

PW-ABQ-332
12/1 25 01

**SUMMARY OF LAWS RELATING TO
HOUSING AND URBAN DEVELOPMENT
IN THE RUSSIAN FEDERATION**

Prepared by

Stephen B. Butler
Sheila O'Leary

The Urban Institute
2100 M Street N.W.
Washington, D.C. 20037

Project 6306-03
October 1993

Prepared for

Shelter Sector Reform Project, Russian Federation/City of Moscow
Project 110-0008

U.S. Agency for International Development, PRE/H/NIS
Contract No. CCS-0008-C-00-2055-00, Task Order No. 3

Abstract

The body of law relating to housing and urban development in the Russian Federation is in a stage of flux as legislators redefine the law to reflect the country's changing political and economic goals. During this dynamic period, there is much uncertainty in the law. While the basic framework exists, there are many internal contradictions and incomplete areas. This report attempts to define the basic framework that exists in this area of the law. This "Summary of Laws" identifies the fundamental Russian laws and implementing regulations related to housing and urban development. A description of each law defines the date of enactment and contents of the law. Laws that are currently in progress are noted as such. The reader should note that this "Summary of Laws" is the second in a series of twice annual summaries that will be produced by the Urban Institute under the United States Agency for International Development Shelter Sector Reform Project.

SUMMARY OF LAWS RELATING TO HOUSING AND URBAN DEVELOPMENT IN THE RUSSIAN FEDERATION

The following is an outline of the basic laws of the Russian Federation and the City of Moscow, existing and in development, relevant to the housing and urban development issues addressed in the Urban Institute's technical assistance mission to Russia and the City of Moscow.

I. COMMERCIAL LAW, GENERALLY

(a) Existing

- (1) *Fundamentals of Civil Law of the USSR and the Republics, May 31, 1991; Reenacted by Russian Supreme Soviet July 14, 1992*

Adopted prior to the dissolution of the USSR, this law was reenacted by the Russian Supreme Soviet as the fundamental principles of civil law for the Russian Federation.

The civil law is the basic commercial law of the Federation. It addresses such issues as: basic contract law; loan contracts; basic principles of secured transactions; rules of agency; rules of construction contracting; rules of guarantee and endorsement; making and transferring debts and other financial instruments.

- (2) *The Civil Code of the RSFSR, June 11, 1964, as amended*

The RSFSR Civil Code remains effective to the extent not contradicted by the Fundamentals of Civil Law, and addresses many of the same issues as the Fundamentals of Civil Law.

- (3) *Code of Civil Procedure of the RSFSR, June 11, 1964, as amended*

The Code of Civil Procedure is the only law that addresses the procedural issues of enforcement of secured claims. It is substantially out of step with recent developments in the mortgage law, and there is no revision or restatement presently under consideration.

The more recent law on the state arbitral tribunals (Code of Arbitral Procedure of the Russian Federation; March 5, 1992) enacts additional procedural rules for commercial disputes but also falls back on the Code of Civil Procedure for rules applicable to the enforcement of secured claims.

(b) In Development

(1) Revised Civil Code

A restatement of the RSFSR Civil Code is presently under consideration that will bring the existing Code into conformity with the more modern commercial concepts found in the 1991 Fundamentals of Civil Law, *supra* at I (a) (1). The revised Civil Code was not introduced in the Supreme Soviet in June, 1993, as expected; the present schedule for completion of the law is unknown.

II. MORTGAGE LAW AND FINANCE

(a) Existing

(1) Russian Federation Law on Collateral (Pledge), May 29, 1992

This is the basic law on secured financing transactions of all types, including pledge, chattel mortgage and real property mortgage. It is a law of fundamental principles.

(2) Decision of the Supreme Soviet of the RSFSR No. 1451-1 On Use of Bills in Economic Turnover; Regulation for Bills of Exchange and Promissory Notes, as of June 24, 1991

This is a regulation of the Central Bank on the use of Bills of Exchange and Promissory Notes in national commerce.

(b) In Development

(1) Draft Russian Law of Real Estate Mortgage

This draft law, sponsored by the Supreme Soviet Committee on Budget, Planning, Taxes and Prices, is presently under consideration in the Supreme Soviet. It deals exclusively with real property mortgages and further develops and refines the concepts found in the Law on Collateral. It is not a codex of the Law on Collateral, however, and may modify or revise the Law on Collateral or introduce new concepts.

The law has been held up in the Supreme Soviet since June, 1993 because of issues relating to the mortgaging of agricultural land. It is anticipated that a version of this law will be enacted by decree in the near future.

(2) Draft Law on Agricultural Land Mortgage

This draft law is prepared by the Supreme Soviet Committee on Rural Social Development, Agricultural Problems and Food Supplies. It has been introduced in an attempt to remove agricultural land from the coverage of the Draft Law on Real Estate Mortgage described supra at II (b) (1), above. It would impose greater restrictions on agricultural land mortgages, including limiting authorized lenders to one or several licensed entities. The fate of this law is bound to the fate of the Law on Real Estate Mortgage.

(3) Decision of the Russian Federation On Increasing Housing Construction Using the Funds of the Public, Enterprises and Organizations, December 14, 1991

This decision of the Russian president calls for Republics and regional governments, from their own budgets, to allocate plots of land, finance infrastructure, develop the building materials industry and subsidize the cost of construction of housing for low income groups. Tax and other incentives are provided for enterprises and builders. It appears that most of the elements of this decision were later incorporated into the Fundamental Principles of Federal Housing Policy, infra at III (a) (6), and the regulations and decrees flowing from that law.

(4) Draft Presidential Decree On Development and Introduction of Non-Budget Forms of Investing Into the Housing Sector

This decree, prepared by a joint committee of Gosstroi and the Ministries of Finance and the Economy, and to be issued pursuant to the Fundamental Principles of Federal Housing Policy (infra at III (a) (6)), would (1) require the implementation of further regulations governing private mortgage lending, (2) establish a new federal agency ("Federal Agency for Mortgage Lending") authorized to regulate the mortgage banking industry and engage in secondary market activities; (3) promote local and regional housing development corporations ("Foundations for Housing Development"); (4) establish a downpayment assistance program; (5) require issuance of regulations governing "housing notes" or other types of housing securities now gaining favor in the Russian market; and (6) require the creation of a unified real estate registration system.

(5) City of Moscow Draft Provisional Regulations on Mortgage Operations

Because of the delay in enacting the federal Law on Real Estate Mortgage, the City of Moscow has prepared a draft regulation governing real estate mortgage procedures. It is issued pursuant to the Russian Federation Law on Collateral (supra

at II (a) (1)) and incorporates with minor variations all of the provisions of the pending federal Law on Real Estate Mortgage.

- (6) *Draft Procedure on Long Term Loan Allocation for Natural Persons and Legal Entities for Individual Housing, Cooperative Construction and Housing Purchase, June 1, 1993*

This draft Gosstroi regulation is intended as an implementing regulation of the Russian Federation Law On Fundamental Principles of Federal Housing Policy (infra at III (a) (6)). The regulation would provide rudimentary regulations governing residential mortgage lending by commercial banks, including loan terms, loan to value ratios, documentation and underwriting standards. It also would authorize downpayment grants to homebuyers from local budgets.

III. HOUSING

(a) Existing

- (1) *Constitution of the RSFSR, as amended through December, 1992*

Article 58 of the Constitution, amended as of December, 1992, set out the basic principles of the right to publicly assisted housing and the right to own private housing.

- (2) *Fundamentals of the Housing Legislation of the USSR and the Union Republics, June 24, 1981*

The basic housing legislation of the USSR survives and is one of the main sources of law for issues in the housing sector. This law will be replaced by the federal Housing Code presently in development and discussed under III (b) (1), infra.

- (3) *Law on Ownership on the Territory of the RSFSR, July 14, 1990*

The Law on Ownership is the basic law dealing with property rights in property of all types, including housing, and also addresses such issues as forms of joint and common tenancy and rights to pledge and mortgage owned property. The Law on Ownership is a law of fundamental principles. Many of the principles and concepts in the law are further refined and expanded in more recent housing laws such as the Law on Privatization and the Fundamental Principles of Federal Housing Policy, infra at III (a) (4) and (6).

- (4) *Law of the RSFSR on the Privatization of the Housing Stock in the RSFSR, July 4, 1991, as amended*

The Privatization law sets out the basic principles for privatizing state, municipal and enterprise housing. The law was amended by the "Law of the Russian Federation On Introducing Changes and Amendments into the Law of the RSFSR On Privatization of the Housing Stock in the RSFSR," November 18, 1992.

- (5) *Russian Federation Decision No. 59 On Measures Concerning Sale of Uncompleted Units, February 3, 1992*

This decision provides for auctions of uncompleted social housing projects to enterprises, organizations, cities and foreign investors, supervised by the State Committee on Management of the State Property.

- (6) *Law on Fundamental Principles of Federal Housing Policy, December 24, 1992*

This law sets out the main policy objectives and role of the federal government in the housing sector. It addresses such issues as housing allowances; increasing rents and utility charges; condominium and other common ownership structures; and rights of tenants in public and private housing. It is the framework for development of the new federal Housing Code, *infra* at III (b) (i).

- (7) *Presidential Decree No. 8 On Use of Socio-Cultural and Communal-and-Everyday Service Facilities of Privatized Enterprises, January 10, 1993*

This decree excludes enterprise housing from the assets which may be privatized by an enterprise, and retains such housing as state property.

- (8) *Decree of the Russian Federation Council of Ministers On Transition To A New System for Rent and Communal Services Payment and Procedure for Providing Compensation (Subsidies) for Rent and Communal Services Payments, September, 1993*

This decree would provide for (1) gradual increases in rents and payments for communal services in social housing, and (2) implementation of a housing allowance program.

(b) In Development

(1) Revised Housing Code

The revised Housing Code of the Federation is presently in preparation and will further refine and elaborate the principles set out in the Fundamental Principles of Federal Housing Policy, *supra* at III (a) (6). The Revised Housing Code was not presented for a first reading in the Supreme Soviet in June, 1993 as expected, and development is continuing.

IV. LAND

(a) Existing

(1) Constitution of the Russian Federation, as amended through December, 1992

The 1992 amendments to Articles 10, 11 and 12 of the Constitution address ownership rights in land, and essentially remove restrictions on market transactions in land used for residential purposes.

(2) Land Code of the RSFSR, April 25, 1991

This Code sets out the basic rules for land ownership, use and disposition. It has been modified by the recent Constitutional amendments, described above.

(3) Law of the RSFSR On Payment for Land, October 11, 1991, as amended

This law provides formulas for determining the transfer price, annual tax or lease payment on land transferred to private ownership.

(4) Decree of the President of the Russian Federation On Urgent Measures to Implement Land Reform in the RSFSR, December 27, 1991

This decree provides for the privatization of collective farms and the reallocation of surplus agricultural land for non-agricultural purposes. It includes a concept of local government land banks.

(5) Presidential Decree No. 301 On the Sale of Tracts of Land to Citizens and Legal Entities During Privatization of State and Municipal Enterprises, March 25, 1992

This decree authorizes for the first time the sale of land to privatizing enterprises and individuals engaged in commercial (entrepreneurial) activities.

- (6) *Presidential Decree No. 631 On Procedures for Sale of Land Plots During Privatization of State and Municipal Enterprises, June 14, 1992*

This decree is a refinement and elaboration of Decree No. 301 (supra at IV (a) (5)). It deals with the sale of land rights to owners of privatized State and Municipal enterprises and to citizens for business ("entrepreneurial") ventures. It provides, under specified conditions, for auctions, applications, and requests for proposals (investment competitions). While it uses the terms "sale" and "ownership," in implementation it is widely interpreted to require the granting of leases (49 years) and permanent rights of use.

- (7) *Presidential Edict No. 1228 On the Sale of Housing Stock, Plots of Land and Municipal Property for Privatization Checques, October 14, 1992*

This Edict allows privatization vouchers to be used for purchase of (1) housing units from the state stock; (2) municipal enterprises; and (3) land made available for privatized enterprises and other businesses under Presidential Edict No. 631.

- (8) *Law of the Russian Federation On the Rights of Citizens To Acquire As Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction, December 23, 1992*

This law permits the private sale of land plots which are used for garden plots, dachas, horticulture and private housing construction, provided the use is not changed. The form of land sales contract is to be approved by the State Committee on Land Resources and Land use ("Roskomzem").

- (9) *Presidential Edict On Additional Measures for Allotting Tracts of Land to Citizens, April 23, 1993*

This Edict reinforces the earlier decrees requiring local governments to make land available to citizens for private housing construction and garden plots in ownership, lease or life inheritable possession. Local governments are required to (1) inventory land available for distribution, (2) adopt systems for registration of land titles, (3) issue appropriate documents of title, and (4) re-register land rights granted prior to commencement of the land reform program.

(10) *Council of Ministers Resolution No. 503 On Approval of Procedure for Plots of Land Purchase and Sale, May, 1993*

This decree permits the private sale of land plots between citizens for individual garden plots, dachas and individual housing construction. Sales may be arranged directly between citizens or through auctions with the aid of the local Committee on Land Resources. Prices are to be determined by negotiation or auction. Transfers will be made through a notarized bill of sale in form approved by the State Committee for Land Resources, and must include a survey or plan of the land. All bills of sale are to be registered with the local Land Resources Committee and there will be a transfer tax collected at the time of registration. Implementation of the decree awaits issuance of a Ministry of Finance regulation on collection of the transfer tax.

(11) *Procedure for Estimating Land Tax Rates From Normative Land Cost*

This procedure governs implementation of local land taxes and ties local taxes to normative land prices and tax rates established in the Russian Federation Law on Payment for Land, *supra* at IV (a) (3). Taxes are set at average rates depending upon location and use, but averages may be increased by specified coefficients on the basis of certain characteristics (e.g. historical or resort districts). Residential land is taxed at only 3% of the rate established for a district or zone.

(12) *Instruction of Moscow's Vice-Mayor N 51-PBM Re: The Procedure for Granting and Seizure of Land in the City of Moscow, January 31, 1992 (Provisional Regulations)*

Adopts provisional regulations for the allocation of land in the City, including detailed descriptions of the role of the urban planning and architectural bodies in the land allocation process. The regulation focuses primarily on unsolicited proposals from developers, and not land auctions. This decree was promulgated pursuant to a federal grant of authority to the City that was later found unconstitutional.

(13) *Order of the Moscow Vice-Mayor N 110-PBM On the Land Leasehold As the Main Form of Legal Land Relations in the City of Moscow, March 2, 1992*

Establishes land leases as the primary form of commercial land allocation. A form lease is attached to the Order.

(14) *Order of the Moscow Mayor N 571-PM On the Bidding Procedure and Conditions of Tenders for Long Lease of Plots of Land in*

Moscow, December 18, 1992 (Regulations On the Commission for Land Relations of the City of Moscow)

Enacts detailed regulations governing the auction of land by the Moscow Land Commission, the municipal agency vested with the authority to conduct land auctions and RFP's.

- (15) *Moscow Mayor's Directive N 168-PM Re: The Procedure of Preparation of Normative Documents Authorizing the Development, Design and Building of Projects and the Granting of Land For Such purpose in the City of Moscow, March 19, 1993*

Describes the roles of city and district agencies in reviewing and approving applications for land use approvals and building permits; describes the required documentation for building permit applications.

- (16) *Order of the Moscow Mayor N 495-RP On the Establishment of Uniform Territorial, Architectural and Town Planning Services Of the Moscow Committee for Architecture in Administrative Districts of the City, March 26, 1993*

Requires the coordination of City and district (prefecture) planning and architectural norms.

- (17) *Moscow Mayor's Directive N 335 PM Re: The Approval of the Rate of Penalties Imposed By Moscomzem for the Violations of Land Legislation and City Normative Acts, May 21, 1993*

Imposes penalties for violations of the Land Code (supra at IV (a) (2)) and City land use regulations.

- (18) *Moscow Mayor's Directive N 336-PM On Enhancing the Responsibility for the Non-Observance of the Periods of Construction and Rehabilitation in Developing Land in the City of Moscow, May 21, 1993*

Confirms the necessity for project completion deadlines on allocated land and established a formula for assessing penalties if deadlines are not met.

(b) In Development

(1) Revised Land Code of the Russian Federation

A revised land code was prepared and passed on a second reading in the Supreme Soviet in August, 1993, but was rejected by the President. The revised Code would reflect the recent changes to land law as expressed in the housing laws and the recent Constitutional amendments, as well as many more fundamental changes in land relationships.

(2) The Russian Constitution

All versions of the draft Constitution address basic property rights in land.

(3) Russian Federation Law on Land Banks

Several versions of this law that have been proposed would facilitate transactions in land through the creation of a quasi-governmental land bank authorized to finance and act as intermediary in land transactions. The status of this legislation is unknown at this time.

V. PLANNING AND LAND USE REGULATION

(a) Existing

(1) Government Decree No. 346 On The Land Reform and Land Resources Committee of the Russian Federation, May 26, 1992

This decree describes the authority of The State Committee on Land Reform and Land Resources ("Roskomzem") and its local branches in the sphere of land allocation and land use regulation.

(2) Russian Federation Law On The Bases For Urban Development in the Russian Federation, July 14, 1992

This is a law of fundamental principles. It provides a general structure for urban planning activities of the federal and local governments and addresses the allocation of land by governments for private development enterprises.

(3) Land Code of the RSFSR, supra at IV (a) (2)

The Land Code contains provisions concerning the relationship of basic property rights and land use.

(b) In Development

(i) Fundamentals of Town Planning Legislation of the Russian Federation

This code will further develop the concepts of The Bases of Urban Development in the Russian Federation, *supra* at V (a). A new draft of the proposed law was issued by Gosstroi in June, 1993. The legislative status of this code is unclear at this time.

(2) Revised Land Code of the Russian Federation, supra at IV (b) (1)

The Revised Land Code will address the relationship of planning and land use regulation to land allocation and property rights in land.

VI. CONDOMINIUMS

(a) Existing

(1) Law on Ownership, supra at III (a) (3)

The Law on Ownership set out basic principles for common property ownership, including housing ownership.

(2) Law of Privatization of the Housing Stock in the RSFSR, supra at III (a) (4)

The Privatization Law establishes the basic principle that privatized apartments are to be held in individual ownership and the common areas and facilities of buildings are to be held in joint ownership of the apartment owners.

(3) Fundamental Principles of Federal Housing Policy, supra at III (a) (6)

The Fundamental Principles of Housing Policy explicitly recognize the condominium form of ownership and permit local governments to enact appropriate regulations governing condominium associations.

(4) Moscow Regulation On Procedure of Acceptance and Maintenance of Houses Sold in Duly Authorized Way at Auction Sale, November 20, 1992

This regulation deals with newly constructed municipal housing which is to be privatized by public auction. the regulation requires that housing associations be

established for such buildings and that management eventually be turned over to such associations.

- (5) *Moscow Regulation On Basic Principles for Formation and Activities of Communities of Residential Unit Owners in Moscow, April, 1993*

These regulations govern the creation and operation of common ownership housing communities in privatized buildings.

- (6) *Resolution of Moscow Government On the Procedure of Managing Jointly Owned Residential Buildings and Transferring the Buildings to the Communities of Residential Unit Owners for Management*

This Resolution sets out the procedures and conditions under which full management of privatized buildings will be turned over to unit owners by the City. The conditions include (1) at least 51% privatization in the building; (2) creation of a legal housing association; and (3) attendance of association officers at a training course offered by the City.

(b) In Development

- (1) *Draft Decree of Moscow Government On the Introduction of the Licensing of the Activity On the Management and Sale of Residential Real Estate in Moscow*

This decree would require licensing of housing managers, including cooperative and condominium associations. It also would require licensing of real estate brokers.

- (2) *Russian Federation Temporary Regulations on Condominiums, July, 1993*

These regulations are issued by Gosstroi pursuant to the authority granted in the Fundamental Principles of Federal Housing Policy (supra at III (a) (5)). The regulations govern the creation and operation of legal entities called "condominiums" which are created for the purpose of building and managing jointly owned housing projects. It is anticipated that these Regulations may be enacted by decree in the near future.

- (3) *Draft Law of the Russian Federation On Housing Associations Organized Within Multiple Unit Homeownership, Legislative Initiative of the City of St. Petersburg, June 20, 1993*

This draft law was prepared by the Housing Policy Committee of the St. Petersburg Soviet for submission as a legislative initiative to the Supreme Soviet. It is a basic condominium law prepared with German assistance and draws on both European and American models.

VII. LAND AND PROPERTY REGISTRATION/CADASTRES

(a) Existing

- (1) *Land Code of the RSFSR, supra at IV (a) (2)*

The Land Code establishes in the Federal Government the responsibility for creation and maintenance of a nationwide land cadastre, focusing primarily on physical characteristics and economic use.

- (2) *Government Decree No. 346 On The Land Reform and Land Resources Committee of the Russian Federation, May 26, 1992*

This decree outlines the role of Roskomzem in creating the State land cadastre.

- (3) *Statute On the Management Order of the State Land Cadastre; Enactment #622 of the Russian Federation Government, August 25, 1992*

This governmental decree is essentially an administrative order implementing the cadastral provisions of the Land Code. It includes the requirement to register information on the "juridical status" of land, including rights of ownership and lease and permitted uses. The actual work of creating and maintaining the cadastre is delegated to local government.

- (4) *Moscow Regulation on Housing Communities, supra at VI (a) (5)*

The draft regulation on common interest communities would require registration of such communities with the Moscow Bureau of Technical Inventory, which maintains a technical cadastre regarding land and land use.

- (5) *Directive of the Moscow mayor's Office N 162-PM Regarding the Main Principles and the Procedure of Registration of Land Users On the Territory of the City of Moscow, March 17, 1993*

Directs city agencies (Moskomzem and Mosarchitectura, primarily) to accelerate a system of land use registration and prohibits issuance of city permits or other documentation for land that has not been registered.

(b) In Development

(1) *Draft Law of Real Estate Mortgage, supra at II (b) (1)*

Following the Land Code of the RSFSR, the draft Law of Mortgage requires that mortgages be registered in the Land Cadastres maintained by the local government Committees on Land Resources and Land Management.

(2) *Draft Law on Real Estate Registration*

The St. Petersburg Soviet approved on August 26, 1992 and submitted to the Supreme Soviet in October, 1992 a comprehensive law on registration of interests in real property entitled "Law of the Russian Federation on Real Estate and Registration of Real Estate Transactions." The status of this law is unknown at this time. It is almost certain that Roskomzern is working on a draft law governing registration of real estate titles.

(3) *Draft Moscow Provisional Regulations on Mortgage Operations, supra at II (b) (4)*

In addition to setting out mortgage registration procedures, the entire second section of the regulation is a title registration regulation.

VIII. FEDERALISM/INTERGOVERNMENTAL RELATIONS

(a) Existing

(1) *Russian Federation Law On Fundamentals of the Tax System, December 27, 1991 (as amended by On Introducing Changes and Amendments to Certain Russian Federation Tax Laws, December 22, 1992)*

Describes basic tax concepts, types of taxes, and the allocation of taxing authority among the various levels of government.

(2) *Law of the RSFSR On Local Self-Government in the RSFSR; July 6, 1991*

The Law of Local Government is essentially a "home rule" enabling act and code of political rights and administrative procedure applicable to municipalities and local governments in the Federation below the Republic, kray and oblast level.

(3) *Law On Kray and Oblast Soviets of Peoples' Deputies and Kray and Oblast Administration; March 5, 1992*

The krais and oblasts are independent governments of general jurisdiction that are not Republics. This law addresses the same issues with respect to these governments as are addressed with respect to the Republics' powers in the Federal Agreement, but also addresses rights of political participation and administrative procedure in these jurisdictions.

(4) *The Federal Agreement; March 13, 1992*

The Federal Agreement is essentially a treaty between the Federal Government and the Republics setting out their respective authority to enact law in specified substantive areas.

(5) *Law On Amendments and Additions to the Constitution of the RSFSR; April 21, 1992*

The 1992 Amendments to the Constitution essentially reflect the terms of the Federal Agreement, but also discuss the legal authority of lesser jurisdictions such as krais, oblasts and independent cities.

(b) In Development

The Russian Constitution

The essence of the pending Constitution is federal relationships.