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Overview of changes in Russian legislation in the field of construction and real estate management in the first half of 2021

The review presents changes in Russian legislation in the field of construction, real estate management, and housing and communal complex management.

The overview reflects the normative legal regulation of public relations in the establishment and legal status of a single customer in the field of construction, the authority of local governments on attracting the management of the organization, creating a universal mechanism for integrated development of territories, the establishment of procedures to ensure housing rights of citizens in the implementation of the integrated development of residential areas, etc.

Keywords: changes, additions, legislation, regulations, judicial practice, construction, urban planning, apartment building, housing and utilities.



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Regulatory legal acts

Federal Law No. 435-FZ of December 22, 2020 "On the Public Law Company "Single customer in the field of construction" and on amendments to certain legislative acts of the Russian Federation" [1]

The law provides for the creation of a single customer in the field of construction of state-owned objects of the Russian Federation. This is a public law company that is formed as a result of the reorganization of federal state institutions determined by the Government of the Russian Federation.

The activities of a single customer will not affect the objects of transport infrastructure, law enforcement, defense, nuclear energy, and some others. A single customer will perform the functions of a state customer and a developer in relation to objects, types (categories) which will be established by the Government of the Russian Federation.

The structure of the company is defined, the order of its activity is prescribed.

The Law comes into force from the date of publication.

Federal law of December 22, 2020 No. 441-FZ "On amendments to article 161 of the Housing code of the Russian Federation" [2]

The law stipulates that in the absence of choice by the owners of apartment houses (AB) management method or the selected method is not implemented, and the management organization not specified, the AB is transmitted to the management of a local authority management organization.

The local self-government body within five working days from the date of making a decision on the determination of the management organization, notifies in writing all owners of premises in an apartment building of the adoption of this decision and the terms of the management agreement of the AB and the terms of termination of the management agreement with the management organization. The

contract for the management of an apartment building between the management organization and the owners of the premises in the apartment building is considered concluded from the date of the decision of the local government body to determine the management organization.

Federal law of December 29, 2020 No. 468-FZ "On amendments to the town planning code of the Russian Federation and certain legislative acts of the Russian Federation" [3]

The law provides for the reduction of the timing of individual procedures related to amending the rules of land use and development, grant permission to the deviation from the limiting parameters permitted the construction and preparation of the documentation on the territory planning.

The Government has the authority to determine the services provided in the field of urban development exclusively in electronic form.

The terms of consideration by the federal and regional bodies for the protection of cultural heritage objects of the draft master plan prepared for the territories of historical settlements, as well as the draft rules for land use and development, have been clarified.

Until January 1, 2022, the provision of support to SRO members in the field of construction in connection with the pandemic in terms of providing them with loans at the expense of the compensation fund to ensure the contractual obligations of the SRO has been extended.

The Law comes into force from the date of publication.

Federal Law No. 494-FZ of December 30, 2020 "On Amendments to the Urban Planning Code of the Russian Federation and certain legislative acts of the Russian Federation in order to ensure the integrated development of territories" [4]

The law establishes a universal mechanism for the integrated development of territories.

The Urban Planning and Land Codes of the Russian Federation are being amended to improve the institution of integrated development of territories.

▶ The definition of the concept of integrated development of territories is given as a set of measures carried out in accordance with the approved documentation on the planning of the territory and aimed at creating favorable living conditions for citizens, updating the living environment and common areas of settlements, urban districts.

The Urban Planning Code of the Russian Federation is supplemented by a new chapter 10, which establishes a single legal mechanism for regulating the integrated development of territories (the goals and types of integrated development of the territory, the procedure and cases for making decisions on the integrated development of the territory, the procedure for concluding agreements on the integrated development of the territory and the procedure for its implementation, the procedure for the withdrawal of land plots and other real estate objects for state and municipal needs for the purpose of integrated development of territories).

Decisions on the integrated development of the territory are made by the Government of the Russian Federation, the supreme executive body of state power of the subject of the Russian Federation, the head of the local administration and may provide for the need to build apartment buildings or houses of blocked development on the territory subject to integrated development, in which all residential premises or the minimum number of residential premises meet the conditions for classification as standard housing. It is established that the complex development of the territory of residential development is carried out in relation to the built-up territory of a settlement, urban district within one or more elements of the planning structure or their parts, within the boundaries of which there are apartment buildings recognized as emergency and subject to demolition or reconstruction, and apartment buildings that meet the criteria established by regulatory legal acts of the subjects of the Russian Federation, which include, in particular, indicators of excess physical wear of the main structural elements of houses, the presence of houses of the period of industrial housing construction according to standard projects, the limited-working technical condition of apartment buildings, as well as the lack of centralized systems of engineering and technical support in them.

Complex development of the territory of non-residential development is carried out in relation to the built-up territory, within the boundaries of which there are land plots on which capital construction objects are located, which are not apartment buildings and are recognized in accordance with the procedure established by the Government of the Russian Federation as emergency and subject to demolition or reconstruction, or the demolition or reconstruction of which is planned on the basis of targeted programs approved by the supreme executive authority of the subject of the Russian Federation, or recognized in accordance with civil legislation as unauthorized buildings, as well as not corresponding to the types of permitted use of land plots, land use and development rules, including the maximum parameters of construction and reconstruction of capital construction objects. When implementing the integrated development of the territory of non-residential development, the boundaries of such territory may not include apartment buildings, residential buildings of blocked development, objects of individual housing construction, garden houses, other objects of capital construction located on land plots intended for individual housing construction, personal subsidiary farming, gardening.

The Government of the Russian Federation, a regulatory legal act of a subject of the Russian Federation may define real estate objects that are not subject to withdrawal for state or municipal needs for the purpose of integrated development of the territory.

Draft decisions on the integrated development of residential development areas are subject to posting on the official websites of the supreme executive body of state power of the subject of the Russian Federation, the authorized local self-government body on the Internet or in the state or municipal information system that provides for public discussions, public hearings using the Internet, on the regional portal of state and municipal services, on information stands (information boards) equipped near the local administration building, in other places located on the territory in respect of which the draft decision on the integrated development of the territory has been prepared.

The integrated development of the territory is carried out independently by the Russian Federation, the subjects of the Russian Federation, municipalities, a legal entity defined by the Russian Federation, a legal entity defined by the subject of the Russian Federation, or persons with whom agreements on the integrated development of the territory have been concluded. The conclusion of an agreement on the integrated development of the territory is carried out based on the results of a tender, tender or auction (hereinafter referred to as the auction) and is concluded with the winner of the auction. The agreement on the integrated development of the territory should provide for the distribution of the obligations of its parties in the implementation of measures aimed at implementing the decision on the integrated development of the territory, as well as provide for benefits (if any) and measures of state support. The term of the agreement on the integrated development of the territory may not exceed the deadline for the implementation of the decision on the integrated development of the territory.

It is provided that the procedure for conducting auctions, the cases and the procedure for concluding the specified contract when conducting auctions in electronic form are established by the Government of the Russian Federation.

The Housing Code of the Russian Federation is being amended to establish the procedure for ensuring the housing rights of citizens in the implementation of the integrated development of the territory of residential development.

Owners of residential premises in apartment buildings located on the territory in respect of which a decision on its complex development has been made, in return for the vacated residential premises, are provided with compensation determined on the day preceding the day of making a decision on the complex development of the residential development territory (equivalent compensation). At the request of the owner of the residential premises, another residential premises must be provided in place of the vacated residential premises with its cost offset when determining the amount of compensation for the withdrawn residential premises.

If the owner of the residential premises does not own other residential premises, at his request, he retains the right to use the residential premises for a period of no more than six months after providing him with an equivalent compensation in cash.

The tenant of the residential premises in place of the vacated residential premises is provided with another residential premises under a social rental agreement, the total area, living area and number of rooms in which is not less than the total area, living area and number of rooms in the vacated residential premises, and in the presence of his written application, such residential premises can be provided to him on the right of ownership on the basis of a contract for the transfer of residential premises to ownership.

A regulatory legal act of a subject of the Russian Federation may provide for the right of owners of residential premises and tenants of residential premises to receive equivalent residential premises that

meet the established requirements (the living area of the premises and the number of rooms in the residential premises are not less than the living area and the number of rooms in the vacated residential premises; the total area of such residential premises exceeds the total area of the vacated residential premises; the residential premises meets the standards established by the regulatory legal act of the subject of the Russian Federation; residential premises are located in an apartment building located in the same settlement, city district, in which the apartment building is located, included in the boundaries of the territory of residential development, subject to complex development). The provision of equivalent compensation or residential premises with its cost offset, the provision of equivalent residential premises is carried out on the basis of an agreement concluded between the owner of the residential premises and an authorized state or local government body, a legal entity established by the Russian Federation or a subject of the Russian Federation, or a person with whom an agreement on the integrated development of the residential development territory has been concluded.

Owners of residential premises and tenants of residential premises who are registered as needing residential premises provided under social rental agreements, and who have been provided with other residential premises under social rental agreements or in ownership, retain the right to be registered as needing residential premises provided under social rental agreements.

Citizens in need of residential premises provided under social employment contracts, housing conditions are improved by providing residential premises at the rate of provision per person established by the subject of the Russian Federation, in an extraordinary manner, if this is provided for by a regulatory legal act of the subject of the Russian Federation.

Owners of residential premises have the right, upon written application, to purchase for an additional payment residential premises of a larger area and residential premises with a larger number of rooms than the residential premises provided to them, in accordance with the procedure established by a regulatory legal act of a subject of the Russian Federation, including at the expense of maternal (family) capital, housing subsidies and social payments, the right to receive which is also confirmed by state housing certificates.

This Federal Law comes into force from the date of its official publication.

Decree of the Government of the Russian Federation of December 31, 2020 No. 2395 "On public-law company «One customer in the construction industry»" [5]

In accordance with article 2 of the Federal law "On public-law company «One customer in the construction industry» and on amendments to certain legislative acts of the Russian Federation", the Russian Government has created a public-law company "One customer in the construction industry" (hereinafter – the company).

The company was created through the reorganization (with a simultaneous combination of transformation and merger) of the Federal state institution "Directorate of a single customer for Construction, Capital and Current Repairs of Educational and Scientific Facilities" of the Ministry of Construction and Housing and Communal Services of the Russian Federation, Moscow; Federal state institution "Joint Directorate of a Single Customer of the Ministry of Construction and Housing and Communal Services of the Russian Federation", Moscow; Federal State Institution "Directorate for the Construction, Reconstruction and Restoration of Cultural Objects" of the Ministry of Construction and Housing and Communal Services of

the Russian Federation, Moscow; Federal State Institution "North-Western Directorate for the Construction of Cultural Objects" of the Ministry of Construction and Housing and Communal Services of the Russian Federation, St. Petersburg; Federal State institution "Directorate for the Development of Physical Culture and Sports", Moscow; Federal State Institution "Directorate of a single customer-developer of health facilities" of the Ministry of Construction and Housing and Communal Services of the Russian Federation, Moscow.

The functions and powers of the founder of the company on behalf of the Russian Federation are performed by the Ministry of Construction and Housing and Communal Services of the Russian Federation.

The subject of the company's activities is to ensure the implementation of engineering surveys, architectural and construction design, construction, reconstruction (including works on the preservation of cultural heritage), capital repairs, demolition of capital construction projects and other activities.

The company's charter, the rules for appointing the General director and the working procedure of the Supervisory Board were approved.

The subject of the company's activities is to ensure the implementation of engineering surveys, architectural and construction design, construction, reconstruction (including works on the preservation of cultural heritage objects (historical and cultural monuments) of the peoples of the Russian Federation), capital repairs, demolition (hereinafter referred to as construction) of capital construction objects and other activities in accordance with Russian legislation.

The company was established for the purpose of performing the functions of a state customer and developer in ensuring the construction of capital construction projects that are or will be in the state ownership of the Russian Federation (hereinafter referred to as the objects).

The Company performs the following functions: preparation of draft decisions on the implementation of state capital investments in objects included or subject to inclusion in the company's program of activities, as well as making decisions on the implementation of capital investments in accordance with the budget legislation of the Russian Federation; preparation of proposals for the inclusion of objects in the federal targeted investment program and making changes to it; ensuring the construction of objects included in the company's program of activities; implementation of organizational, expert-analytical, informational and legal support for the construction of objects included in the company's program of activities; organization of research, development and technological works in connection with the construction of objects included in the company's program of activities; implementation of other activities provided for by federal laws and regulatory legal acts of the Government of the Russian Federation.

In order to perform the functions and powers assigned to it, the company has the right to carry out the following activities: organization of construction of capital construction facilities, technical equipment of capital construction facilities, including the purchase and supply of material and technical resources, registration and (or) receipt of initial permits; organization of work on the development, approval, approval and issuance of a design assignment; organization of the survey of the technical condition of capital construction objects and monitoring of the technical condition of capital construction objects; organization and control of the terms of development of project documentation, its acceptance and transfer to the general

▶ contractor; organization of obtaining the expert opinion of the project documentation and the results of engineering surveys, including in terms of verifying the accuracy of determining the estimated cost of construction, reconstruction, capital repairs of capital construction objects, works on the preservation of cultural heritage objects (historical and cultural monuments) of the peoples of the Russian Federation, the conclusion of the state environmental expertise of the project documentation, as well as the approval and storage of the project documentation in accordance with the legislation of the Russian Federation; organization of obtaining permits for the construction of capital construction objects, as well as documents necessary for obtaining such permits and performing construction works; organization of obtaining permits for the commissioning of capital construction objects in accordance with the established procedure; conducting construction control, concluding state contracts (contracts) for the provision of construction control services; performing design supervision at capital construction objects; organization of activities for obtaining technical conditions for connection (technological connection) of capital construction objects to the networks of engineering and technical support necessary for the organization and execution of construction and installation and other works in relation to capital construction objects; organization of registration of documents in accordance with the established procedure, allowing the cutting and replanting of trees, fruit and berry plantations, the transfer of engineering and technical support networks, the demolition of buildings and structures that prevent the implementation of construction and installation and other works in relation to capital construction projects, including the determination of the volume and places of export and import of soil and fertile soil layer to ensure the implementation of construction and installation and other works in relation to capital construction projects; ensuring the implementation of cadastral works and works on the technical inventory of capital construction objects and the preparation of documents necessary for securing the right of operational management or economic management of capital construction objects for state institutions and state unitary enterprises or making changes to the information about capital construction objects contained in the Unified State Register of Real Estate and Other State registers; formation of a library of standard design solutions used in the field of construction of capital construction objects; acquisition of property necessary for the construction of capital construction objects, including special equipment and equipment, ownership and disposal of this property, implementation of its operation; acquisition of land plots necessary for the construction of capital construction objects; participation, in accordance with the procedure established by the legislation of the Russian Federation, in the implementation of investment projects in the field of construction of capital construction facilities, including the development of design and estimate documentation and the execution of works on the construction of such facilities; interaction with federal state bodies, executive authorities of the subjects of the Russian Federation, local self-government bodies and organizations on issues within the competence of the company; within its competence, the implementation of international cooperation in the field of construction, including the conclusion of agreements with international organizations and other activities.

The Decree came into force from the moment of its publication.

Decree of the Government of the Russian Federation No. 2460 of December 31, 2020 "On Approval of the Rules for certification, re-certification for the right to prepare expert opinions on project documentation and (or) expert opinions on the results of engineering surveys, including the extension of the

validity period of the qualification certificate for the right to prepare expert opinions on project documentation and (or) expert opinions on the results of engineering surveys" [6]

In accordance with Part 6 of Article 491 of the Urban Planning Code of the Russian Federation, the Rules establish the procedure for certification for the right to prepare conclusions of state and non-state expertise of project documentation and (or) examination of the results of engineering surveys (hereinafter—conclusions), re-certification for the right to prepare conclusions, including the procedure for extending the validity of the qualification certificate for the right to prepare conclusions. Certification is carried out by the Ministry of Construction and Housing and Communal Services of the Russian Federation in respect of individuals who intend to obtain the right to prepare opinions (hereinafter referred to as applicants).

The certification is conducted based on the results of the applicant's knowledge test in the form of a certification session, including testing, a written exam and an interview.

Re-certification is carried out in respect of individuals who were previously certified in the declared field of activity from among the areas of activity included in the list established by the Ministry of Construction and Housing and Communal Services of the Russian Federation for the right to prepare conclusions. The certificate is valid throughout the Russian Federation for 5 years.

Decree of the Government of the Russian Federation of January 16, 2021 No. 9 "On amendments to the regulations on the Federal State Information System «Unified Portal of State and Municipal Services (Functions)»" [7]

Meetings of homeowners can be held through the unified portal of state and municipal services (hereinafter – the portal). On the basis of the portal, a service has been created for holding meetings in absentia of homeowners in electronic form.

On the portal, it is possible to submit questions for voting by the owner of the premises, provided that they automatically confirm the information about the ownership of the premises in an apartment building in accordance with the data from the federal state information system for maintaining the Unified State Register of Real Estate or by the person who manages the apartment building (hereinafter referred to as — initiator), provided that the initiator is registered in the unified identification and authentication system in accordance with the procedure established by law by posting a message in electronic form on the unified portal; it is possible to inform the owners of premises in an apartment building about the general meeting of owners of premises in absentia using the unified portal, as well as about the results of the general meeting of owners of premises; the possibility of voting of owners of premises in an apartment building in absentia using a single portal and making decisions on issues put to the vote, provided that the information about the ownership of the owners of premises in an apartment building intending to take part in the vote is confirmed automatically in accordance with the data from the federal register management system and subject to the condition of registration in the unified identification and authentication system in accordance with the procedure established by the legislation of the Russian Federation; it is possible to form the minutes of the general meeting of owners of premises on the basis of decisions taken on issues put to the vote, in absentia, using a single portal; interaction with the state information system of housing and communal services, including for the purpose of placing in the specified system in automated mode messages about the general meeting of owners of premises, decisions taken by the general meeting of owners of premises, voting results, minutes of general meetings of owners of premises on the agenda of the general

meeting of owners of premises, decisions of owners of premises in an apartment building on issues put to the vote, the federal register management system and other state information systems that contain information necessary to ensure that the general meeting of owners of premises is held in absentia using a single portal.

REFERENCES

1. Federal Law No. 435-FZ of December 22, 2020 "On the Public Law Company "Single customer in the field of construction" and on amendments to certain legislative acts of the Russian Federation".
2. Federal law of December 22, 2020 No. 441-FZ "On amendments to article 161 of the Housing code of the Russian Federation".
3. Federal law of December 29, 2020 No. 468-FZ "On amendments to the town planning code of the Russian Federation and certain legislative acts of the Russian Federation".
4. Federal Law No. 494-FZ of December 30, 2020 "On Amendments to the Urban Planning Code of the Russian Federation and certain legislative acts of the Russian Federation in order to ensure the integrated development of territories".
5. Decree of the Government of the Russian Federation of December 31, 2020 No. 2395 "On public-law company "One customer in the construction industry"».
6. Decree of the Government of the Russian Federation No. 2460 of December 31, 2020 "On Approval of the Rules for certification, re-

tification for the right to prepare expert opinions on project documentation and (or) expert opinions on the results of engineering surveys, including the extension of the validity period of the qualification certificate for the right to prepare expert opinions on project documentation and (or) expert opinions on the results of engineering surveys".

7. Decree of the Government of the Russian Federation of January 16, 2021 No. 9 "On amendments to the regulations on the Federal State Information System "Unified Portal of State and Municipal Services (Functions)".

Note: when forming the review, information from open sources was used: the website of the State Duma of the Federation Council of the Russian Federation¹; Internet portal of legal information²; Internet portal "Rossiyskaya Gazeta"³; Reference legal system "ConsultantPlus"⁴; Information and legal portal "Garant.ru"⁵; Information portal "RBC Real Estate"⁶.

1 State Duma of the Federal Assembly of the Russian Federation. URL: <http://duma.gov.ru/en/>

2 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://realty.rbc.ru>

Обзор изменений российского законодательства в сфере строительства и управления недвижимостью в первом полугодии 2021 г.

В обзоре представлены изменения российского законодательства в сфере строительства, управления недвижимостью и жилищно-коммунальным комплексом.

В обзоре отражено нормативное правовое регулирование общественных отношений по вопросам создания и правового положения единого заказчика в области строительства, полномочий органов местного самоуправления в области привлечения управляющей организации, создания универсального механизма комплексного развития территорий, установления порядка обеспечения жилищных прав граждан при осуществлении комплексного развития территории жилой застройки и т.п.

Ключевые слова: изменения, дополнения, законодательство, нормативно-правовые акты, судебная практика, строительство, градостроительство, многоквартирный дом, ЖКХ

ЛИТЕРАТУРА

1. О публично-правовой компании «Единый заказчик в сфере строительства» и о внесении изменений в отдельные законодательные акты Российской Федерации : Федеральный закон от 22 декабря 2020 г. № 435-ФЗ.
2. О внесении изменения в статью 161 Жилищного кодекса Российской Федерации : Федеральный закон от 22 декабря 2020 г. № 441-ФЗ.
3. О внесении изменений в Градостроительный кодекс Российской Федерации и отдельные законодательные акты Российской Федерации : Федеральный закон от 29 декабря 2020 г. № 468-ФЗ.
4. О внесении изменений в Градостроительный кодекс Российской Федерации и отдельные законодательные акты Российской Федерации в целях обеспечения комплексного развития территорий : Федеральный закон от 30 декабря 2020 г. № 494-ФЗ.
5. О публично-правовой компании «Единый заказчик в сфере строительства» : Постановление Правительства РФ от 31 декабря 2020 г. № 2395.

6. Об утверждении Правил аттестации, переаттестации на право подготовки заключений экспертизы проектной документации и (или) экспертизы результатов инженерных изысканий, в том числе продления срока действия квалификационного аттестата на право подготовки заключений экспертизы проектной документации и (или) экспертизы результатов инженерных изысканий : Постановление Правительства РФ от 31 декабря 2020 г. № 2460.

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Примечание: при формировании обзора использовалась информация открытых источников: сайт ГД СФ РФ¹; Интернет-портал правовой информации²; Интернет-портал «Российская газета»³; Справочная правовая система «КонсультантПлюс»⁴; Информационно-правовой портал «Гарант.ру»⁵; Информационный портал «РБК Недвижимость»⁶.

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