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ELSEVIER



SRN
Societal Research Network

Universal
Impact Factor



INTERNATIONAL EXPERIENCE IN ASSESSING THE AMOUNT OF COMPENSATION IN REAL ESTATE SEIZURES

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Abstract: The study describes international experience in assessing material compensation in forced seizure of real estate

Keywords: authorised body acts, land plot, compensation, specific rules, market value.

The authorised body acts as a customer for the service of assessing the amount of compensation to be paid and, if necessary, as a customer for the necessary cadastral actions, for example, on behalf of the right holder, the agency performs actions on cadastral registration of the alienated land plot, if such land plot was not previously registered or was registered improperly.

The amount of compensation for alienated real estate is determined as follows:

* Compensation for land plots (or other terminated rights to land plots) shall include:

(a) the market value of privately owned land plots or the market value of other rights to land plots to be terminated belonging to the state (lease rights and other special rights to such land plots), subject to the following conditions:

- the market value of the lease right to the land plot is determined based on the term of the lease agreement;

- the market value of other special rights to state or municipal land plots is determined in accordance with specific rules depending on the value of the land plot or lease right;

b) losses caused by the alienation of land plots, including losses incurred due to the failure of right holders to fulfill their obligations to third parties, including under contracts signed with such third parties;

c) loss of profit;

* The amount of compensation for alienation of a part of a land plot (or termination of rights to a part of a land plot) shall be determined as the difference between the respective market value of the entire original land plot and that part retained by the right holder;

* Compensation for other real estate located on the alienated land plots or for termination of rights to such real estate shall be included in the amount of compensation for the alienated land plots (or termination of rights thereto) and shall be determined as the market value of such real estate or other rights thereto to be terminated;

* The market value of the real estate or other rights to real estate is based on the permitted use of the real estate as of the date preceding the date of the decision to alienate the land plot, i.e. without taking into account planned changes in the permitted use ;

* The amount of compensation is determined no later than 60 days prior to sending the agreement on alienation of immovable property to the right holder;

* Compensation shall not include:

a) immovable property and any permanent improvements made in violation of the authorised use of the land to be expropriated or in violation of agreements on the use of land owned by the State or municipality;

b) immovable property and any permanent improvements made after the right

holder has been notified of the expropriation decision in force (except for permanent improvements made for the safety of the immovable property, preventing extraordinary circumstances and mitigating their consequences, except for construction or reconstruction in accordance with a construction permit issued prior to notification of such decision);

c) transactions signed by the right holder of the immovable property after notification of the effective decision on alienation, if such transactions entail an increase in the amount of losses included in the amount of compensation;

* The assessment of the market value of the alienated real estate must be carried out by a professional appraiser (an individual who is a member of a self-regulated organisation of appraisers and has liability insurance in accordance with Federal Law No. 135-FZ "On Appraisal Activities in the Russian Federation").

References.

1.Federal Law of July 29, 1998 No. 135-FZ "On appraisal activities in the Russian Federation"

2.William McCluskey and Frances Plimmer, "The Routledge Handbook of Contemporary Issues in Expropriation" - New York, 2019.

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