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In focus: Law on Conversion for a Fee of the Right of Use of Construction Land into Ownership

On July 16th 2015, the National Assembly of the Republic of Serbia adopted the Law on Conversion for a Fee of the Right of Use of Construction Land into Ownership (hereinafter: the **Law on Conversion**), which enters into force on July 28th 2015.

The Law on Conversion primarily regulates the right and conditions for converting the right of use on construction land into ownership for entities, holders of the right of use on built and unbuilt construction land where the Republic of Serbia, autonomous province or unit of local self-government is entered as owner, to which the provisions of Article 102, paragraph 1 of the Law on Planning and Construction, that regulate conversion without a fee, do not apply.

Entities, holders of the right of use on construction land, who are entitled to conversion for a fee in accordance with this Law on Conversion (hereinafter: **Holders of the conversion right for a fee**) are:

- 1) entities which have been or are companies and other legal entities that were privatized under the law governing privatization, bankruptcy and enforcement proceedings, as well as their legal successors in terms of status;
- 2) entities – holders of the right of use on unbuilt construction land in state ownership which was acquired for the purpose of construction in accordance

regulated construction land until May 13th 2003 or based on the decision of the competent authority;

- 3) entities whose position is determined by the law which regulates sport, as well as associations;
- 4) social companies, holders of the right of use on construction land;
- 5) entities to whom the provisions of the laws of the Republic of Serbia and bilateral international agreements regulating the implementation of Annex G of the Agreement on Succession Issues ("Official Gazette FRY – International Treaties", no. 6/02) are applicable.

Holders of the conversion right for a fee may exercise this right **only if they are entered in the public register** for real-estate records and rights on them, as holders of the right of use.

The subject of conversion cannot be construction land for which special laws prescribe that it cannot be alienated from public ownership.

If the lot which is the subject of conversion is at the same time the subject of a restitution process, the competent authority is obliged to render a decision on the interruption of conversion proceedings until the restitution process becomes final.

The conversion right is exercised with the obligation of paying a **fee which represents the market value of the land which is the subject of conversion, at the time of**

submitting the request for conversion, which value is determined by the local government competent for property and legal relations, in accordance with the act on determining the average price per square meter of corresponding real-estate by zones for determining property tax.

The market value of unbuilt construction land can be reduced if said land is located on the territory of a unit of local self-government for which it has been established that it is an underdeveloped unit of local self-government, i.e. a unit with extremely low living standards or with high level of unemployment.

The conversion fee for unbuilt construction land is also reduced in case the Holder of the conversion right for a fee, submits the report of a court expert for construction by which it is determined that the Holder of the conversion right for a fee has had costs of acquiring the right of use on the cadastral lot which is the subject of conversion (expropriation, remediation, etc.).

In case of conversion of a cadastral lot of built construction land, the market value of the land can be reduced regardless of where the real-estate is located, and the fee in this case is determined in such a way that the set market value of the cadastral lot is reduced for the amount of the market value of land for regular use of objects.

The fee for conversion can be paid in one lump sum, in which case the Holder of the conversion right for a fee is entitled to a reduction of the fee in the amount of 30%, or in 60 equal monthly installments, in which case the Holder must submit some collateral: irrevocable bank guarantee, mortgage on the property, non-possessionary pledge on movables.

Registration of the ownership right on the cadastral lot is conducted on the basis of the applicant's request submitted together with the final decision on conversion and proof of payment of the first installment of the fee or proof that the fee has been paid in full.

Holders of the conversion right for a fee are given the possibility to, until acquiring the ownership right on the land, conclude with the owner of the construction land a lease agreement for 99 years for a fee. The annual rent is determined by dividing the total market value of the land by 99. The lease agreement must include collateral for settlement of obligations and the method of aligning rents with the consumer price index. The land lease agreement represents proof of the appropriate right to land which is required for obtaining the building permit. The lease agreement shall cease on the day the decision on conversion becomes final.

Transitional and final provisions of the Law on Conversion determine that, until expiry of 12 months from the date of entry into force of the Law on Conversion, the right of use shall be deemed an appropriate right on the land for the purpose of obtaining the building permit.

Requests for the conversion submitted prior to entry into force of the Law on Conversion shall be suspended, and the applicants shall be instructed to submit a new request in accordance with the provisions of the Law on Conversion.

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