

雙階理論在經濟補助上之應用—以租金補貼為例

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摘要

政府執行經濟補助的範圍包含「行政補償」性質的公共補助，以及純粹社會福利性質的「經濟補助」。適用雙階理論的結果，將整個行政程序，區分為前階段申請準駁的公法關係，以及後階段金額給付的私法關係，其目的在於讓申請人對於前階段的準駁結果能適用公法上救濟程序，而於後階段的行政程序中，使國家與受補助人能同時位於私法同等地位相互請求給付。本文希望藉由內政部營建署實施一般租金補貼，以及桃園市政府實施青年租金補貼的案例，並結合雙階理論之理論與實務，以探討雙階理論在經濟補助上之應用，並提出執行的具體建議。

關鍵字：雙階理論、經濟補助、社會福利、租金補貼、給付行政

The application of the two-phase theory in economic subsidies - taking rent subsidies as an example.

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Abstract

The scope of government's implementation of financial assistance includes public subsidies of the nature of "administrative compensation" and "economic subsidies" of a purely social welfare nature. Applying the results of the two-phase theory, the entire administrative procedure is divided into the public law relationship of the application for quasi-reverse application in the previous stage, and the private law relationship for the payment of the post-stage amount. The purpose is to enable the applicant to apply the public law relief to the results of the quasi-reciprocation of the previous stage. Procedures, and in the later stages of the administrative process, the state and the grantee can simultaneously request mutual payment in the same position as private law. This paper hopes to implement the general rent subsidy by the Construction Department of the Ministry of the Interior and the case of the Taoyuan Municipal Government to implement the youth rent subsidy, and combine the theory and practice of the two-phase theory to explore the application of the-phase theory in economic subsidies and propose implementation. Specific recommendations.

Key words: The two-phase theory, Economic Subsidies, Social welfare, Rental subsidy, Payment administration