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Novelties of Russian legislation in the field of construction, economics and real estate management in the first quarter of 2022

The presented analytical and legal analysis focuses on changes in the Russian legislation in the field of construction, economics, real estate management, housing and communal complex management. The review addresses the legal framework of public relations related to the construction of individual residential buildings within the boundaries of low-rise housing complexes (LHC) under contracts of participation in shared construction, requirements for the documentation of the developer of LHC, conditions for concluding contracts of participation in shared construction, obtaining project financing, determining the status of the property of LHC, issues of independent assessment of qualifications of specialists in the field of construction, their activities, as well as requirements applied to these specialists, the establishment of Roskadastr public law company engaged in geodetic and cartographic activities, cadastral, land management work, etc., compensation for losses caused by restricted rights of owners and tenants of land plots, the compensation payment procedure in respect of the losses incurred as a consequence of acts of the authorities or local self-government bodies, relations related to the permitted use of the land plot, and other amendments to the effective Russian legislation.

Keywords: amendments, additions, legislation, regulatory legal acts, construction, economy, urban planning, apartment building, housing and communal services, low-rise housing complexes, protection of rights to land plots, types of permitted use of land plots, legal status of Roskadastr public law company, conditions for concluding contracts for participation in shared construction, qualification of specialists in the field of construction, activities, requirements for specialists in the field of construction

Note: the information from the following open-access sources was used to compile this review: the website of the State Duma of the Federal Assembly of the Russian Federation¹; the Internet portal of legal information²; the Internet portal of Rossiyskaya Gazeta³; ConsultantPlus⁴ legal reference system; Garant⁵ information and legal portal, RBC Real Estate⁶ information portal.

Federal Law No. 447-FZ of December 30, 2021 On Amendments to the Urban Planning Code of the Russian Federation and Certain Legislative Acts of the Russian Federation [1].

The Federal Law regulates the issues of independent assessment of the qualifications of specialists in the field of construction, clarifies the procedure of making contributions to the compensation fund of self-regulating organizations, the establishment of registers of unfinished capital construction projects.

The Federal Law introduces amendments to the Urban Planning Code of the Russian Federation (hereinafter — Urban Planning Code) aimed at improving self-government in the construction sector, establishing the procedure for recognizing an object of capital construction as an emergency and subject to demolition, reconstruction, as well as establishing the procedure for assigning capital construction objects erected in whole or in part at the expense of the budgets of the budgetary system of the Russian Federation [2].

The Federal Law establishes a requirement for specialists in the organization of engineering surveys, organization of architectural and construction

design or construction (hereinafter — specialists) to perform their labor functions in accordance with professional standards approved by the federal executive authority authorized by the Government of the Russian Federation [3].

The minimum requirements to be met by individuals applying for specialist status are being clarified. These include the presence of a general work experience in the profession, specialty or direction of training in the field of construction. Training in the field of construction can be reduced from ten years to five years, provided that specialists undergo an independent qualification assessment for compliance with the provisions of the professional standard in accordance with Federal Law No. 238-FZ of July 3, 2016 On Independent Qualification Assessment [4]. Specialists in the organization of engineering surveys, architectural and construction design and construction, instead of advanced training every 5 years, must undergo an independent qualification assessment every 5 years. In addition, specialists should not have an outstanding or undelivered criminal record for committing an intentional crime. Organizations or sole proprietors who are members of self-regulating

- 1 State Duma of the Federal Assembly of the Russian Federation. URL: <http://duma.gov.ru>
- 2 Official Internet portal of legal information. URL: <http://www.pravo.gov.ru>
- 3 Rossiyskaya Gazeta. URL: <http://rg.ru>
- 4 ConsultantPlus. URL: <http://www.consultant.ru>
- 5 Garant.ru. URL: <http://www.garant.ru>
- 6 RBC Real Estate. URL: <http://reality.rbc.ru>

organizations (hereinafter referred to as SROs) in another region, not in the place of their registration, are required to transfer to the SRO of their region (if any) with the possibility of transferring their contributions to the compensation fund of the new SRO.

The issues of the return of excessively paid contributions to the compensation fund by a member of the SRO, as well as the funds of the compensation fund by the national association of the SRO at the request of a member of the excluded organization of the SRO are regulated. The list of documents confirming the compliance of specialists with the minimum requirements, the composition of information in national registers on working specialists, as well as the list of specialties and areas of training of specialists are established by the federal executive authority responsible for the development and implementation of state policy and regulatory regulation in the field of construction, architecture, urban planning.

The Federal Law clarifies the rules for the placement and investment of SRO compensation funds, the procedure for making decisions on investing such funds and the methods of their placement in credit institutions, in particular, the SRO is entitled to place the funds of its compensation fund under the terms of a bank deposit agreement in the currency of the Russian Federation in the same credit institution in which a special bank account is opened for the placement of compensation fund funds, in an amount not exceeding seventy-five percent of the amount of such compensation fund funds.

The relevant National Associations of SRO (NOPRIZ and NOSTROY) are responsible for the formation and maintenance of a Unified register of information about SRO members and their obligations. The composition of the information contained in the specified register, the procedure for its formation and maintenance are established by the Government of the Russian Federation.

The procedure for recognizing an object of capital construction as an emergency and subject to demolition or reconstruction is established, which should include measures to survey the actual condition of the object of capital construction, as well as a survey of the territory on which it is located. The decision to recognize a capital construction facility as an emergency and subject to demolition or reconstruction will be made by an authorized federal executive authority, an authorized state authority of a constituent entity of the Russian Federation or an authorized local government body, depending on whose ownership such an object is located.

The procedure and grounds for recognizing an object of capital construction as an emergency and subject to demolition or reconstruction will be established by the Government of the Russian Federation. The possibility and conditions of attributing capital construction projects erected in whole or in part at the expense of the budgets of the budgetary system of the Russian Federation to unfinished capital construction projects are fixed, while the list of grounds for attribution to unfinished capital construction projects can be supplemented by the Government of the Russian Federation and state authorities of the subjects of the Russian Federation.

It is planned to form federal and regional registers of unfinished capital construction projects. The procedure for the formation of such registers, the composition of the information included in them, as well as the procedure for providing such information, is established by the Government of the Russian Federation and the subject of the Russian Federation. The procedure for

submitting information about objects under construction, the procedure for developing, approving and monitoring the implementation of action plans to reduce the number of such objects is established by the federal executive authority authorized by the Government of the Russian Federation.

Federal Law No. 448-FZ of December 30, 2021 On ROS-KADASTR Public Law Company [5] and Federal Law No. 449-FZ of December 30, 2021 On Amendments to Certain Legislative Acts of the Russian Federation [6].

The laws govern the establishment of a public law company engaged in geodetic and cartographic activities, performing cadastral, land management work, etc. and amendments to the effective Russian legislation.

The Federal law establishes Roskadastr public law company (hereinafter — the company), defines its legal status, objectives, functions, powers, management bodies and their competence, sources of formation of the company's property, as well as the specifics of its reorganization and liquidation. The company is created by reorganizing joint-stock companies, the sole participant of which is the Russian Federation, one or more federal state institutions determined by the Government of the Russian Federation, in the form of transformation or with a simultaneous combination of transformation and incorporation (when reorganizing several federal state institutions or joint-stock companies) in order to exercise functions and powers of a public legal nature to provide public services in the fields of geodesy and cartography, land relations, state cadastral registration, state registration of rights to immovable property, cadastral valuation, as well as other functions and powers determined by the Government of the Russian Federation.

The founder of the company is the Russian Federation, while the company operates on the basis of the charter approved by the Government of the Russian Federation on the proposal of the federal executive authority authorized by the Government of the Russian Federation to carry out state cadastral registration of immovable property, state registration of rights to immovable property, maintenance of the Unified State Register of Real Estate (hereinafter — the right registration authority).

The rights registration body performs the functions and powers of the founder of the company on behalf of the Russian Federation in the field of preparation of internal documents of the company (employment contract, draft company charter, annual report, company development strategy) and control over compliance by the company's management bodies with the requirements of Federal Law and the company charter.

The Federal Law establishes that the company's activities include, among other things, work on the creation, operation, modernization of state information systems and resources, scientific and educational activities, as well as activities in the field of information technology development and research and development work. It is envisaged that the company's property is formed at the expense of property contributions from the Russian Federation, property received in succession, subsidies from the federal budget, as well as property acquired at the expense of property contributions from the Russian Federation, voluntary property contributions, income received by the company from its activities, and other income not prohibited by the legislation of the Russian Federation. The procedure and terms for the formation of

► the company's property are established by the Government of the Russian Federation in the part not regulated by Federal Law.

To implement the functions and powers assigned to the company, it is granted the right to carry out income-generating activities. The income from the company's activities is placed at the disposal of the company, while the fee for providing information from state registers and state funds is placed at the disposal of the company, unless otherwise established by the Budget Code of the Russian Federation, other federal laws and legal acts of the Government of the Russian Federation. The fee for providing information on the unified electronic cartographic basis must be paid to the federal budget in accordance with the budget legislation of the Russian Federation.

The Company has the right to dispose of its property in accordance with the legislation of the Russian Federation and its charter, while the Government of the Russian Federation establishes a list of the company's property, transactions subject to agreement with the Government of the Russian Federation.

The company's management bodies include the Supervisory board (the highest management body), the company's management board and the CEO. The regulation on the Supervisory Board is approved by the Government of the Russian Federation on the proposal of the rights registration body, the composition of the supervisory board should not exceed the number of seven members, while it should include the head of the rights registration body. Members of the Supervisory Board may be persons holding public positions, as well as persons who are state civil servants. The quantitative composition of the Management Board is determined by the company's charter, the General Director is appointed to the position for a period of five years by the Government of the Russian Federation on the proposal of the head of the rights registration body, agreed with the Supervisory Board [7].

The reorganization and liquidation of the company are carried out in accordance with the Civil Code of the Russian Federation and the legislation on public companies in the Russian Federation, while it is specified that the reorganization of the company can be carried out with a simultaneous combination of transformation and accession to it of one or more federal state institutions or joint-stock companies determined by the Government of the Russian Federation, on the basis of decisions of the Government of the Russian Federation. It is specified that from the date of the state registration of the company or its reorganization, the company is the legal successor of federal state institutions, joint-stock companies, through the reorganization of which it was created, as well as the legal successor of federal state institutions, joint-stock companies that are joined to the company during its reorganization with their simultaneous transformation.

In connection with the establishment of Roskadastr public law company, Federal Law No. 449-FZ of December 30, 2021 introduced corresponding amendments to the laws on geodesy, cartography and spatial data, state registration of real estate, shared-equity construction, cadastral activities, land management, state cadastral valuation, etc.

Federal Law No. 467-FZ of December 30, 2021 On Amendments to Article 57 of the Land Code of the Russian Federation [8].

The law regulates relations on compensation of losses in case of restriction of the rights of owners, owners and tenants of land plots, determines the procedure for compensation of losses caused by authorities or local self-government bodies.

Article 57 of the Land Code of the Russian Federation (hereinafter — Land Code) is amended to provide that when the rights of owners of land plots, land users, landowners and tenants of land plots, rightholders of real estate objects located on land plots are restricted, losses caused by lawful actions of state authorities and local self-government bodies are subject to compensation in accordance with Articles 57 and 57.1 of the Land Code [9].

Compensation for losses caused as a result of actions of state authorities or local self-government bodies that do not comply with the law or other regulatory legal acts, including those caused as a result of actions that do not comply with the law or other regulatory legal acts on the basis of decisions of such bodies, is carried out in accordance with civil legislation.

Federal Law No. 476-FZ of December 30, 2021 On Amendments to Certain Legislative Acts of the Russian Federation [10].

The law regulates relations related to the construction of individual residential buildings within the boundaries of low-rise housing complexes (LHC) under contracts for participation in shared construction, defines the concept of LHC, establishes requirements for the documentation of the developer of LHC, conditions for concluding contracts for participation in shared construction and obtaining project financing, determines the status of the property of LHC.

The Federal Law provides for the extension of Federal Law No. 214-FZ of December 30, 2004 On Participation in the Shared Construction of Apartment Buildings and Other Real Estate Objects and on Amendments to Certain Legislative Acts of the Russian Federation (hereinafter — Federal Law No. 214-FZ) to the construction of individual residential buildings within the boundaries of the territories of a low-rise residential complex (hereinafter — individual residential buildings), provided that such construction is carried out under contracts for participation in shared construction [11]. To this end, the Urban Planning and Housing Codes of the Russian Federation [12], as well as Federal Law No. 214-FZ, introduce the concepts of a low-rise residential complex and an apartment building, clarify the concept of a block-built house and expand the list of types of real estate objects that fall under the definition of shared-equity construction. In particular, the house of a blocked building is a residential building, blocked with other residential buildings in the same row by common side walls without openings and having a separate exit to the land plot. It is envisaged that in relation to houses of blocked construction, the number of floors of which does not exceed three, and the number of such houses in one row does not exceed ten, the examination of project documentation and the results of engineering surveys will not be carried out, their construction or reconstruction will be carried out without attracting funds from the budgets of the budgetary system of the Russian Federation. In relation to the construction of individual

housing construction projects, erected with the involvement of funds of participants in shared-equity construction, it will be necessary to obtain a construction permit.

The Housing Code of the Russian Federation introduces the concept of an apartment building as a building consisting of two or more apartments and including the common property of an apartment building and non-residential premises or parking spaces belonging to individual owners that are an integral structural part of an apartment building. Federal Law No. 214-FZ introduces the concept of a low-rise residential complex as a set of individual residential buildings and other objects belonging to the common property of the owners of such houses, the construction of which is carried out by the developer in accordance with the approved documentation on the layout of the territory, while an individual residential building on the basis of a contract of participation in shared construction is recognized as an object of shared construction.

The law defines the construction procedure and the composition of the common property of the owners of individual residential buildings intended for servicing individual residential buildings and meeting the needs of their owners, which may include, including engineering and transport infrastructure facilities, boiler houses, water towers, heating points, driveways, bike paths, pedestrian crossings, sidewalks, landscaping elements, playgrounds and sports grounds, recreation areas, parking areas, sites for placing containers for collecting solid municipal waste.

The law establishes that the construction of objects that should be part of the common property is allowed, provided that the participants in shared construction have the right of shared ownership of them. If such objects will not be part of the common property, then their construction is allowed on condition of their gratuitous transfer to state or municipal ownership. The approximate form of an agreement on the occurrence of a participant in shared construction of a share in the right of shared ownership of common property will be approved by the Government of the Russian Federation. The developer is granted the right to attract funds from participants in shared-equity construction for the construction of individual residential buildings, subject to the approval of the territory planning project and the territory surveying project, which define the boundaries of the territory of a low-rise residential complex, subject to obtaining one construction permit for the construction project or its stage.

The requirements are fixed for the developer who attracts funds from participants in shared-equity construction for the construction of individual residential buildings. In part, disclosure of information about the organization and its activities on the official website of the developer.

The Law establishes the subject matter of the contract of participation in shared-equity construction in respect of individual residential buildings and the conditions for its conclusion and execution. In the contract of participation in shared-equity construction in respect of individual residential buildings, a condition should be provided for the transfer by the developer to the participant of shared-equity construction of an individual residential building together with a land plot only after the completion of construction of all individual residential buildings within the boundaries of the territory of a low-rise residential complex, completion of construction of common property with engineering support systems, as well as obtaining a permit for commissioning and implementation of state cadastral

registration of all individual residential buildings, built as part of the construction project.

Escrow accounts should be used for settlements under the contract of participation in shared construction in respect of individual residential buildings within the boundaries of the territory of a low-rise residential complex.

The requirements are established to include in the developer's project declaration information about the project and the timing of the construction of individual residential buildings within the boundaries of the territory of a low-rise residential complex with a ban on making any subsequent changes. The Federal Law introduces corresponding amendments to the Land Code of the Russian Federation, as well as to eleven federal laws, in particular, Federal Laws No. 185-FZ of July 21, 2007 On the Fund for Assistance to Housing and Communal Services Reform [13], No. 161-FZ of July 24, 2008 On Assistance to Housing Construction Development [14], No. 218-FZ of July 13, 2015 On State Registration of Real Estate [15], No. 225-FZ dated July 13, 2015 On Assistance to the Development and Improvement of Management Efficiency in the Housing Sector and on Amendments to Certain Legislative Acts of the Russian Federation [16].

**Federal Law No. 493-FZ dated December 30, 2021
On Amendments to Article 7 of the Land Code
of the Russian Federation and Article 8 of the Federal
Law On State Registration of Real Estate [17].**

**The law regulates relations related to the permitted type
of use of the land plot, the main or conditionally permitted
type of use.**

The Federal Law introduces amendments to Article 7 (Composition of lands in the Russian Federation) of the Land Code of the Russian Federation, according to which the legal regime of lands is determined in accordance with federal laws based on belonging to a particular category of lands and their permitted use. In respect of a land plot, in accordance with federal laws, one or more basic, conditionally permitted or auxiliary types of permitted use of a land plot may be established. The main or conditionally permitted type of permitted use of a land plot is considered to be selected in relation to such a land plot from the date of entering information about it into the Unified State Register of Real Estate, while entering information about auxiliary types of permitted use of a land plot into the named register is not required.

The rightholder of the plot chooses any main or auxiliary type of permitted use from the territories provided for by urban zoning. In addition, the copyright holder may obtain permission for a conditionally permitted type of use.

The main or conditionally permitted type of permitted use of the site is considered to be selected in relation to such a site from the date of entering information about it into the Unified state register of real estate (EGRN). It is not required to enter data on auxiliary types of permitted use of the land plot into the EGRN.

In addition, if there is no information in the EGRN about the type of permitted use of the site or about the site, the type specified in the title document for this site issued before January 31, 1998 is considered selected.

The Federal Law introduces a corresponding amendment to Article 8 of Federal Law No. 218-FZ dated July 13, 2015 On State Registration of Real Estate [18].

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Новеллы российского законодательства в сфере строительства, экономики и управления недвижимостью в первом квартале 2022 года

В представленном аналитико-правовом анализе отражены изменения российского законодательства в сфере строительства, экономики, управления недвижимостью, управления жилищно-коммунальным комплексом.

В обзоре отражено нормативное правовое регулирование общественных отношений по вопросам деятельности отношений, связанных с возведением индивидуальных жилых домов в границах малоэтажных жилищных комплексов (МЖК) по договорам участия в долевом строительстве, вопросы требований к документации застройщика МЖК, условий заключения договоров участия в долевом строительстве, получения проектного финансирования, определения статуса имущества МЖК, вопросы независимой оценки квалификации специалистов в сфере строительства, их деятельности, а также требований, предъявляемых к указанным специалистам, вопросы создания публично-правовой компании «Роскадастр», осуществляющей геодезическую и картографическую деятельность, выполняющую кадастровые, землеустроительные работы, и т.п., отношения о возмещении убытков при ограничении прав собственников, владельцев и арендаторов земельных участков, определения порядка возмещения убытков, причиненных органами власти или органами местного самоуправления, отношения, связанные с разрешенным видом использования земельного участка, основного или условно разрешенного вида использования, и иные изменения в действующее российское законодательство.

Ключевые слова: изменения, дополнения, законодательства, нормативно-правовые акты, строительство, экономика, градостроительство, многоквартирный дом, ЖКХ, малоэтажные жилищные комплексы (МЖК), защита прав на земельные участки, виды разрешенного использования земельных участков, правовое положение публично-правовой компании «Роскадастр», условия заключения договоров участия в долевом строительстве, квалификация специалистов в сфере строительства, деятельность, требования, предъявляемые к специалистам в сфере строительства

Примечание: При формировании обзора использовалась информация открытых источников: сайт ГД РФ¹; Интернет-

портал правовой информации²; Интернет-портал «Российская газета»³; Справочная правовая система «КонсультантПлюс»³; Информационно-правовой портал «Гарант.ру»⁴, Информационный портал «РБК Недвижимость».

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17. О внесении изменений в статью 7 Земельного кодекса Российской Федерации и статью 8 Федерального закона «О государственной регистрации недвижимости» : Федеральный закон от 30.12.2021 № 493-ФЗ.

18. О государственной регистрации недвижимости : Федеральный закон от 13 июля 2015 года № 218-ФЗ.

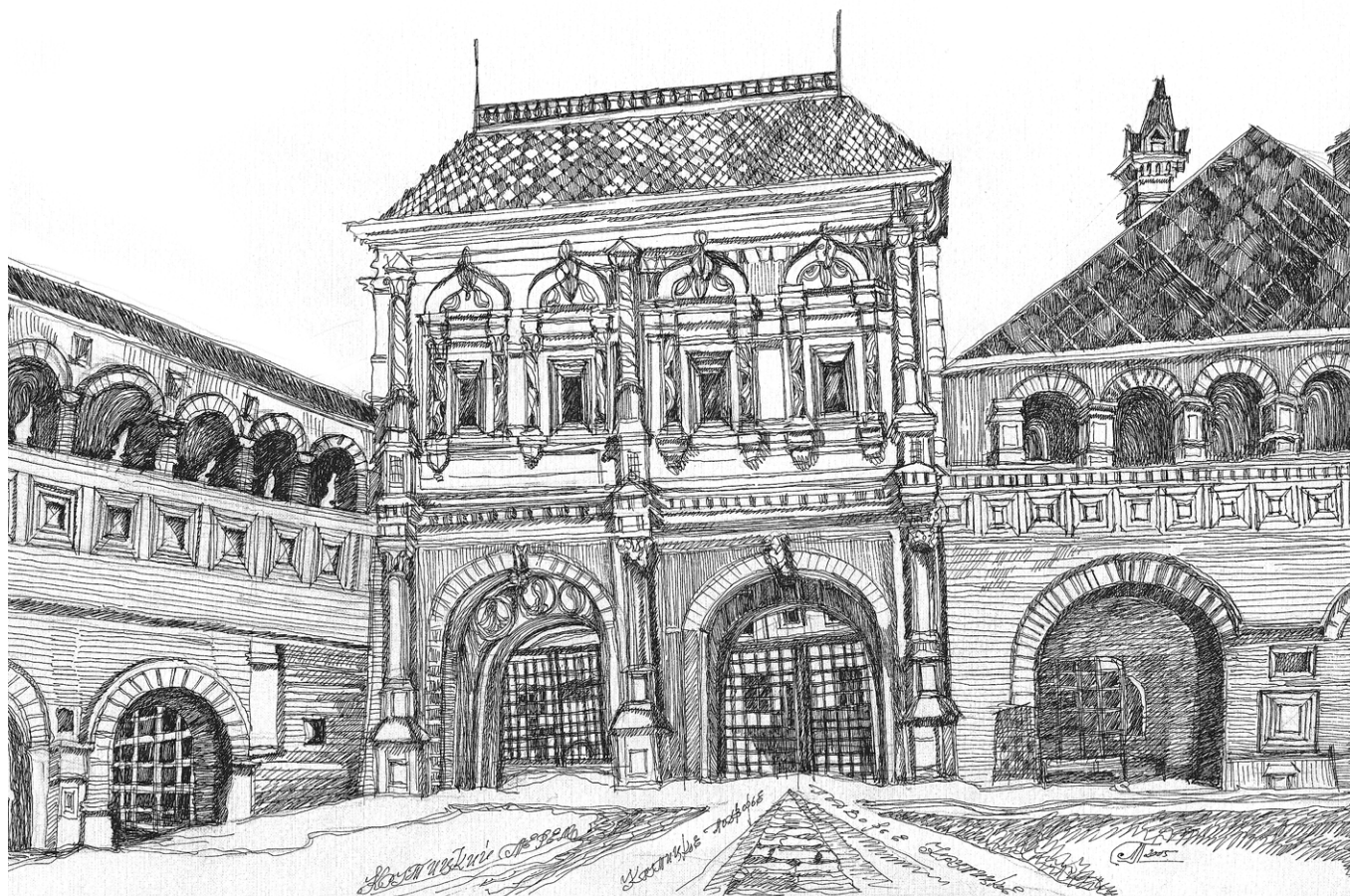
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