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In focus: Eliminating of conversion fees

By entry into force of the Law on Amendments to the Planning and Construction Act (hereinafter referred to as: the "**Law**") on 4 August 2023, the Law on the Conversion of the Right of Use into Ownership Right on Construction Land with a Fee ("*Official Gazette of the Republic of Serbia,*" No. 64/15 and 9/20) ceased to be in effect.

In this regard, one of the most significant novelties of the Law is the **elimination of fees for conversion from the right of use into the ownership right of construction land for the following categories of persons:**

1. business companies and other legal entities that were privatized based on laws governing privatization, bankruptcy, and enforcement proceedings, as well as their legal successors in terms of status;
2. persons (natural and legal persons) who acquired the right of use of land after 11 September 2009, by purchasing a facility with the corresponding right of use from entities that were privatized under laws governing privatization, bankruptcy, and enforcement proceedings, and who are not their legal successors in terms of status; and
3. persons (natural and legal persons) – holders of the right of use on undeveloped construction land owned by the state acquired for the purpose of building in accordance with the previously applicable laws that governed construction land until 13 May 2003, or based on the decision passed by the competent authority.

This amendment does not apply to persons whose status is determined by the law governing sport, associations, agricultural and housing cooperatives, persons subject to provisions of the regulations of the Republic of Serbia and bilateral international agreements governing the implementation of Annex G of the Agreement on Matters of Succession, as well as socially owned enterprises. The acquisition of ownership right to construction land in public property for these persons will be regulated by separate regulations, or upon completion of succession in accordance with Annex G of the Agreement on Matters of Succession, or upon completion of privatization of these legal entities.

Unlike persons who acquired the right to conversion before these amendments to the Law and for whom the registration of ownership rights is stipulated to be carried out ex officio, the above-mentioned persons can obtain this right by submitting a request to the competent authority. To this end, the Law provides for the establishment of the **Agency for Spatial Planning and Urbanism of the Republic of Serbia** (hereinafter referred to as: the "**Agency**"), which will be established and commence its operations within 3 months from the date of the Law's entry into force. Until the establishment and commencement of the Agency's operations, requests can be submitted to the **Ministry of Construction, Transport, and Infrastructure**. Certainly, after establishment of the Agency, all requests submitted to the Ministry will be forwarded to the Agency for resolution. In addition to the above, the Agency will have other

responsibilities, including issuing or confirming green building certificates, establishing, and maintaining a register of brownfield locations in the Republic of Serbia (which will be publicly accessible), etc.

In terms of processing the requests of these persons, the Agency will conduct necessary verifications upon receiving the request and within 8 days from the submission of a complete request, will issue **information about the location along with a confirmation of the possibility of registering ownership right without a fee for the specified cadastral lot or lots, in favor of the applicant.** Through the E-portal, the Agency will submit a confirmation to the competent cadaster office which will, upon receiving such confirmation, register the property rights on the real estate.

However, these persons **cannot acquire ownership right** on cadastral lots designated by the planning document for the development or construction of public purpose facilities or public areas which, according to the provisions of special laws, are in compulsory public ownership and require the determination of public interest. This also applies to land where there is an annotation in the real estate register and on the rights therein regarding a lawsuit to establish a property dispute between the holder of public ownership right and the land user initiated before entry into force of this Law and concerns that specific cadastral lot, as well as to land in an open residential block that is in public use.

Finally, it is important to mention that the Law stipulates that conversion procedures initiated under the provisions of the law governing the conversion of the right of use into ownership right with a fee **shall be suspended as of the date of entry into force of this Law.**

Also, with the entry into force of this Law, the **conditions are met for mutual termination of lease agreements** concluded in accordance with the provisions of the Law on the Conversion of the Right of Use into Ownership Right on Construction Land with a Fee, with the obligation to settle all due obligations by the date of entry into force of this Law.

Therefore, the above-mentioned persons who were previously obligated to pay conversion fees have gained the opportunity, through changes to the Law, to obtain the right to conversion without a fee. However, those who registered ownership rights to construction land based on the Law on the Conversion of the Right of Use into Ownership Right on Construction Land with a Fee **do not have the right to a refund of the fees paid on this basis.**

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