



Key 2012 legislative changes and upcoming legislative initiatives affecting real estate market

**Sergey Trakhtenberg, partner
Ekaterina Lapidus, senior associate**

Salans, FMC and SNR Denton Combine to Form Dentons

Three leading law firms, Salans LLP, Fraser Milner Casgrain (FMC) LLP and SNR Denton, have approved a combination to create a new global law firm which will be known as:

DENTONS

Salans FMC SNR Denton

Dentons will rank as the **7th** largest law firm in the world, measured by number of lawyers and professionals.

The new firm will connect clients to the skill and expertise of more than **2,500** talented lawyers and professionals in **79** locations and **52** countries across Europe, the US, the UK, Canada, Asia Pacific, Central Asia, the Middle East, and Africa.

For further information and details regarding the new firm, visit
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Civil Code amendments

- **As of March 1, 2013** the law abolishes the state registration of the following agreements:
 - residential sale-purchase agreements (art. 558 CC RF)
 - enterprise sale agreements (art. 560 CC RF)
 - gift of real estate agreements (art. 574 CC RF)
 - annuity agreements (art. 584 CC RF)
- The CC RF still requires the registration of:
 - immovable property lease agreements (art. 609 CC RF)
 - building lease agreements (art. 651 CC RF)
 - enterprise lease agreements (art. 658 CC RF)

Federal Law № 302-FZ on Amendments to Chapters 1, 2, 3 and 4 of Part One of the Civil Code of the Russian Federation (the "CC RF") of December 30, 2012

Terms expired

- **On July 1, 2012**, the ‘discount period’ for purchasing land plots expired
- Now the purchase price for a land plot shall be 100% of its cadastral value

Federal Law No.427-FZ on Amendments to Articles 2 and 3 of the Federal Law “on the Implementation of the Land Code of the Russian Federation” and Certain Legislative Acts of the Russian Federation of December 12, 2011

- **On July 1, 2012** expired terms for re-registering the right of permanent use of land plots into ownership or lease
- **From January 1, 2013**, the fine for a breach of the said terms is from 20,000 to 100,000 rubles

- Exception: land plots with linear infrastructure (until **January 1, 2015**)

Federal Law No.212-FZ on Amendments to Legislative Acts of the Russian Federation with Regard to Clarifying the Conditions and Procedure for Acquiring Rights to Land Plots under State or Municipal Ownership of July 24, 2007

Regulatory continuity in territories joined to Moscow

- A preferential right of the City of Moscow to purchase agricultural land re-zoned as settlement land until **January 1, 2025**
- A possibility for state and local authorities until **December 31, 2014** to make decision re:
 - on reservation or seizure, including by purchase, of land plots for state or municipal needs
 - the transfer of land from one category to another and on the preparation of territorial planning documentation
 - issuing construction permits without the need to apply Moscow land use and development rules
- For SME - single tax on imputed income for a two year period
- Gradual equalization of the utilities and electricity rates in the joined territories

Federal Law of June 29, 2012 № 96-FZ on Amendments to Certain Legislative Acts of the Russian Federation

Changes in construction law (1)

- **Non-state expert assessment and procedure for appealing expert opinions of design documentation and/or survey results**
 - An alternative to state expert assessment of design documentation and/or survey results
 - Appealing the findings of state and non-state expert assessments in an administrative proceeding within 3 years of its approval (appeal in Minregion division)
 - A register of accredited expert organizations (both state and non-state) – maintained by Rosakkreditatsia
 - Requirements for organizations applying for the right to conduct a non-state expert assessment have been changed
 - 2012 roadmap – planned cancellation of any expertise in 2014

Federal Law № 337-FZ on Amendments to the RF Town-planning Code and Certain Legal Acts of the Russian Federation of 28.11.2011

Changes in construction law (2)

- **Term of validity of specifications for connecting properties to utilities systems (technical conditions):**

- extension of the validity of specifications for connecting capital structures to utilities systems: at least 5 years (complex housing development) /3 years (in other cases)
- speeding-up the process of preparing and obtaining construction permits

Federal Law № 318-FZ on Amendments to the RF Town-planning Code and Certain Legal Acts of the Russian Federation of 30.12.2012

- **Changes in liability in real estate construction:**

- increase of the liability of owners, developers, technical customers and contractors in relation to consumers (both individuals and legal entities)
- in certain circumstances, federal or regional authorities may also be liable

Federal Law № 337-FZ on Amendments to the RF Town-planning Code and Certain Legal Acts of the Russian Federation of 28.11.2011

Changes in construction law (3)

- **Performance of a developer's obligations must be secured by one of the following methods, at the developer's choice (will come into force at the beginning of 2014):**
 - Bank guarantee
 - Specific requirements (e.g., at least 5 years of banking activity, charter capital of 200 mln. rubles, capital base of at least 1 bln. rubles)
 - Effective for 2 years longer than the term provided by the agreement to transfer the shared construction property to the participant
 - Insurance in relation to the developer's civil liability
 - Civil insurance agreement or mutual insurance of developers
 - Beneficiaries are participants
 - No franchise
 - Effective for 2 years longer than the term provided by the agreement to transfer the shared construction property to the participant
 - Specific requirements to insurance payments
- **No state registration without a bank suretyship or insurance being included in the set of documents for state registration**

Federal Law No.294-FZ on Amendments to Certain Legal Acts of the Russian Federation of December 30, 2012

Cultural heritage buildings

- Discount lease of cultural heritage buildings in damaged state (1 RUB for 1 sq. m. for Moscow objects (local significance) / 30% lease rent for objects of Federal significance)

RF Government Resolution No. 1005 dated October 4, 2012 on the Discount Lease

- Liability for “unlawful” demolition of cultural heritage buildings – possible obligation to restore demolished building

Decision of the Council for Preservation of the Cultural Heritage of St. Petersburg

- Historical settlement:

- Clarified the concept and the subject of preservation of historical settlement (e.g. landscaping, facades, composition)
- Federal/ territorial bodies to prepare and approve the list of federal/ territorial historical settlements
- Protected monuments of a specific historical settlement shall be approved for each historical settlement
- Local authorities when preparing drafts of general plans for territories and land use and development rules (PZZ) are subject to approval by:
 - the RF Ministry of Culture (for federally significant historical settlements)
 - the executive authority of the relevant region tasked with protecting cultural heritage sites (for regionally significant historical settlements)

Federal Law No.179-FZ dated November 12, 2012 on Amendments to the Federal Law “on Cultural Heritage Sites (Historical and Cultural Monuments) of the Peoples of the Russian Federation” and the Town-planning Code of the Russian Federation.

Expected amendments in real estate law in 2013

- Civil Code amendment package:
 - immovable property and underlying land tied together
 - mandatory state registration of gratuitous use agreements of real estate
- Privatization of the cultural heritage properties:
 - restoration conditions as encumbrance of ownership right
 - provision of a bank guarantee for 100% of financing (Moscow level)
- Construction regulation:
 - grounds for issuance of a commissioning permit (no requirements change during the construction and commissioning phase)
 - ban on changing the height of buildings (establishment of height and construction density limits)
 - introduction of liability of chief architect/engineer in design and authorial supervision - replacement of expert examinations with a declaration of conformity (exception: hazardous, technically complex, and unique)
- Introduction of the lease agreement for future things (SAC Plenum №73 as amended)
- Changes in Moscow enlargement – new developments in various areas
- Anticipation that deadlines for PZZ adoption to be further delayed
- Cancel all land categories – PZZ to replace
- Tax on RE to be linked to cadastral value (it will increase)
- Potential amendments with respect to agricultural land
 - In 2012 clarified the concept of improperly used agricultural lands
 - Now plan to increase liability for improper use of agricultural lands:
 - double land tax
 - decrease the terms of withdrawal of agricultural land for improper use (2 years vs current 3)
 - Increase the price of transfer of agricultural land to different category

Contacts

Sergey Trakhtenberg

Partner, co-head of the Russian Real Estate Practice

Salans, Moscow

E: STrakhtenberg@salans.com

T: +7 495 644 0500

M: +7 903 201 9914



Ekaterina Lapidus

Associate,

Salans, Moscow

E: ELapidus@salans.com

T: +7 495 644 0500

