Council of the same province to provide opinions.

- Within 07 working days from the receipt of opinions from the People's Council, the People's Committee shall issue a written approval for investment guidelines according to the form in Appendix 05 enclosed herewith; if the application is rejected, a written notice which contains explanation shall be sent to the Department of Construction and the investor.

2. Procedures for requesting the People's Committee of a province to approve investment guidelines of a housing project specified in Clause 6 Article 9 of Decree No. 99/2012/ND-CP:

a) An investor is not identified:

- The Department of Construction of the province shall cooperate with relevant regulatory bodies in preparing an application for approval for investment guidelines as specified in Clause 2 Article 10 of Decree No. 99/2012/ND-CP and send it to the People's Committee of the same province; Contents about planning, drawings in the application shall comply with regulations of law on construction planning and urban planning;

- Within 07 working days from the receipt of the application from the Department of Construction, the People's Committee shall issue a written approval for investment guidelines according to the form in Appendix 05 enclosed herewith; if the application is rejected, a written notice which contains explanation shall be sent to the Department of Construction.

b) An investor is identified:

- The investor shall submit an application as specified in Clause 2 Article 10 of Decree No. 99/2012/ND-CP to the Department of Construction of the province where the project is located; Contents about planning, drawings in the application shall comply with regulations of law on construction planning and urban planning;

- Within 03 working days from the receipt of the satisfactory application, the Department of Construction shall seek opinions about the project from relevant regulatory bodies. The asked agencies shall offer their ex officio opinions in writing about the project within 15 working days from the receipt of the request for opinion.

- Within 25 working days from the receipt of the satisfactory application, the Department of Construction shall submit it and a request to the People's Committee of the province for approval.

- Within 07 working days from the receipt of the application and request from the Department of Construction, the People's Committee shall issue a written approval for investment guidelines according to the form in Appendix 05 enclosed herewith; if the application is rejected, a written notice which contains explanation shall be sent to the Department of Construction and the investor.

Article 6. Appraisal by housing authorities of housing projects specified in Clause 2 and Clause 3 Article 9 of Decree No. 99/2012/ND-CP

1. The appraising authority shall send a document enclosed with the application for investment guidelines to the Ministry of Construction and the Department of Construction for appraisal of housing contents.

2. Appraisal contents:

a) Necessity of the housing project;

b) Ratios and quantities of types of houses (apartments, villas, detached houses); total housing floor area;

c) Construction of technical and social infrastructure, public and private parking areas for households and individuals living within the project area;

d) Land area for social housing and houses for rent as prescribed by the Law on Housing; method for management or franchise of management of technical infrastructure of the project after the construction is completed;

dd) Responsibility of the local government and investor for execution of the project, construction of social infrastructure, unless it already has social infrastructure.

Article 7. Application for registration of investor in a commercial housing project

1. An application for registration of investor in a commercial housing project consists of:

a) An application form which specifies the investor's name, address, proposals, and estimated project schedule;

b) Certified true copies or copies enclosed with the original certificate of enterprise registration or investment registration certificate and documents proving sufficient capital for real estate business (charter capital) prescribed by regulations of law on real estate business;

c) Documents proving the investor's financial capacity specified in Point d Clause 2 Article 12 of Decree No. 76/2015/ND-CP

2. Where an investor is appointed as prescribed in Clause 2 Article 18 of Decree No. 99/2012/ND-CP the investor has to submit documents proving his/her lawful land use right in addition to the documents specified in Clause 1 of this Article.

Article 8. Procedures for selection of investor in a commercial housing project

1. Procedures for selection an investor in the case specified in Point a Clause 1 Article 18 of Decree No. 99/2012/ND-CP:

a) Procedures for land use right auction shall comply with regulations of law on auction and land;

b) If the auction result is to be approved by the People's Committee of the province, the written approval for auction result shall contains certification that the successful bidder is the investor in the housing project; 01 copy of such document shall be sent to the Department of Construction;

c) If the auction result is to be approved by an agency other than the People's Committee of the province, the approving agency shall send a written request, the auction result and legal documents of the successful bidder to the People's Committee of the province for certification of investor in the housing project. Within 05 working days from the receipt of the aforesaid documents from the approving agency, the People's Committee of the province shall issue a certification that the successful bidder is the investor in the housing project; 01 copy of such document shall be sent to the Department of Construction.

2. For investor selection specified in Point b Clause 1 Article 18 of Decree No. 99/2012/ND-CP the Department of Construction shall organize investor selection in accordance with regulations of law on bidding and request the People's Committee of the province to issue a certification of investor according to the form in Appendix 06 enclosed herewith.

3. Where an investor is qualified for the role of investor in a project as specified in Clause 2 Article 18 of Decree No. 99/2012/ND-CP:

a) Such investor shall submit 01 application specified in Article 7 of this Circular to the Department of Construction of the province where the project is located;

b) After receiving the application, the Department of Construction shall hold a meeting of experts (specified in Clause 4 of this Article) to evaluate the investor's capacity. If the investor is qualified, the Department of Construction shall send a written request for certification of investor according to the form in Appendix 06 enclosed herewith, the experts' meeting minutes and legal documents of the investor to the People's Committee of the province; if the investor is not qualified, the Department of Construction shall send a notice to the investor and provide explanation.

4. The People's Committee of the province shall establish a group of expert to evaluate the investor's capacity in the case specified in Clause 3 of this Article. The expert group consists of representatives from the Department of Construction, Department of Natural Resources and Environment, Department of Planning and Investment, Department of Finance, Planning and Architecture Department (if any).

Article 9. Raising capital for commercial housing development

1. Point b Clause 2 Article 19 of Decree No. 99/2012/ND-CP shall apply to raising capital by collecting advances from buyers or tenants under contracts to buy or lease off-the-plan housing specified in Clause 3 Article 29 of the Law on Housing

Conditions for sale and lease purchase off-the-plan housing are specified in Clause 1 Article 55 of the Law on Real estate business. Completion of the foundation and foundation beam of a housing project or floor elevation of the lowest floor (including multipurpose houses) is considered completion of lowest floor of such project.

In case where the investor applies of top-down method (building upper floors before the foundation and foundation beam or the lowest floor) according to an approved drawing, the completion of the first floor is considered completion of the foundation under normal method.

2. An application sent to the Department of Construction for announcement of fulfillment of conditions for raising capital specified in Clause 3 Article 19 of Decree No. 99/2012/ND-CP consists of:

a) A written request for announcement of fulfillment of conditions for raising capital;

b) Certified true copies of the decision on investment guidelines or approval for investment guidelines issued by a competent authority; a decision on

approval enclosed with the project documents according to construction and housing laws;

c) A written confirmation by a competent authority of completion of land clearance on schedule;

d) Certified true copy of the record on transfer of the project boundary on schedule.

3. A capital contribution contract, investment cooperation contract, or business cooperation contract specified in Clause 3 Article 19 of Decree No. 99/2012/ND-CP shall specify:

a) Names and addresses of parties to the contract;

b) Capital raising method;

c) Necessary amount of capital to be raised; capital mobilization periods;

d) Profit distribution method;

dd) Time limit for capital reimbursement;

e) Rights and obligations of the parties;

g) Dispute settlement;

h) Other arrangements.

4. Where capital is contributed to establish a new legal entity as the investor in the housing project, the capital contribution contract, investment cooperation contract, or business cooperation contract shall be made out in accordance with investment laws and relevant laws.

Section 2. OFFICIAL RESIDENCE DEVELOPMENT

Article 10. Procedures for determination of residence demand and approval for official residence development plan

1. Procedures for determination of residence demand and approval for official residence development plan of a central agency (except for those of the Ministry of National Defense and the Ministry of Public Security):

a) Each central agency shall conduct 5-year and annual surveys into demand for official residences according to the form in Appendix 07 enclosed herewith and send them to the Ministry of Construction for appraisal. A 5-year official residence development plan (2016 – 2020) shall be sent to the Ministry of Construction before September 30, 2016; the next 5-year plans shall be sent before October 31 of the year preceding the planning period; an annual official residence development plan shall be sent before October 31 of the year preceding the planning year. The

Ministry of Construction shall finish appraising within 60 days from the receipt of proposal for official residence demand from a central agency;

b) In consideration of consolidated demand for official residence of central agencies, the Ministry of Construction shall develop a plan for development of official residences of central agencies and submit it to the Prime Minister for consideration. After such plan is approved by the Prime Minister, the Ministry of Construction shall send it to relevant bodies for implementation.

2. Procedures for determination of residence demand and approval for official residence development plan of the Ministry of National Defense and the Ministry of Public Security:

a) The Ministry of National Defense or the Ministry of Public Security shall conduct survey into demand for official residence and develop its own plan for official residence development, and request the Ministry of Construction to offer opinions before submitting such plan to the Prime Minister;

b) After the Ministry of Construction offers its opinions, the Ministry of National Defense or the Ministry of Public Security shall complete the plan and submit it to the Prime Minister for consideration. After the plan is approved by the Prime Minister, the Ministry of National Defense or the Ministry of Public Security shall implement and send it to the Ministry of Construction for monitoring.

3. Procedures for determination of residence demand and approval for official residence development plans of local governments:

a) The Department of Construction shall take charge and cooperate with relevant agencies and the People's Committees of districts in surveying their demands for official residence according to Appendix 07 enclosed herewith. In consideration of consolidated demand for official residence of agencies in the province, the Department of Construction shall develop a 5-year and annual official residence development plans and submit them to the People's Committee of the same province for approval. The official residence development plan may be developed separately or included in the 5-year and annual housing development plans of local governments;

b) The People's Committee of the province shall consider, approve, and provide instructions on implementation of the local official residence development plan, and send it to the Ministry of Construction for monitoring according to the form in Appendix 07a enclosed herewith.

Article 11. Documentation and procedures for selection of a real estate enterprise as investor in an official residence project

1. An application of the real estate enterprise for selection as investor in an official residence project consists of the documents specified in Article 7 of this Circular and regulations of law on PPP investment.

2. The selection of a real estate enterprise as investor in an official residence project specified in Clause 1 of this Article shall comply with regulations of law on PPP investment and relevant laws.

Chapter III

MANAGEMENT AND USE OF STATE-OWNED HOUSES

Section 1. MANAGEMENT AND USE OF STATE-OWNED RELOCATION HOUSES

Article 12. Application and contract for sale, lease, lease purchase of relocation house

1. The form of application for sale, lease, lease purchase of relocation house is provided in Appendix 08 enclosed herewith. The form of contract for sale, lease, lease purchase of relocation house is provided in Appendix 19, 20 and 21 enclosed herewith.

2. Minimum duration of a relocation house lease contract is 03 years (unless otherwise agreed by the parties); such contract may be extended for up to 03 more years.

3. Minimum duration of a relocation house lease purchase contract is 05 years.

Article 13. Determination of rent for relocation house

1. The rent for a relocation house comprises construction cost, land levies or land rent, maintenance cost (only applied to houses for lease) and VAT.

2. Calculation of rent for a relocation house:

$G_t =$

$V_d + V_{sdd} + B_t$

$\times K \times (1 + GTGT)$

$\frac{1}{12}$

Where:

a) G_t : monthly rent for 01 m² (VND/m²/month).

b) V_d : annual total pretax reasonable cost of construction per 1 m² prescribed by regulations of law on management of investment and construction. In case of lease purchase, the V_d shall not include the first installment agreed under the contract.

The basis for determination of V_d varies according to the investment method:

- Where the State directly invest state capital in construction of relocation houses specified in Clause 3 Article 36 of the Law on Housing or use of social houses as relocation houses: V_d shall be determined according to the investment value in the financial statement approved by a competent

authority; if the financial statement has not been approved, $V_{đ}$ shall be determined according to construction cost in the total construction investment approved by a competent authority.

- Where the State invests in construction of relocation houses under a Build-Transfer (BT) contract: $V_{đ}$ shall be determined according to the contractual price or final price after the BT contract is finalized.

- Where the State purchases commercial houses as relocation houses: $V_{đ}$ shall be determined according to buying prices of commercial houses under the sale contract with the investor in the commercial housing project.

c) $V_{sđđ}$: Annual land levy or land rent for 01 m² of housing prescribed by land laws.

- Where the State directly invest state capital in construction of relocation houses specified in Clause 3 Article 36 of the Law on Housing or use of social houses as relocation houses or under a BT contract where the contractual price or final price does not include land levies, $V_{sđđ}$ shall be determined according to land prices imposed by the People's Committee of the province;

- Where the State purchases commercial houses as relocation houses or invest in construction of relocation houses under a BT contract where the contractual price or final price is inclusive of land levies, $V_{sđđ}$ shall be zero (0);

d) Bt: annual maintenance cost per 1 m². For lease purchase , Bt = 0; buyer/tenant shall pay maintenance cost in accordance with Article 108 of the Law on Housing.

dd) K: floor coefficient which is a weighted mean so that the sum of coefficients of floors of a building is 1.

e) GTGT: VAT determined in accordance with tax laws.

g) 12: 12 months in a year.

3. The rent calculated in Clause 2 of this Article is exclusive of management cost, which is paid by the buyer/tenant to the management unit as prescribed.

Section 2. MANAGEMENT AND USE OF STATE-OWNED SOCIAL HOUSES

Article 14. Documents proving eligibility for purchase, lease purchase of state-owned social houses

A tenant or buyer/tenant of a state-owned social house shall prepare an application according to the form in Appendix 09 enclosed herewith and the following documents:

1. Documents proving eligibility:

a) An entity specified in Clause 1 Article 49 of the Law on Housing shall submit a certification according to Appendix 13 enclosed herewith;

b) An entity specified in Clause 4, 5, 6 or 7 Article 49 of the Law on Housing shall submit a certification according to Appendix 14 enclosed herewith;

c) An entity specified in Clause 8 Article 49 of the Law on Housing shall submit a certification according to Appendix 15 enclosed herewith;

d) An entity specified in Clause 10 Article 49 of the Law on Housing shall submit a certification according to Appendix 16 enclosed herewith.

2. Documents proving eligibility for residence and social insurance:

a) A person who has permanent residence in a province where the social house is located shall submit a certified true copy of the permanent residence book or certificate of registration of collective residence;

b) A person who does not have a permanent residence as specified in Point a of this Clause shall submit the following documents:

- Certified true copies of the certificate of at least 01 year's temporary residence registration;

- An employment contract of at least 01 year up to the time of submission of the application and a written certification from an insurance authority that he/she is paying social insurance contributions in the province where the social house is located. If such person is working for a branch or representative office in the province where the social house is located and pay social insurance contributions in another province where the headquarters is located, it is required to have a written certification of social insurance payment from the headquarters.

3. Documents proving sufficient income:

a) An entity specified in Clause 5, 6 or 7 Article 49 of the Law on Housing shall submit a certification of sufficient income and living conditions according to Appendix 14 enclosed herewith; if a certification of eligibility and living conditions has been obtained before the effective date of this Circular, only certification of sufficient income according to Appendix 17 of this Circular is required.

b) An entity specified in Clause 4, 5, 6 or 7 Article 49 of the Law on Housing who has resigned his/her job or retired shall prepare a declaration of income himself/herself according to Appendix 18 of this Circular (without certification). If a certification of eligibility and living conditions has been obtained before the effective date of this Circular, only declaration of income is required.

c) An entity specified in Clause 1, 8, 9 or 10 of Article 49 of the Law on Housing is not required to submit documents proving sufficient income.

Article 15. Documents proving eligibility for exemption or reduction of rents for state-owned social houses

Documents proving eligibility for exemption or reduction of rent for state-owned social houses are the same as those proving eligibility for exemption or reduction of rent for old state-owned houses specified in Article 23 of this Circular.

Article 16. Criteria for selection of people eligible for purchase and lease purchase of state-owned social houses

1. Article 49 and Article 51 of the Law on Housing and Article 14 of this Circular shall apply to selection of people eligible for purchase and lease purchase of state-owned social houses. In case available social houses are not adequate for all eligible people, the grading system specified in Clause 2 of this Article shall be applied. A person who has a higher grade will be given priority over another who has a lower grade.

2. Grading system and corresponding criteria:

STT

Criterion

Grade

1

Housing difficulty:

- A person who owns no house.
- A person who owns a house that is damaged or whose average housing area under 10 m²/person

40

30

2

Groups:

- Group 1 (Clauses 1, 8 and 10 Article 49 of the Law on Housing).
- Group 2 (Clauses 5, 6 and 7 Article 49 of the Law on Housing).

- Group 3 (Clauses 4 and 9 Article 49 of the Law on Housing).

40

30

0

3

Other criteria:

- A household having at least 02 people of Group 1.

- A household having 1 person of Group 1 and at least 01 person of Group 2 or 3.

- A household having at least 02 people of Group 2 or 3.

Note: If a household or individual satisfies more than one criteria, the criterion that has the highest grade shall apply.

10

7

4

4

Criterion established by the People's Committee of the province (if any)

10

3. According to the rules and grading system specified in Clause 1 and Clause 2 of this Article, the owner's representative agency or housing management authority (if authorized) shall specify the criteria for selection of people eligible for lease and lease purchase of state-owned social houses under their management.

4. A housing management authority may establish a council, which comprises representatives from relevant local agencies) to process documents or directly process the applications in a manner that ensure

transparency and conformity with the rules and criteria specified in this Article.

5. The forms of contracts for lease and lease purchase of state-owned social houses are provided in Appendix 20 and Appendix 21 enclosed herewith.

Article 17. Determination of rent for state-owned social house

1. The rent for a state-owned social house specified in Clause 1 Article 55 of Decree No. 99/2012/ND-CP comprises construction cost, land levies or land rent, maintenance cost (only applied to house lease) and VAT, exclusive of land levies, land rents, and management cost.

Section 3 of this Chapter shall apply to state-owned social houses leased out to students.

2. Calculation of rent for a state-owned social house:

$G_t =$

$V_d + B_t$

$\times K \times (1 + GTGT)$

Where:

a) G_t : monthly rent for 01 m² (VND/m²/month).

b) V_d : annual total pretax reasonable cost of construction per 01 m² prescribed by regulations of law on management of investment and construction. In case of lease purchase, the first installment agreed in the contract shall be deducted from V_d .

The basis for determination of V_d varies according to the investment method specified in Clause 1 Article 53 of the Law on Housing:

- In case of direct state capital investment in construction of social houses specified in Clause 1 Article 53 of the Law on Housing: V_d shall be determined according to the investment value in the financial statement approved by a competent authority; if the financial statement has not been approved, V_d shall be determined according to construction cost in the total construction investment approved by a competent authority.

- Where the State invests in construction of social houses under a BT contract: V_d shall be determined according to the contractual price or final price after the BT contract is finalized. If such price is inclusive of land levies, land levies shall be deducted from V_d .

c) Bt: annual maintenance cost per 1 m². For lease purchase of social houses, Bt = 0; buyer/tenant shall pay maintenance cost in accordance with Article 108 of the Law on Housing.

d) K: floor coefficient which is a weighted mean so that the sum of coefficients of floors of a building is 1.

dd) GTGT: VAT determined in accordance with tax laws.

e) 12: 12 months in a year.

3. According to Clause 1 and Clause 2 of this Article, the housing management authority shall cooperate with a finance authority at the same level in proposing rents for state-owned social houses under their management to the owner's representative agency.

Section 3. MANAGEMENT AND USE OF STATE-OWNED SOCIAL HOUSES FOR RENT FOR STUDENTS

Article 18. Procedures for leasing out state-owned social houses to students

1. State-owned social houses for rent for students are hereinafter referred to as student housing. The lease term varies according to each student's need but shall not be shorter than 01 year and not longer than the student's study duration.

2. The following procedures shall apply to student housing invested by the State from June 10, 2009 (effective date of the Prime Minister's Decision No. 65/2009/QD-TTg):

a) A student who wishes to take out a lease shall submit an application form according to Appendix 10 enclosed herewith and copies of documents proving priority (if any) to:

- The educational institution at which he/she is studying, which shall receive and process applications, compile a list of students and send it to the student housing management authority;

- The student housing management unit (hereinafter referred to as managing unit) after a certification is granted by his/her educational institution.

b) According to the list of students who wish to lease houses, the managing unit shall grant leases according to available housing quantity and in order of priority prescribed in Clause 1 Article 52 of Decree No. 99/2012/ND-CP;

c) Grant of leases shall be considered within 30 days from the day on which the managing unit receive the applications, list and relevant documents.

Where a student is not eligible to take out a lease or available student housing is not adequate, he/she must be informed in writing.

3. For student housing invested by the State before June 10, 2009 under the management of educational institutions, they shall ex officio decide their leases and management.

Article 19. Rules for determination of student housing rents

1. The student housing management authorities (for student housing under management of Ministries and central regulatory bodies) or Departments of Construction (for student housing under management of the People's Committee of the province) shall impose rents for student housing under their management in accordance with this Article and Article 20 of this Circular, then request the owner's representative agency to decide in accordance with Clause 1 Article 55 of Decree No. 99/2012/ND-CP The owner's representative agency may authorize a student housing management authority to decide the rents.

2. Revenues from student housing rents and provision of services therein shall be recorded and spent in accordance with law; revenues from service provision (if any) minus (-) operational cost shall be used to covered the management cost and maintenance cost with an aim to reduce student housing rents.

Article 20. Determination of student housing rents

1. Student housing rent is inclusive of management cost and maintenance cost, exclusive of construction cost, land levies and land rents.

2. Calculation of student housing rent:

$G_t =$

$Q_l + B_t - T_{dv}$

$\times K$

$10 \times S$

Where:

- G_t : monthly rent for 01 m² (VND/m²/month).
- Q_l : annual management cost per 01 m² (VND/year)
- B_t : annual maintenance cost per 01 m² (VND/year).
- T_{dv} : revenue from provision of services such as parking, food and drink, other revenues (if any) (VND/year).
- S : total area for lease (m²).

- K: floor coefficient which is a weighted mean so that the sum of coefficients of floors of a building is 1.

- 10: 10 months in a year.

Article 21. Student housing management

1. The owner's representative agency shall select a managing unit or authorize the housing management authority to do so. In case of maintenance, renovation, reconstruction of student housing, the managing unit shall submit the maintenance, renovation, reconstruction plan to the owner's representative agency for approval.

2. Student housing must have an internal management board which is annually elected by the students and recognized in writing by the managing unit and; the internal management board shall perform the rights and obligations specified in Clause 3 of this Article. The management board consists of 5 – 7 members who are representatives of the tenants and representative of Communist Youth Union of Ho Chi Minh City and Student Union introduced by training institutions among the tenants.

3. Rights and obligations of the internal management board:

a) Disseminate rules and regulations established by the managing unit among students; prevent and report violations committed within the student housing area;

b) Organize cleaning, environmental, cultural, and sports activities in the student housing area;

c) Submit annual reports to the managing unit on the use of the houses and students' proposals regarding issues related to student housing management.

Section 4. LEASING STATE-OWNED OLD HOUSES

Article 22. Application and contract for lease of a state-owned old house

1. The application form is provided in Appendix 11 enclosed herewith.
2. The model contract is provided in Appendix 20 enclosed herewith.

Article 23. Documents proving eligibility for exemption or reduction of rent for state-owned old houses

1. A war veteran shall have supporting documents issued by competent authority.
2. A disabled person or lonely elder shall have a written confirmation issued by a competent authority as prescribed by regulations of law on the disabled and social protection beneficiaries.

3. A poor household or near-poverty household in an urban area shall have a written confirmation issued by the People's Committee of the commune where he/she permanently resides or has temporarily resided for at least 01 year;

Section 5. SELLING STATE-OWNED OLD HOUSES

Article 24. Procedures for selling state-owned old houses

1. The buyer of an old house shall prepare 01 application according to Clause 1 Article 69 of Decree No. 99/2012/ND-CP Procedures for selling old houses are specified in Clause 2 Article 69 of Decree No. 99/2012/ND-CP.

2. The application form for purchase of a state-owned old house is provided in Appendix 12 enclosed herewith.

3. The model contract for purchase of a state-owned old house is provided in Appendix 22 enclosed herewith.

Article 25. Selling prices for state-owned old houses renovated by the State

In case of an state-owned old house which has been renovated by the State, the old price specified in Article 65 and Article 70 of Decree No. 99/2012/ND-CP shall apply to the area written in the lease contract before renovation; selling price for the additional area after renovation (if any) shall ensure recovery of construction cost.

Article 26. Rules for determination of remaining value and value coefficient when selling state-owned old houses

1. The method for determination of remaining value of state-owned old houses sold to tenants as prescribed in this Circular are specified in Circular No. 13/LB-TT dated August 18, 1994.

2. Classification of old houses and calculation of their areas as the basis for determination of selling prices are specified in Circular No. 05-BXD/DT dated February 09, 1993 of the Ministry of Construction.

3. Value coefficients of state-owned old houses:

a) Value coefficients of various types of houses except for those specified in Point b of this Clause:

- Single-story house and 1st floor:

1.2

- 2nd floor:

1.1

- 3rd floor:

1.0

- 4th floor:

0.9

- 5th floor:

0.8

- From 6th floor:

0.7

b) Value coefficients of multi-family townhouses for more than one household:

- 1st floor: 1.0

- 2nd floor: 0.8

- 3rd floor: 0.7

- 4th floor: 0.6

- 5th floor: 0.5

- From 6th floor: 0.4

c) Coefficients of floors upon transfer of land use right:

Coefficient

1st floor

2nd floor

3rd floor

4th floor

5th floor

From 6th floor

2 stories

0.7

0.3

3 stories

0.7

0.2

0.1

4 stories

0.7

0.15

0.1

0.05

5 or more stories

0.7

0.15

0.08

0.05

0.02

0.0

For a detached house which has a mezzanine, coefficient = 0.7.

When selling an apartment of a state-owned old apartment building with closed structure, land levy distributed to each apartment in the apartment building shall be multiplied by (x) 1.4; this coefficient does not apply to multi-family townhouses.

Article 27. Documents proving eligibility for exemption or reduction of prices for state-owned old houses; reduction levels

1. Any buyer of an old house who is eligible for exemption or reduction of land levies as prescribed in Clause 1 Article 67 of Decree No. 99/2012/ND-CP shall have supporting documents similarly to those required for exemption or reduction of rents for state-owned old houses specified in Article 23 of this Circular.

2. Any buyer of an old house who is eligible for reduction of land shall have any of the following documents:

a) A document proving the buyer's seniority at his/her current workplace;

b) A written confirmation from the social insurance authority of the district that the buyer is living on pension or compensation for loss of capacity for work or occupational diseases or other occupational benefits as prescribed by law;

c) Certified true copy of the decision on resignation and provision of lump sum social insurance benefits, severance pay before and after the promulgation of Decision No. 111/HDBT dated April 12, 1991 of Minister Council and after the promulgation of the Labor Code 1995, demobilization pay. If such decision is lost, a declaration of career certified by the former employer is required;

d) Documents specified in Article 23 of this Circular if the buyer is a war veteran, poor household, near-poverty household, disabled person, lonely elder, or a person facing extreme housing difficulty in an urban area.

3. Levels of land levy reduction:

a) If the buyer is a war veteran, exemption or reduction of land levies shall be granted pursuant to:

- The Prime Minister's Decision No. 118/TTg dated February 27, 1996;

- The Prime Minister's Decision No. 20/2000/QD-TTg dated February 03, 2000;

- The Prime Minister's Decision No. 117/2007/QD-TTg dated July 25, 2007.

b) If the buyer is a disabled person or lonely elder or member of a poor household or near-poverty household in an urban area, exemption or reduction of land levies shall be granted pursuant to Clause 1 Article 68 of Decree No. 99/2012/ND-CP.

In case of a poor household or near-poverty household or household having a disabled person, 60% reduction of land levies shall apply to the whole household. Example: Mr. A's household is a poor household with 3 members who have a lease contract. When he buys a house, he will be given 60% reduction of land levies. Mr. B's household is a poor household and has 02 members who are disabled. The whole Mr. B's household will be given 60% reduction in land levies when buying an old house.

c) The grant of land levy exemption and reduction when selling state-owned old houses to the entities specified in Point a and Point b of this Clause only apply within the limited area specified in the People's Committee of the province.

4. Reduction in selling prices for state-owned old houses by seniority:

a) For each year's working, the buyer will be given a reduction of 0.69 times the minimum wage of officials and public employees or 1.24 times the minimum wage of servicemen.

Article 28. Selling shared areas of state-owned old houses

Share area in a multi-family townhouse specified in Clause 1 Article 71 of Decree No. 99/2012/ND-CP shall be dealt with as follows:

1. The shared area shall be sold when all of the following conditions are satisfied:

a) The organization, household or individual that wishes to buy the shared area is the owner of the entire housing area that has been sold by the State (which has a land use right certificate);

b) The organization, household or individual that is the owner of the entire housing area sold submits a written application for purchase of the shared area;

c) The shared area is not in dispute.

2. Rents and land levies for shared areas are specified in Clause 1 Article 71 of Decree No. 99/2012/ND-CP; no exemption or reduction of land levies on shared areas shall be granted.

Chapter IV

OWNERSHIP OF HOUSING IN VIETNAM BY FOREIGN ENTITIES

Article 29. Determination of quantity of houses of a housing project in Vietnam foreign entities may own

1. In an apartment building (including multipurpose apartment buildings), foreign entities may own up to 30% of residential apartments thereof. If an apartment building has more than one units or blocks, foreign entities may own up to 30% of residential apartments of each unit or block.

2. Determination of quantity of detached houses (including row houses, independent houses, villas) foreign entities may own:

a) If there is only 01 housing project in an area whose population is equivalent to that of a ward, foreign entities may own up to 10% of the houses or 250 houses of such project, whichever comes first. If there are more than one project is such area, foreign entities may own up to 10% detached houses of each project and up to 250 houses of all the projects.

b) If there are more than one housing project in an area whose population is equivalent to that of a ward and the quantity of detached houses owned

by foreign entities has reached the limit specified in Point a of this Clause, detached houses of any other project within such area may not be sold to foreign entities.

3. Population of a housing project depends on the construction planning scheme approved by a competent authority. A ward's population is determined according to regulations of law on organization of local governments.

Article 30. Reporting ownership of housing in Vietnam by foreign entities

1. The Departments of Construction shall submit biannual and annual reports or irregular reports to the Ministry of Construction on house ownership by foreign entities in their provinces.

2. Issuers of the Land use right certificates (hereinafter referred to as Certificates) shall submit a report to the Ministry of Construction, the Ministry of Natural Resources and Environment issuance of such certificates to foreign entities owning houses in Vietnam according to the form in Appendix 23 enclosed herewith.

Article 31. Management of lease of houses to foreign entities

1. Before signing a lease contract, the foreign owner of the house shall send a notification to the housing authority of the district where the house is located. The notification shall specify the owner's name, address of the house, lease term, copies of the certificate of the house and its purpose.

2. Where Vietnam's law requires that house lease business must be registered, the foreign landlord shall apply for business registration. When a lease contract expires, a notification shall be sent to the housing authority of the district where the house is located.

3. The housing authority shall notify the tax authority and submit biannual and annual reports to the Department of Construction on house lease by foreign entities in the province; the Department of Construction shall submit a report to the People's Committee of the province and the Ministry of Construction.

Chapter V

TRANSFER OF COMMERCIAL HOUSE SALE CONTRACT

Article 32. Conditions for transfer of a commercial house sale contract

1. The buyer of a house of the investor in a commercial housing project may transfer the sale contract to another entity as long as the application for the Certificate has not been submitted to a competent authority, whether the house has been received or not.

2. The transferee of the commercial house sale contract may transfer it to another entity as long as the application for the Certificate has not been submitted to a competent authority.

3. The transfer of such contract shall only apply to separate house or apartment. If the contract covers more than one apartment or house, all the apartments or houses in the contract shall be transferred. If the transferor wishes to transfer one or some of the houses, the transferor shall make out a new sale contract or appendix to the contract before following contract transfer procedures.

Article 33. Procedures for transfer of a commercial house sale contract

1. The transferor and transferee shall make out an agreement on transfer of the sale contract in accordance with Article 34 of this Circular. The transfer agreement shall be made into 06 copies (03 copies submitted to the investor, 01 copy to the tax authority, 01 copy kept by the transferor, 01 copy by the transferee); If the transfer agreement has to be notarized or authenticated, another copy shall be kept by the notary or authenticating body.

2. Notarization and authentication of transfer agreement:

a) If the transferor is not an enterprise or cooperative licensed to trade in real estate as prescribed by regulations of law on real estate trading, the transfer agreement must be notarized or authenticated. Application for notarization or authentication:

- 07 original copies of the transfer agreement;

- The original sale contract with the investor in the commercial housing project. From the second transfer agreement, it is required to have original

copies of previous transfer agreement(s). If only one or some of the houses in the original contract is transferred, the certified true copy of the original contract and original copy of its appendix shall be submitted;

- Certified true copies or copies enclosed with originals of the unexpired ID card or passport of an individual; decision on establishment or certificate of registration of an organization;

- Other documents prescribed by regulations of law on notarization and authentication. The notary or authenticating body shall notarize or authenticate the transfer agreement in accordance with regulations of law on notarization and authentication.

b) If the transferor is an enterprise or cooperative licensed to trade in real estate, notarization and authentication of the transfer agreement is optional. If the transfer agreement has to be notarized or authenticated, provisions of Point a Clause shall apply.

3. After all taxes, fees and charges for transfer of the contract is fully paid, the transferee shall submit an application requesting confirmation by the investor of the transfer agreement.

a) The application for confirmation consists of:

- 05 original copies of the transfer agreement, including 01 copy of the transferor (it must be notarized or authenticated, if required, before being submitted to the investor);

- Original sale contract with the investor in the commercial housing project. From the second transfer agreement, it is required to have original copies of previous transfer agreement(s). If only one or some of the houses in the original contract is transferred, the certified true copy of the original contract and original copy of its appendix shall be submitted. If the house has been received, a certified true copy of the house transfer note is required;

- Tax payment receipt or documents proving tax exemptions as prescribed by tax laws;

- Certified true copies or copies enclosed with originals of documents of the transferee: the unexpired ID card or passport of an individual; decision on establishment or certificate of registration of an organization.

b) The investor shall give confirmation on the transfer agreement within 05 working days from the receipt of adequate documents as specified in Point a of this Clause and send the following documents to the submitter:

- 02 copies of the transfer agreement bearing the investor's confirmation; one of them is kept by the transferor, the other by the transferee;

- The original sale contract with the investor in the commercial housing project. From the second transfer agreement, it is required to have original copies of previous transfer agreement(s). If only one or some of the houses in the original contract is transferred, the certified true copy of the original contract and original copy of its appendix shall be submitted. If the house has been received, a certified true copy of the house transfer note is required;

- Tax payment receipt or documents proving tax exemptions as prescribed by tax laws.

4. From the second transfer of the contract, the procedures are the same as those for the first transfer.

5. The last transferee of the sale contract shall be granted the Certificate in accordance with land laws. While following procedures for issuance of the Certificate, the following shall be submitted to the Certificate issuer in addition to the documents prescribed by land laws:

a) The original sale contract with the investor. From the second transfer agreement, it is required to have original copies of previous transfer agreement(s). If only one or some of the houses in the original contract is transferred, the certified true copy of the original contract and original copy of its appendix shall be submitted. If the house has been received, a certified true copy of the house transfer note is required;

b) The original copy of the last contract transfer agreement bearing the investor's confirmation.

6. Confirmation of transfer agreement where an investor is not identified (because of dissolution, bankruptcy, shutdown or other reasons prescribed by law):

a) Where the sale contract is transferred before the effective of this Circular but a Certificate has not been granted to the transferred house, the transfer

agreement must be certified by the People's Committee of the commune where the house is located;

b) Where the basis for certification is not ample, the People's Committee of the commune shall post the sale contract at its office and the neighborhood where the house is located. If there is no dispute or lawsuit is filed after 60 days from the day on which the contract is posted, the People's Committee of the commune shall certify on the transfer agreement that there is not dispute or lawsuit. This is the basis for issuance of the Certificate to the transferee.

Article 34. Transfer agreement content and model transfer agreement

1. Main content of a transfer agreement:

a) Information about the transferor and transferee (including information about the legal representative for organizations);

b) Number and date of the sale contract with the investor;

c) Transfer price, deadline and method of payment;

d) Rights and obligations of the parties;

dd) Dispute settlement;

e) Other arrangements.

2. The model contract is provided in Appendix 24 enclosed herewith. The parties may alter terms and conditions of the model contract as long as the main contain specified in Clause 1 of this Article is adequate and the agreement does not contravene civil law and housing laws.

Chapter VI

IMPLEMENTATION

Article 35. Responsibilities of the People's Committees of provinces

1. Perform the tasks specified in the Law on Housing, Article 35 of Decree No. 99/2012/ND-CP and Clause 2 through 4 of this Article.

2. Establish specific criteria for selection of eligible tenants and buyers/tenants of state-owned social houses in their provinces as instructed in Article 16 of this Circular.

3. Promulgate or amend ex officio legislative documents on housing in accordance with the Law on Housing, Decree No. 99/2012/ND-CP and this Circular.

4. Provide instructions on implementation of housing laws, organization of inspections, inspect implementation of housing laws and impose penalties or request competent authorities to impose penalties for violations committed in their provinces.

Article 36. Responsibilities of Departments of Construction

1. Perform the tasks of provincial housing authorities specified in the Law on Housing, Decree No. 99/2012/ND-CP , Decisions of the People's Committee of the province and Clause 2 through 4 of this Article.

2. Take charge and cooperate with local authorities in establishing criteria for selection of eligible tenants and buyers/tenants of state-owned social houses in their provinces as instructed in Article 16 of this Circular.

3. Carry out inspections and impose penalties or request competent authorities to impose penalties for violations against regulations on management and use of state-owned houses in their provinces.

4. Submit biannual, annual and irregular reports to the People's Committees of provinces and the Ministry of Construction on management and use of state-owned houses in their provinces.

Article 37. Transition clause

1. If a group of experts has been established to select an investor in a commercial housing project as prescribed in Decree No. 71/2010/ND-CP

applications submitted before the effective date of this Circular shall be processed and submitted to the People's Committee of the province. From the effective date of this Circular, this Circular shall apply to establishment and operation of groups of experts.

2. From the effective date of this Circular, applications for lease or lease purchase of state-owned social houses, application for purchase, lease or lease purchase of state-owned relocation houses submitted before the effective date of Decree No. 99/2012/ND-CP are exempt from adjustment to Decree No. 99/2012/ND-CP except for the case in which certification of adequate income has to be provided as specified in Clause 3 Article 14 of this Circular.

3. Contracts for lease of state-owned houses concluded before the effective date of Decree No. 99/2012/ND-CP are exempt from re-conclusion according to this Circular and may be executed until their expiration.

Article 38. Effect

1. This Circular comes into force from August 15, 2016.

2. The documents below are abrogated from the effective date of this Circular:

a) Decision No. 29/2001/QD-BXD dated November 19, 2001 of the Ministry of Construction;

b) Decision No. 17/2006/QĐ-BXD dated June 07, 2006 of the Ministry of Construction;

c) Circular No. 38/2009/TT-BXD dated December 08, 2009 of the Minister of Construction;

d) Circular No. 16/2010/TT-BXD dated September 01, 2010 of the Minister of Construction;

dd) Circular No. 14/2013/TT-BXD dated September 19, 2013 of the Minister of Construction;

e) Circular No. 03/2014/TT-BXD dated February 20, 2014 of the Minister of Construction;

g) Circular No. 07/2014/TT-BXD dated May 20, 2014 of the Minister of Construction.

3. Regarding regulations on housing development, management and use of houses, house transaction, house ownership and state management of houses specified in legislative documents that are promulgated by the Ministry of Construction, other Ministries, regulatory bodies and the People's Committees of provinces before the effective date of this Circular and contravene this Circular, this Circular shall prevail.

4. Difficulties that arise during the implementation of this Circular should be reported to the Ministry of Construction for consideration and guidance./.

PP MINISTER

DEPUTY MINISTER

Do Duc Duy