

THESIS TITLE	LEGAL PROBLEMS REGARDING ENFORCEMENT OF SECTION 70 OF THE LAND DEVELOPMENT ACT B.E. 2543
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ABSTRACT

The objectives of the thesis were to study the idea and principles regarding the public law such as an idea regarding rights and freedom and the principles of right and freedom protection, equality, public interest and rationality and discretionary use including laws regarding land development on both Thailand and overseas; to study a legal problem arising from the land development under the Land Development Act B.E.2543; and to study and recommend solving guidelines suitable for a problem arising from the transfer of properties where are utilities of the land development project under the Land Development Act B.E.2543

On the basis of the results of this research, it can be concluded that, since the Land Development Act B.E.2543 has been announced, there are following legal problems regarding the transfer of properties where are utilities to a housing estate juristic person authorized to develop the land before the Land Development Act B.E.2543 becoming effective: Firstly, a legal problem regarding the legal enforcement of section 70 of the Land Development Act B.E.2543 is not in corresponding with the equality principle. Secondly, a legal problem regarding criteria and procedure in section 70 of the Land Development Act B.E.2543 is not in corresponding with the rationality, and last but not least, a legal problem of section 70 of the Land Development Act B.E.2543 on utility land transfer from the land developer and the government is not in corresponding with the public interest because the land development made before the enforcement of the Land Development Act B.E.2543 did not specify a person who takes care of the utilities in the land development. Therefore, it is the duty of the land developer to further take care of such utilities. In addition, the land developer usually dedicate the said property to be

public utilities, this situation has affected the land developers of many projects when the land developments in such projects were distributed. The land developers have not maintained the utilities. Upon there is the Land Development Act B.E.2543, it therefore specifies that the housing estate juristic person shall be established in order to perform the duty of being transferred the lands which are utilities from the land developer and take care thereof. However, a consequent problem is that the land development project authorized to develop the land before the enforcement of the Land Development Act B.E.2543. That is to say that for a project that the land developer has not taken care of the utilities, land buyers can gather to establish a their housing estate juristic person to be transferred the utilities. Upon the establishment of such housing estate juristic person, the land developer has not transferred the housing estate juristic person the utilities and the housing estate juristic person has to exercise the right through the court in order to enforce the land developer to transfer the utilities which is different from those housing estate juristic person authorized to develop the land under the Land Development Act B.E.2543 which protects such ownership transfer of the lands on part of utilities to the housing estate juristic person without taking action.

Therefore, it represents that the idea, theories or principals of the law of US and the Commonwealth of Australia should be applied in Thailand in order to solve the problem of the transfer of properties where are utilities of the land development project arising in Thailand properly. The Land Development Act B.E.2543 should be amended by adding provisions regarding the transfer of lands where are utilities of the land development project authorized to be developed before the enforcement of the Land Development Act B.E.2543 to the housing estate juristic persons established in order to create an equality among the land buyers and encourage people in the community to participate in the resource management. Finally, public interest will become to the buyers in order to make a continuance of the property development, good environment in the community and utilities of the land development.