

Federal Government Is Not Powerless To Stop Chinese Real Estate Deals Near Sensitive Us Military Bases

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Is the U.S. government unprepared to respond to a Chinese company purchasing land near a vital military base? The Air Force recently wrote Congress to explain that the interagency Committee on Foreign Investment in the United States (CFIUS) lacked jurisdiction over just such a deal. The Chinese company sought to build a corn processing plant 12 miles from North Dakota's Grand Forks Air Force Base. According to the Air Force, the base "is the center of military activities related to both air and space operations," and the "proposed project presents a significant threat to national security with both near- and long-term risks of significant impacts to our operations in the area." Given that the exclusive mission of CFIUS is to address national security risks arising from foreign investments in the United States, what gives?

In 2018, Congress gave CFIUS, chaired by the Secretary of the Treasury, more resources and new authorities — including the express power to review real estate purchases near military bases and other sensitive U.S. government sites. In other words, Congress foresaw the vulnerability of U.S. military bases having Chinese companies as next-door neighbors.

And in 2020, CFIUS issued regulations governing the review of real estate transactions near military bases. The regulations center on two lists of sensitive installations. The first (the "Sensitive Base List") identifies approximately 131 sensitive military bases, such as Joint Base Andrews, MacDill Air Force Base, Camp Pendleton, and Naval Base San Diego. With limited exceptions, CFIUS has jurisdiction over any real estate transactions within one mile of installations on the Sensitive Base List. The second list (the "Highly Sensitive Base List") has approximately 32 highly sensitive military facilities, including Edwards Air Force Base, Naval Air Weapons Station China Lake, and Yuma Proving Ground. For these bases, CFIUS can intervene in real estate transactions anywhere within 99 miles.

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