

Court rulings go part way to resolving disputes for China's homeowners

BEIJING, May 27 (Xinhua) -- Legal experts say interpretations from China's Supreme People's Court on the country's two-year-old Property Law have settled some ambiguities, but other possible points of dispute remain.

The court on Sunday released two interpretations of the Law, which will be considered legal bases for settling disputes between home owners, property developers and management companies in residential communities.

Patrick Randolph, professor at the Center for Real Estate Law from Peking University, told Xinhua Tuesday that "the two interpretations do solve some important uncertainties of the law."

Lou Jianbo, director of the center, said, "The two interpretations are very practical as the Supreme People's Court has made the regulations in accordance with many cases handled previously by local courts with great difficulty because of a lack of legal support."

The two interpretations, one focusing on property ownership determination and another on management company services, will take effect in October.

The main public focuses of the interpretations regard parking space sale and distribution, management company service fees, property ownership definition and conditions on redesignating homes for commercial use.

The court ruled that property developers must distribute parking places fairly so that home owners have first refusal on places in their residential compounds.

In China, the distribution of open and underground garage parking often causes huge disputes in residential communities.

Developers are often accused of selling parking areas to one buyer, usually a close relative, who then sells them on to other owners at a very high mark-up.

But the interpretation requires developers to offer parking spaces to every home owner at a reasonable price.

Also, if an owner wants to redesignate their home a commercial property, they must obtain approval from all the residents of the entire building. Previously they were required to obtain permission from immediate neighbors only.

The interpretation also redefines the "owner" as the person who has purchased the house, even if they have yet to obtain the official ownership certificate, which proved ownership previously.

Meanwhile, property management companies will be prohibited from charging service fees unless they have a valid contract with the residents.

They also require residents to pay service fees even when they are not living in the home, such as when they are out of the country.

All these items are applicable to foreign homeowners. "They share the same rights and shoulder the same responsibilities as local owners on the Property Law and its interpretations," Lou Jianbo said.

However, some areas of dispute still existed and were not covered by the law, said Lou, such as, "what is a reasonable fee for management services acceptable to both homeowners and service companies."

Lou and Randolph agreed that a resolution mechanism was still along way off.

Homeowners should show more trust of management companies in their professional opinions on building maintenance and environment plans, instead of "always cutting the budget," Randolph said. "Sometimes homeowners do not know what is the best choice for them."

Meanwhile, management companies had to earn trust, rather than complaints, by ensuring they provided their services dutifully, he said.

In order to better provide equal protection to both state and private property, China released the draft Property Law in July 2005. The law took effect in October two years later.

China's Supreme People's Court began considering judicial interpretations in 2003.