

## Ukrainian Parliament introduces amendments to a number of laws regarding the simplification of the procedure for the acquisition and realization of rights to land

Law of Ukraine No. 1702-VI “*On the Introduction of Amendments into Certain Legislative Acts of Ukraine regarding the Simplifying of the Procedure for the Acquisition of Rights to Land*” came into force today, 10 December 2009 (the “**Law**”).

The Law introduces amendments to the Land Code of Ukraine, the Civil Code of Ukraine, the Law of Ukraine “On the Land Lease”, and several other legislative acts governing land relations. The main amendments introduced by the Law address the following issues:

### **Determination of the Allowed Land Use**

The Land Code now establishes that the specific use of a land plot within one land category is determined at the sole discretion of the land owner or user (subject to certain limited exceptions), provided that such use complies with the requirements for the use of the land of the particular land category, the city planning documentation, and the land planning documentation.

This finally resolves an unclear and much discussed legal issue as to whether a land plot may be used for purposes, which are consistent with the category of the land plot, but which do not comply with the specific use of the land plot indicated as the designated use of such land plot in the land title document.

### **Transfer of Title to the Land Plot in Case of the Transfer of Title to the Building**

The Law provides that, starting from 1 January 2010, in the case of the acquisition of the ownership of a residential or other building or capital structure, the title to the underlying land plot terminates. The new owner of the property acquires the ownership or use right to the land plot, or the part of it on which the property is located, without the change of its zoning. If the underlying land is a leasehold, rather than a freehold, then the new owner acquires the right to use the land plot on the same terms and conditions as the previous land user.

In order to be valid, the agreement on the acquisition of the ownership rights to a residential or other building or capital structure must now indicate the total area and the cadastre number of the land plot on which the building is located.

### **Approval of the Land Allocation Project and the Location of the Object**

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In order to simplify the transfer of public land into private use and ownership, the Law provides for the establishment of permanent local commissions, which will review and approve the land planning documentation. In particular, these permanent commissions will review and approve the application for the location of an object, as well as the land allocation projects.

The Law establishes the maximum term for the review of the applications and documents regarding the allocation of public land into private use or ownership. In particular, a land allocation project must now be approved within three months, while an application for the location of an object must be approved within one month.

### **Competitive Sale of Land**

The Law extends the list of exceptions to the general requirement that freehold or leasehold title to state and municipal land in Ukraine can be transferred to an individual or a company only through a competitive sale. In particular, the Law establishes that land plots (the rights to them) are not subject to sale on a competitive basis if the transfer takes place under the following circumstances:

- the development of green zones for public use, and the construction of properties which will service the local community;
- a land plot is granted instead of another land plot being alienated for public needs or due to public necessity and/or such land plot is returned to the former owner;
- the land plot is granted for public needs or due to public necessity; or
- the renewal of a land lease.

The adoption of the Law is an important step towards simplifying the procedure for the acquisition and realization of rights to land in Ukraine. Nevertheless, not all of the amendments introduced by the Law are in compliance with other existing legislative acts. Thus, the implementation of the provisions of the Law may, in practice, be complicated.

### **Additional Notes**

For further information on the topic please contact Lina Nemchenko, Partner ([Lina.Nemchenko@BAKERNET.com](mailto:Lina.Nemchenko@BAKERNET.com)) at the Kyiv Office of Baker & McKenzie by telephone (380 44 590 0101), facsimile (380 44 590 0110), or e-mail ([kyiv\\_info@bakernet.com](mailto:kyiv_info@bakernet.com))

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