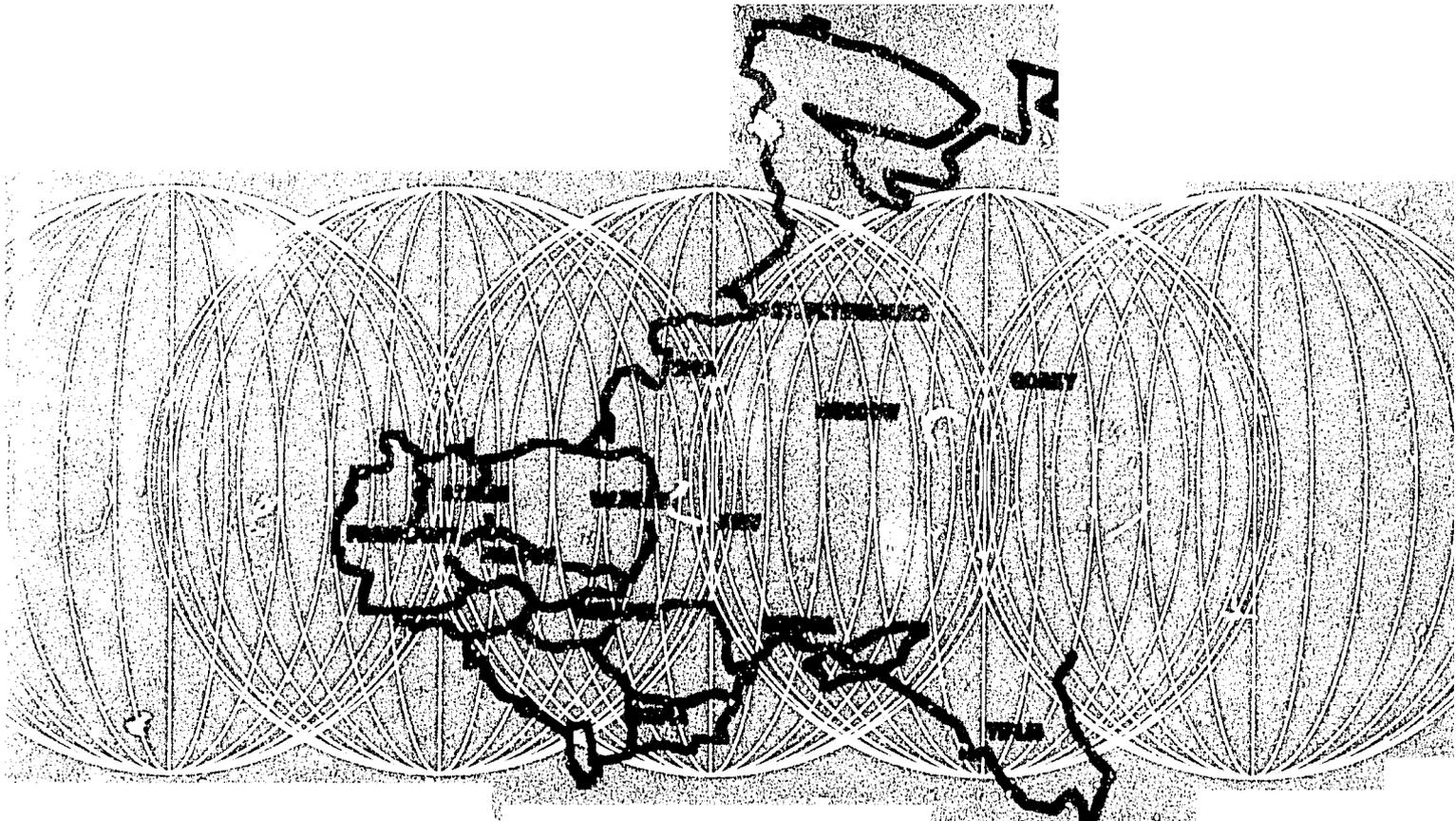


USA INTERNATIONAL ACTIVITIES PROJECT

FROM PLANNING TO MARKET

HOUSING IN EASTERN EUROPE



THE URBAN INSTITUTE

Prepared for the Office of Housing and Urban Programs (USAID)

**THE LEGAL BASIS FOR
LAND ALLOCATION
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
April 1994

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

This paper was prepared as part of an ongoing program of the United States Agency for International Development and The Urban Institute dealing with reform of the Russian legal and regulatory framework for housing and urban development. It attempts a comprehensive review of the land issue as it affects urban land and housing development. It presents and analyzes the current legal and procedural frameworks which constitute the land allocation system in the Russian Federation. Particular attention is focused on the cities of Moscow and St. Petersburg as models for discussing how normative acts have been implemented in practice.

The purpose of this paper is to provide a broad, general review of the land law and issues facing housing and urban development reform in Russia, and to suggest possible areas on which to focus future technical assistance efforts. Part I discusses and critiques the historical development of property rights related to land, focusing on the major laws passed during the *perestroika* era and recent Constitutional amendments and Presidential decrees. Issues of property rights and planning laws are threads that run throughout this review of the land allocation process. Part II overviews the development of the land allocation process. Specific attention is paid to the role of planning in the process, the institutional context of land allocation and the procedures in place for allocating land parcels. Part III presents several case studies describing some of the informal and formal processes that are currently used in the land allocation process. Part IV outlines the major issues for reform in land allocation and land use and offers recommendations and proposals for future technical assistance in the land allocation process.

EXECUTIVE SUMMARY

The government of the Russian Federation has taken strong measures to privatize existing housing, but such measures alone are unlikely to solve the country's housing problems. A next essential step to meet the housing needs of the Russian population is to address the issue of new construction. The private sector can play a vital role in new housing development, but an economic and legal environment must be created that will encourage the formation of a private sector development industry. The transfer of land from public to private control will be an influential factor in how this industry develops.

In the Russian Federation land ownership is one of the last major areas of state monopoly to be privatized. In large part this has been true because of the charged political and emotional issues that have surrounded the debate over how or whether to privatize land. However, unless the issues of land reform are addressed, the availability of land for housing development may become a bottleneck at least equal in importance to the lack of financial resources, building materials and technology presently affecting the Russian construction industry.

At present the land allocation system is governed by a haphazard collection of federal laws passed during the *perestroika* period, recent broad amendments to the Russian Federation Constitution and Presidential decrees promulgated since the collapse of the USSR in December, 1991. In July 1993 the now-defunct Supreme Soviet of the Russian Federation approved on the second reading a new Fundamentals of Land Legislation which was intended to be the major law providing for the general institutional structure and procedural framework for land allocation, property rights in land, and allocation of authority among the government actors

involved in regulating land relationships. While the proposed 1993 Land Fundamentals would have taken significant steps beyond the existing 1991 RSFSR Land Code, many of its provisions have been criticized by advocates of major land reform as not going far enough to reorient land relations along market principles. In any event, in September 1993 President Yeltsin refused to sign the new Land Fundamentals. Despite rapid progress, it is perhaps fair to say that land relationships in Russia today are still characterized by:

- vague, inadequate or nonexistent laws and regulations governing landed property rights and the allocation of land to the private sector;
- the absence of market principles;
- vague policies and standards for land allocation, resulting in erratic and unpredictable allocation procedures;
- overlapping and conflicting authorities in the various levels of Russian government for regulation of land issues;
- widely different attitudes and approaches to land allocation among the local and regional governments;
- a lack of coordination between land law and regulation and other laws and regulations integral to a working system, including planning laws, laws of physical and title registration and laws of mortgage.

Indications are that land reform remains a major policy agenda of President Yeltsin and with the election of a new legislature on December 12, 1993 the opportunity may arise for the Russian Federation to develop a workable legal and procedural framework for land allocation based on market principles.

Areas for Reform in Land Use and Allocation

The issues of land allocation, property rights and urban planning create a "seamless web;" they must be approached in a comprehensive way in order to make progress in any one area. Such issues, discussed in the body of this paper, include the following:

1. The legal structure governing land relations is marked by **inadequate and conflicting fundamental laws**. The general quality of the laws produced is poor.
2. There is substantial **reliance on local governments** for implementation of land reforms. The performance of local governments in land reform is uneven, often depending upon local agreement with the reform agenda of the federal government.
3. The laws are marked by an **absence of prescribed methods of land allocation**, which may provide inexperienced local governments with insufficient guidance and result in uneven performance. A recent presidential decree called for federal regulations on land auctions and other competitive methods of allocating land. However, those regulations, issued on December 10, 1993, were repealed by presidential edict on December 24, 1993, and have not yet been reissued.
4. The law is marked by **ill defined forms of property rights**, forms of property rights that are of questionable value in a market economy, and the absence of some useful forms of property rights.
5. The **emphasis on leasehold land markets raises several questions** about the marketability of leases under the standards of western market

economies Russia seeks to emulate.

6. The laws contain **ill defined grounds for termination of property rights** that are holdovers from the Soviet era and inappropriate in a market system.
7. Inadequate attention is addressed to **land ownership for large scale housing development** by a private sector development industry.
8. There are **inadequate laws of real property registration**, and no single law of general applicability dealing with the issues of real property registration. The registration that occurs may be spread over three or four different registries for the same piece of property.
9. There is an **inadequate system of real property taxation**.
10. There is a continuing **emphasis on directed rather than market driven development**, reflected primarily in the tight control of land use exercised by the local planning and land bureaucracies.
11. There is a **lack of balance between the rights of investors and government land use bureaucracies** due in part to the fact that land rights are not granted until all development decisions have been mandated or approved by official planners.
12. **Development exactions** are imposed on an ad hoc basis, can differ widely among projects, and can be subject to political influence or personal relationships.
13. There is a **lack of transparency in land use regulations**, resulting in unpredictability in planning and permit processes.
14. The system is marked by **conflicting governmental authorities** in land

use and allocation, leading to some uncertainty in the approval and permit process.

15. The system is marked by a certain degree of **complexity in the land use and building permit processes**.
16. Questions may be raised about the **fairness** of the land allocation process, as there are indications that prime parcels in urban areas may frequently come under the control of former elites and criminal organizations.

Areas for Action

Urban land reform requires that issues of basic property rights, urban planning law and procedures, and the law and procedures for land allocation be addressed in order to develop a successful private sector development industry.

Based upon the research and analysis presented, the following program is recommended:

I. Basic Property Rights

1. Enact the proposed Constitution.¹
2. Enact a comprehensive revision of the land code, but not in the form adopted in the Supreme Soviet in July, 1993.
3. Upon enactment of the Land Code, the government should be assisted to widely disseminate information on the basic rights in land in a form accessible to the population.
4. Clarify the land rights of privatized enterprises; consider initiation of

¹ Apparently, in the December 12, 1993 referendum the Constitution was supported by enough votes to be enacted.

"quiet title" actions in specialized tribunals.

5. Develop improved registration systems for real property interests.
6. Investigate the long term implications of a lease based land economy.
7. Consider the creation of specialized tribunals to deal with land and property issues.

II. Land Use Regulation

1. Enact the long pending Foundations of Town Planning Legislation.
2. Attempt to increase the transparency and decrease the subjectivity of the land use regulation process.
3. Attempt to refine or simplify the regulatory process.
4. Define policies on development exactions.
5. Reconsider the present approach to real property taxation.

III. Land Allocation

1. Encourage the development of a unified national policy on land allocation.
2. Establish basic procedures for the land allocation process.
3. Encourage appropriate separation of the land allocation process from the land use regulation process.

Work Program

A work program in the described areas for action might consist of the following:

1. Intensify work on land use issues with Gosstroi.
2. Assist in the development of model land use codes and laws for local governments.
3. Undertake intensive work in selected cities.
4. Provide educational and training in selected topics.

TABLE OF CONTENTS

Introduction	1
I. Historical Development of Property Rights in Land	
A. Pre- <i>perestroika</i> era: 1917-1990	6
B. <i>Perestroika</i> era: 1990-August 1991	11
The Laws on Ownership	11
The Land Laws	14
The Lease Law	17
C. The Russian Federation: August 1991-present	18
On Urgent Measures to Implement Land Reform	19
Enterprise Land	19
Constitutional Amendments	21
Housing Principles	22
Private Sales Transactions	23
The 1993 Land Code	26
On Regulation of Land Relations	32
On Modifying the Land Laws	35
The Civil Code	37
Local Government Laws	38
II. The Process of Land Allocation	
A. The Relationship Between Planning and Land Allocation	44
1. The General Structure of the Planning Bureaucracy	44
2. Recent Developments in the Planning Process	47
3. The Relationship of Planning to Land Allocation	50
B. The Institutional Structure for Land Allocation	52
1. Federal Institutions	53
2. Municipal Institutions	52
Moscow	56
St. Petersburg	59
3. Other Cities and Regions	62

C.	Methods of Land Allocation	65
1.	Developer-initiated projects	65
	Moscow	65
	St. Petersburg	68
2.	Investment competitions	69
	Moscow	69
	St. Petersburg	73
3.	Individual housing construction	75
4.	Land allocation in other cities and regions	82
III.	Case Studies	
A.	Case Study 1 Cottage Development: Agra and Structure M	87
B.	Case Study 2 Community Development Corporation: Yakimanka	91
C.	Case Study 3 Cottage Development: The "Basement" Fiction	96
D.	Case Study 4 The Joint Venture: VMB	99
IV.	Recommendations and Conclusions	
A.	Areas for Reform in Land Use and Allocation	102
B.	Areas for Action	131
C.	Work Program	142

INTRODUCTION

The government of the Russian Federation has taken strong measures to privatize existing housing, but such measures alone are unlikely to solve the country's housing problems. A next essential step to meet the housing needs of the Russian population is to address the issue of new construction. The private sector can play a vital role in new housing development, but an economic and legal environment must be created that will encourage the formation of a private sector development industry. The transfer of land from public to private control will be an influential factor in how this industry develops.

In the Russian Federation land ownership is one of the last major areas of state monopoly to be privatized. In large part this is true because of the charged political and emotional issues that surround the debate over how or whether to privatize land. However, unless the issues of land reform are addressed, the availability of land for housing development may become a bottleneck at least equal in importance to the lack of financial resources, building materials and technology presently affecting the Russian construction industry.

At present the land allocation system is governed by a haphazard collection of federal laws passed during the *perestroika* period,¹ recent broad amendments to the Russian Federation Constitution and Presidential decrees promulgated since the dissolution of the USSR in December, 1991. In July 1993 the now-defunct Supreme

¹ For purposes of this paper, we define the *perestroika* period from 1990 to December 1991, as distinguished from the "Federation" period which began in December 1991 when the Soviet Union officially dissolved into the Newly Independent States (NIS).

Soviet of the Russian Federation² approved on the second reading a new Fundamentals of Land Legislation (1993 Land Code) which was intended to be the major law providing for the general institutional structure and procedural framework for land allocation, property rights in land, and allocation of authority among the government actors involved in regulating land relationships. While the proposed 1993 Land Code is more progressive than the existing 1991 RSFSR Land Code, many of the 1993 Land Code provisions have been criticized by advocates of major land reform as not going far enough to reorient land relations along market principles. In any event, in September 1993 President Yeltsin refused to sign the new Land Fundamentals.

More recently, in October, 1993 President Yeltsin issued his most recent decree on land issues, "On Regulation of Land Relations and Development of Agricultural Reform in Russia."³ Addressed primarily to the issue of distributing the land of the state and collective farms, this new decree restates with respect to urban land many of the rules found in earlier decrees, but also breaks some new ground with respect to property rights and title registration. It is likely that this new decree will be the focus of legal attention over the coming months and will set the stage for a comprehensive land code which must almost certainly follow in 1994.

Despite recent advances, it is perhaps fair to say that land relationships in Russia today are still characterized by:

² President Yeltsin disbanded the Supreme Soviet in September 1993.

³ "On Regulation of Land Relations and Development of Agricultural Reform in Russia" (RF) (1993) [hereinafter the Regulation on Land Relations].

-
- vague, inadequate or nonexistent laws and regulations governing landed property rights and the allocation of land to the private sector;
 - vague policies and standards for land allocation, resulting in erratic and unpredictable allocation procedures;
 - overlapping and conflicting authorities in the various levels of Russian government for regulation of land issues;
 - widely different attitudes and approaches to land allocation among the local and regional governments;
 - a lack of coordination between land law and regulation and other laws and regulations integral to a working system, including planning laws, laws of physical and title registration and laws of mortgage.

Indications are that land reform remains a major policy agenda of President Yeltsin and with the election of a new legislature⁴ the opportunity may arise for the Russian Federation to develop a comprehensive legal and procedural framework for land allocation which will foster a thriving private sector development industry.

This paper was prepared as part of an ongoing program of the United States Agency for International Development and The Urban Institute dealing with reform of the Russian legal and regulatory framework for housing and urban development. It attempts a comprehensive review of the land issue as it affects urban land and

⁴ A new federal legislature was elected on December 12, 1993 and convened shortly thereafter.

housing development. It presents and analyzes the current legal and procedural frameworks which constitute the land allocation system in the Russian Federation. Particular attention is focused on the cities of Moscow and St. Petersburg as models for discussing how normative acts have been implemented in practice. Part I discusses and critiques the historical development of property rights related to land, focusing on the major laws passed during the *perestroika* era and recent Constitutional amendments and Presidential decrees.

Part II overviews the development of the land allocation process. Specific attention is paid to the role of planning in the process, the institutional context of land allocation and the existing procedures for allocating land parcels. Part III presents several case studies describing some of the informal and formal processes that are currently used in the land allocation process. Part IV outlines the major issues for reform in land allocation and land use and offers recommendations and proposals for future technical assistance in the land allocation process.

Property rights and planning laws are threads that run throughout this review of the land allocation process. The right to simply "own" or possess a piece of land is clearly a hollow right without further definition of what the "owner" can do with the land. Similarly, land use is governed primarily by laws of property rights and urban planning.

The purpose of this paper is simply to provide a broad, general review of the law and issues facing housing and urban development reform in Russia, and to suggest possible areas on which to focus future technical assistance efforts. Given the many complex areas of law affecting land and housing, it is not possible at this

time to devote to many of the issues raised in this paper as much explication and analysis as they deserve.

It should be kept in mind that Russia today is in a dramatic period of transition characterized by ambiguities and uncertainties in authority among the various levels of government of the Federation, and between the branches within governments. Laws are routinely enacted at the federal level and ignored at the local level. Consequently, to state with certainty what is the "law of Russia" is a gamble, particularly in the areas of land allocation and planning which are so dependent upon local action. If anything is true, there is substantial variation in land use and allocation practice in Russia today.

What also appears to be true is that despite the many issues and shortcomings raised in this paper, private sector land markets and a development industry seem to be developing at a rapid pace. The inadequacies of the system have not been enough to prevent private initiative, frequently reflected in creative circumventions of the law.

I. HISTORICAL DEVELOPMENT OF PROPERTY RIGHTS IN LAND

1. Pre-perestroika era: 1917-1990

In the years immediately following the 1917 October Revolution, the defining characteristic of the Soviet Union's land policy was the complete nationalization of land.⁵ Private property rights were antithetical to the economic and political philosophy of the Communist governments, and in 1922 Lenin undertook a policy of nationalization and confiscated all private land holdings.⁶

⁵ Serfdom was officially abolished in Russia in 1861 and was accompanied by a number of Emancipation Decrees which redistributed land to the former serfs. This land was not, however, given to individual former serfs in absolute private property ownership. Land was distributed to communes and to households based upon the number of workers in the household and was allotted for hereditary title in perpetuity. For a general discussion of land relations during this period see Stanislaw Sawicki, Soviet Land and Housing Law 20-27 (1977). For a brief period before the Revolution reforms were attempted that would grant the right of private land ownership, with the right to sell or mortgage the land, to individual productive farmers. Known as the Stolypin Reforms (because they were inaugurated by Prime Minister Stolypin) the goal of these reforms was to abolish the legal and institutional barriers which defended and preserved the village commune in favor a system which embraced more Western ideas of land distribution and ownership. Id. at 27-29. The reforms were enacted just a few years before the Revolution and therefore were never given an adequate opportunity to be tested.

⁶ The first Soviet decree "On Land" passed by Lenin in 1917 declared the socialization of land and confiscation of all land of the nobility, Tsar and Church. However, the decree exempted the land of peasants. Sawicki, supra note 5, at 38. A number of Soviet decrees during the period from 1918-1922 did not reflect strict adherence to the socialist principles of land ownership. The economic realities of the day - caused by World War I and a the famine of 1921 - forced the Communist government to free up total state control of agriculture to increase farm output. Id. at 39-41.

The Land Code of 1922 reaffirmed the nationalization of land and stated the primacy of state control over agricultural land, though it contained a number of contradictory provisions. For example, it also affirmed the existence of a peasant's choice of land tenure (based on those tenures existing in law prior to the Revolution) and allowed for the leasing of land. Id. at 41.

For a short period in the mid 1920s the Communist government pursued an economic reform plan called the New Economic Policy which attempted to stimulate the economy and allowed a limited amount of private land ownership for agricultural purposes.⁷ However, by the late 1920s Stalin and the Communist Party establishment viewed NEP as a threat to true socialism, and in 1930 a massive, violent campaign of collectivization of all agricultural land took place.⁸ Private land ownership or use was abolished completely in theory and in practice.

The first USSR Constitution, passed in 1924, provided that the state was responsible for establishing "principles governing the distribution and use of land."⁹ Subsequent versions of the USSR Constitution in 1936¹⁰ and 1977¹¹ retained and

⁷ This period is generally recognized as the years 1921-1928 and is characterized as a general relaxation of socialist policy relative to land. Sawicki, supra note 5, at 40. An important decree on "land toil-tenure" during this period allowed individual title to land by reinstating all the forms of land tenure that existed in pre-Soviet Russia. Peasants were given the right to choose the form of land tenure they desired and many chose private ownership. It is important to remember that the benefit of this type of land tenure was circumscribed to some extent because the agricultural industry as a whole, as well as banks, transportation and foreign trade, were still entirely controlled by the state. Other Soviet legislation also circumscribed this right in substantial ways. Id.

⁸ Id. This was preceded by a number of harshly repressive measures used to force the peasants to submit to collective farming. By 1938, 93 percent of all farming was conducted by collective farms representing 99 percent of the total sown area. Id. at 47-49.

⁹ Konst. SSSR art. 1(m) (1924).

¹⁰ Konst. SSSR arts. 5-6, 10 (1936). Article 5 states that the all property in the USSR shall be held in ownership either by the state or cooperative-collective farm ownership. Article 6 states that land is the property of the state. Article 10 provides that individuals may hold in personal ownership their individual homes and subsidiary husbandry. In reality this did not mean the right to alienate this property, but hold it in life inheritable tenure.

expanded upon this provision.¹²

In addition to the Soviet Constitution, the other major laws governing land relationships during the period preceding *perestroika* were the 1968 USSR Fundamentals of Land Legislation¹³ and the respective republican land codes.¹⁴ Consequently, in the RSFSR, the primary document regulating land relations was the 1970 RSFSR Land Code (hereinafter the "1970 Land Code").¹⁵ The 1970 Land Code did not contemplate private property rights; following the USSR Fundamentals of Land Legislation, it provided only rights to use land for its designated purpose. Moreover, land could be taken from a user at any time with no security of property

¹¹ Konst. SSSR arts. 10-13 (1977). Article 10, like article 5 of the 1936 Constitution states that socialist ownership and collective-farm cooperative ownership are recognized, but the 1977 Constitution recognizes socialist ownership of property owned by trade unions and other social organizations. Article 11 declares state ownership as the basic form of socialist ownership. Article 12 states the land tenure of collective farms is permanent unlimited use. Article 13 provides that citizens have the right of use of individual plots for individual housing construction, gardening and subsidiary husbandry as long as citizens make "rational use" of the land granted to them.

¹² During the Soviet period, republics were allowed to create their own constitutions which could elaborate on the USSR Constitution but not conflict with it. The 1978 RSFSR Constitution (patterned on the 1977 USSR Constitution) contained articles 10-13 identical to those in the USSR Constitution. Konst. RSFSR arts. 10-13 (1978).

¹³ Fundamentals of Land Legislation (1968) (USSR).

¹⁴ In Russian legal practice the "Fundamentals" consists of basic legal principles enacted at the federal level that respective republics must use to develop their own Codes. The republican codes must include and may elaborate on all provisions of the Fundamentals and may include additional provisions that do not conflict with the Fundamentals. This practice is still in use today, and in fact, is a basic principle of federalism of the proposed constitution prepared under Yeltsin auspices in 1993.

¹⁵ RSFSR Fundamentals of Land Legislation (1970) (RSFSR) [hereinafter 1970 Land Code].

rights and often without compensation.

Obviously, no private market for land existed in the Soviet Union. However, this is not to say that land was not recognized as a valuable commodity to be put to its most productive use.¹⁶ Particularly in urban areas, as land became increasingly scarce during the Stalin push for urbanization and industrialization, rational allocation and use was a major focus of the state's activity. Land allocation was dominated by the policy of economic planning and was accomplished through a highly centralized bureaucratic process characterized by elaborate and detailed plans for economic, industrial and social development. The economic development goals set by government through central planning, as opposed to the market forces acting in Western economies, were the most influential factors shaping urban development in the RSFSR.¹⁷

It is important to note that even though property rights were subservient to planned economic objectives, the land law during this period established a system to allocate land to individuals, enterprises and institutions throughout the economy,

¹⁶ Marxist theory, the basis of Soviet economic thought, treats land as a commodity like other factors of production which contribute to wealth. The wealth that surplus land creates should not be retained by any "landowning class," (thus creating a monopoly) but should be redistributed to the working class. Thomas A. Reiner and Robert H. Wilson, Planning and Decision-Making in the Soviet City: Rent, Land and Urban Form in The Socialist City at 50-51 (1978).

¹⁷ These goals are incorporated into the planning documents for cities and territories. Detailed and complex planning documents, usually in the form of a city Master Plan, controlled development. Master Plans designated (and still do) a use for each plot of land within its territory, based on socio-economic planning goals for the area.

and granted to land users relatively stable property rights.¹⁸ Land tenures varied depending upon the type of tenant and the designated use of land.¹⁹ The state granted land to all users free of charge, and under specified conditions land was allocated to individuals as well as enterprises or institutions; the Constitution and 1970 Land Code permitted individuals to hold and use land for individual housing construction and subsidiary farming and husbandry.

Although allocation of land to individuals was possible, the main focus of state land policy was assignment of land to Ministries and enterprises to achieve their economic goals. During the early period of economic development,²⁰ industrialization was a major economic goal, and great deference was given to the perceived needs of industry in the allocation and use of land. Along with the land to satisfy their industrial needs, and to encourage worker relocation to urban areas, enterprise managers were also allocated money and resources to construct housing and other services for their employees.²¹ Consequently, although city and regional

¹⁸ Tenants that used land in compliance with its designated purpose could not be deprived of their use rights arbitrarily. It is important to remember that the concern here was not really the personal rights of users, but the rational use of land as an economic resource. See Sawicki, *supra* note 5, at 56.

¹⁹ The 1970 Land Code specified the categories of use for which land could be allocated and the possessory rights to which users were entitled. For example, cooperative farms had the right to permanent unlimited use of their land for agricultural purposes. Individual plot owners using land for individual housing construction held land in inheritable life tenure. These terms are described in detail *infra* notes 43-46 and accompanying text.

²⁰ This period is generally defined as the mid 1930s to the late 1950s.

²¹ Reiner and Wilson, *supra* note 16, at 58. In the City of Novgorod, a provincial city of approximately 200,000 visited by the authors, over 50% of the housing in the city was built by a single chemical and fertilizer enterprise that was the city's primary

administrations theoretically had a role to play in planning and development of their territories, the influence of federal ministries and individual enterprises over local land use decisions was substantial and often encroached on the authority of local governments.

2. Perestroika era: 1990-August 1991

Starting in 1990 President Gorbachev undertook measures to establish a property rights regime with the goal of demonopolizing the state economy. Three laws passed that year were extremely significant in reshaping property rights in land: The USSR Law on Property,²² the Fundamentals of the USSR and Union Republics Legislation on Land (Land Fundamentals),²³ and the Fundamentals of the USSR and Union Republics on Leasing.²⁴ The Russian Federation subsequently adopted its own Law on Ownership in the RSFSR²⁵ and 1991 RSFSR Land Code²⁶ based on the federal models.

The Laws of Ownership

The laws of ownership are general laws of property rights, including land and

industry. The enterprise has recently turned ownership of the housing over to the city.

²² On Property in the USSR (1990) (USSR) [hereinafter the Law On Property].

²³ Fundamental Legislation of the Union of Soviet Socialist Republics and Union Republics on Land (1990) (USSR) [hereinafter Land Fundamentals].

²⁴ Fundamental Principles of Legislation of the USSR and Unions Republics on Lease (1989) (USSR).

²⁵ Law on Ownership in the RSFSR (1990) (RSFSR) [hereinafter the RSFSR Law on Ownership].

²⁶ Land Code of the RSFSR (1991) (RSFSR) (hereinafter 1991 Land Code).

other forms of real estate along with personal and financial property. The USSR Law on Property was an extraordinary philosophical break from the concept of real property ownership contained in any of the existing policy or normative documents related to property ownership,²⁷ significantly expanding the rights of ownership for individuals and certain categories of enterprises. The law established that land could be held as private property,²⁸ defining three types of ownership in the USSR: ownership of citizens,²⁹ collective ownership³⁰ and state ownership.³¹ It did, however, stop short of granting private property rights in land equivalent to concepts of ownership in market economies; citizens could own land only in life-long inheritable possession, which is not transferable, and only for individual housing or dacha construction and personal subsidiary farming.³² Significantly, the Law on Ownership also codified important guarantees and protections for property users,³³ including, for the first time, providing for compensation to users whose land is

²⁷ The USSR Law on Property was preceded in 1990 by a series of amendments to Articles 10, 11 and 12 of the USSR Constitution which modified the state monopoly of land ownership and made the new Law on Ownership possible.

²⁸ Law on Property, supra note 22, art. 4.1.

²⁹ Id. § II.

³⁰ Id. § III.

³¹ Id. § IV.

³² Id. art. 6.4.

³³ Id. art. 32.

confiscated for public purposes.³⁴

The RSFSR Law on Ownership (still in force today) enacted in December 1991 supersedes the USSR Law on Ownership on the territory of the Russian Federation.³⁵ One of the law's most significant accomplishments is the elaboration of the three categories of ownership (private, collective and state) to a framework consisting of private (natural and juridical persons),³⁶ public ("social organizations"),³⁷ state and municipal entities³⁸ and joint ventures and foreign entities.³⁹ The law also allows individuals to use their property to engage in business activity.⁴⁰

The RSFSR Law On Ownership also establishes the principal of local municipal ownership of land. The Law states that land is the property of those people occupying the territory in which the land is located and administered by the local Council of Peoples' Deputies (soviet).⁴¹ On its face, this Law also allows individuals

³⁴ Id. art. 33.1. The government must compensate the owner either by granting the owner property of equal value or providing monetary compensation equal to the loss the owner suffered from the confiscation.

³⁵ RSFSR Law on Ownership, supra note 25, art. 1.3.

³⁶ Private ownership includes citizens as well as juridical persons. Id. § II.

³⁷ Id. § III.

³⁸ Id. § IV.

³⁹ Id. § V.

⁴⁰ Id. arts. 2.2, 5.2., 11.

⁴¹ Id. art. 6.1.

to own land,⁴² subject, however, to the important caveat that land ownership must comply with the RSFSR Land Code. Consequently, this right is not as broad as it seems since the 1991 RSFSR Land Code, still in effect, allows private ownership only for home construction and subsidiary farming and prohibits alienation of land in private market transactions. The RSFSR Law on Ownership retains the provisions on government takings of private property found in the USSR Law on Ownership.⁴³

The Land Codes

The 1990 USSR Land Fundamentals is the basic law from which republics developed their own Land Codes. Like the Law on Ownership, it was significant at the time of its enactment for establishing a framework for land relations and property rights in land that departed substantially from prior socialist principles. The Land Fundamentals established four types of private property rights (either permanent ownership,⁴⁴ inheritable life tenure,⁴⁵ permanent or long term use,⁴⁶ or lease⁴⁷)

⁴² Id. arts. 10, 12.1.

⁴³ Id. art. 31.2.

⁴⁴ See Land Fundamentals, supra note 22, art. 5. This does not translate to the concept of full ownership of land (freehold). Land may be granted for permanent ownership to public and private enterprises engaged in the agriculture or forestry industries. Ownership in this context actually means permanent use. All transactions involving the land, including sale or gift, are prohibited and tenants do not have the right to change the land's designated use.

⁴⁵ This tenure provides the property owner with a legal guarantee of lifetime use that may be passed on to heirs. Citizens are granted the right to lifetime inheritable possession for individual housing or dacha construction and subsidiary farming or husbandry. Land Fundamentals, supra note 22, art. 20. In the event that there is no heir to inherit the property, the land reverts to the possession of the state.

could be granted depending on the designated use of the land and the characteristics of the owner or user. However, the Land Fundamentals again fell short of granting complete ownership of land to any category of owner. Citizens could own land plots in inheritable life tenure for individual or dacha, subsidiary farming, horticulture and other defined uses,⁴⁸ but alienation rights were restricted to inheritance,⁴⁹ resale to the government, and temporary transfer of ownership under limited circumstances; private market sales transactions were not permitted.⁵⁰ Corporate entities were restricted to rights of use or lease.⁵¹ The Land Fundamentals also defined the separation of powers of the various levels of government involved in regulating land relations⁵² and established general procedural guidance for

⁴⁶ The household or enterprise in use of the land may occupy the land indefinitely for free. Land may be granted for permanent or temporary use to citizens for specific purposes, non-agricultural enterprises, religious organizations and enterprises owned partially or fully by foreign entities. Id. art. 6.

⁴⁷ Id. art. 7.

⁴⁸ Id. art. 20.

⁴⁹ Id. art. 20.

⁵⁰ Id. art. 10. Article 10 stipulates that the procedure for transfer of ownership and usage rights be established by legislation of the union republics. The 1991 RSFSR Land Code provides that land may be held by citizen may be alienated to the state. 1991 Land Code, supra note 26, art. 52(8), or temporarily transfer ownership of land in the event of temporary incapacity to work, summons to military service or commencement of studies. Id. art. 13.

⁵¹ Id. arts. 6-7.

⁵² Id. arts. 13-15.

terminating property rights⁵³ and allocating and confiscating land.⁵⁴

In 1991 the RSFSR adopted a restated Land Code of the RSFSR which remains one of the central documents regulating land relations in the Russian Federation. The 1991 Land Code is modelled on the Land Fundamentals but expands on some of the provisions contained in the Land Fundamentals. It more fully distinguishes the roles of the respective federal and local administrative bodies in the land allocation process and defines the role of the Land Reform and Land Resources Committee (Rozkomzem).⁵⁵ Articles 28 and 29 of the 1991 Land Code elaborates a procedure for allocation and withdrawal of land plots in a way that served as the basis for more detailed Presidential decrees on land allocation.

Chapter VI of the 1991 Land Code contains an exhaustive list of circumstances under which land rights may be terminated, and relatively detailed procedures for settlement of land disputes are found in Section XIII. Resolution of all disputes begins with the local soviet and, provided no settlement is reached, proceeds to arbitration or adjudication.⁵⁶ Many provisions of the 1991 Land Code are discussed in detail throughout this paper.

⁵³ Id. arts. 9-10. This list includes termination for failure to use land for its designated purpose, persistent failure to make tax or rent payments on the land and failure to use the land within a designated time period (1-2 years depending upon the designated land use).

⁵⁴ Id. arts. 8-11.

⁵⁵ See infra notes 170-73 and accompanying text for a more complete discussion of the history and role of this Committee.

⁵⁶ 1991 Land Code, supra note 26, arts. 115-23.

The Lease Law

The law which completes this *troika* is the Fundamental Principles of Legislation of the USSR and Union Republics on Lease.⁵⁷ This law provides that land may be transferred by lease. The law specifies what types of property may be leased by what types of entities; defines the parameters for the lease contract, payment, and enforcement; and defines the property rights of lessors and lessees.

While overshadowed by the more radical advances in land reform since *perestroika*, the Fundamentals of Lease was an important part of the Gorbachev reform policy. Land leasing was viewed as a measure that would bring some element of market principles into the economy.

The impact of the Law on Lease is reflected in the emphasis on leasehold tenure that has been the centerpiece of land reform in Russia today, and which is discussed at length infra Part I.3. The current status of the law as a legal norm is unclear, but it appears to remain effective. In any event, it is the only comprehensive law on leasing at this time and should probably be consulted for guidance on leasing issues. It is possible that many of the principles of the law will be superseded by further development of the Civil Code.⁵⁸

This *troika* of laws went a long way toward dismantling the Communist-era mechanisms for controlling the distribution and use of land. By the middle of 1991

⁵⁷ The Fundamental Legislation of the Union of Soviet Socialist Republics and the Union Republics on Leasehold, art. 3(a) (1990) (USSR).

⁵⁸ The Russian Federation Council of Ministers approved a new Civil Code in October 1993. It currently awaits presidential signature.

the RSFSR possessed a body of normative legal acts sufficient to establish concrete procedures for demonopolizing state ownership of land.

3. The Russian Federation: August 1991-present

The current body of law on land allocation consists of several constitutional amendments, Presidential decrees,⁵⁹ legislative acts of the Supreme Soviet (including the RSFSR Law on Ownership and the 1991 Land Code discussed supra Part I.2) and acts of local government. Until President Yeltsin came to power, much of the law on land allocation and the discussion about land reform policy was marked by an emphasis on agricultural land, and indeed agricultural land remains at the root of the debate on land reform today. However, the body of law adopted since December 1992 related to land allocation has arguably begun to include urban land as a major component of land reform policy. Urban land allocation is specifically addressed in some Yeltsin-era legislation and land allocation for individual housing construction is a major focus of Yeltsin land reform policy.⁶⁰

⁵⁹ Shortly after the dissolution of the Soviet Union in December 1991, the Supreme Soviet delegated to President Yeltsin certain rights to rule by decree. These rights ran for a period of one year and officially terminated in January 1993. Accordingly, much of the law enacted during this period is in the form of Presidential decrees. While the Presidential power to rule by decree granted in January 1992 has lapsed, since the dissolution of the Supreme Soviet by President Yeltsin in October 1993 the President has once again been ruling by Presidential decree. The President's October 27, 1993 decree, On Regulation of Land Relations and Development of Agricultural Reform in Russia, supra note 3, is just one recent example. The current legal basis for rule by presidential decree is obviously questionable, but so was President Yeltsin's unilateral dissolution of the Supreme Soviet in September 1993. At this time, it appears unlikely that legal challenges will be brought against Presidential decrees issued during this period.

⁶⁰ It is worth noting that, in refusing to sign the 1992 Land Code approved by the Supreme Soviet, Yeltsin stated that one of the major shortcomings of the Land Code

On Urgent Measures to Implement Land Reform

President Yeltsin's early land allocation reform efforts were an extension of President Gorbachev's campaign to reform the agricultural sector. In December 1991 the Presidential Decree "On Urgent Measures to Implement Land Reform"⁶¹ called for a reorganization and reallocation of state and collective farms to allow for free allocation of land to private, collective-shareholding or other cooperative entities for agricultural and other purposes. The decree describes general procedures for conducting the reallocation process and the property rights to which owners and users of the land are entitled (primarily lease and ownership with limited rights of disposition), and also calls for the establishment of a reallocation fund to distribute surplus land. A portion of the surplus land is to be made available for non-agricultural purposes, including private housing construction.⁶² The law provides further that surplus land allocated for subsidiary farming, gardening and individual housing construction should be allocated free of charge.⁶³

Enterprise Land

The issue of land ownership and privatization in urban areas was first specifically addressed in two Presidential decrees signed in March and August 1992.

was its failure to adequately address urban land issues.

⁶¹ On Urgent Measures to Implement Land Reform in the RSFSR (1991) (RSFSR) [hereinafter On Urgent Measures].

⁶² Id. art. 4.

⁶³ Id. art. 14.

Presidential Decrees 301⁶⁴ and Presidential Decree 631⁶⁵ allow privatized enterprises or citizens engaged in entrepreneurial activity to acquire land appurtenant to the enterprise.⁶⁶ These same entities may obtain additional tracts of land for expansion of the enterprise through auction or tender.⁶⁷ The property rights granted to juridical or natural persons acquiring land under this law are ownership (permanent use) or lease with the option to acquire ownership.⁶⁸ Chapter II of Decree 631 sets forth the procedure for acquiring tracts of land in compliance with Decrees 301 and 631, and includes auctions, investment competitions and negotiated transactions.

One issue raised by 631 was identifying the land to which the privatizing enterprises were entitled. Article 8 of the decree stated that in the absence of

⁶⁴ On the Sale of Land Plots to Citizens and Juridical Persons as Part of the Privatization of State and Municipal Enterprises (1992) (RF) [hereinafter Decree 301].

⁶⁵ On Confirming Procedure for the Sale of Tracts of Land During Privatization of State and Municipal Enterprises and the Expansion of and Additional Construction to these Enterprises, and Also Offered to Citizens and Associations of Citizens for Entrepreneurial Activity (1992) (RF) [hereinafter Decree 631].

⁶⁶ Id. ch. III.

⁶⁷ Id. art. 12.

⁶⁸ Id. art. 4. Decree 631 uses the term "ownership," but, again, this term must be taken in the context of the other land laws in existence at the time, particularly the 1991 Land Code. The form of "ownership" permitted at the time 631 was issued did not allow free transfer of the land in private market transactions, but only sale back to the state. See 1991 Land Code, supra note 26, art. 52. In that respect it was not significantly different from the "permanent right of use." In fact, municipalities, reluctant to part with valuable enterprise land because of the absence of an effective real property tax system, largely refused even to turn this limited type of "ownership" over to the enterprises, raising various legal issues or simply dragging feet on implementation of the decree. Many municipalities flatly stated that they would only lease the land to enterprises in any case.

documents certifying the land to which an enterprise was entitled under its right of use, the land would be allocated "on the basis of information on the actual use of the tract of land" submitted by the appropriate komzem.⁶⁹ In fact, the documentary evidence relating to rights of use is frequently incomplete or missing, which raised the possibility of drawn out proceedings to define the land to which specific industries were entitled. Perhaps because of issues such as this, the program of turning land over to privatizing enterprises has not progressed very quickly at the municipal level.

Constitutional Amendments

In December 1992 three constitutional amendments were passed by the Supreme Soviet directly affecting property rights for natural and juridical Russian citizens.⁷⁰ Amended articles 10, 11 and 12 of the Russian Federation Constitution reflect a fundamental change in how property relationships related to land are categorized. Amended article 10 states that four types of property ownership are officially recognized and protected in the Russian Federation - private (natural and juridical persons), communal, state and municipal, and property of public associations. The previous article 10 provided that the right to property was "acknowledged and protected by the state," and that diverse forms of property should be created by the state and accorded equal protection. Amended

⁶⁹ Id. art. 8.

⁷⁰ It is also significant that both the President and the Supreme Soviet approved these amendments, as required by the Constitution, considering the customary acrimonious debate that is an ongoing part of the dialogue between the executive and legislative branches of the government on land reform.

article 11 provides that natural resources may be held in private (natural and juridical persons), communal, state and municipal ownership. Previously natural resources were exclusively national property.

Amended article 12 stipulates that owners (natural or juridical persons) may alienate plots of land used for individual housing or dacha construction, gardening or subsidiary farming to the state or in private sales transactions for a contractual price regardless of when the land is acquired. Land used for other purposes may be sold in private market transactions only after ten years if the land was acquired free of charge and after five years if acquisition was for a price. The designated purpose of the land may not be changed by the private purchaser in any case. The previous article 12 provided only for alienation to the state and established a ten year waiting period for alienation regardless of the circumstances under which the land was originally acquired.⁷¹

Housing Principles

Also in December 1992, the Russian Federation Fundamentals of Federal Housing Policy (hereinafter Housing Fundamentals) was enacted.⁷² The Housing Fundamentals consolidates into one document many of the earlier provisions of laws related to land and housing. The Housing Fundamentals is a normative

⁷¹ As of this writing a new Constitution has been approved by President Yeltsin and will be put to the Russian people for a vote on December 12, 1993, at the same time that the new legislature is elected. The proposed Constitution eliminates the current restrictions on selling and alienating land.

⁷² Fundamentals of Federal Housing Policy of the Russian Federation (RF) (1992) [hereinafter Housing Fundamentals].

document which establishes the general housing policy goals of the Russian Federation and will serve as the framework for development of a new federal Housing Code.⁷³

Provisions of the Housing Fundamentals specifically related to land relations include: (1) recognition that the concept of real estate includes land and structures on land;⁷⁴ (2) real estate may be private, state and municipal property, communal property or the property of public associations, and there is no limit to the amount of private real estate that may be owned;⁷⁵ and (3) a "developer"⁷⁶ has a right to acquire land for housing construction in accordance with other relevant established laws and procedures.⁷⁷

Private Sales Transactions

Beginning in December 1992, Presidential Yeltsin issued a series of three decrees designed to elaborate the procedure for allocating to citizens plots of land for defined purposes and the mechanism through which private sales of those plots could take place. The December 1992 the Presidential Decree On Citizens Rights to Own and Sell Land⁷⁸ was issued which permits the private sale of land

⁷³ A new Housing Code is currently in the drafting stage.

⁷⁴ Housing Fundamentals, supra note 72, art. 1.

⁷⁵ Id. art. 6.

⁷⁶ The law does not define the term "developer."

⁷⁷Housing Fundamentals, supra note 68, art. 22.

⁷⁸ On the Right of the Citizens of the Russian Federation to Acquire as Private Property and to Sell Tracts of Land to Conduct Private Subsidiary Farming and Dacha Economies, Horticulture and Private Housing Construction (1992) (RF)

plots used for private housing or dacha construction, horticulture and subsidiary farming.⁷⁹ The decree permits citizens to sell land to other citizens regardless of the circumstances under which the owner acquired the land or how long the owner has possessed the plot,⁸⁰ but the land must continue to be used for the designated purpose unless the purpose is changed in accordance with law.⁸¹ Private sales may occur (1) through a negotiated contract with the seller on a form designed by the Russian Federation Committee on Land Resources and Land Management (Rozkomzem);⁸² (2) by competitive bid; or (3) an auction administered by the local government committee overseeing allocation of land resources.⁸³ All land sales must be notarized and registered with the local office of Rozkomzem and ownership rights are ineffective until registration is complete.⁸⁴

In April 1993 the Presidential Edict "On Additional Measures to Grant Plots

[hereinafter Decree on Citizens' Rights to Own and Sell Land].

⁷⁹ Id. art. 1.

⁸⁰ Id.

⁸¹ Id.

⁸² On June 2, 1993 the Ministry of Justice approved the standard form for sales of this type. See infra notes 87-88 and accompanying text discussing Resolution 503.

⁸³ Decree on Citizens' Rights to Own and Sell Land, supra note 78, at art. 1.

⁸⁴ Id. art. 2.

of Land to Citizens" was issued.⁸⁵ This Edict reinforces the earlier decrees requiring that local governments make land available to citizens for individual housing or dacha construction, gardening or subsidiary farming. The Edict stipulates that citizens may determine the form of land tenure they desire - ownership, life-long inheritable possession or lease.⁸⁶ Local governments are required to (1) inventory land available for distribution;⁸⁷ (2) adopt a system for registration of land titles;⁸⁸ (3) issue appropriate documents of title;⁸⁹ and (4) re-register in the form chosen by the citizens land that was previously granted to the citizen for use.⁹⁰

In May 1993 President Yeltsin finally issued regulations for private purchase and sale of land plots for individual housing or dacha construction, gardening or subsidiary farming on which his two prior decrees depended for implementation. Presidential Resolution No. 503⁹¹ provides the procedure for effecting land sales between Russian citizens. The Resolution requires that all

⁸⁵ On Additional Measures for Allotting Tracts of Land to Citizens (1993) (RF) [hereinafter On Additional Measures].

⁸⁶ This provision reflects the constitutional norm but appears to be in conflict with subsequent legislation which states that local governments may choose the type of land tenure to be applied on their territory.

⁸⁷ On Additional Measures, supra note 85, at art. 2.

⁸⁸ Id. art. 3.

⁸⁹ Id.

⁹⁰ Id.

⁹¹ On Approval of System for Buying and Selling Tracts of Land by Citizens of the Russian Federation (1993) (RF) [hereinafter Resolution 503].

transactions must be formalized by registration of bills of sale and an attached plot layout.⁹² The price of the plots as well as terms of payment may be arranged between buyer and seller or by competition or auction.⁹³ Title passes from buyer to seller only after the sale has been notarized and registered with the Committee for Land Resources and Land Use Management (Rozkomzem).⁹⁴ Resolution 503 also calls for the establishment of a procedure for assessing a transfer tax on land sales. This transfer tax procedure has yet to be developed and is the final impediment to implementing Resolution 503 and private land sales transactions.⁹⁵

The 1993 Land Code

During 1992 and early 1993 a revised Fundamentals of Land Legislation⁹⁶ (1993 Land Code) was drafted in the Supreme Soviet. Intended to restate the 1991 Land Code in its entirety, it was introduced for a vote in July, 1993. Adopted on both its first and second readings it was sent to President Yeltsin signature, but he refused to sign the legislation, objecting to various provisions of

⁹² *Id.* art. 6. A sale without the layout will not be registered. *Id.* Resolution 503 requires that buyers and sellers use a standardized purchase-sales contract. A model contract was approved by the Ministry of Justice in June. A copy of the model contract is provided in Appendix C.

⁹³ *Id.* art. 4.

⁹⁴ *Id.* art. 7.

⁹⁵ Officials with whom the authors spoke in several cities claimed that they were willing and anxious to allow private sales transactions but could not do so until the the federal government provided this last regulatory element.

⁹⁶ Fundamentals of Land Legislation of the Russian Federation (RF) (1993) [hereinafter 1993 Land Code].

the law. Included among the President's objections was that it failed, in his view, to adequately address the issues of urban land.⁹⁷

As a legislative matter, the fate of the 1993 Land Code is uncertain as a result of the President's dissolution of the Supreme Soviet. However, the draft was based upon some degree of consensus and the model will probably be followed to some extent in formulating the next attempt at land reform legislation. To that extent it may be instructive regarding some of the issues and directions of land reform in Russia when the new federal legislature convenes sometime after December 12, 1993.

The 1993 Land Code was essentially a warmed over version of the existing 1991 Land Code, with some worthwhile improvements. Even though it did not take the bold steps toward land reform expected by some, it was on the verge of being a workable guide to development of a private sector land market if it could come to terms with some troubling ambiguities and details.

The law could have been improved if the drafters distinguished conceptually in their own minds between the present stage of privatization, when land is transferred by sale or lease from the state to the private sector, and a second stage when land is largely under private ownership or control. In the initial stages of privatization the state may seek to implement certain development objectives in its land allocation decisions. In the second stage, as privatization takes effect,

⁹⁷ In March, 1994, immediately prior to publication of this paper, a new draft of the Land Code was prepared by the Land Reform and Land Resources Committee of the Russian Federation (Rozkomzem) and the Ministry of Agriculture, and was rejected by the President. Yet another draft is in preparation at this time.

market forces should be substituted for state involvement in allocation, ownership and use decisions. It is in addressing this latter stage that the proposed 1993 Land Code failed most notably.

Following the Soviet legal theory, in the proposed 1993 Land Code the right to own or possess land was still largely dependent on the use made of the land. Rights to the land vested only when the use had been determined.⁹⁸ Land could be confiscated if the use was changed without official approval,⁹⁹ if the improvements were destroyed by hazard and not reconstructed within 2 years,¹⁰⁰ if the land was not used "efficiently,"¹⁰¹ or if a legal entity using the land ceased operations.¹⁰²

The law would restrict change of use of land obtained from the state, even if the land is obtained in ownership for fair market value, by making such changes subject to the approval of local legislatures, and not just to the land use laws.¹⁰³ The discretion of the local legislatures in considering changes of use was not constrained.

Like the 1991 Land Code, the proposed 1993 Land Code defined the four basic types of land tenure — ownership, leasehold, lifetime inheritable possession

⁹⁸ Id. art. 29.

⁹⁹ Id. art. 40(1).

¹⁰⁰ Id. art. 39.

¹⁰¹ Id. art. 40(1), 57.

¹⁰² Id. art. 40(1).

¹⁰³ 1993 Land Code, supra note 96, art. 40(1).

and right of use — in terms of the "bundle" of legal rights attached to each form of tenure. However, the 1993 Land Code included new rights to mortgage, lease, and sublease, as well as the all important right to sell in private market transactions (subject to the restriction found in the Code). Ownership is the highest form of tenure, and approaches fee ownership as understood in market economies; rights of use (permanent and temporary) are a far more limited form of tenure and are similar to the same concept existing in the Soviet era.¹⁰⁴

The specific forms of ownership defined in the 1993 proposed Land Code are frequently ambiguous and of questionable use in a market system; this is particularly true of the "rights of use" and of "inheritable possession" that have been handed down from the 1991 Land Code. At the same time, there is no attention paid to other useful forms of property rights such as covenants, easements, and common ownership.

As in the 1991 Land Code, the 1993 Land Code permitted subjects of the Federation¹⁰⁵ individually to elect whether they would allow private ownership of land, leaseholds or rights of use.¹⁰⁶ Conceivably, rights of ownership may still be denied in certain regions, setting up a potential conflict between the Land Law

¹⁰⁴ Id. arts. 53-57.

¹⁰⁵ "Subjects of the Federation" is an administrative, geographic and political distinction in federal law which includes republics within the Russian Federation, territories, regions, autonomous jurisdictions and the cities of Moscow and St. Petersburg.

¹⁰⁶ 1993 Land Code, supra note 96, art. 4(2).

and the Constitution.¹⁰⁷ Legal entities could still hold land only through leaseholds.¹⁰⁸ Similarly, housing associations (e.g. cooperatives and condominiums) could hold land only under leasehold, though the law contains conflicting provisions on this point.¹⁰⁹

The ownership of land for the development of multi-unit housing projects by professional developers is not specifically permitted.¹¹⁰ The law therefore made no allowance for a "chain of title" from a developer of subdivisions or multi-family housing to the ultimate purchasers of the housing.¹¹¹

Restrictions were imposed on the right to resell land obtained from the state, even if the land is obtained in ownership at fair market value. These restrictions do not apply to individual home and garden plots, which can be sold at any time. Land obtained gratis from the state cannot be sold for 10 years, and

¹⁰⁷ Article 12 of the Constitution allows individuals to privately own land for dacha and individual housing construction.

¹⁰⁸ 1993 Land Code, supra note 96, arts. 11, 14, 15.

¹⁰⁹ Id. Article 38 provides that the transfer of a structure in parts, as is happening in the privatization of multifamily buildings, automatically results in the transfer of equal parts of the land to the new joint owners. The ambiguity is in whether the new owners obtain only a joint interest in whatever form of ownership existed at the time the property was privatized.

¹¹⁰ Again, the law is ambiguous. Perhaps the right of developers are covered in item 8 of paragraph 1 of article 5 (land for "entrepreneurial activities"), or in items 4, 8 and 9 of paragraph 3 of article 11 which allows sale of land to citizens and their entrepreneurial associations for non-agricultural purposes.

¹¹¹ See infra Part III (Case Studies) for a discussion of the mechanisms used to circumvent this problem in the law.

all other land can be sold 5 years after acquisition.¹¹²

The 1993 Land Code established various rules affecting the rights of land holders, both tenants and owners, to mortgage land. While the introduction of the mortgage concept is new and a significant step forward, many of the mortgage rules proposed by the proposed 1993 Land Code infringed on what would normally be market decisions or negotiations between landlord and tenant, or borrower and lender, and potentially conflict with the developing law of real estate mortgages in the Russian Federation.¹¹³

The 1993 Land Code also sought to establish various rules for leases, but failed to distinguish clearly between market lease transactions in privately owned land and leases of state owned land. The rules for leases cover, for example, term restrictions and rights to sublet, assign and mortgage.¹¹⁴ A distinction is made between "purchased" leases, for which all rent is paid in advance, and installment leases. Tenants under purchased leases have greater property rights, primarily the right to mortgage, than other tenants.¹¹⁵

The proposed law appeared to concentrate a great deal of land use authority in the State Committee on Land Resources and Development ("Roskomzem").

¹¹² 1993 Land Code, supra note 96, art. 12.

¹¹³ Id. art. 13.

¹¹⁴ Id. art. 15.

¹¹⁵ Id. art. 56. Lessees under leases that reserve periodic rents cannot mortgage, sublet or apply for a change of use, nor are they entitled to compensation for the value of their leasehold in the event of a taking. Those who purchase leases can mortgage their interests and are entitled to compensation for takings.

However, apparently overlapping powers are granted to various levels of government in the areas of planning and enforcement; the location of real authority is often ambiguous.¹¹⁶

In the 1993 Land Code the concept of "withdrawal," "redemption" or confiscation of land seems to be treated as a usual and ordinary part of the system. In fact, such actions appear to be viewed as just another means of land allocation. This is a noteworthy departure from market systems, in which confiscation of land by the government is viewed as an extraordinary action having nothing to do with land allocation issues. It is a cause for concern primarily because the entire concept of compensation for takings has only been introduced in the law in the past three years and there is little experience with the concept to date.

The system of land allocation established in the 1991 Land Code, whereby individuals and legal entities may submit applications and proposals for use of a designated parcel of land, regardless of whether or not the land is presently in use, was retained.¹¹⁷ The proposed law did not address other methods of land allocation. Local government processing of the application may include detailed technical review of the proposal under existing land use laws and an opportunity for public comment on the proposal. If the land is presently in use, compensation must be paid to the present user.

¹¹⁶ See generally 1993 Land Code, supra note 96, chs. 2 & 3.

¹¹⁷ Id. art. 29.

Moreover, while the land allocation decisions of the local government were made subject to appeal by the applicant, there are no clear standards set out in the law against which to review those decisions.

On Regulation of Land Relations

On October 27, 1993, President Yeltsin issued the decree "On Regulation of Land Relationships and Development of Agricultural Reform in Russia."¹¹⁸ This decree was intended primarily to address the reallocation of agricultural land from the state and collective farms to individual farmers. It accomplishes that goal essentially by providing for the issuance of shares representing land interests to the collective farmers individually and permitting them to request an in-kind allocation of land or to trade the land shares among themselves.

With respect to urban land issues, the new decree appears to clarify and restate some principles that can be found in earlier laws. In particular, the decree:

- (1) defines the concept of "real estate" to include both land and the structures or improvements located on it.¹¹⁹ (This concept had been raised in the earlier Fundamental Principles of Federal Housing Policy, but its implications in that law were unclear);
- (2) authorizes citizens and juridical entities that "own" land to sell or mortgage it freely.¹²⁰ In this respect, the new decree can be viewed as

¹¹⁸ On Regulation of Land Relationships, supra note.

¹¹⁹ Id. art. 1.

¹²⁰ Id. art. 2.

an amendment to the 1991 Land Code and the Constitution, in that it expands the rights of ownership for individuals and juridical entities, appears to abolish the present limitations on the purposes for which citizens may own land, and appears to abolish as well all waiting periods for the sale of land;

- (3) establishes a registration system based upon the "Certificate of Title," which is to be issued with respect to each parcel of land and registered with the local komzem.¹²¹ All initial allocations and purchase and sale transactions occurring after the date of the decree are invalid in the absence of registration of a certificate of title.¹²² Holders of land rights existing prior to the decree have the right to demand that their prior right be elevated to full ownership and to have a certificate of title issued and registered;¹²³
- (4) subjects all disputes concerning land to court proceedings,¹²⁴ whereas previously all such disputes were subject to administrative resolution by the local soviet before entry to court was permitted;
- (5) specifically provides that land may be allocated by competitions and auctions, and requires the government to develop uniform regulations

¹²¹ Id. art. 3.

¹²² Id.

¹²³ Id.

¹²⁴ Id. art. 4.

governing land competitions and auctions. It appears that competitions and auctions are not established as the mandatory means of allocating land, and that other means are permissible.

It appears that the new decree will be followed by a number of regulations, including the auction regulation mentioned above as well as regulations on the taxation of land sale transactions. It also requires that the federal government issue regulations governing the allocation of land through auction or other competitive procedures. If the schedule set out in the decree is met, such regulations should be issued by December, 1993. At this time it is not known whether the regulations will be detailed or simply provide a general framework for enactment of local regulation.

The new decree is obviously not the last word on land relations, and itself suffers from many of the ambiguities and broad generalities of the earlier law. It is likely that a comprehensive restatement of the 1991 Land Code, perhaps incorporating many of the concepts of the new decree, will still be a main order of business following assembly of the new legislature in 1994.

On Modifying the Land Laws

On December 24, 1994 President Yeltsin issued the decree (No. 2287) "On Modifying the Land Laws of the Russian Federation to be in Compliance with the Constitution of the Russian Federation."¹²⁵ The apparent purpose of this decree was to revise the 1991 Land Code pending enactment of a new Land Code.

¹²⁵ On Modifying the Land Laws of the Russian Federation to be in Compliance with the Constitution of the Russian Federation (1993) (RF) [hereinafter On Modifying the Land Laws].

Decree 2287 repeals many of the provisions of the 1991 Land Code. Some of the deletions are entirely new changes to the Land Code, others have textual support in the December 1993 Constitution or in other land laws. Among other things, the Decree purges the Land Code of the provisions delegating to the local soviets authority for regulating land relations within their territories. This was necessary because the local soviets were disbanded by presidential decree in October 1993 with new elections suspended until early 1994 in most areas. However, the decree does not explicitly grant to another body the responsibilities that belonged to the local soviets.

The Decree also eliminates provisions of the Land Code that delineated the scopes of authority to regulate land relations between federal and local authorities.¹²⁶ The Decree abolishes the land ownership tenure of inheritable life possession.¹²⁷ The Decree eliminates the process for certifying and registering ownership rights to a land plot.¹²⁸ This process has been replaced by procedures in Decree 1767 "On the Regulation of Land Relations."¹²⁹ The decree also eliminates the process for settling land disputes¹³⁰ since Decree 1767 states that all land disputes, including those connected with transfer and purchase of plots,

¹²⁶ Id. art. 1.

¹²⁷ Id. art. 3.

¹²⁸ Id. art. 2.

¹²⁹ On Regulation of Land Relations, supra note 3, art. 3. This decree provides that the local komzem issues certificates of ownership to land owners and the right to ownership is registered in a land book.

¹³⁰ On Modifying Land Laws, supra note 125, art. 1.

will be resolved in the courts.¹³¹ Many of the vague and overbroad provisions in the 1991 Land Code terminating land ownership and use rights have been eliminated by Decree 2287.¹³² Use rights for owners are broadly defined in the Constitution as the right to "freely possess, utilize, and dispose of land and natural resources provided that this does not damage the environment and does not violate the legitimate interests of others."¹³³ However, with the elimination of the land use termination provisions from the Land Code neither the Constitution nor the Land Code clearly defines under what circumstances users and lessees of land may lose their land rights.

Decree 2287 improves the 1991 Land Code in areas where the decree updates the Code to reflect a number of changes in the legal framework affecting land relations that are contained in previously-enacted laws. In this sense Decree 2287 eliminates some of the contradiction and overlap that existed in the legal framework. At the same time, however, the decree has created new uncertainties by deleting many still relevant provisions of the Land Code that are addressed in other land laws, thus creating a vacuum in the law.

The Civil Code

Often overlooked in the discussion of land is the Civil Code of the Russian

¹³¹ On Regulating Land Relations, supra note 3, art. 4.

¹³² On Modifying the Land Laws, supra note 125, art. 1.

¹³³ RF Const. art. 36(2) (1993).

Federation.¹³⁴ This is generally with good reason, because the existing Civil Code dates from a time long before current developments and reflects few, if any, legal principles relevant to the current revolution in land rights.

At this time there is a comprehensive revision of the Civil Code underway, with enactment presently planned sometime in 1994. Drafts of the revised Civil Code make it clear that this law will have significant influence on the direction of all property rights, including landed rights, in Russia. As with most Civil Codes, the revised draft includes an extensive chapter on property generally, which includes significant articles on land ownership; the creation and termination of land rights; servitudes; mortgage of land; characteristics of basic property rights, including ownership, lease and usufruct; and the rudiments of title registration.

At this time, in light of the comprehensive revision of the Civil Code, questions must be raised about the continuing relevance of the Land Codes in the forms they have been produced in the past. Most of the material on the legal aspects of acquisition, possession, use and disposition of land will be addressed in the Civil Code. It appears that a major objective now should be to coordinate the provisions of the Land Code and the Civil Code, which in their extensive overlap raise the spectre of conflicting interpretation.

Local Government Laws

Federal law designates to the soviets of peoples' deputies of local and regional governments the responsibility for devising their detailed procedures for land

¹³⁴ Civil Code of the RSFRS (RSFSR) (1964 and as amended).

allocation.¹³⁵ Moscow and St. Petersburg are "subjects of the Federation," an administrative and geographic distinction which grants them the authority to develop their own legal and procedural frameworks for land allocation independent of approval from a higher administrative district. In St. Petersburg normative documents relative to land allocation were passed by the lower soviet of the municipal St. Petersburg Soviet of Peoples Deputies.¹³⁶ In Moscow two Presidential decrees granted to the Mayor the authority to rule by mayoral decree,¹³⁷ and thus all existing laws relevant to land allocation were promulgated by the executive branch of government.

In St. Petersburg, the main laws comprising the legal and procedural framework of land allocation are "On the Sale of the Property of St. Petersburg and the offer of Municipal Contracts at Investment Auction" (Resolution 307)¹³⁸ and "On

¹³⁵ 1991 Land Code, supra note 26, ch. III.

¹³⁶ The St. Petersburg City Soviet was dissolved in October, 1993 in accordance with the Presidential decree dissolving all local legislative bodies. A new city legislature will be elected in the general elections to be held on December 12, 1993.

¹³⁷ Presidential Decree On the Authority of the Executive Agencies of the City of Moscow (RF) (1991); Presidential Decree on the Authority of Management Agencies of the City of Moscow During the Period of Radical Economic Reform (RF) (1991). This decree was held unconstitutional by the RSFSR Constitutional Court.

¹³⁸ On the Sale of the Property of St. Petersburg and the Offer of Municipal Contracts at Investment Auction (St. Petersburg) (1992) [hereinafter Resolution 307]. Resolution 307 was revoked by order of the St. Petersburg Mayor in the last week of October, 1993, following the dissolution of the City Soviet. That Resolution provided for a land distribution process supervised by a committee comprised of members of the City Soviet. The City Administration is presently drafting a new regulation on land allocation processes which will place the land allocation under the direction of a new Committee on Municipal Economy, which is an executive organ and part of the City Administration.

the Procedure for Preparing Instructions Regarding Issues Concerning the Construction, Reconstruction, and Offering of Land Plots" (Interim Statute 332-r).¹³⁹

Resolution 307 defines the procedure for conducting investment competitions and auctions. It stipulates the St. Petersburg Property Fund¹⁴⁰ as the seller on behalf of the City of St. Petersburg and calls for the establishment of a Commission to organize and conduct the competitions and auctions.¹⁴¹ The Resolution outlines the procedure for holding competitions and auctions¹⁴² and specifies the rights and obligations of the seller and the Commission.¹⁴³

Interim Statute 332-r provides a fairly streamlined procedure for allocating land and issuing permits for construction. The Statute offers some improvements over its predecessor which contained a detailed and lengthy process for allocation and permitting. An important change between the previous procedure and Interim Statute 332-r concerns when a land recipient's property rights become effective. Previously, no lease was signed until construction was complete. According to Interim Statute 332-r, a lease is signed after approvals for allocation and

¹³⁹ On the Procedure for Preparing Instructions Regarding Issues Concerning the Construction, Reconstruction, and Offering of Land Plots (St. Petersburg) (1993) [hereinafter Interim Statute 332-r].

¹⁴⁰ Resolution 307, *supra* note 128, at 1.3. *See infra* Part II.B.1 for a discussion of the role of Property Funds in the land allocation process.

¹⁴¹ *Id.* at para. 1.4.

¹⁴² *Id.* at § 5.

¹⁴³ *Id.* at § 6.

construction are authorized and before construction begins,¹⁴⁴ giving a developer more security than the previous procedure.

In Moscow, the basic legal and procedural framework for land allocation is comprised of the following documents: "On the Procedure for Allocation and Appropriation of Land in the City of Moscow" (Mayor's Instruction No. 51-RVM),¹⁴⁵ "On Arranging Competitions to Allocate Plots of Land in Moscow on a Long-Term Lease Basis" (Mayor's Decree 264-PM),¹⁴⁶ "On the Procedure and Conditions for Conducting Tenders for Long-Term Lease of Land Plots in Moscow" (Mayor's Decree 571-PM),¹⁴⁷ and "On Revision of the Procedure for Preparation of Administrative Documentation for Allocation of Land Plots for Construction in the City of Moscow" (Mayor's Instruction 168-RM).¹⁴⁸

Mayor's Instruction 51-RVM contains the basic procedure for land allocation in the City of Moscow. It states what type of land may be allocated and to which types of entities. The Instruction provides that land may be allocated to citizens for

¹⁴⁴ Interim Statute 332-r, supra note 139, at art. 9.

¹⁴⁵ On the Procedure for Allocation and Appropriation of Land in the City of Moscow (Moscow) (1992) [hereinafter Mayor's Instruction No. 51-RVM].

¹⁴⁶ On Arranging Competitions to Allocate Plots of Land in Moscow on a Long-Term Lease Basis (Moscow) (1992) [hereinafter Mayor's Decree 264-PM].

¹⁴⁷ On the Procedure and Conditions for Conducting Tenders for Long-Term Lease of Land Plots in Moscow (Moscow) (1992) [hereinafter Mayor's Decree 571-PM].

¹⁴⁸ On Revision of the Procedure for Preparation of Administrative Documentation for Allocation of Land Plots for Construction in the City of Moscow (Moscow) (1993) [Mayor's Instruction 168-RM].

inheritable lifetime possession.¹⁴⁹ Land may be allocated to legal and juridical persons for permanent or temporary use or for long or short-term lease.¹⁵⁰ It provides the procedural as well as documentary requirements for allocating land for development,¹⁵¹ and contains provisions on government takings of land allocated to private entities.¹⁵²

Mayor's Decree 264-PM calls for the establishment of a procedure to arrange competitions for the allocation of land plots. It creates the organization charged with the responsibility of arranging the competitions and provides for the creation of a Competition Commission to select winners based on competitive bids. Decree 571-PM modifies and expands upon Mayor's Decree 264-M by detailing the composition, scope of duties and authority of the Moscow Commission for Land Relations¹⁵³ and provides provisional regulations for conducting competitions to let land for long term lease.¹⁵⁴ Mayor's Instruction 168-PM amends Decree 571-PM by elaborating on some of the procedural provisions of 571-PM and providing considerable detail on the documentary requirements and filing/approval time periods for the allocation and permitting process.

¹⁴⁹ Mayor's Instruction 51-RVM, supra note 145, at art. 2.

¹⁵⁰ Id. art. 2.

¹⁵¹ Id. § 1.

¹⁵² Id. § 2. The terms under which land may be confiscated are the same as those provided in the 1991 Land Code.

¹⁵³ Id. at appendix I. See infra Part II.B.2 for a comprehensive discussion of the role of this Committee in the land allocation process.

¹⁵⁴ Decree 571-PM, supra note 147, appendix III.

All of above local laws are discussed in greater detail along with an evaluation of the allocation process infra Part II.B.

II. THE PROCESS OF LAND ALLOCATION

A. *The Relationship Between Planning and Land Allocation*¹⁵⁵

Until only a few years ago, Russian authorities exercised their monopoly power over land allocation through the urban planning system. Land allocation was largely governed by planning and architectural agencies of the government. With the recent changes in the property rights regime and the land reform program, the prerogatives of the planning and architectural agencies are gradually diminishing in favor of the rights of the new private sector landholders and the land bureaucracy, most notably the federal and local land reform committees (komzems).

The relationships between planning and land reform, and between the planning and land bureaucracies, are in a transitional stage of development. At this time, however, planning still appears to have a commanding role in the land allocation process.

1. General Structure of Planning Bureaucracy

The institutional structure of the Russian planning Bureaucracy is outlined in the 1992 "Fundamentals of Urban Planning in the Russian Federation" (Urban Planning Fundamentals).¹⁵⁶ That law describes the following system of administrative authority which has direct control over planning and building:

¹⁵⁵ Much of the material in this section is taken from the paper entitled "Urban Planning and Allocation of Land Lots" prepared by Alexander Vysokovsky and Eduard Trutnev, principles of the Moscow urban planning and design firm Polis 3, which was prepared specifically for this project. The contents of that paper have been edited and paraphrased as necessary.

¹⁵⁶ Fundamentals of Urban Planning in the Russian Federation (RF) (1992) (hereinafter Urban Planning Fundamentals).

(a) the State Committee on Architecture and Urban Planning (Gosstroj). Gosstroj is the federal agency that supervises state planning and building institutes in the development of uniform technical norms and procedures for urban development;

(b) the architectural and planning agencies of the republics, regions and territories ("subjects of the Federation"), which include the cities of Moscow and St. Petersburg. These agencies have direct supervisory authority over municipal and district level architectural and planning agencies within their territories;¹⁵⁷

(c) the architectural and urban planning bodies of districts, towns, and cities. These are typically known in the towns and smaller jurisdictions as the local Department of Architecture and Urban Planning or the Architecture and Planning Administration.

A parallel system of architectural and planning institutes and research organizations exists and consists of the following entities:

(a) federal institutes reporting directly to Gosstroj and responsible for developing architectural, building and planning norms and regulations. Under the Soviet system these institutes prepared standardized norms and regulations for all Russian cities. In addition to the creation of norms and regulations, these institutes would actually create the master plans of many Russian cities, particularly the

¹⁵⁷ In Moscow, for example, this role is filled by the Moscow Committee for Architecture and Urban Planning (Moskomarkhitectura).

smaller and mid-sized cities;¹⁵⁸

(b) municipal institutes under the direction of the regional or municipal authorities, frequently referred to as Construction Engineering and Planning Institutes (Grazhdanproyekt). They are engaged primarily in planning and design activities, and have no direct administrative or regulatory function;¹⁵⁹

Under the Soviet system, the Gosstroi institutes and local Grazhdanproyekt would have a virtual monopoly on the development of planning norms and on the planning, engineering and design of local projects. Today, under the Urban Planning Fundamentals, their influence is waning. Municipal agencies are more involved in the development of planning, design and building norms at the local level. Moreover, it is no longer necessary for landholders to use the services of the Grazhdanproyekt in the planning, design and engineering of their projects. With the waning of the institutes there is the emergence of a private sector planning and design industry.¹⁶⁰

¹⁵⁸ These institutes include, for example, the Moscow Central Urban Research and Planning Institute (TSNIIP), the State Institute for Urban Planning (GIPROGOR), and the St. Petersburg All Russia Institute of Urbanistics.

¹⁵⁹ In Moscow, for example, the local equivalents are under the direct supervision of the Committee on Architecture and Planning.

¹⁶⁰ The institutes have always served as outside consultants or contractors to the local governments, and not as line agencies; they were compensated for their services. Consequently, another factor leading to the decline of the institutes and the Grazhdanproyekts seems to be the lack of funds in local budgets to pay for the services of these organizations. In several cities visited by the authors the local administrations stated that they were emphasizing the preparation of town planning documentation by the private sector because the city could no longer afford to pay for it. Other cities claimed to have deferred larger planning projects, including revisions of master plans, because they cannot pay the consulting fees of the national institutes. In fact, the national institutes and the local Grazhdanproyekts are now competing for private sector work.

2. Recent Developments in the Planning Process

The official planning process in Russian cities consists of preparation of a series of plans which increase in detail as the geographic scope of the subject narrows. Planning starts with the master plan or "general layout," which is followed by more detailed district, microdistrict, and block plans, which are often followed by the actual development design for specific project sites.¹⁶¹ Plans have in the past been characterized by a very high degree of detail on land use and design. Also, in the absence of concepts of private property, and of private development, architectural and planning industries, the Soviet approach to planning did not provide effective means for public participation in the planning process, or procedures for landholders to initiate adoption of, or modification, waiver or challenge to planning norms or regulations.

The 1992 Urban Planning Fundamentals broke new ground by enacting into law the following concepts:

- planning documentation of a locality, including the master plan, are public legal documents defining the rights and limitations on

¹⁶¹ Oddly enough, the Master Plan, which was and to a great extent remain, the starting point of all urban development, was not available to the public, but was rather considered a state secret. Under the Urban Planning Principles, the Master Plan is now characterized as "the principal legal document" governing the development of the territory.

Russians involved in urban development will frequently be heard to say that the local master plans are noteworthy more for how often they are violated than for how often they are obeyed. The approach to the master plan in many cities seems to be changing. While some cities are actively reviewing and attempting to update the existing master plans, others are ignoring them as irrelevant and exploring alternative approaches such as zoning districts and small area development plans.

landholders and the government;¹⁶²

- planning activity is primarily a local function;¹⁶³
- local planning regulations should include provisions for public participation and comment on planning matters;¹⁶⁴
- private landowners should play a large role in developing the planning and design documentation for specific development projects;¹⁶⁵
- local planning regulations must include urban development standards to serve as the basis for legal resolution of disputes.¹⁶⁶

The impact of the Urban Planning Fundamentals to date has not been dramatic, which should not be surprising given the broad concepts described in the law and the fact that implementation is largely left to the action of local government. As discussed further in other sections of this paper, Moscow is making an attempt to develop new concepts and procedures for local planning that generally accord with the direction of the Urban Planning Fundamentals and St. Petersburg has commissioned one of the state institutes to prepare a complete revision of its planning procedures, including implementation of a local zoning code.

¹⁶² Urban Planning Fundamentals, supra note 156, arts. 5 and 6.

¹⁶³ Id. art. 17. In fact, local control of urban planning began to emerge in the late 1980's by an agreement of the Communist Party and the USSR Council of Ministers intended to reduce the power of the federal construction bureaucracies and increase local discretion. See Blair. A. Ruble, Reshaping the City: The Politics of Property In A Provincial Russian City, 21 Urban Anthropology 211-12 (1992).

¹⁶⁴ Urban Planning Fundamentals, supra note 156, art. 8.

¹⁶⁵ Id. art. 7.

¹⁶⁶ Id. art. 5(2).

The Urban Planning Fundamentals were to be followed by the Fundamentals of Town Planning Legislation,¹⁶⁷ [Urban Planning Legislation] which was prepared by a working group within Gosstroi and adopted on a first reading by the Supreme Soviet before it was disbanded by the President in September 1993. The Urban Planning Legislation takes the Urban Planning Fundamentals yet further in the direction of adapting planning concepts to the new realities in property relations by incorporating the following ideas:

- further emphasizing the rights of participation of the public and private landholders;
- introducing the concept of areawide zoning as the fundamental means of land regulation;
- mandating that local regulations include provisions for private initiative to adopt, waive or modify planning and zoning norms and regulations;
- increasing the role of private landowners in project use, planning and design decisions and limiting the bureaucracy's control over project design decisions;
- requiring that local regulation include standards and procedures for the issuance of building permits.

The fate of the Urban Planning Legislation will await either the election of new legislature or perhaps a decree of the President. Even if enacted, however, one of the features of the Urban Planning Legislation as presently drafted is that it delegates to

¹⁶⁷ Draft Fundamentals of Town Planning Legislation of the Russian Federation (RF) (1993) [hereinafter the Urban Planning Legislation].

local governments the responsibility to see that appropriate local regulations are adopted. Unless an effort is made to guide the local efforts there may be a long period of trial and error, or perhaps legal challenges, before the liberalizing concepts in the new laws are implemented in practice. It appears that in line with its former function, Gosstroi is staking out the role of guiding the localities in the preparation of appropriate local codes to implement the concepts of the new laws.

3. Relationship of Planning to Land Allocation

The planning laws do not directly govern the allocation of land. However, the 1991 Land Code is generally interpreted to make land allocation decisions subject to compliance with all local planning requirements. Since at this time official plans can still frequently be detailed to the individual project level, the widespread practice is that land rights are not allocated until the use, design, and practically all other significant development decisions related to a land parcel have been specified and/or approved by the locality. The centrality of the planning and land use regulation process to allocation is reflected in the descriptions of the process found in Part II.A of this paper.

The upshot is that before rights to land vest, prospective land developers must complete the entire land use and building permit process, including preparation of design and engineering plans and approvals short of final construction drawings; resolve all infrastructure and utility issues; and obtain building orders and town planning assignments from the municipality. In practically all instances the work is undertaken at the expense of the developer, even if performed by city agencies, and at the developer's risk. It is not hard to see how this process can be a disincentive to

investment in real estate projects by those who do not have the political connections to feel absolutely certain of the outcome. There are also arguments to be made that this process perpetuates the government monopoly on land use decisions and insulates land from market forces.¹⁶⁸

¹⁶⁸ There are some indications that this system is changing. In some of the cities visited by the authors the local authorities were attempting to move toward a system whereby land is allocated based upon broad, flexible planning guidelines for the area in which the land is located. Under such systems the land developer would apply for and receive building permits on the basis of plans and designs created by the developer after the land is allocated. In this regard, some city planning authorities appear to be genuinely interested in promoting diversity, creativity and market dynamics by removing the official planning bureaucracies from design decisions.

B. Institutional Structure for Land Allocation

The institutional structure for land allocation is comprised of executive and legislative authorities at the national, intermediate administrative district and municipal level. While much of the daily management of the land allocation process occurs at the municipal level and is coordinated by local governments, the federal government continues to play an integral role in the process.

Branches of the main federal agency responsible for land reform (Rozkomzem, discussed below) and privatizing state-owned property (Goskomimushchestvo-GKI) are established in municipalities throughout the Russian Federation. In theory, the 1991 Land Code establishes the institutional structure and scope of authority for all the executive and legislative actors involved in the process of land reform and privatization. However, in practice there exist many unclear and conflicting scopes of authority between federal and local agencies and between the executive and legislative branches of government. This lack of clarity is a result of several factors. In some cases the Land Code itself designates nearly identical responsibilities to separate entities.¹⁶⁹ In other cases the relationships between the players is a

¹⁶⁹ For instance, article 19(3) of the 1991 Land Code delegates responsibility to the city soviets to organize and keep the land cadastre. Article 21(3) grants the identical responsibility to territorial and regional soviets.

The same overlap is present in several laws which delegate administrative oversight of land matters. Article II(h) of the Federal Agreement states that land is under the joint authority of the federal government and local governments without specifying any guidelines on how to divide that authority. Federal Agreement (RF) (1992). Article 51 of the law On Kray and Oblast Soviets of Peoples' Deputies and Kray and Oblast Administrations state that it is within the jurisdiction of the kray or oblast regional administration to oversee all land matters. On Kray and Oblast Soviets of Peoples' Deputies and Kray and Oblast Administrations (RF) (1992). Article 71 of the RSFSR Law on Local Self-Government delegates to city administrations

reflection of an historical balance of power between them or simple administrative convenience.

Political tensions rooted in philosophical differences over the process of land reform also exist between various organizations involved in the land allocation process. Finally, there is a reluctance to reform the land allocation system in many areas where particular organizations or individuals within organizations are striving to preserve the status quo. In this situation the issue is not a philosophical opposition to the current direction of land reform, but a desire to maintain traditional spheres of control.

1. Federal Institutions

The current institutional framework for land allocation in the Russian Federation is described below. At the **federal level**, the main institutions involved in the land allocation process are the following:

1. **State Property Committee (Goskomimushchestvo-GKI)**
2. **The Land Reform and Land Resources Committee of the Russian Federation (ROZKOMZEM)¹⁷⁰**

most of the same responsibilities the law on kray and oblast administration grants to regional administrations. Law of the RSFSR on Local Self-Government in the RSFSR (RSFSR) (1991).

¹⁷⁰ Rozkomzem was originally established in 1991 as the RSFSR Land Reform Committee (RSFSR Goskomzem). Statute on RSFSR Land Reform Committee and Its Local Agencies (RSFSR) (1991). In 1992 the statute was replaced by Russian Federation Decree No. 346 and the RSFSR Land Reform Committee was renamed the Land Reform and Land Resources Committee of the Russian Federation. Statute of the Land Reform and Land Resources Committee Under the Russian Federation (RF) (1992) [hereinafter Rozkomzem Charter].

3. **State Committee of Architecture and Construction (Gosstroj)**

State Property Committee (Goskomimushchestvo-GKI). GKI is charged with privatizing all state property other than land. GKI's role is particularly dominant in urban areas where few plots of land are unoccupied and GKI, or its local branch, is thus involved in the disposal of any land plot upon which is located state property. GKI is therefore involved significantly in projects that entail rehabilitation, demolition and changing the use of existing structures that are state or municipal property and in the allocation of land in connection with privatization of state and municipal enterprises.

GKI is comprised of territorial divisions located throughout the Russian Federation that work with the local administrations. These local "Property Funds" work cooperatively with the executive branches of local governments, but remain in a vertical hierarchy subordinate to GKI.

Rozkomzem. Rozkomzem has the broadest mandate related to land of these three federal agencies. Rozkomzem is charged with administering federal policy on land use management and land reform. Its main responsibilities are monitoring use and allocation of land for its designated purpose; ensuring environmentally sound uses of land; monitoring land management, which includes surveying the land and developing a land cadastre; developing legislation and other normative acts on land reform and land use management; and creating proposals for determining land tax rates and normative land prices.

Rozkomzem is comprised of numerous branches or land committees (komzems) located in the krajs, oblasts, autonomous republics or regions, districts and cities of

the Russian Federation. In autonomous regions, districts and cities, komzems work cooperatively with the Council of Peoples' Deputies (soviets). According to the Land Code¹⁷¹ the komzems are subordinate to both the local government and Rozkomzem.¹⁷²

Rozkomzem's role, in theory, is that of an auditor, assuring technical compliance with the legal requirements for land allocation. In practice, it may frequently have a broader role in establishing local land allocation policy. For instance, an April 1993 Presidential decree on land allocation delegates to Rozkomzem the responsibility for developing a mechanism for local governments to inventory their surplus lands for distribution to citizens for housing construction and gardening.¹⁷³

State Committee of Architecture and Construction (Gosstroj). In addition to its major role in developing federal housing policy, Gosstroj is the federal agency which is responsible for determining standards for construction and townplanning. It develops the legal and administrative framework for land use and rules for development within which Master Plans and other development and planning

¹⁷¹ 1991 Land Code, supra note 26, art. 22.

¹⁷² Some of the institutional problems in the land allocation process arise from the fact komzems have the dual role of implementing the federal programs of Rozkomzem, while developing solid working relationships with local governments. The concern is that the local komzem, in carrying out federal policy, will not be responsive to local needs and priorities. There is also resentment in some local governments that feel responsibilities allocated to the komzem through federal legislation, rightly belong within the domain of local government.

¹⁷³ On Additional Measures, supra note 85, art. 2.

documents are created.

Unlike Rozkomzem, Gosstroi does not have territorial branches directly subordinate to Gosstroi. However, the architecture and urban development agencies within republican, regional and city administrations of the Federation (in Moscow this is the Moscow Committee for Architecture and Urban Development-Moskomarkhitectura) are indirectly subordinate to Gosstroi because they must comply with federal planning and building regulations established by Gosstroi and its institutes. While the local agencies are directly accountable only to the heads of local administrations, they are responsible for ensuring that all development projects comply with federal urban development and planning regulations. The hierarchical links exist only at the level of compliance with departmental instructions, executive orders, and securing approvals for their decisions.

2. *Municipal Institutions*

MOSCOW

At the **municipal level**, territorial divisions of the above-described federal agencies, along with local executive and legislative branches of government, comprise the institutional structure for land allocation. Using the city of Moscow as a model, those organizations are as follows:

1. *City Administration*

- a. **Mayor's Office and Prefectures**
- b. **Moscow Department of Architecture and Construction
(Moskomarkhitectura)**
- c. **Moscow Land Relations Commission (Commission)**

2. **Moscow Land Reform and Land Resources Committee (Moskomzem)**
3. **Moscow Soviet of Peoples' Deputies (Mossoviet)**

City Administration.

Mayor's Office and Prefectures. Moscow is divided into 10 administrative districts, or prefectures. The administrative head of each prefecture is subordinate to the Mayor. Final approval on all projects is reserved for the City Administration, since all building permits must be signed by either the Mayor's office or, in some cases, the administrative head of the prefecture.¹⁷⁴ Likewise, all leases and certificates of title must be approved by either the Mayor's office or administrative head of the prefecture.

Moscow Department of Architecture and Construction (Moskomarkhitectura). Within the administration of Moskomarkhitectura are located the main research institutes responsible for designing the Master Plan (NIIPI GenPlana) and the Chief Architect for the city (GlavAPY). Moskomarkhitectura is responsible for ensuring that all project designs comply with the Master Plan and other townplanning regulations. Local branches of NIIPI GenPlana and GlavAPY are located in each prefecture of Moscow.

Moscow Land Relations Commission. Formerly the "Commission for

¹⁷⁴ A March 1993 Mayor's Directive grants to the First Deputy Prime Minister of Moscow the authority the grant land ownership, lease and use rights and issue building permits. The same Directive provides that these responsibilities may be shared between the First Deputy Prime Minister and the prefectures.

Land Relations and Town Planning Regulation"¹⁷⁵ this Commission performs two main functions. First, the Commission grants preliminary approvals for development projects after determining that the projects comply with the Master Plan and do not conflict or undermine other approved or planned city development projects. Second, the Commission oversees the process of conducting auctions and tenders for long term lease of land plots. The commission is composed of representatives from Moskomzem, Moskomarkhitectura, Moskomimushchestvo and other Moscow city agencies involved in the land allocation process. There are working branches of the Land Relations Commission within each prefecture that primarily perform the day-to-day functions of the Commission.

Moskomzem. Moskomzem is the Moscow branch office of the Land Reform and Land Resources Committee of the Russian Federation (Rozkomzem). At the city level it ensures that all laws and practices adopted by the City Administration comply with federal legislation. Generally, this role is performed by ensuring that the normative legal documents are developed and implemented for registering land plots, granting long term leases, and conducting auctions and tenders. Mozkomzem also acts as a policing body to ensure that environmental regulations and procedures for state confiscation of private property are observed. In Moscow, Moskomzem has been delegated the responsibility by the city administration to oversee land investment competitions and auctions, but hires designated organizers to advertise and arrange

¹⁷⁵ A Moscow Mayor's Decree issued in December 1992 changed the name of the Committee and increased its scope of authority. The Commission is sometimes referred to as the "Zoning Commission." Mayor's Decree 571-PM, supra note 147, at art. 2.

the details of the auctions.¹⁷⁶

Mossoviet. The 1991 Land Code provides that the state, intermediate administrative district or municipal Councils of Peoples' Deputies (soviets) that regulate the process of land allocation. In Moscow, Mossoviet's role in the land allocation process was suspended after a Yeltsin Presidential Decree granted the Mayor of Moscow the authority to rule the city by decree.¹⁷⁷ While Mossoviet has issued legislation on land reform the main legal and procedural framework for land allocation in Moscow has been developed by the Moscow Mayor. Mossoviet was dissolved in October 1993 in accordance with the Presidential decree dissolving all local legislative bodies.

ST. PETERSBURG

The institutional structure for **St. Petersburg** looks slightly different than that of Moscow. The institutions involved are the following.

1. **City Administration**
 - a. **Mayor's Office**

¹⁷⁶ See *infra* Part II.C.2 (discussing the role of the auction organizer).

¹⁷⁷ The Moscow Mayor's authority to rule by decree comes from an August 1991 Presidential Decree "On the Authority of Executive Agencies of the City of Moscow" and a December 1991 Presidential Decree "On Additional Authority of Management Agencies of the City of Moscow During the Period of Radical Economic Reform." The Constitutional Court ruled that these decrees allowing the Moscow Mayor to rule by decree were unconstitutional, suggesting that the Mayor's decrees on land allocation were invalid. However, this ruling apparently has not affected the implementation of the Moscow Mayor's decrees related to the land allocation process. Land auctions, at least, are proceeding according to the procedures provided in the decrees. Whether legal acts taken under the decrees may at some point be the subject of challenge remains to be seen.

-
- b. **Committee on Economic Development**
 - c. **Committee on Urban Development and Architecture**
 - d. **Municipal Investment-Tender Commission**
 - e. **Interagency Commission on Conversion, Development and Construction of New Social, Industrial and Other Facilities**
- 2. **Committee on Land Reform and Land Resources (St. Petersburg komzem)**
 - 3. **Council of Peoples Deputies (Maly Soviet)**

Mayor's Office. All final project approvals require the executive's signature. It is the Mayor's signature approving the project which technically grants the applicant property rights.

Committee on Economic Development (KER). KER is responsible for ensuring that all proposed projects comply with the city's economic and social development needs and that applicants possess adequate financial backing to complete their proposed projects. All preliminary applications for land plots are originally submitted to KER for consideration. In Moscow, this function is performed by working groups of the Land Relations Committee. While the Moscow Economic Development Committee is not directly involved in the land allocation process, it should be noted that all applications for land allocation in Moscow are first reviewed in light of the "List of Industries and Services for Priority Development and Placement in the City of Moscow," an economic development policy document prepared by the administration and approved by the Mossoviet.

Committee on Urban Development and Architecture. Like

Moskornarkhitectura, the Committee on Urban Development and Architecture is the city agency responsible for ensuring that project development plans comply with existing urban development and townplanning documents, primarily the Master Plan. This Committee also issues construction permits after mayoral approval of a project. Located within this Committee is the Interagency Commission on Conversion, Development and Construction of New Social, Industrial and Other Facilities which reviews and approves the development project before it is submitted to the Mayor for final approval.

Municipal Investment-Tender Commission. This Commission was established in 1992 to organize and conduct investment competitions and auctions in St. Petersburg.¹⁷⁸ In Moscow, this responsibility is delegated by the city administration to Moskomzem. Moskomzem oversees the competitions and auctions, but hires designated organizers to advertise and arrange the details of the auction.

Committee on Land Reform and Land Resources (St. Petersburg komzem). Like Moskomzem, The St. Petersburg komzem ensures that all laws and practices adopted by the City Administration comply with federal legislation. Generally, this role is performed by ensuring that the normative legal documents are developed and implemented for registering land plots, granting long term leases, and conducting auctions and tenders. In St. Petersburg, the komzem prepares and signs leases on behalf of City Administration. The roles of Moskomzem and the St. Petersburg

¹⁷⁸ Resolution 307, establishing the Investment-Tender Commission, was revoked in October 1993 and the Tender Commission was terminated. It is anticipated that the responsibilities of the Tender Commission will be given to a new administrative committee of the city government.

komzem are nearly identical with the exception of the fact that Moskomzem participates more directly in every stage of the land allocation process through its participation in the Land Relations Committee and its delegated authority to oversee land auctions.

Council of Peoples Deputies (Maly Soviet). Unlike in Moscow where the role of the Mossoviet in land allocation has been limited, the St. Petersburg Council of Peoples Deputies had the ongoing responsibility for overseeing the land allocation procedure and ensuring its compliance with federal legislation. It was the body that determines the normative framework for land allocation. The Maly Soviet (Small or Lower Soviet) was the permanent working committee of the St. Petersburg soviet and it is through this committee that much of the legislation affecting the land allocation process is created. Importantly, it was only the Maly Soviet which can authorize changing a designated land use. The Maly Soviet, along with the entire City Soviet, was dissolved by Presidential decree in October 1993.

3. Other Cities and Regions

It is important to note that the cities of Moscow and St. Petersburg have unique institutional structures for land allocation. Moscow and St. Petersburg are considered "subjects of the Federation," along with autonomous territories and republics, oblasts and krajs. Therefore, Moscow and St. Petersburg are not subordinate to a larger administrative district. This is not true for other cities and rural areas which belong to larger administrative districts (oblasts, okrugs, krajs, raions). In these areas, the 1991 Land Code specifies the role and scope of authority each institution has to regulate land relations and its respective position in the

institutional hierarchy.¹⁷⁹

The primary levels of general purpose local government are the districts, which may be compared to the American counties, and the municipalities. All general purpose local governments, with the exception of Moscow and St. Petersburg, are subordinate to the governments of the region or territory in which they are located. Not just the 1991 Land Code, but the laws on federal relationships set out a strict hierarchical order of authority among local governments.

What this means, in theory at least, is that the local committees having jurisdiction over issues of land use and allocation are subordinate to their counterparts at the regional or territorial level, and the actions of local authorities may be subject to review and veto by the higher authorities. However, in practice, the extent to which the regional or territorial government will become involved in district or municipal land allocation decisions will depend upon many factors, including the status of the municipality or district or the historic relationships in the area. Some districts exercise broad discretion over their own land use and allocation programs, while others may be more willing to concede influence to higher levels of government.

In some instances the relationship between the municipal and regional governments can provide positive benefits. For example, the City of Novgorod in the Novgorod Oblast, a municipality of some 200,000 population, works closely with

¹⁷⁹ Specifically, the Code delineates the role that the komzems and Council of Peoples' Deputies have at the rural, city, district and larger administrative district. 1991 Land Code, supra note 26, arts. 18-22.

surrounding districts under the guidance of the oblast administration to plan rational city expansion into the surrounding rural areas. In fact, joint planning and development efforts are undertaken. This is to be contrasted, for example, with St. Petersburg, where surrounding districts in the St. Petersburg Oblast are heard to complain that communication and cooperation between the city and the surrounding districts regarding common development interests simply does not exist.

C. Methods of Land Allocation

Both Moscow and St. Petersburg have established procedures for allocating plots of land for development. This section discusses those procedures by distinguishing the mechanisms used for three different types of development projects: developer-initiated projects, investment competitions and individual housing construction.¹⁸⁰

1. Developer-initiated projects

MOSCOW

In Moscow, a developer who wishes to acquire a plot of land must follow the procedure established in two decrees of the Moscow Mayor: "On Revision of the Procedure for Preparation of Administrative Documentation for Allocation of Land Plots for Construction in the City of Moscow,"¹⁸¹ and "On the Procedure for Allocation and Appropriation of Land in the City of Moscow."¹⁸² The texts of the laws are contained in Appendix B. The process essentially proceeds in two phases. Phase I is approval of the location of the land for the type of development proposed. In Phase II the specific project design and property rights to be conveyed are approved. A summary of the procedure is as follows:

¹⁸⁰Regulation of Land Relations, *supra* note 3, requires that the federal government issue regulations on land tender procedures. It is not known at this time how the new federal regulations will affect the procedures already established in Moscow and St. Petersburg.

¹⁸¹ Mayor's Decree No. 168-RM, *supra* note 148.

¹⁸² Mayor's Decree No. 51-RVM, *supra* note 145.

To begin Phase I of the approval process, the applicant developer ("AD") submits a preliminary feasibility analysis to the municipal or regional (prefecture) working group of the Moscow Land Relations Commission ("Commission"). The application describes the proposed use, construction schedule and approximate size of plot. The working group registers the application; determines preliminary feasibility of the project; determines whether the plot should go up for auction or tender;¹⁸³ and prepares a schedule for permit approvals. The working group is particularly concerned that the project plans comply with the Master Plan and other development and planning criteria. The working group may also at this stage make a determination about the financial ability of the AD to undertake and complete the project. Final approval of the feasibility analysis is granted after consideration and approval by the full Moscow Land Relations Committee.

If the Committee approves the feasibility analysis, the AD has one week to submit specifications on the project's construction to Moskomarkhitectura.¹⁸⁴ With this information, Moskomarkhitectura has three weeks to develop a town planning assignment.¹⁸⁵ The town planning assignment is a document which contains development conditions and other design requirements for the project. A list of the contents of a town planning assignment is contained in Appendix D. The

¹⁸³ Where a plot is put up for investment auction the two stage process is condensed.

¹⁸⁴ If the AD does not submit specifications within one week Moskomarkhitectura may cancel the application.

¹⁸⁵ The AD is required to pay for this fee as well as numerous other costs associated with receiving the requisite project and site approvals.

town planning assignment must also be approved by the prefecture, the Division for Underground Facilities of the Moscow Municipal Geological Trust and other public facilities departments that will be required to provide infrastructure support to the project.

Upon receipt of the approved town planning assignment and any approvals from Moskomzem and Moskomimushchestvo that may be necessary, the Moscow Land Relations Committee, with input from Moskomarkhitectura and Moskomimushchestvo, prepares draft instructions for the City Administration to issue an executive order on preliminary approval of the location of the project and allocation of the plot to the AD. The draft decree contains basic information on the size, location and owner of the plot, development requirements and legal limitations on use of the plot. The order is grounds for the issuance of a statement on the reservation of the land site.

The entire process to this point must be completed within one month.

Upon receiving the preliminary site approval, the AD has one week to submit to Moskomzem an application for a reservation and surveying of a land plot. The reservation, attached in Appendix D, is a one page document which contains basic information describing attributes and size of the land plot and the use for which the plot is designated.

After receipt of the reservation, Phase II of the process begins. The AD submits the reservation and design approval to the City Administration and Moskomarkhitectura for issuance of a decree granting the land plot. The AD may employ a private architect or a city research and design institute to complete the

design in accordance with the town planning document.

Once the design and cost documentation are approved, the first deputy prime minister of Moscow signs an executive order permitting construction and allocating the land plot for permanent unlimited use or lease to the AD. Finally, a lease is signed by Moskomzem on behalf of the City Administration granting AD property rights either in the form of permanent unlimited use or use.

ST. PETERSBURG

In St. Petersburg, the main law establishing the procedure for acquiring land plots through developer-initiated projects is "On the Procedure for Preparing Instructions Regarding Issues Concerning the Construction, Reconstruction, and Offering of Land Plots."¹⁸⁶ A text of the law is contained in Appendix B.

The St. Petersburg procedure, like the Moscow procedure, operates within the parameters set by federal law. As in Moscow, the St. Petersburg procedure can be divided into Phase I (approval of the site location and development project) and Phase II (approval of specific project design and conveyance of property rights), both phases commencing with mayoral signature as official seal of approval. However, there are some significant technical differences in the way the Moscow and St. Petersburg procedures are designed. In St. Petersburg, an AD wishing to acquire a plot of land first submits an application containing preliminary information on the proposed project to the Committee on Economic Development (KER). KER is a city agency responsible for ensuring that the proposed project comports with the city's urban

¹⁸⁶ Interim Statute 332-r, supra note 139.

planning and "social and economic development" scheme.¹⁸⁷ In Moscow, the Moscow Land Relations Committee performs this function.

There is no entity like the Moscow Land Relations Committee in St. Petersburg. Rather, the Committees on Economic Development and Urban Development and Architecture in combination perform the same functions as the Moscow Land Relations Committee. As in Moscow, mayoral approvals are necessary for approval to begin surveying, allocate the land plot for development and convey property rights through lease to the AD.

2. Investment Competitions

MOSCOW

In addition to developer initiated projects, a second means through which a developer may obtain a land plot for development is through winning an investment competition.¹⁸⁸ The August 1992 Moscow Mayor's Decree "On Arranging Competitions to Allocate Plots of Land in Moscow on a Long Term Lease Basis"¹⁸⁹ and the Moscow Mayor's Order "On the Bidding Procedure and Conditions of Tenders

¹⁸⁷ Id. art. 2.

¹⁸⁸ Projects that begins as developer-initiated may become investment competitions if, after the developer submits its original application to the Moscow Land Relations Committee, the Committee decides that the project should be subject to competitive bid. The developer who originally chose the site and submitted an application has no legal control over the Committee's decision to put the plot up for competitive bid. The original applicant developer must bid in the tender along with all other competitors without any guarantees of success or selection preference. If the original AD is not the competition winner it is not compensated for the time or cost it expended in selecting the original site and completing preliminary design documentation.

¹⁸⁹ Mayor's Decree 264-PM, supra note 146.

for Long Lease of Plots of Land in Moscow¹⁹⁰ as well as portions of 168-M comprise the set of normative documents which govern the procedure for investment competitions in Moscow.¹⁹¹

The Moscow Land Relations Commission is responsible for overseeing the competitions. According to the bidding procedure, Moskomzem is to act as the agent for the Commission in preparing and holding investment competitions. The Commission may hire, through a competitive process, organizers¹⁹² to arrange the competitions. The Commission then is freed from organizing the details of the competition, but still must approve the list of plots to be bid on, vote on the competition winner, and generally ensure that the competition process complies with established regulations. Moskomzem is responsible for preparing the legal documents necessary for the competition and subsequent lease. Moskomarkhitectura is responsible for ensuring that the proposed project complies with relevant development and planning regulations.

¹⁹⁰ Mayor's Decree 571-PM, supra note 147.

¹⁹¹ Investment competitions are of two types: competitions for targeted projects solicited for municipal and state structures or other government-funded projects (bakeries, hospitals) and competitions for plots for new construction, reconstruction or rehabilitation. The bulk of this discussion focuses on the latter type as it is the type most relevant to this paper's discussion of land allocation for housing construction.

¹⁹² Until recently, the number of these organizers in Moscow is approximately six although the number is growing. These organizers are private or quasi-governmental organizations that work by contract for either the state or municipal government selling the property or leasing the land. According to the bidding procedure, organizers receive as commission 5% of the sale or lease price of the property. As of early October 1993, the opportunity to be an organizer was opened up to all qualified organizations on a competitive basis.

The process is as follows. Upon the Commission's selection of an Organizer through a competitive process, the Organizer and Moskomzem meet to arrange protocol for the competition.¹⁹³ The Organizer is charged with developing a bid packet for the competition, containing conditions for leasing the land, a draft lease agreement, approval from the City Administration that the land may be let on long term lease, preliminary specifications for infrastructure and a town planning assignment prepared by Moskomarkhitectura.¹⁹⁴

Upon approval of the bid packet by the Commission, the Organizer advertises the competition through the media at least one month before the competition is to take place.¹⁹⁵ Applicants are permitted to purchase the bid packet for a nominal price. Applicants are required to submit applications to the Organizer and obtain written notification of participation in the competition.

The Commission meets to open and consider the bids. The meeting is open to bidders by invitation. Participants are given two "invitation cards" so they may be

¹⁹³ The Land Relations Committee determines whether the competition will be open or closed. The law does not specify any guidelines for categorizing a competition as opened or closed. The same is true in St. Petersburg. Attempts to get this information failed. A "closed" competition is generally one for which a participant must be pre-qualified, either in terms of financial ability or prior experience.

¹⁹⁴ For details on the contents of the bid packet, see "Provisional Regulations on the Procedure for Putting Plots of Land Out to Long Term Lease on the Competition Basis" in Appendix B.

In the case where the government is soliciting bids for a targeted project to be paid for through government funds, the bid packet will contain detailed project specifications on the structure to be constructed, reconstructed, or rehabilitated.

¹⁹⁵ For details on the advertising requirements, see "Provisional Regulations on the Procedure for Putting Plots of Land Out to Long Term Lease on the Competition Basis" in Appendix B.

present at the opening of the bids. In competitions for new construction, reconstruction or rehabilitation, price is normally the determining factor. Where two or more participants meet the competition requirements and offer the highest price, the Commission will introduce additional factors to judge the bids.¹⁹⁶

Any bids that do not comply with the protocol of the process will be eliminated. Results of the selection are published in the Commission's minutes, which are public record.¹⁹⁷

The winner of the competition receives written notification of its selection on the day the competition is held, and within two days must complete the contract and payment terms for acquiring the plot of land. Within two weeks Moskomzem, on behalf of the Commission, will publish in the media the results of the competition.

Fifteen days after the winner and Organizer finalize their mutual obligations the winner is required to transfer the payment price into the Organizer's account.¹⁹⁸ Within five days of receipt of payment the Organizer will notify

¹⁹⁶ In competitions for targeted projects a number of factors may be used to compare submitted proposals, including price and experience of the applicant.

¹⁹⁷ The record must contain the list of Committee members that selected the winner, the name of the plot of land, information on all the participants in the competition, name of the winner, the plot purchase price, form of payment and additional criteria used by the Committee to select the winner.

¹⁹⁸ If the winner does not meet this deadline and does not make arrangements for an extension, the Commission will declare as winner the participant that offered the next highest price for the plot.

Three working days after receipt of this payment, the Organizer must transfer the appropriate amounts of the total into the accounts of the City Administration (84%), Moskomzem (5%), Moskomarkhitectura (5%) and reserve fund of the Land Relations Committee to pay for the services of independent experts (1%). The Organizer keeps for itself 5%.

Moskomzem by "joint protocol," signed by the winner and Organizer, and within fifteen days of receiving this protocol Moskomzem will execute the full set of tenders documents, including the lease.¹⁹⁹

ST. PETERSBURG

The St. Petersburg law establishing the procedure for investment competitions was "On the Sale of the Property of St. Petersburg and the Offer of Municipal Contracts at Investment Auction."²⁰⁰ The St. Petersburg law did not provide the same degree of detail on conducting auctions as the Moscow law. Its main purposes were to create the Investment Bids Commission²⁰¹ and delegate to the Commission the authority to organize and conduct auctions (in Moscow, the Land Relations Committee has this responsibility) and to define three categories of investment

¹⁹⁹ If the winner fails to appear to finalize execution of these documents or somehow delays the process, this may be considered an abandonment or waiver of the winner's right to make a land lease agreement.

The law itself does not specifically discuss any sort of appeal process within the competition procedure. Participants may protest (presumably to the Land Relations Commission) results of the competition within fifteen working days after the winner is selected. However, disputes regarding nullification of applications should be settled in court or by arbitration.

²⁰⁰ Resolution 307, supra note 127.38. This Resolution was revoked in October 1993.

²⁰¹ Members of the Commission include representatives from the Municipal Soviet, Property Fund, Committee for Municipal Property Management, the Committee on Economic Development, the Investment Committee, the Financial Committee and the Committee on Urban Development and Architecture. Id. art. 2.2. This composition more or less mirrors the composition of the Moscow Land Relations Committee with the exception of the presence of representatives of various utility and infrastructure departments whose approval is required for any project proposal. Unlike the Moscow Land Relations Committee, the St. Petersburg Commission does not have satellite regional offices throughout the City of St. Petersburg.

competitions and offer general provisions for carrying out each. St. Petersburg, unlike Moscow, does not have a separate law which directly addresses the issue of allocating land plots on an investment competition basis. The only indication that the above-cited law applies to allocation of land plots is a one-sentence article in the opening paragraphs of the law.²⁰²

The St. Petersburg law contemplates three types of auctions: competitive selection of investment projects, investment competitions and municipal contract auctions.²⁰³ The category of auction determines the criteria the Commission will use to select a winner. Generally, competitive selection of investment projects requires the Commission to weigh criteria beyond price.²⁰⁴ In investment competitions, price is the determining factor in selecting a winner.²⁰⁵ Municipal contract auctions to perform subcontractor functions are also generally awarded to the competitor offering the best contract price.²⁰⁶

In Moscow, the responsibility for conducting investment competitions belongs

²⁰² "Land plots which are not included in the program for targeted capital investment approved by the St. Petersburg Municipal Soviet shall be made available as sites for capital construction exclusively on an investment auction basis." Id. para. 2.5 of Preamble.

²⁰³ Id. art. 3.1.

²⁰⁴ Id. art. 3.2. The law states that competitions of this type may be open or closed. Closed investment competitions include a prequalification stage; open competitions do not. The law does not specify under what circumstances an investment competition will be categorized as open or closed and does not specify the criteria used to select competitors for the closed competition.

²⁰⁵ Id. art. 3.3.

²⁰⁶ Id. art. 3.4.

to Moskomzem acting as the agent of the Moscow Land Relations Commission. Moskomzem subcontracts to an "Organizer" many of the details of preparing the bid package, advertising, and other logistical arrangements. In St. Petersburg, the Seller (the city, department, enterprise or individual to whom the land belongs) organizes the publication of tender documentation, distributes the packets to interested participants, and publicizes the results of the competition.²⁰⁷ The Commission prepares the tender documentation, organizes and conducts closed auctions, selects participants for auctions that require prequalification, and selects the final winner from all competitions.²⁰⁸ Unlike the Moscow procedure, the St. Petersburg law makes no reference to publishing the results of the selection process or providing a mechanism to handle complaints and challenges from unsuccessful bidders.

3. Individual housing construction

In December 1992 an amendment to article 12 of the Russian Constitution granted citizens the right to own land as private property and alienate that land provided the land retained its designated use for individual housing or dacha construction, horticulture or subsidiary farming.²⁰⁹ Laws passed from December 1992 through October 1993 complete the normative framework within which the right to own and sell land may be realized. These laws broadly define the process through which citizens may exercise this right and the property rights to which

²⁰⁷ Id. art. 6.1.

²⁰⁸ Id. art. 6.2.

²⁰⁹ RF Const. art. 12 (1992).

citizens are entitled. There are many shortcomings in the current laws and procedure. However, despite these shortcomings, in metropolitan Moscow and St. Petersburg there is an active land market of individuals and developers engaged in developing land plots for individual housing construction.

It remains to be seen how the October 1993 Regulations on Land Relations decree will affect the procedures for individual housing construction; but it potentially will have a major impact on the current procedures. The current process of acquiring land for individual housing construction is currently cumbersome because only citizens, and not legal entities, may own and sell land with certain restrictions. Therefore, elaborate informal methods of acquiring land plots have evolved to allow for individual housing construction by developers, without directly violating the law,²¹⁰ which until now has precluded legal entities from land ownership rights other than lease and permanent use.

The Regulations on Land Relations states "[t]hat citizens *and legal persons* who are land owners have the right to sell, bequeath, gift, mortgage, rent out, and exchange land"211 (emphasis added). While its main goal is improving the regulation of agrarian land, there are a number of provisions, including this provision on property rights, that pertain to land regulation generally.

This section describes the process of acquiring land for individual housing construction that existed until the fall of 1993 and comments on how the recent

²¹⁰ See *infra* Part III case studies.

²¹¹ Regulation on Land Relations, *supra* note 3, art. 2.

Regulations on Land Relationships will affect the process.

The procedures through which individuals acquire plots for individual housing construction have been varied. For citizens currently occupying tracts of land the process of receiving title to the land is relatively simple. A citizen completes an application with the local administration, the application is approved²¹² and the citizen subsequently receives title to the land.²¹³ Citizens have the right to choose the form of ownership they desire - life-long inheritable possession, lease or ownership.²¹⁴ Plots are granted free of charge or for payment.²¹⁵ Citizens may receive tracts of land free up to an established maximum norm.²¹⁶ The citizen may retain land in excess of this norm under life-long inheritable possession or may purchase the excess from the local administration.²¹⁷ After a citizen's application for a plot of land is filed and approved, the citizen's title to the plot is then formally registered with the local komzem and the owner receives a document verifying the owner's right to the land and specifying the boundaries of the land plot. At this point

²¹² The law states that the approval process must be completed within one month. Decree on Citizens' Rights to Own and Sell Land, supra note 78, at art. 4.

²¹³ According to federal law this ownership title gives the citizen the right to absolute ownership. However, in some areas, Moscow and St. Petersburg included, city or administrative district law contradicts the federal law and states that lease and use rights are the only types of property rights to which citizens are entitled.

²¹⁴ Decree on Citizens' Rights to Own and Sell Land, supra note 78, art. 4.

²¹⁵ Id. at art. 1.

²¹⁶ Id. at art. 4.

²¹⁷ Id.

the citizen's property right, as provided in the Land Code, become effective.²¹⁸ The Regulations on Land Relations reiterates the above-described process. The Decree provides that all documents confirming the right to land ownership must be registered and a "Certificate of Title" issued to landowners.²¹⁹ Also, citizens who held property rights short of full ownership before issuance of the decree may request that their rights be elevated to full ownership.²²⁰

Citizens not currently occupying a plot that wish to obtain a plots may do so through one of three mechanisms 1) application and allocation from the local redistribution fund; 2) unofficial sales of plots between citizens through reregistration of land plots or 3) purchase from a developer.

In the first scenario a citizen applies to the local administration responsible for allocating land plots from a redistribution fund within its administrative district. Federal legislation requires that cities and towns conduct an inventory of all available undeveloped land not already earmarked for agricultural purposes.²²¹ This land is to be placed in a land depository and plots will be allocated to citizens for dacha or individual housing construction, horticulture or subsidiary farming. Presently, few cities, towns or rural settlements actually have established procedures for allocating land. These areas cite lack of available land or unclear title as primary obstacles to

²¹⁸ Id. at art. 3.

²¹⁹ Regulations on Land Relations, supra note 3, art. 3.

²²⁰ Id.

²²¹ Id. at art. 1.

allocating land for individual housing construction. Others state they simply do not have the financial resources to conduct a land inventory or develop even the most rudimentary cadastre in order to safely allocate land without the threat of boundary disputes. In areas where plots of land are sold or granted free for individual housing construction the local soviet preference is typically given to those citizens already on housing waiting lists or those categorized as a protected class,²²² such as the elderly or veterans. Citizens who receive land from the local administration in the above-described method are given a document certifying the citizen's right to use or ownership of the land.²²³ The decree on Regulation of Land Relationships provides for the continued existence of these funds to

In the second scenario a plot of land is already used or possessed by another citizen. Although federal legislation calls for the development of a legal procedure for land sales,²²⁴ the procedure has not yet been finalized in a workable form. This has not prevented sales from occurring, however. According to the Land Code (article 37) when a house is purchased the buyer also acquires the property rights to the land under the house. In reality, a few bricks are left on the land and recorded as the "foundation." For purposes of effecting the sale of the house the existence of the

²²² Recently discharged military personnel are to be given priority in allocating land plots from these redistribution funds. On Additional Measures, supra note 85, art. 2.

²²³ The law is not clear whether citizens who receive land in this way have the right to choose the form of land ownership they desire. In the absence of specific provisions of the law addressing this issue, it may be fair to assume that the administrative district determines the form of land tenure in these situations.

²²⁴ Decree on Citizens' Rights to Own and Sell Land, supra note 78, art. 2.

foundation is sufficient. Where one citizen purchases a house from another the sale of a house is registered on paper. The citizen has the property rights to the land and may privatize the land through the same procedure as that described above in the scenario where an individual already occupies a land plot.

In the third scenario, land plots are acquired through more complex transactions. This process often involves the services of an intermediary who assists the developer in identifying a plot of land and complying with all of the legal formalities to acquire the land and ultimately transfer the plot to an individual buyer. The intermediary is typically an individual or organization very well connected to the local authorities that oversee the land allocation process. It is this scenario that will be most affected by the decree Regulations on Land Relationships. If legal entities may own and sell land, the role of the intermediary in these scenarios becomes obsolete.

Intermediaries' clients may be either wealthy individuals or developers. In dealing with individuals the intermediary receives a fee (generally five to ten percent of the deal price) for identifying a plot of land for the client which the client may purchase directly from the local soviet. These plots are typically 1-2 hectares. Developer clients of intermediaries are usually in search of either medium size (3-10 hectares) or large-size (10-15 hectare) plots.²²⁵

The most typical way of acquiring this right is for the developer to acquire

²²⁵ It is generally true that developers prefer medium size plots where 5-7 cottages may be built on a hectare. This preference stems from the fact that most developers do not possess the financial resources to undertake large scale development projects.

direct permission from local authorities. In a typical case the intermediary identifies a piece of agricultural land for sale. The agricultural enterprise may have additional land which it wishes to sell in order to finance a project, rehabilitate or repair existing structures or equipment or build housing for the enterprise members. In this case the intermediary negotiates with the agricultural owner or user of the land to sell the plot. The sale may involve a cash transfer or in-kind services (the developer builds housing for enterprise members). Since it is technically the state and not the agricultural enterprise which owns the land, the transaction must take place through the local administration. Additionally, the developer must acquire from the local soviet permission to change the designated land use of the plot from agricultural to residential. The procedure for changing land use and acquiring property rights to the land is essentially the same process as described supra section II.B under "developer-initiated projects." Throughout this process the intermediary assists the developer in negotiating the maze of approvals and permits required to acquire land for individual housing construction,²²⁶ finding buyers, selling the plots and transferring ownership to the buyers. Once the developer acquires permanent use rights to the land the developer sells the plots to individuals and then submits to the local soviet a list of the individuals to whom the developer sold plots.²²⁷ These

²²⁶ We are told that typically this process takes 6 months for a developer who does not use the services of an intermediary. An intermediary can assist a developer in completing this process within the course of 2-3 weeks.

²²⁷ Law stipulates that only land with a structure on it may be placed into private ownership. Therefore, it is not uncommon for a developer to simply build the foundation of a house and sell it to a buyer. This foundation is sufficient to settle the requirement that there be a structure on the land and local authorities will agree to

individuals may then exercise their right to privatize their land plot and receive absolute ownership rights.

Until the decree on Regulations of Land Relationships, developers could hold only rights of use or leaseholds, both of which prohibit further transfer of the land, it is necessary in each case for developers to begin some construction on the plot in order to transfer the land. Typically, construction will consist of a partial foundation, which is then sold as a structure. The sale of structures rather than land is discussed further supra Part III Case Study 3.

4. Land Allocation in other Cities and Regions

When there is a land distribution program in place, the procedures for allocating plots directly from the administration to individuals for home construction appear to be the same in most jurisdictions. The relatively detailed procedures for allocation of urban land for larger development opportunities found in Moscow and St. Petersburg are lacking in all but a handful of Russian cities and regions. This is particularly true of the auction and investment competition procedures. It is safe to say that most Russian jurisdictions have not yet even contemplated auctions or investment competitions for urban land. This is not to say that land is not being allocated to private sector development in other jurisdictions, but only that the predominant, if not the only, method of allocation is the developer initiated negotiated proposal.²²⁸

grant title to the buyer.

²²⁸ For a discussion of land use and allocation issues in some other Russian cities see Promoting Private Sector Land and Housing Development in Ekaterinburg.

Aside perhaps from the names of the committees, and some improvements in the transparency of the process, the developer initiated proposal process outlined earlier for Moscow is not much different than the process used in other jurisdictions. It is essentially the same process that would have been required under the Soviet system had a state or municipal enterprise or other authorized entity requested land for development. Now, the private sector developer has been included among those state or public entities previously eligible to apply for land development opportunities.

The system is still based upon the previous Soviet system of land use planning, and the Soviet concept that rights to land follow and are dependent on its use; it is an extension of Soviet central planning. Thus, as a general rule, one does not obtain rights to land unless the proposed use conforms to the master plan and until the entire development program has been approved. As in Moscow, this may entail obtaining agreements and approvals from any number of regulatory agencies, each of which, theoretically at least, have the power to stop a project in its tracks.

As in any developed country, and as clearly reflected in the processes described for Moscow, the land use approval process is dominated by any number of relatively independent regulatory agencies, each of which has its own agenda and concern at heart. This is true in Moscow as well as the outlying jurisdictions. It may be even more difficult to work the regulatory maze in outlying areas because of overlapping jurisdictions (oblasts and municipalities, for example) and the lack of

Russia: A Feasibility Study, Planning and Development Collaborative International, Working Paper No. 5, Washington D.C, and Acosta, R., Comby, J. and Renard, V., The Russian System of Land tenure, Urban Land Allocation and Development, The World Bank, March 27, 1992.

visibility and political pressures found in larger cities. It is arguably true that Moscow's efforts to reform and adapt its land allocation and planning procedures to the new commercial realities are in response to the economic development pressures found in any major city. Inadequate as those efforts may be considered by some, they are clearly far beyond what is being done in the outlying jurisdictions.

If any generalization is possible, in the words of one experienced Russian land use practitioner, in the suburbs and small towns land is allocated on a more "personal" basis. The locus of authority for land allocation may differ among jurisdictions, but the overwhelming consensus is that it will usually depend on a key individual. Depending on the jurisdiction, that individual may be the head of administration, the chairman of the local komzem, or even the town sanitarian. Again, it should not be implied that "informal" procedures do not exist in Moscow as well as other larger cities, but simply that there may be a difference of degree.

What is certain is that there is frequently a substantial difference between the written procedures of land allocation, and the "informal" procedures. As explained by one local developer, if you start with the formal procedures, you will likely never reach the end of the process; if you start with the "informal" procedure, the formal procedures then become merely a means of "legalizing" the decision that has been made. The informal procedure clearly involves working with the key individuals to find common grounds of "fraternal interest."

Negotiated transactions and "informal" procedures are obviously subject to corrupting influences. It should not be surprising that many of the successful developers with whom we spoke were not overly critical of the current system and did

not express great support for the suggestion that the system might be made more transparent and the playing field leveled for all potential developers.

III. CASE STUDIES

The present legal and procedural framework for land allocation is in a transitional phase. Many aspects of this framework are still in need of major reform in order to create an environment in which a land market can thrive. However, there is reason for optimism that already instituted reforms are impacting the market. Presented here are a number of case studies which illustrate how the land market is forming during this transitional period. Some of the studies describe a specific project undertaken by an organization, others provide a model of a method of land acquisition that many organizations duplicate. In addition to presenting a realistic perspective on the current state of affairs, these case studies are useful to illustrate which elements in the current process are effective and which elements are in need of reform. We have chosen to discuss four of the mechanisms through which land may be acquired for development: two variants of the suburban cottage development, the joint venture, and the community development corporation. Each case study describes the composition of the organizations involved, the legal/procedural framework within which the organization operates and an example of the methods the organizations uses to acquire land for development.

CASE STUDY 1

Cottage Development - Agra and Structure M

Agra and Structure M are both organizations that function as brokers in land deals.²²⁹ Their role is to assist developers in identifying a land plot for development, acquiring property rights to the plot and selling the plots.

Agra was established in 1989 as a cooperative organization and still retains that status today. For the purposes of completing a deal Agra often establishes short-term organizations under the umbrella of Agra. Most of Agra's work occurs within a 30 kilometer radius of Moscow. Most of Agra's clients are wealthy Russians in search of plots for individual housing construction or developers interested in suburban subdivision development.

Structure M was established in 1988 as a private company. It engages in the same type of work as Agra, but tends to broker larger land plots (10-20 hectares) for development. The majority of Structure M's clients are Russian and foreign investors interested in acquiring land plots for cottage construction. Structure M transacts the majority of its deals in the metropolitan Moscow area.

Agra and Structure M receive a fixed percentage of the deal price as their commission. Developers that can afford to use the services of organizations like Agra

²²⁹ The term "dealer" is also used in Russian as a synonym for broker. Another term, "posredniki" or intermediary, describes work which is similar, but distinct from the type of work performed by brokers. Intermediaries generally act as consultant or agent for clients in filing applications, ensuring compliance with legal and procedural requirements, etc. Brokers actually establish themselves as legal agents on behalf of a client using client funds. Brokers have a greater financial stake in a transaction than intermediaries.

and Structure M find that the process for acquiring a plot of land is substantially expedited when an broker acts as the representative of the developer. The broker is well-connected with the agents that run the land allocation process and is an expert at negotiating the procedural and legal as well as political mazes in the process.

Many of the brokers' clients are developers in search of mid-size (3-10 ha) to large (10-20) plots for development. Both Agra and Structure M do the majority of their transactions in the more prestigious suburbs of Moscow. The available land in these areas is typically allocated for agricultural purposes. In conversations with Agra and Structure M they both stressed that each deal is unique and will proceed differently depending upon the needs of the developer. For instance, a developer that wishes to build a suburban subdivision of single family homes and then sell the homes will want to be sure that it has the legal right to transfer ownership to a buyer. This is not as important a consideration for a developer that wishes only to rent the structures it builds on the land plot. A client's project goals will determine the methods that Agra and Structure M use to acquire land.

Although there are variations, in meetings with Agra and Structure M both described a scenario where agricultural land is acquired for cottage subdivision development. To start, an investor approaches a broker and wants to acquire a medium²³⁰ or large plot for cottage development. The broker then negotiates with a collective (kolkhoz) or state (sovkhoz) farm to buy a piece of land currently in the

²³⁰ Most developers are interested in medium size plots for development. As the President of Agra explained, most of Agra's clients have no problem finding sources to grant short-term credits. The problem is that it is difficult to find ready-made housing. Long-term credits for construction are difficult to obtain.

possession of the farm.²³¹ The broker and the kolkhoz negotiate a price to be paid either in cash or in-kind services (perhaps housing for kolkhoz employees). Although the kolkhoz has the right to permanent unlimited use of the land, the land technically belongs to the state under the administration of the local soviet and the kolkhoz does not have the authority to directly transact and close a deal with the broker. Furthermore, the designated use of the land for the kolkhoz's purpose is agricultural use. The kolkhoz does not have the right to change the use of the land from agricultural to residential as required for the broker's client. Only the local soviet has the right to change designated land uses. Therefore, a trilateral arrangement is effected. The broker applies to the local soviet for a land plot at or about the same time the kolkhoz approaches the local soviet with its agreement to give up a plot of land. The local soviet and the kolkhoz then complete a formal agreement in which it is stated that the kolkhoz is willing to give up the land, the local soviet does not object to this and the local soviet is prepared to alter the designated land use.

The broker's application is then sent to the komzern at the oblast level which begins a land development file. This file must be complete before the land transfer is effected. The first document in the file is the permission of the local soviet to grant the plot of land and change its designated use. The second document is the act of reservation issued by the oblast komzern which states that the site is suitable for the

²³¹ According to the Land Code, the kolkhoz's property right to permanent unlimited use of the agricultural land is a secure property right. The kolkhoz's land cannot be confiscated and given to a third party without compensation.

proposed development and the broker may be granted permanent unlimited use of the land. The land file is then forwarded to the administrative district head for approval. To grant this approval the file must contain the agreement of the kolkhoz to give up the land,²³² the approval of the local soviet to change the land use and the act stating the suitability of the plot for the type of development contemplated by the broker.

Once this approval is received, the boundaries of the land plot must be defined and submitted to the administrative district head for approval. If approval is granted, a resolution is issued containing two parts: 1) an Agreement on the borders of the plot; and 2) a call for a draft project design. The resolution is prepared by the komzem and signed by the administrative district head. Once the project design is developed it must be approved by the district architect to be certain it complies with relevant development and planning regulations. The design plan is placed in the land file.

The next stage is to transfer the plots of to the individual owners. To do this the developer sends to the local soviet a list of individuals to whom certificates of ownership should be granted. At the same time the komzem prepares a resolution on the transfer of the land from the broker to the individuals. Both the certificate of ownership and the resolution must be signed by the local administration. Once these documents are signed, title is transferred to the individual owner.

²³² This is a holdover from an earlier period and not actually required by law. It is issued by the regional Agricultural Committee (Sel'soviet) which approves all changes in agricultural land use.

Case Study 2

Community Development Corporation: Yakimanka

Yakimanka is a publicly-held community development corporation working in the Yakimanka district of Moscow. Yakimanka is historic district located just a few blocks from the Kremlin which has been undergoing significant urban renewal in the past three years.

Yakimanka was originally established in 1990 as a public redevelopment agency when the district council of the Oktyaberskaya region of Moscow hired Yuri Gusev, now President of Yakimanka, to create innovative means for privatizing state property within the Yakimanka region. One of the first tasks Yakimanka undertook was to create a conceptual plan design for the entire Yakimanka region. Previously no normative act existed upon which to base development decisions. According to Gusev, without this area wide plan, decisions regarding development would have continued to be decided as always - based on individual decision-makers and their preference for a particular development project.

In 1991, after political conflicts with the Mossoviet threatened to dissolve Yakimanka, Yakimanka reestablished itself as an open stock company. Instead of working directly as an arm of the city, Yakimanka now works by contract for the city of Moscow. The mission of Yakimanka remains the same, the methods it uses are slightly different.

One of Yakimanka's main goals is to attract investment. In exchange for developing a comprehensive area wide plan for the Yakimanka region free of charge, the city administration of Moscow has given Yakimanka the right to develop certain

"zones of investment" within Yakimanka.²³³ Yakimanka's contract with the city of Moscow further grants to Yakimanka the authority to perform many of the functions that the city administration normally handles in the land allocation and project approval procedure. Because the comprehensive plan already includes information about the plot size, infrastructure capacity and design, and environmental regulations restricting development of the land parcel in question, the normal procedure for acquiring land allocation approval is expedited. Furthermore, attracting investors is facilitated where this type of information is provided at the start to a prospective developer.

Yakimanka has completed twenty deals in the past twelve months. A typical deal begins with an original agreement signed between Yakimanka and the developer arranged through competitive bid, negotiated proposal or auction.²³⁴ Registration of the lot is completed with Moskomzem and approval of the project site is received from the Mayor. Approval of the project design must then be granted by the Chief Architect within Moskomarkhitectura and signed by the Mayor.

Once all approvals are received and construction begins, Yakimanka supervises the construction to assure compliance with Russian townplanning and building standards. At the beginning of a rehabilitation or reconstruction project, the municipality owns 100 percent of the property. As development continues, those

²³³ This permission was granted by a Mayor's resolution.

Yakimanka may dispose of these land parcels either through auction or tender. Thus far, Yakimanka has not conducted any auctions.

²³⁴ Yakimanka has the authority to dispose of parcels through auction, but has not conducted any auctions to date.

percentages change as the investor's contribution of time and money increases. By the time the project is complete, the investor's property rights are fully vested. Conflicts during construction are resolved by the courts. The upshot of the system is that the developer obtains some vested interest and development in the land from the outset and the city does not retain total ownership of the land with the right to do with it as it pleases at any stage of the process.

When construction is complete Yakimanka prepares the formal documents to convey lease rights. Yakimanka acts on behalf of the city administration as the lessor of the property in preparing the lease with the developer.²³⁵ For rehabilitated or reconstructed property that formally belonged to the city Yakimanka prepares the documents to transfer property ownership on behalf of Moskomimuschestvo. Once all forms are prepared and executed formal property rights are transferred to the developer.

The Yakimanka model should be familiar to anyone experienced in American practice, as it entails elements of the community redevelopment corporation as well as the privately developed master planned community. As a community development corporation Yakimanka may perhaps be distinguished in that it is now solely a private, for-profit company, while the usual variant in American practice is a public corporation or non-profit entity. Nevertheless, its functions of preparing areawide plans, inducing investment, negotiating deals and supervising development on behalf of the municipality are equivalent to those of the typical community or area

²³⁵ According to Gusev, Yakimanka is one of three private organizations in Moscow that is granted this authority by the Moscow government.

development company in the United States. A close comparison would be, for example, with Baltimore's Charles Center-Inner Harbor Development Corporation.

A similar comparison may be made to master planned land development projects, particularly the roles of preparing a detailed areawide plan subject to city approval and then following through with submission of individual projects in accordance with the city approved area plan. In effect, the city's technical review and approval is largely completed in the area planning stage, before any individual project proposal is submitted. So long as the projects adhere to the parameters set out in the area plan, the city's approval of individual projects should be almost perfunctory. How this approach enhances good planning, conserves city resources, and facilitates deal making by the area development corporation is obvious.

The practice of vesting property rights proportionally as the project proceeds is somewhat unusual, as is the practice of executing a formal lease document only upon completion of construction. Much would depend upon the quality of the agreements granting development rights prior to execution of the lease. The practical, legal effect of proportional vesting is somewhat ambiguous, but may be related to determining the compensation due to the developer in the event that the city terminates its development rights prior to completion.

The practice itself is merely a reflection of the City's interest in assuring completion of the project on the agreed upon terms and conditions, which is a legitimate public interest. A better approach might be to issue the lease or right of ownership prior to start of development, and reserve rights of termination or

reversion for violations of the deal terms.²³⁶ However, the important consideration, particularly if any of the proposed projects are to be mortgage financed, is that the developer is recognized to possess a vested development right from the outset, and that disputes will be resolved through legal process. These objectives can be accomplished in a number of ways.

²³⁶ This is in fact the usual approach of American municipalities.

Case Study 3

Cottage Development -- The "Basement" Fiction

Subdivision and development of lots for private home construction is taking root in some areas, and has provided an interesting variation on the subdivision process.²³⁷

Under this variation a land developer obtains from a suburban district a lease or right to construct (right of use) on property through application and a negotiated contract.²³⁸ The full value of the lease or right of use is paid immediately to the local administration.²³⁹ Under its right of use the land developer subdivides the land and installs utilities through the usual municipal processes. However, rather than build a home on each lot, the developer will simply excavate a basement and start a foundation. How much construction actually proceeds may vary.²⁴⁰

²³⁷ The particular variation described in this instance is in use in the St. Petersburg Oblast.

²³⁸ The actual process of negotiation may vary from place to place. In response to questions about pricing of the land, the Chairman of one local Land Committee remarked that the administration and developer attempted to "find areas of common interest." In some cases this means cash, in others a quid pro quo of offsite development, where the developer agrees to extend infrastructure to the area to be developed or to provide additional infrastructure for adjoining areas. Taking most developers at their word, it also frequently means direct payments in cash or kind (lots or housing units) to certain members of the administration. In fact, the price for land will likely include all three.

²³⁹ As often as not a lease under current practice will require a single payment at the start and not reserve periodic rent, or at least exact a substantial payment up front for the "right to lease."

²⁴⁰ The full process of providing infrastructure to a site and obtaining building permits for homes can be so time consuming, expensive and uncertain in some areas that we have been advised by some developers that there is an economic incentive

The developer has until recently been prohibited under his right of use or lease from selling the land. However, under existing law individuals could sell structures, which are in Russia an entirely distinct form of property than land.²⁴¹ The developer proceeds to sell the partially built foundations to individual purchasers as "structures," a characterization that the local administration is apparently willing to accept. Prices for the "structures" are set at the going rates for equivalent land lots plus whatever added value the developer provides.

Upon purchase of from the land developer, the individual makes application to the local administration to obtain ownership of the land underlying his residential "structure," which is granted pursuant to the existing law Decree on Citizens' Rights to Own and Sell Land.²⁴²

Apparently, the initial payment for the lease or right to construct has satisfied the administration financially, and there are no further payments required from the individual purchaser. Upon transfer of the lot to the individual owner, it simply drops out of the lease or other agreement of use that the developer has with the municipality.

The noteworthy aspects of both of the subdivision processes described are the

for developers to construct as little as possible prior to sale of the land lot, i.e. the real profit is in the land play. Some developers will therefore try to provide the minimal amount of infrastructure necessary to obtain the land allocation and then gladly let individuals build their own homes.

²⁴¹ Housing Fundamentals, supra note 72, art. 1. The Housing Principles reflects the notion that both land and appurtenant structures were both "real estate."

²⁴² Decree on Citizens' Rights to Own and Sell Land, supra note 78.

complex devices used to circumvent the restriction on sale of land lots through developers, and the apparent willingness of local administrations, for whatever reason, to cooperate.

At the same time, there were clearly some legal lacunae in the transactions that would perhaps subject them to challenge if the local administrations were not willing to overlook them. For example, until recently there was no clear legal requirement for a municipality to agree to transferring land held by a developer under lease or right of use to individual purchasers in ownership. This was done simply on the prior understanding that the request for transfer would be honored when submitted, i.e. it was a premise of the deal.

These processes could be simplified and property rights made more certain simply by adoption of law that recognizes the right of developers to subdivide and convey land to individual purchasers, and that the title conveyed by developers under such circumstances would be considered ownership. It would not even be necessary to recognize ownership rights to the land in the developers, which could continue to hold the land under some concept of trust under which real ownership of the land does not vest until the lot or house is sold to an individual citizen.

Case Study 4

The Joint Venture - VMB

A typical approach to obtaining land for development is the joint venture between a developer/investor and an entity holding rights to the land. The St. Petersburg Joint Stock Company "Research and Production Concern VMB" ("VMB") is a company created in 1992 to engage in real estate brokerage, investment and development. VMB is engaged in a wide variety of real estate development ventures, including several multifamily apartment buildings, a suburban "cottage" subdivision, and several commercial office building or "business centers."

VMB controlled no land at the start of its projects. Rather, it sought out and entered into joint ventures with local enterprises or associations that held the rights to land. For example, each of its apartment buildings are constructed on land held by a local enterprise and originally allocated by the municipality for development of housing for the employees of the enterprise. Similarly, a business center project is a joint venture between VMB and a local industrial concern to build and operate a commercial office facility on a property owned by the industrial concern.

Typically, the rights to properties are contributed by the enterprises to a newly created company consisting of the landholding enterprise and VMB as "Chief Investor." In fact, the role played by VMB goes beyond simple investment, as they are generally responsible for design, construction, finance, and marketing -- in short, the

entire development process.²⁴³ The title received by the new joint venture entity is the title owned by the original landholder, and is generally the right of unlimited use.

The shares in the joint venture are generally paid in kind. For example, in an apartment project a portion of the completed apartments will be assigned to each partner for their use or sale. The enterprise or association partner will still typically reserve its share for the use of its employees while the investor partner will offer the units for sale in the private market. Typically, VMB will keep 80% of the apartments, which translates roughly to a land price of approximately 20% of project costs.²⁴⁴

VMB prides itself on the "legality" of its transactions. Again, however, there are certain legal ambiguities. For example, the rights of enterprises to sell off land held for development of enterprise housing is open to some question. Presidential Decree No. 8, On Use of Social Cultural and Communal-and-Everyday Service Facilities of Privatized Enterprises (January 10, 1993) appears to prohibit enterprises from privatizing housing held by them for their employees. By implication, an argument can perhaps be made that they are also prohibited from selling off development rights

²⁴³ It should be noted that most enterprise housing is in fact merely an extension of the social housing constructed by the municipality; it is generally designed by the municipality's architects and fabricated in the state's large panel housing factories.. In the case of VMB at least, this has meant that VMB has merely picked up from the contributing enterprise and constructed the approved municipal design of the housing.

²⁴⁴ This method of distributing proceeds is encountered throughout Russia in the residential joint venture scenario, regardless of whether the land is held by an enterprise, an association (e.g. the Academy of Sciences, the faculty association of a local university or institute) or the municipality itself. In fact, the typical arrangement in municipalities for the allocation of residential land is that the developer return 50% (30% in the outlying areas) of the completed units to the government for the social housing stock.

for as yet unconstructed enterprise housing. Nevertheless, the joint venture between developer/investors and enterprises and associations holding the rights to use land, most often granted before the demise of the USSR, seems to be among the most widespread approaches to allocating land to the development industry in Russia today.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Areas for Reform in Land Use and Allocation

The issues of land allocation, urban planning and property rights create a "seamless web;" they must be approached in a comprehensive way in order to make progress in any one area. Such issues include the following:

1. Inadequate and Conflicting Fundamental Laws.

Determination of the applicable legal rule is often difficult in the absence of a single, comprehensive land law. For example, the recent Yeltsin decrees regarding the rights of private land transactions are clearly in conflict with the existing Land Code and with Article 12 of the Constitution.²⁴⁵ The Yeltsin decrees allow private purchase and sale of land restriction while the Land Code virtually prohibits private land transactions, and Article 12 places significant time restrictions on the right to alienate privately owned land.²⁴⁶

In addition, the technical quality of the laws being prepared in the Federation at this time is not good. The work is characterized by ambiguity, contradiction and lack of systematic approach.

A new Constitution has been prepared under the direction of President Yeltsin

²⁴⁵ See *supra* notes 78-95 and accompanying text (discussing 1992 and 1993 Yeltsin decrees on land allocation).

²⁴⁶ Article 12 provides that land given free to physical and juridical persons by the state cannot be resold for 10 years. Land sold to these same entities for a contractual price cannot be resold for 5 years. The only exception is land bought by individuals for a contractual price to be used for individual housing or dacha construction or gardening.

which would liberalize land restrictions.²⁴⁷ At the time of this writing it appears that enough voters in the December 12, 1993 supported the Constitution for it to be enacted. The 1993 Land Code vetoed by President Yeltsin was intended to be a comprehensive statement of land relationships, and may yet be, but in its present form, the proposed Land Code fails to address many of the issues raised in the present legislation.

2. Reliance on Local Governments.

Most urban land in the Federation is owned by local governments.²⁴⁸ Federal laws are essentially general directions to local governments to implement the land allocation process. By all indications, the performance of local governments in implementing the laws is uneven, frequently depending upon the sympathies of the

²⁴⁷ Article 36 of the proposed Constitution addresses the issue of land ownership in the Russian Federation.

Article 36

1. Citizens and their associations are entitled to hold land in private ownership.
2. Owners freely possess, utilize, and dispose of land and other natural resources provided that it does not damage the environment and does not violate the rights and legitimate interests of others.
3. The conditions and procedure for the use of land are defined on the basis of federal law.

These provisions abolish the restrictions on private land ownership in article 12 of the present Constitution. The current article 12 allows citizens to hold land in private ownership only for designated purposes (primarily individual housing or dacha construction and gardening) and places a moratorium on land sales of 5 years for land obtained through purchase and 10 years for land obtained free.

²⁴⁸ See Decree on the Delineation of State Property into Federal Property, State Property of Republics, Krays, Oblasts, and other Subjects of the Federation (RF) (1992). It is a fundamental principle of the Constitution and 1991 Land Code that real property "belongs" to the people of the territory in which the property is located.

local government to the objectives of land reform.

Much of the conflict between federal law and local practice perhaps also can be attributed to the unsettled nature of Russian federal relationships and fundamental questions about the legitimacy of legal acts of the federal government. These issues affect matters far beyond land relationships and are not susceptible to easy solutions, but may be resolved with the election of a new legislature and enactment of a new Constitution in December 1993.

3. Absence of Prescribed Methods of Allocation

Federal legislation is intended to provide general principles which will be detailed in implementation by local governments. For example, the Yeltsin's decree "On Additional Measures to Grant Plots of Land to Citizens"²⁴⁹ requires local governments to inventory urban land and make it available to citizens for construction of individual houses.²⁵⁰ However, the law does not specify the methods to be use for allocating the land, leaving this to the local governments. Accordingly, the actual method used may range from first come-first serve applications through lotteries or bulk auctions of land lots.

Decrees 301 and 631, relating to the allocation of land to privatized enterprise and other entrepreneurs, specifies auctions, "investment competitions" and applications as the methods for land allocation but provides no further detail.

²⁴⁹ See On Additional Measures, supra note 85.

²⁵⁰ Id. art. 2. The law calls for the Council of Ministers to develop a statute governing the procedure for inventorying surplus and detailing sources to finance the inventory. Rozkomzem is currently in the process of developing this procedure.

Similarly, the 1991 Land Code authorizes local governments to allocate land, but does not specify the methods or rules of allocation. Consequently, methods and rules are left to the decision of the local government. One consequence of this approach is that while larger cities such as Moscow and St. Petersburg have active land auction programs, with relatively detailed rules and procedures, most smaller cities have not yet considered this type of procedure. More importantly, the wide variety of rules among jurisdictions governing these procedures could vary widely raise the issue of fairness and equal treatment of similarly situated citizens. The recent decree On Regulation of Land Relationships requires that the federal government issue regulations governing land auctions and competitions of land in December 1993 and those regulations may address these issues.

4. Forms of Property Rights

The land laws are characterized by several vague forms of property rights. In addition to ownership and lease, which approximate their equivalents in western market economies, there are also the rights of permanent and temporary use, the right of life long hereditary possession, and rights of economic management.

Some of the existing property rights are of questionable value, and serve only to make the laws unnecessarily complex. At the same time, several useful forms of property rights are lacking in all existing and proposed land legislation. For example, the laws lack effective descriptions of the functions and legal elements of easements; development rights; air rights; and condominiums or other forms of common

ownership.²⁵¹ Of course, legal concepts of easements and servitudes, leases and even common ownership do exist in Russia, but it is not clear that they have been sufficiently described or refined to serve the needs of a private land markets.²⁵² In the absence of the accumulated experience with modern property concepts found in other western nations, and reflected, for example, in the judicial precedents of common law countries such as the United States, it may be necessary in Russia to further develop these concepts in the laws.

5. Emphasis On Leasehold

The law establishes leasehold as one of the primary forms of property right, and until recently allowed only leasehold tenure for corporate entities, associations

²⁵¹ While land leases are being issued at this time, and are in fact the predominant form of commercial land allocation in urban areas, there appears to be some distrust in the business community of the lease concept. The laws on leasing real property are found in the in the Land Code and in the Fundamentals of Leasehold. The Fundamentals of the Civil Legislation of the USSR and the Soviet Republics and the RSFSR Civil Code may also address the rights of leasehold as a question of basic contract rights.

The combination of all laws taken together provides a relatively detailed description of the legal elements of leasehold rights and obligations. A major issue, however, as with all property rights in Russia today, is that the resolution of lease disputes is left in the first instance to the local administration or soviet that issued the lease, and then on appeal to the courts. All of these institutions lack experience with leases and private market property concepts. Consequently, issues of the enforcement of rights are uncertain.

²⁵² The concept of "condominium" or common ownership of multifamily apartment buildings was first raised in the Law on Privatization of the Housing Stock (Cite), which provided that owners of privatized apartments also owned the common elements of a building in common with other apartment owners. The more recent Fundamentals of Federal Housing Policy (cite) explicitly addresses the "condominium" concept and authorizes the federal government to enact further laws and regulations implementing the concept. At this time the City of Moscow has enacted its own regulation of common ownership of housing, and the federal government is preparing a federal law dealing with common ownership that may be enacted by winter, 1993.

and partnerships -- virtually everyone that is not a natural person or holds the land for commercial purposes. Urban governments have expressed a high degree of comfort with the long term leasehold concept.²⁵³

There are many reasons for emphasis on leasehold. Several officials point to the fact that revenue collected for the municipal treasury from real property taxes is nominal compared to funds received through competitive lease rates.²⁵⁴ There is also some discomfort with selling property at this time also because of the unpredictability of inflation and property values in the nascent land market; there is concern that the property might be given away at far below market value on the basis of inadequate information or projections.²⁵⁵ Officials also maintain that given the lack of comprehensive environmental protection regulations allowing private

²⁵³ See *On the Land Leasehold as the Main Form of Legal Land Relations in the City of Moscow (1992) (RF)* [hereinafter *Moscow Land Lease Regulation*]. It is still unclear whether municipalities may continue to offer land only in leasehold, or whether they are obligated to offer it in ownership. Municipal officials are of course already making the argument that ownership is only permitted, not required.

Decree 631, which gives the right to own land to privatizing enterprises or individual entrepreneurs who are privatizing formerly state owned businesses, does not clearly deal with other situations in which land is allocated for new businesses. The recent decree *On Regulation of Land Relations* acknowledges that individuals and corporate entities can own and sell land, and allows citizens, but not legal entities, to demand an upgrade of existing rights to full ownership, but does not specifically state that ownership is to be the sole means of allocating municipal land.

²⁵⁴ The argument that a sale price can be equivalent to the present value of a 50 or 99 year rent stream does is not persuasive to the municipalities that feel uncertain about the true value of the land and most current leases have automatic inflation adjustments or rent renegotiation provisions.

²⁵⁵ There are some in favor of property liberalization who also support the leasehold concept more from the fear that the property will be given away in corrupt deals, and that this period of transition and confusion is no time to be selling valuable public assets.

property ownership of land could lead to uncontrollable noxious and environmentally unsound land uses. Still others insist that leasehold is the only effective means of preventing foreigners and other non-Russian nationalities from acquiring ownership rights to Russian land.

Perhaps most interestingly, quite a few Russian officials have come under the sway of the followers of Henry George, a 19th century American economist who they have interpreted to advocate that all land should be publicly owned and leased by the state. In this sense, they may be espousing another radical experiment with the Russian economy to replace the one recently failed.

Ultimately, the emphasis on leasehold serves an emotional need of the Russian power structure to proceed cautiously with reform, not to take irreversible steps, and to maintain bureaucratic control over this major sector of the economy. In fact, as discussed elsewhere in this paper, the leasehold is one more effective tool of land use regulation allowing the government to continue to dominate the direction of urban development.

Questions might be raised about the leasehold concept from several directions. At present the foundations and likely effects of the policy are unclear. When asked about the workings of the system, the questioner is pointed vaguely toward the experiences of Hong Kong, Holland, Finland or a number of other countries in which the leasehold plays a significant part in land markets. There appears to have been little serious analysis of the transferability of those experiences to Russia and the likely course of development of leasehold markets.

The reluctance to sell off public assets in this unsettled time of questionable

official ethics in Russia is a reasonable argument. On the other hand, there are significant issues associated with leaseholds that have not been raised, including, for example, the effects on investment and disinvestment, the continuing role of the bureaucracy in the market, and the potentially highly charged political issues of applying leasehold concepts to the millions of privatized apartments in large cities such as Moscow.²⁵⁶

On a more practical level, there is an argument that the lease concepts used at this time are not designed to create a market. Take, for example, the statutory lease used by the City of Moscow.²⁵⁷ Examples of the terms of that lease include the following:

- (a) rent is fully indexed for inflation;
- (b) the base rent can be increased periodically, with no formula provided for the increase;
- (c) the terms of the lease are subject to change in accordance with changes in the laws or regulations governing leaseholds;
- (d) the municipality may terminate the lease, upon payment of the historic, not replacement, cost of the development and provision of a parcel of land in another place, if the land needs to be "withdrawn to meet the needs of the State";

²⁵⁶ Interestingly, if the leasehold concept is applied to residential buildings there will be approximately one million apartments in Moscow on which lease terms will expire at or around the same time. Leases would have to be renewed or terminated, or rents increased. Who would want to be Mayor of Moscow at that time?

²⁵⁷ See Moscow Land Lease Regulation, Appendix C.

- (e) the lease is not freely assignable upon sale of the structure;
- (f) there is no specific authorization for financing and mortgaging the lease; there is no acknowledgement of lender's rights in the event the lease is mortgaged;
- (g) the issue of change of use of the property by the lessee or a mortgagee in possession is not addressed.

The marketability of this lease under the standards of western economies is questionable. It is possible these issues can be addressed in the course of negotiating the lease with the municipality, and the statutory form of lease does not necessarily reflect the actual terms of deals made.

5. Termination of Property Rights

The existing laws establish several vague grounds for termination of property rights by the state, including failure to use the land for its designated purpose, misuse of the land, or nonproductive use of the land.²⁵⁸ Moreover, the grounds for "confiscation" of property rights are broad and undefined, and can conceivably include confiscation as a means of reallocating land for economic uses preferred by the government under its economic development program.

The recent decree On Regulation of Land Relationships restates the legal commitment not to confiscate land without just compensation, but this commitment has been in the law since the 1990 USSR Fundamentals of Land, and can also be found in the 1991 Land Code that enumerates the many reasons for terminating land

²⁵⁸ See 1991 Land Code, *supra* note 26, arts. 39-44.

rights. The absence of land markets and a poor understanding of land valuation techniques in Russia today make the promise of compensation cold comfort.

6. Land Ownership for Large Scale Housing Development

Until the recent decree On Regulation Land Relationships, corporate entities could only lease and not own land. The most immediate issue for housing development thus became how to transfer ownership rights to individual home buyers from corporate developers of multifamily or subdivision housing who do not themselves own the land. As shown infra Part III, this problem has given rise to several clever, but artificial, overly complex, and uncertain legal processes.

The decree On Regulation of Land Relationships may have addressed this problem by recognizing the right of corporate entities to own and sell land, but this is by no means clear. Even after the decree was issued, municipal land authorities with whom the authors spoke were insisting that corporate entities had only the right to lease land. There appears to be still a widespread lack of understanding of the commercial builder/developer as an intermediary in the allocation of residential land, with many local officials convinced that most new housing will be built by individuals on their own land plots, and the municipalities will continue to be responsible for construction of multifamily types of housing.

7. Absence of laws of property registration

No land allocation program will be effective in the absence of a sound registration system. At this time the federal laws on real estate registration consist of the general responsibility for creating a system of land registration delegated to

Roskomzem,²⁵⁹ the directive found in the recent Yeltsin decrees for local governments to establish local systems for registering land allocated to citizens for garden plots and individual housing construction,²⁶⁰ the directive that all private land transactions to be registered with the local office of Roskomzem,²⁶¹ and the description of a "Certificate of Title" system contained in the new decree On Regulation of Land Relationships. There is no law of general principles setting out the purposes of land registration and its relationship to creating and protecting property rights.²⁶²

²⁵⁹ Rozkomzem Charter, supra note 170, art. 5.

²⁶⁰ On Additional Measures, supra note 85, art. 2.

²⁶¹ Resolution 503, supra note 91, art. 7.

²⁶² All real property has been registered in Russia, more or less accurately, by the Bureau of Technical Inventory, which has kept a cadastre of the physical characteristics of structures and the land on which they sit as part of the building permit process. Frequently these records will also include information on the ownership or control of the property. The state of the records will depend on the jurisdiction, but are generally believed to be incomplete and outdated.

Various other laws deal with the registration of specific interests in real property. The Russian Federation Law on Pledge requires that mortgages be registered, but does not designate the registry. Recent drafts of a new law on real estate mortgages name Roskomzem to register mortgages. In practice, new leases of municipal property are registered with Roskomzem also as required by local laws on land allocation.

Since the start of housing privatization some localities, notably Moscow, have implemented systems to register apartment ownership and transfers of privately owned apartments. Moscow's system is operated by a private sector contractor that has also begun to register mortgages on apartments pursuant to a directive of the Moscow government.

Under the present situation in any locality there are likely to be several registries of real property interests, including the BTI records, the land records being developed by Roskomzem, the housing records, and the records on commercial structures kept by the State Property Committee. At this time all of these agencies are engaged in a bureaucratic battle to continue registering specific real estate

At the level of implementation, few municipalities have implemented effective title registration systems. Many have tied title registration to the development of elaborate land cadasters that focus more on issues of land use planning, and the development of title registration has in a sense been hostage to the development of these more elaborate systems. All municipalities suffer from fractured responsibilities for registration of real estate, with 3 or more agencies in each locale having responsibility for some aspect of real estate registration.

8. Absence of an adequate system of land taxation

The current federal legal framework governing the assessment and collection of land taxes are the RSFSR Law On Payment for Land²⁶³ and the RSFSR Land Code.²⁶⁴

Under federal law, all public and private owners and users of land²⁶⁵ are subject to some form or payment for land: land tax, lease payments, or purchase at a standardized price.²⁶⁶ The stated goal of this system of taxation is to "stimulate

interests rather than create a unified real estate registry.

²⁶³ Law of the RSFSR On Payment for Land (1992) (RSFSR) [hereinafter On Payment for Land].

²⁶⁴ 1991 Land Code, supra note 26.

²⁶⁵ On Payment for Land, supra note 263, art. 1. The law contains a list of entities exempt from the land tax. This list includes national parks, scientific and research facilities, invalids, veterans. Id. art. 12.

²⁶⁶ Id. at art. 1. The RSFSR Land Code considers land rent and land tax as functionally equivalent and does not contemplate that a tenant should pay both and lease rent and tax should be equal. The law On Payment for Land applies this principle only to rural land. In practice, both models are followed. See Ira S. Lowry, Real Estate Tenure and Taxation in the Russian Federation (Urban Institute, 1992).

the rational application, protection and assimilation of lands"²⁶⁷ In reality, the amount of revenue collected from these taxes on land is nominal. Land taxes are established at normative rates set by federal law²⁶⁸ and do not adequately reflect the value of the land. Furthermore, the rates established through this mechanism are obsolete soon after they are published due to the rapid pace of inflation in the Russian Federation.

The law On Payment for Land establishes the procedures for levying and collecting land taxes and the subsequent "Procedure of Estimating Land Tax Rates from Normative Land Cost" (Procedure)²⁶⁹ elaborates on the provisions of the law. Tax rates are set by tax per unit area²⁷⁰ and differentiated by general categories of land use - agricultural, urban, industrial, resort areas and farm land taxed at lower levels.²⁷¹ Land tax rates in cities with populations over 500,000, resort areas, recreation zones of Moscow and St. Petersburg, and regions with "highly developed socio-cultural potential" are taxed according are taxed at higher rates by applying a nominal coefficient to the basic normative rate.²⁷²

²⁶⁷ On Payment for Land, supra note 263, art. 2.

²⁶⁸ Id. art. 1. Rates are located in a schedule attached to the law On Payment for Land.

²⁶⁹ Procedure of Estimating Land Tax Rates from Normative Land Cost (RF) (1992) [hereinafter Procedure].

²⁷⁰ Id. art. 3.

²⁷¹ These categories are based on the "primary purpose" of the land. Id. arts. 1, 7.

²⁷² Id.

Theoretically, collections of land taxes is a major source of revenue for a city. Taxes are collected by the city government and 90 percent of the revenue is allocated to the municipal budget, with the remaining 10 percent given to the federal government for public works the benefit the city.²⁷³ In reality, the tax rates are so low that it may actually cost more to establish a system of land tax collection than the system would produce in revenue.

Cities are allowed some flexibility in assessing land taxes. Cities may vary the land tax by district provided that the over city average remains the same.²⁷⁴ Both Moscow and St. Petersburg have devised territorial maps dividing the city into different normative land values. Local soviets are also given limited discretion to change rates based on location and aesthetics.²⁷⁵ Where the soviet is selling plots it may raise the tax up to 50 percent. The tax on auctioned plots is not limited. However, considering the constraints of tax amounts set by federal law and the inadequate assessment capabilities and procedures of local governments, territorial maps do little to address the essential problem that the revenue collected from land tax bears little to no relation to the absolute value of the land.

The land tax has perhaps been of some value for taxing unused agricultural land. However, in urban areas, where most land is leased to enterprises, the revenue collected from land tax has been inconsequential. This factor may very well be

²⁷³ Id. art. 18.

²⁷⁴ Id. art. 10.

²⁷⁵ Id. art. 8.

another reason why many cities prefer granting long term lease rights to tenant rather than other forms of property ownership; revenue from lease rates is more profitable for local treasuries than the present system of land taxation.

At this time there appears to be considerable pressure on the federal government to modify the real property tax system to permit local control.

9. Directed vs. Market Driven Development

One of the fundamental issues facing the urban land reform process is the extent to which real markets can be expected to work under the present system of use regulation. All parcels of urban land are subject to the specific use designated in the municipal master plan, which retains its preeminent position in urban development. Flexible, multi-use land use regulations do not exist. For lands allocated through auction or investment competition, the specific use and, in some instances, the conceptual design of the building itself, are premises of the competition.²⁷⁶

Use restrictions have been further reflected in the lease form of tenure that has been mandatory for most urban land transactions. The specific use of the property is designated in the lease for periods as long as 50 years. Use of the property for any other purpose is cause for termination. Accordingly, a change of use, if one becomes necessary for market reasons over the extended terms of leases, is subject not only to the restrictions of the planning laws, but also to the contractual restrictions with the city. Modification of the contractual restrictions is, at least at this time, subject

²⁷⁶ A recent auction for a desirable parcel in Moscow required that the successful bidder develop a business center and "tennis club" on the parcel.

solely to the discretion of the municipality as lessor.

As there is limited opportunity for investor input into the initial development concept, neither the planning laws nor the lease forms presently in use provide rules or procedures for changing uses. Property owners have no apparent right to have a reasonable change of use considered, not only because such rights and procedures are absent in the law, but because their only right to the land is a contractual leasehold which generally places all decisions on use in the discretion of the lessor/municipality.²⁷⁷ Apparently, there are presently no established administrative procedures for waiving or modifying applicable planning requirements with respect to specific parcels at the application, and initiative, of the investor.

Because most of the specific use of the property is defined by the government as a condition of allocating the land, the eventual possessor of the land is not in a position to challenge any government decisions on use, or on any other matter affecting design or construction of the property for that matter, because property rights do not vest until all development decisions with respect to the property have

²⁷⁷ An attorney with the St. Petersburg komzem advised that lessees who wish to change or intensify the use of a property can do so only by submitting an application to KER as if the lessee were seeking use rights for the first time. The developer would be required to go through the entire land allocation process from the beginning and, if the project were approved, would receive a new lease for the land.

Clearly this method in regulating development rights is not unique, and is used, for example, in Hong Kong. The only issue with regard to this practice raised by the authors is whether the experience of other leasehold jurisdictions such as Hong Kong is transferable to Russia, whether the models are being correctly followed, and, ultimately, whether they are the best means of inducing private land markets and development initiative regardless of whether they are used elsewhere. The use of leaseholds is not necessarily incompatible with private initiative, perhaps depending upon whether they are used primarily as a tool of land use control or as an economic tool in the interests of the municipal treasury.

been made by the government. In some areas, property rights frequently do not vest until construction of the project is complete.²⁷⁸

The result of this directed development regime is that the initial use of the project is specified by the government in accordance with city plans in which property owners or the public have no meaningful contribution, and which until recently were state secrets.²⁷⁹ Changes or modifications to planning norms are solely in the discretion of the municipality, without established rights or procedures. The government controls the long term use of the property through its leases; upon expiration of one lease the government will again determine the use made of the property by the subsequent lessee.

This is arguably not a market system, but a mere extension of central planning.²⁸⁰ Such a system demands a great deal of trust in the judgment and reasonableness of municipal officials. Depending of course upon how the government

²⁷⁸ This is not true in Moscow and St. Petersburg where lease rights are acquired before construction begins. St. Petersburg only recently changed its land allocation law to reflect this. Until recently lease rights were not granted on projects in St. Petersburg until construction was complete. We were told that the reason for the change in St. Petersburg was for the land allocation process to be in compliance with the Land Code which states that lease rights should be granted for construction and use.

²⁷⁹ Recent drafts of the Fundamentals of Town Planning have attempted to establish procedures for citizen and developer participation in the adoption and modification of planning norms.

²⁸⁰ The continuing role of central economic planning in the present system is reflected in the prominent role played by the municipal economic development agencies in the land use allocation and project approval processes in both Moscow and St. Petersburg. In St. Petersburg, for example, all proposed projects must first be approved by the Committee on Economic Development (KER).

behaves, it is not structured to respond flexibly to the needs of the private market. In fact, the only real decision left to the private market may frequently be whether or not to invest.

It goes without saying that municipal governments have a significant role to play in urban planning and design. And, it is not unusual for municipalities to take a dominant role in determining the use and design of projects to be located on public lands or leaseholds. However, private markets require that an appropriate balance be struck. In Russia, it is clearly a question of the degree of control exercised by the government and the portion of the urban land market -- virtually all -- that this control affects.

Reliance to the present degree on government control of urban land use could result in market distortions, and should be questioned. The system could perhaps be improved by consideration of more flexible planning mechanisms, which would encourage investor initiative and better respond to market forces both in the short and long term.

10. Balancing the Rights of Investors and Government

Because land allocation is tied to decisions on use and design, and property rights do not vest until all agreements on use and design are in place, interested developers are virtually at the mercy of the land and planning bureaucracy. In preparing the initial development program, they hold no property rights which would give them the standing to challenge or appeal the decisions of the land use bureaucracy, no matter how arbitrary. This unbalanced situation can in some cases last throughout the construction period.

Unfettered discretion in the bureaucracy creates not only a potential for market distortions, but also an invitation to arbitrary action and perhaps corruption.²⁸¹ Vesting of property or development rights permitting challenges or appeal of arbitrary official action at some earlier point in the land development process could perhaps help. This might be achieved by issuing leases or development rights prior to commencement of the design and permit process, based only on broad conceptual agreement between the city and investor. Since time is money, investors worldwide are more inclined to negotiate than fight, but the existence of the right to bring an appeal or challenge against land use decisions may serve as a check on official discretion and force the consideration of private market concerns. But even rights of challenge and appeal will not be effective until official action is constrained by appropriate codes and administrative procedures.

11. Transparency Of Land Use Regulation

The norms and procedures governing issuance of design approvals and building permits, where they exist in writing, are not generally published in detail. This is particularly true of design, which is frequently based upon subjective preference of the municipal architects.²⁸²

²⁸¹ A frequently heard complaint among Russian developers is that they must "go along to get along," regardless of their view of the decision taken by government; that there are too many individuals in the process who can act arbitrarily, holding up a project and soliciting bribes; and that the land use decisions taken on equivalent projects can vary widely, depending on factors other than planning or other technical issues.

²⁸² A noteworthy exception is use and design regulations for the old historic district of St. Petersburg, which covers most of the central business district. Planning and design norms for over 90 separate areas are provided. Typically, the

A key feature of land use codes is that they not only state what cannot be done with the land, but either explicitly or by implication state what can be done; they define property rights both negatively and affirmatively. In that sense they are a physical and financial planning tool for the private sector. Together with the basic concepts of property rights and laws of administrative procedure, they provide to the private sector sufficient predictability and certainty to induce the investment of resources in a development project.

The Russian codes, in contrast, are characterized by ambiguity, unpredictability, broad official discretion and subjective judgment. Because of the closed nature of the process, there are few, if any, procedural or administrative precedents interpreting rules and limiting official discretion. There are no established administrative procedures for involving the developer or the public in the adoption, waiver or modification of land use codes or for challenging official discretion. Consequently, the application of the codes often comes down to personal relationships or other informal dispute resolution procedures such as bribery.

Assuming the legal right to challenge official discretion may exist at some point, the right of challenge or appeal is limited to the extent that clear technical and procedural standards are lacking. If all decisions are left primarily to the discretion

planning constraints on a land parcel will be broadly set out in the master plan, and may also be set out in more detailed area or block plans prepared by the local planning bureaucracy. However, the crucial document in the permit process appears to be the "town planning order" or "town planning assignment," which contains the detailed design and site planning criteria for the project. The town planning orders and assignments are prepared on a project by project basis, perhaps comparable to the American special permit or site plan review procedure, and the ultimate content of the order is highly uncertain at the start of the process.

or judgment of the bureaucracy, it is difficult to determine when that discretion is exercised unreasonably. Again, land use codes and procedures that determine both restrictions and rights are essential.

12. Development Exactions

Land use regulation is frequently a means of recouping the direct public costs of development. This is done in any number of ways, including impact fees, mandatory subdivision requirements and infrastructure or offsite requirements imposed during the permit process. Exactions can be a major part of project costs and project feasibility; how they are determined is important.

In Russia today there is no clear policy or approach to development exactions. In the past, of course, there was no such thing; all costs of development were borne by the public treasury. Today, just about the opposite is true, where because of severe budget constraints local governments may try to put the entire burden of infrastructure development on the private land developer. This is clearly infeasible in the suburban areas, where a great deal of infrastructure development is necessary and there are too few projects over which to spread costs.

As importantly, the calculation of development exactions now frequently comes down to personal relationships and political influence. This results in a great deal of uncertainty in the process; significant opportunities for public corruption (which by all reports are taken full advantage of) and market distorting effects of similar projects being treated differently.

There are presently no established cost spreading techniques such as special districts, special assessments, public development corporations, user charges, etc.;

real property taxes, as discussed earlier, are practically useless at this time; and utility rates are presently far from recapturing the costs of capital investment.

These are not easy issues to deal with even in developed market economies. However, in the long run appropriate techniques for establishing fair and reasonable development exactions will have to be established in Russia.

13. Conflicting Authority

The authority of various levels of government as defined in the laws affecting land allocation and urban planning are ambiguous. Perhaps because of the ambiguity of the laws, the actual relationships between levels of government appear to be resolved by each jurisdiction on their own terms.

The 1991 Land Code and the proposed 1993 Code appear to give a great deal of authority over local land allocation decisions to the State Committee on Land Resources and Development ("Roskomzem"), which is a federal agency that has approximately 2,800 local branches at the regional and municipal levels. In actuality, the role of the federal committee may depend upon the approach of local administration. In both Moscow and St. Petersburg the role of the committee appears to be that of an auditor that assures compliance with federal land laws and issues documents of title. There are indications that outside of the larger cities the federal land committee takes a more active role in land allocation decisions.

In the sphere of town planning, both the land laws and the Fundamentals of Town Planning appear to distribute authority broadly among levels of local government on a hierarchical basis, but do not reserve the same federal role as is

reserved for Roskomzem in the land allocation process.

One of the most apparent conflicts is between the authority of the municipalities and the regions in which they are located. The premise of Russian local government law is a rigid vertical hierarchy among units of local government, with higher levels of government having significant veto powers over the acts of municipalities. Again, however, in the spheres of local planning and land allocation, much will depend upon how issues are resolved in the local jurisdiction. The authors have seen a wide disparity in state/local relationships on these issues. In the St. Petersburg Oblast, for example, the districts probably exercise more authority than the Oblast in planning and allocation issues. In Nizhni Novgorod Oblast, the regional administration maintains close control over the decisions of its largest city, Nizhni Novgorod, while in Ryazan Oblast, the regional administration appears not to involve itself in the land and planning issues of Ryazan, its largest city.

The implications of this situation for urban planning and land allocation at this time is that it may occasionally be unclear which approvals from which levels of government are needed in connection with any particular land development project. Typically, it appears that those involved in land development study the relationships carefully and make an attempt to cover all bases. The situation could perhaps be improved somewhat by further defining the lines of authority among the levels of government and emphasizing local control and municipal "home rule" concepts in planning and land allocation matters.

14. Complexity

Russians involved in the development process are often heard to complain about the complexity of the land use approval and allocation process, and indeed the permit processes for cities such as Moscow and St. Petersburg are complex, consisting of many steps and many actors. The question, though, is "complex compared to what"?

Anyone who has attempted to develop a significant piece of property in an American jurisdiction also complains about the complexity of the process. The typical permit process for a significant project in an American jurisdiction can exceed 6 months on average; one to two years for projects of major local significance is not unheard of.

This is not to say that the efficiency of the system could not be improved, only that the present Russian system appears to involve many of the same municipal agencies and steps as are found in a typical American jurisdiction.²⁸³

A comprehensive treatment of the existing procedures is beyond the scope of this paper and should be left to a careful analysis. Where appropriate, attention might be paid, for example, to:

- elimination or consolidation of duplicative or overlapping agencies and functions;

²⁸³ A typical urban project in Russia might require the approval of the Mayor's office; planning bodies (local, regional and federal, if required); architectural commissions; roads and transportation departments; utility departments (which are now municipal or regional public agencies); water and wetlands agencies, where appropriate; fire departments and building departments. Other than the involvement of the Mayor's office, economic development and architectural bodies, this list could be applicable anywhere in the United States.

- clarification of the distinctions between necessary legal requirements for approval and policy matters falling within the discretion of decision makers; an authoritative land use commission should have power to treat issues of a policy nature as advisory only;
- implementation of concurrent rather than sequential official review of applications;
- emphasis on local control, thereby eliminating regional and federal agencies from the approval process;
- removing utility providers from the formal approval process.

15. Competition vs. Negotiated Proposals

The competitive approach to allocation of land for urban development has much to recommend it, particularly with respect to establishing market prices and preventing official favoritism. At this time, competitive auctions or investment competitions are used in Moscow, St. Petersburg and some other major cities, but not widely throughout Russia.²⁸⁴

Competitive procedures are widely recommended by both Russian and foreign experts, but there is some question whether exclusive use of competitive procedures would be the most effective way to spur rapid development of land markets and the private development industry. Such procedures must be organized by the municipality, and are therefore subject to the judgment of the

²⁸⁴ In St. Petersburg there has been a long running dispute between the city administration and the city soviet based primarily on the insistence by the soviet that all land in the urban center be allocated by competitive procedures. The administration, on the other hand, sees a role for negotiated transactions.

municipality on priorities and the market.²⁸⁵ At the same time, there are any number of feasible, productive development opportunities throughout the city which may sit until they can be included in an auction proceeding.²⁸⁶

Again, the issue is one of balance. In many instances, particularly with respect to smaller and more routine opportunities, unsolicited developer proposals and negotiated transactions may be the more effective approach. The private sector is given the incentive to seek out and provide ideas to the city for development of particular parcels that may not yet have caught the official eye.²⁸⁷

Negotiated proposals can be protected against corrupt influences by enactment of conflict of interest rules, public disclosure of deal terms, and the requirement that municipal property be sold only for fair value as determined by

²⁸⁵ In fact, Moscow has contracted with several private sector brokerage companies to identify, package and conduct competitions for development opportunities, subject to municipal supervision. In effect, these companies are playing the role of public development corporations.

²⁸⁶ Like the 1991 Land Code, the 1993 version of the Land Code provided detailed procedures only for the negotiated transaction. Any party interested in a piece of land may bring a proposal to the local administration, whether or not it is presently in the possession and use of another party. The municipality is obligated to process the application in accordance with rules provided in the law, and its ultimate decision on the application is subject to challenge in the courts.

²⁸⁷ Under procedures effective in Moscow at this time developer proposals are welcome, but the city retains the right at any point in the process to subject the proposal to competitive bid. This may be a disincentive for the developer to complete substantial work on a proposal, or even to put forward the developer's best ideas in the initial proposal to the city. In actuality, the Moscow rules call for the auction to be conducted within 30 days after the decision to put the proposal up for competitive bid is made. This may give the developer who initiated the proposal an advantage over competitors.

an authorized appraisal process.

In addition to retaining well regulated negotiated transactions, municipalities could consider "request for proposals" techniques which provide only broad development guidelines and request the private sector participants to come up with creative development solutions for the designated property. In any case the municipalities should provide procedures whereby interested parties can request that a particular piece of property be included in the next scheduled auction.

16. Fairness

The question of fairness is bound to arise when a valuable national asset such as land is being redistributed. The question is particularly pertinent in Russia today because of the continuing influence of its former political elite, the apparent disregard for rules of conflict of interest in public life, as well as the growing influence of criminal groups. Comparisons of the present stage of Russia's market economy with the era of "Robber Baron" capitalism in the United States are not frivolous.

The issue of fairness may be resolved with respect to mass allocation of individual building lots for home construction by insisting on auction or lottery procedures, both of which can be relatively fair and free from corrupting influences. Allocation of significant landholdings for urban development can also proceed on an auction or other competitive basis. However, the fairness of allocation of significant urban development opportunities will probably always be

open to question.²⁸⁸

It seems likely that most significant urban land allocations will end up in the hands of those who already enjoy advantages over other citizens, for example the former elite or persons having undetermined sources of cash flow. These advantages frequently go hand in hand with political influence and connections. The average citizen is not going to pull together the cash, expertise and political support to compete for significant urban development opportunities in Russia or anywhere else. It is likely that the rich will get richer.²⁸⁹

The significance of this state of affairs for a recommended program of urban land reform can be overstated. There is a distinction between the objectives of creating a market in land and fairly redistributing wealth, and the former does not depend upon the latter.

The authors are reluctant to recommend any particular attention to issues of fairness other than the recommendations otherwise made throughout the body of this paper. It is believed that encouraging the use of competitive and open

²⁸⁸ There is substantial anecdotal evidence that real estate markets in many Russian cities are dominated by organized crime groups. For example, the authors have encountered anecdotal evidence that organized crime is "fixing" land auctions by intimidating competitive bidders.

²⁸⁹ This is inherent in the entire redistribution of wealth ongoing in Russia today. People of privilege under the Soviet regime occupied the best apartments in the best buildings, which they privatized. Those who already owned dachas are given the right to own the land on which the dacha is located. Managers of state enterprises, which vary widely in their value, have the first opportunity for ownership.

procedures in the allocation process,²⁹⁰ enacting technical codes and codes of procedure that bring greater transparency to the process, and taking other steps to encourage the creation of a competitive development industry will have their own influence on the fairness for the process.

²⁹⁰ This, understanding that the mere facade of competition procedure is no more a certainty of freedom from taint or corruption in Moscow than it is in any major American city.

B. Areas for Action

Urban land reform requires that issues of basic property rights, urban planning law and procedures, and the law on procedures for land allocation be addressed in order to develop a successful private sector development industry.

Based upon the research and analysis presented in the earlier sections of this paper, the following program should be considered.

1. Basic Property Rights

The program in basic property rights should consist of the following elements.

1. Enact a revised land code, but not in the form adopted in the Supreme Soviet in July, 1993.

The legal norms on land should be consolidated in a single, comprehensive Land Code. However, as discussed previously, the Land Code proposed by the Supreme Soviet in July, 1993 and rejected by the President should be reconsidered. Issues to be considered in enacting the new Land Code include, for example, the following:

- (a) enactment of a uniform national land policy, not subject to the discretionary implementation of the regions;²⁹¹
- (b) clarification and development of forms of property rights; elimination of vague or redundant rights and further attention to

²⁹¹ Aside from the question of equal treatment of citizens of the same nation, there are potentially serious economic consequences of this policy. Significant differences in property rights among the different areas could distort the allocation of private investment among areas or regions. Investment decisions may be made on the basis of the quality of legal rights rather than the economic efficiency of investment.

-
- forms of property rights not presently codified;
 - (c) clarification of the role of the "developer" as an intermediary in the allocation of land;
 - (d) granting land ownership rights to condominium and cooperative housing;
 - (e) reconsidering all artificial distinctions between corporate and individual property rights;
 - (f) clarification and limitation of governments' ability to terminate land rights;²⁹²
 - (g) establishing a conceptual distinction between use and ownership;²⁹³

²⁹²The concept of "withdrawal, "redemption" or confiscation of land seems to be treated as a usual and ordinary part of the system. In fact, such actions appear to be viewed as just another means of land allocation. This is a noteworthy departure from market systems, in which confiscation of land by the government is viewed as an extraordinary action having nothing to do with land allocation issues. It is a cause for concern primarily because the entire concept of compensation for takings has only been introduced in the law in the past three years and there is little experience with the concept to date.

In the initial stages of land reform, it may be necessary for the government to take an active role in land reallocation. Again, however, that stage should be transitional, and at a later stage state "withdrawal" and "redemption" of land should be treated as an extraordinary action intended to serve the most vital needs of the public, and its use limited accordingly. At a later stage of development use of "withdrawal" as a method of land allocation will likely be highly inefficient as compared to market mechanisms.

²⁹³ If the law continues to tie rights to land allocation, ownership or possession to the use made of the land, and use continues to be dictated by official planning bodies as at present, the market plays little role. The official use planning may be appropriate to a reasonable extent in the initial stage of mass land reallocation. However, in a market system the rights to possess or own land should be separate from the use made of it and, within the constraints imposed by town planning laws,

- (h) separation of the land allocation process from land use regulation in such a way as to provide encouragement of private initiative and flexible responses to market forces;
 - (i) elimination of rules for private land transactions better left to private discretion and market forces.
3. Upon enactment of the Land Code, the government should be assisted to widely disseminate the basic rights in land in a form accessible to the population.

Dissemination of information on basic property rights would enhance the market and serve as a check on the positions of local governments that may drag their feet on land reform. Dissemination could take the form of pamphlets, public relations campaigns, town meetings or any number of other dissemination techniques sponsored by the federal government.

4. The rights of privatized enterprises should be clarified.

The land rights of privatized enterprises needs further clarification, either in the Land Code or the laws of privatization. If the decision is to not allow surplus enterprise lands to be privatized along with the enterprise, and to permit market sale or lease of surplus lands by the enterprises, a concentrated effort should be made to recapture valuable but under-utilized urban lands in the possession of enterprises

the owner should be free to choose the land use and the pace of development in accordance with market principles. This is as much an issue of the planning laws as land laws. Similarly, the concept that land rights may depend upon "efficient use" of the land, as determined by the state, simply has no place in a market system. The ground provided in the law for termination of land rights are too ambiguous and leave the door open for undefined government intervention.

and make them available for redevelopment through the usual allocation process. Timely resolution of the rights to this land could make a tremendous amount of well located, serviced land available in urban areas.²⁹⁴

One element of this issue might be to initiate a substantial "quiet title" program whereby a designated agency would have the right to bring before a designated judicial or administrative tribunal actions to settle many of the ambiguous rights to property that now exist in Russia. Such a program would entail a concerted effort to identify existing land rights by giving enterprises and other users of record a designated time period in which to submit their claims to land with accompanying documentation or arguments.

5. Develop a registration system for real property interests.

The system of real property registration in the Federation is incomplete, chaotic and subject to intense bureaucratic infighting. The following steps should be taken:

- (a) enact a separate law of real estate registration that addresses registration of all interests in real property;
- (b) encourage separation of a basic title registration system from development of the overall national cadastre; these are two distinct projects and a simple title registration system can in itself be developed more quickly with more immediate beneficial

²⁹⁴ For example, in St. Petersburg the authors were acquainted with substantial amounts of industrial land in the heart of the city which is under-utilized or not utilized at all, often because of the competitive shake out of Russian industry.

effects on the economy.²⁹⁵

- (c) designate by law a single agency, for example BTI or Roskomzem, as the real estate registry, or mandate that localities designate a single local agency as the real estate registry; take firm steps to put an end to the bureaucratic conflicts in registration issues.
 - (d) attempt to bring some coordination to the efforts of the various national groups working on registration issues, perhaps by creation of an informal working group.
 - (e) consider technical assistance, training and loans for hardware and software systems on a selected basis.
6. Investigate the long term implications of a lease based land economy.

It seems that there has been very little systematic investigation of the long term implications of the lease based system. In the event that the lease-based system continues in the future, encouragement and assistance in analyzing the advantages and disadvantages of such a system is worthwhile. Such assistance could take the form of study tours to market economies in which the land lease is widely used, cooperation on formal economic analysis, or organization of seminars and workshops on the implications of the system.

²⁹⁵ This point is emphasized in the approach taken by Mr. Justin Holl, Jr., who is providing technical assistance to Roskomzem on title registration matters under the farmer to farmer Program of the American Agricultural Cooperative Development International. Holl's comments are provided in an unpublished paper entitled "Land Reform and Title Registration in the Russian Federation" (March 9, 1993).

If the lease is to be the predominant form of urban land tenure in the near term, technical assistance should be provided to assure that the lease concepts employed can serve as the basis of a commercial market in land. Such assistance might include:

- (a) consideration of a revised law on leasehold and municipal leasing, if necessary;
- (b) preparation of a model form lease for use by governments in the allocation of land, which form would address such key concepts as financeability (rights of mortgage lenders); termination; transferability and change of use.

7. Encourage the creation of specialized tribunals to deal with land and property issues.

The courts and other institutions having the responsibility for enforcement and protection of property rights lack experience in the modern property concepts rapidly being implemented in Russia. The level of distrust of property rights appears to be fairly high. It might be possible to encourage the creation of a land court or similar tribunal, which could be a division of the existing courts, that would specialize in land and property disputes. Training and technical assistance on property concepts and dispute resolution could be focused on such tribunals, perhaps with the assistance of the American ABA or one or more existing Russian legal institutes.

II. Land Allocation

- 1. Encourage the development of a unified national policy on land allocation.

Russia presently lacks a unified national policy statement on the objectives of the land reform and land allocation program. The federal government should be encouraged to develop such a policy and to identify the steps to be taken by the federal and local governments in its implementation.

2. Establish basic procedures for the land allocation process.

Federal law should address the basic methods of land allocation to assure fairness and efficiency. Attention should be given to the workings of the basic methods of land auctions, lotteries, competitions, requests for proposals and negotiated transactions. Assistance, in the form of workshops, conferences and seminars for those responsible for the actual process, could be given in the form of developing fair, transparent and predictable regulations governing each of these methods.

3. Encourage appropriate separation of the land allocation process from the land use regulation process.

This objective will be tied closely to reform of land use regulation generally.

Progress in this area may depend upon:

- (a) encouragement of alternative approaches to urban planning, including wide area zones that allow for a variety of compatible uses;
- (b) encouragement of land allocation procedures, particularly auctions and competitions, that leave key development decisions to the workings of the market and the discretion of the investor;
- (c) further protection and clarification of the investor's right to be

free of arbitrary government interference in development decisions that are better left to the market forces.

Local governments should be encouraged to allocate a portion of their land portfolio on the basis of price alone, leaving use decisions and technical review to laws of general applicability. Development rights should vest, and be recognized under law, prior to the technical review process to provide a better balance to the rights of the investor and government and a check on arbitrary official action in technical and use issues.

III. Land Use Regulation

1. Enact the long pending Foundations of Town Planning Legislation.

The Foundations of Town Planning Legislation, passed by the Supreme Soviet on a first reading, should reflect a balance between the rights of private property and the rights of the public, and should serve as the basis for judging the legitimacy of local procedures and decisions regarding the use of private land.

2. Attempt to increase the transparency and decrease the subjectivity of the land use regulation process.

Local governments should be encouraged to enact comprehensive local codes dealing with land use and other technical requirements for development. Such codes should be enacted with the force of law, and serve as the basis of resolving disputes over permissible land uses. It should be made clear that the codes not only present the limitations on land use, but also establish the rights to use land by establishing checks on official discretion.

Local Codes should pay particular attention to:

- (a) rules of administrative procedure governing the adoption, modification, waiver and application of design and land use requirements by local agencies;
- (b) rules of administrative procedure that provide effective means of participation by landowners and the public in land use regulation generally and with respect to specific projects;
- (c) rules and procedures for changing property uses that are based primarily in concepts of property rights and flexible economic policy and insulated from political processes and other potential opportunities for corruption.

Except in unusual circumstances, such as historic preservation and major public redevelopment opportunities, the subjective control of design by local officials should be reduced or eliminated. Design criteria should be minimized, provide for market flexibility, and stated in such a way as to prevent the worst instances of decision making by local officials on the basis of personal preference or other subjective factors.

Technical assistance and training in the development of such codes and procedures could be provided through the training of existing Russian planning and design institutes, which would then be used to work with localities in the design and

implementation of their own local systems.²⁹⁶

3. Attempt to refine or simplify the regulatory process.

Assistance could be provided to local officials to simplify and refine the land use regulation process, with particular attention to eliminating duplicative or overlapping steps, consolidating functions, and implementing concurrent rather than sequential processing. This is an issue of systems or management consulting, and could perhaps be pursued through seminars, workshops and direct assistance to individual localities with the assistance of urban managers experienced in the operation of land use regulation and building departments.

4. Define policies on development exactions.

Some attention should be paid to developing guidelines and approaches to developer exactions. At present, exactions are imposed on an ad hoc basis and can vary widely among jurisdictions and among projects in the same jurisdiction. Assistance could be given in the concepts of development exaction in an attempt to regulate and bring some predictability to the process.

5. Reconsider the present approach to real property taxation.

The present law on real property taxation was designed with agricultural

²⁹⁶ In St. Petersburg, the Russian Institute of Urbanistics, formerly one of a handful of national planning institutes responsible for preparing local master plans and planning and building norms, has been given contracts by the City of St. Petersburg and the St. Petersburg Oblast to review and revise their planning procedures. The Institute is working on implementing zoning, administrative procedures, and simplification of the permit review process. With some amount of initial training and assistance from a team of foreign experts, the Institute could perhaps be used to provide similar assistance to other municipalities throughout the federation.

interests in mind. Real property taxes are uniform and nominal, and bear no relationship to urban land dynamics. They are neither a source of local revenue nor a potentially helpful force to order urban land markets.²⁹⁷

Aside from the basic concepts, local tax authorities are ill equipped to implement a system of real property taxation. They lack both the training and the technical resources (appraisers and appraisal techniques; accurate land records, hardware and software) to implement anything but the rudimentary system now in place.

²⁹⁷ More than one city official has stated that commercial ownership of land is out of the question until real property taxation can assure the same municipal revenues as leases.

C. Work Program

A work program in the described areas for action might consist of the following:

1. Intensify work on land use issues with Gosstroï

Gosstroï remains the federal agency with primary responsibility for issues of planning and building regulation. More intensive work with Gosstroï on enacting the pending Fundamental Legislation of Urban Planning would be timely. This work would be accompanied by work on the many implementing regulations that would necessarily follow the new urban planning law.

In addition, through Gosstroï an effort should be made to influence the proposed Land Code and to coordinate the provisions of the planning and land laws.

2. Model Laws for Local Governments

Since the general principles of law affecting land allocation will depend to a large extent upon further local action for implementation, model laws and regulations in the areas of urban planning and land allocation procedures would assist local governments in expeditiously developing workable and market-oriented procedures in these areas.

3. Intensive Work in Select Cities

The best opportunities for developing model laws and regulations would be through working intensively with cooperative cities eager to reform their current laws and procedures. Assistance in planning regulations and land allocation procedures should be concentrated in two or more select cities. This work could enlist the cooperation of existing federal planning institutes that are searching for a role and have demonstrated interest in and familiarity with reform concepts.

4. General Education

A program of general education in planning and land allocation should be undertaken for Russian municipalities. Such a program would include conferences, workshops, seminars and dissemination of educational materials on relevant topics, including:

- alternative methods of land use regulation;
- municipal leasing;
- ordering municipal and suburban relationships in planning and land allocation;
- methods of municipal land allocation, including auctions, requests for proposals, lotteries and negotiated transactions.

**THE LEGAL BASIS FOR
LAND ALLOCATION
IN THE RUSSIAN FEDERATION**

APPENDICES

Prepared by

Stephen B. Butler
Sheila O'Leary

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

Project 6306-03
April 1994

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

APPENDICES

- APPENDIX A: Chronology of Russian Federation Land Laws
- APPENDIX B: Moscow and St. Petersburg Laws on Land Allocation
- APPENDIX C: Federal Laws and Procedures Related to the Land Allocation Process
- APPENDIX D: Urban Development Documents Supporting the Process of Land Allocation
- APPENDIX E: List of Organizations Interviewed for Land Allocation Project

APPENDIX A

CHRONOLOGY OF RUSSIAN FEDERATION LAND LAWS

FEDERAL

Pre-perestroika

1924, 1936 and 1977 USSR Constitutions and 1978 RSFSR Constitution

Until recent amendments (see below "Constitution of the Russian Federation as amended through 1992") the USSR and RSFSR Constitutions stated that all land was the property of the state. The Russian Federation has yet to adopt a new Constitution. The current Russian Federation Constitution remains the 1978 RSFSR Constitution although it has been heavily amended.

USSR Fundamentals of Land Legislation (1968) and RSFSR Land Code (1970)

Until passage of the 1990 Fundamentals Legislation of the USSR and Union Republics on Land and the 1991 RSFSR Land Code these documents comprised the main normative framework defining legal land relationships in the USSR and republics.

Perestroika

Fundamentals of the USSR and Union Republics on Leasing (1989)

This law specifies what types of property may be leased by which entities; defines parameters for the lease contract, payment and enforcement; and defines the property rights of lessors and lessees.

USSR Law on Ownership (1990) and Law On Ownership in the RSFSR (1990)

The Law on Ownership is the basic law dealing with property rights in property of all types. 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 land laws.

Fundamentals of the USSR and Union Republics on Land (1990) and RSFSR Land Code (April 25, 1991)

The Fundamentals replaced the 1968 USSR Fundamentals of Land Legislation.

The Code replaced the 1970 RSFSR Land Code. The Land Code sets out the basic rules for land ownership, use and disposition. It has been modified by the

recent Constitutional amendments, described below, but remains the fundamental law defining land relationships in the Russian Federation today.

Law of the RSFSR on Payment for Land, (October 11, 1991)

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

Russian Federation

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.

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

This decree 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 only the granting of long-term leases and rights of use.

Constitution of the Russian Federation, as amended through December, 1992

The December 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.

Law of the Russian Federation on the Rights of Citizens to Acquire as Private Property and to Sell Tracts of Land to Conduct 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 (Rozkomzem).

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

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

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.

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 (a) inventory land available for distribution; (b) adopt systems for registration of land titles; (c) issue appropriate documents of title, and (d) re-register land rights granted prior to commencement of the land reform program.

Presidential Procedure for Approval of Procedure for Land Purchase and Sale (May 30, 1993)

This document provides the procedure that citizens must follow for purchases and sales of privately-owned land plots. It is a companion document to the December 1992 Law of the Russian Federation on the Rights of Citizens to Acquire as Private Property and to Sell Tracts of Land to Conduct Subsidiary Farming and Dacha Economics, Horticulture, and Private Housing Construction. This law permits the private sale of land plots only for the use of gardening, horticulture, dachas and individual housing construction. The purchaser may not alter the designated use of the land. This procedure is not yet in use as it calls for the development of an as yet to be devised mechanism to collect a transfer tax.

Revised Land Code of the Russian Federation

A revised Land Code was prepared and passed on a second reading in the Supreme Soviet in July 1993, but was rejected by the President in August. The revised Code would reflect 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.

Presidential Decree On Regulation of Land Relationships and Development of Agricultural Land Reform in Russia (October 27, 1993)

The decree is primarily intended to address the reallocation of agricultural land from the state and collective farms to individual farmers. It accomplishes that goal essentially by providing for the issuance of shares representing land interests to collective farms individually and permitting them to request an in-kind allocation of land or to trade the land shares among themselves. The decree has several important provisions that relate to urban land. It defines the concept of "real estate" to include both land and the structures or improvements located on it; authorizes citizens and juridical entities that "own" land to sell or mortgage it freely; establishes a registration system based upon the "Certificate of Title," which is to be issued with respect to each parcel of land and registered with the local komzem; and subjects all disputes concerning land to court proceedings.

MOSCOW

Mayor's Decree, On Arranging Competitions to Allocate Plots of Land in Moscow on a Long-Term Lease Basis (August 10, 1992)

This short decree states that the City of Moscow approves the process of allocating land for long-term lease through the mechanism of auctions and tenders. The decree specifies the agencies that will carry out the task of implementing the decree (Moskomzem and Moskomarkhitectura) and sanctions the use of private organizers to arrange the competitions.

Mayor's Order On the Bidding Procedure and Conditions of Tenders for Lone Lease of Plots of Land in Moscow (December 18, 1992)

This Order is considered an amendment to 264-PM. It establishes the Moscow Commission for Land Relations and specifies its main objectives and scope of authority. The Commission is the primary organization in Moscow charged with overseeing auctions and tenders. An appendix to the Order contains provisional regulations for conducting tenders.

Vice Mayor's Instruction, The Procedure of Granting and Seizure of Land in the City of Moscow (January 31, 1992)

This document contains provisional regulations establishing the basic procedure for acquiring plots of land in the City of Moscow. The document specifies the types of entities which may acquire land and defines the land tenure to which they are entitled. The document also contains the procedure for government physical takings of private land and lists the conditions under which an individual's right to possess or use property may be liquidated.

Vice-Mayor's Order, *On the Land Leasehold as the Main Form of Legal Land Relations in the City of Moscow* (March 2, 1992)

This order contains the text of the land lease that should be used between lessees and the City of Moscow as lessor.

Mayor's Directive, *The Procedure of Preparation of Normative Documents on Granting Land for Development Projects in the City of Moscow Granting Building Permits* (March 19, 1993)

This is a companion document to 51-PBM. It elaborates on the procedure for allocating land for development projects. Specifically, the document defines the procedure for reviewing applications and issuing permits for construction, rehab and restoration.

ST. PETERSBURG

Maly Soviet Resolution, *On the Sale of the Property of St. Petersburg and the Offer of Municipal Contracts at Investment Auction* (October 20, 1992)

This resolution establishes the procedure for auctioning of state property. It establishes the Municipal Investment-Tender Commission to oversee the auction process. The resolution defines the mechanisms for preparing and conducting an auction.

Mayor's Instruction, *On the Procedure for Preparing Instructions Regarding Issues Concerning the Construction, Reconstruction, and Offering of Land Plots* (May 5, 1993)

This instruction establishes the basic procedure for granting land plots for development projects in St. Petersburg.

APPENDIX B

MOSCOW AND ST. PETERSBURG LAWS ON LAND ALLOCATION

MOSCOW

Mayor's Decree On Arranging Competitions to Allocate Plots of Land in Moscow on a Long-Term Lease Basis (Moscow) (1992) [Mayor's Decree 264-PM]

Mayor's Order On the Bidding Procedure and Conditions of Tenders for Lone Lease of Plots of Land in Moscow (Moscow) (1992) [Mayor's Order 571-PM]

Mayor's Instruction On The Procedure for Allocation and Appropriation of Land in the City of Moscow (Moscow) (1992) [Mayor's Instruction 51-RVM]

Mayor's Instruction On The Procedure of Preparation of Normative Documents on Granting Land for Development Projects in the City of Moscow Granting Building Permits (Moscow) (1993) [Mayor's Instruction 168-RM]

Moscow Land Plot Lease (Addendum to Vice-Mayor's Order On the Land Leasehold as the Main Form of Legal Land Relations in the City of Moscow (Moscow) (1992))

Moscow Land Plot Sale Advertisement

Diagram of Procedure for Allocation of Land Plots and Construction Permits (Addendum to Mayor's Instruction 51-RVM)

ST. PETERSBURG

Maly Soviet Resolution On the Sale of the Property of St. Petersburg and the Offer of Municipal Contracts at Investment Auction (St. Petersburg) (1992) [Resolution 307]

Mayor's Instruction On the Procedure for Preparing Instructions Regarding Issues Concerning the Construction, Reconstruction, and Offering of Land Plots (St. Petersburg) (1993) [Interim Statute 332-r]

St. Petersburg Land Plot Lease

St. Petersburg Land Plot Sale Advertisement

M O S C O W
THE MAYOR'S DECREE

August 10 , 1992 No. 264-PM

On arranging competitions
to allocate plots of land
in Moscow on a long-term
lease basis

In order to create favourable conditions for involving home and foreign investments into development of social and engineering infrastructures of the city, for encouraging inflow of additional funds to the city budget, for ensuring glasnost while allocating plots of land, as well as for ensuring stable guarantees to protect the rights of the investors to land, I hereby decree that:

1. To accept the proposal by Moscomzem to arrange competitions on allocation plots of land on a long-term lease basis , while incorporating into tender documentation a full package of town-planning and land documents in compliance with the Decree by Vice-Mayor of January 31, 1992 No. 51-PBM (the town-planning assignment, draft Decree by the Moscow Government on allocation of a plot of land, agreement on land lease).

2. To involve the share-holding companies "Moscow Chamber for Real Estate" and "Irbis" in preparation and holding competitions entrusting them with responsibility to organize and finance the advertising campaign.

3. To assign Moscomarchitecture and Moscomzem following the orders by the share -holding companies "Moscow Chamber for Real Estate" and "Irbis" to prepare by September 15, 1992 not less than 20 proposals on plots of land of considerable commercial

interest (including those which remained undeveloped for a long time) with a complete arrangement of a full package of tender documentation.

4. To recommend the share-holding companies "Moscow Chamber for Real Estate" and "Irbis" to hold competitions within the period of October 15-30, 1992.

5. To establish the following procedure for allocating the funds obtained as a result of the competitions:

85% are intended for non-budget investment fund of the
Moscow Government,

5% are intended for Moscomzem,

5% are intended for Moscomarchitecture,

5% are intended for the stock company which arranges the
competition

6. To assign Moscomzem and Moscomarchitecture in cooperation with the share-holding companies "Moscow Chamber for Real Estate" and "Irbis" to report on the results of the competitions at the session of the Moscow Government.

7. To approve of the list of persons engaged in the competition committee on summing up the results of the competition to allocate plots of land on a long-term lease basis /Annex 1/

8. To assign the Competition Committee (Item 7) to publish the results of the competitions within two weeks after they are over.

9. Mr V.I Resin, first Deputy Prime Minister of the Moscow Government is authorised to exercise control over the implementation of the given decree.

Signature The Mayor of Moscow Y.M. Luzhkov

Distributed : V.I. Resin, Department for Prospective development
among

3.

Inspection in Moscow, Moscomzem, Moscomarchitecture,
Prefects of the Administrative Prefectures, the State-and-
Legal Department of the Mayor's office , Stock company
"Moscow Chamber for Real Estate" (Moscow, Grimay St.,2),
Stock Company "Irbis" (Moscow, Burdenko St., 14 a

Melnichenko 21-12-41

LIST

of members of the Competition
Committee to sum up the results
of tenders to allocate plots of land
on a long-term lease-holding basis

1. V.I.Resin - First Deputy of the Prime Minister of Moscow,
Chairman of the Committee
2. S.P.Melnichenko - First Deputy Chairman of Moscomzem, Deputy
Chairman of the Committee
3. A.V.Kuzmin - First Deputy Chairman of Moscomarchitecture,
Deputy Chairman of the Committee

Members of the Committee:

- 4.Y.V.Roslyak - Head of the Department of prospective deve-
lopment of Moscow
- 5.Guretskiy Y.A. - First Deputy Head of the Association
"Moscapstroy" (Moscow Capital Construction)
6. Avezkov V.V. - Deputy Chairman of Moscominyschestvo"
(Moscow Committee on Property)
7. A.A.Savin - Head of the Department for Goscontrol
(State control), safeguard and use of mo-
numents of history, culture and architecture
8. I.N.Shustov - Chairman of People's deputies' Commission on
land policy
9. Y.I.Xazhova - the leading expert in Moscomzem,
Secretary of the Committee .

MOSCOW

MAYOR

THE ORDER

of December 18, 1992 N 571-PM

On the bidding procedure and
conditions of tenders for
long lease of plots of land
in Moscow

In addition and as amendment to the order of the vice-mayor of the city of Moscow of 15.10.91 N 306-PBM "On holding of tenders for realization of incomplete construction projects" and of 21.11.91 N 361-PBM "On setting up of a commission for land relations and town-planning regulation in the city of Moscow and LPZP", and the mayor's order of 10.08.92 N 264-PM "On holding of tenders for long lease of plots of land in Moscow", to introduce the practice of land assignment to commercial enterprises generally on the competition basis:

1. To establish that property rights to real estate transfer transactions, including those made at city and regional tenders and auctions, shall come into force since registration of rights to land use in the Moscow Committee for land use and land utilization (Moscomzem).

2. To give the commission for land relations and town-planning regulation in the city of Moscow and LPZP additional authority to establish control over holding and summing-up of results of tenders for long lease of plots of land, and to rename it "the commission for land relations in the city of Moscow".

3. To approve:

3.1. Regulations on the commission for land relations in the city of Moscow (Appendix 1)

3.2. Composition of the commission (Appendix 2)

3.3. Provisional regulations on the procedure for putting plots of land out to long lease on the competition basis (Appendix 3).

4. To ensure functioning of the commission, Moscow land committee is authorized to establish land tenders department within the framework of the latter, and to entrust this department with preparation of documentary materials and holding of tenders on the basis of town-planning proposals made by the Moscow Committee for Architecture and land archives of Moscomzem.

5. To entrust prefects of administrative districts:

5.1. Within the ten days' period to set up commissions for land relations in administrative districts and to entrust them with holding of tenders for long lease of land at the prefectures' disposal.

5.2. To ensure functioning of territorial commissions in accordance with the principle provisions of the present order, and to submit starting prices for approval to the city commission for land relations (item 2).

6. To regard item 2 of the vice-mayor's order of 21.11.91 N 361-PBM and items 5 and 7 of the mayor's order of 10.08.92 N 264-PM as invalid.

7. To authorize V.I. Resin, the first deputy premier of the Moscow Government to exercise control over enforcement of the present order.

The Mayor of the Moscow city

Y.M. Luzhkov

Delivered to: deputy premiers, members of the Moscow government, Moscomzem-5, Moscow Committee for architecture, Department for long-term development of Moscow the state-legal department of the Municipality, Moscow Committee for property, commission members pursuant to Appendix 2.

Melnichenko
235-4325

Appendix 1
to the order of the mayor
of the city of Moscow
of December 18, 1992
N 571-PM

REGULATIONS ON THE COMMISSION
FOR LAND RELATIONS IN THE
CITY OF MOSCOW

1. GENERAL PROVISIONS

The Commission for land relations in the city of Moscow (hereinafter referred to as the Commission) has been set up under the jurisdiction of the Moscow government for preliminary operative consideration of problems related to land relations, town-planning regulation and siting of new buildings construction (rehabilitation, restoration) projects in the territory of Moscow and LPZP, and for organization, control over holding and summing up of tenders for long lease of plots of land.

II. MAIN OBJECTIVES AND TASKS

The main objectives and tasks of the commission are:

2.1. Preliminary operative consideration of problems related to land relations and town-planning regulation arising in connection with siting and construction of projects necessary to meet the needs of the state and the municipality, to ensure functioning and development of public facilities, engineering and transport infrastructure of the city;

2.2. To determine and approve conditions, bidding procedure and terms for holding of tenders, document subject to presentation for participation in the tenders, to consider bids advanced by the participants and experts' conclusions, and to assure control over compliance with the bidding procedure prescribed by the provisional regulations on the procedure for

2.3. To attract investors by granting them the right of long leasehold of land on the competition basis to meet interests of the city.

2.4. To co-ordinate selection of land plots subject to assignment (item 1) and to be put up for the tenders by Moscomzem, the Moscow Committee for Architecture and other municipal agencies, if necessary;

2.5. To attract, if necessary, independent experts to appraise market value of plots of land put up for the tenders;

2.6. To determine the winner of the tenders for the right of long leasehold of land;

2.7. To consider differences arising from the preparation of tenders documents (in connection with their composition, starting price, conditions of sale and making of final decision) and other disagreements.

III. PROCEDURE OF WORK

3.1. The Commission shall consider on the regular (weekly) basis all applications on matters within its competence, including commercial use of city land.

3.2. Decisions passed by the Commission shall be protocolled and delivered to the customers within a week since they are made.

3.3. Projects necessary to meet the needs of the state and the municipality:

3.3.1. If the planned construction project complies with the city master plan, town-planning and development project and other approved city development plans, the Commission shall entrust:

- the customer to present basic data on the planned construction (rehabilitation, restoration) project to the Moscow Committee for Architecture within a week;

- the Moscow Committee for Architecture to prepare proposals on sitting of new construction (rehabilitation, restoration) projects with setting of town-planning tasks (draft N 1 and the town-planning evaluation of the project) agreed with all agencies concerned.

- Moscomzem to draft a resolution of the Moscow Government on the preliminary agreement on the sitting of the project or on assignment of the right to use a plot of land.

3.3.2. If there is preliminary agreement on the sitting of the project, the commission shall entrust:

- Moscomzem to draft a resolution of the Moscow Government on the preliminary agreement on the sitting of the project or on assignment of the right to use a plot of land;

- the prefectures to pass resolutions as agreed with Moscomzem and the Moscow Committee for Architecture on administrative districts infrastructure projects sited on plots of land assigned earlier and that do not require additional land assignment.

3.4. Projects put up for the tenders:

3.4.1. Tenders for plots of land long lease shall be held by specialized organizations willing to do it which are selected by the commission on the competition basis.

Winners of the competition acquire the status of the organizer.

3.4.2. The Commission shall approve the list of plots of land put up for the contest on presentation of the land tendersü department of Moscomzem, and the tenders time set taking into consideration market demand and real needs of the city.

3.4.3. The commission shall ensure the compliance with the bidding procedure and time pursuant to the approved provisional regulations on the procedure for plots of land putting out to long lease on the competition basis, assure information on projects put up for the tenders to be full and presented in due time.

3.4.3. Meeting of the commission shall be regarded as competent if the quorum of at least two thirds of its permanent members is reached. Decisions of the commission shall be made by ballot or by open vote; decisions on the form of voting shall be made by an affirmative vote of the majority of the commission members present at the meeting. Decisions that determine the tenders winner shall be made by an affirmative vote of the simple majority of all commission members. If members of the commission disagree with the decision passed, it

3.4.5. Results of the commission's meeting shall be protocolled within a week since the day when it is held and signed by the Chairman and the secretary of the Commission. The protocol on opening of envelopes containing proposals submitted by the participants shall be signed by all members of the commission present at the meeting.

3.4.6. Tenders documents, conditions of putting plots of land out to long lease, opinions of independent experts and documents on disagreement shall be submitted for consideration of the commission members by the tenders organizer acting on behalf of the commission not later than two working days prior to the date of the meeting.

3.4.7. Prefects (vice prefects) of administrative districts on the territory of which the plot of land put up for the tenders is located shall participate in the work of the Commission with the vote.

IV. RIGHTS AND OBLIGATIONS

The Commission shall act pursuant to the existing legislation of the Russian Federation, decrees of the President of the Russian Federation, standard acts of the Moscow Government, the present Regulations.

The Commission is entitled:

4.1. To involve, if necessary, independent experts to appraise commercial value of plots of land, to make and approve the list of plots of land.

4.2. To entrust Moscomzema, the Moscow Committee for Architecture and other agencies to make the list of plots of land, their preliminary long lease conditions and other documents subject to submission at the tenders.

4.3. To entrust Moscomzem to make a long-term agreement with the press and provide it information on tenders on the regular basis in accordance with the Provisional regulations on the procedure for holding tenders for putting plots of land out to long lease.

4.4. To require participants in the tenders to provide

consideration of proposals submitted by participants that failed to provide additional information at the request of the commission or the organization.

4.5. To require the organizations under the jurisdiction of the Moscow Government to provide information and experts' opinions so that decisions could be made (within the period not exceeding 7 days since they received the Commission's inquiry).

4.6. To withdraw projects from the tenders if project documentation submitted to the tenders does not meet the laid down requirements.

4.7. To make decisions on the form of holding tenders (opening or closing).

The commission is obliged:

4.8. To approve conditions and form of holding tenders for plots of land long lease.

4.9. To determine the winner within the period specified in the tenders conditions.

4.10. To protocol decisions of the commission within the stipulated period.

4.11. To send all agencies concerned a notice by mail on all decisions passed by the commission.

4.12. To send all agencies concerned a notice by mail on all decisions passed by the commission.

4.12. Not to disclose additional information on the results of the participants' activities acquired from the latter.

V. AMENDMENTS TO THE REGULATIONS AND CESSATION OF ACTIVITY

Amendments can be made in the present Regulations and the Commission can be liquidated as ordered by the Mayor.

Appendix 3
to the order of the mayor of
Moscow
of December 18, 1992
N 571-PM

PROVISIONAL REGULATIONS
on the procedure for putting plots of land out
to long lease on the competition basis

1. GENERAL PROVISIONS

1.1. Present Regulations have been worked out in accordance with the Decree of the President of the Russian Federation "On the accelerated privatization of state-owned and municipal enterprises" N 66 of 29.01.92, order of the vice-mayor of Moscow "On the procedure for assignment and withdrawal of lands in the city of Moscow" N 51-PBM of 31.01.92, the order of the mayor of Moscow "On holding of tenders for putting plots of land out to long lease in the city of Moscow" N 264-PM of 10.08.92.

1.2. Present Regulations establish a procedure for preparation announcement and holding of tender for long leasehold of land by legal and natural persons for further construction (rehabilitation, restoration) and maintenance of projects.

1.3. Objective of the tenders is to select the legal or natural person that has offered to acquire the right to hold the plot of land on long lease and to maintain it further on the terms that proved to be the most favorable for the city and not contrary to the conditions of the tenders.

1.4. Plots of land put up for the tenders shall be assigned for use of the tenders winners in accordance with the normative acts regulating land relations in the city of Moscow.

III. ORGANIZERS OF TENDERS

2.1. Organizer of the tenders shall be a specialized

the city of Moscow (hereinafter referred to as the commission) and chosen, as a rule, on the competition basis.

2.2. Preparation and holding of the tenders shall be coordinated and effected by the department for land tenders of Moscomzem acting on behalf of the Commission.

III. PROCEDURE OF THE TENDERS PREPARATION

3.1. After the Commission has approved the specialized organization to hold the tenders (the Organizer), Moscomzem shall make an agreement with the latter on the holding of the regular tenders in accordance with the present Regulations. The Organizer shall order on the grounds of the above-mentioned agreement a complete set of tenders documents to be prepared in the Moscow Committee for Architecture and Moscomzem.

3.2. A complete set of tenders documents on the plot of land put up for tenders, consists of the following documents:

- conditions of leasing out the piece of land;
- draft land lease agreement;
- draft resolution of the Moscow Government on putting a plot of land out to long lease;
- the deed of the plot of land reservation for designing and developing work;
- the town-planning tasks prepared by the Moscow committee for Architecture signed by its chairman or the first vice-chairman and approved by all agencies with the consent of which the designing estimates can be worked out and the announced construction project be carried out;
- preliminary specifications for the project to be linked up to the city engineering infrastructure approved by the municipal maintenance agencies and executed as a supplement to the town-planning task (in certain cases - under the Commission's decision);
- present Regulations.

3.3. The Commission shall approve the list of plot of land put up for the tenders as submitted by Moscomzem (with the complete set of tenders documents), as well as conditions under which they are leased out, the starting price, the procedure

and form of payment, the data of summing-up the tenders results.

3.4. The tenders conditions and text of the announcement approved by the Commission shall be presented to the Organizer so that it conducted an advertising campaign, sold sets of tenders documents and accumulated the participants' bids.

3.5. The announcement about the tenders shall be published in press media at least a month prior to the fixed date of (the tenders results summing-up. The announcement shall contain the following information:

- location of the plots of land, its space and purpose;
- the starting price;
- the date of the Commission's meeting for summing up of the tenders results;
- the final date of filling applications for participation in the tenders
- the Organizer's address and telephone number;
- other data at the discretion of the Commission.

IV. CONDITIONS OF PARTICIPATION IN THE TENDERS

4.1. Legal and natural persons, including foreign ones, that have executed an application for participation in the tenders not later than the date stipulated in the announcement shall be allowed to take part in the tenders. Parties willing to take part in the tenders can do it through their representatives (authorized agents).

4.2. After the signed and stamped application for participation in the tenders has been filled within the stipulated period, the applicant shall submit the Organizer the following signed and stamped documents within the period fixed by the latter:

- confirmation of meeting terms and conditions of the tenders;
- proposals on improvement of the tenders conditions sealed up in the separate envelope, if it is provided in the decision of the commission;
- the bank guarantees;
- other data at the discretion of the Commission

4.3. Having received the documents, the Organizer shall give the applicant a written notification about the latter's participation in the tenders. Since the moment when the notification has been received, the execution of the application for participation in the tenders shall be regarded as completed, and the applicant acquires the status of the participant in the tenders.

4.4. Information about applicants shall not be disclosed.

4.5. A participant in the tenders are entitled to withdraw prior to the date fixed for holding of the tenders having given the Organizer a written notification to that effect. In this case he shall be repaid the amount of the security.

4.6. An applicant can be denied the right to participate in the tenders, if:

- the person that filed the application can not be declared a buyer in accordance with the existing legislation;
- the person that filed the application failed to submit compulsory documents stipulated in the present Regulations in due time.

4.7. Since the moment when the announcement about the tenders is published until the tenders has been over the participants are forbidden to exchange and disclose information on the proposals they make.

4.8. Differences between the applicants and the Organizer shall be considered by the Commission in the course of its work within a week subsequent to either of the parties resort to it. Decision passed by the Commission on that matter shall be regarded as final.

4.9. Participants in the tenders shall purchase from the Organizer a set of tenders documents that shall be handed in to the former upon presentation of the payment order.

4.10. The participant in the tenders shall be given an invitation card for two persons by the Organizer as agreed with the Commission; the date, place and time of the Commission meeting shall be indicated in the invitation card, so that the participants could be present at the moment when the envelopes are opened, bids are set forth and the tenders results are announced.

4.11. Moscomzem on behalf of the Commission shall publish the announcement on the tenders results in the press media within a two weeks' period.

V. PROCEDURE FOR CONSIDERATION OF PROPOSALS MADE BY THE PARTICIPANTS

5.1. The bids advanced by the participants shall be considered by the Commission in accordance with the stipulated tenders conditions and criteria for selecting the winner. As a rule, the price offered for the plot of land long leasehold serves as the respective criterion.

5.2. Conditions of the tenders shall be binding for all participants, and the offer to meet them at a higher quality does not necessarily give the best advantage over other participants.

5.3. Envelopes with the advanced bids shall be opened at the meeting of the Commission at the fixed date and time. The Commission shall check observance of all formalities, availability of required information and documents, and votes the tenders winner.

5.4. Concealment of applications for participation in the tenders, their inconsideration at the summing-up shall involve administrative responsibility in accordance with the existing legislation. In this case the tenders results shall be declared null and void.

5.5. If proposals of two or more participants meet conditions of the tenders and they have offered the highest price, the Commission shall introduce an additional criterion to choose the winner.

5.6. Results of the Commission meeting shall be recorded in the minutes signed by all members of the Commission that took part in the meeting. Participants in the tenders are entitled to familiarize themselves with the minutes of the meeting of the Commission. The final protocol shall contain the following information:

- a list of the Commission members that took part in the meeting;

- name of the plot of land;

- information on the participants in the tenders and their proposals;

- name of the tenders winner;

- the plot of land leasehold purchase price, the form of payment, additional conditions that served as a criterion for the winner to be voted, that shall be specified in the land lease agreement.

5.7. On the date when the tenders results are summed up, the Organizer shall give the winner a written notification on his declaration the winner and an invitation to arrive for signing of mutual obligations with the Organizer within the two days period.

VI. PROCEDURE FOR MAKING CONTRACTS AND PAYMENTS

6.1. Within 15 working bank days subsequent to signing of mutual obligations, the tenders winner shall transfer the final quoted price to the Organizer's account and present a copy of the payment order with the execution note made by the bank in confirmation of payment. The Organizer shall send Moscomzem a written notice about it.

6.2. If the tenders winner failed to transfer the money in the stipulated time, the payment period can be extended by permission of Moscomzem if the winner presents the letter of guarantee that states the cause of delay in payment. In case of non-observance of the time fixed for payment the Organizer shall send the participant in the contest a written notice of cancellation of the agreement on mutual obligations and inform Moscomzem about it. In this case the security shall not be repaid to the participant, and under decision of the Commission the participant that offered the price next to the highest one shall be declared the winner, or the plot of land in question shall be put up for the next tenders, or withdrawn. The winner of the tenders shall also lose the security if he refuses to make the land lease agreement.

6.3. The amount of the security shall be taken into account at the final settlement with the winner of the tenders.

168

The Organizer shall repay the security amount to other participants in the tenders within 10 working bank days since summing up of the tenders results. The date of the note made by the bank on the payment order shall be considered the date of the security repayment.

6.4. Within the five working days subsequent to receipt of the money on the Organizer's account the winner of the tenders and the Organizer shall sign a joint protocol on payment into the Organizer's account; the protocol shall be presented by the Organizer to Moscomzem for execution of required documents.

6.5. Within 15 working days upon receipt of the protocol on payment into the Organizer's account Moscomzem shall execute the full set of tenders documents and release originals of these documents against the acceptance report to the winner of the tenders.

6.6. The tenders winner's failure to appear within the stipulated time for drawing up of the lease agreement and completion of other documents provided for in the present Regulations, as well as a delay in their completion through the fault of the winner can be considered, abandonment of the status of the contest winner, and, consequently, waiver of the right to make a land lease agreement.

6.7. Final settlement effected as stipulated in the tenders conditions do not release the winner from lease payment for the land.

6.8. Receipts from the tenders including the security and from sale of the tenders documents (with the deduction of expenses connected with their preparation incurred by the Organizer) shall be distributed in the following way:

- 84% - to the city non-budgetary investment fund (if a prefecture has the disposal of the plot of land in question: 45% of this amount shall be transferred to the city budget and 55% - to the administrative district);

- 5% to accounts of Moscomzem, Moscow Committee for Architecture and Organizer of the contest each;

- 1% to the reserve fund of the Commission to pay for services of independent experts.

6.9. The Organizer shall transfer the money as stipulated above (item 6.8) within three working bank days subsequent to payment into the Organizer's account.

VII. RESPONSIBILITY OF THE PARTIES

7.1. In case of failure to follow the procedure for holding tenders prescribed herein, its results can be declared invalid.

7.2. Disputes connected with nullification of the transaction shall be settled by court or through arbitration in accordance with the existing legislation against a nullity action filed by either party.

7.3. If the winner fails to meet basic and additional conditions under which he shall acquire the leasehold, the lease agreement can be cancelled without refund of the amount paid in final settlement during the tenders.

7.4. The participants in the tenders can protest its results within 1,5 calendar days after the winner is declared.

The seal place.

**ON THE PROCEDURE FOR ALLOCATION AND APPROPRIATION
OF LAND IN THE CITY OF MOSCOW**

**Instruction No. 51-RVM of the Vice Mayor of Moscow
of 31 January 1992**

For purposes of accelerating programs for reform in the city of Moscow and in compliance with the Land Code of the RSFSR:

1. The Interim Decree on the Procedure for Allocation and Appropriation of Land in the City of Moscow (Appendix 1) is hereby ratified.

2. Instruct the State Legal Department effective 1 February 1992 to review draft decrees (instructions) of the Government of the City of Moscow concerning preliminary coordination and allocation of land plots by appeal of the Moscow Land Committee (Moskomzem) in strict compliance with Section 2 of The Decree of the President of the Russian Federation of December 27, 1991 "On Urgent Measures for Implementation of Land Reform in the RSFSR" (Section 2) and the Interim Decree (Section 1).

3. Implement, effective 1 February 1992, the Act for Reserve Assignment of Land for Land Surveys in Support of Supervision by the Moscow Land Committee of Compliance with Existing Land Legislation for Siting, Construction, Reconstruction and Expansion of Industrial and Other Facilities (Appendix 2).

Abolish the previously assigned procedure for issuing all types of authorization letters.

4. Stipulate that municipal and departmental organizations engaged in the expert assessment and coordination of projects review, effective 1 February 1992, all design documentation only when accompanied by an Act for Reserve Assignment of Land Plots issued by the Moscow Land Committee (section 3).

5. Prior to the reconciliation of acts relating to regulation of land relations in effect in the city of Moscow with this Instruction, apply such acts only to the extent that they are in consort with this Instruction.

6. Responsibility for supervision of implementation of this Instruction shall be assigned to V.I. Resin, Vice Premier of the Government of the City of Moscow.

**Vice Mayor of the City of Moscow
U.M. Luzhkov**

**Interim Decree on the Procedure for Allocation and Appropriation of Land
in the City of Moscow**

1. In accordance with the Land Code of the RSFSR and Decrees No. 96 of the President of the RSFSR of 28 August 1991 "On the Authority of Executive Agencies of the City of Moscow" and of 29 December 1991 "On Additional Authority of Management Agencies of the City of Moscow During the Period of Radical Economic Reform," lands shall be allocated and appropriated within the city of Moscow by Decrees of the Government of the City of Moscow based on the general plan of the city, detailed planning projects, as well as planning and construction projects of the territory.

2. Land plots shall be allocated to enterprises, institutions, organizations, associations, joint stock companies, joint ventures and other public and foreign legal entities, domestic and foreign citizens:

- for inheritable lifelong possession to citizens of the Russian Federation or groups of citizens of the Russian Federation that collectively possess a residential unit based on rights of ownership by issuance of a state certificate for the right to land possession;

- for use (based on lease rights) to legal entities and citizens through a lease contract. Land use may take the form of short-term land use (less than 5 years) and long-term land use (up to 15 years).

3. Land plots shall be allocated for ownership, possession and use through decrees of the Government of the City of Moscow on: republican, interregional and municipal sites for construction of new and expansion (reconstruction) of existing facilities and by decrees of the Prefecture's Office: on infrastructure sites in administrative regions in cooperation with territorial agencies of the Government of Moscow and the mandatory approval of the urban planning project with stipulated terms by the Moscow Architecture Committee.

Note: The list of sites subject to Decrees of the Prefecture's Office shall be subject to modification.

4. Land shall be allocated within the city of Moscow into stages:

- preliminary siting of the facility (expansion, re-expansion) which shall constitute the basis for survey operations;

- allocation of the land plot for ownership, possession or use (expansion of production) based on an approved project.

5. Possession and use of land plots within the City of Moscow shall be subject to fees. Fees for municipal lands shall be charged as a land tax or a fee payment in accordance with the laws of the Russian Federation and municipal normative acts.

Note: In cases of violation of land legislation expressed as unauthorized seizure of land plots; unauthorized construction, dumping or contamination of lands as well as damage or destruction of the soil fertile layer and violation of the terms for temporarily occupied lands and in other cases set forth under Article 125 of the Land Code of the RSFSR, guilty legal entities and citizens shall be assessed a fine imposed by the Moscow Land Committee (Moskomzem) and its territorial agencies and shall bear liability under the laws of the Russian Federation.

Section 1. PROCEDURE FOR LAND ALLOCATION

1. Enterprises, institutions and organizations ("customers") expressing an interest in the construction (reconstruction, restoration) of a facility shall appeal to the Government of the City of Moscow for a land plot allocation (reconstruction or restoration permit).

The following must be listed in the application: the purpose and term of use of the land plot; the form and scope of anticipated construction and approximate area of the land plot.

Note: the need for preliminary substantiation or modification of the facility site prior to application to the Government of the City of Moscow (the stages of planning operations; concepts or conceptual designs by direct customer contract with design organizations) shall be determined by the Moscow Architecture Committee.

2. By direction of the Government of the City of Moscow, the Commission for Review of Land Relations and Urban Development (hereinafter the "Commission") shall be responsible for fundamental decisions on the feasibility of designated construction.

The ruling of the Commission shall constitute grounds for subsequent development and preparation of the urban development plan.

The customer shall be informed of the ruling by means of an excerpt from the protocol within a period of two weeks from the decision date.

Note: land plots having commercial interest according to the Commission shall be offered by the Moscow Land Committee at auction based on the urban development plan of the Moscow Architecture Committee. The Moscow Architecture Committee shall likewise determine the need for a competition for the best architectural planning design for major complexes (facilities) that are important in their urban development and social aspects;

- the periods of the urban development plans shall be established and extended by the Moscow Architecture Committee.

3. When necessary, the Commission shall charge corresponding services of the Government of the City of Moscow with the responsibility of verifying the credit worthiness of both domestic and foreign investors.

4. In cases where the construction to be performed is in compliance with the General Plan of the City as well as planning and construction plans, the Commission shall instruct the customer to submit to the Moscow Architecture Committee, within a period of one week, specifications on the construction (reconstruction, restoration) for preparation of an Urban Development Plan within a three week period (preliminary design #1 approved by the Division for Underground Facilities of the Moscow Municipal Geological Trust, the Prefecture's Office and, when necessary, with other interested organizations together with the urban planning ruling, with the stage of design indicated).

5. After receipt of the Urban Development Plan from the Moscow Land Committee, the customer shall submit material approved by the Prefecture's Office to the Moscow Land Committee for preparation, within a period of one week, of a draft decree (Instruction) of the Government of the City of Moscow (Prefecture's Office) for preliminary coordination of a facility site or land allocation (authorization for reconstruction or restoration). The Moscow Land Committee shall facilitate formulation and issuance of the decrees.

Note: In the event that the customer fails to submit to the Moscow Architecture Committee construction (reconstruction, restoration) specifications within a one week period, the application shall be null and void;

- the customer shall be responsible for securing authorization from the Prefecture's Office and, when necessary, from other interested organizations;
- the term for issuance of permits by the Prefecture's Office or other interested organizations shall not exceed seven days. In cases where this term expires, the materials shall be considered approved;
- financing of urban development planning shall be derived from assets obtained from land fee payments as well as customer compensation.

6. In the event that preliminary modifications or required authorizations are in the possession of the customer, land plots shall be allocated in a single stage upon presentation of the Urban Development Plan by the customer.

7. The draft decree (instruction) of the Government of Moscow for preliminary coordination of a facility site (Stage I) and land plot allocation (reconstruction or restoration permit) (Stage II) shall contain the following data:

- the terms, procedure and size of land plots as well as compensation in the event of appropriation of the land plot from the previous land user, including the obligations of the customer with respect to demolition of existing structures on the land and resettlement of citizens residing therein (Stages I and II);
- address of the allocated plot (Stages I, II);
- area (Stages I, II);
- the name of the legal entity to which the plot is allocated (Stages I, II);
- the purpose for which the land plot is allocated (Stages I, II);
- the form and term of use (Stage II);

- the period for assimilation of the land plot: design (Stage I) and construction (Stage II);
- certification that the State Certification or a Land Lease Contract has been received by the Moscow Land Committee (Stage II);
- the urban development and economic and legal terms for land use under which the land plot is preliminarily assigned (Stage I) or allocated (Stage II);
- the terms and procedure for use of subterranean elements (Stage I).

Note: the facility siting plan produced by the Moscow Architecture Committee shall be appended to the draft decree (instruction) of the Government of Moscow.

8. After acceptance of the decree (instruction) granting preliminary approval of the facility site by the Government of the City of Moscow, the customer shall, within a one-week period, present to the Moscow Land Committee an application for reserve allocation of a land plot and for purposes of conducting land surveys.

Note: A previously established procedure for issuance of all permit letters by the Main Moscow Administration for Architecture (the Moscow Architecture Committee) is hereby rescinded;

- decrees (instructions) for preliminary approval and allocation of land plots shall require mandatory approval by the Moscow Architecture Committee.

9. The application for reserve allocation of a land plot for surveying purposes (or to permit reconstruction or restoration) must contain the following data:

- address of the land plot;
- area of the land plot;
- name of the customer;
- purpose for which the land plot is allocated;
- type of land right and scheduled term for use of land plots;
- design stage;
- scheduled term for development of design documentation and assimilation of land plots;
- fines for failure to satisfy design periods or return of a reserved land plot without cause;
- effective period of the permit;
- land fees for reservation of land plot;
- other terms.

Calculation of fees due from the customer for reserve allocation of a land plot for the surveying period shall be calculated effective of the date of adoption of the decree (instruction) of the Government of the City of Moscow.

10. Land plots shall be allocated by decree of the Government of the City of Moscow based on developed and approved design documentation.

11. Within a period of one month from the date of receipt of a decree allocated from the Government of the City of Moscow to allocate a land plot, The customer shall be obligated to assume on its balance sheet all structures and facilities situated on the land plot to be allocated and likewise maintain their normal operation and repair prior to demolition.

12. Based on the decree (instruction) of the Government of the City of Moscow to allocate a land plot as property, as an inheritable possession for life, or for use of land in perpetuity (permanent use), the Moscow Land Committee shall formulate and issue a State Certificate, and in cases where the land plot is allocated for long-term, short-term or interim use, the Committee shall secure a lease contract with the construction (assimilation) terms stipulated therein.

Note: In the event of construction, expansion, reconstruction or restoration of facilities on a previously allocated land plot, the entire cycle of operations set forth under Sections 2, 4, 5, 8, 9 and 12 of this Decree shall be implemented with relevant changes introduced in documents certifying land rights.

Section 2. PROCEDURE FOR LAND APPROPRIATION

Land shall be appropriated in the City of Moscow for state, municipal, public and other requirements from all lands, irrespective of the ownership or use entity. The Government of the City of Moscow shall be authorized, in cases where necessary, to appropriate a land plot or a portion of such plot for interim use during the construction of municipal or local power and communications lines as well as utilities with compensation for losses provided to the land owner or land user.

1. Land within the City of Moscow shall be appropriated by decree of the Government of the City of Moscow.

In the event that the land owner or land user should object to such a decree, the latter may submit a protest to the Mayor of the City of Moscow within a ten day period, and may subsequently appeal to a court whose ruling shall be final.

A protest of a decree of the Government of the City of Moscow shall effect the postponement of its implementation.

2. The right to possession or use of land plots shall terminate in whole or in part in the following cases:

- 2.1. voluntary surrender of the land plot or a portion of the plot.
- 2.2. expiration of the term for which the land plot was allocated.
- 2.3. termination of activity (liquidation) of the enterprise, institution or organization.
- 2.4. use of the land for other than its stipulated purpose.

- 2.5. non-rational use of the land plot.
- 2.6. use of the land plot by means that result in degraded ecological conditions.
- 2.7. failure to submit land tax payments for a period of two years and failure to satisfy debt obligations for the subsequent year and likewise lease payments for terms established in the lease contract.
- 2.8. failure to assimilate the allocated land plot for a period of two years in accordance with the developed and approved design documentation.
- 2.9. transferral of the property rights to the structure or facility in accordance with Article 37 of the Land Code of the RSFSR.
- 2.10. appropriation (redemption, including mandatory redemption) of land for state, municipal, public and other purposes.
- 2.11. use of the land plot in violation of boundaries established by documents certifying the land right.

**The Moscow Land Committee
Land Use Regulation Association**

**ACT
For Reserve Allocation (Reservation) of a Land Plot for Surveying
for Purposes of Siting and Construction**

Act issued:

(customer, builder requisites)

Address and description of plot:

(administrative district, street, institution)

Area of land plot: _____

Use of land plot: _____

Table 1. Procedures for Allocation of Land Plots and Construction Permits. Based on the text of the Instruction of the Vice Mayor of the City of Moscow of 31 January 1992

The "Customer" / Subject Submitting the Application, Stages	Document Name	Executive Power, Authority							Representative Authority; Indirect Participation through Planning Documents Approved by this Authority; Judicial Basis for Executive Decision Making	
		The Moscow Architecture Committee	Government of the City of Moscow	Commission on Land Relations	Prefecture's Office	Division for Subterranean Facilities	Other "Interested Organizations"	Moscow Land Committee		
1	2	3	4	5	6	7	8	9	10	
1. 	Preliminary Feasibility Analysis (by "Direct Contract")									no
2. 	Application									-
	Instruction									
	"Fundamental Ruling"									
	Grounds for "Urban Development Plan"									
3. 	Excerpt from Protocol									-
	Instruction to Verify Credit Worthiness of Customer									
4. 	Instruction to Supply Specifications									-
5. 	Specifications									-
6. 	Urban Development Plan									-
7. 	Approval Process									-
8. 	Draft Decree of the Government of the City of Moscow "On Preliminary Site Approval"									-
	Instruction to Obtain a State Act (Application) or Lease Contract from the Moscow Architecture Committee									
9. 	"Preliminary Approval" Decree									-

MAYOR OF THE CITY OF MOSCOW

INSTRUCTION No. 168-RM, 19 March 1993

On Revision of the Procedure for Preparation of Administrative Documentation for Allocation of Land Plots for Construction in the City of Moscow

For purposes of improving the existing procedure for preparation of permit documentation for the design and construction (reconstruction, restoration and expansion) of facilities within the City of Moscow and the use allocation of land plots, as well as to increase the role of territorial management agencies and to establish favorable conditions for attracting non-municipal investment in development of the city:

1. "Fundamental Organizational Principles for Preparation of Permit Documentation for the Design and Construction of Facilities in the City of Moscow and the Allocation of Land Plots for Such Purposes" (Appendix No. 1) shall hereby be approved as a supplement to Instruction No. 571-RM of the Mayor of the City of Moscow of 18 December 1992 "On the Procedure and Terms for Conducting Competitions for Long Term Lease Allocations of Land Plots in the City of Moscow."

2. The First Deputy Premier of the Government of the City of Moscow (Director of Future Municipal Development) shall be authorized to issue rulings for use allocation (based on lease rights) and appropriation of land plots together with authorization to engage in all forms of construction, reconstruction and capital repair on facilities and territories assigned to the authority of the Government of the City of Moscow in accordance with Decree No. 174a of the Government of the City of Moscow of 31 March 1992.

3. V.I. Resin, the First Deputy Premier of the Government of the City of Moscow (Director of Future Municipal Development) in conjunction with the Prefecture's Offices of the administrative regions, shall be authorized to perform required organizational operations as well as preparation and approval of standardization documents to assure implementation effective May 1, 1993 of a uniform procedure on the municipal and administrative district region for development and formulation of permit documentation for design and construction of facilities in the City of Moscow and for allocation of land plots in accordance with this Instruction.

4. The Moscow Land Committee in conjunction with the State Legal Administration in consultation with the Moscow Architecture Committee, the Administration for Future Development of the City of Moscow and the Division for Future Municipal Development shall prepare and submit for approval by the Municipal Administration within a period of one month proposals for reconciliation of municipal normative acts on land use issues with this construction.

5. The Division for Future Municipal Development in conjunction with the Department of Finance shall prepare within a period of one month, proposals concerning a procedure for financing the development of permit and urban development documentation to be financed from off-budget funds and the budget of the City of Moscow.

6. This Instruction shall be valid prior to the reconciliation of municipal normative acts on land use issues with the "Principles of Land Legislation" and after their enactment.

7. Responsibility for monitoring implementation of this Instruction shall be assigned to V.I. Resin, First Deputy Premier of the Government of the City of Moscow (Director of Future Municipal Development).

Seal of the Mayor of Moscow

Yu. M. Luzhkov

cc: V.I. Resin; Members of the City of Moscow; Office of the Mayor; the Moscow Land Committee: 2; the Moscow Architecture Committee: 2; the Moscow Committee for Natural Conservation; the Administration for Future Development of the City of Moscow: 2; MGTsGSN, the Association of Administrative Engineering Inspectorates; the Department of Finance; the Moscow State Expert Assessment Commission; the Division for Future Municipal Development of the City of Moscow; the Moscow Committee for State Property Management; the Administration for State Control over Conservation and Use of Historical and Cultural Monuments in the City of Moscow; the Scientific Research and Planning Institute for the General Plan for the City of Moscow.

V.M. Lyamin
202-70-22

**Fundamental Organizational Principles for Preparation of Permit Documentation for the
Design and Construction of Facilities in the City of Moscow and the Allocation of Land
Plots for Such Purposes**

I. Fundamental Provisions

1. The allocation of land plots for use (based on lease rights) and (or) the issuance of a permit for land survey operations and construction (reconstruction, restoration, expansion) of facilities in the City of Moscow shall be formulated as follows:

1.1. In cases where allocation of land plots is required for construction, including modification of boundaries previously established for land uses: by instructions issued from the First Deputy Premier of the Government of the City of Moscow (the Prefecture's Offices of the administrative regions) to allocate land plots and permit design and construction (reconstruction, restoration, expansion) of buildings and facilities, prepared in accordance with this document;

1.2. In cases where construction does not require modification of boundaries previously formulated for land uses: by instructions of the First Deputy Premier of the Government of the City of Moscow (the Prefecture's Offices of the administrative regions) to permit design and construction (reconstruction, restoration and expansion) of buildings and facilities, prepared in accordance with this document.

2. A fundamental ruling concerning the feasibility of planned construction (reconstruction, restoration and expansion) of facilities in the City of Moscow, including those based on investment projects, the implementation of which requires that allocation of land plots or modification of the boundaries previously formulated for land uses shall be issued by municipal or regional commissions on land relations formed in accordance with Decree No. 571-RM of the Mayor of the City of Moscow of 18 December 1992.

3. The delineation of the spheres of activity of the Government of the City of Moscow and the Prefecture's Offices of the administrative regions and the corresponding applications reviewed by municipal and regional commissions shall be implemented in compliance with existing acts of the municipal administration on issues relating to land relations.

***) Note to Point 1.1.**

In certain cases, the allocation of land plots for investment projects with a special urban development classification may be submitted by the municipal commission on land use for approval by the Government of the City of Moscow.

4. Organizational support for the activities of the commissions; coordination of the operations of all territorial and divisional management agencies and organizations engaged in the review of applications; the preparation and production of permit documentation, as well as preparation of the final edition of instructions together with financial accounting for all operations executed in this connection shall be implemented by the permanent working groups established by the Government of the City of Moscow and the Prefecture's Offices of the administrative regions.

II. Procedure for Review of Applications and Organization of the Production of Permit Documentation

1. Applications for allocation of land plots for design and construction (reconstruction, restoration and expansion) of facilities in the City of Moscow shall be submitted to the working groups of the municipal and regional commissions in approved format.

2. The working groups shall perform the following functions: registration of applications; selection of proposals that are feasible for investor competitions; preliminary construction feasibility analysis in conjunction with industrial management agencies; preparation of commission proposals on the schedules and stages for production of permit documentation, subject to approved urban development plans and possible property rights to land plots under application, as well as required instructions to management agencies.

3. The results of the preliminary processing of applications shall be presented by the working group at the commission session where fundamental rulings on construction feasibility, allotment of land plots for leasing purposes, the terms for formulation of land use rights and selection of plots, as well as the stages and schedules for development of permit documentation, are adopted.

4. Permit documentation shall be developed and approved without applicant participation.

The application and the specifications for selection of land plots and the development of permit documentation shall be submitted by the applicants to the working group in approved format.

5. The Main Architectural Planning Administration of the Moscow Architecture Committee (the Main Architectural Services of the administrative regions) shall be responsible for preparing the draft instructions of the First Deputy Premier of the Government of the City of Moscow (the Prefecture's Offices of the administrative regions) to permit design and construction (reconstruction, restoration and expansion) of buildings and structures without modification of the boundaries on previously established land uses.

The preparation of draft instructions for allocations of land plots and permits for design and construction (reconstruction, restoration, expansion) of buildings and structures, shall be implemented by specialists of the Moscow Land Committee serving on the working groups of the commissions based on draft administrative documentation and rulings approved in accordance with established procedure developed by the Main Architectural Planning Administration of the Moscow Architecture Committee, the Moscow Land Committee and the Moscow Committee for State Property Management (on sites controlled by the Government of the City of Moscow) and the services of the Main Architect Offices of the administrative regions and regional

administrations of the Moscow Architecture Committee, as well as the territorial agencies of the Moscow Committee for State Property Management (for facilities under the Prefecture's Offices), in accordance with the instructions of the commissions (working groups).

Draft instructions shall be approved at Commission sessions by members representing interested organizations.

The working group leader shall be responsible for submission of the draft instructions for signature by the First Deputy Premier of the Government of the City of Moscow (the Prefecture of the administrative region) and issuance of prepared documents to applicants.

6. The cost of operations associated with the preparation of permit documentation shall be supported by assets accumulated in the targeted off-budget funds of the City of Moscow and the Prefecture's Offices of the administrative regions as well as municipal budget assets.

Customer assets submitted as payment for operations implemented in the preparation and approval of permit documentation shall be credited to targeted off-budget funds of the City of Moscow and the Prefecture's Offices of administrative regions. Customer costs shall be determined on the basis of calculations prepared by the working group in accordance with calculations supplied by organizations engaged in the development of permit documentation as well as prevailing estimated costs.

III. Make-up and Periods for Preparation of Permit Documentation

1. The make-up and procedure for development of production of permit documentation required for investor competitions for the right to sale of commercial projects shall be defined in accordance with the "Interim Decree on the Procedure for Allocation of Land Plots for Short-Term Lease by Competition" approved by Decree No. 571-RMO of the Mayor of Moscow of 18 December 1992 "On the Procedure and Terms of Competition for Allocation of Land Plots for Long Term Lease in the City of Moscow."

2. Permit documentation required for assignment of rights to design and construction (reconstruction, restoration or expansion) of buildings and structures that do not require modification of the boundaries previously established for land uses shall be prepared within a period of one month from the date of registration of the application (instruction) with the working group, and shall consist of the following:

- a draft Instruction from the First Deputy Premier of the Government of the City of Moscow (the Prefecture's Office of the administrative region) authorizing design and construction (reconstruction, restoration or expansion) of buildings and structures.

- an urban planning ruling (in the approved format) with Preliminary Design No. 1 approved by the Prefecture's Office of the administrative region, the Director of the Scientific Research and Planning Institute for the General Plan of the City of Moscow and the Senior Architect of the administrative region and the Division for Subterranean (Underground) Facilities.

Preparation and approval of a draft Instruction to allocate rights to the design and construction (reconstruction, restoration and expansion) of buildings and structures that do not require modification of the boundaries previously formulated for land use shall be implemented by the Main Architectural Planning Administration of the Moscow Architecture Committee.

Preparation and approval of the urban development ruling and Preliminary Design No. 1 shall be implemented by the senior architects of the administrative regions.

3. Permit documentation required for allocation of land plots for use (based on lease rights) for purposes of design and construction (reconstruction, restoration, expansion) of facilities for state and municipal requirements shall be drafted to include:

- a draft Instruction of the First Deputy Premier of the Government of the City of Moscow (the Prefecture's Office of the administrative region) allocating a land plot to an investor for long term lease (or to a customer for the design and construction period) and likewise authorizing the design and construction (reconstruction, restoration and expansion) of buildings and structures;

- an urban development ruling (in approved format);

- a land use planning ruling (in approved format);

- rulings concerning the property consequences of the implementation of the investment project (in approved format).

The services of the senior architects of the Prefecture's Office shall be charged with the preparation and approval of urban development rulings with interested organizations.

The services of the Moscow Land Committee (or its regional administrations) shall be responsible for preparation of land use rulings.

The services of the Moscow Committee for State Property Management (or its territorial agencies) shall be responsible for preparation of rulings concerning the property consequences of the implementation of an investment project.

4. The scheduled periods for preparation of permit documentation on facilities classified under Point 3 of this section shall be defined depending on customer possession of urban development plans and the degree to which the sited facility satisfies functional and spatial architectural requirements and the resultant need to implement additional urban development modifications and shall be effective on the date of registration of the application (instruction) with the working group:

4.1. In the event that the sited facility satisfies functional and spatial architectural characteristics of urban development plans accepted or approved in accordance with established procedure with effective approval from all interested organizations: 1 month.

4.2. In the event of a failure of the functional or spatial architectural characteristics of the sited object to fully conform with the characteristics of urban development plans accepted or approved in accordance with established procedure and likewise in the event of the absence of or expiration of the term of authorization from the Moscow Committee for Natural Conservation and the Moscow Municipal Center of the State Sanitary and Disease Control Inspectorate: 3 months.

4.3. In the event of the absence in urban planning documentation of territories stipulated for sitings of facilities with the functional and spatial characteristics stated in the application and the resultant need to initiate an individual selection of land plots: up to six months.

4.4. With respect to facilities classified as having special urban development significance in the cases set forth under sections 4.2 and 4.3, the commissions shall be authorized to issue a ruling to allocate land plots subsequent to the development and approval of design documentation with such land plot reserved for a term established to perform surveying and design operations.

IV. Production of the Land Plot Lease Contracts

1. On the basis of an Instruction of the First Deputy Premier of the Government of Moscow (the Prefecture's Office of the administrative region) to allocate a land plot and permit the design and construction (reconstruction, restoration or expansion) of facilities, the Moscow Land Committee shall secure long-term land lease contracts that establish the possibility for their abrogation in the event of the failure of the land user to satisfy the terms of permit documentation, including the facility design and construction periods.

MOSCOW

VICE-MAYOR

THE ORDER

of March 2, 1992 N 110-PBM

On the land leasehold as the main
form of legal land relations
in the city of Moscow

To improve land relations in the city of Moscow and to provide economic incentives to efficient land-use, and in accordance with the Decree of the President of the Russian Federation of 23.08.91 N 96 "On the discretion of bodies of executive power of the city of Moscow", of 29.12.91 N 334 "On additional powers of bodies of Government of the city of Moscow during the period of the radical economic reform" and pursuant to Article 13 of the Land Code of the Russian Federation:

1. To introduce land leasehold as the main form of legal land relations in the city of Moscow since January 1, 1992.
2. The Moscow land committee shall:
 - start-execution of legal documents to land within the territory of the city of Moscow since March 2, 1992;
 - within a month's period work out a form of land lease agreement that shall be concluded with legal and natural persons and joint ventures;
 - execute, issue and register pursuant to the instruction of the Moscow Government (or the body authorized by the latter) on assignment of the plot of and all types of documents constituting evidence of legal and natural persons (including foreign ones) right to use the plot of land
 - conclude and register land lease agreements;
 - register agreements on the right of temporary (for the period of up to 3 years) land use (including for survey work);

owners, users and leaseholders of plots of land with third persons:

- register land lease agreements concluded by owners of plots of land.

4. To approve temporary form of land lease agreement (Appended hereto).

5. Until legal acts regulating land relations and operative in Moscow are brought in compliance with the present Order, they shall be applied only as far as they are not contrary to the present Order.

6. Text of the present Order shall be published in the press.

7. V.I. Resin, the first vice premier of the Moscow Government, shall be authorized to exercise control over enforcement of the present Order.

Vice-mayor of the
city of Moscow

Y.M. Luzhkov

Delivered to: V.I. Resin, K.E. Bouravlev, the Committee for economy, Moscomzem - 3, the Moscow Committee for Architecture, prefects of Administrative districts, sanitary inspection of the city of Moscow, MLTPO "Moslesopark", Association of administrative technical inspections, Moscompriroda (the Moscow committee for nature preservation), the Department of Finance, members of the Moscow Government

AGREEMENT
on the assignment of a plot of land
for leasehold
(land lease agreement)

Moscow N _____ "____" _____ 199_____

The Moscow Government or its territorial body hereinafter referred to as the "Lessor" in the person of _____, the representative (name and post held)

of the Moscow Land committee, as one party, and

(full name)

in the person of _____

(full name and post held by the representative

of the legal person)

or _____

(full name of the natural person)

lives in: _____

(address of the place of permanent residence)

hereinafter referred to as the "lessee", as the other party, have concluded present Agreement pursuant to the decree,

instruction of the Moscow Government of _____

N _____, another authorized

body _____

(name of the body)

date and number of the order (decision, instruction) to the following effect:

1. OBJECT AND PURPOSE OF LEASE

1.1. The Lessor leases out and the Lessee takes a long (short-term) lease of a plot of land with the space

of _____ sq.m. _____

(the space in words)

(the space in words)

hereinafter referred to as "the plot"

Landscape (qualitative) characteristics of the Plot

(eminences, depressions, expanse of water and water sources
and so on)

Objects located in the plot are:

a) _____
(buildings, constructions and so on; their characteristics)

b) _____
(relics of nature, ancient monuments and objects of
cultural value)

c) _____
(minerals of wide distribution according to the list approved
by Gostechadzor (State Committee for technical supervision) of
the USSR on April 12, 1977; peat)

d) _____
(plantations)

e) _____

Present description of the Plot is final and can not be
extended by the Lessee at his own discretion.

1.2. The Plot is a location (a plot of land with
determined and drawn boundaries) and boundary posts are marked
by turning points on the plan of the Plot appended hereto.

1.3. The Plot is assigned for: _____

(purpose, for which the plot is assigned)

The foregoing purpose of use of the plot is final and hereinafter referred to as the "Authorized use"

II. SPECIAL TERMS OF THE AGREEMENT

(time of the Plot development, period of construction,

compensation for damages and losses of agricultural

production suffered when the lands are withdrawn and so on).

TERM OF VALIDITY OF THE AGREEMENT AND PAYMENTS FOR THE LAND

2.1. Present Agreement is concluded for _____ years.

2.2. The Lessee undertakes to make lease payment annually. The rate of the annual lease payment shall be determined under the agreement of the parties (the contract) or at an auction, but the minimum rate of lease payment can not be less than the basic (starting) rate fixed by the Moscow Government.

2.3. Lease payment shall be charged since "____" _____ 199____

2.4. The Lessee undertakes:

- to make annual lease payment in the amount of _____.

2.5. In case of failure to pay on the fixed time, the Lessee shall pay the Lessor a penalty for each day of the delay in the amount of 0,2% of the total amount of payment due for the expired payment period.

2.6. Payments under the present Agreement shall be made by the Lessee to _____

(name of the body, bank,

account and so on.)

every_____years. It can be revised prior to the stipulated time at the request of either party if the rates fixed by the authorities are changed and in other cases specified in the legislative acts.

2.8. Lease payment shall be made quarterly in equal shares not later than the 25th of the last month of the quarter.

2.9. Amount of lease payment is subject to adjustment due to a change in indexation according to the procedure prescribed by the Moscow Government.

RIGHTS AND OBLIGATIONS OF THE LESSOR

2.10. The Lessor is entitled:

- To cancel present Agreement prior to expiration of the lease in accordance with the procedure and in cases provided for in the existing legislation.

- To introduce necessary alterations in the agreement and define its provisions more exactly as agreed with the Lessee if amendments are made in the existing legislation or normative acts.

- To suspend work the Lessee is carrying out contrary to the provisions of the present Agreement.

- In the cases when the Plot has to be withdrawn to meet the needs of the state, to secure the Lessee assignment of a plot of land of equal with in another place (as agreed with the Lessee) and reimbursement of all expenses incurred in connection with the plot development, construction of buildings, structures, warehouses, roads and so on according to the estimate of costs on the respective work.

- The Lessor also has other rights: _____

2.11. The Lessor is obliged:

- Not to interfere with the economic activities of the Lessee, if it is not contrary to the conditions and terms of the present Agreement.

Not to exercise and not to transfer to a third party the

RIGHTS AND OBLIGATIONS OF THE LESSEE

2.12. The Lessee is entitled:

To use the Plot in conformity with the purpose and conditions under which it was assigned (for construction and maintenance of buildings, structures, plants, store premises and for improvement of ecological condition of the Plot, hereinafter referred to together as "Improvements") subject to availability of the project approved according to the established procedure.

To make agreements on transfer of the Plot or its part to third legal or natural persons for temporary use during the period not exceeding 3 years under conditions not outside the terms and conditions of the present Agreement; such agreements are subject to registration in the Moscow land committee;

In case of cancellation of the present Agreement prior to expiration of the lease, or upon its expiration, the Lessee is entitled:

- to transfer all Improvements in the Plot to the Lessor on the gratuitous basis;
- to sell Improvements at the price stipulated by the special Agreement between the parties;
- to move Improvements to another place under conditions, specified in the special agreement between the parties, but not later than 180 calendar days prior to expiration of the Agreement or its cancellation and shall pay the Lessor proportionate part of the lease payment for that period;
- to prolong present Agreement on the terms agreed by the parties under the written application submitted by the Lessee to the Lessor at least 60 (sixty) calendar days prior to expiration of the Agreement.

The Lessee is also entitled: _____

2.13. The Lessee is obliged:

- To start using the plot of land subsequent to determination of its boundaries on the location and issuance of documents attesting the right of lease.

- Not to take any prejudicial actions that low the quality of the Plot, aggravate ecologic situation in the leased territory and result in pollution of the city territory and roads in accordance with the territory and roads in accordance with the normative acts of the republic and the city.

- Upon expiration of the present Agreement the Lessee is obliged to transfer the Plot to the Lessor, and its condition and quality shall be not worse than before the lease as provided in Article 1.1. herein.

- To assure the Lessor and government control bodies free access to the Plot, to the specially specified parts of the Plot, to the buildings and constructions located in the Plot, free passage through the Plot, face passage through the Plot using the roads chosen for that purpose (cross out unnecessary details)

- To maintain city underground and overhead communication lines, facilities, roads, passages and so on in accordance with the requirements of maintenance services, not to obstruct repair and servicing of the above mentioned utilities and to recultivate lands damaged by such services.

- In case of cessation of activity of the enterprise, institution, organization, or if the Lessee deceased, his assign (heir) shall give the Lessor a written notification about it after the liquidation (death) and enclose an application for issuance of new legal documents constituting evidence of rights to the Plot, or present a notice of abandonment.

In case of a change of the address or other requisites the Lessee is obliged to give the Lessor a week's notice about it.

- In case of transfer (sale) of the structure or its part located in the leased plot of land to a third legal or natural person or if this property is contributed as share in the authorized fund of a joint venture established with another legal person, the Lessee is obliged to inform the Lessor about it not later than 30 calendar days prior to the date when the transaction is effected, and petition him to re-issue documents constituting evidence of rights to the land.

- Not to prejudice rights of other land users and leaseholders and not to violate the established procedure for use of water forests and other natural resources.

RESPONSIBILITY OF THE PARTIES

2.14. If either party (the Infringer) fails to fulfil obligations under the present contract property (in case of an Infringement) the other party shall send the Infringer a written notice setting forth in appropriate detail the facts that form the basis of the Infringement. An action for damages can also be brought on the grounds of the Infringement if it is not settled within 60 (sixty) calendar days since the receipt of the notice about the Infringement, or sanctions can be applied in compliance with the terms and conditions of the present Agreement. Any Infringement that can be settled shall not entail cancellation of the present Agreement.

2.15. Breach of terms and conditions of the Agreement by the parties involves their administrative responsibility or criminal liability according to the existing legislation.

2.16. If the Lessor takes any actions resulting in the impossibility to use the plot of land, and hence the Lessee will suffer materials damage, the latter is entitled to apply to arbitration in accordance with the prescribed legal procedure.

2.17. If either party discloses content of the present Agreement to the prejudice of the other party, the Agreement can be cancelled at the initiative of the party that suffered damages.

III. FORCE MAJEURE

For the purposes of the present Agreement force majeure circumstances shall be understood as fire, explosion, flood, earthquake, other natural calamities, military actions, strikes, rupture of a trunk pipeline and so on.

Each party is obliged to notify the other party promptly

circumstances exist for the period exceeding 6 (six) months, or if consequences of such circumstances are not eliminated within 6 months, the parties shall meet to work out a mutually acceptable decision so that performance of the present Agreement could be continued.

IV. CONSIDERATION OF DISPUTES

Land disputes arising from fulfilment of the present Agreement shall be settled in accordance with the procedure prescribed by the existing legislation.

V. CHANGES IN THE LEASE AGREEMENT

Changes, additions and amendments to the terms and conditions of the present Agreement will be valid only if they are made in a written form and signed by the authorized representatives of the parties to the Agreement.

VI. ADDITIONAL TERMS OF THE AGREEMENT

Present Agreement shall not be made public.

The Lessor confirms that at the date when the present Agreement came into force no circumstances or obligations existed that might cause cancellation of the lease Agreement or extra expenses for the Lessee. The Lessor also confirms that he is entitled to conclude present Agreement without additional authorization of bodies of government.

Each party confirms that it has obtained all necessary authorizations prior to entering into the present Agreement, and that persons who signed it were authorized to do so.

Present Agreement shall come into force since the moment of its registration in the Moscow Land committee.

Present Lease Agreement is executed in _____ pages and signed in _____ copies.

LEGAL ADDRESS OF THE PARTIES

The Lessee	The Lessor
The legal address	The legal address
The number of the account in	The number of the in
MFO	MFO
Hard currency account	Hard currency account
Telephone number	Telephone number
Telefax number	Telefax number
Telex and code	Telex and code

SIGNATURES OF THE PARTIES

For the Lessee

the seal place

For the Lessor

the seal place

The Agreement is stringed together
and registered by the Moscow Land
Committee

Registration number in the state
register of legal documents
constituting evidence of rights to
plots of land in the city of Moscow

"____" _____ 199____

N _____

Chairman of the Moscow Land
Committee

the seal place

(_____)

full name

Appendix to the Agreement

CALCULATION OF LAND PAYMENTS

Basic Initial Payments

1. Territorial and economic
estimation zone in the city
of Moscow

2. Basic rate of annual lease
payment or payment for
temporary use of land for 1 sq.m.

roubles

2.1. Benefits

2.1.1. Reduction of payment

amount

%

since

month year _____

for what period

months (years) _____

2.1.1. Release from payment

since

month, year _____

for what period

months (years) _____

2.2. Amount of lease payment for

1 sq.m.

roubles _____

The amount of payment for

the whole plot of land thousand roubles _____

amount of Payments as agreed by the parties, quoted
at an auction (tenders)

Contractual amount of annual

lease payment per 1 sq.m.

roubles _____

The amount of payment for the

whole plot of land

thousand

roubles _____

The amount payable:

THE PLAN OF THE PLOT OF LAND

The list of coordinates
(the system of coordinates _____)

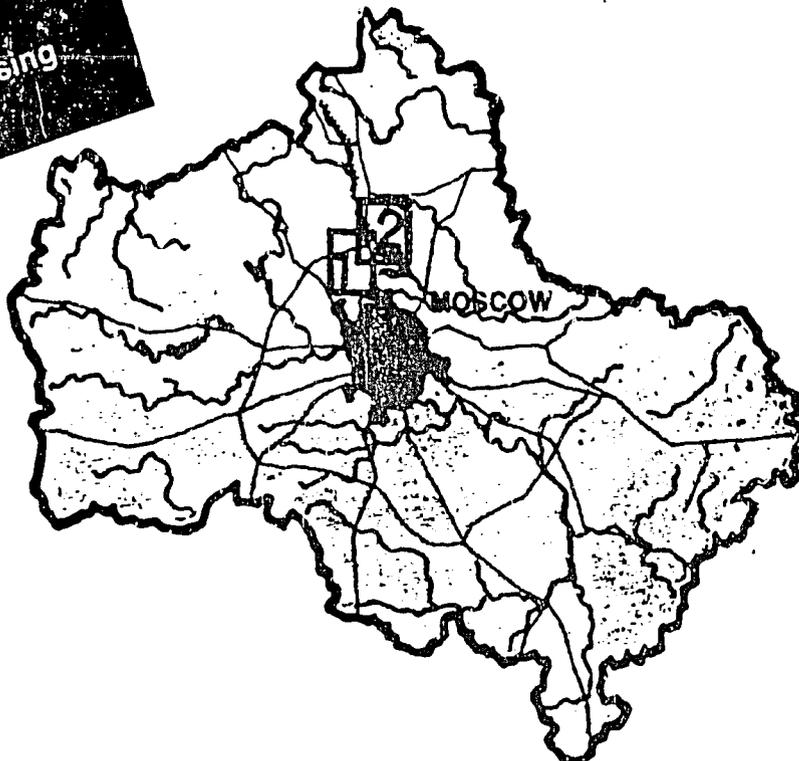
Description of
boundaries of
adjoining lands

N of points	Coordinates		Boundaries	Name of the ad- joining plots of land	Claims on the loca- tion of bounda- ries	Sig na tu re
	x	y				

Space of the plot of
land calculated
analytically

S = _____ sq.m.

VIRGIN LAND
Available for Long-Term Leasing



TWENTY 5-ACRE LOTS AVAILABLE ON TWO LOCATIONS:

- 1st location - 54 km. from the Moscow Ring Highway along Dmitrovsky Shosse.**
- 2nd location - 70 km. from the Moscow Ring Highway along Rogachevsky Shosse.**

Unimproved land in idyllic country setting.
Lots on elevated ground.
Ideal for building vacation residence.
Water, electric, gas and telephone links all within a 500-m. radius.
Ownership negotiable.
All parcels priced under \$30,000.
No limits on duration of lease.

For further information
contact Artur Balsara at Structure-M Co.,
Real Estate Division.

Structure-M Co., Real Estate Division,
Plushcad Pobedy (Victory Square), 2/2, Ap. 207,
Moscow, 121293, Russia
Tel. (095)-148-73-69, (095)-213-60-82
FAX: (095)-148-62-92



Structure-M Co.'s Real Estate Division specializes in the purchase and sale of housing and business premises and other forms of real estate. Structure-M also provides legal and consulting services related to real estate operations, and will assist you immediately in finding a suitable arrangement and processing all documents.

Our staff is always happy to answer any questions you may have about the real estate market in Russia.

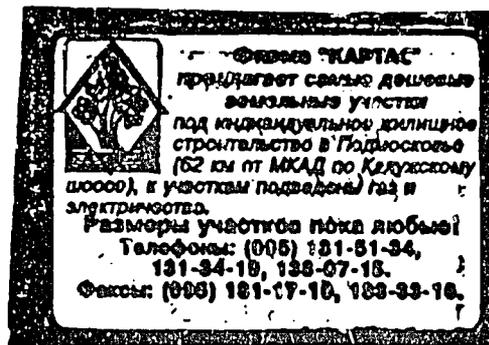
Advertisements for Sales of Land Plots for Individual Housing

From Extra M, July 3, 1993



International stock company "Rosinvest" offers to juridical and natural persons prestigious land plots and construction of first class cottages 10-20 kilometers from Moscow.

From Extra M, August 28, 1993



"Kartac" offers the lowest prices on land plots for individual housing construction in suburban Moscow (62 kilometers from MKAD along Kaluzhki Road). Gas and electricity hook-ups to the plots already in place.

For now any size plot is available!

Table 1. Procedures for Allocation of Land Plots and Construction Permits. Based on the text of the Instruction of the Vice Mayor of the City of Moscow of 31 January 1992

The "Customer" / Subject Submitting the Application, Stages	Document Name	Executive Power, Authority							Representative Authority; Indirect Participation through Planning Documents Approved by this Authority; Judicial Basis for Executive Decision Making
		The Moscow Architecture Committee	Government of the City of Moscow	Commission on Land Relations	Prefecture's Office	Division for Subterranean Facilities	Other "Interested Organizations"	Moscow Land Committee	
1	2	3	4	5	6	7	8	9	10
1.	Preliminary Feasibility Analysis (by "Direct Contract")								to
2.	Application								-
	Instruction								
	"Fundamental Ruling"								
	Grounds for "Urban Development Plan"								
3.	Excerpt from Protocol								-
	Instruction to Verify City and Worthiness of Customer								
4.	Instruction to Supply Specifications								-
5.	Specifications								-
6.	Urban Development Plan								-
7.	Approval Process								-
8.	Draft Decree of the Government of the City of Moscow "On Preliminary Site Approval"								-
	Instruction to Obtain a State Act (Application) or Lease Contract from the Moscow Architecture Committee								
9.	"Preliminary Approval" Decree								-

St. Petersburg Municipal Soviet of People's Deputies

Lower Soviet

RESOLUTION

of 10/20/92 No. 307

**On the Sale of the Property
of St. Petersburg and the offer of
Municipal Contracts at Investment Auction**

The Lower Soviet of the St. Petersburg Soviet of People's Deputies, hereby resolves:

1. To ratify the proposed Statute on the Sale of the Property of St. Petersburg and the offer of Municipal Contracts at Investment Auction.

2. To establish that:

2.1. The sale of property of St. Petersburg at investment auction, excluding enterprise property subject to privatization, shall be conducted in accordance with this Resolution.

2.2. Attraction of investment for reconstruction of uninhabited buildings in the municipal residential housing stock, excluding those under reconstruction as part of the approved St. Petersburg program for targeted capital investment, shall be conducted exclusively on an investment auction basis.

2.3. Starting prices of property for sale at auction shall be established by the Municipal Investment-Tender Commission based on appraisals prepared in accordance with the Resolution of the Lower Soviet of the St. Petersburg Municipal Soviet of 7/2/92.

2.4. Starting prices of municipal contracts shall be determined on the basis of prevailing norms and estimates for work and services.

2.5. Land plots which are not included in the program for targeted capital investment approved by the St. Petersburg Municipal Soviet shall be made available as sites for capital construction exclusively on an investment auction basis.

2.6. In preparing sites for sale at investment auction, the municipal administration shall determine the sizes of the land plots and the terms under which they are offered.

3. The St. Petersburg Municipal Soviet Presidium and the municipal administration shall jointly establish the Municipal Investment-Tender Commission and shall approve its membership by 11/15/92.

4. To establish the following procedure for financing auction and distributing collected assets:

4.1. For municipal contract auctions, the actual costs related to organizing and conducting these auctions shall be borne by the buyer.

4.2. In the event of a sale of St. Petersburg property at auction, mandatory deductions shall be taken from total receipts.

Remaining assets shall be distributed in the following manner:

Committee on Administration of Municipal Property - 5%;

St. Petersburg Property Fund - 5%;

St. Petersburg Budget - 45%;

Budget of the Region (City) Where the Facility is Located - 45%.

5. To repeal as noncompliant with the Statute on the Sale of the Property of St. Petersburg and Municipal Contracts at Investment Auction the following acts:

- Resolution No. 306 of the Executive Committee of the Leningrad Municipal Soviet of 5/6/91, "On the Investment Policy for Reconstruction of Residential Housing Stock";
- Resolution No.330 of the Executive Committee of the Leningrad Municipal Soviet of 5/12/91, "On the Procedure for Investment with Respect to Capital Construction of Social Facilities in Leningrad";
- Instruction No. 432-r of the Executive Committee of the Leningrad Municipal Soviet of 5/17/91, "On the Implementation of Resolution No.306 of the Executive Committee of the Leningrad Municipal Soviet" of 5/6/91";
- Instruction No.40-r of the Mayor of St. Petersburg of 1/10/91, "On the Ratification of the Statute on Site Selection for Capital Repair and Reconstruction of Residential Buildings";
- Instruction No. 79-r of the Mayor of St. Petersburg of 1/22/92, "On the Incorporation of Amendments to Instruction No. 40-r of the Mayor of St. Petersburg of 1/10/92;
- Instruction No. 373-r of the Mayor of St. Petersburg of 4/22/92, "On the Ratification of the Statute on the Commission for the Review of Proposals for Reconstruction, Construction and Use of Residential Housing."

6. The Chairman of the Committee on Property Issues shall be responsible for supervising implementation of the resolution.

Chairman of the Soviet

[Signature]

A.N. Belyaev

[Seal of the Protocol Section of the Presidium of the St. Petersburg Soviet of People's Deputies]

Approved by Resolution No. 307
of the Lower Soviet of the
St. Petersburg Municipal Soviet
of 20 October 1992

STATUTE

On the Sale of St. Petersburg Property and the offer of Municipal Contracts at Investment Auction

1. GENERAL PROVISIONS

1.1. This Statute defines the general procedure for conducting investment auctions and the specific characteristics of such auctions for different types of investment decisions.

1.2. St. Petersburg property and municipal contracts shall constitute the objects subject to sale at investment auction, including:

- Enterprise property in the event of its liquidation or bankruptcy and likewise the property of a shop, manufacturing area, section or other structural subdivisions of this enterprise identified for independent sale;

- Facilities whose construction has been temporarily halted, and facilities not in use;

- Facilities whose construction is not complete. Such facilities may be sold as a property complex, including buildings, structures, uninstalled equipment, materials and structures at the construction sites and in warehouses as well as construction design documentation and the right to use of land plots designated for construction purposes;

- Non-residential housing stock and other real estate, including unoccupied residential housing units under reconstruction;

- Municipal contracts for the design, remodeling, construction, reconstruction and capital repair of buildings, customer and subcontractor functions, etc.

1.3. The Property Fund of St. Petersburg shall function as the Seller of St. Petersburg property and municipal contracts at investment auction (hereinafter referred as the Seller).

1.4. The Municipal Investment Tender Commission (hereinafter: the Commission) shall be charged with conducting and organizing investment auctions.

The Commission may hire experts and consultants in its operations.

1.5. Financial support for the operation of the Commission and to provide compensation for experts and consultants shall be provided by the seller from assets derived from investment auctions.

2. ESTABLISHMENT OF THE COMMISSION AND ITS COMPOSITION

2.1. The initial composition of the Commission and its staffing shall be determined by the Presidium of the St. Petersburg Municipal Soviet.

2.2. The permanent members of the Commission shall include representatives of the St. Petersburg Municipal Soviet and the Property Fund of St. Petersburg, and, subject to authorization of the municipal administration, representatives of the Committee for Municipal Property Management (hereinafter: CPM), the Committee on Economic Development (hereinafter: CED), the Investment Committee, the Financial Committee and the Committee on Urban Development and Architecture.

2.3. The interim members of the Commission may include representatives of other municipal administrative agencies as well as representatives of the regional municipal councils of people's deputies and regional administrations of the City of St. Petersburg.

2.4. The constituent agencies and organizations shall nominate candidates for membership in the Commission.

No more than three representatives from each organization shall be appointed, although only one such representative shall be authorized to vote at Commission sessions.

2.5. If the Commission should include more than one representative of the St. Petersburg Municipal Soviet, the voting right shall belong to the representative appointed to this session by the Committee on Property issues.

3. METHODS OF CONDUCTING AN INVESTMENT AUCTION

3.1. Investment auctions shall be divided into the following classes based on the criterion selected:

- Competitive selection of investment projects;
- Investment competition;
- A municipal contract auction.

3.2. A competitive award of investment projects shall refer to the acquisition from the St. Petersburg Municipal Soviet of municipal property in cases where by virtue of the complexity or wide range of activities associated with the investment project and the assessment or comparison of competitive proposals to determine the successful candidate in the investment competition, must be based on several different criteria.

The right to purchase a municipal property site shall be granted to the buyer whose proposal is the most cost-effective on the basis of a variety of criteria and most closely satisfies the terms of the competition without qualification. A decision in this case shall be based on a comparison of competing investment proposals based both on qualitative and quantitative aspects in accordance with the criteria established for determining the successful bidder.

3.3. An investment competition shall refer to the purchase from the St. Petersburg Municipal Soviet of a facility of municipal property in cases where one of the terms of the competition is an obligation on the part of the purchaser to commit a predetermined level of investment.

The right to purchase a facility of municipal property shall be granted to the buyer offering the maximum price for said property and satisfying all terms of the competition.

3.4. A municipal contract auction shall refer to the purchase by legal entities or individuals from the St. Petersburg Municipal Soviet of rights to perform customer and (or) subcontractor functions; rights to engage in survey or design operations, including drafting of design documentation; construction rights on land plots as well as rights to construction, reconstruction, remodeling or capital repair of buildings in cases where the contract price functions as the primary criterion of the sale.

A municipal contract refers to a contract secured with enterprises or institutions irrespective of its agency subordination or form of ownership to engage in the operations stipulated above.

3.5. Investment competitions, irrespective of form, shall be conducted in accordance with the procedure established by this Statute and the Interim Statute on Privatization of State and Municipal Enterprises of the Russian Federation by Competition to the extent that it is consistent with this Statute.

3.6. A competitive award of investment projects shall be conducted, as a rule, in the sale of complex projects that require a comprehensive analysis of economic, ecological, urban development and other criteria, each of which cannot be unambiguously isolated in the investment plan.

3.7. An investment competition shall be conducted through investment projects which shall contain performance and cost assessments. The planned investment level shall be stipulated as a term of the competition.

3.8. An auction to acquire a municipal contract may constitute a part of an investment project.

3.9. An investment plan shall contain engineering and cost information for developing investment projects and criteria for selecting the successful bidder.

4. TYPES OF INVESTMENT AUCTIONS

4.1. Investment auctions may take the following forms:

- Open investment auctions which shall be open to all investors so authorized in accordance with the laws of the Russian Federation;
- Closed investment auctions which shall be open to individual investors selected in accordance with criteria formulated in the investment plan.

4.2. Open investment auctions may include a prequalification stage in which briefing material is published on the facility to be sold together with a special question form (questionnaire) to obtain primary information on business activities, the financial state and actual experience of participants in the auction.

These questionnaires are then compared to select participants in the auction who, in terms of the requirements, are suitable for the investment auction.

A tender document shall be provided to the auction participants selected in the prequalification stage.

4.3. Tender documentation shall be published in the press or provided in full to any individual requesting such information for open investment auctions without prequalification.

4.4. Closed investment auctions shall be conducted without prequalification.

4.5. The Seller may employ intermediary agents including exchanges in compliance with the laws of the Russian Federation for the competitive sale of St. Petersburg property and municipal contracts through an open investment auction without prequalification.

5. PREPARATION AND ORGANIZATION OF INVESTMENT AUCTIONS

5.1. An application to conduct an investment auction shall be submitted to the Commission.

Any individuals or legal entities may apply.

5.2. An application to purchase municipal property shall be submitted by the Commission to the Committee for Municipal Property Management, while an application to acquire a municipal contract shall be submitted to the Committee for Economic Development.

These Committees shall adopt decisions to sell such property and offer such contracts.

5.3. The Commission may be authorized to submit an application to conduct investment auctions in its own name.

5.4. The Commission shall develop an investment plan upon a sale ruling by the CMPM (CED).

An applicant at his own discretion may submit an investment plan and supporting evidence in favor of the investment auction version proposed by the applicant.

5.5. A representative of the St. Petersburg Municipal Soviet shall coordinate the investment plan in the name of this body.

In the event that the representative of the St. Petersburg Municipal Soviet should not approve the investment plan, this issue shall be submitted for review by the lower soviet of the St. Petersburg Municipal Soviet.

5.6. The investment plan shall be approved by the agency issuing the sale decision in accordance with Section 5.2 of this Statute.

5.7. When necessary, the lower soviet of the St. Petersburg Municipal Soviet shall be authorized to issue rulings governing the sale of both municipal property and the offering of municipal contracts at investment auction.

In this case, the investment plan shall be approved by the CMPM or the CED within a period of one month from the date the decision is adopted.

If no decision to approve the plan is adopted within the stipulated term, the investment plan shall be treated as approved.

5.8. The term for preparation and implementation of an investment auction shall not exceed six months from the date of adoption of the resolution to sell the facility at investment auction.

This term may be extended by decision of the Commission, but in no cases by more than three months.

6. RIGHTS AND OBLIGATIONS OF THE SELLER AND THE COMMISSION

6.1. The Seller:

6.1.1. Organizes the publication of tender documentation or provides such documentation to any requesting individual (in the event of open auctions without prequalification) in accordance with the procedure stipulated in the investment plan.

6.1.2. Organizes the publication of briefing data and the questionnaire. Distributes tender documentation to participants in an auction that have passed the prequalification stage (in the event of open auctions requiring prequalification).

6.1.3. Provides tender documentation to participants in an investment auction who have agreed to participate (in the event of closed auctions).

6.1.4. Informs the public of the results of an investment auction.

6.1.5. Is authorized to provide tender documentation on a commercial basis based on its actual cost of production.

6.2. The Commission:

6.2.1. Develops the investment plan containing the following information:

- the name and a description of the facility to be sold, including its location, composition and an assessment of the property; the dimensions of the land plot; the terms for its lease or use rights;

- the scope of manufacturing and product sales planned following investment, including nomenclature, estimated number of employees, anticipated payback period and cost of production factors;

- a description of in place (existing) technology and primary requirements on modernization and technical upgrading of manufacturing capacity;

- planned demand or financial, material and labor resources, labor schedules and design documentation;

- feasibility analysis of the type and methods for conducting investment auctions;

- guarantees and mutual obligations of the parties; the terms and procedure for settlement and other terms;

- the criteria and terms for conducting investment auctions.

6.2.2. Prepares tender documentation based on the investment plan.

6.2.3. Organizes and conducts a nonparticipatory selection process and invites the participants in the auction (in the event of closed auction).

6.2.4. Analyzes qualification documents submitted on the basis of the questionnaire and identifies the individuals to participate in investment auctions (in the event of open auctions requiring prequalification).

6.2.5. Identifies the successful bidder in the investment auction based on the criterion established by the investment plan that satisfies the terms of the auction.

6.2.6. Prepares the draft purchase-sales contract and secures its signature.

6.2.7. Is authorized to accept an investment plan submitted by an applicant, and to utilize its individual provisions to develop its own investment plan.

6.2.8. May hire organizations with experience in research, design and production.

6.3. The Commission selection of a successful bidder in an investment auction shall be approved by the Seller, who secures the purchase-sales contract or the performance contract with the successful bidder in the investment auction.

MAYOR OF SAINT-PETERSBURG

INSTRUCTION

Date 5/5/93, No. 332-r

On the Procedure for Preparing Instructions Regarding Issues Concerning the Construction, Reconstruction, and Offering of Land Plots

For the interim period prior to preparation and ratification by the St. Petersburg Municipal Soviet of People's Deputies of legal acts regulating the procedure for development and offer of land plots, in order to improve the procedure for the offer of land plots and to facilitate a more efficient resolution of issues related to construction and reconstruction in St. Petersburg, in accordance with Protocol No. 28 from the Mayor's 12-29-92 conference, "On Improving the Procedure for Land Plot Offers," I hereby:

1. Ratify the "Interim Statute on the Procedure for Relations between Investors (Customers) and Municipal Administration Agencies (Mayoral Office), with respect to Preparation and Issuance of Instructions Regarding Construction, Reconstruction, and Expansion of Industrial and Social Facilities, and Land Plot Offers in St. Petersburg and in Areas within the Administrative Jurisdiction of the Municipal Soviet," in accordance with the Appendix.
2. Repeal Mayoral instruction No. 1027-r of 11/5/92.
3. Assign First Deputy Mayor D.V. Sergeev the responsibility for supervising implementation.

Mayor

[Signed]

A.A. Sobchak

[Seal of the Protocol Section of the Mayoral Office]

INTERIM STATUTE

on the Procedure for Relations between Investors (Customers) and Municipal Administration Agencies (Mayoral Office), with respect to the Preparation and Issuance of Instructions Regarding Construction, Reconstruction, Expansion of Industrial and Social Facilities, and Land Plot Provision in St. Petersburg and in Areas within the Administrative Jurisdiction of the Municipal Soviet

1. All investors' (customers') applications for construction, reconstruction, expansion of industrial or social facilities, or land plot offers for construction in St. Petersburg, or, in cases stipulated in prevailing legislation, in areas within the administrative jurisdiction of the municipal Soviet, shall be submitted directly to the Committee on Economic Development, irrespective of form of ownership or source of financing.

2. The Committee on Economic Development shall review and examine applications received from investors; shall determine the feasibility of the projects or appeals with respect to the interests of the city's economic and social development, including those sold at investment auction; shall determine the extent and form of the relative role of the builder in the development of local infrastructure; shall, within a 5-day period, prepare and submit a written ruling to the Committee on Urban Development and Architecture regarding the selection of a plot for siting, and urban development terms governing implementation of the project; prepare a draft instruction to authorize surveys, and, in the event of a lack of draft plans, prepare a land plot siting certificate. In cases specially stipulated by prevailing legislation, a site may be offered for competitive bid.

3. The Committee on Urban Development and Architecture shall, within a 10-day period, prepare a draft instruction to authorize surveys on the basis of initial design data supplied by the investor (customer), the opinion of the Committee on Economic Development, and, in the case of a competitive bid, on the basis of these results. The draft shall be coordinated with the regional administration (corresponding to the address of the site), the Investment Committee and the builder.

4. The draft instruction to authorize surveys, revised to incorporate the findings of municipal and regional administrative agencies, and bearing a certification of such agreements, shall be submitted for review by the Committee on Urban Development and Architecture to the permanent Interagency Commission on Conversion, Development and Construction of New Social, Industrial and Other Facilities.

5. On the basis of the signed instruction, the Committee on Urban Development and Architecture shall issue permit documentation and an architectural design order to the customer within a 5-day period and shall coordinate the preparation of design documentation.

Upon receipt of a survey permit, legal entities and individuals shall secure a contract for land surveying with the land user or the Committee on Land Reform and Land Resources in accordance with the requirements of land legislation. Registration of the agreement with the Committee on Land Reform and Land Resources shall be mandatory.

6. Upon completion of the survey and approval of the design documentation, the Committee on Urban Development and Architecture, within a 10-day period, shall prepare a draft mayoral instruction to offer the land plot for lease for construction and subsequent use. Approval of the draft shall be secured from the regional administration (corresponding to the site's address), the Municipal Center for Public Health and Disease Control; the Fire and Rescue Service, the Leningrad Ecology Committee (for facilities having a direct or indirect affect on the environment), the Investment Committee, the builder, the Committee on Economic Development, and the Committee on Land Reform and Land Resources. The approved draft instruction shall be submitted for consideration to the permanent Interagency Commission on Conversion, Development and Construction of New Social, Industrial and Other Facilities.

7. A coordinated draft mayoral instruction shall be prepared for surveying and for offering land plots for construction and subsequent use for social infrastructure facilities, which shall be approved and submitted to the Mayor for signature in accordance with the procedure established in Point 6.

8. The Committee on Urban Development and Architecture shall issue to the customer a construction permit within a ten-day period, allowing for the work schedule. On the basis of a signed instruction authorizing construction and assignment of a land plot, the Committee on Land Reform and Land Resources shall conduct land use works and draft the lease contract within a period of 15 days.

9. Land plots with no capital construction rights shall be offered for lease for terms of up to three years by senior leadership of regional administrations, in consultation with the Committee on Urban Development and Architecture, while land plots with non-capital construction rights shall be offered for lease in consultation with the Committee on Economic Development and the Committee on Urban Development and Architecture.

10. In the event of flagrant violation by builders (customers) of urban planning or land legislation, development schedules or land plot lease contract terms, the Committee on Urban Development and Architecture in consultation with the Committee on Land Reform and Land Resources, shall submit a proposal to the Mayor of St. Petersburg to recall previously assigned land plots and take measures to annul the lease contracts.

[Seal of the Protocol Section of the St. Petersburg Mayoral Office]

LAND PLOT LEASE CONTRACT

St. Petersburg, No. _____, 199_.

The St. Petersburg Administration, hereinafter referred to as "Lessor" in the person of the representative of the St. Petersburg Land Resources and Land Use Committee, _____

(Last name, first name, title)

_____,
acting by Statute, as party of the first part _____

(full name)

in the person of _____

(Last name, first name, title of representative)

_____,
acting on the basis of _____
hereinafter referred to as "Lessee", as party of the second part, operating on the basis of

(corresponding administrative instruction)

of _____, 1993, No. _____ have entered into this Contract as set forth below:

1. SUBJECT AND PURPOSE OF THE LEASE CONTRACT

1.1 The Lessor shall offer and the Lessee shall accept and use, under a long (short) term lease arrangement, the land plot under Register No. _____ situated at square No. _____ in region (population center) _____ square kilometers in area _____

(write out area in full)

hereinafter referred to as the "Plot". Terrain (qualitative) characteristics of the Plot

(high and low elevations, bodies of water, sources, etc.)

The following are situated on the Plot:

a) _____
(buildings, structures, utility lines, including undergrounds ducts,

and descriptions)

b) _____
(natural and historical-cultural monuments)

c) _____
(common minerals as reflected on the list approved by

the State Technical Inspectorate of the USSR of 12 April 1977, peat)

d) _____
(tree plantings and woody vegetation)

e) _____

The description of the Plot provided here shall constitute the final description and shall not be expanded upon unilaterally by the Lessee.

1.2. The boundaries on the land Plot shall be established in the field and denoted by boundary points on the land Plot plan appended to this Contract (which shall constitute an integral part of the Contract).

1.3. The Plot is provided for: _____

(purpose for which the land Plot is provided)

The description of the purpose of land Plot utilization given here shall constitute the final description and shall hereinafter be referred to as "Authorized Use". A change in the purpose of land Plot use shall be permitted by authorization from the Lessor. The procedure for Lessee activities is established in the Certificate Authorizing Capital Construction and Reconstruction issued by architectural and urban development agencies.

2. RIGHTS AND OBLIGATIONS OF THE LESSOR

2.1. The Lessor shall provide the Lessee with the Plot for a term corresponding to its assimilation period or for construction and use in accordance with its designated use.

2.2. The Lessor shall be authorized:

- a) To annul this Contract before expiration of term in cases where the Lessee fails to satisfy the terms of this Contract;
- b) Incorporate, by authorization of the Lessee, revisions and refinements to the Contract in cases where necessitated by changes in relevant legislation;
- c) Terminate operations engaged in by the Lessee that are in violation of the terms of this Contract, existing standards and regulations.
- d) Demand restitution of losses from the Lessee in an amount corresponding to the market valuation of the land Plot in cases of non-use of the land Plot by the Lessee for the entire period of said non-use for a period of 2 (two) years from the date of ratification of this Contract.

2.3. The Lessor shall have other rights as follows: _____

2.4. In the event of a delay in payment exceeding 90 (ninety) days, the Lessor shall be authorized to file suit for purposes of obtaining payment or to terminate this Contract. However, the Lessor shall be required to submit a written notification of an intention to bring suit against the Lessee at least 30 (thirty) days in advance. If all required payments are issued prior to the beginning of court proceedings, the Lessor shall not be authorized to terminate this Contract on these grounds.

2.5. The Lessor shall be obligated to avoid interference in the economic activities of the Lessee, if said activities are consistent with the terms of this Contract and laws in force.

2.6. The Lessor shall be obligated to refrain from the use and likewise to refrain from assigning use rights to a third party for mineral and water resources situated on the Plot.

2.7. The Lessor shall inform the Lessee of resolutions of management and government agencies in effect on the Contract signing date that regulate the terms of composition and operation of the facilities and the boundaries on protected zones of facilities set forth in Subsection "e" of Section 3.6 of this Contract.

3. RIGHTS AND OBLIGATIONS OF THE LESSEE

3.1. The Lessee shall be authorized to use the Plot in compliance with the purpose and terms under which it was offered as set forth in Sections 1.1-1.3 when the Lessee is in possession a plan bearing the required authorizations from architectural, natural conservation, public health and other agencies.

3.2. The Lessee shall be authorized to secure agreements to offer all or part of the land Plot for temporary use for terms not to exceed three years with mandatory registration of such contracts with the Committee on Land Resources and Land Use of St. Petersburg.

3.3. The Lessee shall be authorized, in the event of an annulling of the Contract prior to the expiration of its term or upon expiration of its term, to take the following actions with respect to Improvements to the land Plot implemented by written authorization of the Lessee:

- a) Grant such Improvements to the Lessor with no restitution;
- b) Sell such Improvements to the Lessor at a price equal to the market value of the Improvements implemented;
- c) Transfer such Improvements under terms stipulated by special agreement, but in no cases later than 180 calendar days prior to the expiration date of the Contract or the annulment date of the Contract, with the Lessor, compensated at a level proportional to the annual lease payments corresponding to this period.

3.4. The Lessee shall be authorized to extend this Contract under terms agreed to by the parties by written application submitted to the Lessor at least six months prior to the expiration of the Contract.

3.5. The Lessee shall also have other rights as stipulated below: _____

3.6. The Lessee shall be obligated to:

- a) Use the Plot in accordance with the purposes stipulated in Sections 1.1-1.3 of this Contract;
- b) Use the Plot after establishing boundaries on site (locally) and issue documents certifying the lease right; in the event that the land Plot should not be used for a period of two years from the date this Contract becomes valid, Lessee shall provide restitution to the Lessor for losses incurred from non-use of the land Plot in an amount equal to the market valuation of the land Plot for the entire period of said non-use from the date this Contract became valid;
- c) To forbid actions that serve to degrade the quality of the Plot, the ecological conditions within the leased territory and likewise serve to contaminate the municipal territory and roadways in accordance with republican and municipal regulatory acts;
- d) After expiration of the term the Contract, the Lessor shall be obligated to return the Plot to the Lessee in a state and in a condition equal to or better than the original condition as set forth under Section 1.1 of this Contract;
- e) Provide the Lessor and state monitoring agencies with free access to the Plot;
- f) Maintain conditions for the upkeep and operation of municipal underground and overground engineering utilities, structures, roadways, and bridges, observe established protection zones of such facilities as well as water conservation zones and monument conservation zones and refrain from interfering in their repair or maintenance within the area of the land Plot in accordance with Section 1.1. of this Contract and in compliance with the requirements of operational services. The existence of such facilities on the Plot and the boundaries of such zones shall be identified in the plan of the land Plot and described in Section 1.1 of this Contract, while standards regulating the procedure and terms for maintenance and operation of such facilities and zones shall be listed in Section 1.1 of this Contract;

g) In the event of a change of address or other requisites the Lessee shall provide the Lessor with notification of such changes one week prior to the date of such changes;

3.7. In the event of the liquidation (death) of the Lessee, his legal successor shall provide the Lessor within a period of thirty days of the liquidation (death) by written notification of said event with an application to draft new documents certifying a right to the Plot or apply for a waiver in written form.

3.8. In the event of a transfer of ownership rights (a sale) of a structure or a part of a structure located on the leased Plot to another legal entity or individual, the Lessee shall be obligated to notify the Lessor of said action for purposes of modifying documents certifying the right to the land Plot within a period at least thirty calendar days in advance of the transaction (transfer).

3.9. In the event that state agencies adopt a resolution that authorizes the Lessee to acquire the Plot as property, and the Lessor wishes to sell, transfer or otherwise dispose of the Plot, the Lessor shall provide the Lessee with a right of first refusal in written form.

The Lessee shall have exclusive right to secure an agreement to acquire the Plot under Lessor terms for a period of 90 (ninety) days from the date of receipt of the written offer from the Lessor.

4. TERM OF THE CONTRACT AND THE LEASE FEE

4.1. This Contract shall be established for a term of _____ years.

4.2. The lease payment shall be implemented effective "_____" 199_.

4.3. The initial amount of the annual lease fee to be paid by the Lessee to the Lessor shall be _____ per square meter per year. The lease fee shall be reviewed annually, although the minimum lease fee shall be greater than the land tax rates established by the Council of People's Deputies of St. Petersburg.

The following shall constitute the grounds for reconsideration of the lease fee.

- a) Inflation determined by legally approved methods;
- b) Changes in legislation as well as regulatory acts under the law;
- c) Changes in the market valuation of the Plot;
- d) Lessee acquisition of a temporary use contract in accordance with Section 3.2 of this Contract.

4.4 The fee payment under this contract shall be submitted by the Lessee to

(indicate agency, bank, account, etc.)

4.5. In the event of a failure to pay the amounts listed under Sections 4.3 and 4.4, the Lessee shall be obligated to pay a penalty in the amount of 0.2% of the outstanding sum for each day late.

4.6. Such payments shall be issued quarterly no later than the first day of the third month of the quarter.

5. OBLIGATIONS OF THE PARTIES

5.1. In the event that one of the parties should fail to satisfy or inappropriately satisfy (violate) the obligations under this Contract, the party at fault shall be provided written notification of the facts comprising the violation and a request to eliminate the violation within a period of 60 (sixty) calendar days from the date of receipt of notification of said violations. Any violation that may be resolved shall not lead to annulment of the Contract.

5.2. In the event of a failure to eliminate a violation, the party at fault shall provide restitution for losses, including loss of use in accordance with the law.

The amount of losses subject to restitution to the Lessor shall be defined under Sections 2.2. and 3.6 of this Contract.

5.3. A fine shall be imposed on the guilty party in accordance with the procedure and in amounts set forth under Article 125 of the Land Code of the Russian Federation.

5.4. In the event that the Lessor should permit any actions that make it impossible to utilize the land Plot such that the Lessee will incur property damages, the latter shall be authorized to appeal to an arbitration tribunal in accordance with established procedure.

5.5. In the event that one of the parties should disclose the contents of the Contract thereby causing harm to the other party, the party incurring the damages may nullify the Contract at its discretion.

5.6. The Lessee shall be notified of resolutions of state management and governing agencies in effect on the date of ratification of the Contract that regulate the terms concerning the maintenance and operation of facilities and the boundaries on conservation zones of facilities in accordance with Section 1.1 and 3.6 _____ of this Contract.

6. FORCE MAJEURE CIRCUMSTANCES

6.1. Force majeure circumstances under this Contract shall include: fires, explosions, floods, earthquakes and other natural disasters, military actions, strikes, ruptures of pipeline mains, etc.

Each party shall be obligated to provide timely notification of the other party of such circumstances. Such notification shall be certified by a document issued by an appropriately authorized state agency. In the event that force majeure circumstances should

continue for more than 6 (six) months and in the event that the consequences of such circumstances have not been eliminated after a six-month period, the parties shall meet to develop a mutually acceptable solution involving extension of this Contract. Should such circumstances continue for a period exceeding six months and inhibit the use of the land Plot by the Lessee in accordance with the terms of this Contract (as certified by written documentation) the Contract shall be considered null and void in accordance with Section 7.1 of this Contract.

7. NULLIFICATION OF THE CONTRACT

7.1. The Lessee shall be authorized to nullify this Contract at any time at his discretion by providing written notification to the Lessor at least 6 (six) months in advance in the event that the Lessee engages in no violations of this Contract.

7.2. The Contract shall be subject to annulment at the discretion of the Lessor in accordance with laws in effect and in cases where the land Plot is not utilized in compliance with Section 1.3 of this Contract.

8. RESOLUTION OF DISPUTES

8.1. Land disputes arising from the implementation of this Contract shall be resolved in accordance with the procedure established existing laws.

9. REVISION OF THE LEASE CONTRACT

9.1. Revisions, supplements and modifications to the terms of this lease Contract shall only be valid when in written form and signed by authorized representatives of the parties to the Contract. Should any legislative act be adopted subsequent to the date this Contract becomes valid that should establish more favorable terms to the Lessee compared to those of this lease Contract, the parties shall introduce necessary changes so as to provide the Lessee with the possibility for utilizing the terms deriving from such acts.

10. ADDITIONAL TERMS OF THE CONTRACT

10.1. The Lessor acknowledges that no grounds or circumstances exist on the date this Contract becomes valid that would serve as a cause for annulment of the land lease Contract or would require additional expenditures on the part of the Lessee. The Lessor likewise stipulates that he is authorized to secure this Contract without any additional authorization from management agencies.

Each of the parties stipulates that the party has acquired all necessary authorization to secure this lease Contract and that the individuals whose signatures are given below are authorized to provide such signatures.

10.2. Special terms:

Фонд имущества Санкт-Петербурга объявляет о проведении 8 сентября 1993 г. коммерческого конкурса

(в перечень включены дополнительные объекты к объявленным ранее в ИБ № 11(27)).

На право строительства здания для размещения банковского учреждения по адресу: Владимирский пр., д.9, общей площадью 800 кв.м.

Начальная цена - 8,55 млн руб.
Победитель конкурса по выполнению условий конкурса получает в собственность здание банка по адресу: Владимирский пр., д.9 и в аренду на 49 лет соответствующий земельный участок площадью 0,05 га.

На право строительства жилых домов со встроенными помещениями в кв.25-а, корп.45, 46, 47, 48 оз. Долгое, общей площадью 40 тыс.кв. м в 4-х корпусах и в кв.61, корп.28, 29 СПЧ.

Начальная цена - 3,8 млн руб.
Победитель конкурса по выполнению условий конкурса получает в собственность новые дома со встроенными помещениями по адресу: квартал 25-а, корп.45, 46, 47, 48 оз. Долгое и в аренду на 49 лет соответствующий земельный участок площадью 0,6 га.

По окончании строительства корп.28 кв.61 СПЧ (здание марсуда), общая площадь не менее 3 000 кв.м и корп.29 кв.61 СПЧ (здание консьержа), общая площадь не менее 2 000 кв.м, передается администрации Приморского района.

На право реконструкции здания чепроизводственного назначения по Левскому пр., д.д.99 и 101, общей площадью 3301,6 кв.м.

Начальная цена - 37,3 млн руб.
Победитель конкурса по выполнению условий конкурса получает в собственность здание по адресу: Левский пр. 99, 101 и в аренду на 49 лет соответствующий земельный участок площадью 0,1 и 0,16 га.

На право капитального ремонта жилого здания по адресу: В.О.Средней пр.-д.55, корп.2 (лит. «О»), общей площадью 602,15 кв.м.

Условия конкурса:
1. За счет собственных средств, материальных ресурсов и строительных мощностей расселить существующее жилое здание по В.О. Средней пр., д.55, корп.2 (лит. «О»), разработать проектно-сметную документацию (ПСД) и провести капитальный ремонт здания.
2. Разработать и представить на утверждение ПСД по объекту до 01.06.94 г. с обязательным согласованием в УИИОП.
3. Заполнить капитальный ремонт здания по В.О. Средней пр., д.55, корп.2 (лит. «О») и представить государственной комиссии до 01.07.93 г.

4. Выполнение условий конкурса является обязательным для всех участников.
Начальная цена - 11,0 млн руб.

Победитель конкурса по выполнению условий конкурса получает в собственность здание по адресу: В.О.Средней пр., д.55, корп.2 (лит. «О») и в аренду на 49 лет соответствующий земельный участок площадью 0,03 га.

На право реконструкции здания непроизводственного назначения по адресу: ул.Коммиссара Смирнова, д.6/5, общая площадь 5644 кв.м, ул.Коммиссара Смирнова, д.4-Б, лит.А, общая площадь 1223 кв.м и лит.Г, общая площадь 766 кв.м.

Условия конкурса:
1. Компенсировать до 1.10.93 г. администрации Калининского района затраты на разработку проектно-сметной документации с учетом пересчета на удорожание.
2. За счет собственных средств расселить на указанные здания оставшиеся жильцы.
3. За счет собственных средств, материальных ресурсов и строительных мощностей произвести реконструкцию зданий до 30.12.94 года.
4. Передать администрации Калининского района для заселения очередникам 2000 кв.м жилой площади, в том числе в 1993 году - 1000 кв.м и в 1994 году - 1000

Начальная цена - 35,0 млн руб.
Победитель конкурса по выполнению условий конкурса получает в собственность здание по адресу: ул.Коммиссара Смирнова, д.6/5, ул.Коммиссара Смирнова, д.4Б литеры А и Г и в аренду на 49 лет соответствующий земельный участок площадью 0,17, 0,05 и 0,03 га.

На право аренды нежилых помещений площадью 148,1 кв.м по адресу: В.О. 8-я линия, д.7, лит.А, сроком на 49 лет.

Условия конкурса:
1. При согласовании со службами СЭС и Пешиндзем нежилые помещения использовать под рестораны, в иных случаях, под производственные цели.

2. За счет собственных средств разработать проектно-сметную документацию и выполнить капитальный ремонт помещений до 30.12.93 г.

3. В течение месяца после проведения конкурса перечислить на расчетный счет Фонда имущества Санкт-Петербурга 0,5 млн руб. для покрытия затрат по организации и проведению конкурса и 0,5 млн руб. на проведение совместно с Комитетом по управлению городским имуществом работ по инвентаризации нежилых фонда Васильевского района.
Начальная цена - 3,8 млн руб.

На право аренды нежилых помещений площадью 245,6 кв.м по адресу: В.О.14-я линия, д.31-33, лит.О, сроком на 49 лет.

Условия конкурса:
1. Нежилые помещения использовать под торговые цели.
2. За счет собственных средств разработать проектно-сметную документацию и выполнить капитальный ремонт помещений до 30.12.93 г.

3. В течение месяца после проведения конкурса перечислить на расчетный счет Фонда имущества Санкт-Петербурга 0,5 млн руб. для покрытия затрат по организации и проведению конкурса и 0,5 млн руб. на проведение совместно с Комитетом по управлению городским имуществом работ по инвентаризации нежилых фонда Васильевского района.
Начальная цена - 4,0 млн руб.

На право аренды нежилых помещений площадью 41,2 кв.м по адресу: В.О. 15-я линия, д.22, лит.А, сроком на 49 лет.

Условия конкурса:
1. Нежилые помещения использовать под торговые цели.
2. За счет собственных средств разработать проектно-сметную документацию и выполнить капитальный ремонт помещений в срок до 30.12.93 г.

3. За счет собственных средств, материальных ресурсов провести оборудование помещений с приспособлением его под магазин по продаже промышленных товаров.

4. В течение месяца после проведения конкурса перечислить на расчетный счет Фонда имущества Санкт-Петербурга 0,5 млн руб. для покрытия затрат по организации и проведению конкурса и 0,5 млн руб. на проведение совместно с Комитетом по управлению городским имуществом работ по инвентаризации нежилых фонда Васильевского района.
Начальная цена - 1,3 млн руб.

На право аренды нежилого помещения площадью 96,4 кв.м по адресу: В.О. Гаванская ул., д.11, лит.А, сроком на 49 лет.

Условия конкурса:
1. Нежилые помещения использовать под торговые и складские цели.

2. За счет собственных средств разработать проектно-сметную документацию и выполнить капитальный ремонт нежилого помещения до 30.12.93 г.

3. Обеспечить круглосуточный доступ обслуживающего персонала и электрощитовому делу, который расположен в помещении.

4. В течение месяца после проведения конкурса перечислить на расчетный счет Фонда имущества Санкт-Петербурга 0,5 млн руб. для покрытия затрат по организации и проведению конкурса и 0,5 млн руб. на проведение совместно с Комитетом по управлению

На право аренды нежилых помещений площадью 42,6 кв.м по адресу: ул. Нальская, д.11, лит.А, сроком на 49 лет.

Условия конкурса:
1. Нежилые помещения использовать под производственные цели.

2. За счет собственных средств разработать проектно-сметную документацию и выполнить капитальный ремонт помещений в срок до 30.12.93 г.

3. В течение месяца после проведения конкурса перечислить на расчетный счет Фонда имущества Санкт-Петербурга 0,5 млн руб. для покрытия затрат по организации и проведению конкурса и 0,5 млн руб. на проведение совместно с Комитетом по управлению городским имуществом работ по инвентаризации нежилых фонда Васильевского района.
Начальная цена - 1,5 млн р. б.

На право аренды помещений площадью 491,6 кв.м по адресу: Московский пр., д.53, сроком на 15 лет.

Условия конкурса:
За счет собственных средств произвести:
- разработку и необходимые согласования проектно-сметной документации на размещение в указанных помещениях мини-пекарни и мелкого хлебобулочного изделия в срок до 01.03.94 г.;

- приобретение и монтаж всего комплекса необходимого оборудования в срок до 30.06.94 г.;

- ввод в эксплуатацию мини-пекарни и организационно-торговые хлебобулочными изделиями в срок до 30.06.94 г.

Начальная цена - 3,3 млн руб.
Победитель конкурса в месячный срок со дня проведения конкурса перечисляет на расчетный счет Фонда имущества 100 тыс. руб. для покрытия затрат по организации и проведению конкурса.

На право аренды нежилых помещений здания по Невскому пр., д.82 площадью 545,6 кв.м на 1, 2 этажах здания сроком на 49 лет.

Условия конкурса:
1. Создание медико-санитарного центра с обязательным направлением по профилактике и лечению стоматологических больных. В центре могут быть представлены и другие направления в области медицины.

2. Обеспечить численность персонала больницы по всем направлениям не менее 60 тыс. человек в год.

3. В центре необходимо предусмотреть возможность бесплатного обслуживания жителей ВОВ, блокадников и малоимущих жителей Васильевского района из расчета 30 посещений в год по каждому направлению на одно кресло.

4. Предоставить в субаренду сроком на один год нежилые помещения площадью 164 кв.м Объединенно-образовательного лечебного учреждения.

5. При подаче заявки покупателю необходимо предоставить бизнес-план использования помещений по условиям конкурса.

Начальная цена - 1,8 млн руб.

Для участия в конкурсе участниками конкурса перечисляется на расчетный счет Фонда имущества Санкт-Петербурга залог в размере 100% от начальной цены объекта.

Оплата производится с учетом изменения курса рубля относительно доллара США со дня проведения конкурса до дня оплаты по результатам торгов на Московской межбанковской валютной бирже, но не менее цены победителя.

Форма проведения конкурса - закрытый тендер (критерий выбора победителя - цена).

С подробными условиями проведения конкурса можно ознакомиться в Фонде имущества Санкт-Петербурга по адресу: пер.Гришцов, д.5, комн.213, тел.: 311-00-74.

Последний день приема заявок на участие в конкурсе 6 сентября 1993 г. в Фонде имущества Санкт-Петербурга.

Адрес: г.Санкт-Петербург, пер.Гришцов, д.5, комн.213, 2-й этаж. Телефон 311-00-74.

Расчетный счет NS8100345644 МФО 161002

Bulletin N 12(28)

PROPERTY FUND OF ST.PETERSBURG

invites tenders on September 6, 1993
(certain items are listed in addition to those
indicated in Bulletin N 11 (27))

For the right to construct a building for the banking institution of the aggregate space of 800 sq.m. 9, Vladimirsky pr.

The starting price is 8,55 million roubles.

After the winner of tenders has met terms and conditions of the tenders, he shall be transferred ownership in the bank building, 9, Vladimirsky pr., and granted the respective 0,05 hectare plot of land on 49 years' lease

For the right to construct residential buildings with the built-in premises, block 25-a, buildings 45, 46, 47, 48 lake Dolgoe, aggregate space of four buildings - 40 thousand sq.m., and block 61, buildings 28, 29 SPCh.

The starting price is 3,8 million roubles

After the winner of tenders has met terms and conditions of the tenders, he shall be transferred ownership in the residential buildings with the built-in premises, block 25-a, building 45, 46, 47, 48 lake Dolgoe and granted the respective

Upon completion of construction of building 28 in block 61 SPCh (the court-house), of at least 3 000 sq.m. of Aggregate space, and building 29 in block 61 SPCh (the building of the military registration and enlistment office) of at least 2 000 sq.m. of Aggregate space they shall be conveyed to administration of Primorsky district.

For the right to rehabilitate non-industrial premises, 99 and 101 Nevsky pr., of 3381, 6 sq.m. of Aggregate space.

Starting price - 37,2 million roubles

After the winner of the tenders has met terms and conditions of the tenders, he shall be transferred ownership in the buildings 99,101 Nevsky pr., and shall be granted the respective 0,1 and 0,16 hectare, plots of land on 49 years' lease.

For the right to effect capital repair of the residential building 55, structure 2 (letter "O") V.O.Stedniy pr. of 602,15 sq.m. aggregate space.

Terms and conditions of the tenders:

1. The winner of tenders shall re-settle occupants of the existing residential building 55 structure 2 (letter "O") V.O. Sredniy pr., work out designing estimates and carry out capital repair of the building at his own expense, using his own material resources and construction equipment.

2. The winner shall work out and submit for approval designing estimates for the project before 01.06.94. The

State Inspection for preservation of ancient monuments and objects of cultural value (UGIOP).

3. The winner shall complete capital repair of building 55 structure 2 (letter "O") V.O.Sredniy pr. and present it to the state commission before 01.07.95.

4. Terms and conditions of tenders are binding for all its participants.

Starting price is 11,0 million roubles.

After the winner of the tenders has met terms and conditions of the tenders, he shall be transferred ownership in the building 55 structure 2 (letter "O") V.O.Sredniy pr. and granted the respective 0,03 hectare plot of land on 49 years' lease.

For the right to rehabilitate residential buildings 6/5 Commissara Smirnova street of 5644 sq.m. of Aggregate space, 4-B letter A Commissara Smirnova street of 1223 sq.m. of Aggregate space and 4-B letter G of 766 sq.m. of Aggregate space.

Terms and conditions of tenders:

1) Before 01.10.93 Kalininsky district administration for the designing estimates working out expenses adjusted for the inflation.

2) Winner of the tenders shall re-settle remaining occupants of the above-mentioned residential buildings at his own expense.

3) the winner shall complete rehabilitation of the buildings at his own expense using his own material resources and construction equipment before 30.12.94.

4) The winner shall convey Kalininsky district administration 2 000 sq.m. of living space - 1 000 sq.m in 1993 and 1 000 sq.m. in 1994 - in any district of the city for provision of residential units to citizens entered in the list for improvement of housing conditions.

5) Terms and conditions of tenders are binding for all its participants

starting price is 55,8 million roubles.

After the winner of tenders has met terms and conditions of tenders, he shall be transferred ownership in the residential buildings 6/5 Commissara Smirnova street, 46 letters A and G Commissara Smirnova street, and shall be granted the respective 0,17, 0,05 and 0,03 hectare plots of land on 49 years' lease.

For the 49 years leasehold of commercial premises of 148,1 sq.m. space in 7, letter A, the 8th line V.O.(Vasilievsky Ostrov)

Terms and conditions of tenders:

1. The commercial premises shall be used as a restaurant, if Sanitary Inspection and Fire Prevention Inspection give respective permissions, otherwise it shall be used for non-industrial purposes.

2. The winner of tenders shall work out designing estimates and complete capital repair of premises at his own expense before 30.12.93.

3. Within a month after the tenders have been held the winner shall transfer 0,5 million roubles to the account of

holding of tenders and 0,5 million roubles so that the latter could inventory commercial premises stock of Vasileostrovsky district together with the Committee for management of municipal property..

Starting price is 3,8 million roubles.

For the 49 years' leasehold of 245,6 sq.m. commercial premises in the buildings 31-33 letter O 14-th line V.O.(Vasilievsky Ostrov)

Terms and conditions of tenders:

1. Commercial premises shall be used as a place of business (for trade purposes).

2. The winner of tenders shall work out designing estimates and complete capital repair of premises before 30.12.93.

3. Within a month after the tenders have been held the winner shall transfer 0,5 million roubles to the account of St.Petersburg Property Fund to cover costs of organization and holding of tenders and 0,5 million roubles so that the latter could inventory commercial premises stock of Vasileostrovsky district together with the Committee for management of municipal property.

Starting price is 4,0 million roubles.

For the 49 years' leasehold of 41,2 sq.m. commercial premises in the building 22, letter A, 15-th line, V.O.

Terms and conditions of tenders:

1. Commercial premises shall be used as a place of

2. The winner of tenders shall work out designing estimates and complete capital repair of premises before 30.12.93.

3. The winner of tenders shall equip the shop to fit it for trade in manufactured goods at his own expense and using his own material resources.

4. Within a month after the tenders have been held the winner shall transfer 0,5 million roubles to the account of St.Petersburg Property Fund to cover costs of organization and holding of tenders and 0,5 million roubles so that the latter could inventory commercial premises stock of Vasileostrovsky district together with the Committee for management of municipal property.

Starting price is 1,0 million roubles.

For the 49 years' leasehold of 96,4 sq.m. commercial premises in the building 11, letter A, Gavanskaya street, V.O.

Terms and conditions of tenders:

1. Commercial premises shall be used as a place of business and store premises.

2. The winner of tenders shall work out designing estimates and complete capital repair of premises before 30.12.93.

3. To ensure service staff twenty-four-hour access to the building's electricity switchboard situated within the premises.

4. Within a month after the tenders have been held the

St.Petersburg Property Fund to cover costs of organization and holding of tenders and 0,5 million roubles so that the latter could inventory commercial premises stock of Vasileostrovsky district together with the Committee for management of municipal property.

Starting price - 1,5 million roubles.

For the 49 years' leasehold of 42,6 sq.m. commercial premises in the building 11, letter A Nalichnaya street.

Terms and conditions of tenders:

1. The commercial premises shall be used for non-industrial purposes.

2. The winner of tenders shall work out designing estimates and complete capital repair of premises before 30.12.93.

3. Within a month after the tenders have been held the winner shall transfer 0,5 million roubles to the account of St.Petersburg Property Fund to cover costs of organization and holding of tenders and 0,5 million roubles so that the latter could inventory commercial premises stock of Vasileostrovsky district together with the Committee for management of municipal property.

Starting price is - 1,5 million roubles.

For the 15 years' leasehold of 491,6 sq.m. premises in the building 53, Moscovsky per.

Terms and conditions of tenders:

The winner shall at his own expense:

- work out and get all competent agencies' approval of the designing estimates for location of a mini-bakery and the baker's in the above-mentioned premises before 01.03.94;
- acquire and assemble all necessary equipment before 30.06.94;
- commission the mini-bakery and complete organization of trade in rolls and buns before 30.06.94.

Starting price - 3,3 million roubles.

Within a month after the tenders have been held the winner shall transfer 100 thousand roubles to the account of the Property Fund to cover costs of organization and holding of tenders.

For the 49 years' leasehold of 545,6 sq.m. non-residential premises in the ground and first floors of building 82, Nevsky pr.

Terms and conditions of tenders:

1. To establish a medical center that shall specialize in stomatologic prophylaxis and treatment. The center may also provide other kinds of medical service.
2. To ensure at least 60 thousand patients to undergo medical treatment of all kinds.
3. It is necessary to provide for free of charge medical service of World War II veterans, people who were in Leningrad during the blockade and poor residents of Kouybishevsky district on the basis of 50 visits a year per chair to specialists of each kind.
4. To sub-lease 168 sq.m. of non-residential premises to the Association of self-supporting medical institutions for a

5. The tenderers shall submit a tender with the business-plan for the use of premises under the terms and conditions of tenders.

Starting price is 1,8 million roubles.

tenderers shall transfer 100% of the starting price to the account of the St.Petersburg Property Fund as a security for participation in tenders.

Amount of payment shall be adjusted for the change in the rate of rouble to US dollar as a result of tenders at Moscow interbank exchange market on the date when payment is effected in comparison with that at the time when tenders were held, but it can not be less than the bid of the winner.

Tenders shall be held in the form of closed tenders (the highest bidder shall become the winner).

One can familiarize himself with the terms and conditions of the tenders in St.Petersburg Property Fund 5, Grivtsova per., room 213, tel. 311-0074.

September 6, 1993 is the last day when applications for participation in the tenders will be accepted in St.Petersburg Property Fund.

Address: 5, Grivtsova per., room 212, the second floor
Tel. 311-00-74

Account N 58100345644 MFO 161002

Joint-stock Company "Vitabank"

APPENDIX C

**FEDERAL LAWS AND PROCEDURES RELATED TO THE
LAND ALLOCATION PROCESS**

Decree of the President of the RF On Urgent Measures to Implement Land Reform in the RSFSR (RSFSR) (1991)

Law of the RF On the Right of Citizens of the Russian Federation to Acquire as Private Property and to Sell Tracts of Land to Conduct Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction (RF) (1992)

Decree 631 On Procedures for Sale of Land Plots (RF) (1992)

Edict of the President of the Russian Federation On Additional Measures for Allotting Tracts of Land to Citizens (RF) (1993)

Council of Ministers Russian Federation Procedure No. 503 On Approval of Procedure for the Plots of Land Purchase and Sale by RF Citizens (RF) (1993)

Decree by the President of the Russian Federation On the Regulation of Land Relations and the Development of Agrarian Reform in Russia (RF) (1993)

Standard Purchase-Sale Contract for Private Land Sales approved by the Ministry of Justice in June 1993

Decree 2287 On Modifying the Land Laws of the Russian Federation to be in Compliance with the Constitution of the Russian Federation (RF) (1993)

D E C R E E

OF THE PRESIDENT OF THE RUSSIAN FEDERATION

**ON URGENT MEASURES TO IMPLEMENT
LAND REFORM IN THE RSFSR**

To further develop land ownership relations, privatization of land and to simplify procedures governing the allotment of land to private citizens I hereby direct that:

1. Privatization of land owned by the state or municipal government shall be carried out in accordance with the legislation in force and this Decree.
2. Decisions to reallocate land shall be taken by local government on presentation by land reform and land resources committees.
3. State and collective farms shall be obliged during 1992 to carry out reorganization, to realign their status with the RSFSR Law "On Enterprises and Entrepreneurial Activities" and to re-register with the appropriate authorities.

Local administrative authorities shall ensure control over the implementation of the rights of members of collective farms and of state enterprise workers to freely withdraw from these enterprises and to launch peasant farms.

4. Councils of Ministers of the republics within the RSFSR, executive authorities of regions, districts and autonomous entities shall establish before February 1, 1992, a maximum size for lots of land allotted to peasant farms depending on their specialization, number of workers employed, quality of land and other factors unless such size has been determined by relevant Soviets of People's Deputies.

District executive authorities together with committees on land reform and land resources shall establish average regional norms for free allotment of land for private ownership taking into account the quality of land.

5. Plots of land remaining after the free transfer of land to collective farm and other co-operative agricultural enterprise workers and to joint-stock companies including those based on state agricultural enterprises, shall be included in the land re-distribution funds.

Local administration shall organize the sale of the fund's land on a competitive basis or its lease with subsequent right of acquisition. In organizing competitive bidding and leasing arrangements citizens formerly renting these lots of land, members of labour collectives withdrawing from collective or state farms to launch their own farms as well as other workers of these farms shall have priority. The remaining undistributed land shall be allotted or sold at a normative price, and when there are several bidders - - at auctions to private citizens and legal entities.

6. The state farm collectives as well as workers of other agricultural enterprises, collective farms and co-operatives having an unlimited duration title to the land they use, shall before March 1, 1992, adopt a decision on the transition to private, collective-shareholding and other forms of ownership in accordance with the RSFSR Land Code.

Local administration shall issue appropriate certificates to citizens becoming land owners giving them title to the land which shall have legal force until documents certifying this title can be issued.

7. To simplify the procedure of land allotment to collective farm members and state farm workers launching their own farms all agricultural enterprises (with the exception of pilot projects and training farms) shall determine tracts of land subject to allotment to individual farms on a priority basis.

8. Directors of farms shall be obliged, within a month's time from the day of the submission of an application to launch a peasant farm, to allot shares of land due to workers and their family members in kind.

The land thus allotted shall be registered by the local administration in accordance with the legislation now in force. A share of property shall be allotted simultaneously with a share of land. Any delay in allotment of land or property shares shall entail fines to be paid by farm directors equal to their three months' salaries on instruction from local authorities of the Land Reform and Land Resources Committee of the RSFSR Ministry of Agriculture.

9. Citizens withdrawing from collective and state farms shall have the right to exchange their land and property shares as well as to lease them.

10. Peasant farms shall be entitled to mortgage their land in banks. The banks shall be authorized to provide credit against land mortgages.

11. The RSFSR Ministry of Agriculture and the RSFSR Ministry of Economy and Finance shall work out and submit to the RSFSR Government before February 1, 1992, proposals on the procedure for pricing plots of land at the time of their sale and acquisition by local administrative authorities as well as on bank land mortgages.

12. Citizens owning land shall be entitled as of January 1, 1992, to sell it to other citizens and to register the sale transactions with the local administration in the following cases:

- when they retire on an old age pension;
- when they inherit the land;
- when they resettle with the purpose of launching a farm on unoccupied land of the re-distribution fund;
- when they invest the proceeds from the sale of the land in manufacturing, trade, construction and service enterprises in rural areas.

Other sale transactions for land not provided for by the legislation and this Decree shall not be valid.

13. Workers of agricultural enterprises owning shares of land or land equities shall be allowed to sell them to other farm workers or to the farm at market prices.

14. Plots of land allotted for private auxiliary farming, gardening and housing construction in rural areas shall be transferred to citizens' ownership free of charge. The Land Reform and Land Resources Committee of the RSFSR Ministry of Agriculture authorities shall ensure in 1992 the issue of titles for the above mentioned plots of land.

15. For the purposes of farming, gardening, vegetable farming, and individual housing construction it is hereby permitted with the consent of the RSFSR Government to utilize lands in the first-grade forest areas, not included in the roster of lands of wild life conservation, recreational and historical and cultural value. In consultation with the forestry authorities to provide peasant farms with forest lands to be used for comprehensive agricultural and forestry development in accordance with the forestry legislation.

16. The Land Reform and Land Resources Committee of the RSFSR Ministry of Agriculture shall regularly compile catalogues of lands included in the re-distribution fund, publish them and advertise them in the mass media, providing assistance to citizens wishing to launch farms and capable of doing so.

17. The Land Reform and Land Resources Committee of the RSFSR Ministry of Agriculture and its local authorities shall ensure prosecution for violations of the land legislation, red tape and abuses in resolving questions related to the land reform in accordance with Article 125 of the RSFSR Land Code.

The land reform and land resources committees of the republics within the RSFSR, regions, districts, autonomous region and autonomous districts shall have the right to suspend unlawful decisions of district and city (with the exception of the cities of Moscow and St.Petersburg) local administrative authorities while district and city land reform and land resources committees shall have the right to suspend decisions of village and rural administrative authorities on questions of land withdrawal and allotment pending their examination by appropriate authorities.

18. Councils of Ministers of the republics within the RSFSR, heads of regional, district, autonomous region and autonomous district administrations shall be advised to establish public land reform councils affiliated with land reform and land resources committees with the participation of local public organizations and farmers and self-government authorities to work out and submit proposals on questions of land reform to local administration and the RSFSR President's representatives.

19. The RSFSR Procurator's Office shall challenge, within three months' time, such normative acts and directives by managers which contradict the legislation presently in force and this Decree.

20. The RSFSR Ministry of Agriculture and the Control Department of the RSFSR President's Administration shall be entrusted with the supervision of the implementation of this Decree. Reports on the implementation of the Decree shall be submitted monthly.

21. The Decree shall enter into force on the date of its signing. The provisions of paras.8 and 12 shall enter into force in accordance with the procedure established by the resolution of the RSFSR Congress of People's Deputies of November 1, 1991, "On Legislative Support for Economic Reform".

B. YELTSIN
President of the
Russian Federation
Moscow, Kremlin
December 27, 1991

World Bank Office Moscow
Trans: Remishevski:tb
January 15, 1992
Disc. Decree2:Reform.39

[Signed] *R.I. Khasbulatov, chairman of the Supreme Soviet of the Russian Federation*
Moscow, House of Soviets of Russia
27 November 1992
No. 4016-1

Law on Citizens' Rights To Own, Sell Land

Text of Law

935D0217A Moscow ROSSIYSKAYA GAZETA
in Russian 6 Jan 93 p 5

["Law of the Russian Federation 'On the Right of Citizens of the Russian Federation To Acquire as Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction'"]

[Text]

Article 1. The transfer of tracts of land to conduct private subsidiary farming and dacha economies, horticulture, and private housing construction, and also to build private homes and economic facilities as the private property of citizens in cities, settlements, and rural localities shall be done in accordance with the land laws of the Russian Federation and the republics making up the Russian Federation, and with this Law.

Citizens who have acquired tracts of lands as private property for the purposes indicated in the first paragraph of this article are given the right to sell them to other citizens of the Russian Federation regardless of the periods for acquiring right of ownership to the land sold, within the limits of the norms set for tracts of land.

Use of a tract of land acquired by an owner for purposes other than those designated are not permitted unless otherwise established by law.

Citizens who at the time this Law enters into force have tracts of land whose dimensions exceed the maximum norms shall in all cases retain the right of lifetime inherited possession or use of a tract of land that exceeds the established maximum norms. When this occurs citizens shall have the right to acquire that tract of land as private property at a contract price from the local soviet of people's deputies.

Article 2. Sale of a tract of land for the purposes indicated in Article 1 of this Law shall be done by its owner independently by means of a contract with a buyer or with the help of the rayon (or city) land resources and land use committee by means of competitive bid or auction in accordance with established procedure.

A contract of sale for a tract of land shall be notarized and registered with the appropriate land resources and land use committee.

The form of a standard contract of sale for a tract of land shall be approved by the Russian Federation Land Resources and Land Use Committee.

[Signed] *B. Yeltsin, president of the Russian Federation*

Moscow, House of Soviets of Russia
23 December 1992
No. 4196-1.

Supreme Soviet Decree Reviewing Land Law

935D0217B Moscow ROSSIYSKAYA GAZETA
in Russian 6 Jan 93 p 5

["Decree of the Russian Federation Supreme Soviet: On Reviewing Again the Law of the Russian Federation 'On the Right of Citizens of the Russian Federation To Acquire as Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction'"]

[Text] Having again reviewed the Law of the Russian Federation "On the Right of Citizens of the Russian Federation To Acquire as Private Property and To Sell tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction" returned by the president of the Russian Federation, the Russian Federation Supreme Soviet decrees as follows:

To adopt the law of the Russian Federation "On the Right of Citizens of the Russian Federation To Acquire as Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction" in a new edition giving due consideration to the amendments made by the president of the Russian Federation.

[Signed] *R.I. Khasbulatov, chairman of the Russian Federation Supreme Soviet*
Moscow, House of the Soviets of Russia
23 December 1992
No. 4195-1.

Supreme Soviet Decree Enacting Land Law

935D0217C Moscow ROSSIYSKAYA GAZETA
in Russian 6 Jan 93 p 5

["Decree of the Russian Federation Supreme Soviet: On Procedure for Enacting the law of the Russian Federation 'On the Right of Citizens of the Russian Federation To Acquire as Private Property and To Sell tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction'"]

[Text] The Russian Federation Supreme Soviet decrees as follows:

1. To enact the law of the Russian Federation "On the Right of Citizens of the Russian Federation To Acquire as Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction" from the moment of its publication.

2. To establish that until legislation of the Russian Federation has been brought into line with the law of the Russian Federation "On the Right of Citizens of the

Russian Federation To Acquire as Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction" legislation of the Russian Federation shall be applied insofar as it is not at variance with this Law.

3. To propose to the president of the Russian Federation that he assign the government of the Russian Federation to do the following before 1 February 1993:

—devise procedure for citizens of the Russian Federation to buy and sell tracts of lands for the purposes indicated;

—to submit to the Russian Federation Supreme Soviet in accordance with established procedure proposals on bringing legislative enactments of the Russian Federation into line with this Law;

—to bring decisions of the government of the Russian Federation into line with this Law.

4. To draw the attention of the president of the Russian Federation to the intolerably slow implementation by the government of the Russian Federation of land reform in the Russian Federation.

[Signed] *R.I. Khasbulatov, chairman of the Russian Federation Supreme Soviet*
Moscow, House of the Soviets of Russia
23 December 1992
No. 4197-1.

Law Amending Law on Housing Privatization

Text Of Law

93SD0215A Moscow ROSSIYSKAYA GAZETA
in Russian 10 Jan 93 p 5

[Law of the Russian Federation "On Introducing Changes and Additions in the RSFSR Law "On Privatizing Available Housing in the RSFSR"]

[Text] Introduce in the RSFSR Law "On Privatizing Available Housing in the RSFSR" (VEDOMOSTI SYEZDA NARODNYKH DEPUTATOV RSFSR I VERKHOVNOGO SOVETA RSFSR, No 28, 1991, p 959) the following changes and additions:

1. In Article 1:

a) Eliminate the words "or sale";

b) Add the words ", and for citizens who have reserved the housing premises occupied,—at the place of reserving housing premises," after the word "assets."

2. In Article 2, add the words "including available housing under the complete economic jurisdiction of enterprises or operational control of institutions (departmental assets)," after the words "available housing."

3. In the second part of Article 3, add the words "or non-apartment users" after the words "joint owners."

4. In Article 4:

a) In the first part, eliminate the words "not meeting sanitary, hygienic and fire-prevention standards" and "houses-memorials of history and culture";

b) Include a second part with the following wording:

"The owners of housing assets; agencies empowered by them; enterprises, to whom housing assets have been allotted with the right of complete economic jurisdiction; and institutions, to whose operational management housing assets have been transferred, have the right to make decisions concerning the privatization of official housing premises and communal apartments."

5. In Article 5, eliminate the words "and sale."

6. Include a first part in Article 7 with the following wording:

"The transfer of housing to citizen ownership is officially registered by a transfer contract concluded by the local administration, enterprise or institution with the citizen who has received the housing premises and ownership in the manner prescribed by the appropriate council of people's deputies. When doing this, a notary's certificate for the transfer contract is not required and state duties are not levied."

7. In Article 16, include the following wording:

"The privatization of housing premises occupied by citizens in houses requiring capital repairs is carried out in accordance with the present law. When doing this, the responsibility for performing capital repairs to the house in accordance with the norms for maintaining, operating and repairing housing assets remains with the lease-giver."

8. In Article 18, include the following wording:

"When transferring state or municipal enterprises and institutions to another form of ownership or with their elimination, the housing assets under the complete economic jurisdiction of the enterprises or under the operational control of the institutions should be transferred to the complete economic jurisdiction or operational control of the legal successors of these enterprises and institutions (if they have been determined) or other legal persons or to the jurisdiction of local self-management agencies in the prescribed manner, preserving all the housing rights of citizens, including the right to privatize housing."

9. In Article 23, eliminate the words "in a completely privatized building" and replace the words "this building" with the words "these premises."

10. In Article 24:

a) Include a first part with the following wording:

"In general, the maintenance and repair of housing is carried out by the residential building maintenance offices and repair and construction organizations that serviced the building before the start of privatization except for those apartments whose owners selected other organizations to maintain these apartments."

b) Eliminate the words "in partially privatized buildings" from the second part.

3RD STORY of Level 1 printed in FULL format.

Copyright 1992 Buraff Publications, a division of
Millin Publications, Inc.
Russia and Commonwealth Business Law Report

August 7, 1992

SECTION: Vol. 3, No. 8

LENGTH: 3787 words

HEADLINE: TEXT OF DECREE AND PROCEDURES FOR SALE OF LAND PLOT

BODY:

The following is the full text of decree No. 631 and accompanying procedures for the sale of land plots in Russia in connection with the privatization of state and municipal enterprises. The decree was issued June 14.

"On Confirming Procedure for the Sale of Tracts of Land During Privatization of State and Municipal Enterprises and the Expansion of and Additional Construction to these Enterprises, and Also Offered to Citizens and Associations of Citizens for Entrepreneurial Activity"

In accordance with Decree No. 301 of March 25, 1992 "On the Sale of Tracts of Land to Citizens and Legal Entities During Privatization of State and Municipal Enterprises" I decree:

1. To confirm the attached Procedure for the sale of tracts of land during privatization of state and municipal enterprises and the expansion of and additional construction to these enterprises, and also offered to citizens and associations of citizens for entrepreneurial activity.

2. To establish that the following will not be offered for sale: land in general use in populated points (squares, streets, thoroughfares, roads, embankments, parks, wooded parks, public gardens, gardens, boulevards, reservoirs, beaches); land in reservations, natural monuments, national and dendrological parks, botanical gardens; sanatoria land and land of historical-cultural significance; land offered for agricultural use and use and conservation of minerals; land contaminated with dangerous substances and subjected to biogenic contamination; tracts of land in temporary use.

During privatization of tracts of land, procedure for the use of minerals is determined in accordance with the law of the Russian Federation "On Underground Resources."

3. Funds derived from the sale of tracts of land as property are allocated to the budgets as follows:

* Local soviets of people's deputies on whose territory the tracts of land sold are located -- 80 percent;

* The republics making up the Russian Federation, krais, oblasts, autonomous okrugs, and the cities of Moscow and St. Petersburg -- 10 percent;

* Russian Federation -- 10 percent.

4. The Russian Federation Ministries of Architecture, Construction, Housing and Municipal Economy and the Russian Federation State Committee for the Management of State Property shall within one month prepare the necessary material for insuring the sale of tracts of land at populated points in accordance with the Procedure for the sale of tracts of land as confirmed by this decree.

5. The Russian Federation Government Committee for Land Reform and Land Resources, the Russian Federation State Committee for the Management of State Property, and the Russian Federation Ministry of Justice shall within one month draw up and confirm a standard contract of sale for land, and other documents in accordance with the Procedure for the sale of tracts of land as confirmed by this decree.

Signed by B. Yeltsin, president of the Russian Federation Moscow, the Kremlin, June 14, 1992, No. 631.

PROCEDURES COVERING LAND SALES

"Procedure, Confirmed by the Decree of the President of the Russian Federation Dated June 14, 1992, No. 631, for the Sale of Tracts of Land During Privatization of State and Municipal Enterprises and Expansion of and Additional Construction to these Enterprises, and Also Offered to Citizens and Associations of Citizens for Entrepreneurial Activity"

I. General Provisions

1. The Procedure regulates the sale of tracts of land to industries and legal entities during privatization of state and municipal enterprises and expansion of and additional construction to these enterprises, and also tracts of land offered to citizens and associations of citizens for entrepreneurial activity.

2. The seller of tracts of land is the body empowered by the corresponding

soviet of people's deputies (referred to hereinafter as "the seller").

Contracts of sale or lease for tracts of land are registered with the appropriate soviet of people's deputies.

Compulsory redemption of title to tracts of land sold in accordance with this Procedure is done in an amount at least as high as the cost paid by the purchaser for the tract of land.

3. Owners of state and municipal enterprises privatized by means of sale on the basis of submission of commercial or investment tenders may, if they so wish, act as the purchasers and acquire title to a tract of land of that enterprise or lease it with right to acquire title.

In accordance with this Procedure, the buyers of tracts of land may be any legal entity or individual, including foreign ones, and stateless persons, recognized as buyers in accordance with the RSFSR law "On Privatization of State and Municipal Enterprises in the RSFSR."

Open joint-stock companies created through the transformation of state and municipal enterprises during the process of privatization acquire title to tracts of land of these enterprises in accordance with Paragraphs 9 and 10 in Section II of this Procedure following the sale, in accordance with the laws of the Russian Federation on privatization, as 100 percent of the shares belonging to the state and the local soviets of people's deputies.

4. The contract of sale for a tract of land offered for the right of permanent use or lease to the owner of a privatized enterprise or to citizens or associations of citizens for entrepreneurial activity must be concluded within one month from the day of offer or application made to the seller and is the basis for obtaining the official state document attesting title to a tract of land.

Title to a tract of land is transferred to the buyer from the moment of full payment of the cost of the tract of land under the terms of the contract of sale.

5. Henceforth, pending adoption of the new classification for budget revenues and spending, assets derived from the sale of tracts of land are included in the revenue of the corresponding budget in Section 23, paragraph 4 "Other Revenues From the Sale of Property." After the deficit for the quarter has been covered in the corresponding budget, these assets may be allocated to off-budget funds for spending for the following purposes: social protection for the population, carrying out land conservation measures, developing the engineering and transportation infrastructure, and providing services and amenities in cities and territories.

II. Sale of Tracts of Land During Privatization of State and Municipal Enterprises

6. The right of an owner of a privatized enterprise to acquire the tract of land is an indispensable condition in submitting commercial tenders or holding auctions to sell a privatized enterprise and conclude a contract of sale for that enterprise, except in cases as provided for by Decree No. 631 of the president of the Russian Federation dated June 14, 1992.

7. A plan for privatization of a state or municipal enterprise that makes provision for its sale by commercial tender, auction, or transformation into an open joint-stock company, and for notification of bids for commercial tender or by investment competition or auction, includes the following:

* A site plan showing the location of the enterprise, information on its dimensions, the location of the tract of land of the enterprise, environmental and engineering-geological conditions, the level of main amenities on the territory and the status of the social and engineering-transportation infrastructure, objects of cultural and historical importance, general use, an official document showing the price of the tract of land of the privatized enterprise, and the size of the land tax.

The normative price for a tract of land is determined in accordance with the law of the Russian Federation.

During preparation of a privatization plan, the appropriate architectural and urban development bodies jointly with the land reform and land-use committees submit these data to the committees for the management of property within the period established.

The initial price of the enterprise being sold during privatization by commercial tender, investment competition, or auction does not include the value of the tract of land.

When determination is being made of the size of startup capital for a joint-stock company, the normative price of the tract of land is reflected in the official document showing the appraisal of the value of the property and is not included in the startup capital (fund).

8. If no document is available certifying right of use of a tract of land by a state or municipal enterprise, the area of its tract of land is determined in the privatization plan on the basis of information on the actual use of the tract of land submitted by the appropriate committee on land reform and land use to the committee for the management of property within the period established for drawing up the privatization plan.

9. An application to acquire title to a tract of land of a privatized enterprise is accepted and registered on the day of submission by the appropriate body empowered by the local soviet of people's deputies to act as the seller of tracts of land (referred to hereinafter as "the seller") only from the owners of the privatized state or municipal enterprise.

10. Refusal to accept and register an application to acquire title to a tract of land of a privatized enterprise from the owners of a privatized enterprise is not permitted except in cases as provided for in Paragraph 2 of Decree No. 631 of the president of the Russian Federation dated June 14, 1992.

Not later than one month from the day that an application to acquire title to a tract of land of a privatized enterprise is registered, the seller shall sell it at the price confirmed in the privatization plan and conclude, in accordance with established procedure, a contract of sale for the land tract with the owners of the privatized enterprise.

The contract of sale for a tract of land of a privatized enterprise concluded in accordance with this Procedure is the indisputable basis for transfer to the buyer by the local administration, within one month from the moment of conclusion of the contract, documents certifying title to that tract of land.

11. A decision on the legality of the sale of tracts of land (or rights to use them), and on including tracts of land (or rights to use them) as parts, shares, and contributions to start-up capital (funds) of enterprises and associations of enterprises (or joint-stock companies, partnerships, joint-venture enterprises, unions, associations, concerns, and so forth) by state and municipal enterprises and organizations and management bodies, made before the entry into force of Decree No. 631 of the president of the Russian Federation dated June 14, 1992 is accepted by the local soviet of people's deputies.

III. Sale of Tracts of Land to Privatized Enterprises During Expansion of and Additional Construction to These Enterprises

12. The sale of tracts of land to the owners of privatized state and municipal enterprises for expansion and additional construction of these enterprises is done on the basis of tender or auction of land unencumbered by rights of users of lessees.

Only the owners of privatized enterprises enjoy the right to participate in auctions, commercial tenders, or investment competitions.

When commercial tender or investment competition takes place, title to a

tract of land is transferred to the buyer whose offer fully meets the conditions and criteria of the competition.

The conditions for commercial tender and investment competition may include the following:

* Special-purpose use of a tract, compliance with environmental and architectural and planning requirements, providing the maximum size of investment, doing work to recultivate and provide amenities on the tract of land, and others.

Tracts of land are sold at auction in those cases in which the buyer is not required to meet any conditions except special-purpose use. When this is done, title is transferred to the buyer who offers the highest price during the course of trading.

The initial price for a tract of land sold by commercial tender or investment competition or at auction is set at an amount no lower than the normative price of the land.

13. Applications to participate in a commercial tender, investment competition, or auction to sell tracts of land are to be accepted by the seller for one month from the day that a list of tracts of land being offered by the local soviet of people's deputies is published in a press organ, indicating the special-purpose use of the land.

Applications to acquire tracts of land are submitted by the owners of privatized enterprises to the body empowered to act as the seller of tracts of land.

Auctions, commercial tenders, and investment competitions to sell tracts of land are held in accordance with the procedure established by the Russian Federation State Committee for the Management of State Property jointly with the Russian Federation Government Committee for Land Reform and Land Use.

In cases in which the owner of a privatized enterprise is the sole participant in an auction, commercial tender, or investment competition, the tract of land is sold to him and title is acquired at the starting price, but not lower than the normative price for the tract of land.

The local administration within one month shall issue to the winner of a commercial tender, investment competition, or auction documents certifying title to the tract of land.

IV. Sale of Tracts of Land Offered to Citizens or Associations of Citizens for Entrepreneurial Activity

14. Citizens and associations of citizens can acquire tracts of land offered to them on legal grounds for entrepreneurial activity before the entry into force of Decree No. 631 of the president of the Russian Federation dated June 14, 1992 by acquiring title or by leasing with right of acquisition of title.

15. Applications to acquire title to a tract of land offered to citizens and associations of citizens shall be accepted and registered on the day of submission only by the persons indicated by the appropriate body empowered to act as the seller.

Refusal to register an application is not permitted except in cases as provided for by Paragraph 2 of Decree No. 631 of the president of the Russian Federation dated June 14, 1992.

The seller is obligated within a period of one month from the submission of applications to acquire a tract of land to sell it and conclude a contract of sale for the tract of land.

The contract of sale for a tract of land concluded in accordance with this Procedure is the indisputable basis for issuing to citizens or associations of citizens, within one month from the conclusion of the contract of sale, documents certifying title.

COUNTRY: RUSSIA / SOVIET UNION / COMMONWEALTH OF INDEPENDENT STATES

established schedule for the delivery of fuels and lubricants has not been fulfilled until now.

The same applies to chemical agents. Supplier plants demand prepayment and for this reason they have failed to deliver to rural areas 700,000 tonnes of fertilizers in active substance as compared with last year's level. However, about 2 million tonnes have accumulated at warehouses! The following proposal was heard at the conference: To adopt a government decision on a mutual offsetting of debts for fertilizers among plants, Selkhozkhimiya associations, and land users.

It will be more complicated to solve the problem of delivery of domestic pesticides. The Khimprom Production Association, through its intermediary enterprise, has inflated prices, for example, up to 1 million rubles per tonne of amine salt-2,4 D, as compared with 77 rubles on the eve of the era of shock therapy. Obviously, the grain grower, who has become fairly thin recently, cannot afford this price.

What is to be done?

Edict on Additional Measures To Provide Land To Citizens

*935D0370A Moscow ROSSIYSKIYE VESTI in Russian
27 Apr 93 p 2*

["Edict of the president of the Russian Federation 'On Additional Measures for Allotting Tracts of Land To Citizens'"]

[Text] In the interest of improving the system of allotting tracts of land to citizens and of reregistering tracts earlier presented, I decree:

1. The organs of executive government of the Russian Federation republics, krais, oblasts, autonomous oblast, autonomous okrugs and the cities of Moscow and St. Petersburg:

Will define, within a period of two months, the requirements of citizens for obtaining tracts of land, for a payment or free of charge, for the purpose of private housing construction, gardening, private plots and other purposes.

The allocation of tracts of land for the purpose of organizing peasant (private farmer) farms, private housing construction, gardening and private plots, from the land redistribution funds and in response to applications as received, should be ensured first of all for military personnel discharged into the reserves and their families;

2. That it is necessary to inventory those lands not being used in agricultural production, for the purpose of determining the possibility of their being presented to citizens for private housing construction, gardening, private plots and other purposes.

The Council of Ministers of the Government of the Russian Federation, within a period of one month, will approve the statute governing the system for inventorying the land and define the sources for financing it.

3. To establish that, within a period of one month following adoption of the decision on the presentation of land to citizens, documents will be issued attesting to the right of the citizens to the land newly presented to them, with the borders of the tracts in the various areas also being established. At the moment these documents are issued, the citizens acquire the right to the land, a right which can be terminated only in accordance with the principles set forth in the RSFSR Land Code.

4. That the organs of executive government are to ensure, prior to 1995, the completion of the reregistration of tracts of land earlier presented to citizens for use. The form for the presentation of tracts of land (ownership, life-long inherited possession, or on a lease basis) will be determined in accordance with the wishes of the citizens.

The local administration is obligated to hand down a decision regarding the reregistration of a tract of land within a period of one month following the application being submitted.

When reregistering tracts of land which were presented earlier to citizens for use, a registration tax is collected in the amount of 20 percent of the minimal wage in effect at the moment of reregistration. The collection of additional monetary amounts during reregistration is not permitted.

The Council of Ministers of the Government of the Russian Federation will define the system for using the funds collected from the reregistration of tracts of land.

The organs of executive government of the Russian Federation republics, krais, oblasts, autonomous oblast, autonomous okrugs and the cities of Moscow and Saint Petersburg will approve a list of categories of those citizens who fully or partially are released from having to pay the registration tax mentioned in this present point.

During the reregistration of a tract of land that was earlier presented free of charge to a citizen for use, the sector or a portion of it, within the limits of the existing reregistration maximum norms for the presentation of tracts of land, is turned over to him on an ownership basis, with the remaining part, in accordance with the wishes of the citizen, either being purchased by him at a contractual price on an ownership basis or it is turned over to him as a life-long inherited possession.

5. The Council of Ministers of the Government of the Russian Federation, within a period of one month, will prepare recommendations for regulating the use of land shares and for the registration of tracts of land.

6. Within a period of two months, the Council of Ministers of the Government of the Russian Federation will prepare recommendations on the deposits for tracts of land for introduction into the Supreme Soviet of the Russian Federation.

7. The Committee of the Russian Federation for Land Resources and Land Development will ensure that the population is informed regarding the availability of land

RUSSIA

34

that is deemed suitable for presentation to citizens and also the system and course to be followed in the allocation of tracts of land to citizens.

8. The Ministry of Internal Affairs of the Russian Federation will undertake the necessary measures for uncovering and suppressing all incidents involving corruption, extortion and bribe-taking in connection with the presentation of tracts of land.

9. Control over the execution of this edict is entrusted to the office of the Administration of the President of the Russian Federation.

10. This edict enters into force at the moment of publication.

[Signed] President of the Russian Federation B. Yeltsin
txt2

Moscow, the Kremlin txt2
23 April 1993 txt2
No. 480.

Decree on Import of Right Hand Drive Vehicles Amended

935D0366A Moscow ROSSIYSKIYE VESTI in Russian
24 Apr 93 p 4

["Council of Ministers—Government of the Russian Federation Decree No 356, 22 April 1993, Moscow"]

[Text] Concerning a partial change in Decree No. 79 of the Council of Ministers of the Government of the Russian Federation, dated 28 January 1993, the Council of Ministers of the Government of the Russian Federation decrees:

To adopt the proposal by the administrations of the Maritime Kray and Kamchatka and Sakhalin oblasts on introducing the following changes into Decree No. 79 of the Council of Ministers of the Government of the Russian Federation, dated 28 January 1993, entitled "On Measures for Ensuring Highway Safety" (Collection of Documents of the president and Government of the Russian Federation, 1993, No. 5, Article 447):

1. In Point 3, the words: "commencing 1 July 1993" should be replaced by the words: "commencing 1 July 1994."

2. Point 4 should read as follows:

"4. The Russian Federation Committee for Machine Building and the Ministry of Science and Technical Policy of the Russian Federation must develop in 1993 the requirements concerning the volume, schedule and technology for the re-equipping of right hand drive automobiles imported into the Russian Federation and coordinate them with the Ministry of Internal Affairs of the Russian Federation and the Ministry of Transport of the Russian Federation."

3. Point 5 should read as follows:

"5. Authorize in the form of an exception, up to 1 January 2001, the operation of right hand drive motor vehicles (with the exception of buses) that were registered prior

to 1 July 1994 and not re-equipped in conformity with the requirements set forth in Point 4 of the present decree.

"The mentioned restriction does not extend to motor vehicles of other countries that participate in highway traffic (tourist trips, freight transport, vehicles in transit)."

4. Add the following supplement to Point 7.

"7. The State Customs Committee of the Russian Federation, within a period of one month, will define the conditions and system for the importing of passenger cars into the Russian Federation."

[Signed] V. Chernomyrdin, chairman of Council of Ministers, Government of the Russian Federation

Edict Overturns Decree on Right Hand Drive Vehicles

935D0371A Moscow ROSSIYSKIYE VESTI in Russian
27 Apr 93 p 2

["Edict of the president of the Russian Federation 'On Repeal of Decree No. 79, dated 28 January 1993, of the Council of Ministers of the Government of the Russian Federation'"]

[Text] In the interest of ensuring the constitutional rights of citizens to possess, use and dispose of property and also repeal of the illegal restrictions placed upon the use of right hand drive vehicles, I decree:

1. To repeal Decree No. 79, dated 28 January 1993, of the Council of Ministers of the Government of the Russian Federation entitled "On Measures for Ensuring Safe Highway Movement."

2. That the Council of Ministers of the Government of the Russian Federation:

—will ensure a review and repeal by the ministries and departments of the Russian Federation of their normative documents published in fulfillment of Decree No. 79, dated 28 January 1993, of the Council of Ministers of the Government of the Russian Federation;

—will examine the question of ensuring safety of highway movement and the limitation on the use on Russian Federation roads of right hand drive vehicles newly imported into Russia, after first ensuring the free use by enterprises, organizations and citizens of the Russian Federation having right hand drive vehicles at their disposal.

[Signed] President of the Russian Federation B. Yeltsin
Moscow, the Kremlin

23 April 1993

No. 479

Some subjects of the federation demanded that the authorities of the representative and executive authorities be firmly registered in the "Principles" and that this distribution not be turned over to the discretion of the local soviets.

The committee has only begun to examine the corrections. It will complete its discussion next Monday or Tuesday.

But according to preliminary estimates, the corrections introduced into the "Principles" by the commission were for the most part of a reform nature rather than conservative. Some deputies who were not very oriented towards changes viewed the "Principles" as an encroachment upon the usual and convenient (for them) norms for collective management.

Yeltsin's request to have the corrections sent to him for review aroused a certain amount of alarm within the committee. The deputies are concerned over the fact that he might just include a portion of the corrections that appeals to him in a special edict. Indeed the president is also engaged at the present time in preparing important documents dealing with the land questions.

Land Legislation Moving Slowly

934K1406C Moscow KRESTYANSKAYA ROSSIYA
in Russian No 20, 31 May 93-6 Jun 93 pp 1-2

[Article by Yuriy Volokhov: "The Land Code Is Celebrating Its Second Anniversary, While a Review of the Principles of Land Legislation Has Once Again Been Postponed"]

[Text] In late May, the Russian parliament recommended that the Principles of Land Legislation be given a second reading. However, discussion was once again postponed and will take place apparently on 10 or 17 June. The reason for this is that the Supreme Soviet's Committee for Social Development of the Rural Areas, Agrarian Questions and Food Goods does not agree with certain statutes of draft law as presented.

In particular, a majority of the committee's members entertain serious doubts concerning the norm, according to which the right to transfer the ownership of tracts of land, free of charge, is extended to the organs of executive government and not to the soviets of people's deputies. In their opinion, decisions regarding the transfer of land in this case would be handed down individually by officials and this would inevitably lead to all types of abuses. And the Soviet of People's Deputies is a collective organ. Moreover, this right is presented to the soviets by a conceptual document—the Law on Land Reform.

The developers of the draft law objected: the local soviets could control the actions of the executive authority and this would make it possible to avoid abuses. There was a counter-argument by the other side: experience reveals that it is impossible to organize effective control in such situations.

A compromise was finally reached: the right to assign ownership of tracts of land free of charge is granted to the soviets of people's deputies and yet, when necessary, they can transfer their functions to the executive government.

Various points of view were expressed in connection with strengthening the concept of collective ownership in the future "Principles."

The working group must now complete the draft law and it is hoped that it will be adopted during the second reading in the middle of June.

Chernomyrdin Signs Purchase Sale Confirmation

934K1406D Moscow ROSSIYSKAYA GAZETA
in Russian 8 Jun 93 p 5

[Decree No 503 of the Council of Ministers and the Government of the Russian Federation, dated 30 May 1993, Moscow, "On Approval of the System for the Buying and Selling of Tracts of Land by Citizens of the Russian Federation"]

[Text] The Council of Ministers and the Government of the Russian Federation decree:

1. To approve the accompanying system for the buying and selling of tracts of land by citizens of the Russian Federation.

2. That the Ministry of Finance of the Russian Federation, with the participation of interested ministries and departments of the Russian Federation, within a 30-day period, will prepare proposals on taxation and the collection of state duties, in connection with the buying and selling of tracts of land, for submission to the Supreme Soviet of the Russian Federation.

3. The Russian Federation Committee on Land Resources and Land Management will ensure a summarizing of information on the buying and selling of tracts of land and carry out an analysis of the land market.

[Signed] Chairman of the Council of Ministers-Government of the Russian Federation, V. Chernomyrdin.

✓ Land Purchase-Sale Procedures Published

934K1406E Moscow ROSSIYSKAYA GAZETA
in Russian 8 Jun 93 p 5

[System for the Buying and Selling of Tracts of Land by Citizens of the Russian Federation]

[Text]

1. This system is employed during the selling by citizens of the Russian Federation of tracts of land or portions of such land (subsequently referred to as tracts) for the purpose of carrying out private plot and suburban farming, horticulture and private housing construction for other citizens of the Russian Federation.

The buying and selling of a tract is possible in the absence of land disputes over the tract and other reasons established by legislation that tend to inhibit the conclusion of a transaction.

2. A transaction for the buying or selling of a tract is carried out by an owner serving in the role of a seller, by a purchaser or by persons authorized by them, with the preparation of a buying or selling agreement (deed of purchase).

3. Upon the completion of a transaction for the buying or selling of a tract, a seller or purchaser cannot change its special purpose or the regime for use of the land (sanitary-protective zones, nature-conservation lands, recreational lands, land of historical-cultural importance and also the right of passage over a tract, technical services or the repair of buildings, installations, surface and underground lines of communication and other conditions of use).

4. If the owner so wishes, a tract can be sold with the aid of a rayon (municipal) committee for land resources and land development, at a competition or auction.

5. The price for a tract and the payment conditions are determined by agreement between the purchaser and seller, or based upon the results of a competition or auction.

6. A plan for a tract is attached to the deed of purchase. If a deed of purchase lacks an attached tract plan, it cannot be registered.

In the absence of a tract plan, it is prepared at the expense of the seller or purchaser by mutual agreement.

The technical requirements for the plans are established by the Russian Federation's Committee on Land Resources and Land Management.

7. The right of ownership of a tract is transferred from the seller to the purchaser at the moment the notary certified deed of purchase is registered by a rayon (municipal) committee for land resources and land management.

The right of ownership for the purchaser of land is registered by the local administration and in the process the document which certifies the seller's right of ownership of the tract becomes invalid or the necessary changes are introduced into it and the purchaser of the tract is issued a document attesting to the right of ownership of the tract so purchased.

8. Taxation and the collection of state duties in connection with the buying or selling of a tract are carried out in conformity with the legislation of the Russian Federation and the republic of the Russian Federation.

Land Reform Efforts, Progress; Federal Land Reform Center Transformed

Komov Sees Legislation Moving Slowly
934K1414A Moscow DELOVOY MIR in Russian
14 Apr 93 p 1

[Article by Aleksey Filatov, ITAR-TASS: "Land Reform May Slip"]

[Text] The chairman of the Russian Committee on Land Resources and Land Management stated that the land reform may "slip."

He mentioned that during the course of the land reform many millions of Russians, for the very first time and free of charge, obtained land allotments at kolkhozes and sovkhozes and more than 230,000 families created small peasant farms. At the present time, there are more than 50 million owners, land users and land leaseholders throughout the country. The leader of Roskomzem [Russian Federation

Committee on Land Resources and Land Management] emphasized that "the transfer of land to people still does not represent everything. Land is a unique organism and it must constantly be maintained in 'live' condition. It requires investments and a thrifty attitude by both the land users and the state, which by means of appropriate land relationships must develop its own agrarian policies." According to Nikolay Komov, the main problem today is legislative support for the second most important direction for the land reform. A need will exist in the near future for including in the package at least seven legislative documents dealing with the most vital problems, upon which much will depend in the future. We must finally resolve the food problem or, just as in the past, we will have to approach the entire world with outstretched hands. The speaker is convinced of the need for rapidly introducing amendments first of all to the law governing land payments.

As is known, land payments have been in operation for two years. During the first year, more than 60 billion rubles were added to the federal and local budgets. "According to today's standards," emphasized Nikolay Komov, "this is a miserly amount. Moreover, it is not being collected from all land users, but only from a certain portion of them. Privileges have been extended to entire branches in our country and, simply stated, they have evaded the payments for land. Roskomzem has introduced appropriate recommendations which call for a negligible and yet mandatory payment for land by all land users. This forces them to apply themselves more zealously to each and every piece of land wherever it might be located. It is obvious that there must be privileges. They must necessarily be made available to agricultural producers, especially farmers during the initial years of their operations, and to the needy layers of the population."

Nikolay Komov is convinced that the adoption of amendments to the law governing land payments will make it possible each year to have several trillions of rubles, as needed for the rural areas during the course of the economic reform. In this instance, the question of investments in the APK [agro-industrial complex] is not quite so urgent, since the funds obtained as a result of mandatory payments could be employed for its development through special state programs. Many such programs are available at the present time, but none are receiving complete financing owing to the tremendous state budgetary deficit.

Roskomzem insists upon one requirement—simultaneously with the establishment of a mandatory payment for all land users, a non-budgetary fund referred to as the "land" fund should be created. This fund would make it possible to resolve difficult problems associated for example with land development, improving the fertility of lands, combating water and wind erosion of soils and so forth. That is, everything will be done to ensure that there will be no paucity of Russian land.

Nikolay Komov cited several additional legislative documents which in his opinion are needed in order to improve land relationships. He stated that "we have reached the point where a need exists at the present time for laws which provide guarantees and cover the leasing of agricultural lands and the creation of land banks. These legislative

Yeltsin Decrees

Yeltsin Issues Decree on Land Reform

LD2810131593 Moscow ITAR-TASS World Service
in Russian 0930 GMT 28 Oct 93

[Text] Decree by the President of the Russian Federation on the Regulation of Land Relations and the Development of Agrarian Reform in Russia

With the aim of improving the legal regulation of land relations and extending agrarian reform on the basis of variety of forms of ownership of land, the equal development of various forms of management, the independence of rural goods producers, and increasing state support from the agroindustrial complex under market economy conditions until the adoption of the bases of Russian Federation land legislation, I decree:

1. That plots of land and everything firmly connected to them are regarded as immovable property. Land deals are regulated by civil legislation, taking into consideration land, forest, nature conservation, and other specialized legislation and the present decree.

2. That citizens and legal persons who are land owners have the right to sell, bequeath, gift, mortgage, rent out, and exchange land, and also transfer land or part of it as an investment in the capital funds of joint stock companies, associations, and cooperatives, including ones which have foreign investments. That citizens and legal persons can form common joint property or common shared property by voluntarily combining land and land shares which belong to them.

3. That every land owner is issued with a certificate of the right to land ownership (hereafter certificate) which is to be registered in a registration (land) book. The certificate is a document certifying the right to land ownership and serves as the basis in deals concerning the purchase, sale, mortgaging, and leasing of land, and also for other actions involving the ownership, use, and disposition of land in accordance with existing legislation.

The proposed form of certificate of the right to land ownership is to be approved. When the land plot is initially granted, the certificate is issued by the appropriate committee for land resources and land tenure at the decision of the local administration. During the purchase and sale of land plots, and in other cases of the transfer of the right to land ownership, the certificate is issued by the aforementioned committee on the basis of a contract of purchase and sale (bill of sale), or other documents confirming the transfer of the right to land ownership.

State acts and certificates on granting ownership of land plots issued before this decree comes into force are permanently valid documents certifying the right to land ownership, and have equal legal force to the certificates covered by this point.

Citizens who have acquired land plots with the right to lifelong ownership and bequest, or with the right of

permanent use, or who have taken them on lease, except leases taken from physical entities, have the right to be granted ownership of these plots or to purchase them in accordance with existing legislation.

Documents confirming the right to ownership of land plots or the right of use of land plots issued after this decree comes into force by bodies of executive power and local self-government, without being registered at the rayon (town) committee for land resources and land tenure, are invalid.

4. The state guarantees the inviolability and protection of private ownership of land, and also the protection of the rights of owners of land when carrying out transactions with land. The expropriation of a plot of land for state and public needs will be carried out in accordance with the procedure established by the law by buying it back, taking into account the owner's interests, including compensation for the value of the land at a contractual price and losses caused, including loss of opportunity.

Buying back of plots of land for federal needs is done by the Committee for Land Resources and Land-tenure regulations of the Russian Federation, on the basis of a decision of the Council of Ministers, Government of the Russian Federation.

All disputes connected with the transfer and purchase of plots of lands, and also other land disputes, are to be examined in the courts.

5. Every member of a collective within an agricultural enterprise to whom the land belongs on the basis of joint or several ownership is issued with a certificate of land ownership right in the form approved by this edict, with an indication of the area of the land share without an apportionment in kind.

Agricultural enterprises, the members of whose collectives own the land as commonly shared or commonly allotted property, will present to local administration bodies within a two-week period from the moment a member of the collective submits an application for a certificate, lists of the owners indicating the size of the allotments of land (shares).

The owners of allotments of land (shares) have the right, without the consent of other owners, to apportion a plot of land in kind for the purpose of managing a peasant (small-hold) farm, to mortgage, and lease, to extend up to the established norm of a plot used for private smallhold farming and individual home construction, and also to exchange the allotment of land (share) for a share of property; to bequeath it, to receive the value (cost) of the allotment of land in the event of the plot of land owned by the collective as commonly shared or commonly apportioned property being purchased, and to restore losses incurred, including lost profit.

The owners of allotments (shares) have the right, without the consent of other owners, to sell allotments (shares) to other members of the collective, as well as to other

citizens and juridical persons for the production of agricultural produce. At the same time, members of the collective have preference in obtaining allotments (shares) over other purchasers.

The apportionment of allotments (shares) in kind is carried out in relation to requirements on the rational organization of territory and compact land tenure. The rights to apportionment of allotments (shares) in kind do not extend to the employees of agricultural enterprises, the reorganization of which is being carried out in accordance with Paras 20-23 of the Statute on the Reorganization of Collective Farms and State Farms, and the Privatization of Agricultural Enterprises, which was endorsed by decision No. 708 of the Russian Federation Government dated 4 September 1992.

6. To establish that individuals leaving collective farms and other agricultural enterprises in order to organize peasant (smallhold) farms are provided with a property share in kind in accordance with established procedure. In the event of a collective refusing to allocate a property share in kind, or if there is no possibility of ensuring in kind the right to a property share, it is incumbent upon enterprises to allocate financial compensation amounting to the cost of the property share, index-linked to the minimum wage from the time the value of the share is estimated.

7. That it be established that committees on land resources and land tenure have the right, upon instruction from local administrations, to buy up land shares at contractual prices with the aim of replenishing land redistribution funds, allocating land to citizens and legal persons, and selling it.

That cash funds are formed for these purposes in the committees for land resources and land tenure out of the monies received through the sale or leasing of land by a local administration, compensation payments for taking agricultural land out of agricultural use, fines for infringements of land legislation, and some of the monies paid for services rendered by the committees for land resources and land tenure during operations involving land. These funds are used, in addition to purchasing land shares, for improving lands, preparing territory for use, the material and technical supply of committees for land resources and land tenure, and carrying out land survey work.

8. To establish that the sale of land may take place at bidding competitions (konkurs) or auctions.

The purchase of parts of a land plot granted earlier above the maximum norms is effected in accordance with Paragraph six Point four of edict No. 480, issued on 23 April 1993 by the president of the Russian Federation, "On additional measures to provide citizens with land plots."

The sale of land to owners of privatized enterprises is effected under the procedure confirmed by Edict No. 631, issued on 14 June 1992 by the president of the Russian Federation, "On Confirming the Procedure for the Sale of

Land Plots in the Privatization of State and Municipal Enterprises, the Extension and Additional Construction of these Enterprises, and also Granted to Citizens and their Associations for Entrepreneurial Activity."

The sale of land plots being used in agricultural production with an alteration of their intended purpose is effected by decision of the body of executive authority within the constituent part of the Russian Federation.

9. To speed up the procedure for registering the right of ownership of a land plot and an allotment of land (share), or the apportioning of a plot in kind, it is to be envisaged that:

The appropriate application to the bodies of local administration is considered within one month of its submission;

a decision (extract of a decision) by a local administration body on the granting or sale of land as property, on the re-registration of land rights, the allocation of land, or a rejection of such actions, is to be issued within seven days of the decision being made;

the issue by committees on land resources and land tenure of certificates is carried out on the basis of a decision by local administration bodies within 10 days of the decision being adopted or the registration of a purchase-sale agreement.

The following are a basis for refusal to issue a certificate of the right to land ownership:

A direct ban in Russian Federation legislative acts on granting land as property;

the existence of disputes over the ownership of a given plot of land when a request is made;

a change in land use, excluding instances envisaged by Point 8 of this decree.

The list of reasons for refusal to issue a certificate of the right to land ownership is exhaustive.

If there is no plan of the boundaries of a plot of land, the appropriate committee for land resources and land tenure will, within one month after the issue of a certificate, establish and register the plot's boundaries and issue the owner with a copy of the plan of the plot's boundaries.

10. That it be established that the chairman of the Russian Federation Committee on Land Resources and Land Tenure is simultaneously the chief state inspector of the utilization and conservation of Russian Federation lands, and that the chairmen of local committees on land resources and land tenure are accordingly state inspectors of the utilization and conservation of lands of the republics within the Russian Federation, krais, oblasts, autonomous formations, towns, and rayons.

11. That, as of 1994, compulsory deliveries and other forms of forced removal of agricultural produce for state resources is abolished.

12. That the Russian Federation State Committee for the Management of State Property is to provide for in the state program for privatizing Russian Federation state and municipal enterprises in 1993-94, the compulsory selling of shares in enterprises involved in primary processing of agricultural produce, fish and sea products, and enterprises involved in production and technical servicing, and the material and technical supply of the agroindustrial complex, in accordance with the first or third version of privileges for sales at closed check auctions of all remaining shares to agricultural and fish goods producers, and also citizens living in a rural location in the raw material zone of a privatized enterprise in accordance with Russian Federation legislation.

13. The Council of Ministers-Government of the Russian Federation is to work out a system of measures of state support for the agroindustrial complex, according to the following main aspects:

Lending, including lending on favorable terms, to rural commodity producers, to cover their seasonal costs;

forming federal and regional food funds on the basis of purchases of produce with the prepayment of rural commodity producers;

compensation for a portion of the expenditure on the production of individual types of agricultural output;

financing state capital investments for the development of agricultural science and the implementation of priority special purpose programs;

granting investment credit for the construction of individual dwellings and production facilities;

setting up and developing peasant (smallhold) farms;

forming initial capital for peasant banks and insurance companies which are being set up;

compensation for a portion of the insurance payments of rural commodity producers.

14. The Council of Ministers - Government of the Russian Federation is:

a) Within a month:

To approve provisions on holding tenders and auctions for the sale of land plots and other transactions involving land and on state control regarding the use and protection of land in the Russian Federation;

to submit draft decrees of the president of the Russian Federation on taxation of the sale of land and other transactions involving land, on agricultural cooperatives, on the mortgaging of agricultural production, and the mortgaging of agricultural land;

b) Within two months:

To approve the procedure for the redemption of land shares and the redistribution of redeemed land, and for

the formation and use of the special monetary funds of committees for land resources and land tenure;

to approve provisions on the procedure for the redemption of land plots for federal needs, and on the procedure for providing cossack communities with land plots;

to submit the draft decree of the president of the Russian Federation on mortgaging;

to adopt a state program for the development of wholesale food markets envisaging the formation of inter-regional, regional, and rural wholesale-retail markets and agricultural exchanges.

15. This decree comes into force on publication

[Signed] B. Yeltsin, president of the Russian Federation
[Dated] Moscow, the Kremlin, 27 October 1993
No.1767

Impact of Land Reform Decree Discussed

Officials Explain Decree

LD2810202893 Moscow *ITAR-TASS in English*
1812 GMT 28 Oct 93

[By *ITAR-TASS* correspondent Igor Galkin]

[Text] Moscow October 28 TASS—Over 60 million people will become landowners in Russia in accordance with a presidential decree allowing free purchase and sale of land for the first time since 1917.

The decree signed by Boris Yeltsin on Wednesday [27 October] creates a legal basis for developing market relations in the agrarian sector and provides juridical and property guarantees for the owners of land in Russia. It also determines the mechanism of land redistribution, said Aleksandr Kalinin, head of the government agriculture department, and Valeriy Alakozov, first deputy chairman of the land committee.

Speaking at a news conference in Moscow on Thursday, Kalinin and Alakozov said that the decree contains measures against speculation in land and emergence of land monopolies. To this end, land will be sold only on condition that its new owner will not use it for other purposes than those stated by the previous owner. If he decides to resell the land he will have to pay large taxes.

Local authorities will have preferential rights in purchasing and selling land. They will also decide how much land can be sold to farmers. The authors of the decree believe that in central Russia they may buy up to 35-40 hectares.

Kalinin and Alakozov warned that those who decide to sell their plots of land for profit now should reconsider their decision as inflation will immediately devour the bulk of what they may gain from such deals. They admitted that land had been traded before the decree as

Ministry of Justice of
the Russian Federation
REGISTERED
on July 10, 1993
Registration N 275

Approved
Chairman of the Committee
of the Russian Federation
for land resources and
land utilization

N.V.Romov
1-16/770
June 2, 1993

THE STANDARD CONTRACT OF PURCHASE
(bill of sale) of a plot of land

We, the undersigned _____ 1)
_____ hereinafter referred to as the "seller", operating on
the basis of _____ 2)
_____ 3)
and _____ 4)
hereinafter referred to as the "Buyer" _____ 5)
_____ have concluded present contract to the following
effect:

1. Object of the contract

1.1. The seller has sold, and the Buyer has bought a plot
of land, cadastreN _____ 6)

(with the structures located in it or without them)
within the limits in conformity with the plan (drawing)
appended hereto,
with the space of _____ 6), located in the
(sq.m.)
lands _____ 6)

(the main purpose of the lands)
at the disposition of _____
(name of the Soviet of people's deputies)

assigned for _____ 6)
 (purpose of use of the plot of land)

2. Payment under the contract

2.1. Price of the sold plot of land

_____ (the negotiated price, the final price quoted at tenders or at an auction) makes _____

_____ (the amount in roubles)

including the appraised value of the structures located in the plot of land _____

_____ (the amount in roubles)

2.2. The Buyer has transferred:

2.2.1. The Seller to the account N _____ in the bank

_____ (requisites of the bank)

_____ (the amount in roubles)

against the payment document _____

_____ (name of the

_____ payment document, its number and the date when the payment was effected.)

2.2.2. The mortgagee (if the object of the contract is mortgaged) _____

_____ (name of the mortgagee)

to the account N _____ in the bank _____

_____ (requisites of the bank)

_____ (the amount in roubles)

according to the document approved by the Seller and appended hereto that constitutes the evidence of the mortgagee's security interest in the object of the present contract that shall be satisfied so that the mortgage could be paid off.

2.3. The Buyer has transferred the Seller the amount of _____ in cash .

_____ (the amount in words)

(if payment for the plot of land is made in cash in full or partially)

2.4. Other forms of payment:

a) _____ has been transferred as
(the amount in roubles)

a security given for participation in an auction, or tenders against the payment document _____

(name of the payment document, its number and the date when payment was effected)

b) _____

3. Obligations the plot of land is
burdened with

3.1. A part of the plot of land which is property of the Seller and title to which is acquired by the Buyer, is burdened with the third persons' rights within the space of _____ 6), and its use is

(sq.m., hectares
restricted within the space of _____ 6).

(sq.m. hectares)

Boundaries of the lands burdened with the third persons' rights, essence of these rights and use restrictions are specified in the plot of land plan (drawing) appended hereto.

4. Obligations of the parties

4.1. The seller has sold and the Buyer has bought under the present contract the plot of land on which third persons have no proprietary rights (besides those set forth in section 2 item 2.2.2 and section 3 herein) or hold claims about which the Seller or the Buyer could not help being aware of at the moment when the contract was concluded.

4.2. Responsibility and rights of the parties to the contract the present contract does not provide for shall be determined in accordance with the legislation of the Russian Federation, republics within the Russian Federation, legal acts adopted by Soviets of the people's deputies of the autonomous

region, autonomous areas, territories, regions, cities of Moscow and St.Petersburg within their competence.

5. Concluding provisions

5.1. Present contract shall come into force since the moment of the notarially attested bill of sale registration by the district (city) committee for land resources and land utilization.

5.2. Present contract is drawn up in _____ copies
(number)

The first copy is delivered to the Buyer, the second - to the Seller.

5.3. The following documents are appended to the contract as its integral parts:

- a plan of the plot of land, or a drawing of its boundaries (shall be appended hereto in all cases);
- buildings, premises and constructions located in the plot of land consolidated appraisal report (shall be appended hereto if buildings, premises and constructions are included in the object of the contract);
- conditions under which the plot of land is acquired at tenders (shall be appended hereto if the plot of land is sold at tenders);
- the document constituting evidence of the mortgagee's security interest in the object of the present contract (shall be appended hereto if the object of the contract is mortgaged);
- a letter of attorney furnished to the person authorized by the seller to conclude the contract on his behalf (shall be appended hereto if the contract is signed by proxy for the seller)
- a letter of attorney furnished to the person authorized by the buyer to conclude the contract on his behalf (shall be appended hereto if the contract is signed by proxy for the buyer).

Signatures of the parties

The Seller: _____
(full name) (signature)

Decree of the President of the Russian Federation

On modifying the land laws of the Russian Federation to be in accordance with the Constitution of the Russian Federation

In connection with the acceptance through a national vote of the Constitution of the Russian Federation, toward the goal of guaranteeing the right of citizens to land in accordance with articles 2 and 3 of the Russian Presidential Decree of 7 October 1993 No. 1598 "On legal regulation during the period of progressive constitutional reform in the Russian Federation" I declare:

1. To declare invalid

articles 2-23, 30-32, the second part of article 34, the third and fourth parts of article 37, article 39, 40, the second part of article 41, article 42, 44, the second part of article 47, article 48, point 8 of the first part of article 52, articles 63, 65, 67, 69, 82, the third part of article 83, the third part of article 88, articles 97-99, 115-124 of the Land Code of the RSFSR (Vedomesti Congress of Peoples Deputies of the RSFSR and Supreme Soviet RSFSR, 1991, No. 22, page 768; Vedomesti of the Congress of Peoples Deputies of the Russian Federation and Supreme Soviet of the Russian Federation, 1993, No. 21, page 748).

The law of the RSFSR "On Land Reform" (Vedomesti of the Congress of Peoples Deputies of the RSFSR and the Supreme Soviet of the RSFSR, 1990, No. 26, 327; 1991, No. 1, page 4; Vedomesti of the Congress of Peoples Deputies of the Russian Federation and Supreme Soviet of the Russian Federation, 1992, No. 34, page 1966; 1992, No. 50, page 2962; 1993, No. 21, page 748);

articles 5-7, part "b" in the second part of point 1 of article 10 and article 26 of the Law of the RSFSR "On peasant farming" (Vedomesti of the Congress of Peoples Deputies of the RSFSR and Supreme Soviet of the RSFSR, 1990, No. 26, page 324, No. 1, page 5).

2. To establish, that the authority of the Congress of Peoples Deputies, provided in articles 14, 28, 29, 33-35, 55, 58, 64, 66, 68, 74, 80 and 94 of the Land Code of the RSFSR, be allocated to the local administrative bodies.

3. To eliminate:

from articles 83, 87 and 88 of the Land Code of the RSFSR the words: "USSR," "By Union Treaty" and "Supreme Soviet of the USSR in accordance with the authority given it based on the Union Treaty;"

in the text of the Land Code of the RSFSR the words "lifetime inheritable ownership" in the appropriate case.

4. To declare invalid

the second paragraph of part 4 and part 7 of the Decree of the President of the Russian Federation of 27 October 1993 No. 1767 "On the the regulation of land relations and the

development of agrarian reform in Russia."

the resolution of the Council of Ministers - Government of the Russian Federation of 10 December 1993 No. 1272 "On Approval of Regulations on Holding Competitions and Auctions for the Sale of Land Plots and Other Land Transactions."

The Council of Ministers - Government of the Russian Federation within one month should identify organs of the government department carrying out land transactions on the government's behalf.

5. To place the present decree in the Federal Assembly of the Russian Federation for examination.

6. The present decree comes into effect upon publication.

(seal)

President of the Russian Federation
B. Yeltsin

Moscow, Kremlin
24 December 1993
No. 2287

APPENDIX D

Urban Development Documents Supporting the Process of Land Allocation¹

Phase I which leads up to the statement on reservation of land for design and exploratory work contains the so-called "permitting documentation", which includes:

1) basic decision on the feasibility of the project. That decision provides grounds for the preparation of the urban development assignment. The basic decisions are adopted in accordance with the "List of Types of Production and Services Subject to Priority Development and Location in the City of Moscow" developed by the administration and approved by the Moscow City Council. In adopting the overall decision the provisions of an approved general plan and the district planning and development projects must be taken into account. The overall decision is adopted by the city or district commission on land relations. The urban development agencies (Moskomarkhitektura) directly contribute to the overall decision and are indirectly involved through their representatives in the commission;

2) The urban development assignment is a document authorizing research and design work for all organizations and enterprises in Moscow and its green belt. The urban development assignment includes:

- the form and text of the urban development assignment stating who is authorized to conduct design work and on what project, listing the requirements on a) the phases of design (sketch, working documentation, etc.), b) on the need for additional pre-project works not included in the urban development assignment, c) on the procedure for harmonizing the pre-project and project documentation, d) on the procedure for obtaining permission for construction work; the validity term of the urban development assignment starting from the date of registration with Moskomarkhitektura is indicated;
- sketch No. 1 (the condemnation of land site):
- the architectural layout assignment stating the "client", the object being designed, the address of the building site as well as: a) the description of the facility (function, proposed number of floors, total area, volume and development area); b) requirements and recommendations to the design objects (place in the urban development scheme -- layout factors, orientation, visible zones, visual and composition patterns; location in respect to the historical pattern of street development; as regards volume

¹ This information was translated from a short paper commissioned from Eduard Trutnev and Alexander Vysokovsky of the Moscow firm Polis-3 in preparation for this paper.

and special solution -- number of floors, composition, outline, comparative size; effective use of territory -- underground space, possibility of demolition; design of facades -- architecture, shape, color, wall material; as regards basement and ground-level floors; amenities; environmental protection; transportation services; sanitary and ecological requirements; urban development restrictions -- red lines, industrial parks, protected zones; on engineering services; on organization of construction -- priorities, construction site boundaries, the siting of provisional storage facilities); c) requirements of the state historical and cultural landmark preservation agencies (for additional historical and cultural exploration; design and on-site archaeological works; issue of restoration assignment, if necessary; and securing additional approvals); d) requirements and recommendations on the development and procedure for approvals of project documentation (the issuance of special assignments, if necessary, additional research and pre-project work, if necessary, and the list of project and demonstration materials); e) any other requirement;

- architectural-planning study of the territory and/or facilities;
- other documents (including invoices for works accomplished).

The urban development assignment is prepared by urban development agencies (the services and organizations of Moskomarkhitektura);

3) executive order on preliminary approval of the location of the object. This is a document prepared on the basis of urban development, land management and property management opinions and signed by the first deputy prime minister of the government of Moscow; the order is grounds for the issuance of a statement on the reservation of the land site;

4) the statement on the reservation of the land site is issued by Moskomzem and is grounds for design and exploratory work; the statement on the reservation of the land site includes the following data: address of the site, its area, name of client, the purpose for which the site is granted, the type of the right to land and terms of the use of the site, phases of designing, deadlines for the development of project documentation and exploitation of the site; fines for failure to meet the designed deadlines or delay in the restitution of the site reserved, the term of the permit, payment for reservation and other terms.

Phase II which is crowned with the signing of a lease agreement contains the so-called "project-costing documentation" as part of the basic enabling documentation (a) and the feasibility studies (b).

The initial enabling documentation includes:

- 5) documents of the preceding phase I (urban development assignment and statement on the reservation of the land site);
- 6) plan assignment for restoration of landmarks (if necessary);
- 7) sketch No 2: scheme and terms of integration with city-wide infrastructure (water supply, sewage, gas, electricity, telephone, etc.);
- 8) assignment for design of facility (to be approved by Mosgorexpertiza);
- 9) statement on background concentration of pollutants (issued by ecological services).

The feasibility studies include:

- 10) design of building (structure);
- 11) economic indicators, cost estimate;
- 12) building certificate (type of ground, structures, etc.).

The feasibility studies shall be agreed with Mosgorexpertiza and approved by the urban development agencies (Moskomarchitektura).

The properly approved design and cost documentation provides grounds for the first deputy prime minister of the government of Moscow to sign an executive order (13) on the basis of which Moskomzem enters into a lease agreement (14) with the client.

Upon the conclusion of the lease agreement for the right to use the land site the client can proceed to develop the so-called working documentation (15). The documentation is developed on the basis of approved feasibility studies with no further approvals required. Upon completion copies of working documentation are submitted to the State Architectural and Building Authority (GASK) for registration. Thereupon GASK issues to the client a permit for construction (16) or "for building and assembly work" and subsequently supervises the construction to make sure it complies with the approved documentation.

APPENDIX E

LIST OF ORGANIZATIONS INTERVIEWED FOR LAND ALLOCATION PROJECT

MOSCOW (listed alphabetically)

1. **Organization:** Commersant
Interviewee: Savily Orbant, Journalist

Commersant is a national newspaper published daily covering business, economic and political news. Orbant is Commersant's lead journalist on land issues and writes several articles a week on topics related to land and real estate.

2. **Organization:** Grado
Interviewee: Vadim Harlamov, General Director; Vladimir Korotaev

Grado is a former Research and Design Institute that became a US-Russian joint venture in 1990. Working within the general scope of the Master Plan, Grado develops all townplanning documentation for its administrative district in the southeast region of Moscow. All land allocations in this region must comply with the planning documents developed by Grado.

3. **Organization:** Moscow Times
Interviewee: Mikhail Dubik, Journalist

The Moscow Times is an English-language newspaper published daily in Moscow covering general local news. Dubik writes on land and real estate issues and is well-connected to many of the unofficial brokers involved in the land market.

4. **Organization:** Moscow State Committee on Land Reform and Land Resources (Moskomzem)
Interviewee: Olga Sokolova, Economics Department

Moskomzem is the Moscow branch of Rozkomzem. Sokolova directs that department that oversees the auctioning of state property in Moscow. This department developed the auction procedure, and, working with the Moscow city government, approves land plots for auction.

5. **Organization:** Mossoviet Land Commission
Interviewee: Igor Shustov, Chairperson

The Land Commission is a permanent committee of the Mossoviet (city council). Land reform legislation issued by Mossoviet is developed by this Committee.

6. **Organization:** NIPI GenPlana Moscow
Interviewee: Valeri Bekker, Assistant Director

NIPI GenPlana is the design institute within Moskomarkhitectura that is responsible for developing the Master Plan for Moscow. The Master Plan is the comprehensive planning document for Moscow. All land allocated must retain its use designated in the Master Plan.

7. **Organization:** Polis-3
Interviewee: Alexander Visokovsky, Director; Edward Trutnev, Assistant Director

Polis-3 is a private consulting firm of architects and urban planners established in 1989. Polis-3's clients are city governments that wish to design comprehensive urban planning schemes for their administrative districts.

8. **Organization:** Russian State Committee on Land Reform and Land Resources (Rozkomzem)
Interviewees: Vasily Tretyakov, Director of Department of Urban Land; Marianna Vitt, General Counsel

Rozkomzem is the federal agency charged with overseeing the process of land reform. Specifically, Rozkomzem is responsible for making land law policy, monitoring land allocations to ensure they comply with their designated purpose, creating a land registration system and developing a land cadastre. Rozkomzem has approximately 2600 branches throughout federal and municipal administration districts.

9. **Organization:** Russian Agency for Real Estate and Investment (RAIN)
Interviewee: Svetlana Tiurina, Vice President

RAIN was established in February 1993 to act as a quasi-governmental organization arranging auctions of federal and city property. Organizers of RAIN included the Ministries of Economy, Communal Services, Fuel/Energy, Rosselkhoz Bank and 2 commercial entities (The Forestry Industry and Ross - joint stock company). RAIN has 40 branches in over 80 areas in RF. RAIN works on a contractual basis with the state or municipal government and organizes all aspects of auctions of state property. RAIN receives as a commission 5% of the auction price.

10. **Organization:** Ministry of the Economy
Interviewee: Andrei Lazarevsky, Assistant Director of the Department of Demonopolization, Privatization and Development

11. **Organization:** The Union of Russian Cities
Interviewees: Igor Serdjukov, Chairperson; Natalia Serdjukov, Director

The Union of Russian Cities was established in 1991 as a X organization. The Union's mandate is to represent cities at international conferences, lobby for cities' rights at the federal level, and provide technical assistance to cities. The Union currently has 100 member cities from throughout the Russian Federation. Twelve of these cities, under a model program developed by the Union, are currently engaged in twelve separate model projects related to land reform.

ST. PETERSBURG

12. **Organization:** Agency of Urban Research and Consulting (AUREC)
Interviewees: Olga Kaganova, Director; Mikhail Berezin, Managing Director

AUREC is a private consulting firm of urban planners and architects. AUREC has worked extensively with local governments, private developers and major international organizations (World Bank, USAID) providing research and technical assistance on urban development, planning, housing and land issues.

13. **Organization:** St. Petersburg State Committee on Land Reform and Land Resources
Interviewee: Tatyana Ivanova, Chief Legal Advisor

This Committee is the St. Petersburg branch of Rozkomez. Ivanova is chief of the legal department responsible for developing land law policy and implementing regulations.

14. St. Petersburg Land Committee
15. St. Petersburg Property Committee
16. Chief Architect of the City of St. Petersburg
17. Head of Administration, Vsvlovsky District, St. Petersburg Oblast (Nikolai Laserevich)
18. All Russia Institute of Urbanistics (developing a zoning system for St. Petersburg and Oblast)
19. Sergei Sena, VIA Joint Stock Company (urban planners and architects)
20. World Financial and Trade Center Joint Stock Company (downtown commercial developers)

NOVGOROD

21. Novgorod Oblast Land Committee
22. Novgorod Oblast Property Committee
23. Office of the Chief Architect, Novgorod City

The authors almost met with a number of private developers in compiling the Case Studies portion of this report.