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**ĐÁNH GIÁ VIỆC CÔNG KHAI THÔNG TIN
KẾ HOẠCH SỬ DỤNG ĐẤT Ở CẤP HUYỆN VÀ BẢNG GIÁ ĐẤT Ở CẤP TỈNH**
*A Review of Local Governments' Performance in Disclosure
of District Land Use Plans and Provincial Land Pricing Frameworks*

Hà Nội, 01/07/2022

 <https://congkhaithongtindatdai.info>

EXECUTIVE SUMMARY



REVIEW OF LOCAL GOVERNMENTS' PERFORMANCE IN DISCLOSING INFORMATION ABOUT DISTRICT LAND-USE PLANS AND PROVINCIAL LAND PRICING FRAMEWORKS

[Unofficial translated version]

Hanoi, June 2022

Research rationale and research methods

Under the 2013 Land Law and the 2016 Law on Access to Information, local land use master plans and annual land use plans must be publicized for public view in various forms, including on online platforms. However, access to local land plans remains limited. At the national level, only about one-fifth of respondents in the Viet Nam Provincial Public Administration and Governance Performance Index (PAPI) surveys responded that they were aware of local land plans since 2011¹.

Information asymmetry about local land plans is an important cause of land conflicts. Findings related to land governance from PAPI surveys² and the Provincial Competitiveness Index (PCI)³ suggest that the lack of transparency in land planning and acquisition schemes, and low state-defined land compensation frameworks may have been the main causes of land conflicts in Vietnam, especially in suburban areas.

This shows that more efforts should be made by stakeholders to enhance citizens' access to land information – those who play an important role in good land governance in Vietnam. For that reason, the United Nations Development Programme (UNDP) in Viet Nam in collaboration with the Center for Education Promotion and Empowerment of Women (CEPEW) implemented the initiative “Action Research to Enhance Citizens' Access to Land Information” during the period from July 2021 to June 2022. In particular, the initiative focuses on assessing the public disclosure and accessibility of provincial land pricing frameworks and district land use plans on the e-portals/websites of state agencies in 63 provinces/municipalities nationwide and their response to citizens' requests for information on district land use plans.

¹ For more information, see at <https://papi.org.vn/>

² For more information, see at <https://papi.org.vn/>

³ For more information about PCI, see at www.pcivietnam.org

Commonly, a citizen would look up the information they need using the Google search tool. However, from the research perspective of the responsibility of state agencies to publicize land pricing frameworks and land use plans, the Research Team has designed a 4-step process to search for the information on the local authorities' e-portals/websites. The four research steps include: (i) search for noticeable and relevant categories on the homepage/navigation bars; (ii) search for other less relevant categories on the homepage/navigation bars; (iii) search using the page's search bar; and (iv) search using the Google search tool.

For the assessment of the level of disclosure of land information by local authorities, the Research Team sets out five criteria for access to information. The five criteria are: (i) disclosure or non-disclosure; (ii) the ease of finding information; (iii) the timeliness of the information; (iv) the completeness of the information (for district land use plans); and (v) the usability of the information (easy to read, easy to understand, readable by common software).

The results of the search for information on district land use plans and provincial land pricing frameworks were also compiled and publicized on <https://congkhaithongtindatdai.info> – a landing page showcasing information about land information disclosure which acts as a "one-stop shop" for citizens to search for the two types of land information. Through this landing page, land management agencies and researchers would also have an overview of access to land information that is created and subject to disclosure by provincial and district-level state agencies.

In the first four months of 2020, the Research Team also tested sending requests for information using a template as attached to Decree No. 13/2018/ND-CP to request district People's Committee offices to provide information related to district land-use plans.

Key findings

Laws and regulations on disclosure and provision of land information at the request of citizens

The disclosure and provision of information on provincial land pricing frameworks and district land use plans at the request of citizens are stipulated in the 2013 Land Law and the 2016 Law on Access to Information as well as in a number of related decrees and circulars such as Decree No. 148/2020/ND-CP, Circular No. 29/2014/TT-BTNMT, Decree No. 13/2018/ND-CP, and Circular No. 46/2018/TT-BTC.

Provision of information, data about land, information about land markets, and other land information is one of the service activities in the field of land.⁴

The land pricing framework is formulated by the People's Committee at the provincial level and submitted to the People's Council of the same level for review before promulgation. The land pricing framework is developed once every five years and publicized on January 1 of the first year of the period. During the implementation of the land pricing framework, when the Government adjusts the land price bracket or the common land price in the market fluctuates, the People's Committee of the province shall adjust the land pricing framework accordingly.⁵ However, the Research Team found that there is a lack of regulations on the form and channels for publicizing the provincial land pricing framework.

The district land use plan is formulated annually⁶. Based on the completed district-level annual land use plan dossier and the resolution of the provincial People's Council, the Department of Natural Resources and Environment submits it to the Provincial People's

⁴ Article 1, Clause 2 of the Government's Decree No. 148/2020/ND-CP dated December 18, 2020, amending and supplementing a number of decrees providing detailed regulations on the implementation of the Land Law

⁵ Clause 1, Article 114, 2013 Land Law

⁶ Clause 2, Article 37, 2013 Land Law

Committee for approval before December 31.⁷ The district land use plan must be publicized after being approved by a competent state agency⁸. District-level People's Committees shall publicize the district land use master plans and plans at their head offices, on the web portals of the district-level People's Committee, and publicize the contents of the district land use master plans and plans related to communes, wards, and townships at the head offices of commune-level People's Committee⁹. The public disclosure shall be made within 15 days from the date of approval by competent state agencies¹⁰. Documents of land use plans subject to disclosure include resolution or decision on approval, explanatory report, and map of land use plans¹¹. The publicity is carried out during the periods of land use master plans and land use plans.

Under the provisions of the 2016 Law on Access to Information (LAI), land information, in addition to being disclosed in accordance with the provisions of other laws and regulations, must also be provided at the request of citizens. Accordingly, citizens have the right to request information, including land information, if the information is subject to disclosure but has not been disclosed yet within the time limit for disclosure¹²; the time limit for disclosure prescribed by law has expired¹³; or the information has been disclosed but cannot be accessed by the requester due to a force majeure event¹⁴. Within 15 working days after receiving a valid request, the requested agency shall provide information, or shall issue a written notice of refusal to provide information¹⁵.

⁷ Clause 6, Article 1, the Decree No. 148/2020/NĐ-CP dated 18 December 2020 on Amending and supplementing a number of decrees detailing the implementation of the Land Law

⁸ Clause 1, Article 48, 2013 Land Law

⁹ Point c, Clause 2, Article 48, 2013 Land Law

¹⁰ Article 6, 2018 Law amending and supplementing a number of articles of 37 laws related to planning

¹¹ Article 6, Clause 2, Circular No. 29/2014/TT-BTNMT dated June 2, 2014 of the Ministry of Natural Resources and Environment providing detailed regulations on the preparation and adjustment of land use master plans and plans

¹² Point a, Clause 1, Article 23, 2016 Law on Access to Information

¹³ Point b, Clause 1, Article 23, 2016 Law on Access to Information

¹⁴ Point c, Clause 1, Article 23, 2016 Law on Access to Information

¹⁵ Article 29, 30, 31, 2016 Law on Access to Information

Results of the review of e-portals/websites of local state agencies

The Research Team employed the 4-step process to search for information on the e-portals/websites of the People's Committees of 63 provinces and 704 districts nationwide. The results showed that, until October 6, 2021, only 27 out of 63 provinces have publicized provincial land pricing frameworks and only 337 out of 704 district-level agencies have publicized district land use plans on their e-portals/websites. However, there is a lack of consistency in the posting of information by state agencies, especially with district land use plans, as the documents to be disclosed listed in the announcement of publicization are often scattered in a number of different categories on these e-portals/websites, which makes it difficult for citizens to find information in full.

Figure 1 shows that the level of completeness in the disclosure of the required documents in land use plans by district-level People's Committees (agency) varies among districts/towns/cities in provinces/municipalities national wide. Overall, only 17% of agencies published a complete set of land use plan documents which includes four types of documents: (i) announcement of publicization of land use plans, (ii) decision on the approval of district

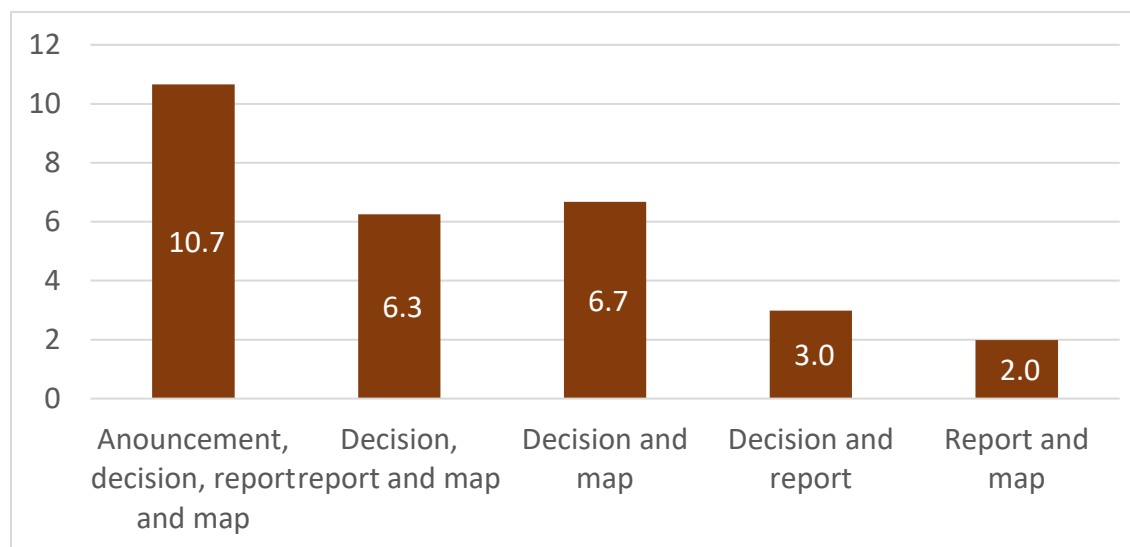


Figure 1: Level of completeness in the disclosure of district land use plans (%)

land use plans, (iii) explanatory report, and (iv) map of land use plans; or publish the three most important documents except for the announcement of publicization of land use plans. Specifically, 75 agencies publicized all four types of documents (accounting for 10.7%); 44 agencies publicized decisions on approval, explanatory reports, and maps of land use plans (accounting for 6.3%); 47 agencies

publicized decisions on approval and maps of land use plans (accounting for 6.7%); 21 agencies posted decisions on approval and explanatory reports (3%); and 14 agencies posted explanatory reports and maps of land use plans (accounting for 2%). Among the agencies that have publicized the above two types of information, there are many agencies that publish them in ZIP files, which makes access difficult for information users.

Results from the experiment with requests for information

Based on random sampling, members of the Research Team sent out requests for information on district land use plans to the offices of 561 out of 704 district-level People's Committees nationwide with five members assuming four different roles, including an ordinary citizen, a real estate agent, a lawyer, and a researcher. On average, 140-141 request letters corresponding to each role were sent by the research team members, of which 70 letters cited the 2016 Law on Access to Information and the other 70 letters did not cite any legal provisions.

Figure 2 shows the results of the request for information on district land use plans. Of the 561 offices of district-level People's Committees where requests for information were sent, 98 agencies provided the requested information (accounting for 17.5%), 15 refused to provide the requested information (accounting for 2.7%), and 46 responded but did not provide the requested information (accounting for 8.2%). There was an overwhelming number of 402 agencies which made no response (accounting for 71.7%). Regarding the four roles of the research team members, the rate of response is highest for ordinary citizens (22.9% of the 140 requests submitted), followed by researchers (19.3%), lawyers (14.9%), and real estate agents (12.9%). The 2016 Law on Access to Information stipulates that state agencies are responsible for providing information created by themselves, except for commune-level People's Committees, which are responsible for providing citizens residing in its locality with information created by themselves and by agencies of the same level and information received by themselves to directly perform their functions, duties, and power; and provide other citizens with such information in cases

that directly relate to their lawful rights and interests. This provision may be a barrier to the provision of information by the Office of the district-level People's Committee regarding the information requested by the research team members.

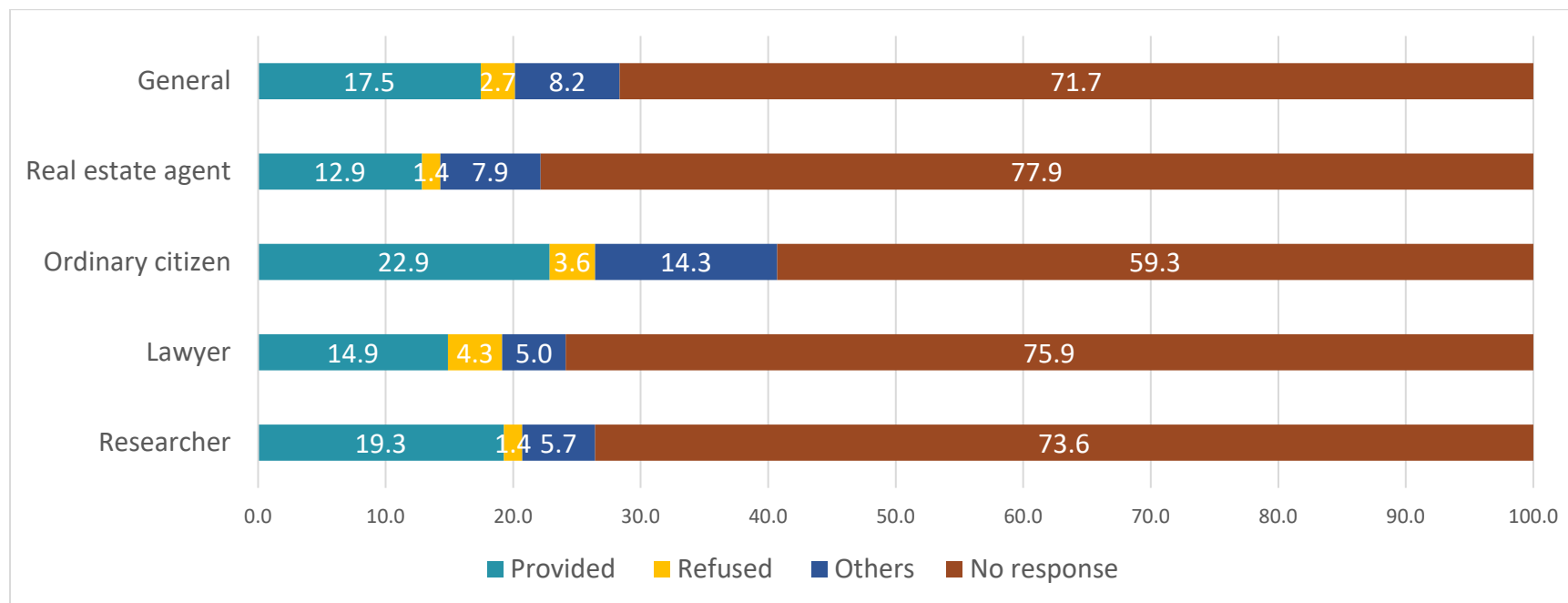


Figure 2: Response to requests for information on the land use plan (%)

Figure 3 shows the differences in the response rate regarding groups of requests with and without citation of legal provisions. Overall, the rate of information provision for requests with citation was higher (20.7%) than that of requests without citation (14.2%). The same goes for the rate of responding but not providing information, which was 9.6% for requests with citation compared to 6.8% for requests without citation. The rate of refusal of information provision for requests without citation was 2.8% and for requests with citation was 2.5%. The rate of unresponsiveness to requests with citation was lower (67.1%) than that of requests without citation (76.2%).

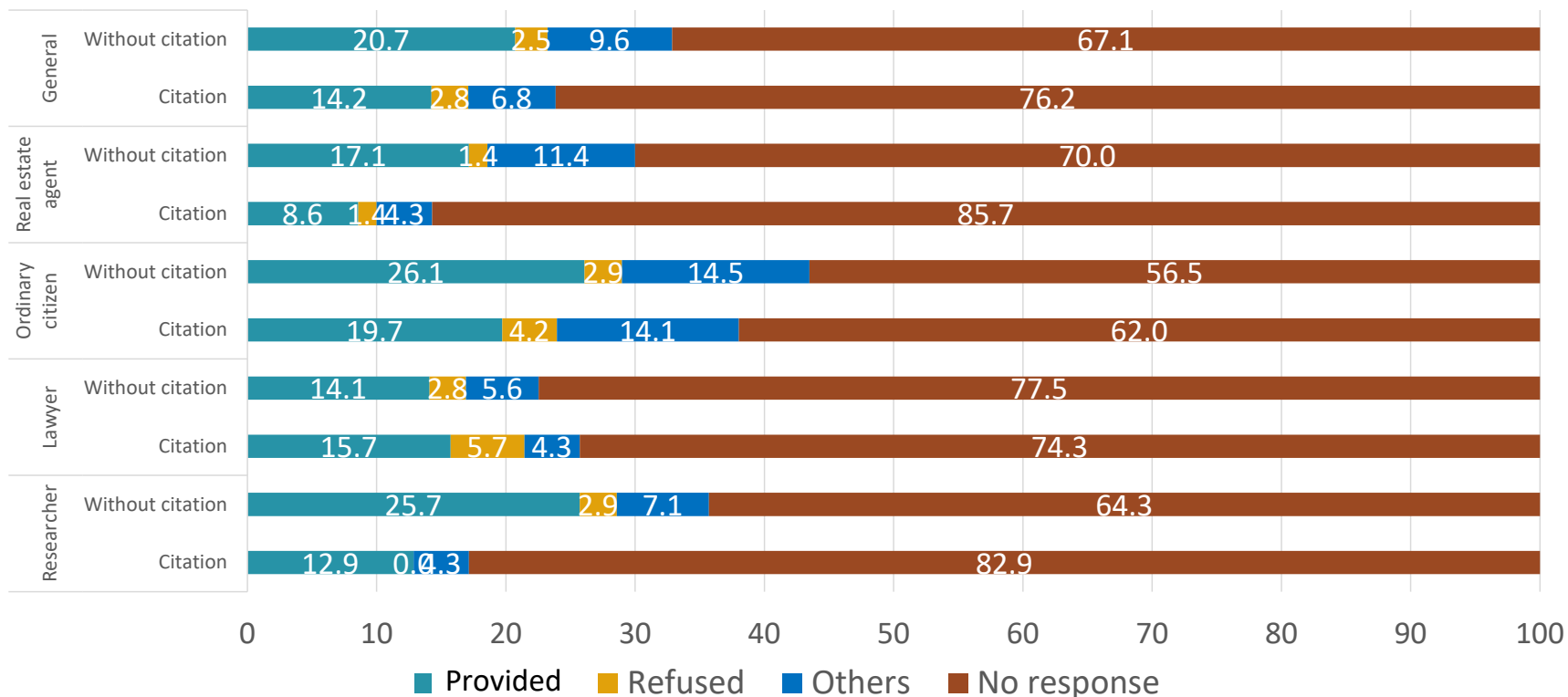


Figure 3: Comparing response rates between requests with citation and without citation of the Law on Access to Information (%)

The communication between the Research Team members and the civil servants assigned to respond to citizens' requests for information showed that most civil servants had a polite attitude during the interaction. However, there seems to be confusion or ambiguity about the agencies with the responsibility to provide information, even though land information is at least held by the Office of district-level People's Committee and the Natural Resources and Environment department. Regarding means of communication, many civil servants preferred to communicate with citizens via Zalo. One even advised the requester to directly contact him/her through Zalo in case he/she needs any help and there is no need for a complicated letter (request for information form). Regarding the content

of the information provided, most agencies responded by providing only decisions on the approval of land use plans without other documents. Regarding fees, the Research Team did not have to pay any fees for the letters sent back by government agencies by post or email to provide information or to refuse to provide information. However, there is a case where a civil servant of Cu M'gar district (Dak Lak province) requested to collect a fee for accessing information in accordance with Article 11 of Resolution No. 03/2020/NQ-HDND of the People's Council of Dak Lak province promulgating regulations on the rate of fees and charges in Dak Lak province. However, the Research Team found that this provision was not consistent with the provisions of the 2016 Law on Access to Information, so they did not continue to request this district to provide information.

[A landing page to connect local governments' channels disclosing land information](#)

The Research Team compiled and shared the results of the search for information on district land use plans and provincial land pricing frameworks on <https://conghaithongtindatdai.info> – a landing page developed to showcase information about land information disclosure. Figure 4 gives an overview of the disclosure situation of the provincial land pricing framework during the 2020-2024 period in 63 provinces/municipalities, while Figure 5 highlights the districts where the information on land use plans in 2021 has been publicized on their e-portals/websites.

Due to technical difficulties in linking the original pages on the e-portals/websites of the state agencies with the survey tool on the landing page, the Research Team has not completed the feature to enable page visitors to evaluate the level of accessibility and comprehensibility of the two types of land information as originally designed. We hope that in the second phase of the study, this feature will be improved so that page users can leave evaluations of the original pages providing information on land pricing frameworks of provincial governments and land use plans of district governments.

Figure 4: Overview of the publicization of land pricing framework at the provincial level

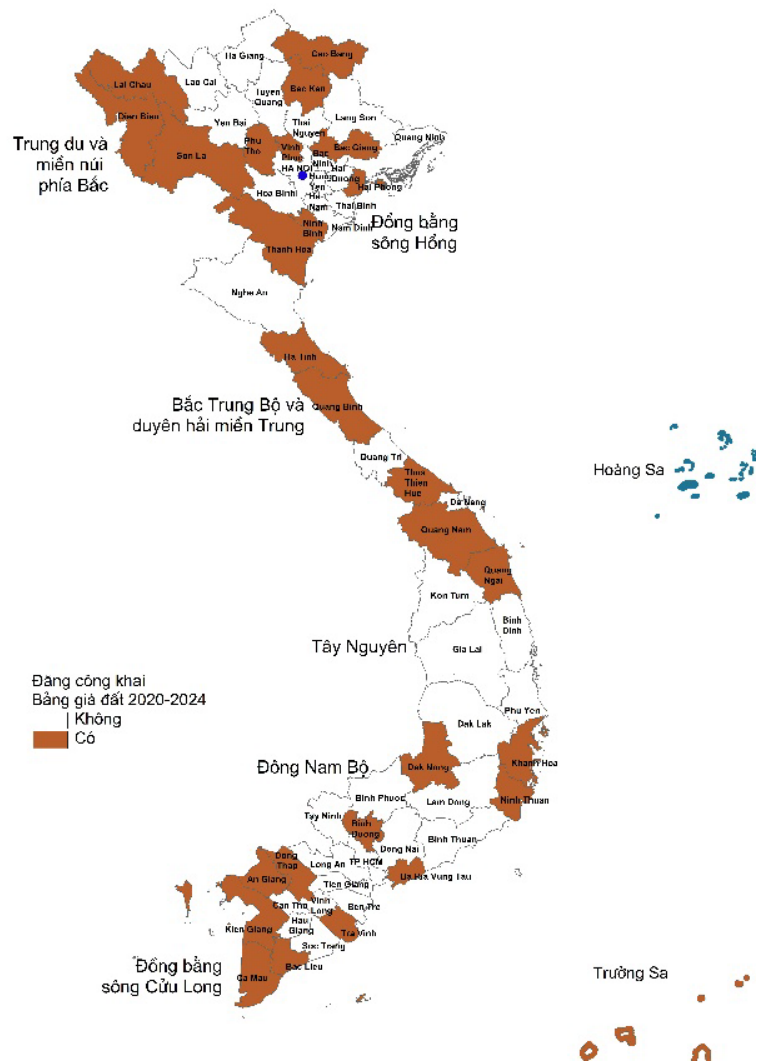
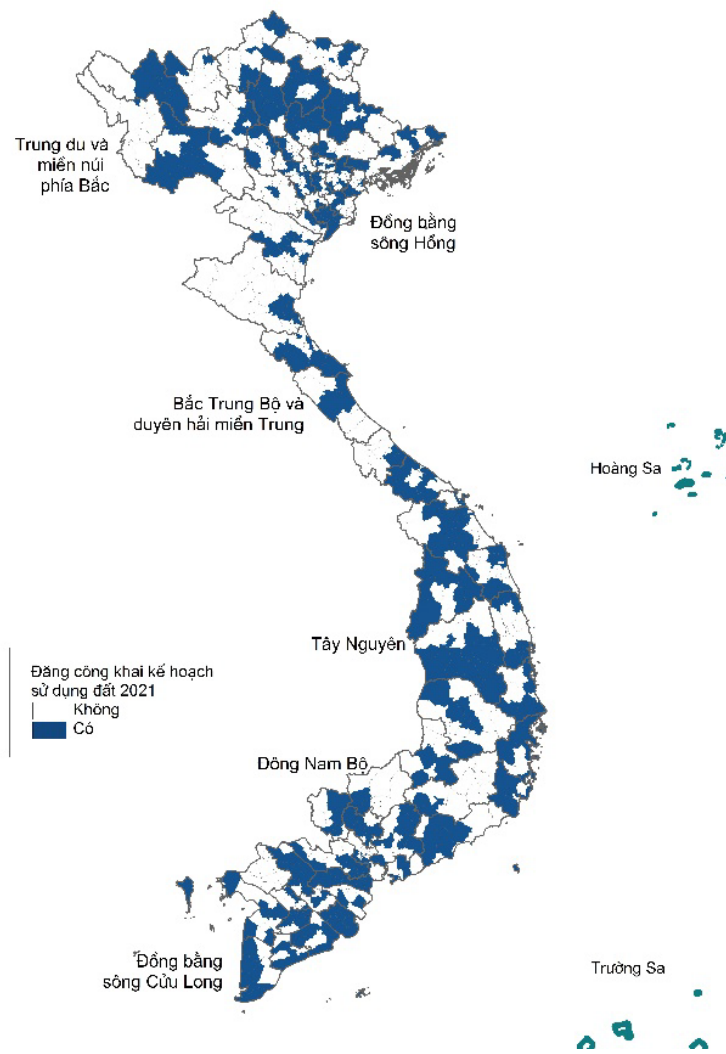


Figure 5: Overview of the publicization of land use plans at the district level



Recommendations

In order to ensure the effective implementation of citizens' right to land information, contributing to the promotion of good land governance and mitigation of land conflicts, the Research Team proposes some recommendations regarding policy amendment/promulgation and policy implementation as follows:

Amendment and promulgation of laws and policies

- Integrate the process of providing information at the request of citizens to the current set of administrative procedures as all state agencies are entities that create and hold information. Meanwhile, the 2016 Law on Access to Information has clearly defined the responsibilities, procedures, and deadlines for information disclosure and information provision at the request of citizens.
- Supplementing specific regulations on forms and channels for publicizing provincial land pricing frameworks in relevant legal documents.

More effective enforcement of existing laws and policies

- The People Committees at all levels should organize trainings for focal points for information provision and relevant departments on the 2016 Law on Access to Information. In which, nine tasks each state agency need to perform are specified in the 2016 Law on Access to Information and Decree No. 13/2018/ND-CP should be highlighted. In addition, they should organize trainings on regulations and procedures related to disclosure of land information and provision of information at the request of citizens.
- The People's Committees at all levels should implement more effectively the 2016 Law on Access to Information, thereby contributing to better implementation of land information disclosure in accordance with the 2013 Land Law. Accordingly, state agencies need to quickly perform the following tasks specified in the 2016 Law on Access to Information: (i) issue and publicize internal regulations on providing information within the scope of their responsibilities; (ii) assign and publicize the information of the focal point for

information provision; and, (iii) set up a section on access to information on the agency's e-portal/website and create a list of information to be disclosed, including information on land use master plans, land use plans and land pricing frameworks.

- State agencies should publicize land information in the direction of fully posting documents related to a set of land use master plans, land use plans or land pricing frameworks into a specific category according to the regulations of the 2016 Law on Access to Information. For example, for a set of land use plan dossiers, it is necessary to publish the announcement of publicization of the land use plan, the decision on the approval of the district land use plan, the explanatory report and the map of the land use plan.
- State agencies should also comply with the provisions of Circular No. 26/2020/TT-BTTTT to publicize information in a way that ensures accessibility and usability to people with disabilities, the elderly, and other people without posting in ZIP files as in current practice.
- Improve the search function on the e-portals/websites of state agencies and issue specific instructions on document publicization for state agencies at the district level.



This Executive Summary is from the report **“Action Research to Enhance Citizens’ Access to Land Information”** conducted by the Center for Education Promotion and Empowerment of Women (CEPEW), with the technical support from the United Nations Development Program (UNDP), from July 2021 to June 2022. The Australian Department of Foreign Affairs and Trade (DFAT), the Embassy of Ireland and UNDP Viet Nam have jointly funded this study.

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