

Listing Decisions Series 4-2 - Exchange's announcement dated 25 March 1998 entitled "Clarification on Requirements for Land Use Title of Properties situated in the Mainland of the People's Republic of China" (July 1999) (Updated in January 2013)

[Streamlined and incorporated into the Guide for New Listing Applicants in January 2024]

Summary	
Name of Party	Company A - an applicant for new listing
Subject	Whether construction permits are acceptable in lieu of long-term land use right certificates for properties on the PRC mainland used for Company A's infrastructure projects
Related Publications	Exchange's announcement dated 25 March 1998 entitled "Clarification on Requirements for Land Use Title of Properties situated in the Mainland of the People's Republic of China" Guidance Letter HKEx-GL19-10 (<i>Added January 2013</i>)
Decision	Construction permits are not acceptable in lieu of long-term land use right certificates for properties on the PRC mainland used for Company A's infrastructure projects

Summary of Facts

Company A is in the business of operating, developing and maintaining toll roads on the PRC mainland.

Company A had land use right titles for all of its completed toll road projects. As for its 3 uncompleted toll road projects, 2 were under construction and 1 was in a pre-construction stage. Company A did not have land use right titles for any of these 3. Company A submitted that it would have the land use right titles for these upon completion of construction.

Construction land permits had been obtained for the 2 toll roads under construction and for the one which is at a pre-construction stage. The related joint venture agreement had been signed. Company A's sponsor confirmed that the toll roads were not operated under long-term concessionary arrangements awarded by the Government.

Company A's sponsor submitted that PRC infrastructure projects under construction or at a pre-construction stage would not be issued with land use right titles. Instead, the PRC Land Administration Bureau would issue a construction land permit based on the proposed land area. Upon completion, the Bureau would confirm the actual land area and issue a land use right title as prescribed under Article 18(4) of the Implementation Regulations of Land Administration Law of the PRC.

Company A's sponsor submitted a PRC legal opinion and a letter from the relevant State Land Administration Bureau confirming that, under the PRC law, construction land permits conferred legal rights upon Company A to use the land to construct the infrastructure projects.

Analysis

The Exchange's announcement dated 25 March 1998 entitled "Clarification on Requirements for Land Use Title of Properties situated in the Mainland of the People's Republic of China"

requires listing applicants which are infrastructure project companies to obtain long-term land use right certificates for all PRC mainland properties used in infrastructure projects. The requirement is a strict one as the land use right certificates would confer upon Company A the ownership of, and right to the future income from, the toll roads in question.

Decision

Construction permits are not acceptable in lieu of long-term land use right certificates for properties on the PRC mainland used for Company A's infrastructure projects.