



New regulations on sanctions for administrative violations in the field of construction investment and real estate

On November 27th, 2017, Decree 139/2017/ND-CP was issued providing sanctions for administrative violations in construction investment activities; extraction, processing and trading of minerals used as building materials, production and trading of construction materials; management of technical infrastructure works; trading in real estate, housing development, management and operation of office and housing development to replace (i) Decree 121/2013/ND-CP providing new sanctions for administrative violations in construction and real estate related sectors; and (ii) Decree 180/2007/ND-CP providing urban construction regulations (“**Decree 139**”). Decree 139 took effect from January 15th, 2018.

Compared to the fines set out in the Decrees being replaced, some administrative violations related to the construction investment sector will be applied to more stringent sanctions. Specifically, according to Decree 139, the maximum fine in construction investment activities is VND 1 billion; a fine of VND 300 million is imposed on extraction, processing and trading of minerals used as building materials, production and trading of construction materials; management of technical infrastructure works; trading in real estate, housing development, management and operation of office and housing development.

Decree 139 also supplements the following acts of violation which will be subject to sanctions:

- A maximum fine of VND 300 million shall be imposed on the sale or the hire-purchase of commercial houses to be formed in the future without financial guarantee given by a qualified commercial bank as prescribed by laws.

- A maximum fine of VND 300 million shall be imposed on illegal raising and appropriation of capital; using capital raised from organizations and individuals or advances from the purchaser, the hirer or hire-purchaser of real estate to be formed in the future for improper purposes.
- Failure to inform buyers of ownership restrictions pertaining to houses and construction works may result in a maximum fine of VND 80 million.
- Violation of regulations on construction contracts, such as the level of advance of contracts in excess of the prescribed percentage or the advance of contracts without advance guarantee under regulations may result in a maximum fine of VND 80 million.

An important point is that Decree 139 stipulates the fine for the same act of administrative violation. Accordingly, the level of fine imposed on individuals is a half of that imposed on organizations (*except for certain cases listed in Clause 3 Article 4*).

With stringent sanctions stipulated in Decree 139 to limit the violations, the organizations and individuals that have been operating in the field of investment, construction and real estate should take note of additional penalties to avoid being punished for administrative offenses.