

Land Reform and Property Markets in Russia

St. Petersburg was the host city for an international conference on “Land Reform and the Emerging Property Market in Russia,” organized by the Leontief Centre for Social and Economic Research and the Lincoln Institute in May 2001. Experts from government agencies, commercial entities and academic institutions in Russia, the U.S. and Europe convened to assess the progress of Russian land reforms and discuss future implementation. The conference focused on two key points: the principal obstacles to be targeted by various land reform actions and the triggers that are needed to set a series of decisive steps in motion.

From an academic and historical perspective, the unfolding story of Russian land privatization is intellectually engaging and, from a practical point of view, the process and its implications have far-reaching implications for the Russian people. The Lincoln Institute’s interest in convening the conference and its continuing involvement in Russia allow us to learn from local experts, to share Institute experience and perspectives from other countries, and to provide support for ongoing land reform efforts. The conference revealed the need for professional training for Russians working in the emerging land market, and the Lincoln Institute and the Leontief Centre are developing curriculum and training courses to be offered in St. Petersburg later this year.

LEONID LIMONOV

In the post-Soviet period, privatization of the real estate sector in Russia has been most advanced in its urban centers, and St. Petersburg was one of the first cities to start selling land plots occupied by either privatized (i.e., former state) or new businesses. Yet even there, by 2000 only about 5 percent of urban land had been privatized. The main problems with regard to the land market in Russia arise from the lack of clear definitions provided by Russian law; the failure of the law to develop fundamental provisions contained in the Russian Constitution regarding private ownership of land; and the consequent lack of firm guarantees for private property and inadequate protections through the courts. A brief history of land policies in Russia will help to provide a context for the current situation.

Land in Russian History

Land has been a central social and economic force throughout Russian history, although Russia has never had private ownership of land for any length of time or in any full sense of the term. Until the beginning of the twentieth century, state property was the predominant form of property ownership. Moreover, a consider-

able part of that property, including land, was unregistered and unconnected to the broader economy. It was only in 1906 that the Stolypin reforms began destroying the *obschchina* (the existing feudal-like peasant communities) as the main structure upon which allotment-based land use depended, while extending private land ownership through land tenure regulations, a peasants’ land bank and a resettlement policy. In this pre-Soviet period, Russia’s towns and cities experienced a growing market in urban land plots that were already built

upon or earmarked for further development.

Following the revolutions of 1917, private ownership of land was abolished, civil transactions involving land were forbidden, and land was transferred to the use of all who worked on it. A 1918 decree abolished private ownership of real estate in cities and towns, and the process of nationalizing land was completed with the adoption of the Land Code of the Russian Socialist Federation of Soviet Republics in 1922. During the New Economic Policy (NEP) of the 1920s, land could be leased



This area along the Moika River near the historic center of St. Petersburg is becoming an up-scale neighborhood of privately renovated residential and commercial buildings.

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for periods of not more than six years (although subletting was not allowed) and tenants involved in working the land could use additional hired labor. However, by 1929 large-scale collectivization was under way, resulting in the creation of so-called cooperative-collective property. Leasing of land was abolished, and hiring labor on small peasant holdings was forbidden. Under socialism land was neither sold nor bought, and all land transactions were prosecutable under the law.

The situation today is reminiscent of that at the end of the nineteenth century, prior to the Stolypin reforms, when land law consisted of piecemeal legislation applying to ownership of different types of land. Private ownership of land was introduced in 1990 by the Constitution of the Russian Socialist Federation of Soviet Republics, beginning a gradual liquidation of the state monopoly on land ownership. The 1990 laws "Regarding Peasant Smallholdings" and "Regarding Land Reform" permitted citizens to hold in private ownership plots of land for use as smallholdings for horticultural purposes, the construction of houses and other personal uses. The terminology of these laws included "the right of use of land," "life-long possession with the right to pass on as an inheritance," "rent" and "property." This wide variety of bases for property rights necessitated subsequent amendments of existing legislation, a development that was also stimulated by the collapse of the USSR.

Over the past decade, land relations continued to evolve. In December 1991 the president of the Russian Federation issued a decree and the *Duma* passed a resolution that allowed for the privatization of land in a two-step process. First the decree granted collective ownership of land and other assets to collective and soviet farms. Subsequently, shares of farms could be owned by the individuals who worked on them. Only at the end of 2001 was the right to own land, which is inseparable from the right to buy and sell land, ratified in Russia, and this right applied only to urban lands. However, the prohibition on the sale of agricultural

land has no absolute force; laws introduced since 1991 permit the sale of land that is to be used as a private subsidiary smallholding for construction of a one-family residential building, or by members of stock-rearing and garage cooperatives.

According to a former minister for agriculture, there is a flourishing black market in land, which denies the general public access to information on the market values of land and negatively affects economic development. The absence of shared information on land market values means the absence of an objective criteria against which to measure land use efficiency. The extensive black market in leasing also deprives governmental budgets of property tax income since real estate cannot be properly taxed without accurate information on levels of ground rent.

Under the current Civil Code of the Russian Federation (RF), land plots are considered to be objects of real estate and rights to these plots are categorized as property rights. The land privatization process was initiated in 1997 but then stalled because the RF government overruled buyout prices established by local administrations that were perceived as too low. The RF government indexed prices at a rate higher than locally established lease rates, thus undermining the transition

to a private market in real estate. At the same time, under certain conditions (such as stable lease rates or minimal investment conditions), long-term leasing may turn out to be an acceptable substitute for title ownership. On the issue of real estate registration, the existing Russian system does not protect *bona fide* purchasers, nor does it provide adequate reimbursement when a purchaser's title is contested. Furthermore, purchasers are normally unable to get a comprehensive review to determine whether their title is clear in the first place.

Obstacles to Land Reform

While the evolution of a private market in land is encumbered by history and politics, the participants at the St. Petersburg conference were interested in changes and adjustments in practice that land professionals might make to facilitate the transition. Zoning and surveying, as well as investment decisions, are among the areas where changes in practice might be made at the level of local government to address some of the following obstacles to land reform.

Slow implementation of legal zoning

Legal zoning, though mandatory according to the RF Urban Planning Code, is



These former imperial stables are now dilapidated and occupied by auto repair workshops.

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being introduced slowly in Russian cities. Some speakers attributed this situation to reluctant municipalities that cling to the “operative space” currently under their direct control, for fear of losing that land. Others maintained that key municipal officials have a number of more specific concerns: (1) their professional image and the stability of their administration depend on the actions they take to attract investment; (2) the arrival of new investors automatically expands the amount of “operative space;” and (3) the realization that even a perfect system of urban planning regulations will leave out a sufficient number of special cases that will have to be considered separately. Further, municipal officers are citizens, too, and they sincerely wish to raise more funds for their cities’ renovations. The problem is that their attention is too often distracted by more immediate economic and political challenges. Nevertheless, an increasing number of Russian cities are introducing legal zoning regulation systems, including Novgorod Veliky, Ufa, Kazan, Irkutsk, Khabarovsk, Tver, Chelyabinsk and Nizhni Novgorod.

St. Petersburg’s recent practice of issuing “by-plot urban planning regulations” raised questions about whether or not they conform to the RF Urban Planning Code, which defines urban planning regulations as a set of requirements and restrictions applicable to *zones*, not to individual units or parcels. The practice of issuing plot-specific regulations was found dramatically inefficient for a number of reasons. First, it precludes making investment decisions from a representative sample of properties, since each property in the city is subject to different regulations. Second, it is more labor intensive than applying regulations to an entire zone. Finally, it is laden with higher developer risks, thus impairing the city’s overall investment profile. Participants from other cities noted that these delays in introducing zonal urban planning regulations evidently clashes with St. Petersburg’s image as the frontrunner of Russia’s reforms in legal and institutional real estate market development.



The renovation of the Kapella Theatre and adjacent architecturally significant buildings and open spaces has increased land values and attracted developers and investors to rehabilitate other surrounding properties. This pilot project was completed with assistance from the World Bank.

Inferior surveying

Many land-related problems in Russian cities stem from inferior surveying. Some plots are limited by the uncertainty of the parcel and/or building boundaries, and others suffer from poor siting. That is, many properties that are new to the market have no direct access to transport, communications, storm water collection systems, or other infrastructure networks. The result is a host of deficient properties that in turn inhibit the development of adjacent properties, and can bring down the value of an entire urban area. The conference discussions emphasized the importance (or even inevitability) of conducting an extensive urban land survey, which could provide more certainty to both investors and developers, reduce the time needed to prepare investment proposals, and help to expand property ownership.

Confusion over privatization of apartments

Most urban residents have not taken advantage of the recent privatization of apartments. Not only did this initiative fail to produce a new class of motivated and effective property owners capable of acting as responsible customers for hous-

ing maintenance agencies, but it created baffling new legal challenges as well. No one in St. Petersburg, where the privatization of apartments is most advanced, understands who (and on what legal basis) should be in charge of issuing permits to reconstruct general-purpose premises or reassign residential apartments for nonresidential use. As a result, apartment owners can exercise only a limited set of property rights, which in turn hampers the extension of the private real estate market. The conference participants discussed to what extent a law requiring apartment owners to purchase condominiums could help address the situation. Moreover, given an environment where apartment owners have limited experience with such ownership arrangements, discussion centered around whether economic stimulation or economic sanctions would be most successful in dealing with those who fail to meet their ownership obligations.

Investment in infrastructure

The complicated issues of engineering and infrastructure support for construction and renovation projects are evident in St. Petersburg. When determining title payments, the city takes into account the

developer's contributions to urban infrastructure development and actively mediates between the developer and the resource supplier. Provision of full, authentic and timely information is the principal factor behind the attractiveness of real estate investments, since this information allows for the quick and safe selection of investment opportunities. St. Petersburg has made progress in this direction, but its database will remain inadequate until the city fully adopts urban planning regulations (i.e., legal zoning), formulates clear heritage protection standards for its many historic properties, undertakes an overall land survey, allocates areas for municipal developments, and maps at least the contours of infrastructure networks.

Intergovernmental taxation systems

A reform of intergovernmental budget relations is necessary to improve the current taxation system. Most cities receive budget support from their *oblasts* (similar to U.S. states). Thus, they are not interested in reporting increased property tax revenues, because those revenues would then be subject to redistribution to the oblast. For example, to simplify its taxation system and stimulate investment in real estate, the city of Novgorod Veliky replaced its two-part land and property tax with a single real estate tax. For legal persons, as opposed to business establishments, the tax is charged on full title owners only. Despite a certain dip in the tax proceeds from the unified tax (compared to revenues from the former two taxes), the city's overall tax revenues increased because of a higher profit-tax yield due to enhanced business activities.

Lessons from Russia and around the World

The RF government's meetings and decisions on the notorious electric supply failures in the Far East and floods in Yakutia during the late spring of 2001 show that, unfortunately, only large-scale

catastrophic events seem to be able to galvanize public administrators to change their old ways. One would like to believe that less destructive developments could stimulate action as well. For example, it would be worthwhile comparing investment activities in different Russian cities to see if such activity varies with the development levels of their local regulatory bases, the amount and types of information provided to developers, and the time required to develop project applications and the time it takes for local government bureaucrats to make project decisions.

The case of recent German urban planning history is instructive to the situation in Russia. Beginning in 1990, the German system lost some of its characteristically strict reliance on municipal plans and initiatives for development and moved toward more reliance on private-sector initiatives. Now it is more common for private developers, rather than municipalities, to prepare detailed zoning plans, and then to purchase and develop the site. However, a direct borrowing of this German method is not recommended for Russian cities, since any system must take into account specific local challenges and cultural traditions.

American participants had a similar view on the risks of borrowing planning methods from other countries. Although the general guidelines and principles may seem to be similar across countries or jurisdictions, local regulations, procedures and techniques can vary significantly due to different historical precedents and the specificity of current challenges. Some principles to consider include the following:

- balancing of municipal and private interests;
- minimization of risks by preliminary establishment of all major planning and regulatory requirements;
- transparency and public discussion of planning and development decisions by the municipality;
- accessibility and reliability of information;

- minimization of costs involved with engineering services due to the monopoly that municipalities often hold on the provision of these services; and
- creation of a mechanism for appealing administrative decisions.

This opinion was supported by Russian speakers who referred to urban planning regulations in Russia before 1917 or to the current situation that compels cities to illegally hide their revenue growth and thus evidently hamper economic development. In closing, H. James Brown, president of the Lincoln Institute, reminded the participants that it is important to build mutually acceptable decisions rather than to continue disputes and quests for the ultimate (and not always absolute) truth. He called on those present to listen to their opponents' arguments in order to arrive at fruitful agreements, not to waste time and effort on trying to prove one's own case. **L**

LEONID LIMONOV is the research director of the Leontief Centre for Social and Economic Research in St. Petersburg. Contact: limonov@leontief.ru

■ REFERENCES

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For More Information

The working paper cited above and some of the papers produced for the conference are posted on the Lincoln Institute's website under the banner Past Course Materials (www.lincolminst.edu). To order the printed version of the working paper (75 pages, \$14.00. Code: WP00LL1), contact help@lincolminst.edu or call 1-800-LAND-USE (800-526-3873).