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Russia's New Land Code: A Two Percent Solution

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INTRODUCTION

On October 25, 2001, President Vladimir Putin signed the Land Code of the Russian Federation into law.² The Land Code represents a significant, long-deliberated reform measure. Factions in the Duma wrangled over the Land Code nearly constantly during the 1990s. What was politically palatable to the communists and agrarians during that time would have been a throwback to problems encountered in earlier times. Their proposals would have precluded the privatization and sale of agricultural and urban lands. Change was necessary, but it could not "outpace the country's readiness to accept legal reform."³

The new Land Code only applies to approximately two percent of all the land in Russia.⁴ This limitation is the result of compromise.⁵ While the Code does not govern agricultural or forestry land,⁶ it does cover all other land, including urban land

1. Cecil C. Humphreys Professor of Law, University of Memphis. I wrote this article while a Fulbright Lecturer in Moscow, Russia. I appreciate very much the time given to me by experts in Russian land law: Mr. Igor A. Boldyrev, an attorney with the firm of Ernst & Young (CIS) Limited, who represents clients in land matters; and Ms. Olga Kozyr, an attorney with the firm of Hogan & Hartson, L.L.P., who participated in the drafting of the Land Code. I am grateful for the assistance provided by the American Center in Moscow and its director, Marisa Fushille.

2. Federal Law No. 136-FZ of October 25, 2001, The Land Code of the Russian Federation, available at LEXIS GARANT 12024624 [hereinafter 2001 Land Code].

3. Lane H. Blumenfeld, *Russia's New Civil Code: The Legal Foundation for Russia's Emerging Market Economy*, 30 INT'L LAW. 477, 485 (1996) (discussing approach of Civil Code task force).

4. See *Duma Passes Land Code*, RUSS. J. (Sept. 21, 2001), at www.trj.ru (noting that only two percent of land is available for sale).

5. See Leonard Rolfes, Jr., *Land Code: Next Steps*, MOSCOW TIMES, Oct. 29, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times.

6. 2001 Land Code, *supra* note 2, at art. 27(6),(7). The Russian Federation enacted the law "On Circulation of Lands of Agricultural Use," on July 24, 2002.

and dacha property. Hence, the Code governs a very valuable two percent, which already accounts for seventy-five percent of all foreign investment.⁷ This figure is likely to grow significantly.⁸

The new Land Code recognizes principles of private ownership that include the right to sell land, which the Soviet system of state ownership completely rejected. Private ownership of land is necessary to encourage its efficient use.⁹ Landowners must be able to sell their land for the best price they can obtain, so that land will gravitate towards its most valuable use.¹⁰ Naturally, value maximization will not prevail when only a small portion of Russia's land is subject to private ownership. Recognizing this, the Duma recently passed the law On Circulation of Lands of Agricultural Use making all agricultural land subject to private ownership.¹¹

The very magnitude of the Code's scope provides opportunities for great success or failure. The Code is divided into eighteen chapters and one 103 articles. The law is part zoning law,¹² environmental law,¹³ and law of eminent domain.¹⁴ It is also a historical preservation law,¹⁵ "Superfund" law, private trespass law, and nuisance law.¹⁶ It establishes principles of federalism in matters concerning land by delineating the regulatory authority of the Russian Federation, regions, and municipalities.¹⁷ It states the basic interests in land and the means by which

7. See Yevgenia Borisova, *Weary Duma Signs Off on Land Code*, MOSCOW TIMES, July 16, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (according to German Gref, Economic Development and Trade Minister).

8. See *id.* (stating that according to Finance Minister Alexei Kudrin, foreign investment should double in the next two years from \$4-5 billion per year and increase to \$30 billion in the next five or six years).

9. RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* 37-38 (5th ed. 1998) (stating necessary conditions of maximizing value).

10. Natalya Kalinichenko & Alexander Privalov, *Land Code Against Private Enterprise*, MOSCOW NEWS, May 16, 1996, available at 1996 WL 17148904 ("The right to sell one's property, far from being a means of speculation, is primarily a means of ensuring efficient use of land. By prohibiting private ownership of land, the drafters of [an earlier version of the Land Code] virtually make it impossible for Russia to increase the efficiency of land use.")

11. Federal Law No. 101-FL of July 24, 2002, On Circulation of Lands of Agricultural Use, art. 1(4), reprinted in THE RUSSIAN LAW OBSERVER, Sept. 2002, at 24.

12. See discussion *infra* Part IV.C.

13. See discussion *infra* Part IV.D.

14. See discussion *infra* Part IV.E.2.

15. See discussion *infra* Part IV.C.4.d.

16. See discussion *infra* Parts IV.D.1, IV.D.5, IV.E.4.

17. See discussion *infra* Part IV.A.

transactions may occur.¹⁸ Furthermore, the Code reflects Russia's traditional, almost obsessive, concern for agriculture.¹⁹ In subtle ways, the Code addresses, and thereby acknowledges, various shortcomings of local government officials.²⁰ It entrusts Russian courts with authority and responsibility, while giving persons the right to sue government authorities to vindicate their rights.²¹ However, its authors used the passive voice extensively, thereby potentially obscuring responsibility and accountability for many of its mandates. Moreover, the Code often states a principle, but defers to other "law" for exceptions.²² This approach can be very slippery,²³ allowing administrators discretion to ignore principles they find inconvenient. Such "inconvenience," of course, is often an essential aspect of a Rule of Law.

This article endeavors to take a first look at the new Land Code²⁴ and review its provisions. Much of the new Land Code does not manifest any new or unfamiliar principles. However,

18. See discussion *infra* Part IV.B.

19. See discussion *infra* Part IV.C.1.

20. See *infra* text accompanying notes 300, 634, 670-77.

21. See discussion *infra* Part IV.F and text accompanying notes 315-16, 519, 550, 557, 574.

22. The Land Code makes reference to "other federal law" in many places. See, e.g., *infra* text accompanying notes 148, 162, 179, 209, 222, 232, 235, 267, 268, 275, 285, 294, 340, 373, 377, 404-05, 450, 475, 483, 510-13, 531, 549, 559-60, 568, 598. To the extent that the reference is to a specific law, such incorporation by reference should work well. However, Russian law on a specific point is not always easily researched. When this is the case, government officials claim an inappropriate level of discretion.

23. See Blumenfeld, *supra* note 3, at 505 (A "dangerous phrase common in socialist era legislation was that ownership rights could be terminated according to legislation.").

24. There are several useful commentaries on various pieces of Russian legislation that provide a snapshot of Russian law at a particular point in time. See generally Stanley R. Boots, *Observations from Afield: The Tension Between the Goals of Russian Environmental Legislation and Extralegal Factors in the Russian Far East*, 10 INT'L LEGAL PERSP. 201 (1998) (Russian environmental ideals fail because of territorialism (protecting turf), poor economic conditions, social attitudes towards law, and insufficient public participation.); Olga Floroff & Susan W. Tiefenbrun, *Land Ownership in the Russian Federation: Laws and Obstacles*, 37 ST. LOUIS U. L.J. 235 (1993); Oksana M. Kozyr, *The Legal Treatment of Immovables Under the Civil Code of the Russian Federation*, 44 MCGILL L.J. 327 (1999); Gail Osherenko, *Indigenous Rights in Russia: Is Title to Land Essential for Cultural Survival?*, 13 GEO. INT'L EVNTL. L. REV. 695 (2001); Evgueny A. Sukhanov, *The Right of Ownership in the Contemporary Civil Law of Russia*, 44 MCGILL L.J. 301 (1999) (outlining evolving ownership rights in Russia); Lev S. Batalov, Note, *The Russian Title Registration System for Realty and Its Effect on Foreign Investors*, 73 WASH. L. REV. 989 (1998); Patricia G. Woods, Comment, *From Feudal to Modern: The Evolution of Real Estate Finance in Russia*, 8 EMORY INT'L L. REV. 749 (1994).

the very breadth of the Code should sweep within its scope, or sweep away, any number of federal, republic, and local laws. Part I of this article examines the history of land relationships in Russia, because Russia's history has significantly shaped its people's attitudes toward land. To provide a context for the new law, Part II briefly describes the current Russian Constitution and Civil Code, and Part III discusses Russian land law from 1994 to 2001. Part IV provides an overview and commentary on the new Russian Land Code. This article concludes in Part V with comments about what to anticipate.

I. THE HISTORICAL CONTEXT OF LAND RELATIONSHIPS IN RUSSIA

A. SERFDOM AND EMANCIPATION

Serfdom emerged in Russia in the sixteenth and seventeenth centuries as the result of custom, contract, and governmental edicts.²⁵ Peasants' indebtedness to landlords and their inability under law to enter the service of the lord without losing their personal independence drove them into serfdom.²⁶ The Code of 1649 sanctioned a hereditary obligation, which had previously been merely contractual.²⁷ The general effect of serfdom was to attach peasant households to the land.²⁸ In 1731, during the time of Peter the Great, landlords became government agents for the collection of a poll tax and this delegation of responsibility tied the *state* to serf-owners.²⁹ The institution of serfdom intensified as more land was brought under cultivation,³⁰ but eventually desertion and open rebellion became significant problems.³¹

Acceding to great pressure, and essentially against his will, Alexander II freed the serfs on February 19, 1861.³² Emancipa-

25. See B.H. SUMNER, A SHORT HISTORY OF RUSSIA: THE SEVEN BASIC INFLUENCES THAT HAVE SHAPED RUSSIAN DESTINY 139 (1949) (explaining that land is one of the seven influences that has shaped Russian destiny).

26. See 1 MICHAEL T. FLORINSKY, RUSSIA: A HISTORY AND AN INTERPRETATION 280 (1953).

27. See *id.* at 281.

28. See SUMNER, *supra* note 25, at 139.

29. See *id.* at 145.

30. See *id.*

31. See 1 FLORINSKY, *supra* note 26, at 486-88.

32. A CLASSIC HISTORY OF 19TH CENTURY RUSSIA: ALEXANDER KORNILOV'S MODERN RUSSIAN HISTORY 211-12, 252 (Robert Bass ed. 1966).

tion was a lengthy, cumbersome, and complex process. Peasants were obligated to make redemption payments to their landlords for as long as forty-nine years.³³ Arrearages caused Alexander III and Nicholas II to grant extensions that would have obligated peasants to make payments until after 1950.³⁴ Therefore, most peasants remained impoverished.³⁵

The village commune became the basic economic unit of agriculture, and membership was compulsory.³⁶ Land was allotted to the communes instead of individuals³⁷ to assure that peasants did not fall under the power or bondage of landlords.³⁸ Arable land was then divided into intermingled strips assigned to different households, effectively linking members' economic interests.³⁹

In 1914, over eighty percent of Russia's population still lived on the land.⁴⁰ Some peasants gained wealth by buying or leasing land,⁴¹ but most felt "cheated of the fruits of emancipation."⁴² Inefficient farming methods hampered the development of agriculture in Russia.⁴³ Another perceived problem was overpopulation, which manifested itself as an inability of many farmers to make a living from their areas and employ their entire families on the farm.⁴⁴ "The appropriation by the peasants of all land owned by the state and nobility, although at best a palliative, came to be regarded by the masses as the only possible remedy for the 'shortage of land,' and as an act of justice long overdue."⁴⁵

Beginning in 1906, the Russian government, through the Stolypin land reforms, moved to abolish the commune, enclose scattered strips into compact holdings, and establish peasants as individual farmers.⁴⁶ The government also encouraged "in-

33. See 2 MICHAEL T. FLORINSKY, *RUSSIA: A HISTORY AND AN INTERPRETATION* 889-90 (1953).

34. See *id.* at 1212.

35. See *id.*

36. See 2 FLORINSKY, *supra* note 33, at 895; SUMNER, *supra* note 25, at 146.

37. See 2 FLORINSKY, *supra* note 33, at 893.

38. CLASSIC HISTORY OF 19TH CENTURY RUSSIA, *supra* note 32, at 256.

39. See 2 FLORINSKY, *supra* note 33, at 893.

40. SUMNER, *supra* note 25, at 114.

41. See 2 FLORINSKY, *supra* note 33, at 927; SUMNER, *supra* note 25, at 125.

42. SUMNER, *supra* note 25, at 126.

43. See 2 FLORINSKY, *supra* note 33, at 924.

44. See *id.* (indicating that allotments were not sufficient to meet the needs of peasant family).

45. *Id.* at 927.

46. *Id.* at 1215-17.

ternal colonization," by which peasants could move to the vast area of Siberia.⁴⁷

B. THE SOVIET SYSTEM

World War I and the two revolutions of 1917 changed the political landscape considerably. The first revolution led to the Provisional Government and promised the peasants "freedom."⁴⁸

To the Russian peasant the "freedom" heralded by the new order had a definite and concrete meaning. It was not the right to vote, parliamentary government, the Constituent Assembly, or the removal of legal disabilities. In the popular mind "Land and freedom" . . . was tautology: for freedom *was* land, and land *was* freedom. "Land," moreover, meant, not any scheme of nationalization, socialization, or municipalization devised by the learned theorists, but the partition, among the villagers, of the large estates which they had so long and so passionately coveted.⁴⁹

The Peasant Revolution, that is, seizure of the large estates, continued through the summer and autumn of 1917,⁵⁰ but World War I and social unrest were too much for the Provisional Government. Following the Bolshevik Revolution, peasants were initially allowed to keep their land under the New Economic Policy.⁵¹ However, in 1928, the Soviet government began collectivization, a process which wealthier peasants, called kulaks, resisted.⁵² Forced collectivization proved costly to the kulaks; in 1930, the Soviet government began wiping them out.⁵³

Not surprisingly, the Russian view of land has been shaped by this history. For centuries, the vast majority of the Russian population worked the land, but could not own it.⁵⁴ Even when ownership appeared possible, the cost of redemption was so prohibitive that for most peasants, the promise of ownership was merely an illusion. Moreover, for centuries, Russian/Soviet agriculture has never been particularly efficient.⁵⁵ Liberated serfs

47. *Id.* at 1218-19.

48. *Id.* at 1412-13.

49. 2 FLORINSKY, *supra* note 33, at 1412-13.

50. *See id.* at 1415-17.

51. HUGH SETON-WATSON, FROM LENIN TO KHRUSHCHEV 78 (1962) (indicating that the essence of New Economic Policy was to restore and confirm private ownership in agriculture).

52. *See* SUMNER, *supra* note 25, at 117-18.

53. SETON-WATSON, *supra* note 51, at 157 (discussing liquidation of kulaks in preparation for mass collectivisation of agriculture).

54. *See supra* text accompanying notes 25-53.

55. 2 FLORINSKY, *supra* note 33, at 924 (describing inefficiency of peasant farming).

generally felt that the solution to their inability to feed their families and pay various assessments was to acquire more land, not to work their sometimes substantial holdings more efficiently.⁵⁶ While agricultural production increased during Nikita Khrushchev's early years, it was a matter of great embarrassment that a country with so much land dedicated to agriculture had to import food since the mid-1960s.⁵⁷ This fact contributed to the downfall of Nikita Khrushchev in 1964.⁵⁸

From earliest times, a principle of Soviet law was that the state should own the means of production. The Civil Code of the Russian Soviet Federated Socialist Republic of 1922⁵⁹ applied this principle to land:

21. The land is state owned and cannot be the object of private commerce. Land tenure shall be permitted only in the form of use rights.
Note: As a result of the abolition of private ownership of land, the division of property into movable and immovable is abolished.⁶⁰

Succeeding Soviet codes have retained these principles. The Soviet law of land, as it existed at the time of the dissolution of the Soviet Union, was comprised of the Fundamentals of Law on Land Ownership, adopted on February 28, 1990.⁶¹ This law established the bases of more detailed "codes" to be adopted by the Union Republics. These Fundamentals provided a right to possess land,⁶² but forbade "buying, selling, donating and mortgaging or the unauthorized exchange of parcels of land."⁶³ With independence came a doctrine of preemption whereby the Constitution and laws of the Russian Soviet Federated Socialist Republic (Russian Federation) preempt contrary laws of the U.S.S.R.⁶⁴

56. *See id.*

57. *See, e.g.,* Celestine Bohlen, *Waiting for Rain in Key Soviet Grain Region*, WASH. POST, July 21, 1985, available at LEXIS, News & Business, News, Individual Publication, W, The Washington Post ("A catastrophic harvest in 1963, which led to enormous grain purchases abroad, was considered one of the several causes leading to [Khrushchev's] downfall.").

58. *See id.*

59. *Reprinted in part in* IDEAS AND FORCES IN SOVIET LEGAL HISTORY: A READER ON THE SOVIET STATE AND LAW 173, 174 (Zigurds L. Zile ed., 1992).

60. *Id.*

61. *See* Olga Floroff & Susan W. Tiefenbrun, *New Soviet Fundamentals of Law on Land Ownership*, 4 N.Y. INT'L L. REV. 92 (1991) (English-language translation reprinted in appendix).

62. Floroff & Tiefenbrun, *supra* note 24, at 237 (quoting Fundamentals of Law on Land Ownership, art. 5). The Fundamentals of Law on Land Ownership is translated in Floroff & Tiefenbrun, *supra* note 61, app. at 95.

63. Floroff & Tiefenbrun, *supra* note 61, at 105.

64. Declaration on the State Sovereignty of the Russian Soviet Federated So-

C. THE RUSSIAN FEDERATION: 1990-1993

In Russia there is still a deep-seated resistance to private ownership of land. During the Yeltsin years and now under Vladimir Putin, persons who distrust the privatization process and persons who still believe in the principles of communism have dominated the Duma.⁶⁵ Moreover, local bureaucrats have exploited rules for personal gain and hindered the progress of meaningful reform.⁶⁶ The structure of property rights in Russia in the early 1990s has been likened to feudalism: citizens could own permanent fixtures attached to the land separate from the land, and separate rules governing ownership of permanent fixtures and ownership of land developed.⁶⁷

In November 1990, Russian Federation legislators adopted a Land Reform Law.⁶⁸ This law established the right to own farmland.⁶⁹ However, the land could be used only for farming, gardening, animal husbandry, and related activities.⁷⁰ The state was still the only entity that could buy land from an owner and could seize land if used inefficiently or improperly.⁷¹ Under this law, an owner had to hold land for ten years before reselling it,⁷² but the land, with all restrictions intact, could be inherited.⁷³ Finally, land could be leased to carry on entrepreneurial activity, but not sold.⁷⁴ The Land Reform Law barely exists any longer, but it marked a significant change from the principles that previously governed land relationships in Russia. The notion that land could be "owned" was significant, even if the ownership interest was minimal by western standards.

cialist Republic, item 5, para. 2, reprinted in W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet I.2 at 65 (1993).

65. Yevgenia Borisova, *Duma Takes Up Kremlin's Land Bill*, MOSCOW TIMES, June 15, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (stating the farmland issue was so controversial it stalled the Land Code for seven years).

66. See Floroff & Tiefenbrun, *supra* note 24, at 246 (noting reluctance of state bureaucrats to relinquish positions of power and privilege as contributing to delay of land and economic reform in Russia).

67. See Woods, *supra* note 24, at 751-52 (noting the local Soviets of People's Deputies have power to grant and withdraw land and designate its purpose, just as tenants in chief in a feudal system had).

68. See Floroff & Tiefenbrun, *supra* note 24, at 238.

69. RSFSR Land Reform Act, art. 2, available at 1990 WL 2767280.

70. *Id.* at art. 4, para. 1; Floroff & Tiefenbrun, *supra* note 24, at 238-39.

71. RSFSR Land Reform Act, arts. 9, 14, available at 1990 WL 2767280.

72. See Floroff & Tiefenbrun, *supra* note 24, at 240.

73. See *id.*

74. RSFSR Land Reform Act, art. 6, available at 1990 WL 2767280.

Shortly after independence, the Russian Federation adopted the Law on Peasant Holding, which significantly reorganized state and collective farms and created new forms of land ownership.⁷⁵ The Law on Peasant Holding established "citizens' rights to obtain land for permanent use, life-long inheritable possession, or ownership."⁷⁶ As a result of this law and reorganization, all farm workers and retirees received a share of farmland under norms established by local authorities.⁷⁷ Of course, the value of such shares was minimal because there was no functioning market for land.⁷⁸

The law changed yet again in April 1991, when the Supreme Soviet of the Russian Federation, in an effort to promote individual farming, promulgated a new Land Code.⁷⁹ The 1991 Code categorized land according to its use: farmland; populated land of cities, towns, and villages; industrial, transportation, communication, and defense land; recreational/conservation land; forest land; water resources land; and reserve land.⁸⁰ The state (Russian Federation or a republic), citizens, collectives or cooperatives, or joint-stock companies could own land.⁸¹ However, the state became the default owner of land not granted to one of these parties.⁸²

Under the 1991 Code, the state established principles of land payment and programs of efficient use, supervised use and protection of land, and protected the rights of owners, users, possessors, and lessees.⁸³ Joint and collective ownership was limited to agricultural activity.⁸⁴ Individuals had the right to own land, possess land with right of inheritance, or lease land for agricultural purposes.⁸⁵ However, while individual owners

75. These new forms of land ownership included privately owned family farms, private farm cooperatives, individual private ownership, or joint-stock company ownership. Floroff & Tiefenbrun, *supra* note 24, at 241.

76. *Id.* at 243.

77. *See id.* at 241-42.

78. *See id.* at 242.

79. *See id.* at 246.

80. Land Code of the RSFSR, § 1, ch. 1, art. 4, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 2 (1992).

81. *Id.* § 1, ch. 1, art. 3, para. 4, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 2 (1992).

82. *Id.* § 1, ch. 1, art. 6, para. 1, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 3 (1992).

83. *Id.* § 1, ch. 2, art. 15, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 9 (1992).

84. *Id.* § 1, ch. 1, arts. 8, 9, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 5-6 (1992).

85. *Id.* § 1, ch. 1, art. 7, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF

could sell their land after owning it for ten years, the 1991 Code restricted the potential buyers to the state.⁸⁶ President Yeltsin changed this by signing a decree on December 27, 1991, allowing land to be sold by individuals without waiting ten years under limited circumstances.⁸⁷ However, the purchaser could use the land only for limited purposes.⁸⁸

Russia's land law underwent another major change when President Yeltsin issued Decree No. 301 on March 25, 1992, allowing individuals and legal entities to buy and own real estate for entrepreneurial activity.⁸⁹ Significantly, foreign enterprises could participate in a joint venture and there were no restrictions on land ownership by joint venture partners.⁹⁰ Yet another order in 1992 gave Russians, foreign individuals, and legal entities the right to buy or lease land with an option to buy and established procedures for doing so.⁹¹

The 1991 Code allowed owners to lease land to domestic and foreign individuals and legal entities.⁹² It established a procedure by which Local Councils of People's Deputies granted these land parcels.⁹³ The state usually granted land free of charge,⁹⁴

RUSSIA, Booklet VII.1 at 3 (1992).

86. Land Code of the RSFSR, § 1, ch. 1, art. 11, para. 2, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 7 (1992) *referencing* the RSFSR Constitution, art. 12, paras. 3-4, at 5 (stating land could be sold to Soviet of People's Deputies on the same conditions that it was granted; to another for personal use or for dacha husbandry, gardening or housing; and in other instances, land could be sold only after ownership for ten years).

87. *See* Floroff & Tiefenbrun, *supra* note 24, at 251 (stating that sale was permitted upon the owner's retirement, receipt of land by inheritance, resettlement that pursued the goal of organizing farms on vacant land, investing profits from sale in the processing industry, trade, construction, or service enterprises in villages).

88. *See id.*

89. *See id.* at 248; Steven J. Heim, Note, *Predicting Legal Transplants: The Case of Servitudes in the Russian Federation*, 6 TRANSNAT'L L. & CONTEMP. PROBS. 187, 202 (1996).

90. *See* Floroff & Tiefenbrun, *supra* note 24, at 248. A subsequent decree specified certain types of land that cannot be used for entrepreneurial activity. *Id.* at 249 (stating Decree No.631 prohibits entrepreneurial use of public utilization land in urban areas, national park land, historical monuments, nature preserves, botanical gardens, recreational areas, agricultural lands, land with mineral deposits, land contaminated by hazardous materials, and land under temporary use).

91. *See id.* at 249.

92. Land Code of the RSFSR, § 1, ch. 1, art. 13, para. 1, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 7 (1992).

93. *Id.* § 1, ch. 1, arts. 6, 23, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 3, 14-15 (1992).

94. *Id.* § 1, ch. 1, art. 7, para. 4, *reprinted in* W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 4 (1992).

but sold land in limited circumstances.⁹⁵ The Land Charges Act, also passed in 1991, established three means of payment: a sales price, real estate taxes, and rental payments.⁹⁶ Rental payments were established in lease agreements. However, the payments in the case of agricultural land could not exceed the real estate tax,⁹⁷ which was a deterrent to owners leasing out their land.

The 1991 Land Code also recognized both rights and obligations of owners, possessors, and lessees. Notably, they had the obligation to use the land in an efficient manner for its intended purpose.⁹⁸ Failure to fulfill this obligation subjected the owner, possessor, or lessee to a taking by the state.⁹⁹ Resolution No. 86, adopted in 1992, allowed members of collective farms, employees of state farms, and retired persons a share of land and a share of joint-apportioned property.¹⁰⁰ The owner of such a share could request a parcel of land and retain the means of production for such land equal in value to the value of the individual's share.¹⁰¹ Farm land owned or possessed for life was made inheritable, as was a land lease under certain conditions.¹⁰² The 1991 Land Code also made other types of land subject only to inheritable possession for life, or lease.¹⁰³ Finally, the 1991 Code allocated jurisdiction to resolve land ownership disputes to the Councils of People's Deputies, courts of law, or arbitration tribunals – depending on the location of the land in question or the status of the parties to the dispute.¹⁰⁴

While the 1991 Land Code addressed many issues, it failed

95. *Id.* § 1, ch. 1, art. 7, paras. 5, 7, reprinted in W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 4 (1992) (stating these circumstances included gardening and raising livestock on agricultural land; construction of individual housing and personal subsidiary husbandry on urban land; constructing individual or collective dachas or garages; or conducting entrepreneurial activity and other lawful activities; receiving more than the average land share for farming).

96. RSFSR Land Charges Act, § 1, art. 1, para. 1 (1991), available at 1991 WL 3371359.

97. *Id.* § 4, art. 21.

98. *Id.* § 2, art. 53, para. 1.

99. *Id.* § 1, art. 39, para. 4.

100. Floroff & Tiefenbrun, *supra* note 24, at 261.

101. *Id.*

102. Land Code of the RSFSR, § 1, ch. 1, art. 7, para. 1 and § 2, arts. 61, 62, reprinted in W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 3 and 34 (1992).

103. *Id.* § 1, ch. 1, art. 7, para. 2, reprinted in W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 4 (1992) (stating this included land used for purposes of constructing individual or collective dachas or garages, or for entrepreneurial activity and other lawful purposes).

104. See *id.* § 8, art. 115, reprinted in W.E. BUTLER, COLLECTED LEGISLATION OF RUSSIA, Booklet VII.1 at 57 (1992).

to address two significant areas. First, it did not clearly establish who would be on the local land councils or how they would be selected. Second, classification of land was by its designated use, not by its most valuable use. Russian courts did not rectify these deficiencies, and corruption prevailed.¹⁰⁵ There have been competing claims of legitimacy among different local councils; local councils have avoided the 1991 Code's conservation and recreation restrictions by simply categorizing land as agricultural or industrial.¹⁰⁶ While the recently adopted Land Code differs on many essential points from the 1991 Code, the new Code carries forward many ideas set forth in the 1991 Code, notably the rigid classification of land.

II. THE RUSSIAN CONSTITUTION AND THE CIVIL CODE

Russia adopted its Constitution in December 1993.¹⁰⁷ The Constitution contains several provisions pertaining to property.¹⁰⁸ In a radical departure from Soviet principles, it allows for private ownership of land,¹⁰⁹ including the right to possess, use, and dispose of it.¹¹⁰ However, the Constitution has not prevented the Duma from considering flagrantly unconstitutional legislation precluding rights of sale.

In 1994, Russia adopted its Civil Code.¹¹¹ It replaced a nearly indecipherable hodge-podge of principles, including those of the 1964 Soviet Code, the 1991 Fundamentals of Civil Legislation, and many decrees of Presidents Gorbachev and Yeltsin.¹¹² A very important part of the Civil Code is its supremacy clause, which provides that "[n]orms of civil law contained in other laws must conform to the present Code."¹¹³ The breadth of this language encompasses both laws promulgated prior to and after passage of the Civil Code and gives the Code a quasi-

105. Paul Stanton Kibel, *Russia's Wild East: Ecological Deterioration and the Rule of Law in Siberia*, 7 GEO. INT'L ENVTL. L. REV. 59, 70 (1994).

106. *Id.* at 68-70.

107. For a description of the events leading up to the adoption of the Constitution see GORDON B. SMITH, *REFORMING THE RUSSIAN LEGAL SYSTEM* 79-103 (1996).

108. KONST. RF [Constitution of the Russian Federation] arts. 9(2), 35, 36 (1993).

109. *Id.* at art. 36, para. 1.

110. *Id.* at art. 36, para. 2.

111. See Blumenfeld, *supra* note 3, at 477.

112. See *id.* at 477-87 (describing adoption of Civil Code).

113. GK RF [Civil Code of the Russian Federation] art. 3(2) (W.E. Butler tr. 1994).

constitutional status.¹¹⁴ President Yeltsin's penchant for issuing decrees gave the supremacy clause a political as well as legal taint.¹¹⁵ Its principles apply as much to the Duma as to the President. The clause also implicates the balance of power between legislative and executive functions.

In adopting the Civil Code, the issue of land was the most contentious.¹¹⁶ The Agrarian and Communist Parties resisted adoption of a Code that provided for private ownership of land.¹¹⁷ A compromise suspended the operation of the land provisions (Chapter 17, articles 260 to 287, on Ownership Rights and other Rights in Rem in Land) until later adoption of a Land Code.¹¹⁸ Between 1994 and the adoption of the new Land Code, the Duma considered many draft proposals.¹¹⁹ From the view of promoting a market economy, most of the proposals were unsatisfactory and unconstitutional in that they substantially limited private ownership of land and prohibited the sale of land.¹²⁰ Passage of any of these drafts prompted President Yeltsin to issue a decree countermanding any such legislation.¹²¹

III. RUSSIAN LAND LAW: 1994-2001

Between 1994 and 2001, legislative hostility to private ownership of land greatly inhibited development of a market for land, irrespective of what the Constitution or the 1994 Civil Code may have provided. Instead, the long-term lease of forty-

114. See Blumenfeld, *supra* note 3, at 487-88.

115. See *id.* at 494-95 (describing the effect of supremacy clause).

116. See *id.* at 492.

117. See *id.* at 493.

118. See *id.* at 492-93.

119. See, e.g., Roy Prosterman, *Looming Land Code*, MOSCOW TIMES, Aug. 12, 1998, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (criticising proposed land code that provided few ownership rights); Editorial, *Code Must Assure Land Can Be Sold*, MOSCOW TIMES, Dec. 30, 1997, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (stating Duma passed a land code that did not provide for buying and selling farm land and that President Yeltsin "rightly" vetoed it); *Duma Must Concede on Land Code*, MOSCOW TIMES, Sept. 26, 1997, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (describing land code passed by Duma and vetoed by President Yeltsin).

120. Kalinichenko, *supra* note 10 (stating that land code eliminates private ownership of farmland and is unconstitutional).

121. See, e.g., Patrick Henry, *Duma to Weigh New Land Use Bill*, MOSCOW TIMES, Apr. 5, 1996, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (describing President Yeltsin's land decree of Mar. 7, 1996).

nine years¹²² emerged.¹²³ As a result, an owner of a privatized enterprise rarely owned the land beneath the business, which prevented the use of the land as a source of credit or contribution as capital to a joint-stock company.¹²⁴ The law governing land and permanent fixtures continued to develop separately,¹²⁵ even though the 1994 Civil Code provides that the term “immovables” includes land plots, mineral land, water resources, and things firmly linked with the land,¹²⁶ such as buildings and structures.

There was not a single method of registration, nor a single land registry, nor were different property interests registered in the same place as land.¹²⁷ Foreign persons could not own land, although a foreigner could own all of a Russian joint stock company that could own land.¹²⁸

Some localities (e.g., St. Petersburg, Samara, and Tatarstan¹²⁹) went ahead with land sales, although the risks in such undertakings were apparent. “Land deals [were] regulated by myriad laws approved by local legislatures, and the legal confusion . . . created a rich ground for corruption and fraud. The absence of coherent legislation . . . spooked foreign investors and helped stall economic development.”¹³⁰ Passage of an unconstitutional law or one that violated principles of the 1994 Civil Code could effectively destroy the investments of those who purchased land.

Russian law follows the civil law tradition.¹³¹ At civil law, only one person may own an immovable object.¹³² The owner might encumber the property by giving another some particular right of possession, but he remains the “owner of the prop-

122. Elizabeth Wolfe, *Private Land Auctions Due in October*, MOSCOW TIMES, Sept. 9, 2000, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times.

123. See Andrei Baev, *Implications of Emerging Legal Structures for Capital Markets in Russia*, 2 STAN. J.L. BUS. & FIN. 211, 226 (1996).

124. See *id.* at 226-27.

125. See Woods, *supra* note 24, at 752.

126. GK RF [Civil Code of the Russian Federation] art. 130(1) (W.E. Butler tr. 1994).

127. Baev, *supra* note 123, at 227.

128. *Id.* at 228.

129. Andrey Musatov, *Only Land Code Can Save St. Pete Sales Program*, MOSCOW TIMES, Dec. 25, 2001, available at 2001 WL 33362872.

130. *Duma Says Yes to Buying and Selling Land*, MOSCOW TIMES, Jan. 26, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times.

131. See Blumenfeld, *supra* note 3, at 486.

132. See Batalov, *supra* note 24, at 990.

erty."¹³³ Chapter 17, whose effectiveness was suspended¹³⁴ pending adoption of a Land Code, provides for several basic property interests: ownership,¹³⁵ lifetime inheritable possession,¹³⁶ permanent use,¹³⁷ fixed term (temporary) use,¹³⁸ and lease.¹³⁹

IV. THE NEW RUSSIAN LAND CODE: CONTENT AND COMMENT

From the perspective of a developing market economy, Russia has an impressive constitution and civil code. Unfortunately, the political games between President Yeltsin and the Duma in the 1990s greatly inhibited the development of land values. The development of land values requires enforcement of laws conducive to such development. The Land Code of 2001 can be such a law. With respect to the Land Code of 2001, this paper considers its stated general principles, various aspects of land ownership established or recognized by the code, zoning and land classification provisions, land use and environmental provisions, interest termination and eminent domain provisions, and legal protections and resolution of disputes.

A. GENERAL PRINCIPLES

1. *Guiding Principles*

Article 1 states eleven general principles,¹⁴⁰ which other land legislation principles may not contradict.¹⁴¹ Of course, whether they are meaningful depends upon the willingness of administrators and reviewing tribunals to apply them. The principles are:

1. Land, which can be owned, is the most important compo-

133. *See id.*

134. Chapter 17 became effective on Apr. 23, 2001.

135. GK RF [Civil Code of the Russian Federation] art. 261 (W.E. Butler tr. 1994).

136. *Id.* at art. 266.

137. *Id.* at art. 269.

138. *Id.* at art. 264(1).

139. *Id.*

140. 2001 Land Code, *supra* note 2, at art. 1(1).

141. *Id.* at art. 1(2).

ment of nature and the basis of economic and other activities;¹⁴²

2. Preservation of land for the sake of the environment and as a means of production in agriculture and forestry is a priority. The use and disposition of land should not harm the environment;

3. Protection of human life and health insofar as land-based activities are concerned is a priority, even if such protection requires a large expenditure;

4. Citizens and public organizations may participate in preparing decisions that can affect the use and preservation of land;

5. Fixtures should follow the land except as otherwise established by law;

6. Preservation of especially valuable land and the land of specially preserved territories, that is, agricultural land, forestry land, land occupied by Group 1 forests,¹⁴³ land occupied by cultural heritage facilities, and other valuable land, for example, is a priority. This principle does not deny or denigrate the significance of other land categories;

7. Use of land should be paid for;

8. Land will be classified according to its purpose and used in accordance with zoning and legislative requirements;

9. Federal laws establish what is the property of the Russian Federation, the regions, and municipal entities, respectively;

10. Natural, social, economic, and other factors should be considered in establishing a legal land regime; and

11. Land use and preservation regulation must be pursued in the interest of society as a whole, but a citizen's unfettered possession, use, and disposal of a plot of land he or she owns is guaranteed.¹⁴⁴

The more guiding principles there are to any law, the more

142. KONST. RF [Constitution of the Russian Federation] art. 9 (1993).

143. Group 1 forests are forests whose purpose is to provide "waterprotective, special protective, sanitary-hygenic, health-building and other functions" as well as forests of "specially protective natural territories." Group 2 forests are forests in areas with high population density, forests whose purpose is to provide "waterprotective, specially protective, sanitary-hygenic, health-building and other functions of limited economic use," and "forests in regions with insufficient wood resources," thereby requiring a strict forest-use regime. Group 3 forests are forests in heavily forested regions with a predominantly economic use. Federal Law No. 22-FZ of January 29, 1997, The Forest Code of the Russian Federation, arts. 56-58, available at LEXIS GARANT 10033088.

144. 2001 Land Code, *supra* note 2, at art. 1.

likely they will conflict with each other at some point, unless the principles are so general as to be meaningless. Invoking the environment, human life and health, and cultural heritage, without standards or reference to other standards, may invite cynicism or abuse. While some of these principles have been a part of Russian/Soviet legal dogma for some time, at least as stated if not in fact, others are new and even contradictory to earlier rules, most notably principles 4, 5, 7, and 11. Moreover, the supremacy of Russian Federation laws (principle 9) has not always been assumed.¹⁴⁵

Other specific legislation regulates the use and preservation of the sub-soil, waters, forests, animals and other natural resources, environment, natural territories and facilities, atmospheric air, and objects of cultural heritage.¹⁴⁶ *To the extent not regulated by the Land Code*, "land relationships," such as the use and preservation of land, are subject to the norms established in those pertinent statutes.¹⁴⁷ Thus, the Land Code is paramount to these other laws with respect to *land relationships*. However, "property relationships," such as possession, use, disposal of, or deals in plots of land, are governed by civil legislation except as required by land, forestry, water, sub-soil, environmental, and other special federal laws.¹⁴⁸ Thus, for purposes of defining the scope of "property relationships," other *federal* legislation is at least as significant as the Land Code.

2. Federalism

The Land Code establishes a hierarchy of authority in enacting land regulations. The Land Code itself is supreme with respect to land law norms,¹⁴⁹ except for treaties to which the Russian Federation is a party.¹⁵⁰ This is in apparent conflict with the supremacy clause of the 1994 Civil Code. Special laws such as the Land Code prevail in such cases,¹⁵¹ even if it is nec-

145. Cf. *infra* text accompanying notes 687-89 (noting need to align local and federal laws and the power failure to effectuate such alignment gives to local officials).

146. 2001 Land Code, *supra* note 2, at art. 3(2).

147. *Id.*

148. *Id.* at art. 3(3).

149. *See id.* at art. 2(1).

150. *See id.* at art. 4.

151. Interview with Igor A. Boldyrev, Attorney, Ernst & Young, in Moscow, Russia (Apr. 9, 2002).

essary to amend the Civil Code.¹⁵² To the extent the Land Code is silent on a point, the 1994 Civil Code can fill in the gaps. In addition, lands of special purpose, for example, land of railways, electrical lines, and Gazprom, may be regulated by even more particularized legislation.¹⁵³

The federal and regional governments may enact land legislation and the President may promulgate decrees, so long as such laws and decrees are not contrary to the new Land Code or other federal legislation.¹⁵⁴ Additionally, regulations adopted by the federal, regional, and local governments must fall within the scope of the statutory powers established by the Code.¹⁵⁵

Under the Constitution, the regulatory acts of the Russian Federation are supreme relative to other governmental entities, and the regulatory acts of the Russian regions are supreme relative to local governmental entities.¹⁵⁶ Nevertheless, administrative acts of local government officials have conflicted with administrative acts of Russian Federation officials for many years and no president, or leader by another title, has really been able to establish a satisfactory level of control of, or respect from, local officials.¹⁵⁷ Furthermore, because the Land Code requires local officials to apply its standards and execute its duties, opportunity for abuse exists.¹⁵⁸

The Code further defines the relationships between federal, regional, and local governments by delegating specific powers concerning land.¹⁵⁹ The federal government establishes policies concerning land relationships and imposes limits on the negotiability of land plots, as well as limits on the rights of owners, users, tenants, and lessees.¹⁶⁰ The Russian Federation also

152. Interview with Olga Kozyr, Attorney, Hogan & Hartson, L.L.P., in Moscow, Russia (Mar. 29, 2002).

153. Interview with Igor A. Boldyrev, *supra* note 151.

154. 2001 Land Code, *supra* note 2, at art. 2(1).

155. *Id.* at art. 2(2).

156. KONST. RF [Constitution of the Russian Federation] art. 76.

157. See *The Bridling of Russia's Regions*, ECONOMIST, Nov. 11, 2000, at 61 (describing President Putin's appointment of seven presidential representatives to go out into the eighty-nine Russian regions and represent him, and efforts necessary to avoid co-option by the local authorities).

158. "As former Federation Council Chairman, Vladimir Shumeiko, observed, once a new law goes beyond the suburbs of Moscow, the 'fading out principle' comes into play with the political will and bureaucratic momentum needed to ensure compliance waning with distance from the center." Robert Sharlet, *Transitional Constitutionalism: Politics and Law in the Second Russian Republic*, WIS. INT'L L.J. 495, 513 (1996) (quoting *Vremiya* (Russian nightly newscast), C-SPAN 1, Mar. 12, 1994).

159. 2001 Land Code, *supra* note 2, at arts. 9-11.

160. *Id.* at art. 9(1), paras. 1-2.

monitors land control and management, keeps the state land registry, establishes the procedure for excluding plots of land from alienability for state and municipal needs, and takes plots of land by compulsory purchase for the needs of the Russian Federation.¹⁶¹ Furthermore, it elaborates and implements federal land use and preservation programs and exercises other powers pursuant to the Constitution, the Land Code, and other federal laws.¹⁶² Finally, the Russian Federation must manage and dispose of plots of land that it owns.¹⁶³

At the regional level, governments may take land by compulsory purchase for their needs, elaborate and implement regional land use and preservation programs applicable to lands within a region, and exercise powers not delegated to the Russian Federation or to local government bodies.¹⁶⁴ They must also manage and dispose of plots of land that they own.¹⁶⁵

Finally, local government bodies may take land by compulsory purchase for municipal needs and establish rules of land use and development applicable to city or town and rural settlements consistent with Russian law.¹⁶⁶ They may elaborate and implement land use and preservation programs and exercise other powers to resolve matters of local significance.¹⁶⁷ Each local government body also must manage and dispose of plots of land that it owns.¹⁶⁸

The Land Code entrusts the broad policy decisions to the Russian Federation government, leaving mostly ministerial responsibilities with the regional and local governments. The Code bestows powers concerning land relationships on regional and local governments only insofar as the federal government does not have that authority or fails to exercise it. This raises the question of whether an unexercised power of the federal government constitutes its "exercise," that is, whether the federal government wishes to leave a certain area unregulated. It is important to note that the negotiability of land plots, state land monitoring, state land control, the state registry, and procedures for excluding plots of land from alienability are exclusively within the legislative or regulatory authority of the Rus-

161. *Id.* at art. (9)(1), para. 305.

162. *Id.* at art. 9(1).

163. *Id.* at art. 9(2).

164. *Id.* at art. 10(1).

165. 2001 Land Code, *supra* note 2, at art. 10(2).

166. *Id.* at art. 11(1).

167. *Id.* at art. 11(1).

168. *Id.* at art. 11(2).

sian Federation government, irrespective of the extent to which it exercises such authority.¹⁶⁹

Article 29 limits any executive governmental body or local government body of a governmental unit from exercising authority to grant plots of land in excess of its powers.¹⁷⁰ While this provision is circular because a government body should not exercise more authority than it has authority to exercise, it addresses the problem of both horizontal and vertical conflicting authority.¹⁷¹ Even a circular standard supports a court's resolution of a particular conflict.

B. OWNERSHIP OF LAND

The Land Code significantly expands the opportunity to own certain land, as well as the rights of an owner. In order to make the slate as clean as possible, the Code provides that an owner of land nationalized prior to January 1, 1991 is not entitled to return of the land, nor to reimbursement or compensation.¹⁷² However, those whose ownership interests originated *after* that date (e.g., from land sales in Samara, Saratov, Tatarstan, and St. Petersburg) should retain those interests. The Code establishes *who* may participate in land relationships and from whom land is acquired, *what* ownership interests are, and *how* to acquire those interests. This section considers each of these points, with some unavoidable overlap in the discussion.

1. *Interests in Land: Who?*

Citizens, legal entities, the Russian Federation, the Russian regions, and municipal entities may participate in land relationships.¹⁷³ The Code defines "owners of land" to be persons who

169. *Id.* at art. 9(1).

170. *See id.* at art. 29.

171. *See* Kibel, *supra* note 105, at 69 (noting competing claims of legitimacy between different local councils).

172. 2001 Land Code, *supra* note 2, at art. 25(3). For a description of the different systems of restoring property to its pre-nationalization owners see generally Frances H. Foster, *Restitution of Expropriated Property: Post-Soviet Lessons for Cuba*, 34 COL. J. TRANS. L. 621 (1996) (describing approaches and problems encountered by Latvia, Lithuania, and Estonia in their property restitution programs). Any other course would needlessly cloud title to land plots as heirs of owners from as early as 1917 emerge and sue to block land deals. *See* Hermann Schmitt, *Land Code Avoiding East German Pitfalls*, MOSCOW TIMES, Jan. 22, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (comparing East German law which did provide a right to have real estate restored).

173. 2001 Land Code, *supra* note 2, at art. 5(1).

are owners of plots of land.¹⁷⁴ A “user of land” is a person possessing and using a plot of land by right of permanent, or infinite, use or by right of free use for a term.¹⁷⁵ A “tenant” is a person who possesses and uses a plot of land by right of life-time inheritable possession.¹⁷⁶ A “lessee of a plot of land” is a person possessing and using a plot of land under a lease or sublease.¹⁷⁷ A “holder of an easement” is a person having a limited right to use other persons’ plots of land.¹⁷⁸

Foreign citizens, persons without citizenship, and foreign legal entities may acquire title to a plot of land in accordance with the Code provisions and federal laws.¹⁷⁹ While there is no provision explicitly stating that foreign citizens may acquire plots of land, this right is implicitly recognized.¹⁸⁰ Foreign citizens and entities are only *precluded* absolutely from owning land in border territories.¹⁸¹ Foreign persons may purchase state or municipally-owned land only for payment.¹⁸² They may purchase or lease plots of land for construction purposes¹⁸³ and they have the same preferential right to acquire the land under a building that they own as Russian citizens and legal entities.¹⁸⁴ Participation of foreign citizens in the Russian land market can only increase the value of Russian land.

Russian citizens and legal entities may acquire plots of land by complying with conditions set down by the Russian Federation¹⁸⁵ on an equal opportunity basis.¹⁸⁶ State-owned or municipally-owned plots of land may be transferred to Russian citizens and legal entities, unless the Code or other law provides that certain land may not be privately owned.¹⁸⁷

The inclusion of a right of equal opportunity for citizens and

174. *Id.* at art. 5(3).

175. *Id.*

176. *Id.*

177. *Id.*

178. *Id.*

179. 2001 Land Code, *supra* note 2, at art. 5(2).

180. *See infra* text accompanying notes 181-84.

181. 2001 Land Code, *supra* note 2, at art. 15(3).

182. *Id.* at art. 28(5).

183. *Id.* at art. 30(12).

184. *Id.* at arts. 35(5) and 36(9).

185. *Id.* at art. 15(1).

186. *Id.* at art. 15(2).

187. 2001 Land Code, *supra* note 2, at art. 15(2). Foreign citizens, persons without citizenship, and foreign legal entities may not obtain title to land in border territories. These territories are identified by the President under the State Border of the Russian Federation Law, as well as other territories named in other federal laws. *Id.* at art. 15(3).

legal entities to acquire title to a plot of land seems intended to prevent the type of abuse that occurred during the first rounds of privatization, particularly in the loan-for-shares program.¹⁸⁸ Extensive favoritism made some persons, such as the “oligarchs,” fabulously wealthy without raising significant sums for the governments that sold the assets to them very cheaply.¹⁸⁹ Not surprisingly, this made many Russians cynical about privatization and the move towards a market economy.¹⁹⁰ Equal opportunity would assure that the governments who sell land raise more money,¹⁹¹ allowing governments to be better able to undertake and bear social responsibilities.¹⁹²

Land not owned by citizens, legal entities, or municipal entities is state property.¹⁹³ Allocation of state property among the Russian Federation, the regions, and municipal entities must be in accordance with the Federal Law on Delineation of State Ownership of Land¹⁹⁴ (FLDSOL). Under the FLDSOL, the government entity owning a particular plot of land is the entity with the power to transfer it and from whom it must be acquired. That entity is the one that receives the proceeds of a sale.¹⁹⁵

In addition to the land allocated under the FLDSOL,¹⁹⁶ the Code names certain properties that are owned by the Russian Federation, the Russian regions, and municipal entities respectively. The Russian Federation owns plots of land as recognized

188. See Ilya Yuferev, *New Land Code Must Be Backed Up With More Action*, 4 RUSS. J. 38, 131 (Sept. 28, 2001), at <http://russijournal.com/printer/weekly5233.html> (noting criticism of Land Code by Communists and Agrarians that Code gives the “green light for a handful of Russia’s oligarchs to profit from selling the country’s land”).

189. See William P. Kratzke, *Russia’s Intractable Economic Problems and the Next Steps in Legal Reform: Bankruptcy and the Depoliticization of Business*, 21 NW. J. INT’L L. & BUS. 1, 14-15 (2000) (stating government treasury did not benefit).

190. See JANINE R. WEDEL, COLLISION AND COLLUSION: THE STRANGE CASE OF WESTERN AID TO EASTERN EUROPE 1989-1998, 133 (1998) (stating public sentiment against privatization was visceral). The loan-for-shares debacle fuelled the opposition of the Agrarian and Communist Parties. Their opposition to the Land Code, as well as to a code governing the sale of agricultural land, stems from their belief that private ownership of land will benefit only those who are already wealthy and make slaves of the farmers. See *infra* text accompanying note 659.

191. Cf. Kratzke, *supra* note 189, at 14 (noting government failure to raise money).

192. *Id.*

193. 2001 Land Code, *supra* note 2, at art. 16(1).

194. *Id.* at art. 16(2).

195. See Yevgenia Borisova, *Land Reform: The Race Is On*, MOSCOW TIMES, Feb. 4, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times.

196. 2001 Land Code, *supra* note 2, at arts. 17(1), 18(1), 19(1).

by federal laws; plots of land acquired on grounds set out in civil legislation;¹⁹⁷ and may own plots of land not put under private ownership under the FLDSOL.¹⁹⁸

The Russian regions own plots of land as recognized by federal laws; plots of land acquired on grounds set out in civil legislation;¹⁹⁹ and may own plots of land not privately owned; plots of land occupied by immovable property that they own; plots of land granted to governmental bodies of the regions, to state unitary enterprises, and to state institutions set up by governmental bodies of the regions; plots of land classified as land of specially preserved natural territories of regional significance, forestry land owned by the regions under federal laws, water stock and land occupied by water facilities owned by Russian regions, and land re-distribution stock; and plots of land occupied by privatized *property* which was owned by Russian regions prior to its privatization.²⁰⁰

Municipal governments own plots of land as recognized by federal and regional laws; land acquired on grounds set out in civil legislation;²⁰¹ and may own land not put under private ownership in the FLDSOL.²⁰² Furthermore, to ensure the development of municipal entities, the state may gratuitously transfer plots of land located outside of the municipality to a municipal entity.²⁰³ However, in Moscow and St. Petersburg, plots of land may not be transferred to become municipal property at the delineation of state land property;²⁰⁴ rather, municipal ownership occurs in these areas when plots of land are transferred from ownership of the cities of Moscow and St. Petersburg to municipal ownership under the laws of these regions.²⁰⁵

2. *Interests in Land: What?*

The components of land relationships are land as a natural facility and resource, plots of land, and parts of plots of land.²⁰⁶

197. *Id.* at art. 17(1).

198. *Id.* at art. 17(2).

199. *Id.* at art. 18(1).

200. *Id.* at art. 18(2).

201. *Id.* at art. 19(1).

202. 2001 Land Code, *supra* note 2, at art. 19(2).

203. *Id.* at art. 19(3).

204. *Id.* at art. 19(4).

205. *Id.* at art. 19(4).

206. *Id.* at art. 6(1).

The unit of property owned is a “plot of land.”²⁰⁷ It may be divided into more plots that may be used without reclassification,²⁰⁸ except as established by federal law.²⁰⁹ The Land Code also recognizes interests in plots of land that are less than complete ownership. These interests are permanent use, life-time inheritable possession, leases, rights of limited use, and gratuitous fixed term use.

a. Ownership

The Code does not define “ownership” specifically, but in many places states how ownership is obtained and what an owner’s rights are. Furthermore, the 1994 Civil Code fills in several details. The owner of a land plot has the right to use everything above and below the surface, taking into account other laws and the rights of other persons.²¹⁰ Consistent with the land’s classification, an owner may build upon it and renovate or demolish buildings.²¹¹ An owner of a land plot acquires ownership of anything the owner builds on the land.²¹² The 1994 Civil Code states that an owner has “the right of possession, use, and disposition of his property,”²¹³ and may “sell it, give, pledge, or lease out, and otherwise dispose of it.”²¹⁴

b. Permanent Use

Under the Land Code, a right of permanent use of land is available only to state and municipal institutions, federal state-owned enterprises, and governmental bodies.²¹⁵ Citizens²¹⁶ do not have the right to permanent use, unless such an interest in land owned by the state or a municipal entity existed prior to the effective date of the Land Code.²¹⁷ This interest was created in Soviet times when private ownership was not possible. While a use-right could be valuable, its legal foundation was tenuous

207. *Id.* at art. 15(1). A plot of land is defined as an area of ground surface described in an established manner. *Id.* at art. 6(2).

208. *See infra* Part IV.C on zoning.

209. 2001 Land Code, *supra* note 2, at art. 6(2).

210. GK RF [Civil Code of the Russian Federation] art. 261(3) (W.E. Butler tr. 1994).

211. *Id.* at art. 263(1).

212. *Id.* at art. 263(2).

213. *Id.* at art. 209(1).

214. *Id.* at art. 260(1).

215. 2001 Land Code, *supra* note 2, at art. 20(1).

216. *Id.* at art. 20(2).

217. *Id.* at art. 20(3).

in that the government could revoke the interest.²¹⁸ This interest is fundamentally inconsistent with principles of private ownership.

If a citizen or legal entity already owns a right of permanent use, the person or entity may not dispose of it.²¹⁹ However, under the 1994 Civil Code, the holder of such an interest may lease it to others or grant it for a fixed term gratuitous use, if the citizen or entity has the consent of the owner.²²⁰ This is inconsistent with the Land Code, which does not allow the leasing of land held under a right of permanent use.²²¹

Under the Land Code, a *citizen* possessing a plot of land by right of permanent use has the right to acquire that plot gratuitously upon payment of an amount not in excess of fees established by federal law.²²² Legal entities, under a law passed the same day as the Land Code, have until January 1, 2004, to convert their interests to ownership or lease.²²³ Many Soviet enterprises acquired this particular interest in land and now possess, but do not own, some very valuable property.²²⁴ Those who possess far more land than they can use, such as railroads, lease it out with only an obligation to pay relatively low taxes.²²⁵ These enterprises may prove resistant to change and apt to litigate the conflict between the Land Code and the 1994 Civil Code, as the opportunity to lease land out has been a cash cow for many of them.²²⁶

c. Lifetime Inheritable Possession

The right of "life-time inheritable possession" was created in 1990, when it was not possible to own land.²²⁷ A right of "life-

218. Interview with Olga Kozyr, *supra* note 152.

219. 2001 Land Code, *supra* note 2, at art. 20(4).

220. GK RF [Civil Code of the Russian Federation] art. 270 (W.E. Butler tr. 1994).

221. Interview with Olga Kozyr, *supra* note 152.

222. 2001 Land Code, *supra* note 2, at art. 20(5).

223. Federal Law No. 137-FZ of October 25, 2001, On Putting Into Force the Land Code of the Russian Federation, art. 3(2). Failure to make such a conversion results in the legal entity's having to comply with Article 36 of the Land Code, which governs acquisition of rights to state or municipally-owned land where buildings, houses, or structures are located. *Id.*

224. Interview with Olga Kozyr, *supra* note 152.

225. *Id.*

226. Interview with Igor A. Boldyrev, *supra* note 151 ("They could suck money from nowhere.").

227. This right could also be revoked by the state. Interview with Olga Kozyr, *supra* note 152.

time inheritable possession” in state or municipally-owned agricultural land acquired by a *citizen* before the effective date of the Code continues to exist, but no more interests of this type may be created.²²⁸ Such an interest may only be transferred by inheritance, and state registration of such a transfer must be made under a certificate of a right to inheritance.²²⁹

The 1994 Civil Code and Land Code also provide for different treatment of this interest. The holder of such an interest, according to the 1994 Civil Code, may lease it to others or transfer it for a gratuitous fixed term, contrary to the terms of the Land Code.²³⁰ The 1994 Civil Code also provides that the holder of such an interest may not mortgage it.²³¹ Under the Land Code, a citizen owning such an interest may acquire gratuitously a title to that plot, upon payment of an amount not in excess of fees established by federal law.²³²

d. Leases

The Land Code also recognizes leaseholds and implicitly recognizes a right to enter a lease as an interest in land. Owners of plots of land may let them, unless the plot is occupied by various federally-owned military and national security facilities.²³³ Foreign citizens and persons without citizenship may lease plots of land, except as specified in the Code.²³⁴ Plots of land that have been withdrawn from circulation may not be let, except as provided by federal laws.²³⁵

A lessee has a preferential right to enter into a new lease with certain exceptions.²³⁶ The lease contract establishes the rental rate; however, in rentals of state or municipally-owned land, the Russian Federation government may establish a common basis for calculating rent.²³⁷ A lessee may assign²³⁸ his

228. 2001 Land Code, *supra* note 2, at art. 21(1).

229. *Id.* at art. 21(2).

230. GK RF [Civil Code of the Russian Federation] art. 267(1) (W.E. Butler tr. 1994).

231. *Id.* at art. 267(2).

232. 2001 Land Code, *supra* note 2, at art. 21(3).

233. *Id.* at art. 22(2) (referencing Article 27(4)).

234. *Id.* at art. 22(1).

235. *Id.* at art. 22(11).

236. *Id.* at art. 22(3). The code provides an exception when the land to be leased and a building unit are owned by different parties; in which case the building owner has a preferential right to buy or lease the underlying land and for termination of a lease for various offenses. *Id.* at arts. 35(3), 36, 46.

237. *Id.* at art. 22(4).

238. The Code obviously uses the term “assign” in a way that does not include

rights and duties under a lease to a third person²³⁹ upon notice to, but without the consent of, the owner of the plot of land, unless otherwise provided in the lease contract.²⁴⁰ Under prior laws, lessees did not have such rights; however, these laws encouraged very long-term leases of forty-nine years.²⁴¹ Land held on such a long-term basis would simply never be a source of financing without an assignment provision such as this one. In the case of such an assignment, the assignee bears the liabilities under the lease contract, except for mortgage liabilities.²⁴² A lessee may sublet upon notice but without the consent of the lessor, unless otherwise provided in the lease contract, and the sublessee has all the rights provided in the Code that lessees have.²⁴³

This right to sublet without the landlord's consent is a potentially substantial expansion of lessee's rights. Under prior law, the lessor, usually a public authority, could veto any assignment or sublease.²⁴⁴ A foreign investor with a long-term lease of property in which it had invested substantially by making improvements, who wished to exit the country did so only with a considerable forfeiture. Under current law, the lessee may bargain away this unfettered right to assign or sublet, and this bargaining power will determine the significance of the provision.²⁴⁵

A plot of land may be leased for state or municipal needs or for prospecting purposes for a term of no more than one year.²⁴⁶ Such a lessee must surrender the property in a condition suitable for its authorized use, if the lessor so demands.²⁴⁷ Such a lessee must also reimburse losses that it causes, re-cultivate the land, and execute other duties imposed by law or contract.²⁴⁸

The lessee of state or municipally-owned land has a contingent preferential right to buy the land plot in the manner estab-

"sub-let."

239. For example, a lessee may assign his right to mortgage the interest, to contribute the interest to a partnership, or to contribute it as a stake in a production cooperative. 2001 Land Code, *supra* note 2, at art. 22(5).

240. *Id.*

241. *See supra* text accompanying notes 122-23.

242. 2001 Land Code, *supra* note 2, at art. 22(5).

243. *Id.* at art. 22(6).

244. Interview with Igor A. Boldyrev, *supra* note 151.

245. *Id.*

246. 2001 Land Code, *supra* note 2, at art. 22(7).

247. *Id.*

248. *Id.*

lished by civil legislation.²⁴⁹ However, if another person owns a building or other structure situated on the land, that person's right to acquire the land supersedes that of the lessee.²⁵⁰ In the case of a lease of state or municipally-owned land exceeding five years, the lessee may assign his rights and duties under the lease contract to a third person upon notification, but without the consent of the owner.²⁵¹ The lease contract may not be amended nor restrictions imposed without the lessee's consent.²⁵² Only following a court decision that the lessee breached the contract may the lessor rescind a lease scheduled to run more than five years.²⁵³

e. Easements

An easement, private or public, may be either for a fixed-term or permanent.²⁵⁴ The 1994 Civil Code provides that the grant of an easement does not deprive the land owner of the rights of possession, use, and disposition,²⁵⁵ but the easement continues when the land is transferred.²⁵⁶ All easements are subject to state registration under the Federal Law on the State Registration of Rights to Immovable Property and Deals in It.²⁵⁷

A public easement must be as least burdensome as possible for the owner of the plot of land.²⁵⁸ If a public easement renders use of the land impossible, the owner, user, or tenant may claim that a taking has occurred and receive compensation, or another plot of land of equal value, from the government body that established the easement.²⁵⁹

A governmental body, pursuant to a law or regulatory act, may establish a public easement when necessary to ensure the interests of the state, local government, or local public without "taking" land but must give due regard to the results of a public

249. *Id.* at art. 22(8) (referencing Article 36(1)).

250. *Id.* (referencing Article 36(1)).

251. *Id.* at art. 22(9).

252. 2001 Land Code, *supra* note 2, at art. 22(9).

253. *Id.*

254. *Id.* at art. 23(4).

255. GK RF [Civil Code of the Russian Federation] art. 274(2) (W.E. Butler tr. 1994).

256. *Id.* at art. 275(1).

257. 2001 Land Code, *supra* note 2, at art. 23(9).

258. *Id.* at art. 23(5).

259. *Id.* at art. 23(7). Apparently the owner or user of land has no choice whether to accept another land plot of equal value or to demand compensation, as the owner does in the case of a requisition. *See id.* at art. 51(3).

hearing.²⁶⁰ A public easement may be instituted only for a right of way through a plot of land; repairing utility, engineering, electricity or other lines or networks and transporting infrastructure facilities; placing boundary and survey marks and obtaining access to them; performing drainage works, taking water and feeding water to animals; passing of cattle; mowing hay or grazing cattle in accord with local conditions, except for forestry lands; hunting or fishing in an isolated body of water or picking wild plants within established terms; temporary prospecting or research and other works; and obtaining free access to a coastline.²⁶¹ If a public easement causes significant difficulties in using a land plot, the owner is entitled to compensation or another plot of equal value from the governmental body that established the easement.²⁶²

A private easement may be established only in compliance with civil legislation.²⁶³ The 1994 Civil Code provides that the owner of immovable property²⁶⁴ has the right to demand from the owners of neighboring land a right of limited use as necessary. "Necessary" purposes include access and passage; laying and operating electrical transmission lines, communication lines, and pipelines; supplying water; reclamation; and other necessary purposes.²⁶⁵ A private easement must be established by agreement of the parties or by a court if agreement is not possible.²⁶⁶ Except as required by federal law, the owner of land burdened by a private easement is entitled to have the easement terminated by a court order²⁶⁷ or to receive just compensation.²⁶⁸

f. Fixed-Term

State or municipally-owned land may be granted gratuitously for a fixed-term of one year or less to state and municipal institutions, federal state-owned enterprises, and governmental

260. *Id.* at art. 23(2).

261. *Id.* at art. 23(3).

262. *Id.* at art. 23(7). The person whose interests are affected by a public easement is entitled to have that person's or entity's rights established in court. *Id.* at art. 23(8).

263. 2001 Land Code, *supra* note 2, at art. 23(1).

264. Immovable property includes more than merely land plots, e.g., a building.

265. GK RF [Civil Code of the Russian Federation] art. 274(1) (W.E. Butler tr. 1994).

266. *Id.* at art. 274(3).

267. *Id.* at art. 276(2).

268. 2001 Land Code, *supra* note 2, at art. 23(6).

bodies.²⁶⁹ Land owned by citizens and legal entities may be granted gratuitously for a fixed-term to other citizens and legal entities under a contract.²⁷⁰ Land owned by organizations of specific branches of industry (for example, transport, forestry, timber, hunting, state natural reserves, and national parks) may be granted gratuitously for a fixed-term to citizens in the form of a service land allocation.²⁷¹ Service land allocations shall be granted for gratuitous fixed-term use to employees of such organizations for the term of their employment in accord with legislation of the Russian Federation and the Russian regions.²⁷² Persons using service land allocations may exercise the rights of owners, except for ownership of the perennial plants growing on the plot of land,²⁷³ and must comply with the duties imposed upon land owners.²⁷⁴

3. *Interests in Land: How?*

The Land Code sets forth how particular plots of land are established and transferred to and among private persons. Civil legislation and federal laws govern rights to plots of land.²⁷⁵ The Land Code makes the State Land Registry an important element in the transfer of interests in land. The Land Code envisions that any person qualified to acquire possession of a plot of land may search among unowned, that is, state-owned, plots and apply to the relevant government authority to have the interest conveyed to him.²⁷⁶ Certain persons, notably building owners, have preferential rights,²⁷⁷ so the privilege to search among unowned land plots may not create quite the land rush this vision might imply. Moreover, not all state land is “alienable,” and some state land is subject only to “limited alienability.”²⁷⁸ Nevertheless, relevant government authorities *must* “alienate” land in compliance with civil legislation and the Land Code.²⁷⁹

269. *Id.* at art. 24(1).

270. *Id.*

271. *Id.* at arts. 24(1), (2).

272. *Id.* at art. 24(2).

273. *Id.* at art. 41(1).

274. 2001 Land Code, *supra* note 2, at art. 24(2) (referencing Article 42).

275. *Id.* at art. 25(1).

276. *See infra* text accompanying note 297.

277. *See supra* note 184 and accompanying text.

278. *See infra* notes 283-89 and accompanying text.

279. 2001 Land Code, *supra* note 2, at art. 27(1).

The Russian regions must establish the maximum and minimum plot sizes available to a citizen from state or municipally-owned land for purposes of running a peasant's farm, gardening, vegetable farming, cattle-breeding, or summer cottage construction.²⁸⁰ The Code contemplates that the maximum plot size granted *free of charge* to a citizen for such activities will be established by federal laws for plots taken from federally-owned land, by Russian regions for plots taken from land owned by the regions, and by regulatory legal acts of local government bodies for plots taken from land owned by municipal entities.²⁸¹ Additionally, local government bodies must establish maximum and minimum plot sizes available to a citizen from state or municipally owned land for running a personal auxiliary farm or individual housing construction.²⁸² The maximum size of a plot of land granted for other purposes is to be consistent with land allocation sizes approved in the established manner for specific types of activity, or land use and development rules, and land management, city construction, and design documentation.²⁸³

Plots of land excluded from alienability may not be conveyed so as to become private property nor be the object of deals specified by civil legislation.²⁸⁴ Similarly, plots of land *limited* in alienability may be conveyed so as to become private property only as allowed by *federal law*,²⁸⁵ including the Land Code.²⁸⁶ Plots of land occupied by certain federally-owned facilities are inalienable.²⁸⁷ Certain state or municipally-owned plots of land are "limited" in alienability.²⁸⁸ While a federal law on the

280. *Id.* at art. 33(1).

281. *Id.* at art. 33(2).

282. *Id.* at art. 33(1).

283. *Id.* at art. 33(3).

284. *Id.* at art. 27(2).

285. 2001 Land Code, *supra* note 2, at art. 27(2).

286. *Id.* at art. 27(3).

287. These facilities include state natural reserves and national parks (except as established in Article 95, governing Land of Specially Preserved Natural Territories); buildings, houses, and structures accommodating permanent activity of the Russian armed forces or military courts; facilities of federal security service organizations or federal state guard organizations; atomic energy facilities or storage facilities of nuclear material and radioactive substances; facilities for restricted-access administrative-territorial entities; correctional-labor institutions and medical treatment-labor disease prevention facilities of the Russian Federation's Ministry of Justice or Ministry of Internal Affairs; military and civilian cemeteries; and engineering-technical structures, communication lines, transmission lines, and pipelines constructed to defend and protect the Russian Federation's State Border. *Id.* at art. 27(4).

288. The following land is limited in alienability: land within specifically pre-

alienability of agricultural purpose land governs the alienability of agricultural land,²⁸⁹ its limitations do not extend to plots of land granted to citizens from agricultural purpose land for individual housing and garage construction, personal auxiliary and summer cottage farming, gardening, cattle-breeding, and vegetable farming; nor to plots of land occupied by buildings, houses, and structures.²⁹⁰

Citizens and legal entities may acquire alienable state or municipally-owned land for *ownership or lease*.²⁹¹ State and municipal institutions, federal state-owned enterprises, and governmental bodies may acquire such land for *permanent use*.²⁹² Citizens and state and municipal institutions, federal state-owned enterprises, and governmental bodies may acquire such land for *gratuitous fixed-term use*.²⁹³ These persons must pay for their interests in land except as specified in the Land Code, other federal laws, and laws of the Russian regions.²⁹⁴ The procedures established by the Land Code for acquiring state or municipally-owned land²⁹⁵ do not apply to citizens' gratuitous acquisition of land that they occupy by right of permanent use, nor to citizens' gratuitous acquisition of land that they occupy in life-time inheritable possession.²⁹⁶

One who wants to acquire a plot of land owned by a local government, regional government, or the federal government must file a written application with the proper authority, which then has two weeks to decide whether to grant the land plot to

served natural territories not otherwise excluded from alienability; forestry stock except for cases established by other federal law; land occupied by state or municipally-owned water facilities incorporated in water stock; land occupied by especially valuable objects of cultural heritage; land granted for the purpose of ensuring defense and security, the defense industry, and customs needs not otherwise excluded from alienability; restricted-access administrative-territorial entities not otherwise excluded from alienability; lands granted for the needs of transport organizations; lands granted for communication needs; lands occupied by spaceflight infrastructure facilities; lands located under hydraulic engineering structures; lands granted for the purpose of poisonous substances and narcotics; and lands polluted by hazardous waste or radioactive substances, exposed to biological pollution or other deterioration. *Id.* at art. 27(5).

289. *Id.* at art. 27(6).

290. *Id.* at art. 27(7).

291. 2001 Land Code, *supra* note 2, at art. 28(1).

292. *Id.*

293. *Id.*

294. *Id.* at art. 28(2).

295. *Id.* at arts. 30-34.

296. *Id.* at art. 28(3).

the applicant.²⁹⁷ However, there is no established sanction or consequence for failure to comply with this two-week deadline.

The relevant authority may not refuse to grant state or municipally-owned plots of land for construction purposes to citizens or legal entities, unless the land is excluded from alienability, federal law bans its privatization, or there is a reservation of plots of land for state or municipal needs.²⁹⁸ Moreover, *if a federal law permitted* such grants to citizens and legal entities, the relevant authority may not refuse to grant state or municipally-owned plots of land, not excluded from alienability, to citizens and legal entities.²⁹⁹ Article 28, governing acquisition of state or municipally-owned land, contains measures that deny discretion to local government officials to deny or delay ownership, demand excessive money, or withdraw certain land from alienability. It is obvious what problems such a measure addresses.³⁰⁰

A government itself may offer particular land plots for sale or lease. Such a government must "form up" the land plot.³⁰¹ The seller or lessor is the relevant governmental authority.³⁰² The owner of the plot of land or one acting under contract with the owner must organize the sale,³⁰³ and decide the form of the sale, the initial selling price, and the amount of earnest money.³⁰⁴

297. 2001 Land Code, *supra* note 2, at art. 28(3).

298. *Id.* at art. 28(4).

299. *Id.* at art. 28(4).

300. See John Harrison, *Get Set to Buy*, MOSCOW TIMES, May 2002, *Real Estate*, Special Business Review Section, at 5.

There is some doubt . . . as to whether all plots, particularly the most desirable ones will appear on the market at all. According to one official at the Moscow City Council . . . : "In fact, it is likely that many land sales will be affected by bribes to city government officials. Plots of land may disappear from the market for technical reasons and then, six months later, we discover that the land has been sold to an unknown buyer."

Id.

301. The following steps are required to "form up" a land plot: (1) prepare a draft land plot boundary layout, i.e., the land" technical description; (2) indicate the purpose of the authorized use of the plot of land; (3) set out technical specifications for connecting facilities to transmission lines and pipelines; (4) decide whether to hold a sale (tender or auction); and (5) publish an announcement of sale or acceptance of applications for plots of land if they are to be granted without a sale. 2001 Land Code, *supra* note 2, at art. 38(1) (referring to Article 30(4)).

302. *Id.* at art. 38(2).

303. *Id.*

304. *Id.* at art. 38(3).

a. Acquisition of Land for Construction Purposes

The Land Code contains several articles governing the acquisition of land for construction purposes.³⁰⁵ These articles are not altogether clear.³⁰⁶ Foreign citizens, persons without citizenship, and foreign legal entities may obtain land, other than in the border territories, for construction purposes by lease or purchase, subject to the usual limitations applicable to all owners of land.³⁰⁷ The grant of land from state or municipally-owned lands for purposes of construction may be effected either with or without a preliminary approval of the places where the facilities will be located.³⁰⁸

Preliminary approval of facility location is only required on dispositions of land that involve less than full ownership interests, are subject to various rules, or are dispositions for certain purposes. Preliminary approval is necessary when the grant is to be a lease or a right of permanent use to a state or municipal institution, federal state-owned enterprise, or governmental body.³⁰⁹ Approval must also be secured in cases of a facility located in a city/town or rural inhabited locality under city zoning requirements; when a plot of land is granted for agricultural production or forestry purposes; or when a plot of land is granted to a citizen for individual housing construction or personal auxiliary farming purposes.³¹⁰

The grant of a plot of land for construction purposes without a preliminary approval of the location of facilities may occur

305. *Id.* at arts. 30-32.

306. See Yevgenia Borisova, *So, Think You Want to Buy Some Land?*, MOSCOW TIMES, Jan. 28, 2002, at 12 (stating that it is unclear whether Article 30 allows people to purchase land that they select or merely to lease it, confining the right to purchase to non-specified plots, i.e., plots chosen by the state).

307. 2001 Land Code, *supra* note 2, at art. 30(12).

308. *Id.* at art. 30(1). Article 38 governs grants without a preliminary approval. *Id.* at art. 30(2).

309. *Id.* at art. 30(3).

310. *Id.* at art. 30(11). The four steps for granting a plot for construction purposes with preliminary approval are as follows: (1) choose a plot of land and preliminarily decide whether to approve the location of a facility in the manner established by Article 31; (2) form the plot of land; (3) record the plot of land in the state land registry; and (4) decide whether the plot of land is granted for construction purposes in keeping with Article 32. *Id.* at art. 30(5). Article 31 establishes a procedure for selection and granting plots of land for construction purposes. *Id.* at art. 31. Article 32 establishes the legal effect of a decision to grant a plot of land for construction purposes. *Id.* at art. 32. The Land Code contemplates that the government authority will perform these tasks. The Land Code is the first Russian law that requires state authorities to prepare documents. Interview with Igor A. Boldyrev, *supra* note 151.

only by sale, tender, or auction.³¹¹ Nevertheless, while preliminary approval of the location of facilities is not always required by the Land Code, the reality is that some approvals are needed, as construction affects such practical matters as roads, water, and other connections to the property.³¹²

A decision to grant or refuse a plot of land for construction purposes, or an abstract, must be given within seven days after the date of decision.³¹³ A government decision to grant a plot of land for construction purposes or the minutes of the results of a sale allow for state registration of a right of permanent use; conclusion of a sale contract and state registration of the buyer's right of ownership (when ownership of the plot of land is granted); or conclusion of a contract of lease and state registration of the lease.³¹⁴ A refusal to grant a plot of land for construction is subject to court appeal by the applicant.³¹⁵ If a court determines that a refusal to grant a plot of land for construction purposes is invalid, the court must order the particular government body to grant the plot of land and to indicate a term and conditions for such granting.³¹⁶

b. Acquisition of Land for Purposes Other than Construction

The Code establishes procedures for granting state or municipally-owned plots of land to citizens for purposes other than construction. The government bodies that control plots of land must manage and dispose of them on the principles of effective-

311. 2001 Land Code, *supra* note 2, at art. 30(2) (indicating that such sale, tender, or auction is to be conducted according to Article 38). The four steps for granting a plot of land for construction purposes without a preliminary approval of the location of a facility are as follows: (1) prepare a draft land plot boundary layout, indicating the purpose of the authorized use of the land plot, set out technical specifications for connecting facilities to transmission lines and pipelines, decide whether to hold a sale (tender or auction), and publish an announcement of sale or acceptance of applications for plots of land if they are granted without a sale; (2) record the plot of land in the state land registry; (3) hold the sale, either for the plot of land or for the right to enter a lease, or grant the land for lease without a sale on application of a citizen or legal entity (a lease without a sale must be announced well in advance when there is only one application); and (4) sign the minutes on the result of the sale or the contract of lease. *Id.* at art. 30(4). Plots of land that have been formed but not assigned to a citizen or legal entity may be granted only upon compliance with steps (3) and (4). *Id.* at art. 30(6).

312. Interview with Igor A. Boldyrev, *supra* note 151.

313. 2001 Land Code, *supra* note 2, at art. 30(8). This is a full week sooner than is generally required. See *supra* note 297 and accompanying text.

314. 2001 Land Code, *supra* note 2, at art. 30(7).

315. *Id.* at art. 30(9).

316. *Id.* at art. 30(10).

ness, justice, public awareness, openness, and transparency of procedures.³¹⁷ They must adopt laws that authorize a special body to manage and dispose of plots of land and other immovable property.³¹⁸ Such bodies must adopt laws that establish procedures and criteria for granting plots of land that give no preference or special treatment to any specific category of citizens, except as otherwise established by law.³¹⁹ Furthermore, they must adopt laws that assure preparation of information on plots of land granted to citizens and legal entities, on the basis of a specific right and on terms and conditions announced and published, either for a fee or for free.³²⁰

Citizens who wish to purchase or lease state or municipally owned property, for purposes not related to construction, must file an application with the relevant governmental authority.³²¹ The application must define the intended use of the plot of land, its proposed size, its location, and the type of right requested.³²² On the basis of the application, the local government body or an appropriate land management organization acting on instructions of the local government body must, within one month, assure that a draft land plot boundary layout is drawn up and endorse it.³²³ Then, the relevant governmental authority must, within two weeks, decide whether to grant the plot of land requested into ownership for pay or free of charge or to grant the plot of land into lease, with a draft land plot boundary layout attached.³²⁴

c. Acquisition of a Building, House, or Structure

The Code separately addresses transfers of land which involve the purchase of a building, house, or structure. For some time now, buildings, houses, and structures have been owned separately from the land on which they stand.³²⁵ The purchase of a building, house, or structure includes the right to use the relevant part of the plot of land occupied by the building, house, or structure on the same terms as the former owner.³²⁶ When an

317. *Id.* at art. 34(1).

318. *Id.*

319. *Id.*

320. 2001 Land Code, *supra* note 2, at art. 34(1).

321. *Id.* at art. 34(2).

322. *Id.* at art. 34(3).

323. *Id.* at art. 34(4).

324. *Id.* at art. 34(5).

325. *See supra* notes 124-26 and accompanying text.

326. 2001 Land Code, *supra* note 2, at art. 35(1).

ownership right in a building, house, or structure is transferred to several persons, use rights in the land must take account of ownership shares in the building, house, or structure, or of the prevailing use rights in the land.³²⁷ The portion and area of the plot of land occupied by the building, house, or structure necessary for use is to be calculated according to the established manner for specific types of activity, land and development rules, or land management, city construction and design documentation.³²⁸

The owner of a building, house, or structure located on another person's land has a preferential right to buy or lease the land by complying with civil legislation governing the sale of a share of common ownership to an outsider.³²⁹ Foreign citizens, persons without citizenship, and foreign legal entities who own buildings, houses, or structures located on another's land have a preferential right to buy or lease the plot of land, consistent with other limitations on such person's ownership of land. However, the President of the Russian Federation may establish a list of the types of buildings, houses, or structures not covered by this rule.³³⁰ If a state or municipal entity owns the plot of land, however, the rules governing acquisition of rights to state or municipally-owned land plots where buildings, houses, or structures are located apply.³³¹

The acquisition of a building, house, structure, or part thereof located on someone else's land must include the plot of land, unless the part of a building, house, or structure acquired cannot be physically separated, as would occur if the acquisition was of one floor of a building; or the building, house, or structure is located on land specifically excluded from alienability.³³² Acquiring an ownership share of a building, house, or structure located on a plot of land owned by several persons causes acquisition of a pro rata share in the ownership right of the land.³³³ If one person owns both the land and the building, house, or struc-

327. *Id.*

328. *Id.* at art. 35(2) (stating the calculation is to be made in compliance with Article 33(3)).

329. *Id.* at art. 35(3).

330. *Id.* at art. 35(5) (referring to Article 5(2), Article 15(3) (border territories), Article 22(1) (leases), and Article 28(4) and (5) (construction purposes subject to exceptions for pay)).

331. *Id.* at art. 35(3) (referring to rules of Article 36(1)).

332. 2001 Land Code, *supra* note 2, at art. 35(4) (referring to Article 27 on rules of inalienability).

333. *Id.* at art. 35(4).

ture on the land that person may not sell the land or building separately.³³⁴

Citizens and legal entities who already own buildings, houses, or structures, or who have the right to manage or operate a business³³⁵ situated on state or municipally-owned plots of land have the right to acquire the underlying plots of land.³³⁶ The right to privatize land or to acquire leasing rights is exclusive to the citizens and legal entities that own the buildings, houses, or structures, so long as they comply with the conditions established in the Code.³³⁷

In an existing construction pattern that includes a structure containing condominiums, residential buildings, and other houses, plots of land must be granted as common property, with the landlords having share ownership according to the conditions established by the Federal Law on Partnerships of Owners of Residential Housing.³³⁸ Furthermore, in the case of a building owned by several persons situated on an indivisible plot of land, those persons may acquire share ownership of the land plot or lease the land in common with the others, except as provided by the Land Code.³³⁹ If an accommodation in a building situated on an indivisible plot of land is owned by one person but under the economic management of a group, they may together acquire a lease interest in the land, unless otherwise provided in the Code or federal laws.³⁴⁰ In that case, a contract of lease must be concluded if the parties agree to the accession to the contract of other holders of a right to accommodations in the building.³⁴¹

Federal budget-supported enterprises and state or municipal institutions that hold rights to accommodations in a building have a right of limited use of the plot of land so that they may exercise their accommodation right.³⁴² If accommodation rights in a building situated on an indivisible land plot are granted to several federal budget-supported enterprises and state or mu-

334. *Id.*; Interview with Olga Kozyr, *supra* note 152 (stating one cannot alienate a building, house, or structure without land).

335. The interest of ownership, economic management, or operational administration is established in 1994 Civil Code. GK RF [Civil Code of the Russian Federation] arts. 294-300 (W.E. Butler tr. 1994). This is essentially the right to operate a business. See generally Kozyr, *supra* note 24, at 344-46.

336. 2001 Land Code, *supra* note 2, at art. 36(1).

337. *Id.*

338. *Id.* at art. 36(2).

339. *Id.* at art. 36(3).

340. *Id.*

341. *Id.*

342. 2001 Land Code, *supra* note 2, at art. 36(3).

nicipal institutions, the grantor must grant the land plot to one of them in permanent use; the others have a right of limited use in order to exercise their accommodation right.³⁴³

In order to acquire a right to a plot of land on which a building, house, or structure is situated, citizens or legal entities must jointly file an application and land registry map with the relevant governmental authority.³⁴⁴ The government has two weeks from receipt of the application to decide whether to grant the land gratuitously for ownership or permanent use, or to prepare a draft contract of sale or lease.³⁴⁵ If there is no land registry map of the land plot, the relevant government authority acting on the application, the request of the legal entity, or the application of another government authority must, within one month, arrange for the drawing of a land registry map based on a standby registry map and endorse the land plot boundary draft.³⁴⁶ The relevant government authority has two weeks from the filing of the draft land plot boundary layout to decide whether to grant the land plot to the applicants and to forward to them a copy of the decision together with the draft land plot boundary lines.³⁴⁷ On the basis of the draft land plot boundary layout, the boundary of the plot of land shall be established and arrangements made to draw up a land registry map of the land.³⁴⁸ The same procedure is provided for foreign citizens, legal entities, and persons without citizenship seeking to acquire the land beneath the buildings they own.³⁴⁹

In the event of destruction of a building, house, or structure by fire, natural disaster, or dilapidation, the persons who possess the land by right of permanent use or life-time inheritable possession retain the right to service the structure, provided

343. *Id.* at art. 36(4).

344. *Id.* at art. 36(5).

345. *Id.* at art. 36(6) (indicating consistency with Articles 28(2) and 20(1)).

346. *Id.* at art. 36(7). The size and boundaries of the land plot must be determined, taking into account the area of the plot actually used in compliance with the land grant and with city construction legislation. *Id.* The boundaries must take account of red lines, boundaries of any adjacent plots of land, and natural boundaries. *Id.* Red lines were established in Soviet times to mark property extending to the center-line of a street. Interview with Olga Kozyr, *supra* note 152. A grand red line marks the boundary of a city. *Id.* A local red line marks the boundary of a plot. Negotiations may occur to extend the grand red line or to alter local red lines. *Id.* Red lines reflect a city development plan and so can affect the boundaries of a land plot. Interview with Igor A. Boldyrev, *supra* note 151.

347. 2001 Land Code, *supra* note 2, at art. 36(8).

348. *Id.* at art. 36(8).

349. *Id.* at art. 36(9) (referring to Articles 5(2), 15(3), and 28(4) and (5)).

they commence restoration within three years.³⁵⁰ The conditions for retaining the right to service a building, house, or structure in the case of a lease or sublease are those named in the lease or sublease.³⁵¹

d. Valuation of and Payment for Land

The “market value” of a plot of land must be determined according to federal law.³⁵² For purposes of taxation and in other cases specified by the Code or other federal laws, a land registry value of a plot of land shall be set.³⁵³ The land registry valuation of land is to be carried out pursuant to procedure established by the Russian Federation government.³⁵⁴ However, if the market value has already been determined, the land registry value must be a percentage of the market value.³⁵⁵ Cadastre³⁵⁶ valuation for taxation purposes is apt to be crude, often based on dated, but nevertheless the most recent, information. As transactions in land occur, however, cadastre value should gravitate towards market value.³⁵⁷

Use of land in the Russian Federation requires payment of the land tax and rent.³⁵⁸ Russian Federation legislation governs the establishment of taxes and fees, as well as the procedure for calculation and payment.³⁵⁹ Federal, regional, and local government bodies establish procedures for setting rents and the terms and conditions of payment for government land.³⁶⁰ The lease contract establishes the procedure, conditions, and terms for rent payments for private plots of land.³⁶¹

The purchase price of land is to be a multiple of the tax rate, the multiple being determined by the location and use of the land. Local authorities establish the tax rate and a multi-

350. *Id.* at art. 39(1). The relevant governmental authority has the right to extend this term. *Id.*

351. *Id.* at art. 39(2).

352. *Id.* at art. 66(1).

353. 2001 Land Code, *supra* note 2, at art. 65(5).

354. *Id.* at art. 66(2).

355. *Id.* at art. 66(3).

356. “Tax inventory and assessment of real property. List of appraised property values in a locality used to determine tax assessments.” BLACK’S LAW DICTIONARY 203 (6th ed. 1990).

357. *See* Borisova, *supra* note 195 (describing problems in valuing both agricultural and urban land).

358. 2001 Land Code, *supra* note 2, at art. 65(1).

359. *Id.* at art. 65(2).

360. *Id.* at art. 65(3).

361. *Id.* at art. 65(4).

plier based on the location of land.³⁶² The federal government establishes a nationally uniform coefficient for similar land uses.³⁶³ Initially, the price for acquiring land is not excessive; since there has been no land market or taxes the purchase price will be lower at the outset.³⁶⁴

e. Acquiring Land from a Private Owner

The Land Code provides certain ground rules applicable to land deals between private parties, mostly for the protection of buyers. Only a plot of land recorded in the state registry may be purchased or sold.³⁶⁵ The seller must provide the buyer with all the information available to him concerning encumbrances on the land and limitations on its use.³⁶⁶ The buyer is entitled to a reduction in the purchase price or rescission of a purchase contract if the seller deliberately furnishes false information concerning encumbrances, limitations on use, use of neighboring land that affects significantly the land's use and value, properties of the earth that affect the value and use planned by the purchaser, other information that affects the purchaser's decision to buy the land, and information that federal law requires be provided to the purchaser.³⁶⁷ The same remedies are available in barter and lease transactions.³⁶⁸ The Land Code makes certain provisions in a purchase/sale or barter contract invalid. These provisions include giving the seller the right to buy back the land at his discretion; limiting the purchaser's future disposition of the plot of land, for example, by mortgage, lease, or other deal; and limiting the seller's liability as against claims of third persons with respect to the land.³⁶⁹

362. Mustaov, *supra* note 129 (noting in cities with populations greater than 3 million, the multiplier may be from five to thirty times land taxes; in cities with populations between 500,000 and 3 million, the multiplier may be from five to seven-tens times land taxes; in cities with populations less than 500,000, the multiplier may be three to ten times land taxes).

363. See Federal Law No. 137-FZ of October 25, 2001, On Putting Into Force the Land Code of the Russian Federation, art. 2(3) (stating the coefficient may be between 0.7 and 1.3).

364. See Musatov, *supra* note 129.

365. 2001 Land Code, *supra* note 2, at art. 37(1).

366. *Id.*

367. *Id.* at art. 37(3).

368. *Id.* at art. 37(4) (referring to Article 37(3)).

369. *Id.* at art. 37(2).

f. The State Land Registry

Rights to plots of land are subject to registration under the Federal Law on the State Registration of Rights to Immovable Property and Deals in It.³⁷⁰ The state land registry is a systematized collection of documented information on the objects of the state land registry; on the legal regime of lands in the Russian Federation; and on the land registry value, location, size of plots of land, and immovable property pieces affixed thereto.³⁷¹ The objects of the state land registry are to be plots of land and other pieces of immovable property affixed thereto, and the registry is to be kept according to a uniform system for all of the Russian Federation.³⁷²

Transactions in land must be registered when federal laws specify,³⁷³ and registration is the only evidence that a right exists.³⁷⁴ Mandatory registration of land transactions should preclude the existence of fraudulent chains of title.³⁷⁵ Rights to plots of land must be certified by documents in compliance with the Federal Law on the State Registration of Rights to Immovable Property and Deals in It.³⁷⁶ However, except as established under other federal laws, lease contracts, sub-lease contracts, or gratuitous fixed-term use arrangements for less than one year, are not subject to registration.³⁷⁷

C. ZONING

The Russian Land Code is a zoning law. It essentially continues the classification scheme set down in the 1991 Land Code.³⁷⁸ The Code recognizes the following classifications of land:

1. Agricultural-purpose land;

370. *Id.* at art. 25(1).

371. 2001 Land Code, *supra* note 2, at art. 70(1).

372. *Id.* at arts. 70(2), (3); see Federal Law No. 122-FZ of July 21, 1997, On the State Registration of Rights to Real Estate and of Transactions with It, available at LEXIS GARANT 11801341.

373. 2001 Land Code, *supra* note 2, at art. 25(2).

374. Federal Law No. 122-FZ of July 21, 1997, State Registration of Rights to Real Estate and of Transactions with It, art. 4.1, available at LEXIS GARANT 11801341.

375. See Batalov, *supra* note 24, at 993-94 (stating that the register describes all rights and encumbrances; register should reflect current rights).

376. 2001 Land Code, *supra* note 2, at art. 26(1).

377. *Id.* at art. 26(2).

378. See Kibel, *supra* note 105, at 68-69.

2. Settlement land (land of inhabited localities);
3. Industrial, power, transport, communication, radio-broadcasting, television, information technology, space activity support, defense, security land, and land of other special purposes;
4. Land of specially preserved territories and facilities;
5. Forestry land;
6. Water stock land; and
7. Reserve land.³⁷⁹

Land of these classifications must be used for the purposes established for them.³⁸⁰ Such use entails various rights and obligations arising under laws that apply to the different classifications.³⁸¹ If one utilizes the land in compliance with its zoning rules, no additional permits and approval procedures are required.³⁸² At places of traditional residence and economic activity of small-numbered indigenous peoples, or ethnic communities named by federal, regional, or local law, a special legal regime may be established for the use of land in these categories.³⁸³

While federal law governs the procedure for changing a land category,³⁸⁴ the Code gives authority to establish and change land classifications to:

1. The Russian Federation government for federally-owned land;
2. The executive bodies of regional governments for land owned by the regions and agricultural purpose land owned by municipal entities;
3. Local government bodies for land owned by municipal entities (except for agricultural purpose land); and
4. Local government bodies for privately owned land and agricultural purpose land (not owned by a municipal entity).³⁸⁵

Acts of federal executive bodies, regional executive bodies, and local governments that put plots of land at someone's dis-

379. 2001 Land Code, *supra* note 2, at art. 7(1).

380. *Id.* at art. 7(2).

381. *See, e.g., id.* at art. 8.

382. *Id.* at art. 7(2).

383. *Id.* at art. 7(3).

384. *Id.* at art. 8(1).

385. 2001 Land Code, *supra* note 2, at art. 8(1).

posal must include the land's classification.³⁸⁶ Agreements involving land, documents of the state land registry, documents of registration of rights relating to immovable property and dealings in it, and other documents named by federal or regional laws must also include the land's classification.³⁸⁷ While failure to follow the procedures for changing a category of land subjects the classification to invalidation, such invalidation is not automatic.³⁸⁸

1. *Agricultural-Purpose Lands*

Agricultural-purpose lands are lands outside of inhabited locality boundaries intended for agricultural needs or use.³⁸⁹ Certain individuals and groups³⁹⁰ may use agricultural land for agricultural production and related purposes, and to foster protective plants, scientific research, and education.³⁹¹ Federal law establishes the terms and conditions for granting agricultural-purpose land for ownership to such individuals and groups.³⁹²

Agricultural land areas, such as arable land, hay-mowing land, pastureland, fallow land, and lands occupied by perennial plants are subject to special preservation as agricultural purpose lands.³⁹³ For instance, agricultural-purpose land granted for purposes of constructing industrial facilities or other non-

386. *Id.* at art. 8(2).

387. *Id.*

388. *Id.* at art. 8(3).

389. *Id.* at art. 77(1). Agricultural-purpose lands include agricultural land areas, land occupied by farm roads, transmission lines and pipelines. *Id.* at art. 77(2). Land with trees and bushes intended to protect the land from harmful phenomena, isolated bodies of water, and buildings, houses, and structures used for production, storage, and primary processing of agricultural products are also included. *Id.* Of course, the chapter only governs the agricultural purpose land that falls within the purview of the statute, for example, urban and dacha land.

390. *Id.* These groups and individuals include: (1) citizens, especially those running a peasant (i.e., individual) farm, personal auxiliary farm, or vegetable farm, or engaged in gardening or breeding cattle; (2) economic partnerships and companies, production cooperatives, state and municipal unitary enterprises, and other commercial organizations; (3) non-commercial organizations, especially consumer cooperatives and religious organizations; (4) Cossack societies; (5) experimental production, educational, educational experimental, and educational production units of scientific research organizations, agricultural educational institutions, and general educational institutions; and (6) communities of small-numbered peoples of the North, Siberia, and Far East for the purpose of preserving and developing their traditional way of life, or economic and procurement activities. *Id.* at art. 78.

391. 2001 Land Code, *supra* note 2, at art. 78.

392. *Id.* at art. 82.

393. *Id.* at art. 79(1).

agricultural purposes must be unsuitable for agriculture or low-quality agricultural land.³⁹⁴ Nevertheless, land granted to construct electrical transmission and communications lines, motor roads, main pipelines, and similar facilities may be from higher quality agricultural land because such structures are usually located along motor roads and the boundaries of crop rotation fields.³⁹⁵ Taking agricultural purpose land by compulsory purchase, with land registry value exceeding the mean district value, in order to grant it to another for non-agricultural use is allowed only in specifically named³⁹⁶ exceptional cases if there are no suitable alternate locations.³⁹⁷ Regional legislation may specify high-yield special-value agricultural land areas for *only* agricultural use.³⁹⁸ Federal law on agricultural-purpose land alienation governs the use of land shares emerging from the privatization of agricultural land areas.³⁹⁹

The Land Code creates a land redistribution fund for the purpose of redistributing agricultural production lands or to form and expand peasant farms, personal auxiliary farms, gardening, cattle-breeding or grazing activities, vegetable farming, and hay-mowing.⁴⁰⁰ The use of such lands must be in keeping with their status as agricultural-purpose land and with the laws and other regulatory legal acts of the Russian Federation.⁴⁰¹ A citizen who wishes to run a peasant farm⁴⁰² or personal auxiliary

394. *Id.* at art. 79(2).

395. *Id.*

396. *Id.* at art. 79(3). The Russian Federation's performance of international obligations, national defense and security, mineral resource mining except for generally-spread mineral resources, and maintaining cultural and everyday services, social facilities, educational facilities, motor roads, main pipelines, electrical transmission and communications lines, and similar structures fall under these exceptions.

397. 2001 Land Code, *supra* note 2, at art. 79(3).

398. *Id.* at art. 79(4) (applying especially to agricultural land areas belonging to experimental production units of scientific research organizations and educational experimental units of general higher-education institutions, and agricultural land areas with land registry values significantly exceeding the mean district level).

399. *Id.* at art. 79(5).

400. 2001 Land Code, *supra* note 2, at art. 80(1). The fund is comprised of plots of agricultural-purpose land coming to it when there is a voluntary waiver of a plot of land; when there are no heirs under law or will, heirs do not accept an estate, a testator disinherits all of his or her heirs, or an heir waives inheritance for the benefit of the state or without indicating for whose benefit the waiver is; or, when there is a forced taking of a plot of land under the Code or federal laws. *Id.* at art. 80(2). Information concerning the availability of lands within a land redistribution fund must be open to the general public. *Id.* at art. 80(4).

401. *Id.* at art. 80(3) (referring to Article 78).

402. *Id.* at art. 81(1).

farm⁴⁰³ shall be granted plots of land out of agricultural purpose land under the Code and the respective federal laws governing those types of farms. The procedure for granting plots of land to citizens and associations for the purpose of gardening, vegetable farming, and summer cottage construction is to be established under the Code and other federal law.⁴⁰⁴ The terms and conditions for granting plots of land to citizens from agricultural-purpose land for the purpose of hay-mowing and cattle-grazing is established by the Code, the federal law on the alienability of agricultural-purpose lands, other federal laws, and laws of the Russian regions.⁴⁰⁵

In a market economy, concern with the industrialization of high-quality agricultural land is misplaced. The value of land, agricultural or otherwise, depends on its value for one use relative to its value for another use. In other words, it depends on the opportunity cost of a particular use. The value of agricultural land in turn depends on the efficiency with which agricultural activity is carried out, not on its classification as agricultural or non-agricultural land. Increasing the efficiency of agriculture is the key to preserving the value of agricultural land. In fact, despite legislative solicitude for agricultural-purpose land, the amount of agricultural land in Russia is decreasing.⁴⁰⁶

2. Land of Inhabited Localities

“Land of inhabited localities” is land used or intended for use in construction and development of cities, towns, or inhabited rural localities.⁴⁰⁷ Land use in an inhabited locality is subject to zoning laws.⁴⁰⁸ Plots of land in cities, towns, and inhab-

403. 2001 Land Code, *supra* note 2, at art. 81(3).

404. *Id.* at art. 81(2).

405. *Id.* at art. 81(4).

406. See Andrei Shukshin, *Putin: Foreigners Won't Buy Up Land*, MOSCOW TIMES, Apr. 23, 2002, at 5 (stating that according to President Putin, Russia has lost more than 18 million hectares of arable land from cultivation over the past ten years).

407. 2001 Land Code, *supra* note 2, at art. 83(1).

408. *Id.* at art. 83(2). Local government bodies must endorse and amend zoning documents by regulatory legal acts. *Id.* The land use and construction rules of Moscow and St. Petersburg are endorsed and amended by the laws of these regions. *Id.*

City construction regulations establish the following zoning classifications of inhabited localities: residential, public and business, production, engineering and transport infrastructure, recreational, agricultural-use, special-purpose, military facilities, and other. *Id.* at arts. 85(1), (5)-(9). A plot of land must belong to only one

ited rural localities may be taken by compulsory purchase for state or municipal needs for construction under the general city and inhabited rural locality layouts, land use, and construction

zone. *Id.* at art. 85(2). Land use and construction rules establish specific city construction regulations for each zone with due regard for location, development, and possibility of a territorial combination of different types of use. *Id.* City construction regulations shall be established for each zone that provide the basis of a legal regime governing use of land and anything above or below the surface. *Id.* These regulations must govern the construction and subsequent operation of buildings, houses, and structures. *Id.* City construction regulations bind owners, users, tenants, and lessees of land, irrespective of the form of ownership and other rights, but such persons may use plots of land in the manner contemplated by a zone's construction regulations. *Id.* at art. 85(3). Furthermore, reconstruction and expansion of existing immovable property must comply with established city construction regulations. *Id.* at art. 85(4). A plot of land and immovable property affixed to it are not in compliance with established city construction regulations if the type of use is not included in the list of authorized uses, or if their size does not comply with the limits set by city construction regulations. *Id.* These plots may still be used without setting a term for bringing them into compliance with city construction regulations unless their use is a threat to human life or health, the environment, or historic or cultural monuments. *Id.* In that case, the local government body will impose a ban on the use of these plots until they are brought into compliance with city construction regulations or set a term for bringing them into compliance with the regulations. *Id.*

Specially preserved zones may exist for special nature conservation, scientific, historical and cultural, aesthetic, recreational, health rehabilitation, and other purposes of special significance may be in "specially preserved zones." *Id.* at art. 85(10) (introducing Specially Preserved Territory and Facility Lands governed by Articles 94-100). Use of land plots whose facilities are not monuments of history and culture but are located within protection zones for monuments of history and culture must comply with established city construction regulations, taking account of the standards governing the protection of such monuments. *Id.* at art. 85(10). Use of land in agricultural use zones located in inhabited localities (i.e., arable land, perennial plants, agricultural-purpose buildings, houses, and structures) must be for pursuit of agricultural production until the type of use is changed, consistent with the general layout of inhabited localities, land use, and construction rules. *Id.* at art. 85(11). Lands in common use (i.e., squares, streets, drives, motor roads, embankments, city gardens, boulevards, indoor bodies of water, beaches, and other facilities) may be incorporated in different zones and are not subject to privatization. *Id.* at art. 85(12).

A suburban zone may include a single social, natural, and economic territory situated outside the boundaries of cities or towns and not incorporated in another inhabited locality. *Id.* at art. 86(1). A suburban zone may include agricultural production territories, public recreational zones, and reserve lands for city development. *Id.* at art. 86(2). Green zones, i.e., zones where activities that negatively affect the environment that perform sanitary, sanitary-hygienic, and recreational functions, may be identified within suburban zones. *Id.* at art. 86(5). A decision of the Russian Federation government is necessary to reclassify suburban lands and green zones occupied by Group 1 forests. *Id.* at art. 86(6). The boundaries and legal regime of suburban zones, other than Moscow and St. Petersburg, shall be endorsed and changed by the laws of the Russian regions. *Id.* at art. 86(3). The boundaries and legal regime of suburban zones of Moscow and St. Petersburg must be endorsed and changed only by federal laws. *Id.* at art. 86(4).

rules.⁴⁰⁹

The boundary of a city, town, or rural inhabited locality is the outer border of its respective lands that separates it from lands of other categories.⁴¹⁰ The boundary of an inhabited locality, which must be established upon the boundaries of land granted to citizens and legal entities,⁴¹¹ must be based upon approved city construction and land management documentation.⁴¹² Inclusion of plots of land in inhabited localities limited by their boundaries does not terminate the rights of an owner, user, tenant, or lessee of a plot of land.⁴¹³

3. *Special-Purpose Lands*

Industry, power production, transport, communications, radio-broadcasting, television, information technology, space-flight support, defense, security lands, and other special-purpose lands are lands located outside of inhabited localities and used or intended to support the named activities of organizations or facilities.⁴¹⁴ Specific legal regimes of these lands must be established and taken into account in zoning.⁴¹⁵ Plots of land incorporated in such zones may not be taken from owners, users, ten-

409. *Id.* at art. 83(3).

410. *Id.* at art. 84(1).

411. *Id.* at art. 84(2). The boundaries of cities and towns (except for Moscow, St. Petersburg, and town-type inhabited localities incorporated in restricted-access administrative-territorial entities) must be endorsed and changed by the governmental bodies of the Russian regions. *Id.* at art. 84(3). With respect to Moscow and St. Petersburg, the boundaries are promoted and changed by federal law on the mutually-agreed proposal of respective city legislative bodies and their regions. *Id.* at art. 84(4). The Russian Federation government endorses and changes the boundaries of inhabited localities incorporated in restricted-access administrative-territorial entities. *Id.* at art. 84(5).

412. *Id.* at art. 84(2). A draft of an inhabited locality boundary layout is deemed a city construction document. *Id.*

413. 2001 Land Code, *supra* note 2, at art. 84(6).

414. *Id.* at art. 87(1). Such lands comprise an independent category of land and are divided into the following categories (depending on the nature of the tasks for which they are used or intended): industry land; power production land; transport land; communications, radio-broadcasting, television, and information technology land; space-flight support land; defense and security land; and other special-purpose land. *Id.* at art. 87(2).

415. *Id.* In order to assure the security of the general public and foster the necessary conditions of operating industry, power production facilities, high-radiation hazard and nuclear hazard facilities, nuclear material and radioactive substance storage facilities, transport facilities, and other facilities, such special purpose lands may incorporate preservation/protection, sanitary-preservation, and other zones with special land use conditions. *Id.* at art. 87(3).

ants, or lessees, but a special regime for the use of such lands may be established to limit or ban activity incompatible with the purposes for which the zones are established.⁴¹⁶ Nevertheless, certain special-purpose land⁴¹⁷ used for especially important federal purposes is deemed to be federal property.⁴¹⁸ The procedure for designating special-purpose land or zones with special conditions must be established by the Russian Federation government with respect to federally owned land, the executive bodies of the regional governments with respect to land that they own, and local government bodies with respect to municipally-owned land.⁴¹⁹

a. Industry Land

“Industry land” is land used or intended to be used for industrial facilities.⁴²⁰ Plot sizes shall be established in compliance with the rates approved in the established manner or documentation.⁴²¹

b. Power Production Land

“Power production land” is land used or intended to be used to operate power production facilities.⁴²² The Russian Federa-

416. *Id.*

417. Land occupied by federal power production systems, atomic power facilities, federal transport, railway, federal information technology and communications facilities, space-flight support facilities, defense and security facilities, defense industry facilities, facilities ensuring the status and defense of the Russian Federation's state border, and facilities under the cognizance of the Russian Federation. *Id.* at art. 87(4).

418. *Id.* (stating it must be in compliance with Article 71 of the Russian Constitution).

419. 2001 Land Code, *supra* note 2, at art. 87(5).

420. *Id.* at art. 88(1). Plots of industry land may be granted for production and administrative buildings, houses, and the structures and facilities that service them, and for sanitary-preservation areas and other areas, consistent with the use and purpose of such lands. *Id.* at art. 88(2). Plots of land shall be granted to mining, oil, and gas organizations after execution of a mineral tract allocation, approval of a land re-cultivation project, and restoration of earlier acquired lands. *Id.* at art. 88(4). Valuable high-yield agricultural land shall be granted only after work has been completed on other agricultural land located within the mineral tract allocation boundary. *Id.* at art. 88(4) (stating it must be consistent with Article 79 which establishes priorities for agricultural land used for other purposes).

421. *Id.* at art. 88(3).

422. *Id.* at art. 89(1). Land may be granted to develop and operate power plants of all types and the facilities servicing them. *Id.* at art. 89(2). Land may also be granted for overhead power transmission lines, cable transmission line ground structures, substations, distribution facilities, other power production structures,

tion establishes the rules that determine the size of plots of land for placing overhead power transmission lines and communication line poles servicing electric grids.⁴²³

c. Transport Land

“Transport land” is land used or intended to be used for operating motor road,⁴²⁴ sea, inland waterway,⁴²⁵ railway, air, and other types⁴²⁶ of transport.⁴²⁷ Free plots of land on railway allo-

and facilities. *Id.* Electric grid protection areas may also be established. *Id.*

423. *Id.* at art. 89(3).

424. Plots of land may be granted for motor road transport and road facilities purposes. *Id.* at art. 90(3) (stating specifically, motor roads and their structural components and road structures; motor vehicle terminals and stations, other motor transport facilities and road facilities necessary to operate, maintain, construct, reconstruct, repair, or develop ground or underground buildings, houses, structures, or equipment; and motor road allocation strips). Plots on motor road allocation strips, i.e., strips adjacent to the road, within motor road transport land, may be leased in the manner established by the Code to citizens and legal entities for the purpose of placing road service and outdoor advertising facilities. *Id.* Except as stipulated by legislation, constructing residential and public buildings or warehouses, performing geological prospecting surveys, constructing mining and exploration works or ground structures, plowing, hay-mowing, cutting or damaging perennial plants, removing top soil, excavating ground, or installing outdoor advertisement facilities, billboards, or signs not relating to road traffic safety are prohibited on motor road allocation strips. *Id.* Strips are to be created adjacent to both sides of federal motor road allocation strips according to a special use regime, particularly concerning construction, economic activity, and installation of advertising billboards and posters not relating to road traffic safety – in order to create normal conditions for operating and preserving federal motor roads, and observing road traffic safety provisions and public safety provisions. *Id.* While the federal government determines the procedure for establishing and using roadside and federal motor road allocation strips, relevant executive bodies of Russian regions must notify owners, users, tenants, and lessees of plots of land located within roadside strips of the special regime governing use of such plots of land. *Id.*

425. Plots of land may be granted for sea and inland waterway transport facilities purposes. 2001 Land Code, *supra* note 2, at art. 90(4) (stating specifically for artificial inland waterway routes, sea and river ports, piers, wharves, hydraulic engineering structures, and other facilities necessary to develop and operate ground or underground sea and inland waterway transport facilities, and the allocation of a bank strip). An inland waterway route bank strip may be allocated to conduct works related to inland waterway navigation and transport outside of the territories of inhabited localities. *Id.* The Russian Federation’s Code of Inland Waterway Transport governs the procedure for allocating and using a bank strip. *Id.* Plots of land may be granted for air transport facility purposes to develop and operate ground or underground air transport facilities. *Id.* at art. 90(5).

426. Plots of land may be granted to develop and operate aboveground or underground pipeline transport facilities, and to establish safety areas with a special regime of land plot use. *Id.* at art. 90(6). Safety area boundaries of gas supply facilities must be consistent with construction rules and regulations, main pipeline safety/security rules, and other regulatory documents endorsed in the established

cation strips within railway land may be leased to citizens and legal entities for agricultural use, providing services to passengers, storing cargo, arranging cargo handling grounds, constructing near-the-track warehouses (except fuel and lubricant warehouses and motor vehicle filling stations, and warehouses for storing hazardous substances and materials), and for other purposes consistent with traffic safety standards established by federal laws.⁴²⁸ Plots of land may be granted to maintain the operation of railway transport for: tracks; buildings, houses, and structures, particularly railway terminals and stations, required for the operation of railway facilities; and railway allocation strips and safety areas.⁴²⁹ The Russian Federation government determines the procedure for establishing the use of railway allocation strips and safety areas.⁴³⁰

d. Communications, Radio-Broadcasting, Television, and Information Technology Land

Communications, radio-broadcasting, television, and information technology land is land used or intended to be used for the stated purposes.⁴³¹ Plots of such land may be granted for development and operation of infrastructure facilities necessary for various forms of communication, except for space communications, and broadcasting.⁴³²

e. Space-Flight Support Land

"Space-flight support land" is land used or intended to be used to maintain the activities of space-flight support.⁴³³ Plots of space-flight support land may be granted for development and

manner. *Id.* When such plots of land are used for economic purposes, construction of buildings, houses, and structures are prohibited within the minimum distance limits from gas supply facilities. *Id.* It is unlawful to hinder the owner of a gas supply system or one servicing or repairing gas supply facilities or one who eliminates the aftermath of an accident or disaster. *Id.* Land reservation must be carried out for the purpose of creating conditions for constructing and reconstructing motor road, waterway, railway, air, and other transport types, and federal laws establish the procedure for land reservation for such purposes. *Id.* at art. 90(7).

427. *Id.* at art. 90(1).

428. *Id.* at art. 90(2).

429. *Id.*

430. *Id.*

431. 2001 Land Code, *supra* note 2, at art. 91(1).

432. *Id.* at art. 91(2).

433. *Id.* at art. 92(1).

operation of space infrastructure facilities.⁴³⁴ Land used from time to time as areas intended for dropping detachable parts of missiles may not be taken from owners, users, tenants, or lessees.⁴³⁵ The Russian Federation government establishes the procedure for compensating owners, users, tenants, and lessees of plots of land.⁴³⁶

f. Defense and Security Land

“Defense and security land” is land used or intended to be used for activities of the Russian Federation’s Armed Forces, the Russian Federation’s Border Guard Service, and organizations or institutions engaged in the armed defense of the Russian Federation’s territory, borders, information security, and other types of security in restricted-access administrative-territorial entities.⁴³⁷ Procedures established for performing exploration work and for areas with special conditions of use govern the use of defense and security land.⁴³⁸

Defense and security land strips or tracts shall be allocated for permanent use to ensure the defense and protection of the Russian border under federal legislation concerning engineering structures and obstacles, border signs, border wood-cuttings, communications, check-points on the Russian Federation’s state border, and other facilities.⁴³⁹ Land may not be taken from owners, users, tenants, or lessees, even if temporarily necessary.⁴⁴⁰ Russian Federation legislation also determines the rates of allocation of land strips, sizes of land plots required for ensuring the defense of the border, as well as the procedure for using such lands.⁴⁴¹ Land will also be granted for permanent use or lease for facilities housing research and development, the manufacturing, storage and disposal of weapons of mass destruction, the “processing of radioactive and other materials, and military-purpose and other facilities in restricted-access administrative-territorial entities.”⁴⁴²

434. *Id.* at art. 92(2).

435. *Id.* at art. 92(3).

436. *Id.* at art. 92(3).

437. 2001 Land Code, *supra* note 2, at art. 93(1).

438. *Id.* at art. 93(2).

439. 2001 Land Code, *supra* note 2, at art. 93(3).

440. *Id.* at art. 93(2).

441. *Id.* at art. 93(3).

442. *Id.* at art. 93(4). The Russian Federation Government establishes the distinctive regime of land use in a restricted access administrative territorial entity. *Id.* Relevant governmental authorities must take the necessary measures to grant

In the event of an emergency or martial law, the use of plots of land for defense and security purposes may be pursued consistent with the Code's provisions governing requisition of lands.⁴⁴³ Restricted areas may be established on plots of land adjacent to various military facilities in order to ensure the safety and security of weapons and military equipment and to protect the general public and the environment in the case of man-made or natural emergencies.⁴⁴⁴

4. *Specially Preserved Territory and Facility Lands*

"Specially preserved territory land" is land that has a special conservation, scientific, historical and cultural, aesthetic, recreational, health rehabilitation, or other valuable significance and for which a special legal regime has been established. Federal, regional, or local government bodies decide whether to exclude such land from economic use and alienability, either in full or in part.⁴⁴⁵ Each level of government establishes procedures for classifying, using, and preserving specially preserved territory.⁴⁴⁶ Additionally, the government may establish the location of other types of land of specially preserved territories, for example, suburban green zones, city woods, city parks, preserved bank lines, preserved city landscapes, biological stations, and micro-sanctuaries.⁴⁴⁷ Specially preserved natural territories land and land occupied by cultural heritage objects must be used for relevant purposes.⁴⁴⁸

plots of land to meet the need of the general public for developing "gardening, vegetable farming, agricultural production, housing, and summer cottage construction outside of the restricted-access administrative-territorial entity." *Id.* Relevant governmental authorities may grant plots of land "from lands granted for defense and security needs," in the manner established by the Russian Federation Government, "for lease or gratuitous fixed-term use to legal entities and citizens for agricultural, forestry, and other uses." *Id.* at art. 93(5).

443. 2001 Land Code, *supra* note 2, at art. 93(6) (referring to Article 51).

444. *Id.* at art. 93(7).

445. *Id.* at art. 94(1). Specially preserved territory lands include specially preserved natural territories, particularly the territories of health treatment and rehabilitation localities and health resorts; nature conservation land; recreational purpose land; historical and cultural-purpose land; and other land of special value in compliance with this Code and federal laws. *Id.* at art. 94(2).

446. *Id.* at arts. 94(3), (4).

447. *Id.* at art. 94(5).

448. *Id.* at art. 94(6).

a. Land of Specially Preserved Natural Territories

Specially preserved natural territories land includes land of state nature sanctuaries.⁴⁴⁹ Activities unrelated to preservation or study of natural complexes and objects not specifically permitted by federal or regional law are prohibited on these lands, which incorporate ecological systems and objects of special value.⁴⁵⁰ Taking such plots or other termination of rights to land for needs contrary to their designated purpose is prohibited.⁴⁵¹ In order to preserve such land from adverse man-made effects, safety areas or districts with a regulated economic activity regime may be established on adjacent plots of land,⁴⁵² the boundaries of which must be marked with special information signs.⁴⁵³ Plots of land located within safety areas may not be taken from owners, users, tenants, or lessees, but such persons must observe the rules of the special legal regime established for them.⁴⁵⁴

The federal government has the right of permanent use for state sanctuaries and national parks.⁴⁵⁵ This land may not be privatized.⁴⁵⁶ Other users' or owners' land may fall within the boundaries of national parks; however, the activities of such users or owners may not create a negative or harmful effect on the land of the national park nor break the land use regime of the national sanctuaries and national parks.⁴⁵⁷ National parks enjoy a preferential right to acquire such land.⁴⁵⁸ Certain activities are prohibited on land of federal significance, specially-preserved natural territories.⁴⁵⁹ Finally, the government may

449. 2001 Land Code, *supra* note 2, at art. 95(1) (stating particularly biospheres, state natural reserves, monuments of nature, national parks, nature parks, dendrologic parks, botanical gardens, territories traditionally used by small-numbered indigenous peoples of the North Siberia and Far East, health treatment and rehabilitation localities, and health resorts).

450. *Id.* at art. 95(3).

451. *Id.*

452. *Id.* at art. 95(4).

453. *Id.*

454. *Id.*

455. 2001 Land Code, *supra* note 2, at art. 95(6). National parks must be located on lands granted for permanent use; natural parks may be located on lands of other users or owners. *Id.* at art. 95(8).

456. *Id.* at art. 95(6).

457. *Id.*

458. *Id.*

459. *Id.* at art. 95(7). Granting gardening or summer cottage plots; constructing federal motor roads, pipelines, power transmission lines or other lines/pipelines; constructing or operating industrial, economic, and housing facilities unrelated to

“take,” by compulsory purchase, land from owners, users, or tenants if the land has been declared a state natural game reserve⁴⁶⁰ or contains a “monument of nature.”⁴⁶¹

b. Nature-Conservation-Purpose Land

Nature-conservation-purpose land includes the lands of: water-safety areas of rivers and bodies of water; restricted strips and fish spawning protective strips; forests that perform protective functions; anti-erosion, pasture-protection, and field-protection plants; and other lands performing nature conservation functions.⁴⁶² Limited economic activity is permitted on such lands, in accordance with the land preservation regime established by federal, regional, and local laws.⁴⁶³ A special legal regime of land use must be instituted within the boundary of nature conservation-purpose land that limits or bans activities incompatible with the basic designated purpose of the land.⁴⁶⁴ Plots of such land may not be taken or purchased from owners, users, tenants, or lessees.⁴⁶⁵ In places of traditional residence and economic activity of small-numbered indigenous peoples of the Russian Federation, and ethnic communities specified by federal law, territories of traditional natural use of small-numbered indigenous peoples may be formed.⁴⁶⁶ Federal law establishes the procedure for using natural resources in such territories and the boundaries of such territories.⁴⁶⁷

c. Recreational-Purpose Land

Recreational-purpose land includes land intended and used for leisure, tourism, physical and health rehabilitation, and sport activities of citizens.⁴⁶⁸ Recreational-purpose land also in-

operation of the specially preserved natural territory; using or parking motor vehicles unrelated to the operation of the specially preserved natural territories or the passage of cattle outside of motor roads; and other activities named by federal law.
Id.

460. *Id.* at art. 95(9).

461. 2001 Land Code, *supra* note 2, at art. 95(10).

462. *Id.* at art. 97(1).

463. *Id.* at art. 97(2). The legal entities in whose interests plots of land are allocated with special conditions of use must mark their borders with special information signs. *Id.* at art. 97(3).

464. *Id.* at art. 97(4).

465. *Id.*

466. *Id.* at art. 97(5).

467. 2001 Land Code, *supra* note 2, at art. 97(5).

468. *Id.* at art. 98(1). Recreational-purpose land includes the plots of land of

cludes suburban green zones.⁴⁶⁹ Activities not in compliance with recreational land's designated purposes are prohibited.⁴⁷⁰

d. Historical and Cultural-Purpose Land

Historical and cultural-purpose land includes the land on which the following are situated: objects of cultural heritage of the peoples of the Russian Federation; significant sites, especially areas of historical procurement activities, manufacture, and crafts; and burial places.⁴⁷¹ Historical and cultural-purpose land must be used in strict compliance with its designated purpose, and alienation out of compliance is prohibited.⁴⁷² Plots of land classified as historical and cultural-purpose land may not be taken from owners, users, tenants, or lessees, except as established by legislation.⁴⁷³ Economic activity may be prohibited on specific historical and cultural-purpose lands, particularly the land of objects of cultural heritage subject to research and conservation.⁴⁷⁴ Cultural heritage preservation areas must be established in order to preserve the historical, landscape, and city construction environment in keeping with federal laws and laws of the Russian regions.⁴⁷⁵ On historical and cultural-purpose lands located outside of inhabited localities, a special legal regime must be instituted that prohibits activities incompatible with the basic purpose of the land.⁴⁷⁶ Moreover, land use and construction rules that govern preservation of monuments of history and culture apply to land plots not classified as historical and cultural-purpose land, but which are situated within

rest houses, boarding houses, camps, physical activity and sports facilities, tourist bases, stationary and tent tourism, health rehabilitation camps, fishing and hunting houses, children's tourist stations, tourist parks, forest parks, training tourist paths or routes, children's and sports camps, and other similar facilities. *Id.* at art. 98(2). Training tourist paths or routes may be created by agreement with the owners, users, tenants, or lessees of plots of land as easements; such plots of land shall not be taken. *Id.* at art. 98(3).

469. *Id.* at art. 98(4).

470. *Id.* at art. 98(5).

471. *Id.* at art. 99(1) (stating places such as monuments of history and culture, particularly objects of archaeological heritage; sites of significance, particularly areas of historical procurement activities, manufacture, and crafts; and military and civilian burial).

472. *Id.* at art. 99(2).

473. 2001 Land Code, *supra* note 2, at art. 99(3).

474. *Id.*

475. *Id.* at art. 99(4).

476. *Id.*

preservation areas.⁴⁷⁷

5. Forestry Land, Water Stock, and Reserve Land

a. Forestry Land

“Forestry land” includes forest land⁴⁷⁸ and non-forest land intended for forestry purposes.⁴⁷⁹ The Land Code and forestry legislation regulate the procedure for using and preserving lands of forestry land stock.⁴⁸⁰ Information on the boundaries of forestry land must be entered in the state land registry.⁴⁸¹ Alienability of lands occupied by Group 1 forests is permitted only in exceptional cases of an international obligation of the Russian Federation or the deployment of facilities with state or municipal significance, when there are no suitable alternatives.⁴⁸² Forestry lands may be reclassified under other categories, if the environmental protection provisions of federal laws are taken into account.⁴⁸³ The non-forest lands of forestry land stock that are temporarily not used for forestry purposes may be leased for agricultural production purposes by the relevant governmental authority for up to five years.⁴⁸⁴ The lease contract establishes the terms, conditions, and limitations of use for such lands.⁴⁸⁵

b. Water Stock Land

“Water stock land” includes land occupied by water facilities, water safety areas of water facilities, and lands allocated for water intake strips and safety areas, hydraulic engineering structures, and other water supply structures and facilities.⁴⁸⁶

477. *Id.*

478. Forest land includes land covered by forest plants or intended for restoration of forest plants such as clearings, burned-out forests, glades, and openings. *Id.* at art. 101(1).

479. This type of land includes land cuttings, roads, and marshlands. 2001 Land Code, *supra* note 2, at art. 101(1).

480. *Id.* at art. 101(6).

481. *Id.* at art. 101(2). Forestry land boundaries are determined by discerning forestry land from lands of other categories in compliance with forest management materials. *Id.*

482. *Id.* at art. 101(3) (referring to Article 49(1)(1) and (2)).

483. *Id.* at art. 101(4) (noting that change must be pursuant to Article 8(1)(1)).

484. *Id.* at art. 101(5).

485. 2001 Land Code, *supra* note 2, at art. 101(5).

486. *Id.* at art. 102(1).

Water stock land may be used for the construction of facilities, provided that the public's need for potable water, everyday service, health rehabilitation, and so forth, are met, as well as state or municipal needs for water supply, agriculture, nature conservation, industry, fisheries, power production, and transport.⁴⁸⁷ Nevertheless, safety areas must be established for the purpose of protecting supply sources of potable and non-potable water with a special legal regime established in those areas.⁴⁸⁸ This Code and water legislation establish the procedure for use and preservation of water stock land.⁴⁸⁹

c. Reserve Land

Reserve land includes state and municipally-owned land that has not been granted to citizens or legal entities, except for lands of re-distribution stock.⁴⁹⁰ Reserve land may be used if it has been re-classified under another category.⁴⁹¹

D. LAND USE AND ENVIRONMENTAL PROVISIONS

The new Russian Land Code is also part land preservation law and part environmental law. It imposes duties concerning environmental matters on various levels of government, in addition to imposing duties and bestowing rights upon owners and users of land.

1. Land Preservation

The goal of land preservation is to preserve land as the basis of life and the activities of people who reside on a given territory.⁴⁹² The use of land must ensure conservation of ecological systems and the land's capacity to be the means of production in agriculture and forestry.⁴⁹³ In furtherance of this goal, the Code seeks to prevent deterioration, pollution, dumping, and other damage to land and to ameliorate and restore land that has been subjected to deterioration, pollution, dumping, and dam-

487. *Id.* at art. 102(2).

488. *Id.* at art. 102(3).

489. *Id.* at art. 102(4).

490. *Id.* at art. 103(1) (stating land must be maintained in accordance with Article 80, which governs land redistribution stock).

491. 2001 Land Code, *supra* note 2, at art. 103(2).

492. *Id.* at art. 12(1).

493. *Id.*

age.⁴⁹⁴

In keeping with these principles, owners, users, tenants, and lessees of plots of land must implement measures to:

1. Conserve the soil and its fertility;
2. Protect the earth from water and wind erosion, mud avalanches, flooding, bogging, secondary salination, aridity, compaction, radioactive and chemical contamination, industrial and consumption waste dumping, and pollution;
3. Protect agricultural land and other land from contamination from bacteria, parasites, weeds, bushes, and small wood;
4. Eliminate existing pollution, especially biological pollution and waste dumping;
5. Maintain the level of amelioration achieved;
6. Re-cultivate damaged land and restore its fertility; and
7. Conserve the fertility of land and work to make damaged land usable.⁴⁹⁵

Federal, regional, and local land preservation programs must include compulsory land preservation measures, which are determined after taking account of economic activity, natural and other conditions, expert ecological examinations, and sanitary and hygienic regulations.⁴⁹⁶ New technologies, land amelioration, and fertility enhancement programs that do not comply with ecological, sanitary, hygienic, and other standards may not be implemented.⁴⁹⁷

The Russian Federation government must establish and test for maximum allowable concentrations of harmful substances, microorganisms, and biological soil pollutants.⁴⁹⁸ In order to prevent deterioration of land and to restore land fertility and polluted territories, the federal government may establish a manner of excluding such land from alienability.⁴⁹⁹ Owners, users, tenants, and lessees of plots of land may be accorded economic incentives, such as a reduction in taxes and fees, to preserve and restore the fertility of land and to protect land from the harmful effects of economic activities.⁵⁰⁰

494. *Id.* at art. 12(2).

495. *Id.* at art. 13(1).

496. *Id.* at art. 13(2).

497. 2001 Land Code, *supra* note 2, at art. 13(3).

498. *Id.* at art. 13(5).

499. *Id.* at art. 13(6). Deer pastureland in the Extreme North is to be preserved in compliance with other regulatory acts of the Russian Federation and the Russian regions. *Id.* at art. 13(7).

500. *Id.* at art. 13(8).

Lands exposed to radioactive and chemical pollution and land used to manufacture such products, where production is required by law and whose maintenance is not possible, are subject to restrictions on use.⁵⁰¹ The Russian Federation government is to establish the procedure for using and restricting use of such land.⁵⁰² Entities responsible for radioactive and chemical pollution must reimburse losses and damage, pay for decontamination and restoration of the land to a condition suitable for use as earmarked,⁵⁰³ and reimburse the owners of land for their losses, if the land is classified as reserve land to be conserved.⁵⁰⁴

2. *Rights and Duties in the Use of Land*

The owner of a plot of land has the right to:

1. Use for his own needs the land plot's generally-spread mineral resources and its underground water and isolated bodies of water in compliance with the laws of the Russian Federation;
2. Erect buildings, houses, and structures in keeping with the designated purpose of the land and in compliance with city construction regulations and building, ecological, sanitary and hygienic, fire, and other rules and regulations;
3. Accomplish irrigation, drainage, culture-technical, and other amelioration works;
4. Build ponds and other isolated bodies of water in compliance with ecological, construction, sanitary-hygienic and other special standards established by law; and
5. Exercise other rights of ownership provided by law.⁵⁰⁵

The owner of a plot of land also owns the land's plantings; agricultural produce and earnings unless he or she leases the land or transfers it for permanent use, life-time inheritable possession, or gratuitous fixed-term use; and perennial plants, unless otherwise specified in the Forestry Code of the Russian

501. *Id.* at art. 14(1). Such lands may not be classified as agricultural purpose land or used for production of agricultural products and are subject to reclassification as reserve land to be conserved. *Id.*

502. *Id.* at art. 14(2).

503. 2001 Land Code, *supra* note 2, at art. 14(3) (stating that pursuant to Articles 57 and 58 which govern compensation for losses and damages to agricultural production and forestry land).

504. *Id.*

505. *Id.* at art. 40(1).

Federation.⁵⁰⁶

Users, tenants, and lessees of plots of land have the same rights as owners with the exception of the right to the land's perennial plants.⁵⁰⁷ A contract determines the rights of owners of private easements to use a plot of land.⁵⁰⁸ The law or other regulatory act that created a public easement determines the rights of persons using a plot of land under a public easement.⁵⁰⁹

Owners and non-owners of plots of land have a duty to:

1. Use a plot of land according to its designated purpose and classification in a way that does not inflict harm on the environment, especially harm to land;

2. Preserve the land plot's boundary (i.e., survey and other signs installed as required by legislation);

3. Take land preservation measures that include observing the procedure for use of forests, bodies of water, and other natural facilities;

4. Commence use of the plot in due time if a term for land reclamation is established in the contract;

5. Make payment for the land when payment is due;

6. Observe regulations including those concerning city construction, building, ecology, sanitary-hygiene, and fire;

7. Abstain from polluting, dumping, degrading, and deteriorating fertility of lands of relevant categories; and

8. Comply with other provisions of the Code and other federal laws.⁵¹⁰

Citizens and legal entities may exercise their rights to plots of land at their own discretion, unless otherwise required by the Code or federal law.⁵¹¹ Nevertheless, even if citizens and legal entities waive their rights to plots of land, they are still bound to perform these duties.⁵¹²

Rights to land may be limited on grounds established in the Code and other federal laws.⁵¹³ The following are examples of limitations that may be established:

506. *Id.* at art. 40(2).

507. *Id.* at art. 41(1).

508. *Id.* at art. 41(2).

509. 2001 Land Code, *supra* note 2, at art. 41(2).

510. *Id.* at art. 42.

511. *Id.* at art. 43(1).

512. *Id.* at art. 43(2). These duties are established under Article 42.

513. *Id.* at art. 56(1).

1. Special conditions of land use or economic activity in preservation and sanitary areas;
2. Special conditions to protect the environment, particularly animals and plants, historical and cultural monuments, and archaeological objects, and to preserve the fertile soil layer and natural habitat and migration routes of wild animals; and
3. Conditions on commencing and completing construction or land reclamation within a set term and in compliance with an approved project design, or the construction, repair, or maintenance of a section of motor vehicle road in the case of a grant of state or municipally-owned land.⁵¹⁴

Infinite or fixed-term limitations⁵¹⁵ on rights to land must be established by acts of executive government bodies, acts of local government bodies, or court decisions⁵¹⁶. A limitation continues when the right of ownership is transferred to another person.⁵¹⁷ These limitations are subject to state registration in the manner established by Federal Law on the State Registration of Rights to Immovable Property and Deals in It.⁵¹⁸ Finally, the person whose rights to land have been limited may appeal to court.⁵¹⁹

3. *Land Monitoring and Land Management*

State land *monitoring* is a system of monitoring the condition of all lands in the Russian Federation.⁵²⁰ This system includes:

1. Timely detection and appraisal of changes in the condition of land;
2. Forecasting the aftermath of negative processes and elaborating recommendations for their prevention and elimination;
3. Providing informational support to the state land registry;
4. Providing information for state control of land use and preservation, and for other functions of state and municipal administration of land resources and land management; and

514. *Id.* at art. 56(2).

515. 2001 Land Code, *supra* note 2, at art. 56(4).

516. *Id.* at art. 56(3).

517. *Id.* at art. 56(5).

518. *Id.* at art. 56(6).

519. *Id.* at art. 56(7).

520. *Id.* at art. 67(1).

5. Providing information to citizens on the environment insofar as the condition of land is concerned.⁵²¹

While state land monitoring may be federal, regional, or local, depending on the aims of observation of particular territory, and such monitoring must be pursued in compliance with federal, regional, and local programs,⁵²² the Russian Federation government must establish the procedure for monitoring.⁵²³

Land *management* includes studying the condition of land, planning and organizing the rational use and preservation of land, establishing new and streamlining existing land management objects, establishing boundaries on terrain (i.e., territorial land management), organizing citizens' and legal entities' rational use of land for the purpose of pursuing agricultural production, and organizing territories used by communities of small-numbered peoples of the North, Siberia, and the Far East.⁵²⁴ Documents prepared in land management activities must be used for keeping the state land registry and land monitoring.⁵²⁵

Land management must be implemented on the initiative of authorized executive governmental bodies, local government bodies, owners, users, tenants of plots of land, or courts.⁵²⁶ Information concerning land management shall be open to the general public, except for state secrets and personal information.⁵²⁷ Land management must take account of the lawful interests of persons whose rights might be affected by having land managers serve written notices at least seven calendar days prior to the commencement of work.⁵²⁸ The absence of persons who have been properly notified at the site of land management works cannot obstruct land management, but concerned persons have a right to appeal in the established manner from actions that infringe upon their rights and lawful interests.⁵²⁹ If plots of land are taken by compulsory purchase for state or municipal needs, the former owners, users, tenants, and lessees must pro-

521. 2001 Land Code, *supra* note 2, at art. 67(2).

522. *Id.* at art. 67(3).

523. *Id.* at art. 67(4).

524. *Id.* at art. 68(1).

525. *Id.* at art. 68(2).

526. *Id.* at art. 69(1). The procedure of land management is to be established by federal law and by the laws of the regions. *Id.* at art. 69(7).

527. 2001 Land Code, *supra* note 2, at art. 69(3).

528. *Id.* at art. 69(4).

529. *Id.*

vide access to the land for land management purposes.⁵³⁰ Legal entities or individual entrepreneurs may perform any type of land management work without special permission, except as federal laws may require.⁵³¹

4. *Responsibility for State Land Control*

Specifically authorized state bodies are responsible for state land control insofar as it requires observance of land legislation, land preservation standards, and land use standards by organizations, irrespective of their organizational form, legal form, or form of ownership, and by their heads, officials, and citizens.⁵³² Such bodies must pursue state land control in the manner established by the Russian Federation government.⁵³³

Local government bodies or bodies authorized by them must pursue municipal land control on their territories⁵³⁴ in accordance with legislation of the Russian Federation and in the manner established by the regulatory legal acts of local government bodies.⁵³⁵ Territorial public self-government bodies, other public organizations or associations, citizens, and local government bodies shall exercise public land control as that control affects citizens' and legal entities' rights and lawful interests under the Code and the land use and land preservation standards.⁵³⁶

The owner, user, tenant, or lessee of a plot of land must exercise *production land control* in the course of economic activity on the plot of land.⁵³⁷ "Production land control" is an internal control within a legal entity that generates reportable information about the land.⁵³⁸ A person using the land must provide information on the organization of production land control to the specifically authorized state land control body in the manner established by the Russian Federation government.⁵³⁹

530. *Id.* at art. 69(5).

531. *Id.* at art. 69(6).

532. *Id.* at art. 71(1).

533. 2001 Land Code, *supra* note 2, at art. 71(2).

534. *Id.* at art. 72(1).

535. *Id.* at art. 72(2).

536. *Id.* at art. 72(3). The citizens' role is to procure the observance of the procedure established for the preparation and adoption of decisions by the relevant governmental authority. *Id.*

537. *Id.* at art. 73(1).

538. Interview with Olga Kozyr, *supra* note 152. Production land control dates from the Soviet era. Interview with Igor A. Boldyrev, *supra* note 151.

539. 2001 Land Code, *supra* note 2, at art. 73(2).

5. *Liability for Breach of Land Preservation and Use Law*

Persons guilty of committing land offenses shall be held administratively or criminally liable in the manner established by legislation.⁵⁴⁰ Administrative or criminal liability does not excuse a person from eliminating the land offense or compensating for damages inflicted.⁵⁴¹ Officials and employees of an organization guilty of a land offense shall be held disciplinarily liable when their improper execution of duties has led to the organization's administrative liability for designing, locating, and commissioning facilities that harm the condition of land or cause chemical, radioactive, industrial waste, or sewerage water pollution of land.⁵⁴²

Legal entities and citizens must compensate the owner of the land in full for harm inflicted as a result of their land offenses.⁵⁴³ Squatters must return plots of land to their owners, users, tenants, or lessees without reimbursement of any expenses that they incurred.⁵⁴⁴ Legal entities and citizens found guilty of land offenses are responsible for:

1. Restoring destroyed boundary signs;
2. Bringing plots of land into a condition suitable for use in cases of dumping or other kinds of damage; and
3. Making land suitable for use in cases of squatting, demolition of buildings, houses, or structures, or unauthorized construction.⁵⁴⁵

E. TERMINATION OF INTERESTS AND EMINENT DOMAIN

Termination of and limitations on rights to land and eminent domain may not be particularly similar, but they are intermingled in the same chapter of the Land Code because the Code treats eminent domain as simply one means of terminating an interest in land.

540. *Id.* at art. 74(1).

541. *Id.* at art. 74(2).

542. *Id.* at art. 75(1). The procedure for holding a person disciplinarily liable must be set out in labor legislation, state and municipal service legislation, disciplinary liability legislation governing administrative heads, federal laws and regulatory acts of the Russian Federation, and the laws and other regulatory legal acts of the Russian regions. *Id.* at art. 75(2).

543. *Id.* at art. 76(1).

544. *Id.* at art. 76(2).

545. 2001 Land Code, *supra* note 2, at art. 76(3).

1. Termination Provisions Governing Various Interests

The right of *ownership* of a plot of land terminates when the owner disposes of it for the benefit of other persons, when the owner waives his right of ownership, or when the owner loses it through a compulsory taking.⁵⁴⁶ Furthermore, a plot of land may be taken from its owner by confiscation without compensation pursuant to a court decision as a criminal penalty.⁵⁴⁷

The right of *permanent use or life-time inheritable possession* of a plot of land terminates when the user or tenant waives his or her right to it.⁵⁴⁸ Compulsory termination of a right of permanent use or life-time inheritable possession may occur for any of the following reasons:

1. Use not in compliance with the land's designated purpose and classification;
2. Use that significantly reduces agricultural land's fertility or significantly deteriorates the environment;
3. Deliberate poisoning, polluting, damaging or destroying the fertile layer of earth by violating rules for handling fertilizers or plant growth agents, or handling, storing, or transporting pesticides and other hazardous chemical or biological compounds so as to harm human health or the environment;
4. Violating the land use regime of specially preserved natural territories, nature conservation and recreational-purpose land, historical and cultural-purpose land, especially valuable land, or other land with special use terms, and lands exposed to radioactive contamination;
5. Systematic failure to implement compulsory measures for land improvement, protection of soil from wind and water erosion, and prevention of other processes that cause land deterioration;
6. Systematic failure to pay the land tax;
7. Failure to use a plot of land intended for its required purpose within three years, unless federal law establishes a longer term or natural calamity or other circumstances preclude

546. *Id.* at art. 44.

547. *Id.* at art. 50.

548. *Id.* at art. 45(1) (referring to Article 53 (governing the conditions and manner of waiver), Articles 95-100 (governing specially preserved natural territories, land of health treatment and rehabilitation localities and health resorts, nature-conservation purpose land, recreational-purpose land, historical and cultural-purpose land, and especially valuable land), Article 55 (governing takings for state or municipal needs), and Article 51 (governing requisitions of land)).

such activity;

8. A taking for state or municipal needs; or

9. Requisition of a plot of land.⁵⁴⁹

Termination for any of these reasons requires a decision of a court.⁵⁵⁰

Compulsory termination of rights to a plot of land of *persons who are not its owners* due to improper use may only be effected after imposition of an administrative fine.⁵⁵¹ Simultaneously with the imposition of the fine, the authorized executive governmental body in charge of state land control must issue a warning to the person at fault and notify the relevant local governmental authority which granted the plot of land.⁵⁵² Upon failure to eliminate the offense within the time specified, the executive government body that issued the warning must forward materials on termination to the relevant local governmental authority.⁵⁵³ The local governmental authority must then file a petition with a court for termination of the non-owner's rights.⁵⁵⁴ Ten days after the court's decision of termination, the local governmental authority must file an application to terminate the right to the land plot and a notation of the offense with the body responsible for state registration of rights to immovable property and deals in it.⁵⁵⁵ Termination of a right to a plot of land does not relieve persons at fault from duties to compensate for damage inflicted.⁵⁵⁶ A decision to take a plot of land due to improper use is subject to court appeal.⁵⁵⁷

A *lease* of a plot of land terminates in the manner specified in civil legislation.⁵⁵⁸ Additionally, a lease may terminate on the lessor's initiative for any of the following reasons:

1. Use not in compliance with the land's designated purpose

549. *Id.* at art. 45(2) (referring to Articles 7 and 8, which name the purposes and uses of land), art. 54(1).

550. *Id.* at art. 45(3).

551. 2001 Land Code, *supra* note 2, at art. 54(2).

552. *Id.* at art. 54(3). The warning must contain, in a form established by the Russian Federation government, an indication of the offense, the term for eliminating the offense, an indication of the possible compulsory termination, an explanation of the rights of the person at fault, and other terms and conditions. *Id.*

553. *Id.* at art. 54(4).

554. *Id.* at art. 54(5).

555. *Id.*

556. *Id.* at art. 54(6) (referring to Article 76, which governs compensation for harm inflicted by land offenses).

557. 2001 Land Code, *supra* note 2, at art. 54(7).

558. *Id.* at art. 46(1).

and classification;

2. Use that significantly reduces agricultural land's fertility or significantly deteriorates the environment;

3. Deliberate poisoning, polluting, damaging or destroying the fertile soil layer by violating rules for handling fertilizers or plant growth agents, or for handling, storing, or transporting pesticides and other hazardous chemical or biological compounds so as to harm human health or the environment;

4. Failure to use a plot of land intended for agricultural production or housing or other construction within three years unless federal law or the lease establish a longer term or natural calamity or other circumstances preclude such activity;

5. A taking for state or municipal needs; or

6. Requisition of the plot of land.⁵⁵⁹

Termination of a lease on these grounds is prohibited during field agricultural works or as otherwise established by federal law.⁵⁶⁰

A *gratuitous fixed-term use* of a plot of land terminates upon the decision of the person who granted the plot, upon the parties' agreement at the expiration of the term for which the land was granted, or for any of the grounds specified within the lease.⁵⁶¹ With some notable exceptions,⁵⁶² the right to a *service land allocation* ends by termination of the employee's labor relation with respect to which the land allocation was granted.⁵⁶³ The organization that granted the service land allocation must formalize the termination.⁵⁶⁴ However, an employee whose service land allocation is terminated because his labor relation is terminated may use the plot of land after termination for a term necessary to complete agricultural works.⁵⁶⁵

559. *Id.* at arts. 46(1)-(6) (referring to Article 8 (governing purposes and classifications of land), Article 55 (governing takings), and Article 51 (governing requisitions)).

560. *Id.* at art. 46(3).

561. *Id.* at art. 47(1) (referring to Articles 45(1) and (2), which governs termination of a lease).

562. The exceptions are as follows. First, when old-age or disability retirement causes the termination of labor relations. *Id.* at art. 47(3). Second, while a drafted employee performs fixed-term military or alternative service. *Id.* at art. 47(4). Third, while the employee is enrolled in an educational institution for training or education. *Id.* Fourth, the employee is killed in connection with execution of service duties. *Id.* Also, the right to a service land allocation is retained by a disabled spouse, old-age parents for their lifetimes, and by the employee's children until they reach adulthood. *Id.*

563. 2001 Land Code, *supra* note 2, at art. 47(2).

564. *Id.* at art. 47(5).

565. *Id.* at art. 47(6).

A *private easement* terminates for the grounds set forth in civil legislation.⁵⁶⁶ A *public easement* terminates upon adoption of an act of termination in cases when the need for which the public easement was instituted no longer exists.⁵⁶⁷

2. *Taking by Compulsory Process, Confiscation, or Requisition*

Taking a plot of land by compulsory purchase for state or municipal needs may be effected only in exceptional cases relating to performing the Russian Federation's international obligations; deploying facilities having state or municipal significance in the absence of alternate locations; circumstances defined by federal laws that involve the compulsory purchase of land owned by Russian regions; or circumstances defined by regional laws that involve the compulsory purchase of land owned by municipal entities.⁵⁶⁸ Other special provisions further limit compulsory takings of agricultural land, land in city or town and inhabited rural localities, specially preserved territory land, and forestry land for state or municipal needs.⁵⁶⁹

An executive governmental body may temporarily, and for compensation of losses,⁵⁷⁰ requisition a plot of land in cases of natural disasters, accidents, epidemics, epizootic, or other extraordinary circumstances in order to protect the vital interests of citizens, society, and the state.⁵⁷¹ To do this, the executive governmental body must issue a document on requisition to the owner of the plot of land.⁵⁷² However, requisition does not include taking plots of land by compulsory purchase for state or municipal needs.⁵⁷³ The owner of requisitioned land may claim its return in court upon termination of the conditions that gave

566. *Id.* at art. 48(1).

567. *Id.* at art. 48(2).

568. *Id.* at art. 49(1). Article 55 establishes the conditions and procedures for taking of plots of land for state or municipal needs by compulsory purchase and is referenced in Article 49(3).

569. 2001 Land Code, *supra* note 2, at art. 49(2) (referring to Articles 79, 83, and 94, which make no reference to compulsory taking). But see Article 96, which explains that taking land of health treatment and rehabilitation localities and health resorts, and Article 101, which makes no reference to taking forestry land. This paper considers applicable conditions in the section dealing with specific classifications of land.

570. *Id.* at art. 51(5).

571. *Id.* at art. 51(1).

572. *Id.*

573. *Id.* at art. 51(2) (referring to Article 55, which governs conditions and procedures for taking plots of land for state or municipal needs).

rise to the requisition.⁵⁷⁴ Nevertheless, if requisitioned property cannot be returned, compensation equal to the market value of the plot of land must be paid to the owner, or a plot of land of equal value must be given to the owner if he or she so wishes.⁵⁷⁵

A compulsory taking for state or municipal needs may only be accomplished on the condition of a preliminary and equivalent compensation of the land plot's value pursuant to a court decision.⁵⁷⁶ The procedures for compulsory purchase of a plot of land for state or municipal needs from its owner, for establishing the purchase price, for terminating rights of ownership and use of a plot of land, and for determining the owner's rights shall be established by civil legislation.⁵⁷⁷

3. *Disposal of Land for the Benefit of Others and Waiver*

An owner of a plot of land may dispose of it for the benefit of other persons in the manner established by civil legislation and with due regard for restrictions on alienation.⁵⁷⁸ A person's filing of an application to waive his right to a plot of land does not terminate the relevant right.⁵⁷⁹ For instance, in the case of waiver of the right of ownership of a plot of land, the plot acquires the status of an ownerless immovable thing; the procedure for termination of a right to an ownerless, immovable thing is established by civil legislation.⁵⁸⁰ Finally, if a person waives his right of life-time inheritable possession or a right of permanent use, the relevant government authority effects disposition of the plot.⁵⁸¹

4. *Rights to Compensation*

Losses caused by the following are compensable: taking for state or municipal needs; deterioration of land quality caused by others' activities; temporary occupation; and limitation of rights

574. *Id.* at art. 51(4).

575. 2001 Land Code, *supra* note 2, at art. 51(3) (referring to Article 66, which governs valuation). A dispute over valuation of losses incurred in a permanent or temporary requisition of a land plot is subject to resolution in court at the initiative of the owner. *Id.* at art. 51(6).

576. *Id.* at art. 55(2).

577. *Id.* at art. 55(3).

578. *Id.* at art. 52 (referring to Article 27).

579. *Id.* at art. 53(1).

580. *Id.* at art. 53(2).

581. 2001 Land Code, *supra* note 2, at art. 53(3).

of owners, users, tenants, and lessees.⁵⁸² Compensation for a taking for state or municipal needs is paid to the users, tenants, and lessees of plots of land.⁵⁸³ In cases of deterioration, temporary occupation, and limitation of rights, compensation is for the benefit of the owners of plots of land.⁵⁸⁴ Compensation is to be paid from the relevant budgets, by the persons for whose benefit plots of land are taken or rights are limited, or by persons whose activities caused a need for preservation or sanitary-safety areas.⁵⁸⁵ Computation of compensation for owners, users, tenants, and lessees is to take into account the value of the property on the date preceding the decision to take or occupy temporarily the land plot, or to impose a limitation of rights.⁵⁸⁶ The Russian Federation government is to establish the procedure for paying compensation.⁵⁸⁷

Agricultural production losses are subject to compensation within three months of a decision to take state or municipally-owned agricultural land or deer pasture land for unrelated purposes, or to change the designated purpose of agricultural land or deer pasture land owned by citizens or legal entities.⁵⁸⁸ The persons to whom agricultural land areas or deer pasture areas are granted for non-agricultural uses, and persons for whom preservation and safety-sanitary areas are established, must pay compensation.⁵⁸⁹ When calculating agricultural production losses, the land reclamation rates relating to the new land that replaces the agricultural land taken, as well as other methods established by the federal government for agricultural lands of different quality, must be used.⁵⁹⁰ Proceeds from compensating such losses must be entered in a relevant local budget where they may be appropriated to finance land preservation measures or, if there is a positive statement in the state ecological expert examination, reclaim the land.⁵⁹¹

582. *Id.* at arts. 57(1)-(4).

583. *Id.* at art. 57(2)(1).

584. *Id.* at art. 57(2)(2).

585. *Id.* at art. 57(3).

586. *Id.* at art. 57(4).

587. 2001 Land Code, *supra* note 2, at art. 57(5).

588. *Id.* at art. 58(1).

589. *Id.* at art. 58(2). Compensation for agricultural production losses is to be paid when plots of land are granted for permanent use or for ownership free of charge. *Id.* at art. 58(3). When plots of land are sold or leased, agricultural production losses must be included in the value of the plots of land or taken into account when setting rent. *Id.*

590. *Id.* at art. 58(4).

591. *Id.* at art. 58(5).

When changing the classification and use of forest land to non-forest land, or when taking forest lands, forestry losses must be compensated.⁵⁹² The persons to whom forest land is granted for non-forestry purposes must pay such compensation.⁵⁹³ The procedure for forestry loss compensation must be endorsed by the federal government.⁵⁹⁴

F. PROTECTION OF RIGHTS TO LAND AND RESOLUTION OF LAND DISPUTES

When disputes over ownership or use of land arise, it is important that there be an established and accepted procedure in place to resolve them. While a court may consider land disputes,⁵⁹⁵ parties may first submit a dispute to an umpire for settlement.⁵⁹⁶ A court decision establishing a right to a plot of land serves as a legal ground for state registration under the Federal Law on the State Registration of Rights to Immovable Property and Deals in It.⁵⁹⁷

A right to a plot of land that is violated is subject to restoration to the status quo when a court recognizes the invalidity of the act constituting a violation by a state or local governmental body, that the plot of land has been squatted, or federal law specifies.⁵⁹⁸ A court may issue several types of orders: namely, a declaration of the invalidity of local governmental acts; suspension of work unlawfully undertaken pursuant to acts of executive or local governmental bodies; suspension of various construction, mining, and other operations in the manner established by the federal government; or restoration of the status quo existing prior to violation of a right and enjoining further violations.⁵⁹⁹

A court may recognize as invalid either a regulatory or a non-regulatory act of an executive governmental body that violates a law or regulation and which infringes upon a citizen's or

592. *Id.* at art. 58(6).

593. 2001 Land Code, *supra* note 2, at art. 58(6).

594. *Id.*

595. *Id.* at art. 64(1).

596. *Id.* at art. 64(2).

597. *Id.* at art. 59(2).

598. *Id.* at art. 60(1) (referring to Article 61, which governs the recognition of an act of an executive or local governmental body or as invalid).

599. 2001 Land Code, *supra* note 2, at art. 60(2) (referring to Article 61, which governs the recognition of an act of an executive or local governmental body or as invalid).

legal entity's rights and interests protected by land use law.⁶⁰⁰ The offending executive governmental body is subject to liability for damage caused to the citizen or legal entity.⁶⁰¹

The owner, user, tenant, or lessee of land is entitled to full compensation for damages caused by a violation of rights, including lost profits, in the manner specified in civil legislation.⁶⁰² A court may enjoin a person at fault from violating the rights of an owner, user, tenant, or lessee of a plot of land including ordering restoration of soil fertility and boundaries; erection of buildings, houses, and structures that have been demolished unlawfully; demolition of buildings, houses, and structures that have been erected unlawfully; restoration of land boundary and information signs; elimination of other land offenses; and performance of other obligations.⁶⁰³

The taking of a plot of land by compulsory purchase may be effected only after granting an equivalent plot of land, if the person from which the plot is taken so wishes, paying compensation for the value of residential, production, or other buildings, houses, or structures taken, or paying compensation in full, including lost profits.⁶⁰⁴ Moreover, the owner, user, tenant, or lessee of a plot of land is entitled to at least one year's notice from the executive governmental body or local government body that decides on a forthcoming taking.⁶⁰⁵ It follows that expenses incurred by owners, users, and tenants for construction of major buildings or to implement measures that significantly increase the value of the land are not compensable after receipt of notice of the forthcoming taking.⁶⁰⁶ Finally, the owner of a plot of land is entitled to compensation equal to its market value for its taking for state or municipal needs as well as for violation of the guarantees just named unless the person or entity is granted an equivalent plot of land.⁶⁰⁷

V. CONCLUSIONS AND UNANSWERED QUESTIONS

With the passage of the Land Code, Russia has hopefully

600. *Id.* at art. 61(1).

601. *Id.* at art. 61(2).

602. *Id.* at art. 62(1).

603. *Id.* at art. 62(2).

604. *Id.* at art. 63(1) (referring to Article 62).

605. 2001 Land Code, *supra* note 2, at art. 63(2). The owner, user, tenant, or lessee may consent to a taking with less than one year's notice. *Id.*

606. *Id.* at art. 63(3).

607. *Id.* at art. 63(4) (referring to Articles 63(1) and (2)).

taken a significant step towards a market economy. As with any law, the Land Code can be no better than the people who administer it, no matter how many safeguards are built into it.⁶⁰⁸ A working land code in Russia requires democratic and political reform in addition to reform of the fundamental law of land.⁶⁰⁹ More than anything, what Russia needs is a populace that demands good and fair administration of good laws.⁶¹⁰ This concluding section undertakes to note questions concerning reform of land law in Russia, and to describe realistic hopes for the near future.

A. THE DEVELOPMENT OF A LAND MARKET AND ECONOMIC GROWTH

Surely, a land market better than the one prior to the existing adoption of the Code will emerge. Since a land market already existed,⁶¹¹ the *theoretical* impact of the Land Code may not be significant. While the Land Code applies to about two percent of Russia's land,⁶¹² much of that land is public space such as roads, parks, rivers, and lakes, and not subject to ownership.⁶¹³ Moreover, under various laws and decrees, about seven-point-six percent of *all* Russian land has already been privatized.⁶¹⁴ However, the new Land Code should provide stability and predictability, thereby increasing the value of such land⁶¹⁵ and re-

608. See Blumenfeld, *supra* note 3, at 515 ("Written law is only as strong as the institutions responsible for implementing it.")

609. See Kibel, *supra* note 105, at 65 (footnotes omitted) (observing that the absence of such traditions is an obstacle to ecological reform).

610. See Serguey Braguinsky, *Enforcement of Property Rights During the Russian Transition: Problems and Some Approaches to a New Liberal Solution*, 28 J. LEGAL STUD. 515, 541-42 (1999).

Ultimately, there is no other way to overcome the current highly inefficient situation except to hope for progress in the people's self-organization and self-government. The quality of the government is only partially determined by the quality of the political leadership; especially in countries like Russia, which have a longstanding tradition of bureaucratic power, the quality of bureaucrats is sometimes even more important.

Id.

611. See *supra* Part II.

612. See *Duma Passes Land Code*, *supra* note 4.

613. See *supra* Part IV.

614. This amounts to 129.1 hectares (1 hectare = 2.47 acres) out of Russia's total 1.7 billion hectares. See Borisova, *supra* note 306, at 12; see also Borisova, *supra* note 65 (observing that the land market has developed slowly in Samara and Saratov because buyers fear loss of plots upon passage of a federal land code).

615. Natalya Neimysheva, *Foreigners Allowed to Buy Land*, VEDOMOSTI, July 16, 2001, at A3 ("By adopting the Land Code in the second reading . . . , the Duma

ducing investment risk.⁶¹⁶ In a *practical* sense, its most important provision is perhaps Article 2(1), which provides that the land legislation of Russia is comprised of the Land Code and laws enacted pursuant to the Code and that other laws and presidential decrees must comply with the Code and not contradict it. According to one count, this clears away forty-three federal land laws and regulations and hundreds of resolutions.⁶¹⁷ In areas where land sales were allowed without a federal land code, a market for land has not developed in the way that it should have;⁶¹⁸ now it can.

Stability and predictability will increase not only the value of land, but also the value of activities undertaken on land.⁶¹⁹ The Land Code should enable investors to integrate land and buildings into one object of property.⁶²⁰ In addition to the government infrastructure, a "secondary infrastructure" comprised of private facilitators should emerge, such as mortgage lenders. Land values in cities where there is already substantial economic activity will be higher than in cities where there is not such activity.⁶²¹ This is as it should be – for the lower land values in cities where there is less economic activity should be a magnet for economic growth.

The Land Code should make it possible for many ordinary Russians to own something of real value, such as land. This should promote the movement towards the Rule of Law. "As

increased three-fold the price of land on which privatized enterprises are located in Moscow and St. Petersburg. . . .").

616. See Alla Startseva, *Private Land Ownership Shrinking*, MOSCOW TIMES, Jan. 11, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (quoting MCKINSEY GLOBAL INSTITUTE, UNLOCKING ECONOMIC GROWTH IN RUSSIA (noting the absence of land code setting forth principles to land ownership is one of Russia's main obstacles to economic health and "can also increase investment risk"))).

617. See Borisova, *supra* note 306, at 12.

618. Yevgenia Borisova, *No Land Rush Without Land Code*, MOSCOW TIMES, Mar. 31, 2000, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times ("One reason why these much-discussed local experiments [in Samara and Saratov] with privately held land have faltered is that local laws cannot act in a federal legislative vacuum.").

619. Guzel Fazulina, *Land Reform in the Regions*, MOSCOW NEWS, Feb. 19, 1998, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, Moscow News (describing popularity of land reform in Saratov and enormous growth in productivity – trebling two years in succession).

620. Musatov, *supra* note 129.

621. Cf. Robin Munro, *Moscow Sets Land Prices High*, MOSCOW TIMES, May 21, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (noting the city set land prices at the maximum allowable rate, i.e., thirty times the land tax; federal coefficient not yet released).

conventional theory predicts, when the circle of property owners expands, demand for a stable set of contract rules to regulate property relations and protect the interests of the new owners will grow correspondingly.”⁶²²

Nevertheless, the concerns of communists and agrarians should be addressed. The essence of their concerns is that privatization of land will benefit only the wealthy at the expense of the farm worker.⁶²³ But “[p]rivatization can benefit ordinary people if it’s done right, as the privatization of city apartments [in 1992] has shown. Significant wealth was transferred into the hands of average people, and there now exists a thriving market in buying and selling apartments.”⁶²⁴ There are reasons why privatization of apartments benefited many people, not the least of which is that the wealth inherent in owning an apartment could be realized through its sale. Owners themselves controlled the use and disposition of this wealth, in contrast to the managers who benefited from privatizations of businesses.⁶²⁵

Various laws or conditions that limited or prohibited sales of agricultural land or shares in a privatized company,⁶²⁶ effectively prevented the emergence of a market and precluded ordinary Russians who owned such inalienable property from realizing significant wealth. For example, workers often sold *their* shares, at greatly depressed prices, to managers who looted the businesses they managed.⁶²⁷ However, the owner of the smallest of land plots *can* control the use and disposition of that land, so long as law gives the person or entity the power to do so. This power gives the owner the power to realize wealth, in contrast to situations where managers have been able to exploit the very fact that there is at most a limited market for shares of their companies. The Land Code should give the landowner such power. This power provides assurance that the wealthy will not

622. See Blumenfeld, *supra* note 3, at 482 (citing Kathryn Hendley, *The Spillover Effects of Prioritization on Russian Legal Culture*, 5 TRANSNAT’L L. & CONTEMP. PROBS. 39, 46-47 (1995)).

623. See *infra* text accompanying note 659.

624. *Code Must Assure Land Can Be Sold*, *supra* note 119.

625. See Kratzke, *supra* note 189, at 13 (describing privatization process by which inside managers gained control of firms and benefited at the expense of shareholder-workers).

626. See *id.* at 59-60 (citing example of Lomonosov Porcelain Factory; management endeavoured to retain control and ensuing benefits by restricting sales of shareholders’ stock to outside investors).

627. Bernard Black et al., *Russian Privatization and Corporate Governance: What Went Wrong?* 52 STAN. L. REV. 1731, 1740, 1766-67 (2000) (describing widespread management looting of firms’ assets).

enrich themselves at the expense of the farm worker.

An incidental but significant benefit of the Land Code, is that transactions in land will be visible, thus facilitating whatever advantages accrue from such transparency. It should become possible to use land as collateral and for a mortgage market to emerge.⁶²⁸ The development of this mortgage market will help foreign parent corporations who previously had to guarantee loans made to their Russian subsidiary corporations.⁶²⁹ Furthermore, the Land Code will reduce the problem of shadow land turnover which costs the government \$1-2 billion per year.⁶³⁰ Tax revenues should increase, perhaps substantially.⁶³¹ As a result of the increased flexibility, those able to flout the law, for example, by building houses on lakefront property that lies in a sanitation zone⁶³² or by exploiting large federal landholdings for convenience and profit, may find that "[t]he openness that a publicly accessible land register would bring would be most unwelcome."⁶³³

The Land Code sets *maximum* prices that bureaucrats can establish, thereby limiting their discretion, at least with respect to price. Once the property is in private hands, a secondary market should develop.⁶³⁴

The Land Code also allows foreign ownership of land – a development that should encourage foreign investment in both land and businesses.⁶³⁵ However, the Land Code does not allow foreign ownership in border regions.⁶³⁶ At this time, the number

628. See Rolfes, *supra* note 5.

629. Interview with Igor A. Boldyrev, *supra* note 151.

630. Yevgenia Borisova, *Land Code Awaits Putin's Signature*, MOSCOW TIMES, Oct. 11, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (according to Trade Minister German Gref).

631. See Borisova, *supra* note 195, at 13 (noting that the development of the land market will cause cadastre values to move towards market prices which becomes clear to property owners; significant increases in tax collection will occur).

632. See Yevgenia Kvitko, *State Duma Finally Approves Land Code*, MOSCOW NEWS, July 18, 2001, at 3, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, Moscow News (discussing how even conservation tracts are sold for dacha housing as people find a way around existing laws).

633. *Land Reform, Kind of, Maybe*, ECONOMIST, Mar. 10, 2001, at 49.

634. See Ekaterina Larina, *Land Ownership Is Last Big Soviet Hurdle: State Duma Property Chief Discusses Ins and Outs of the Land Code*, 4 RUSS. J. 41 (Oct. 19, 2001), at <http://russiajournal.com/printer/weekly5297.html> (including an interview with Viktor Pleskachevsky, chair of State Duma Property Committee).

635. See Otto Latsis, *The Land and the Law*, RUSS. J. (Sept. 28, 2001), at www.trj.ru (noting that the most significant impact of Land Code will be on industry as it increases investors' confidence).

636. 2001 Land Code, *supra* note 2, at art. 15(3).

of kilometers from a border comprising a “border region” has not been determined and is subject to presidential decree. It might be a “region-specific” definition – greater in some areas than in others.⁶³⁷ Naturally, foreign investment close to a border is not apt to occur until such delineation has occurred.

B. CLARITY OF KEY STATUTORY PROVISIONS

The Land Code’s provisions on how to acquire land are “badly drafted and vague.”⁶³⁸ To the extent there are ambiguities in these provisions, deference to the judgment of administrators becomes necessary and corruption becomes likely. The Land Code nevertheless places considerable faith in such administrators, probably because there is no alternative. Yet those who purchase land are entitled to the certainty that their investment purchases the interest in the land that they believe it has.

One of the questions presented by the Land Code is whether one who wants to *purchase*, rather than merely lease, land for construction purposes may choose the land plot the person or entity wishes to purchase or must accept a plot selected by the local government authority.⁶³⁹ The rationale for denying a purchaser the right of selection and permitting no direct sales is that such a measure eliminates complaints of favoritism.⁶⁴⁰ But, favoritism can be a problem irrespective of who chooses the land plot. On the other hand, the Land Code can be viewed as giving the investor the right of selection, but allowing the government authority to offer an alternative land plot if the purchaser’s plans are not suited to a city’s development.⁶⁴¹ Of course, an investor may purchase a particular land plot from a private owner if one exists.

Also in question, is whether the Land Code will prove to be an improvement over the old codes in terms of efficiency. The Land Code contemplates considerable cooperation between different government authorities. The public authority will admin-

637. See Larina, *supra* note 634.

638. *A Shiny Free-Market Blueprint. But will it work? Creating a Farmland Market in Russia*, ECONOMIST, June 29, 2002, available at 2002 WL 7246625 [hereinafter *A Shiny Free-Market Blueprint*].

639. See Borisova, *supra* note 306, at 12 (stating that it is unclear whether Article 30 allows person to purchase land that he/she/it selects or merely to lease it – confining right to purchase to non-specified plots, i.e., plots chosen by the state).

640. Interview with Olga Kozyr, *supra* note 152.

641. Interview with Igor A. Boldyrev, *supra* note 151.

ister lands over which it has jurisdiction; the land committee will deal with technical matters concerning land; the registration authority will deal with registration. If such cooperation is forthcoming, it will ease the land purchaser's tasks considerably, promoting a kind of "one-stop shopping."⁶⁴² Such an approach also focuses responsibility. Government authorities are actually required to provide services, such as document preparation of the land plot boundary layout, land registry map, and certificate of selection. The registry should be a "one-stop registry," with all pertinent interests in all lands recorded there. This would be a substantial improvement over multiple local registers and multiple registers for different interests. It will take time for the system to work smoothly.⁶⁴³ What is necessary is that the process of developing the system does not come at the cost of land purchasers' legitimate expectations.

C. THE OBSESSION WITH AGRICULTURAL-PURPOSE LAND

The Land Code, like Russian land codes before it,⁶⁴⁴ requires rigid adherence to classifications of use. This inhibits development along uncharted paths, which is where explosions in value are created.⁶⁴⁵ There is particularly an obsession with preserving agricultural and forest-land as such,⁶⁴⁶ even requiring payments for its conversion.⁶⁴⁷ This is consistent with Russians' historical obsession with agriculture,⁶⁴⁸ something the Soviets simply continued. This will greatly inhibit moving land to its most valuable use, which in many cases most certainly will not be agricultural or forest use. For example, the Code specifies restoration whenever agricultural-purpose land is put to a different use.⁶⁴⁹ Such alternative use implies that another use has significant value, more than the value of lost agricultural pro-

642. *Id.*

643. *Cf.* Dana Tumenova, Comment, *Evolution of Land Reform in Russia: The 2001 Land Code and Its Impact on the Commercial Real Estate Market and Direct Foreign Investment*, 11 PAC. RIM L. & POL'Y J. 769, 783 (2002) (noting that the Land Code is not a comprehensive guide on how to buy land in Russia).

644. *See supra* Parts I-III.

645. The City of Moscow tried to sell thirteen plots in nearby Zelonograd with extensive restrictions on how each plot could be used, e.g., for a restaurant, supermarket, gas station. The sale was a market failure. *See* Sam Greene, *Going, Going . . . Nowhere*, RUSS. J. (Oct. 14, 2000), at www.trj.ru.

646. *See supra* Part IV.D.

647. *See supra* note 563 and accompanying text.

648. *See supra* Parts I-III.

649. *See supra* Part IV.D.5.

duction. Rigid adherence to land restoration principles will most certainly diminish overall value.⁶⁵⁰

The Land Code treats agricultural-purpose land as what is in need of protection, not the people who occupy that land. In fact, such persons are promised very little and given virtually no flexibility to better themselves.⁶⁵¹ Earlier efforts to help such people have not been particularly well thought out or executed. Privatizations of agricultural land have been, not so much privatizations, as state divestitures of collectives to farm workers. However, these privatizations did not actually assign specific land plots to individuals.⁶⁵² Vast amounts of agricultural land have proved to be remarkably unproductive when not in private hands.⁶⁵³ Thus, an agricultural land code must provide that farm workers actually receive a specified plot of land, not simply a share of an unproductive,⁶⁵⁴ undivided whole.⁶⁵⁵ In the absence of such ownership rights attached to specific land plots that can be bought, sold, mortgaged, or leased,⁶⁵⁶ the investment necessary to (re)vitalize the business of agriculture will not be forthcoming.⁶⁵⁷ The new agricultural code, "On Circulation of Lands of Agricultural Use," incorporates the rules of the Land Code.⁶⁵⁸

The communists and agrarians expressed great concern that if agricultural land is privatized, oligarchs, banks, foreign-

650. 2001 Land Code, *supra* note 2, at art. 27. Courts in the United States have experience with the same problem. Compare *Groves v. John Wunder Co.*, 205 Minn. 163, 286 N.W. 235 (1939) (enforcing land restoration obligation), with *Peevyhouse v. Garland Coal & Mining Co.*, 382 P.2d 109 (Okla. 1963) (not enforcing wasteful land restoration obligation).

651. See Latsis, *supra* note 635 (noting that most small farmers "have neither the money, qualifications or desire to" claim their portion of land and create private farms).

652. See Steven Lee Myers, *Russia Seeking to Dismantle Collective Farms*, N.Y. TIMES, June 20, 2002, at A1 (stating that in most cases, collective farms never divided properties into actual plots).

653. See Larina, *supra* note 634.

654. See Reuters, *Putin Considers Land-Ownership Vote*, RUSS. J., Feb. 14, 2000, at 18, available at <http://russiajournal.com/printer/weekly2310.html> (noting that small private farms, comprising three percent of agricultural land, produced half of Russia's food in 1998).

655. See Larina, *supra* note 634.

656. See Rolfes, *supra* note 5 (without such rights, "'ownership' remains a delusion").

657. See Aleksandras Budrys, *Fight Gets Under Way for Russia Farmland Reform*, RUSS. J., Dec. 14, 2001, at <http://russiajournal.com/printer/weekly5561.html>.

658. Federal Law No. 101-FL of July 24, 2002, On Circulation of Lands of Agricultural Use, art. 1(4), reprinted in THE RUSSIAN LAW OBSERVER, Sept. 2002, at 24 (stating privatization carried out under terms of new law, the Land Code, and other federal laws).

ers, and industrialists would buy up all agricultural land and turn farm workers into serfs.⁶⁵⁹ In fact, the greatest threat to the small landowner would have been that the new agricultural land code would not allow ownership and free transferability of land.

The Soviet system of collective farms was highly inefficient and unproductive, and was a repressive force in the countryside. These farms, now recast as private companies or cooperatives, still predominate. A very real threat exists – greater than any threat from foreigners or new Russians – that these farms will use their power to acquire long-term control over agricultural land, thus defeating the whole point of rural land reform.⁶⁶⁰

The remains of state and collective farms provide awful conditions for workers, low investment and poor yields – but rich pickings for farm bosses and their friends. Anything that would let private farmers flourish⁶⁶¹ whether as individuals or in agribusiness, is also a threat. . .

Land ownership interests in agricultural land in non-urban or dacha areas are worth very little to the farmer who entrusts his or her shares to a private company or cooperative⁶⁶² just as the workers' shares in other business enterprises had little value to anyone other than the managers who stole from their own companies.⁶⁶³ Yet the private companies who have succeeded the Soviet collective farms and continue to operate inefficiently are the ones in a position to gain control of agricultural land.⁶⁶⁴ These entities would look remarkably like the ones the communists and agrarians fear will buy up all of Russia's agricultural land. Whatever the validity of the claims of the communists and agrarians, the solution is to give individual farmers something of value rather than assure that the specific land plot that they could have remains, in a practical sense, worthless.⁶⁶⁵

The new agricultural code, "On Circulation of Lands of Ag-

659. Editorial, *Reform the Land Code*, RUSS. J., June 15, 2001, at <http://russiajournal.com/printer/weekly4766.html> (pre-dating passage of the Land Code).

660. Rolfes, *supra* note 5; see *Duma Must Concede on Land Code*, *supra* note 119 (stating Duma was protecting collective farm bosses against everyone else, not workers).

661. *Land Reform, Kind of, Maybe*, *supra* note 633.

662. Interview with Olga Kozyr, *supra* note 152. Moreover, managers have been known to sell a farmer's land without his even knowing it, perhaps for some non-agricultural purpose such as hunting. *Id.*

663. See *supra* note 627 and accompanying text.

664. Rolfes, *supra* note 5.

665. *Duma Must Concede*, *supra* note 119.

gricultural Use,” adopts by reference principles of the Land Code.⁶⁶⁶ Hence, whatever faults and virtues that emerge from administration of the Land Code will likely emerge with respect to agricultural lands as well. One notable difference is that foreign persons may possess agricultural land only through renewable⁶⁶⁷ long-term⁶⁶⁸ leases.⁶⁶⁹ Restrictions on foreign ownership were necessary to assure passage of the act, but these same restrictions will discourage foreign investment in the same ways that restrictions in past codes on foreign ownership of urban land discouraged investment.

D. THE COURTS AND THE STATE AND LOCAL BUREAUCRACIES

The state is the biggest landowner in Russia.⁶⁷⁰ Control of land is a great source of power and therefore, a great source of wealth.⁶⁷¹ A source of wealth draws entrants.⁶⁷²

Under the present situation, sellers of complementary government goods act independently, so that “different ministries, agencies, and levels of local government all set their own bribes independently in an attempt to maximize their own revenues, rather than the combined revenue of all the bribe collectors.” This is the case that is most detrimental to economic efficiency and growth. The situation is similar to that analyzed in industrial organization theory when comparing a joint monopoly to independent monopolists providing complementary goods. The problem can actually be made much worse by free entry into the collection of bribes.⁶⁷³

666. Federal Law No. 101-FL of July 24, 2002, On Circulation of Lands of Agricultural Use, arts. 1(2), (4), *reprinted in* THE RUSSIAN LAW OBSERVER, Sept. 2002, at 24-25.

667. *Id.* at arts. 9(4), (5), *reprinted in* THE RUSSIAN LAW OBSERVER, Sept. 2002, at 27 (stating that lease contract may provide for such renewal; other things being equal).

668. *Id.* at art. 9(3) (forty-nine years).

669. *Id.* at arts. 2(2), 3, *reprinted in* THE RUSSIAN LAW OBSERVER, Sept. 2002, at 25.

670. Interview with Igor A. Boldyrev, *supra* note 151. This is hardly surprising. The state owned all of the land during Soviet times and still owns all the land that it has not already alienated, which is a relatively small amount. *See supra* text accompanying note 614.

671. *See A Shiny Free-Market Blueprint*, *supra* note 638 (“The people needed to make the [land] reforms happen are those who have the biggest interest in blocking them. Though stunted, the land market has been a lucrative business for officialdom.”).

672. *See* Borisova, *supra* note 195, at 12 (stating jurisdictional disputes already exist over allocations of land, the registry, and the valuation process).

673. Braguinsky, *supra* note 610, at 521 (quoting Andrei Shleifer & Robert Vishny, *Corruption*, 108 Q.J. ECON. 599, 605 (1993)).

The Land Code addresses these bureaucratic clogs on the transferability of land by endeavoring to limit discretion, impose specific duties, and provide notice of certain contemplated actions.⁶⁷⁴ With only limited exceptions, local officials may not refuse to grant ownership rights in land to a citizen or legal entity.⁶⁷⁵ This should limit the cost of acquiring land. However, the Code does not always spell out the consequences of failure to comply with these obligations. The Land Code does establish formulas for payments; however, in some instances, there is to be no payment.⁶⁷⁶ Whether abusive discretion is indeed curtailed will depend on the willingness and ability of enforcement agencies to perform.⁶⁷⁷

The Land Code requires that notice be provided to persons that might be affected in some way.⁶⁷⁸ If an interested person is aware and watching, it is more difficult to abuse discretion, especially if the interested person is given some weapons of his or her own. Local officials, of course, are not likely to give up their discretion easily because land "is a big source of power and money for the bureaucracy."⁶⁷⁹ Changing the classification of land, because it is dependent on the discretion of local officials, is likely to remain a process exploited by local officials.⁶⁸⁰

Enforcement of measures designed to curtail discretion depends upon the right and willingness of someone to seek review before a tribunal possessing the power to order effective relief. Citizens or aggrieved persons will be much more willing to seek enforcement of property rights than government bureaucrats,⁶⁸¹ but citizens must have access to courts who, in turn, can and will give relief sufficient to induce such citizens⁶⁸² to seek en-

674. See generally *supra* Part IV.

675. 2001 Land Code, *supra* note 2, at arts. 28(1), (4), 34(1), 35(1), 36(1).

676. See discussion *supra* at Part IV.B.3.d and text accompanying notes 222, 232.

677. See Cain Burdeau, *Real-Estate Market Gears Up for Land Sales*, RUSS. J., Oct. 19, 2001, available at http://russiajournal.com/printer/weekly_5295.html ("The Land Code on its own won't be able to completely change the situation because there is a very notorious bureaucratic tradition existing in this country and an ineffective justice system." (quoting Deputy Economic Development and Trade Minister Alexander Maslov)).

678. 2001 Land Code, *supra* note 2, at art. 63(2).

679. *Land Reform, Kind of, Maybe*, *supra* note 633.

680. *Id.*

681. See POSNER, *supra* note 9, at 565-66 (observing that public functionaries less motivated to enforce private rights because of private individuals' economic self-interest).

682. Cf. Blumenfeld, *supra* note 3, at 515 ("Written law is only as strong as the institutions responsible for implementing it.").

forcement in the first place. On occasion, the Code contemplates orderly court review and accountability of local governmental bodies.⁶⁸³ Russian courts have not shown that they are constructive elements of the privatization process.⁶⁸⁴ Nevertheless, would-be purchasers are given considerable standing rights to take local administrators to court,⁶⁸⁵ and would-be purchasers are the ones with the greatest economic stake in how well local administrators perform. Perhaps the threat of litigation, maybe even personal liability, in the face of clearly defined duties and curtailed discretion, will encourage many officials to facilitate land transactions as intended. Moreover, reputation may count for something among courts. Litigators know which courts to trust.⁶⁸⁶

Implementation of the Land Code requires cooperation of local officials.⁶⁸⁷ Local officials will have to bring local laws and practices into conformance with the prescriptions of the Land Code. The need for such cooperation may simply be an opportunity to frustrate the objectives of the Land Code in favor of acquiring personal wealth.⁶⁸⁸ Any perceived contradiction between federal and regional laws gives local officials a "weighty cudgel with which to ensure things go their way."⁶⁸⁹

E. FUNDING THE INFRASTRUCTURE

Any property system has a cost which economists recognize should be less than the benefits derived from protecting property interests.⁶⁹⁰ In addition to the enormous costs associated with corruption, the necessary government infrastructure has costs. Aside from the suspicions that can be laid on bureaucrats, there must be adequate funds for administration of the

683. See *supra* Part IV.F.

684. *Reform the Land Code*, *supra* note 659.

685. See Robin Munro, *Land Code Won't Solve Everything Overnight*, MOSCOW TIMES, July 24, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times.

686. Interview with Igor A. Boldyrev, *supra* note 151.

687. See Musatov, *supra* note 129 (stating that effectiveness of new Land Code depends on application and administration by regional governments).

688. See Adrian Moore, *The Land Code's Devil Will Lie in the Details*, MOSCOW TIMES, Feb. 5, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (stating that some officials see required additional steps as opportunity to frustrate early implementation of Land Code).

689. *Reform the Land Code*, *supra* note 659 (stating that local officials choose outcome most advantageous to himself between equally legal courses of action).

690. See POSNER, *supra* note 9, at 39.

law in order for it to work properly, particularly the state land registry on which so much depends.⁶⁹¹ An infrastructure for a land market is also needed before there can be a real land market.⁶⁹²

Additionally, the Land Code requires compensation of would-be purchasers or landowners for various administrative abuses of discretion or violation of duty.⁶⁹³ On the one hand, such provisions are vitally needed. On the other hand, the government authority must have sufficient funds to allow it to challenge unlawful private activity, like building lavish homes on lakefront property situated in a sanitation zone⁶⁹⁴ where there is to be no construction activity. Unless local government officials know that their budgets are sufficient to pay for a compulsory taking, they may choose not to challenge such activity.⁶⁹⁵ There is no assurance that such funding can be provided.

F. LAW OF THE REGIONS

Land sales have occurred in various regions.⁶⁹⁶ The law of these land sales is not likely to be consistent in every respect with the federal law.⁶⁹⁷ The right balance is necessary when inconsistencies exist. From the view of value maximization, this means recognizing the validity of the laws in regions that provide the framework for a market in land, including agricultural land and foreign investment.⁶⁹⁸

691. See Yevgenia Borisova, *State Finds Registering Nation's Land Not Easy*, MOSCOW TIMES, Dec. 28, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (describing difficulties of Roszemkadstr, Russia's federal land service, to take stock of nation's land, prepare a registry, and value all land parcels – with inadequate funds); Robin Munro, *Federal Land Register 'Vital' for Prosperity I*, MOSCOW TIMES, May 28, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (“National, government-guaranteed land register is one of the keys to prosperity.”).

692. See Valery Volkov, *Free Markets for Power and Land Needed*, MOSCOW NEWS, July 17, 1997, at 9 (noting delay in creation of recording system; rules of registration different from region to region).

693. 2001 Land Code, *supra* note 2, at arts. 32(4), 51(5), 55(2); *supra* Part IV.E.4.

694. See *Land Reform, Kind of, Maybe*, *supra* note 633 (suggesting such privilege belongs to top officials and well-connected tycoons).

695. Interview with Olga Kozyr, *supra* note 152.

696. See Musatov, *supra* note 129.

697. See *id.* (explaining land ownership rights in St. Petersburg, Samara, and Tatarstan are not clear).

698. *But cf.* Budrys, *supra* note 657 (explaining that trades of farmland at local level can only be legalized by adoption of federal law).

For example, in the Saratov Oblast, foreigners are permitted to buy agricultural land.⁶⁹⁹ Federal law does not⁷⁰⁰ permit foreign citizens to own agricultural land, but any *apparent* conflict should be resolved in favor of allowing foreigners to own agricultural land in the Saratov Oblast, particularly if there are foreigners who already own such land.⁷⁰¹ On the other hand, some regions have constitutions or charters that prohibit private ownership of land.⁷⁰² Such provisions should be struck down as invalid. However, the elimination of such inconsistencies will take time.

The new agricultural code On Circulation of Lands of Agricultural Use takes an unfortunate position. Foreign persons who own agricultural land under regional laws have one year to divest themselves of ownership.⁷⁰³ In the event there is no purchaser, the local government authorizing the sale must repurchase it at the same price for which it was originally sold.⁷⁰⁴ It would be most unlikely that agricultural land owned by foreigners who have diligently developed the land would be worth less than the price originally paid, especially if no account is taken of Russia's high inflation. One possible solution to this dilemma would be a sale followed by a long-term leaseback.

G. LEGAL AND PRACTICAL QUESTIONS REQUIRING RESOLUTION: A FINAL COMMENT

Russia's new Land Code, encompassing only urban and dacha land, resulted from political compromise.⁷⁰⁵ There was simply no possibility of enacting a law that included agricultural and forestry land. The Code itself is a large document.⁷⁰⁶ In the best of circumstances, this size would result from the structure of Russia's legal system. The Russian Constitution and Civil Code of 1994 set forth principles to which all subsequent laws must conform.⁷⁰⁷ Mere conformance is sufficient to make the law

699. See Borisova, *supra* note 65.

700. See *supra* notes 667-69 and accompanying text.

701. See Larina, *supra* note 634.

702. Interview with Olga Kozyr, *supra* note 152.

703. Federal Law No. 101-FL of July 24, 2002, On Circulation of Lands of Agricultural Use, art. 5(1), *reprinted in* THE RUSSIAN LAW OBSERVER, Sept. 2002, at 25-26.

704. *Id.* at art. 5(3), *reprinted in* THE RUSSIAN LAW OBSERVER, Sept. 2002, at 26.

705. See Blumenfeld, *supra* note 3, at 492-93 (explaining that the issue of land is most contentious in discussions of Civil Code).

706. It has 103 articles.

707. See Blumenfeld, *supra* note 3, at 495.

valid. Land law can and did become a nearly indecipherable monstrosity whose tenets could be effectively hidden or obscured in an area where clarity and predictability are most desirable.⁷⁰⁸ The only way to wipe away all the writing on the slate is to write over the whole slate. Hence a Land Code that covers only urban and dacha land must have detailed provisions covering such matters as agricultural land, defense land, and environmental principles. The Code may be subject to the criticism that it appears to have been "written by thirty people who refused to talk to each other,"⁷⁰⁹ but a certain amount of verbosity and lack of clarity is unavoidable under the circumstances. Realistically, it will take a generation or more to resolve every significant question raised by the Code.⁷¹⁰

Several problems will shortly emerge. Ownership of land must be clearly established so that one who wishes to buy land may know from whom that person or entity must purchase it.⁷¹¹ "State" property must be allocated between federal, regional, and municipal land under the law "On the Division of Lands into Federal, Regional and Municipal," a process that is now occurring.⁷¹² Because much is at stake, both the proceeds of sales and tax revenues, the process is apt to be contentious,⁷¹³ thereby prolonging it. In addition to disputes among government units, there will be turf battles among different government bureaucracies.⁷¹⁴ Such disputes may enter into the area of registering

708. See Borisova, *supra* note 306, at 12 (explaining that Land Code cleared away forty-three laws and hundreds of resolutions – necessary for development of a land market).

709. *Id.* (quoting Alexei Leonov, a Moscow region prosecutor specializing in land and ecology).

710. See Borisova, *supra* note 195, at 12 (stating it could take a generation or more for a true land market to emerge); cf. Simon Ostrovsky, *Kremlin Befriends Small Business*, MOSCOW TIMES, Dec. 7, 2001 (suggesting that owning land is not possible until contradictions in legislation are smoothed over).

711. See Robin Munro, *Sales Held Up as Holes Are Filled in Land Code*, MOSCOW TIMES, Nov. 27, 2001, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times.

712. See Borisova, *supra* note 195, at 12 (describing the problem).

713. See *id.* (stating contentiousness apt to be greatest in Moscow where many federal properties exist).

714. See *id.* at 12-13 (describing emerging responsibilities of Roszemkadastr (created to be a single federal land authority), the Justice Ministry, the Property Ministry, and the State Construction Committee). Prime Minister Mikhail Kasyanov has put the State Property Fund in charge of the sales of federal urban and commercial land. See Yevgenia Borisova, *Property Fund Given Control of Land Sales*, MOSCOW TIMES, May 14, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times (stating fund will handle sales via tenders after publication of conditions and passage of deadlines).

land values, ownership, and transfers.⁷¹⁵

There appear to be conflicts between the Land Code and the Civil Code. This is particularly unhealthy in a matter such as land where predictability and stability are greatly needed. For example, the Civil Code provides that a right of permanent use may be granted by a state or municipality to any person or legal entity, including a building owner; yet, the Land Code limits such an interest to state or municipal entities.⁷¹⁶

Implementation of the Land Code is a step that must be taken simultaneously with other constructive steps. The Russian Federation recently enacted a market-oriented land code for agricultural land.⁷¹⁷ Forestry land, however, remains outside the ambit of either the Land Code or the law On Circulation of Lands of Agricultural Use. It must be possible for land to be valued accurately and openly vis-à-vis other potential assets. Value maximization requires concurrent legal changes,⁷¹⁸ otherwise the Land Code may be much worse than second best.⁷¹⁹

A desired scenario is that the Land Code will work best in the most developed areas, such as Moscow, St. Petersburg, and Samara.⁷²⁰ The value of land in those cities is simply too great to allow the Land Code to fail.⁷²¹ Successful implementation in major land markets should encourage similar results in smaller markets. In any country, persons can adapt to a new law with all of the nuances of enforcement and interpretation. This should happen in Russia with its new Land Code. A market is a very powerful force. Even when the legal framework of transactions in land is as uncertain as it was in the days of local codes and presidential decrees, the annual count of land sales and purchases numbered in the hundreds of thousands or millions.⁷²²

715. See Borisova, *supra* note 195, at 13 (describing the failure to integration of information in one agency).

716. See Borisova, *supra* note 306, at 13 (describing the problem).

717. See *supra* text accompanying note 11.

718. Cf., e.g., Kratzke, *supra* note 189, at 2 (noting that improved bankruptcy enforcement and depoliticization of business are necessary).

719. See Blumenfeld, *supra* note 3, at 515 ("While private property is the engine of economic reform, its wholesale injection into society without the appropriate legal framework to govern commercial transactions will necessarily produce a host of negative externalities.").

720. Interview with Igor A. Boldyrev, *supra* note 151.

721. *Id.*

722. Vladimir Sysoyev, et al., *Reforms Demonstrated to Foreigners Russia's Diamond Market Being Recarved*, VREMYA MN, Dec. 6, 2000, at 3, available at LEXIS. State Duma Committee for Legislation has said that 700,000 transactions involving purchase or sale of land occurred in 1999. *Id.*

Russians have shown that they can learn land concepts quickly.⁷²³

Even with flaws, the Land Code can accomplish much.⁷²⁴ Concern for the working of a Land Code at the highest level will help. President Putin made the Land Code a legislative priority. Politically, he will probably have to rely on local officials to interpret and apply the Land Code, and this will detract from its effectiveness.⁷²⁵ He must find ways to pressure such officials to make the Land Code work. President Putin appears willing to spend some of his vast political capital on the Land Code as well as on an agricultural land code. Russians should hope for as much.

723. Interview with Olga Kozyr, *supra* note 152.

724. See Robin Munro, *A Good Year for a Maturing Real Estate Market*, MOSCOW TIMES, Jan. 29, 2002, available at LEXIS, News & Business, Country & Region (Excluding U.S.), News, The Moscow Times. People involved in real estate say the new Land Code "will do the job." *Id.*

725. See *Land Reform, Kind of, Maybe*, *supra* note 633. Land Code needs "political oomph;" it is not encouraging that President Putin plans to rely on governors. *Id.*

