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Problems in Modern Land Legislation Concerning High-Rise Buildings

Modern situation is that Ukrainian citizens do not think about what the areas of their high-rise buildings include. This leads to different land disputes between residents, government, building companies and companies of home maintenance.

The problem is in an imperfection of legislation. In Ukrainian Land code there is no accurate order of acquisition right of permanent land use by associations of co-owners of high-rise buildings. To put it another way, according to the Ukrainian law associations of dwellers can receive their land for permanent use or co-ownership, but they do not know how.

Nowadays there are a lot of cases of “illegal” land captures. For example, one building company built an underground parking place for their twenty-storied house instead of other high-rise building playground and a stadium in the one of Kiev streets. The company argued that the land belongs to them and all buildings are legal. According to Article 42 of the Land code, the size and configuration of lands with high-rise buildings and the buildings they own, constructions and green areas are determined on the basis of the relevant land management documents. Consequently, building company has the land management project on the occasion of allotment of land, where land borders are defined and the territory of parking place is affiliated to them. Additionally, Department of Civil Society Development Strategies of The National Institute for Strategic Studies has examined some disadvantages of modern legislative basis in the article “Problems of Property Rights of High-Rise Buildings’ Co-Owners”. The first problem is the absence of unified determination for composition of high-rise buildings’ areas. The second problem consists in lack of coordination norms for the areas of such buildings. Nevertheless, the main problem is the absence of the legislative procedure of allocation the high-rise buildings’ lands. The solution is to secure a clear legislative procedure of lands allocation to associations. In other words, it is necessary to correct Articles 42, 118, 120 and 121 of Land code.

The Ukrainian legislative basis needs to be changed. For example, associations of co-owners have to move from the category of a legal person into a civil category. Also, Section 6 of Article 118 in Land code should be augmented by including the lands with high-rise buildings into the list of end use. It will help to simplify the procedure for land allotment for citizens, land surveyors and government. Therefore, more citizenry will co-operate more actively and readily with associations of co-owners of high-rise buildings and privatize lands where their buildings and green areas are located. To sum up, changes in legislative basis could prevent actual land disputes in the future.