

Registration of Rights and the State Real Estate Cadastre in Russia

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SUMMARY

The present report covers the current system for state registration of rights alongside with the State Real Estate Cadastre in Russia.

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Presently, an active work is being done in the Russian Federation to establish the real estate cadastre. In compliance with the Civil Code of the Russian Federation, real estate encompasses a wide range of facilities, including land plots, buildings and structures. The decision to create such a cadastre was adopted back in 2004 and found itself in the establishment of a special unit – Federal Agency of Real Estate Cadastre.

However, actual records in the real estate cadastre started in 2008 after coming into force of the Federal Law “On state real estate cadastre” of 2007. This law appeared a logical continuation and development of another Federal Law “On state land cadastre” adopted in 2000. Thus, the state land cadastre with its rich history of establishment and development formed the ground for the new one.

Currently, the system for the state registration of rights and real estate cadastre on the territory of the Russian Federation is based on the following:

- Federal body in the field of the state registration of rights to immovable property and cadastral registration - **Russian State Register**;
- Territorial bodies – **Russian State Register Directorates** in the field of the state registration of rights to immovable property and cadastral registration, located on the territory of the Russian Federation entities.

The following units were established on the territory of the Russian Federation:

- 82 territorial bodies with 1441 territorial departments registered;
- 81 federal budget-funded institutions "Cadastre Palace";
- 39 state unitary enterprises subordinate to Russian State Register.

Total number of employees in the Russian State Register amounts to 76821.

Central office includes 729 people.

Territorial bodies employ 43042 people.

Subordinate enterprises have 33050 employees.

Main directions of the Russian State Register's activity are the following:

- State registration of rights for immovable property and transactions herewith;
- State real estate cadastre;
- State land surveillance;
- Land regulation;
- State land monitoring;
- Control and surveillance in the field of self-regulating organizations;
- Geodesy and cartography.

STATE REGISTRATION OF RIGHTS FOR IMMOVABLE PROPERTY

The Russian State Register and its territorial bodies perform state registration of rights to immovable property in compliance with the Federal Law "On State Registration of Rights" of 1997.

State registration of rights to immovable property in the Russian Federation is a legal act of recognition and confirmation by the state of emerging, limitations (encumbrances), transfer or termination of rights to immovable property in compliance with the Civil Code of the Russian Federation.

State registration is the only proof of the registered rights existence.

A registered right can be disputed only in the court.

State registration of rights is conducted throughout the whole territory of the Russian Federation according to the legally stipulated system of records regarding rights to each real estate facility in the Unified State Register of Rights to Immovable Property (hereinafter referred to as the "USRR").

The date of the state registration of rights shall be the date of entering a corresponding record regarding the rights into Unified State Register of Rights.

State registration of rights shall be made in the place of real estate location within the registration circuit.

Rights to immovable property raised prior to coming into force of the Federal Law "On State Registration of Rights" shall be deemed legally valid subject to absence of their state registration imposed by the abovementioned Federal Law. State registration of such rights shall be made on desire of their owners.

State registration of the right to immovable property raised prior to coming into force of the Federal Law is required in the procedure of state registration of transfer of the right, its limitation (encumbrance) arising after the Federal Law coming into force.

Rights to immovable property are liable to state registration in the Unified State Register of Rights.

The Unified State Register of Rights contains information on the existing and terminated rights to real estate facilities as well as data on the specified facilities and rights holders.

An integral part of the Unified State Register of Rights are files containing documents of title on real estate and documents logs.

Sections in the Unified State Register of Rights containing records about rights to real estate facility as well as arising, transfer and termination of such rights, about limitations (encumbrances) are identified in the specified register under cadastre number, which is the state indication number, not repeated in the course of time on the territory of the Russian Federation. A cadastre number is given to a real estate facility in the result of its cadastral registration.

The file with title documents is identified under the same number as the corresponding section of the Unified State Register of Rights.

The following objects are liable to State registration:

- Title to immovable property;
- Other proprietary rights to immovable property:
 - right of economic management;
 - right of operational management;

- right of lifetime ownership with hereditary succession;
- right of sustained use.
- Transactions with immovable property.
- Limitations (encumbrances) of rights to immovable property (including easement, mortgage, trust management and lease).

The procedure for state registration of rights:

- Acceptance of documents submitted for state registration of rights;
- Legal due diligence of documents and checking legal grounds of the transaction;
- Finding the absence of conflicts between the claimed rights and already registered ones for the real estate facility as well as other grounds to reject or suspend the state registration of rights;
- Entering records into the Unified State Register of Rights;
- Effecting endorsements on title documents and issuing certificates on completed state registration of rights.

The completed state registration of arising and transfer of rights to immovable property is proved by certificate of state registration of rights.

The completed state registration of agreements and other transactions is certified by way of effecting a special registration endorsement on the document specifying the transaction content.

The form of certificates and special endorsements is prescribed by Regulations of records entering into the Unified State Register of Rights.

THE STATE REAL ESTATE CADASTRE IN RUSSIA

The ground of the real estate cadastre is the land cadastre. Due to the objective reasons to include into the state real estate cadastre the data on other real estate facilities, in particular, on buildings, structures, premises and facilities of non-completed construction, the transition period has been established and prolonged up to 01.01.2013.

In the result, the state real estate cadastre as well as the land cadastre contains the data on land plots and as reference information providing compliance with regulations of cadastre management, i.e. data on rights to the corresponding land plots, limitations of such rights and rights holders.

According to the Federal law "On State Real Estate Cadastre" of 2007 (hereinafter referred to as the "Law on Cadastre") the following data are included into the cadastre: data on borders of the Russian Federation entities territories, borders of municipal units and settlements, data on zones with special conditions of territories use, as well as on territorial zones stipulated by regulations of land use and development on the territory of municipal units.

The state real estate cadastre contains the following sections:

- real estate register;
- cadastre files;
- cadastre maps.

The real estate register is a systemized code of records regarding real estate facilities in the text forms by way of describing the data on such facilities as entered into the state real estate cadastre.

Cadastre files are a unity of assembled and systematized documents on the basis of which the corresponding data were recorded in the state real estate cadastre.

The cadastre maps are thematic maps compiled on the basis of a unified cartography. Both graphically and in a text form the data recorded in the state real estate cadastre are displayed. These data are on land plots, buildings, structures, on facilities of non-completed construction, on crossing the State borders of the Russian Federation, on borders between the Russian Federation entities, borders of municipal units, borders of settlements, territorial zones, zones with special use of territories, cadastre division of the Russian Federation territory, as well as reference to location of the basic boundary networks.

The Russian State Register compiles cadastre maps designed to be used by an unlimited number of people (hereinafter referred to as the public cadastre maps).

Public cadastre maps are liable to be placed on official web-site of a cadastral registration body on the Internet.

APPLICATION OF MODERN TECHNOLOGIES IN REAL ESTATE CADASTRE

Technologies applied in real estate cadastre has undergone material changes; thus, the cadastre is maintained in electronic version, paper version are preserved for documents submitted for state cadastral registration of real estate facilities. Switch to electronic technologies, including the use of digital maps, sets higher requirements to the specialists' qualification performing the duties of cadastre maintenance. Moreover, under the usage of the available information by the state there arises a vital need to create an aggregated information resource on the level of the Russian Federation and its entity in contrast to the one distributed among the territories of municipal units.

For the Russian State Register to provide state services in the electronic format, an Internet portal was developed in respect of the state services provided by the Russian State Register in the electronic format.

The portal of state services provided by the Russian State Register include the following:

- Providing data on territorial departments: working hours, contact details, location map, web-cameras;
- On-line free access to publicly available reference information from the State real estate cadastre (GKN) and state register of rights (EGRP);
- Providing on request data from the state real estate cadastre in the form of legally valid electronic documents (for individuals only);
- Interactive public cadastre map;
- Questionnaire "Organization of individuals' reception";
- Registration of facilities in the cadastre (electronically);
- Free distribution of the required software for further filling the application form on electronic registration in the cadastre.

PROVIDING DATA FROM THE STATE REGISTER OF RIGHTS AND STATE REAL ESTATE CADASTRE

Data contained in the State Register of Rights are publicly available (except for the data access to which is limited by the Federal Law) and are provided by the Russian State Register on request of any entity.

The data from the State Register of Rights are provided in the form of extracts and certificates.

An extract from the State Register of Rights contains the following:

- description of a real estate facility;
- registered rights to it;
- limitations (encumbrances) of rights;
- data on legal entitlements existing as at the date of the extract as well as claims in respect of the given real estate facility.

The maximum period for the data provision from the State Register of Rights is 5 business days starting from the date of request receipt.

Publicly available data recorded in the state real estate cadastre are provided by the Russian Register of Rights on request filed by any person, including by mail, via publicly communication network or other technical means of communication by way of providing access to the information resource containing data of the state real estate cadastre.

The data input in the state real estate cadastre are provided in the following form:

- copies of the document on the basis of which the data on the real estate facility were recorded in the state real estate cadastre;
- cadastre extract on the real estate facility;
- cadastre passport of the real estate facility;
- cadastre plan of the territory;
- in other form set forth in compliance with the law.

Cadastre extract on a real estate facility is an extract from the state real estate cadastre containing the required data on the real estate facility. Should a real estate facility (to which the data are requested) no longer exist in compliance with the cadastre data, any cadastre extract about this facility alongside with the requested data shall contain cadastre information regarding the termination of such facility existence.

Cadastre passport on a real estate facility is an extract from the state real estate cadastre containing unique parameters of a real estate facility as well as other data depending on the type of a real estate facility in compliance with the present Federal law.

Cadastre plan of the territory is a thematic plan of a cadastre quarter or any other territory specified in the corresponding request within the cadastre quarter, which was compiled on a cartographic basis and depicting the requested data in a graphic and textual form.

The Russian State Register has the right on request of any person to provide the information obtained on the basis of the publicly available consolidated cadastre information, including analytical information. Such information can be placed on the Internet on the Russian State Register official web-site.

As of today, creating the state real estate cadastre is a top priority task of the State.

The state real estate cadastre shall be the ground for the mechanism of the civil turnover of the immovable property since it is the one, which shall contain all the official data regarding the qualitative and quantitative parameters of all real estate facilities: coordinates of the real estate facilities on the location, data on borders of land plots, description of buildings and structures; and their basic value. The tasks to form other systems related to real estate can be achieved subject to the availability of such a comprehensive basic information system. Among other systems one can define system of real estate rights registration and its taxation, state real estate management as well as guaranteed ownership rights protection from the part of the State.

BIOGRAPHICAL NOTES

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Born on 8 October 1980 in Kurgan.

In 2002, graduated with honours from Kurgan State University specializing in Jurisprudence.

Since 2002 have been residing in Saint-Petersburg, working both in Saint-Petersburg and Moscow.

In 2005-2007, obtained additional specialty in Saint-Petersburg State University.

Since 2004 have been working in the capacity of Head of Legal Service of the MORION Group of Companies, Saint Petersburg.

Have been employed as a lawyer in N.C.P. «Cadastral engineers»

Experience in the area of state registration of rights and cadastre registration amounts to over 10 years.

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