

Contents

Acknowledgments	vii
---------------------------	-----

About the Authors	ix
-----------------------------	----

Chapter 1

Introduction	1
------------------------	---

Chapter 2

History of Real Property: Qing Dynasty through the Cultural Revolution.	3
Introduction.	3
Qing Code.	4
Qing Customary Law and Contracts.	4
Communal/Familial Property Ownership.	6
Dian.	7
Topsoil/Subsoil Rights.	8
Treaty Ports	10
Taiping Rebellion.	11
Qing Commission on Legal Reform.	11
Early Republic and Warlord Period: 1911–1927.	12
Nanjing Decade and the KMT: 1927–1937	12
CCP Areas in the Jiangxi Soviet, 1931–1934, and Yanan, 1935–1948.	15
The Founding of the PRC: 1949 to 1980s	17
Conclusion.	19

Chapter 3

Post-Reform Real Property System: Framework for Understanding Current Real Property Law	21
Introduction.	21
Economic Reform	21
Constitutional Changes	23
Legal Foundation.	24

Characteristics of the Property Law System	30
A Gradual and Trial and Error Approach to Reform	30
National versus Local Policy and Interests	32
The Socialist Path to Economic Reform.	33
Foreign Investment and the International Arena	34
The Role of Ambiguity and Custom.	35
Property Ownership and Privatization with Chinese Characteristics	35
Conclusion	37

Case Study A

Developing a Warehouse for Self-Use.	39
--	----

Appendix A-1

Documents Request List to Stillwater re Land Use Rights	55
---	----

Appendix A-2

Requirements for Development of Land Selected for the Proposed Mega Logistics (Shanghai) Facility in the Stillwater Industrial Zone.	57
--	----

Case Study B

Acquiring Land Use Rights from the Government to Develop a Mixed-Use Project	61
---	----

Case Study C

Acquiring Equity Rights in a Project Company Holding Rights to Develop a Retail Project	81
--	----

Appendix C-1

Due Diligence Checklist	103
-----------------------------------	-----

Appendix C-2

Equity Transfer Agreement	117
-------------------------------------	-----

Appendix C-3

Commission Agreement	163
--------------------------------	-----

Appendix C-4

Consulting Agreement	171
--------------------------------	-----

Appendix C-5

Mortgage Agreement in Respect of Land Use Right	179
---	-----

Appendix C-6

Third-Party Agreement.	183
--------------------------------	-----

Appendix C-7

Equity Retransfer Agreement	189
---------------------------------------	-----

Appendix C-8

Closing Checklist	193
-----------------------------	-----

Case Study D

Residential Real Estate	197
-------------------------------	-----

Appendix D-1

Deposit Agreement	215
-------------------------	-----

Appendix D-2

Shanghai Municipal Real Property Sale and Purchase Contract	221
---	-----

Appendix D-3

上海市房地产买卖合同	245
------------------	-----

Research Tools

Project Flowchart: Obtaining Land Use Rights and Construction Approval for a Project Establishing a Foreign-Invested Real Estate Company	265
--	-----

Research Tools

Key National, Provincial, and Municipal Regulatory Agencies Dealing with Real Estate and Property	269
--	-----

Research Tools

Useful Websites	277
-----------------------	-----

Research Tools

Digest of Key Laws and Regulations	285
--	-----

Selected Bibliography	303
-----------------------------	-----

Index	309
-------------	-----