



Leading the Way in Russian Law®

Capital gains

With the adoption of the Land Code in 2001 the government secured the rights of business entities in land privatisations of state and municipal property in Moscow.

The main requirement was the presence of capital construction objects on such land, including those built on the site of destroyed, demolished or reconstructed buildings and facilities, as well as the ownership of property rights for any such objects.

On November 22 2011 in the third reading, the State Duma accepted Federal Law 321954-4 on amendments to Articles 2 and 3 of the federal law on the introduction of the Land Code of the Russian Federation, and certain legislative acts of the Russian Federation, under which the period of privatization was extended to July 1 2012, allowing legal entities to privatise land for 20 or 45 per cent of its cadastral value.

At the same time, land privatisation at the most preferential rate of 20 per cent is possible for those entities that have privatised real estate objects located in the area of public property. An application for redemption of land made before July 1 2011 does not guarantee repayment at a reduced rate to the applicant, as the fundamental guarantee is the publication of instruction by the Department of Land Resources of Moscow granting ownership of land with a calculation of its value. Such an instruction is to be issued within 340 days of the date of application. It should be noted that this is likely to be the last time the state will extend the time for land plot redemption at a preferential rate. As of July 2012 land plot redemption value will be equal to precisely 100 per cent of the cadastral value. But even with an increase in redemption value, privatisation is unlikely to become less attractive, as the market value of privatised land is many times greater than the cost of its privatisation and will increase capitalization of business.

All change

The process of land privatisation in Moscow has undergone many changes. For example, the companies that managed to get title to land in Moscow before 2010 were the exceptions due to the fact that the city's former government expressed unwillingness to give up the right to land. But these exceptions became the rule with a new mayor and massive rearrangements in the Moscow government— many institutions have changed their leaders in Moscow and the Department of Land Resources, which plays a central role in the process of land privatisation in Moscow, is no exception.

Now the process of privatisation is more transparent and its timeline more realistic. So if the owner of the building does not have problems with documents at the time of application, the procedure takes no more than two or three months.

Outside interest

The attitude of business to the privatisation of land has fundamentally changed, and foreign companies have responded to this by seeking to take advantage of more favourable privatisation terms. The most striking example this year was the privatisation of the large land plot located in the south of Moscow occupied by a major tobacco factory.

There are many benefits for foreign investors under the new code. The discounted rates make an attractive incentive, and the transparent and timely way in which applications are handled adds to investor confidence.

The opportunities for foreign companies to invest in privatised land in Moscow look set to continue long after the period of preferential redemption rates closes. As the value of privatised land already exceeds the cadastral value of the publicly owned land even before redevelopment, the benefits of the scheme are clear.