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Law enforcement practice in the field of regulation rent for the land.

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ABSTRACT

The active law-making in the field of land relations at the federal level makes the appropriate changes and regional legislation. At the same time, especially the Russian Federation federal unit implies not so much the presence of local laws, as the difference between its regions. This entails different approaches of regions in the regulation of land relations. These features of the regulation of land relations caused the need for a thorough analysis of the legal regulation of land relations, especially with regard to the regulation of land rent.

Keywords: regional law-making, the rent, the regional administration, the judicial practice.

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INTRODUCTION

In accordance with Art. 72 Constitution of Russian Federation the joint jurisdiction of the Russian Federation and the regions of the Russian Federation are issues of ownership, use and disposal of land; delimitation of state property; and legislation. According to the joint jurisdiction of the Russian Federation and subject of the Russian Federation federal laws shall issued and received in accordance with, and other normative legal acts of the Russian Federation. The laws and other normative legal acts subject of the Russian Federation may not contravene federal laws. In case of conflict between a federal law and an act issued in the Russian Federation, the federal law (Art. 76 Constitution of Russian Federation).

It is important to note three principal provisions of the legal regulation of land relations in the Russian Federation:

1) Land in the Russian Federation is considered in three meanings:

- a) the land as a natural object under, protection as an essential part of nature;
- b) the land as a natural resource to be used as a means of production in agriculture and forestry and the basis of economic and other activities;
- c) land as real property or an object property rights and other rights to land;

2) property relations of possession, use and disposal of land, as well as on transactions with them are governed by civil law, unless otherwise provided for land, forest, water legislation, legislation on subsoil and environmental protection, with special federal laws;

3) in the regulation of land relations, the principle of differentiation of the rules of civil law and the rules of the land legislation in terms of regulation of land use, as well as state regulation of land privatization principle.

RESULTS AND DISCUSSION

The active law-making in the field of land relations at the federal level makes the appropriate changes and regional legislation. Thus, the law of the Stavropol Territory from 12.04.2010 number 21-CL, "On some issues of regulation of land relations" loses force from July 1, 2016 in connection with the adoption of the Law of Stavropol Krai of 04.09.2015 number 36 CL, which provides for the conclusion of the lease of land at the auction held in the form of an auction, except for cases stipulated by the Land Code of the Russian Federation, including the cases of:

1) of land to legal entities in accordance with the decision of the Governor of Stavropol Territory, taken in accordance with established procedure for allocation of socio-cultural and communal purpose, if such facilities match the priorities and objectives defined in the program of socio-economic development of the Stavropol Territory, government programs Stavropol Territory, departmental target programs;

2) of land to legal entities in accordance with the decision of the Governor of Stavropol Territory, taken in the manner prescribed by them for the implementation of major investment projects in the Stavropol Territory subject to compliance with these investment projects in the aggregate the following criteria:

a) development projects should be provided for capital investments in the amount of not less than 100 million rubles in fixed assets (fixed assets), including the costs of new construction, reconstruction and modernization of existing businesses, acquisition of machinery, equipment, tools, inventory Design and development works and other costs;

b) must have documentary evidence of financial support the implementation of the investment project in the amount of not less than 50 percent of its value;

c) investment project should be recommended to the implementation of the Coordination Council for the development of investment activity in the Stavropol Territory, created by the Government of Stavropol Territory;

3) land Cossack societies made to the State Register of Cossack communities in the Russian Federation for the implementation of agricultural production, preservation and development of traditional ways of life

and management of Cossack societies Information on the territory of rural settlements and rural settlements in the territory of the urban district of the Stavropol Territory.

According to Art. 22 of the Act, unless otherwise stipulated by the Land Code of Russian Federation and other federal laws, the procedure for determining the amount of rent for the land, located in the Stavropol Territory property, as well as land ownership is not delimited, lease without bidding, established by the Government of Stavropol Territory. The exception is land located in the countryside, the cities of regional importance, and busy real estate owned by the consumer cooperation organizations. For them, the rent is set at 0.3 percent of the cadastral value of the leased land.

In accordance with paragraph 3 of Art. 39.7 LC RF, as well as the power to act before March 1, 2015 the provisions of para. 3 of Art. 65 LC RF and paragraph 10 of Art. 3 of the Federal Law dated October 25, 2001 № 137-FL "On introduction of the Land Code of the Russian Federation", and in accordance with the Law of the Stavropol Region "On some issues of regulation of land relations," the Resolution of the Government of Stavropol Territory from 16.04.2008 № 64-p (ed. by 12.27.2013) "On approval of determining the amount of the rent, as well as the order, conditions and terms of payment of rent and granting a deferral (installment) payment of lease payments in the current fiscal year for the use of land, located in the Stavropol Territory property, and land, state property not delimited ", according to which the rent for use of land owned by the Stavropol Territory, and the land plots whose state ownership is not differentiated, is set for the land as a whole in the form specified in a fixed amount with periodically payments.

However, July 24, 2015 the Stavropol Regional Court declared Annex 2 to the said Resolution № 64-n is not applicable, since the determination of the basic amount of rent for the land were not taken into account the basic principles of determining rents, approved by RF Government Decree of 16 July 2009 № 582 «On the basic principles of determining the rent under the lease of land owned by the state or municipal property, and on the rules for determining the amount of rent, as well as the order, conditions and terms of payment of rent for land ownership in the Russian Federation». Namely - the principle of economic feasibility, according to which the rent is set at a rate corresponding to the yield of the land, taking into account the category of land to which assigned a plot of land, and its permitted use, as well as the state regulation of tariffs for goods (works, services) of organizations engaged in economic activities on this land plot, and subsidies granted to organizations engaged in activities on this plot of land.

This position regional court of the Russian Federation, was supported by a higher court - namely, the Russian Supreme Court. Thus, it was stated that the economically unjustified increase in rents in violation of terms of use of the land plot allocated for development works or construction of capital construction projects not related to housing, do not comply with the law, because it does not respect the principle of predictability of calculating the amount of rent.

Also bases invalidation regional regulations governing rent issues, are a violation of:

- The principle of uniformity of the procedure for calculating the amount of rent;
- The principle of maximum permissible simplify the calculation of rent, according to which provides for the possibility of determining the rent on the basis of the cadastral value;
- Principle of non-deterioration of the economic condition of the land users and landowners at renewal of rights to land, according to which the rent as determined in connection with the re-registration of land rights, shall not exceed by more than 2 times the size of the land tax in respect of such land areas;
- The principle of taking into account the need to support socially relevant activities through the establishment of the amount of rent to the extent not exceeding the size of the land tax, as well as protect the interests of persons exempted from the payment of land tax.
- The principle of the prohibition of unjustified preference, according to which the procedure for calculating the amount of rent for the land owned by the relevant public legal education and related to the same category of land that is used or intended for the same activities and provided on the same grounds

should not vary. Acts of public authority, which involve a variety of methods for determining the variable rents, which leads to the establishment of various sizes rents for similar sites violate the principle of the prohibition of unjustified preferences.

CONCLUSION

Please note that the land lease matters are in balance private and public interests. To date, revenues from the lease of land in the Stavropol region account for a significant share of the local budget and the region. Therefore, any changes in land laws have on the one hand not to worsen the conditions of doing business, especially small and medium, and on the other to create the financial basis for the development of regions, towns and villages of the region. Accounting for these principles to establish the amount of rent will allow to balance regional and federal legislation.

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