

# The Right of Passage Under the Civil Code 2015: A Qualitative Case Study in Vietnam

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## Abstract

The right of passage is an extremely important right stipulated in The Civil Code 2015. Accordingly, in some cases, this right becomes very necessary for people, because there will be many cases where real estate (mainly land) is surrounded by the real estate of the people or many different owners/users. The owner or person with the right to use real estate will have great difficulty in exploiting and using the real estate, or may even be unable to use the surrounded real estate, without legal intervention. Therefore, Vietnam's civil law has stipulated the right to a passageway if the real estate is surrounded by other real estate. Specifically, this issue is regulated in Article 254 of Vietnam's 2015 Civil Code. Through qualitative research method, the authors will address a number of issues such as: (i) the concept of the right of passage; (ii) Principles for exercising the right of passage; (iii) Conditions for establishing the right of passage; (iv) about the convenience and reasonableness of the passage, (v) Changes in the implementation of the right of passage. From there, the authors will point out the remaining shortcomings in Vietnam related to the right of passage and propose solutions to overcome this problem in the future.

**Keywords:** The right of passage, real estate, Vietnam's 2015 Civil Code.

## The concept of the right of passage

We have the approach that the prerequisite for exploiting a real estate is to be associated with that real estate. However, reality shows that some real estate is surrounded, making it difficult to exploit this real estate. Therefore, the law gives the owner of enclosed property the right to open a path to link the property with a public walkway. Real estate owners cannot exploit the value that real estate brings without access. Since then, the right of passage has been recognized by law as an inseparable element of the enclosed immovable property.

Previously, the article 275 of the 2005 Civil Code stipulated: "A real estate owner surrounded by other owners' real estate without an exit has

the right to request one of the owners to Owning adjacent real estate has a way out to the public road". Accordingly, this law only allows opening access to public roads in cases where real estate is completely surrounded. In particular, "immoveable" is understood as surrounded, covered, with no way out (Hoang Phe, 2004, p. 1108). Thus, the right of way only applies when the property is surrounded by other properties, resulting in no passage connecting to the public road.

Currently, according to Article 254 of the 2015 Civil Code, the scope of application of the right of passage is as follows:: "An owner of immovable property which is surrounded by immovable properties of other owners such that there is no exit or not enough paths has the right

to request one of the owners of adjoining immovable properties to provide it with a passage to a public road on their land.” This addition has overcome the shortcomings in the old law regarding the cases in which the right to request the opening of a passageway is allowed. Because reality shows that it is very rare for a real estate property to be so surrounded that there is no path (Doan Thi Ngoc Hai & Chu Ba Thinh, 2022). There are often cases where there is a path but it is not enough to meet the needs of the people using that path. The 2015 Civil Code has overcome this limitation by expanding the scope of rights to cases where a path has been established but is not enough to meet reasonable needs.

It can be seen that the 2015 Civil Code does not provide the concept of the right of passage but only describes the content of this right. Accordingly, the right of passage is the right of the owner of the surrounded real estate, allowing the owner to have real estate surrounded by the real estate of other owners without or with insufficient access to public roads, has the right to request the owner of the surrounding real estate to give them a reasonable path on their land. In particular, the right of passage can be exercised in two ways: Opening a new passage or expanding an existing passage that cannot meet reasonable needs.

### **Principles for exercising the right of passage**

The right of passage is performed according to the principle of respecting the agreement of the parties. The right of way is a sub-right in the group of rights to adjacent real estate (Nguyen, T. P., Duong, Q. T., Dinh, T. N. H., & Diep, M. N. 2024). This group of rights allows one subject to influence another person's real estate in order to exploit his or her own real estate effectively. To a certain extent, exercising rights over adjacent real estate will create inconvenience for the real estate subject to the right. When the right of passage is established, it means that the owner must accept to share the right to exploit and use their real estate (Ho Chi Minh City University of

Law, 2020). This results in two different entities having rights to the same real estate. Therefore, in order to limit conflicts of interest in the process of implementing rights, the owner must clearly define the limits of each party's rights and respect this agreement.

Similar to other civil relationships, agreements on passage are formed on an agreement, the purpose and contents of the transaction are not contrary to the law and/or social ethics. Accordingly, Vietnam's 2015 Civil Code recognizes that the parties have the right to agree on a number of basic contents such as: How to use, how to use, compensation amount, matters need attention when using... However, in many cases the subjects cannot reach an agreement on the transit issue. At that time, the right of passage will be implemented according to the following principles:

Firstly, it is necessary to ensure that the reasonable needs of exploiting enclosed real estate are consistent with the purpose of use of the enclosed real estate entitled to rights and real estate subject to rights. Accordingly, in cases where a real estate property is surrounded by other properties of other owners without access to a public road, the owner of the surrounded real estate has the right to request the owner of the real estate to Surround real estate gives them a reasonable path on their land (Ho Chi Minh City University of Law, 2020). Access opening on adjacent real estate is considered most convenient and reasonable, taking into account the specific characteristics of the location, the benefits of the enclosed property and the least damage caused to Real estate is subject to rights of way (Do Van Dai 2016, p.255).

There are many different views on the convenience of path. In France, the first criterion when considering reasonableness is the length of the path. Specifically, Article 683 of the French Civil Code stipulates: "A path shall be opened wherever the distance from the enclosed property to the public road is shortest." However, not the shortest path is also the most convenient path. Therefore, the above law also requires the

criterion "must choose a place that causes the least damage to real estate with open paths". Therefore, a reasonable path is the shortest path connecting to the public road and the least damage to the real estate where the path is opened. If considering a "convenient" path as the shortest path to a public road is "reasonable", it may also depend on the damage caused by opening the path to be the least for the adjacent real estate owner, and at the same time does not cause inconvenience in their living, production, and business (Bui An Gion, 2023, p.61).

Besides, according to common understanding, the shortest path has the smallest area and takes up the least space, and the damage to the owner of the real estate subject to the right will be determined to be the least. But if subjects open the path to destroy buildings or trees, the damage may be more than if you open the path further and in many cases this is unreasonable (Pham Cong Lac, 2006), 152). Thus, we should consider the "most convenient and reasonable" factor of enclosed real estate and shared real estate with open access. This path must not only ensure that it serves the reasonable needs of the entitled real estate owner, but must also minimize damage and inconvenience to the entitled real estate owner. Reasonableness is also an important factor in minimizing disputes that arise in the future.

Secondly, subjects must not abuse the right of way through real estate. In the right of way relationship, surrounded real estate always has a certain impact on real estate with access. This not only comes from the creation but also from the exploitation and use of the path by the right holder. Meanwhile, owners of real estate with access must accept the nuisance attached to their legal property. Therefore, the principle of implementing to the right of passage for the real estate owner given the rights more than the others real estate owner. In particular, the principle of "non-abuse of rights" aims to limit the exercise of rights of way within a framework called "reasonableness and necessity".

Thirdly, the relevant subjects must not take any action that prevents or makes it difficult to exercise the right of passage. This principle is aimed at real estate owners who are subject to rights. Exercising the right of passage is the exercise of the right of one subject on the real estate of another subject. Accordingly, real estate enjoys the right of passage when it surrounds other real estate and is affected. Action to create or widen a right-of-way to connect the enclosed property with the public road. Furthermore, a real estate can be significantly affected when a right of passage is exercised on it. Therefore, the creation of conditions by the owner of the property subject to the right is an important factor for the right of way to be enforced.

In addition, according to Clause 3, Article 248 of the Civil Code 2015, the principle of "no obstruction" is recognized as a measure to prevent real estate owners who enjoy the right of passage from committing acts of obstruction. It can be seen that the principle set forth for the owner of immovable property is expressed in the form of inaction. They must not abuse the owner's powers or perform obstructive acts that make it difficult to exercise their rights (Nguyen Minh Oanh, 2018, p. 228).

To sum up, the principles are set out for the implementation of the right of passage are intended to ensure the feasibility and actual orientation of this right in practice. For owners of enclosed real estate, the exploitation of the passage must be for the purpose of exploiting their real estate in a reasonable manner, minimizing the impact on the real estate subject to the right. For real estate owners who enjoy the right of way, the principle is not to obstruct or cause difficulties in creating and exploiting reasonable pathways for the owners of enclosed real estate.

### **Current status of Vietnamese law on the right of passage**

The 2015 Civil Code has supplemented and completed regulations on rights to adjacent real estate, including rights of passage. However, in

the context of constantly changing social relations on land and housing, after a period of implementation, the regulations on passageways have revealed a number of specific problems and inadequacies such as:

3.1. Regarding the conditions for establishing the right of passage

Based on Clause 1, Article 254 of the 2015 Civil Code, "real estate is surrounded with no or insufficient access to public roads" is an important content recorded. Originating from the need to use the path to exploit their real estate, the owner of the enclosed property has the right to request a convenient and reasonable path. However, in the opinion of the authors, there needs to be a specific explanation on this issue as follows:

Firstly, regarding the issue of no walkway, the article 254 of Vietnam's 2015 Civil Code has not been clarified. For example, there are many real estate properties with one side adjacent to canals and ditches, while the remaining sides are surrounded by real estate. In many disputes, the person being asked to open a passage argues that the owner of the surrounded property can use waterway transportation instead of opening a passage through their land. The reason given is that river routes can be traveled and transported like roads. Thus, can Article 254 of the 2015 Civil Code be applied to require a land path in the above case?

Besides, for family activities, traveling by waterway is not as convenient as by road, but still meets daily needs. However, for businesses, the need for passage is relatively urgent. Although Vietnam has a dense river network, waterways do not have flexible transportation to specific locations. Besides, transportation costs by waterway are more expensive than by road. Therefore, the need to have a path wide enough for businesses to operate is necessary and reasonable.

Secondly, the issue of "insufficient" access to public roads has not been specifically regulated. Identifying a property without a walkway is easier than considering the extent to which an

existing walkway meets user needs. Article 254 of the 2015 Civil Code allows the expansion of paths if the besieged real estate owner can prove that the current path does not meet the needs of exploitation and use of real estate. However, the current regulations do not explain the criteria for considering what is "insufficient". Therefore, the application of the law does not ensure uniformity and is mainly based on subjective judgments. Rights holders also lack a clear legal basis to guide agreements. On the other hand, the competent authority to resolve the dispute also determines that the section of the walkway needs to be expanded beyond the need for additional use of the walkway. Thereby, the dispute resolution results may be less convincing to the real estate owner who is entitled to the right.

In the opinion of the authors, the word "insufficient" is qualitative. This leads to a lack of consensus on how to determine what is "insufficient" access to public roads. Determining the area to be expanded must be equivalent to the actual needs of real estate use. For example, on a shared path, the owner of the enclosed property reaches an agreement on a path sufficient to serve the needs of transporting agricultural products by small trucks, then to increase human work efficiency. This leads to insufficient walkways for vehicles to move. In this case, the subject's need to use the passage has increased. However, we believe that this case is not really valid because the previously established path basically meets the travel needs of the surrounded property owners. The question is whether the need to increase walkway space is really necessary. To clarify, it is necessary to consider the opposite aspect: if the path is not expanded, how will the exploitation of surrounded real estate affect it? Therefore, there is a view that "the law needs to have specific regulations on insufficient walkways in Clause 1, Article 254 of the 2015 Civil Code, which stipulates that real estate owners are surrounded by insufficient walkways." out on public roads" (Doan Thi Ngoc Hai & Chu Ba Thinh, 2022).

On the other hand, when we consider the ownership of real estate, it shows that ownership is the owner's power to freely perform acts according to his will on the property. Others must be no acts of infringement or illegal obstruction of the exercise of the owner's rights to property (Nguyen Van Tien, 2021, p. 50). Meanwhile, to create favorable conditions for the exploitation of surrounded real estate, the owner of the real estate subject to the right must agree to share a portion of ownership with the different owners. Therefore, if we focus too much emphasis is placed on the need to use the path of the enclosed real estate, it will affect the rights of the owner of the real estate subject to the right, which will create conditions for bad precedents appear.

3.2. The issue is related to the convenience and reasonableness of the path

The paths are created or expanded when it meets legal conditions. Accordingly, at clause 1, Article 254 of the 2015 Civil Code allows owners of enclosed real estate to request the owner of enclosed real estate to provide them with a reasonable path on their land. Thus, convenience and reasonableness are the basis for determining the characteristics of the open path, but currently there is no document explaining this. Therefore, in each place there are different understandings, leading to a lack of uniformity in applying the law. The lack of consistency in determining paths manifests in two aspects:

First of all, the owner whose real estate is surrounded has the right to request the adjacent owner to give him/her a reasonable path. This is completely reasonable, but the current law lacks guidance for the owners can determine which path is most suitable. There is a view that the shortest route is to a public road. Although this viewpoint is most beneficial to the rights holder, it can cause a lot of damage to other subjects. For example, to open the shortest path, the real estate owner must dismantle many structures on the land, and the opened path must be divided into smaller parts, which will cause great damage to the real estate owner. Therefore, this plan is not

optimal because it favors the interests of one side. Another view is that the most convenient path must be the path that causes the least damage to the owner of the property with the path. In contrast to the previous view, this view aims to protect the interests of the owner of the real estate subject to the right and push the disadvantages towards the owner of the surrounded real estate. Comparing with French law, a path is determined to be reasonable when it is the shortest path connecting the enclosed real estate with the public road. However, the chosen path must cause the least amount of damage to the property with the path open (Diep Ngoc Ninh, 2022, p. 39).

Apart from that, a path that is considered convenient may not be legally guaranteed because the name of the right and the content of the right are not really consistent. Previously, article 275 of the 2005 Civil Code, the name used was "right of passage through adjacent real estate". Currently, Article 254 of the 2015 Civil Code uses the name "right of passage". The removal of the phrase "adjacent real estate" is intended to expand the scope of application of this right. Thus, the right of way can be exercised on adjacent real estate or adjacent real estate. However, in Clause 1, Article 254, there is the content "the path is opened on any adjacent property that is considered convenient and reasonable". Thus, access is limited to adjacent property only. Therefore, when compared with the spirit of the law, it is not completely consistent. On the other hand, in reality convenient access may exist on both adjacent properties and surrounding but non-contiguous properties. Therefore, the above lack of uniformity may lead to the neglect of the right to request a reasonable path on enclosed but non-contiguous properties.

Besides, the reasonableness of the path is determined based on emotions due to the lack of specific instructions. In principle, if the parties come to an agreement on the limits of the passage, priority will be given. However, in many cases, the agreement between the two

parties is more difficult to enforce than the Court's decision. Because the rights holders always want to have a way to exploit the besieged real estate; The beneficiary tends to protect the rights of the owner of the entitled property. Since then, the parties' agreement did not achieve a balance of benefits and ignored the prediction of changes in the long-term use of the path.

On the other hand, when exercising the right of passage, the inconvenience of subjects tends to manifest gradually because many subjects have the same right to the same property. Then the rights of property owners are significantly limited. Originating from the psychology of having property violated, it leads to acts of obstructing the right of way. Judicial practice also shows that many disputes take place in the context of an existing agreement on passage.

In addition, when a dispute occurs, most parties cannot agree on the characteristics of the walkway. At this point, the right to decide belongs to the Court. Thus, it can be seen that throughout the process of determining the length, width, and location of the open path completely depends on the views of the parties and the dispute resolution agency; while determining the path is also a complicated problem. Clause 1, Article 254, the route orientation "taking into account location characteristics, benefits of surrounding real estate and causing the least damage to real estate with clear roads" is still quite comprehensive.

After all, each real estate is different, so determining the appropriate path is also different depending on separate factors. For example, both serve daily life and agricultural production, but in some places the width of the open path is 1.2 meters, in some places it is 2.0 meters, or even higher. Therefore, if we lack of specific criteria can lead to reduced effectiveness in applying the law.

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3.3. Regarding property compensation value when opening the path

Compensation for the value of land and assets on land is a consequence of establishing rights of passage, clause 1, article 254 of the 2015 Civil Code stipulates: "The owner of the immovable property eligible for the passage must compensate for the obliged immovable property, unless otherwise agreed." According to this law, the 2015 Civil Code only stops at recognizing compensation obligations without clarifying the contents related to compensation implementation. The authors believe that the regulations are general and difficult to apply, reflected in the following aspects:

To start with, the land price applied to calculate the compensation value for land when opening the path. According to current law, land prices are divided into two types: market land prices and land prices regulated by the State. In the process of implementing the regime of universal ownership of land, the existence of these two types of prices is inevitable (Nguyen Van Tien, 2021, p. 48). In the context of the two types of land prices having a large difference in favor of the market land price, the Court applied the land price prescribed by the State, leading to a disadvantage for the subjects enjoying the right of way.

Meanwhile, every subject wants to gain benefits for themselves and the law does not specify the level of compensation applied according to what type of land price. Therefore, from the perspective of the owner of the real estate, they have the right applied market price while the owner of the real estate with the right will request to apply the price according to the price list of the People's Committee. provincial level (Ly Van Toan & Lam Thi Minh Hieu, 2024).

Moreover, when considering the nature of land compensation when recovering land in Vietnam, there are some similarities with exercising the right to open paths on adjacent real estate as shown in: "In cases where there are problems in regarding compensation when recovering land, one of the main reasons pointed out is that the person whose land was recovered does not accept the return of land to receive a compensation amount that is considered unsatisfactory, more clearly, it is very low compared to the real value of the recovered land, meaning the principle of proportionality is not guaranteed." (Nguyen Ngoc Dien 2022, p. 20). Comparing with the determination of compensation value for land when opening a path, if the compensation value is determined to be lower than the actual value of land use rights, it can easily lead to resistance from the person entitled to the right to the decision of the judicial agency. In the UK, when regulating the principle of compensation, lawmakers not only stipulate that the compensation must be "proportionate" to the damage ("principle of equivalence"), but also must make sure that the amount Compensation compared to damages is "no more, no less" (Phan Trung Hien, 2017, p.107).

In addition, regarding in the compensation value for land compared to the value of land use rights with open access. The problem is that the person who enjoys the right of passage must compensate part or all of the value of the land for which the passage is opened. Judicial practice shows that the Court tends to force the beneficiary of the right of way to compensate for the entire value of the land.

From the analyzed content, the authors believe that the above method of calculating compensation value is not convincing. The right to travel is a content recognized by law. Thus, the obligations arising from the right of priority must be commensurate with the rights that the recipient of the right of priority receives. Meanwhile, the person entitled to travel rights only has the right to limited use of the established road without the right to dispose of it.

Furthermore, the right to travel is a limited right that only lasts for a certain period of time. While the beneficiary must pay compensation value commensurate with the ownership rights. Therefore, those who enjoy priority rights must suffer certain disadvantages.

#### 3.4. Regarding in changing to implement of right-of-way rights

Once established, the transfer right is not immutable, but during the implementation process, changes may occur such as real estate with the right to change ownership, land use purpose, and business capital contribution, mortgage... Article 249 of the 2015 Civil Code stipulates: "In case the change of use or exploitation of the obliged immovable property leading the change of exercising of right to the entitled immovable property, the owner of the former immovable property must notify the owner of the latter immovable property within an appropriate period. The owner of the obliged immovable property must enable the owner of the entitled immovable property to adapt to such change."

The authors believe that the above regulation is not really specific, because this regulation allows real estate owners to have free access to make any changes to the real estate and only need to fulfill their obligations. notify the entitled party. Thus, the party entitled to the right of passage can abuse this regulation to cause difficulties and hinder the process of exercising the right of passage.

Some countries around the world, typically France, prohibit changing the status of real estate subject to title. Article 701 of the French Civil Code stipulates that "the owner of real estate subject to transfer of rights shall not change the status of the real estate, nor may he or she move the implementation of the transfer of rights to a place other than the originally determined location" Thus, the above regulations have the advantage of being able to maintain stability throughout the period of exercising the right of passage. However, this regulation appears rigid when the owner of the real estate subject to the

right has a valid need to exploit his or her portion of the real estate.

From the above analysis, the authors believe that the optimal solution should be to narrow the scope of making changes to real estate subject to "necessary changes" instead of prohibiting changes in the status of real estate. From there, limit actions that are detrimental to real estate owners enjoying rights.

Besides, the regulations on notification obligations are not really complete, specifically:

In the first place, the law stipulates that subjects are obliged to notify "a reasonable period of time" but does not explain how long this period is, leading to difficulties in applying the law. There is a view that: "The above notification regulations are reasonable because during the implementation process for real estate, changes in the use and exploitation of real estate are very diverse, so even though cases are different But the amount of time required to give advance notice varies. also different" (Nguyen Van Cu & Tran Thi Hue 2017, p. 405). However, the authors believe that clearly defining the number of days would be more effective. Specific deadlines create a sense of urgency for the implementer to motivate action.

In the second place, although Article 249 of the 2015 Civil Code sets out the obligation to give advance notice, it does not stipulate sanctions for failure to fulfill this obligation. Sanctions are understood as unexpected adverse legal consequences that are applied to people who commit violations in civil relations when they do not perform or improperly perform civil obligations. Sanctions are a measure to ensure civil rights are enforced (Bui Thi Thanh Hang 2017, p. 35).

The authors believe that this is an issue that needs additional research. On the one hand, a civil obligation without any sanctions is difficult to enforce. On the other hand, if the owner of the real estate subject to the right does not fulfill the notification obligation, resulting in damage to the real estate subject to the right, how is the compensation liability considered? Therefore,

the content of the obligation to notify before making changes to real estate subject to rights needs to be corrected and supplemented to ensure effective law enforcement.

### **Recommendations to improve Vietnamese law on the right of passage**

Through analyzing theoretical issues and the current state of law application in Vietnam, the authors propose a number of recommendations to improve the law on rights of passage as follows:

Firstly, it is necessary to clarify the need to create paths for surrounded real estate without paths, especially in cases where surrounded real estate is adjacent to rivers, streams, canals, etc. The author proposes to develop guiding regulations on determining the need to open access for enclosed real estate adjacent to waterways; In particular, a waterway is considered to surround real estate when it significantly affects the exploitation and use of the surrounded real estate. Clarifying the role of the waterway is the basis for considering whether it is necessary to open the passage or not.

Secondly, it is necessary to clarify the need to widen the path in case the path is "insufficient". Clause 1, Article 254 of the 2015 Civil Code stipulates that real estate owners are surrounded by insufficient access to public roads. Specifically, the authors propose to add Article 254 as follows: "Real estate owners are surrounded without enough paths to serve agricultural production, commercial business, living or other purposes." suitable for the purpose of land use, the land has the right to request a path according to Clause 1, Article 254 of this Code.

In fact, there are many cases where real estate owners who are surrounded have another path, but this path is somewhat more disadvantageous, but due to unclear laws, this leads to cases where real estate owners are trapped. Surrounding and taking advantage to claim their rights makes the rights and interests of legitimate real estate owners face many difficulties. Thus, the specific



addition of the path's suitability for the purpose of real estate use plays a role in shaping the exercise of rights, limiting the situation of claiming benefits beyond necessary needs, causing difficulties for judicial work. Therefore, the solution of listing typical cases will clarify the meaning of the word "insufficient paths". From there, the cases of insufficient paths are limited to the area suitable for the land use purpose.

Thirdly, there needs to be specific regulations on what is a "convenient and reasonable path", creating a basis for the parties to agree on limits on the length, width, and height of the passage, and any arising restrictions, dispute or if a dispute arises. If this happens, the Court has enough legal basis to determine according to the request of the litigant, avoiding cases of determination based on subjective will, affecting property rights of the parties. At the same time, it is necessary to specifically stipulate the basis for determining the level of inadequate access for each area such as urban, rural, plain and mountainous areas.

The authors believe that it is necessary to propose a specific orientation to use as a general principle in all cases. Accordingly, we should consider adding guidelines on the reasonableness and convenience of paths as follows: "A convenient path is the shortest path leading from the enclosed property to the public road. The path chosen must ensure the need to exploit and use the surrounded real estate and cause minimal damage to the owner of the real estate subject to the rights.". In fact, there may be many options for choosing a path when a specific direction for choosing a path is necessary. However, just basing it on the length of the passage is not enough. In order to ensure a balance of interests of the parties, the author proposes to add the factors "the need of the enclosed real estate" and "damage caused to the owner of the real estate with access" as mandatory requirements, tied to determine the path.

Fourthly, it is necessary to specify the method of calculating compensation value, specifically:

In the first place, regarding in the compensation guaranteed according to market land prices. Currently, two types of prices exist in parallel: land prices according to the price list of the Provincial People's Committee and market prices, however these two types of prices have a huge difference. Therefore, the authors recommend that compensation levels should be specifically regulated based on market prices. Because when exercising the right of way, the owner of the real estate subject to the right must accept sharing his property rights with other subjects and the accompanying inconveniences. Therefore, the compensation value needs to be commensurate with the lost benefits of the owner of the property with access. Therefore, it is proposed to supplement the method of determining compensation price as follows:

"1. Regarding the value of land, the land price used to calculate the compensation price is agreed upon by the parties. If the parties do not agree on a road, the market land price will apply.

2. Regarding the value of assets on land, the parties agree on the value of assets on land. If the parties cannot agree, the agency will determine the price through verification and appraisal."

In the second place, add regulations on compensation levels to balance the right to access ratio. The authors suggest that when calculating compensation, it is necessary to include the percentage of rights that the real estate owner receives to determine the final compensation level. Because the right of way is a limited right of use for the real estate subject to the right, not completely identical to the right of ownership. Therefore, to ensure a proportional level when calculating compensation, the participation of the rights ratio is reasonable.

Fifthly, clarifying some regulations on changes to implement the right of passage. Specifically as follows:

Starting with a narrow the scope of making changes to the real estate subject to the right.

Owners of real estate with access may only change the current status when absolutely necessary. Thereby, the exercise of the right of way is carried out in a stable manner. Also, there are specific regulations on the notice period when owners of real estate with access make changes to the real estate. The notice period may be shorter than the prescribed number of days if it does not affect the right of the real estate owner to exploit the path. Specific recorded time will increase self-discipline compared to not having any instructions.

Then, supplementing sanctions on the liability of the owner of real estate subject to rights in case of failure to notify the owner of real estate subject to rights in advance if there is a change in the exercise of rights, in order to increase the enforceability of rights. this regulation. The authors believe that the specifically stipulated responsibilities, in addition to guiding the implementation of the right of passage, also have the task of deterring violations of the obligations. It is possible that when the party receiving the right violates the

agreement, the liability arising is not significantly different from the liability prescribed by law. However, clearly stating the legal consequences of violating the agreement has a positive impact on the behavior of the owner of the real estate subject to the right.

Finally, it can be said that, the 2015 Civil Code has made great strides in perfecting regulations on rights of way. Thereby, disputes over creating and expanding pathways are resolved more effectively, ensuring a balance of interests of the parties in this specific civil relationship. However, through practical application, it shows that some points are still incomplete. These limitations are spread in different aspects such as the basis for establishment, the method of determining the passage and changes in the process of exercising the right, reducing the effectiveness of applying the law on the right of passage. Therefore, it is necessary to promulgate guiding regulations to ensure uniform application of the law and minimize disputes over rights of passage.

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