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Shelter Sector Reform Project Newly Independent States of the Former Soviet Union

An ICMA Report

Prepared for the Office of Housing and Urban Programs
Agency for International Development



**EASTERN EUROPEAN REAL PROPERTY FOUNDATION
ASSESSMENT AND TRAINING REPORT
*KAZAKHSTAN***

**APRIL 10 - 15
1995**

Prepared for the U.S. Agency for International Development
Bureau for Europe and the New Independent States
Office of Environment, Energy and Urban Development
Urban Development and Housing Division

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**INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION
USAID Contract No. CCS-0008-C-00-2056-00
Project No. 110-0008
Task Order No. 85
Shelter Sector Reform Project for
the Newly Independent States of the Former USSR**

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I. SCOPE OF WORK

A. Background

During the last quarter of 1995, LTA Wallace Kaufman and STA Marily Brody met with representatives of brokerage firms, property management firms, lawyers, appraisers, and bankers to assess the need for and interest in forming a professional real estate association in Almaty. Most of those with whom they met expressed enthusiasm for establishing such an association. Kaufman and Brody also met with the directors of Interlegal, an NGO responsible for political and legal research, to enlist their help in drafting the bylaws and charter and assistance with registering the associations, and with a representative of the American Legal Consortium to discuss the possibility of a grant to the association for public education on legal aspects of real estate and brokerage.

ICMA sent invitations to 35 real estate professionals in December inviting them to attend an organizational meeting for a proposed professional association. Over 50 professionals, representing at least eight brokerage firms, as well as banks, law firms and appraisal firms, attended the organizational meeting. A sub-committee was formed to work on a draft of the bylaws.

Forty people attended the second meeting of the association. A Charter and bylaws, which had been drafted by the Grata Law Firm, were agreed upon. They are now being put in a final version suitable for registration and are being translated in Russian.

Despite the enthusiasm, the initial organizational meetings have revealed some confusion about the fundamental concept of a cooperative, non-profit association.

The association could clearly benefit from technical assistance and training from experts in real estate association formation and management. To meet this need, ICMA and USAID/UDH have asked the Eastern European Real Property Foundation to explore adding Kazakhstan to its program under its cooperative agreement with USAID. This task order is an assessment and training mission to determine if the nascent Kazakhstan real estate association has the potential to utilize EERPF's services. If EERPF concludes that the association has a good prospect for success, the two organizations will sign a protocol under which the association will receive business planning assistance, possible seed money toward the cost of staff, equipment and operating costs, the nucleus of a real estate library and access to the real estate information system that the National Association of Realtors maintains for its membership.

B. Objectives

To determine whether or not the newly formed Kazakhstan Real Estate Association is a good candidate for assistance from the Eastern European Real Property Foundation, and to provide a one day workshop for the members of the Association on the role and management of brokerage associations.

II. TASKS

- Meet with Wallace Kaufman to determine an appropriate means for future cooperation between ICMA and the Eastern European Real Property Foundation (EERPF) for work in Kazakhstan, to verify logistical details for this mission, and to assess the potential of the Kazakhstan Real Estate Association as a partner association with EERPF.
- Meet with the leadership and active members of the Kazakhstan Real Estate Association to assess the state of real estate professional associations in Kazakhstan, discuss basic real estate association management, including clarification of objectives and priorities, review the status

of the group's business planning, and to determine the potential of the Kazakhstan Real Estate Association as a partner with the EERPF.

- Conduct a one day workshop open to all Kazakhstan Real Estate Association members on the role and management of brokerage associations.
- Recommend an appropriate EERPF response to the Kazakhstan Real Estate Association's proposal of a relationship with EERPF.
- Conduct an introductory and de-briefing meeting with appropriate local USAID representatives in Almaty.

III. EXECUTIVE SUMMARY

In anticipation of my visit, materials were forwarded to ICMA in Kazakhstan that included the EERPF business plan workbook, Financial Support Policies and the Business Plan guide. Some effort was made to develop a business plan prior to my visit, but the concepts and processes were not understood. It became immediately apparent that there was very little understanding of what an association was about. Consequently, the assessment focused on discussions of the functions and purposes of an association. Also, an investigation of the real estate service sector's sophistication or lack of, market activity and identifying brokers that had reasonable positions in the market was undertaken.

ICMA's mission in Kazakhstan has made considerable progress in developing policies, focusing on housing issues, and programs in an environment that has had difficulty in grappling with an economy and government in transition to the free market systems. Housing problems appear monumental with major unfinished housing projects idled from the lack of financing. Issues dealing with land registration, property tax policies, condominium law, infrastructure deficiencies and lack of information sharing all require the need for the development of a real estate service sector that is organized, well trained and ethical that can effectively work in a private sector - government partnership.

ICMA and EERPF, working in harmony together, can be an effective and cost efficient force in making identifiable progress in the development of a functioning private real estate market. EERPF has the experience and expertise that is clearly needed. The PROPOSAL FOR REAL ESTATE ASSOCIATION, EXHIBIT "A", outlines a jointly prepared recommendation presented to Mr. Craig Buck, USAID, Kazakhstan. I am recommending that before a protocol be entered into, that EERPF develop an approach in dealing with the need to convert from the present profiteering methods of brokerage services to a culturally acceptable and workable broker - seller/buyer relationship more consistent with other EERPF partnerships. Training programs, business plan workshops and additional brokerage firm interviews to develop support for adopting more modern real estate service practices should proceed without delay if the funding resources are made available to EERPF.

IV. FINDINGS

As outlined in the above scope of work, interest in forming an association is quite positive, but what are the underlying motives for a person or firm to join? There was a consistent concern in the interviews with individuals who were also owners or managers of their firms that the real estate market processes were UNCIVILIZED (exact word used). This may be an overly severe classification, but nevertheless represented a perception that most of the world and the countries that have recently gone to the free real estate market concepts were far ahead of Kazakhstan. An association offers an opportunity that some sophistication can be developed through training.

overcoming a poor public image and for benefits by working together on common causes, of which many were identified.

There was still some ongoing debate about the stated purpose of the association in the Charter. An English translation was not available during the visit, but should be forwarded for review as to its consistency with EERPF requirements that the association have an open membership, is democratically organized and that its' purposes be reasonably consistent with other EERPF partnerships.

V. MEETINGS

GRATA - A law firm that has been very involved in the legal work for registration of the association. The two partners are 30 and 33 years of age, have reasonable English skills and are original members of the Association. They specialize in real estate law and wish to become identified as experts in the privatization processes, and represent several international oil firms in Kazakhstan. I was advised that no dues structure has been agreed upon for the Association.

Kairat Zhanybilov, President of his own firm and elected President of the Kazakhstan Brokers Association and Mussim Chalkar, board member, discussed the Charter and business plan process revealing a lack of understanding the need for bylaws. Membership includes appraisers, construction firms, attorneys and architects.

Nesibaev Rakhimbek, Deputy Chairman of Narodny (People's) Bank, was interested in working with the Association to develop a mortgage loan system for real estate, indexing for inflation, collateral value concepts and approved mortgage forms.

Erick Dukembaev, Chairman of CIT, construction firm, expressed some interest in the Association, but will not join until he is convinced that it will be beneficial for his firm's business. He needs financing to complete many of the unfinished construction and development projects.

Yuri D. Kholodov, President of BASIS Corp., is developing a major residential high-rise project in the suburbs. He is a member of the Association and was very supportive of the need. He has visited Canada and briefly the United States in learning how to better improve his firm's construction techniques and has excellent English skills. To continue the development he needs financing.

Serikbek Daukeyev, Minister of Geology and Preservation of Underground Resources, expressed great interest in how an association can influence private property rights. He expressed the need for cooperative effort of all real estate interests in land reform and registration, an essential element in the economy and his Ministry. Outside capital is desperately needed and hopes that EERPF can be helpful in supporting organizations to address the mutual problems.

VI. APPRAISAL SERVICES

Zhetpisbay O. Duisembekov, Deputy Minister, Ministry of Construction, Housing and Territories requested a meeting since two of the Ministry's staff are board members of the Association. He wanted to discuss appraisal training as a separate function from the Association.

An Appraisal Section (organized structure) was created by and is controlled by the Kazakhstan Government projected to become privatized in 1996-1997. Three hundred appraisers have been trained in some fashion over the past year, however the training has been limited since no computer models or valuation course methods are available. Already a code of ethical conduct has been developed and a Charter has been filed. The Appraisal Section is to be self supported by its membership. Two hundred fifty hold certificates issued by the Section as being qualified appraisers.

Thirty have been licensed by the Department of Licensing as being more expert as determined by a committee whose members are appointed by the Minister. By the Presidential order, 19 Section districts in Kazakhstan are identified and 15 are totally self sustaining now. Fifteen separate individual appraisal companies are discussing forming a separate appraisal association outside of the Government Section. 90% of the appraisal work is in housing since all government sales must be appraised according to law. Appraisal requirements or work in the private sector was not investigated during the assignment.

The Minister was understandably disappointed that EERPF can not enter into a training commitment directly with a government-owned enterprise. However, since there are appraiser members already belonging to the Association, maybe an appraisal training program could be developed in the business plan to cover the time gap until the appraisal associations are totally privatized. He expressed the importance for training of appraisers and desperately needed United States experience. The Russian Appraisal Association was helpful in developing the Charter.

VII. PRESS CONFERENCE AND TRAINING

Two training sessions were held with board members. The first was devoted to the purposes of EERPF and the support services available. The second was devoted entirely to the business plan process, its' purpose and main contents of a workable business plan. Strategic objectives were debated and programs discussed. Priorities seemed to focus on code of ethics, office operating structures, broker relationships, information sharing and training.

A. Press Conference

The press conference was attended by a representative press contingent. Mr. Craig Buck, Director, United States Agency for International Development; Ms. Paula Feeney, Social Programs USAID; Kairat Zhanibilov, President of the Kazakhstan Brokers Association; Wallace Kaufman, Director, ICMA; and myself, EERPF, individually made brief remarks about our respective roles and assignments. The press questions were non-controversial and asked for more elaboration about the preceding individual comments.

My presentation to the gathered association membership of 30 - 35 persons was devoted to "WHAT IS THE PURPOSE OF AN ASSOCIATION AND WHAT DOES IT DO"? Topics addressed:

- o The purpose must be clearly set out in its' Charter.
- o It must have bylaws that set forth how the Board of Directors and Officers are elected, and terms of office.
- o The Board of Directors establishes policy and supports the Officers.
- o The Officers provide leadership and carry out the policies of the Board.
- o The Board of Directors monitor policy and performance of the elected Officers.
- o Programs must respond to member needs.
- o Support a code of ethics and elevation of professional standards.
- o Provides for education for its' members and the public.
- o Establishes networking opportunities for its' members.
- o Develop data sharing of information and systems.
- o Acts as spokesperson for the members in Government policies.
- o Concerns itself with environmental issues.
- o Responds to public needs as a protector of private property rights and effectively develops dependable real estate markets.

This discussion opened many questions from the floor, generally well directed to the presentation and much was learned.

VIII. GENERAL REAL ESTATE ENVIRONMENT AND PRACTICES

There appears to be a reasonable amount of real estate activity and the offices visited were quite presentable, although one would conclude that many in the real estate brokerage businesses are one person firms operating from their residences, needing training to become competitive.

Brokerage services as developed in the Western World and Central Europe differ dramatically from the practices observed in Almaty and one would assume in other sections of Kazakhstan. It is the practice for a broker to obtain an agreed upon price set by the Seller. The broker then proceeds to market the property at a higher price and if successful profits by keeping the differential benefiting from the broker's listing skills or knowledge of the real market value. Actual sales price obtained is not shared with the seller nor is the seller's price disclosed to the buyer-"caveat emptor". Agency and fiduciary responsibility does not exist.

This practice presents a challenging need for training and acceptance to change broker operating methods. An association is an excellent forum to bring about change.

1% of the population live in single family housing. Cooperatives are being formed needing property management training. 50% of housing has been privatized. Brokers pay a 70% income tax on gross revenues if I was advised correctly.

IX. RECOMMENDATION

The basic support and technical services provided by EERPF is vitally needed in Kazakhstan for the private real estate service sectors to grow and become compatible with other developed nations. As was often repeated in interviews, the real estate markets are uncivilized. A Kazakhstan country program needs to be developed for the real estate services.

A joining of efforts and sharing of services with ICMA will provide for efficiency and compatibility of specialized services to be mutually identified.

X. USAID EXIT INTERVIEW

Mr. Craig Buck and Ms. Paula Feeney were supportive of EERPF programs for Kazakhstan and funding resources will be explored. It was suggested that EERPF work under the ICMA programs eliminating USAID's burden of monitoring another country program. There was general accord on the compatibility of ICMA and EERPF working jointly.

EXHIBIT "A"

PROPOSAL FOR REAL ESTATE ASSOCIATION

An independent association of professionals engaged in real estate services, including brokerage and appraisal, has drawn its Charter, submitted it for registration and elected its first President and Board. American consultants believe this could be the nucleus of an important support group for the people who make the real estate markets function. ICMA proposes to work with EERPF to help the organization grow into a self-sustaining condition.

A. PURPOSES AND IMPORTANCE OF THE ASSOCIATION

To transform the present chaotically growing real estate industry into a respected, ethical and professionally trained corps for the support of open and free markets in real estate.

To create a unified and powerful voice for the development and protection of private property rights and home ownership.

To create intermediaries who can translate public policy favorable to a free market into publicly accepted and understandable practice.

To interact with foreign investment resources and cooperative alliances with other real estate service associations that are rapidly growing in Central and Eastern Europe through efforts that the EERPF and USAID have carried out in those areas.

To integrate Kazakhstani real estate professionals and their practices into the global market.

B. MEANS FOR DEVELOPING THE ASSOCIATION

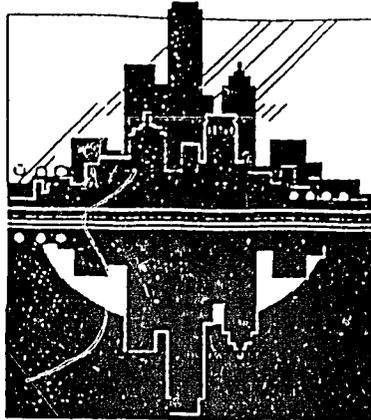
ICMA and the EERPF propose to use EERPF's expertise and experience in Eastern and Central Europe and Russia to address the problems that the Kazakhstani association will face in Kazakhstan.

ICMA, which launched the Association, has recognized the obvious efficiency of forming a Realtor-type association by utilizing the experience of the EERPF, which itself was created by the National Association of Realtors, and which has now guided the successful development of 20 associations in former Communist countries. All of these associations will be self-supporting when the EERPF withdraws and sunsets. (Expected time from start of support to independence is approximately two years, utilizing the learning experiences in Central Europe.)

ICMA would continue to be the contractor for housing and real estate services, including the association's development and would assign primary work with the association to EERPF as either a consortium partner or subcontractor.

C. FUNDING

Based on EERPF's experience in other countries and ICMA's experience in Kazakhstan, a two year support effort is estimated at \$384,000.00. There may be savings achieved by using work already finished or underway in ICMA programs. Efficiencies will be pursued.



KAZAKHSTAN REAL ESTATE ASSOCIATION
Academy of Sciences
Winter Garden
Thursday, April 13, 1995

Board of Directors Meeting, 10 AM

Press Conference, 2 PM

Craig Buck, Director, United States Agency for International Development
Paula Feeney, Social Programs, United States Agency for International Development

General Meeting, 3 PM

Announcement of New Appointments
Discussion of Mission and Goals

Kairat Zhanibilov
President, Kazakhstan Real Estate Association

J. Daryl Lippincott
Director
Eastern European Real Property Foundation

Wallace Kaufman, Director
Marilyn Brody, Consultant
International City Management Association

Refreshments
Closing Remarks

Sponsored by
United States Agency for International Development
International City Management Association
Eastern European Real Property Foundation

PROTOCOL

This document, when signed by both parties and approved by the respective Board of Directors and review without objection from the United States Agency for International Development (USAID), shall be a **PROTOCOL** agreement between the Eastern European Real Property Foundation, Suite 717, 777 14th Street NW, Washington DC 20005 (hereinafter called Foundation); and the _____ (hereinafter called Association).

The Foundation is seeking to support the creation of strong, self-sustaining, Associations of Real Property Professionals in Central and Eastern Europe under the terms of its Cooperative Agreement with the USAID.

The Association was founded in 199__ and has successfully demonstrated the potential for growth and leadership in support of the real property markets in _____.

Both the Foundation and the Association subscribe to the overall objective to assist in the creation of a well structured, ethical, and educated real estate profession committed to the protection of the public, promotion of home ownership, the establishment and preservation of private property, efficient and equitable real estate markets and the creation of a legal environment supportive of these objectives;

THEREFORE WE DO ENTER INTO this Protocol which is intended to create a working relationship to achieve our mutual objectives through the strengthening of the structure and capacity of the Association to undertake work on the real property sector in the following areas:

- o Build an inclusive membership base
- o Set professional standards of conduct with self regulation
- o Establish a democratic structure of governance
- o Develop membership services in information, training, and professional development
- o Support education of the general public in real property services
- o Support real property research and analysis

THE ASSOCIATION agrees to the following steps in the development of this working relationship:

- o Invite the Foundation to have a "speaking observer" seat on the Board of Directors meetings of the Association during the time period of this agreement.
- o Provide open access to the books and records of the Association to the Foundation and USAID and provide documentation as needed on the expenditure of all funds received from the Foundation and USAID.
- o Develop a business plan which will enable the Association to become self-sufficient and continue operations at a mutually agreeable scale at the conclusion of this agreement. This business plan will be completed and approved by the respective Boards of the Foundation and Association prior to the investment of operating capital in the Association by the Foundation.
- o Use its best efforts to achieve the strategic and operational objectives described in the business plan each of which will be a prerequisite for further funding by the Foundation.
- o Undertake such projects and programs as are hereafter defined and mutually agreed upon in writing by the Association and the Foundation using a standard contract form, on a timely basis and at an acceptable level of professional excellence.

THE EASTERN EUROPEAN REAL PROPERTY FOUNDATION agrees to supply financial and technical assistance to the Association for activities and at levels consistent with the business plan as hereafter developed by the Association and approved by the Foundation. This support may include the following:

- o Direct Financial Support provided against specific budget expenses as set forth in the business plan and as hereafter agreed upon from time to time.
- o Financial Support for specific program activities on a task by task basis as mutually agreed upon from time to time.
- o Provision of Advisors and Real Property Specialists when needed as may be mutually agreed upon.
- o Participant Training Opportunities for Association members and Staff in the United States or Europe as may from time to time be deemed appropriate.

WE DO MUTUALLY ACKNOWLEDGE that this Protocol does not constitute a contract between the Association and the Foundation, but only serves as the basis for future cooperation. This agreement can be terminated by either party by informing the other party in writing with 30 days notice of its intent to terminate the agreement, provided that such termination shall not relieve the party from responsibility to complete its agreed obligations as set forth in a separate contract then in effect. Nothing in this Protocol is to imply an *exclusive* relationship that would prevent the Foundation from entering into similar relationships with other Associations within or outside of _____, or to prevent the Association from undertaking activities in addition to those contemplated from its cooperative efforts with the Foundation.

FURTHERMORE we agree that nothing in this agreement shall be construed as establishing an ownership interest in the Association by the Foundation. Nor will the Foundation be at anytime liable for any obligations of the Association including any _____ Government taxes or any other fees, nor accept any liability arising from the performance of the Association on any activities supported by the Foundation. The Foundation will not be a party to or have any obligations under any contracts the Association may have with its employees, consultants, or vendors and suppliers. Nothing in this agreement shall preclude either party from entering into agreements with other organizations or groups within _____ or internationally.

Association

Eastern European Real Property
Foundation

Date



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