

SERBIA: REAL ESTATE

Privatization of State-Owned Construction Land

Five months after adoption of the new Law on Planning and Construction¹ (“**Law**”), the Serbian Government has enacted the Decree on Criteria and Procedure for Determination of Conversion Compensation² (“**Decree**”). The Decree is supposed to enable the commencement of the process of privatization of construction land envisaged by the Law.

By virtue of the Decree, all holders of the right of use on construction land interested in converting this right into ownership need to submit a request to the competent municipal authority for a decision determining the right to conversion and, if applicable, the amount of conversion fee. We fear that this requirement will cause huge backlogs on the municipal level given that the number of expected requests exceeds one million.

Article 103 of the Law prescribes that companies that “were subject to application of privatization, bankruptcy or enforcement laws” may convert the right of use on construction land into ownership upon payment of conversion fee in the amount equal to the difference between market value of the land at the time of conversion and the amount paid by the investor for acquisition of the right of use on such land. Behind this somewhat clumsy formulation is the idea that investors who purchased distressed companies with significant land portfolios should pay extra if they intend to engage in land development rather than in existing businesses of purchased companies.

With respect to the first parameter for determination of conversion fee-market value of construction land, the Decree sets forth the following criteria that may affect such value:

- average price of land in the same or comparable urban zone in the course of the preceding year
- zoning of construction land (residential, commercial, industrial, etc.)
- construction parameters (occupancy ratio and build ability ratio)
- special advantages of the location
- existing ground works.

With respect to the second parameter - price paid for acquisition of construction land, the Decree specifies that the entire purchase price paid by the current owner for acquisition of a company holding the right of use is recognized for the purpose of calculating the conversion fee, irrespective of whether the purchased company had other assets at the time of acquisition.

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¹ See BDK Newsletter 11/2009 available at <http://www.bdklegal.com/upload/documents/newsletter/RealEstate/11-2009.PDF>

² Uredba o kriterijumima i postupku za utvrđivanje visine naknade po osnovu konverzije prava za lica koja imaju pravo na konverziju uz naknadu.

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