

## PRIVATISATION OF RESIDENTIAL PROPERTIES IN LATVIA

**V. Parsova, A. Sidelska**

Latvia University of Agriculture

**I. Jankava**

“Latvijasmernieks.lv” Ltd.

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### Introduction

In accordance with regulatory acts in independent Republic of Latvia along with land property (real property, which includes land and buildings) and building property (a building without land) an individual type of real property – residential property – is determined. Land properties and building properties were created in result of the Land Reform. Another important reform in the field of real property is the splitting of dwelling houses into apartments and their privatisation. Splitting of residential houses into apartments may be done in compliance with the law, court judgement or contract [4].

Privatisation of residential properties in Latvia is not analysed widely. There are studies on the Latvian housing fund, its development and the results of the privatisation process, as well as on the development of housing issues in Riga, but there exist no analysis of the situation in the isolated regions of Latvia. Just few authors have investigated problems in relation to housing fund. The analysis and disposition of the housing fund, the problems of its privatisation and the privatisation process of apartment properties in Latvia are studied by Paršova V., Sideļska A., 2010; Сидельска А., Паршова В., 2010 and Сидельска А., 2009.

Privatisation of dwelling houses is widely spread and takes place both in urban and rural areas. The aim of apartment privatisation is to transfer the public housing fund to private owners, to facilitate the real property market, and to promote good management of residential properties in the interests of their inhabitants. To involve apartment property as object of transaction in real property market, property rights in it have to be consolidated [2].

The aim of the article is to investigate the legal basement of formation of residential property in Latvia, to describe privatisation process of dwelling houses, as well as to summarise research on development of cadastral registration of apartment properties.

The results of research described in specific article are based on our former research in field of the cadastre as well as on other published materials in related fields. Regulatory acts, another official document and records, literature and other sources of information in specific article are used.

The method of comparative analysis of legal and regulatory acts, graphical method for reflecting of statistical data, methods of analyses and induction for interpretation of the results as well as the monographic

and abstract-logical methods for analyses of the normative acts and scientific literature were applied in the article.

### Legal aspects of formation of residential property

An essential part in real property market forms residential properties. At an average in Latvia residential properties form about 33% from total number of real properties, its proportion changes between 21% and 57% in different regions of Latvia.

Residential property arises on the basis of the Law “On Residential Property” accepted in 1995. The Law states that residential property is independent real property and consists of an individual property together with a share in the indivisible part of a dwelling house and land (Fig.1).

The individual property is a constructively segregated space or a set of such spaces (an apartment, non-residential space or an artist’s workshop/studio) of the dwelling house. Each separate property is marked on the inventory file of the dwelling house. Inner walls, ceiling, floors, windows, doors, pipes and flues, and other components necessary for the functioning of the apartment, as well as auxiliary rooms and buildings located outside the apartment but functionally linked with it, belong to an individual property.

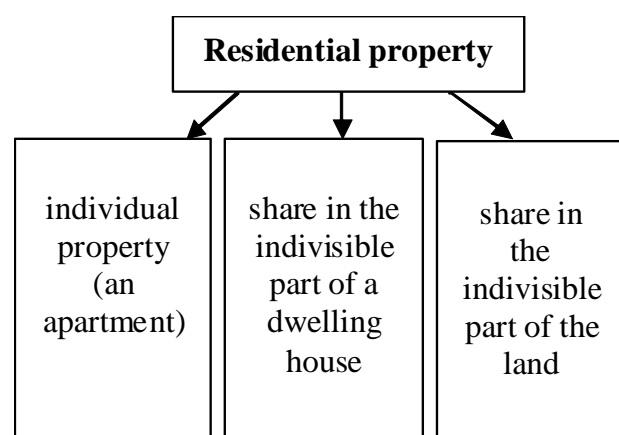


Fig.1. Components of residential property

The indivisible part of a dwelling house is the common property. Outer walls, roof, garret, stairs, basement and other components necessary for the functioning of the dwelling house, belong to indivisible part of a dwelling house. The common property is the land parcel under dwelling house, too. The share in the indivisible part of a dwelling house and land parcel belonging to any residential property is calculated in proportion to the size of the individual property [6, 9].

The Law says that the residential property is an independent object of real property rights where person has exclusive rights to the individual property, but indivisible part of a dwelling house and land parcel is common property owned by all owners of residential properties. The Landbook law says that residential property has to be consolidated in Landbook as independent real property [2].

Residential properties mainly originate on the base of different laws through privatisation of dwelling houses, therefore is necessary to characterise these various processes (table 1).

Local Housing Privatisation Committees were responsible for the privatisation process.

Before registration of any residential property in the Landbook, the dwelling house itself shall be registered in the Landbook.

#### **Residential properties in dwelling houses owned by condominiums**

During soviet period persons couldn't own apartments, they could only rent them from municipalities. An exception was condominium apartments in dwelling houses where the management and administrative functions were delegated to cooperative association. "Conditionally" the owners of such apartments were tenants who were at the same time members of the cooperative association. To satisfy the increasing demand for apartments, municipalities organised a limited number of cooperative associations and the state granted interest-free loan for a term 25 years.

At the end of 1991 the legislator adopted the Law "On Privatisation of Condominium Apartments", which set the legal basis for their privatisation. Property rights to the privatised condominium apartment were registered in the same way as property rights to a dwelling house.

of 99 years. The cooperative association was responsible for registration of the dwelling house in Landbook.

#### **Residential properties in dwelling houses owned by farms, state agricultural enterprises and fishermen's enterprises (privatised for shares)**

During the soviet period agricultural enterprises (collective farms and state farms) and fishermen's enterprises to supply their employees with apartments undertook wide-scale construction of dwelling houses. These apartments were owned by agricultural and fishermen's enterprises, which were responsible for the management of the dwelling houses.

In 1991 was adopted the Law "On Privatisation of Agricultural Enterprises and Fishermen's Collective Farms", which prescribed the privatisation process of agricultural enterprises and fishermen's collective farms. The aim of the privatisation was to eliminate the consequences of unlawful collectivisation. Privatisation was based on the personalization of the existing assets of these enterprises through expropriation without compensation or on abstraction through assignment of the assets to persons (families) or a group of persons. As a result person becomes the legal owner of an apartment on the basis of an agreement concluded between the respective person and the administrative body of the agricultural enterprise or fishermen's collective farm.

The Law "On Privatisation of Dwelling Houses Owned by the State and Municipalities" dealing with apartments in dwelling houses owned by state farms, state agricultural enterprises and fishermen's enterprises, prescribed that such apartments should undergo the re-privatisation process and should be transformed into residential properties in procedure as follows:

- the dwelling house together with land should be registered in the Landbook;
- the share in the indivisible part of the dwelling house and in land should be added to each apartment.

The Housing Privatisation Committee was obligated to arrange privatisation of the share in land for a charge or free of charge, or arrange a leasehold contract for a term of 99 years. Apartment owners themselves were responsible for the registration of the above – mentioned dwelling houses in the Landbook.

#### **Residential properties in dwelling houses owned by the state or municipality**

During the soviet period persons living in dwelling houses owned by the state or municipality had the right only to rent an apartment. Management functions were delegated to municipal companies (Housing Boards). The tenants could not sell their apartments, of course; they could only exchange them.

The Law "On Privatisation of Dwelling Houses Owned by the State and Municipalities" established that the legal basis for privatisation is an agreement between the tenant and the local Housing Privatisation Committee. The tenant had to buy the apartment from the state using a substitute for money – the so-called privatisation certificates (vouchers) as a means of payment.

The law prescribed the privatisation procedure and obligated the Central Housing Privatisation Committee and municipalities to arrange the registration of land together with dwelling houses in the Landbook and their privatisation.

Table 1

#### **Legal base of formation of residential property**

Owner of the dwelling house	The Law	Process
Condominium	"On Privatisation of Condominiums"	Privatisation
Collective farm or state agriculture enterprise	"On Privatisation of Agricultural Enterprises and Fishermen's Collective Farms"	
State and municipality	"On Privatisation of Dwelling Houses Owned by the State and Municipalities"	
Natural or legal person	"On Registration of Real Property in the Landbook"	Splitting into residential properties

The Law "On Privatisation of Dwelling Houses Owned by the State and Municipalities" adopted in 1995 provided that condominium apartments should pass through the re-privatisation process and should be transformed into residential properties in procedure as follows:

- the dwelling house together with land should be registered in the Landbook;
- the share in the indivisible part of the dwelling house and in land should be added to each condominium apartment.

The Housing Privatisation Committee was obligated to arrange privatisation of the share in land for a charge or free of charge, or arrange a leasehold contract for a term

But mentioned above institutions were not able to perform the necessary activities smoothly because the planned (full) privatisation of apartments was a long and costly process. The desire of tenants to become owners of residential property increased and intention of the Government was to promote the development of the real property market, therefore amendments to the above Law were made in 1996. These amendments said that beside planned privatisation apartments could be privatised in preliminary privatisation, so-called accelerated privatisation. The tenants of apartments could to choose eligible way of privatisation and do it in two ways: in one step (so-

called planned (full) privatisation) or in two steps (so-called accelerated privatisation and so-called planned (full) privatisation afterwards) (Fig. 2.).

The statement on accelerated privatisation had a great significance. Such accelerated privatisation gave the owner the right to deal with privatised property. Transactions with property acquired in accelerated privatisation do not affect other tenants or owners in the same dwelling house. In fact till 2004 accelerated privatisation of residential properties throughout Latvia, except Riga, is completed [11].

Increase of the number of residential properties registered in the Cadastre information system is shown in Fig. 3.

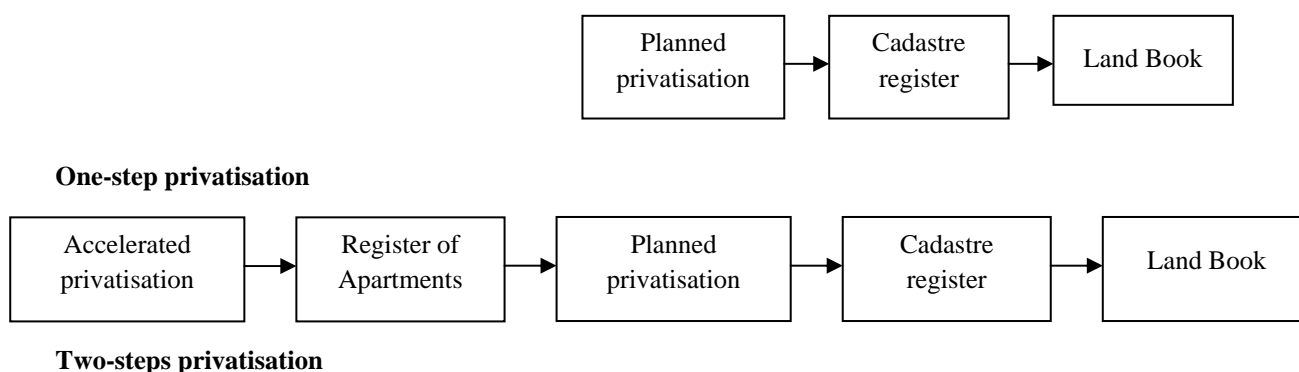


Fig. 2. The scheme of privatisation of apartments located in state and municipality owned dwelling houses

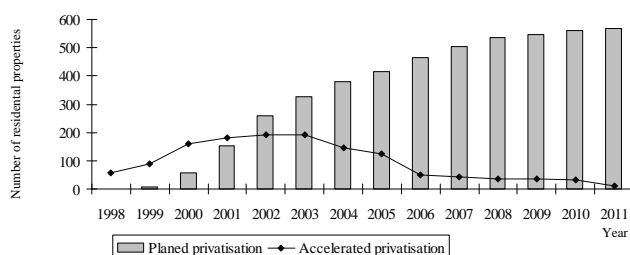


Fig. 3. Dynamics of the number of privatised residential properties

### Residential properties in dwelling houses owned by the state or municipality and natural or legal persons

In a few cases the denationalisation of dwelling houses led to situations where the dwelling house was registered in the Landbook as common property. The owner of the house is a state institution or a municipality on the one hand and a natural or legal person on the other hand. In such dwelling houses the natural or legal person could not exercise its legal rights, and the state institution or municipality could not realise privatisation of apartments, common property into apartment properties or into real parts.

Therefore the law prescribed the procedure for discontinuance of such a common property right. In this case co-owners conclude a contract on separating the common property into apartment properties or into real parts.

Mostly such common properties were separated into residential properties and in the contract specific residential properties and their specific owners were indicated.

### Residential properties in dwelling houses owned by natural or legal persons

If the dwelling house is owned by natural or legal person real property transactions may be performed in two ways – the

object of transaction may be defined as a share in real property, or dwelling house may be split into residential properties.

The law “On Registration of Real Property in the Landbook” allows splitting of the dwelling houses owned by natural or legal persons into residential properties. Currently it is a very wide practice for legal persons to construct new multi-storey dwelling houses and, after their registration in the Landbook, to split them into residential properties and sell them out. Splitting of dwelling houses into residential properties is the responsibility of the State Land Service according to the requirements set by the Law “On Residential Property”.

If the object of transaction is defined as a share in a real property, as result of transactions arises the common property. It causes a lot of inconveniences to co-owners in the fulfilment of their management and administrative functions. If a dwelling house is split into residential properties, any residential property may be transacted as independent real property, and it is not necessary to co-ordinate such activities with other owners.

### Registration of residential properties

Deteriorating economic situation usually slows down real property market, as well as reduces activity of the process of privatisation and registration of property rights in the Landbook. On January 1, 2011 in Landbook were consolidated approximately 500 thous. residential properties [10]. Dynamics of the number of residential properties, registered both in the Cadastre and Land Book is showed in Fig.4.

Fig.4 shows that near 97% of the total number of residential properties are registered in the Landbook. The maximum of registration activity was observed in period 2000 – 2002. The reason was very high activity on property market and the requirement of the Law to perform transactions only with residential properties registered in the

Landbook [1, 5, 7, 8]. In 2006 the privatisation of residential properties entered in final stage.

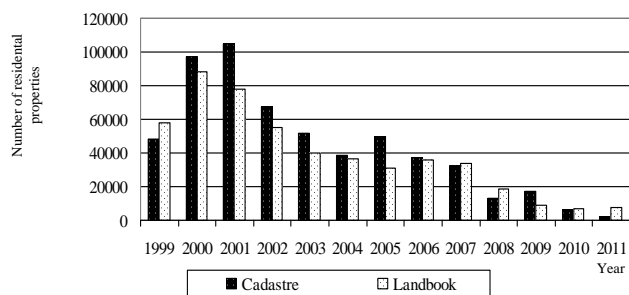


Fig. 4. Dynamics of the number of residential properties in the Cadastre and Land Book

Among the factors preventing the process of privatisation are:

- process of privatisation is complicated;
- bureaucratic requirements and contradictions of legislative acts;
- realisation of the privatization process in two steps (accelerated and the planned privatization);
- high (close to their nominal value) market price of privatization certificates;
- constantly rising expenses for cadastral surveying and processing of documents;
- non-being of ownership documents, lease agreement or rental agreement;
- decreasing of market price of residential properties.

To eliminate these factors and facilitate completion of the privatisation process it is necessary:

- to adopt a special law on the completion of privatisation of dwelling houses;
- to establish a time-limit for completion of privatisation of dwelling houses;
- to regulate ownership rights to non-privatised dwelling houses and apartments;
- to simplify the process of privatisation by reducing of bureaucratic obstacles.

### Conclusions

1. Completion of the privatisation process will allow more effective management of dwelling houses, make positive impact on the real property market and facilitate consolidation of various forms of real property.
2. Transfer of non-privatised apartments to local governments help to solve the problems of vulnerable persons concerning their living space.
3. It is necessary to ensure the availability of credits for privatisation purpose.
4. Necessary to evaluate feasibility of privatisation of non-privatised apartments.

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### Приватизация квартир у Латвии

В. Паршова, А. Сидельска, И. Янкава

У Латвии власні квартири є окремим видом нерухомого майна. Поділ житлових будинків на власні квартири та їх приватизація стали ґрунтовною реформою житлового фонду. Наведено юридичне обґрунтування формування власності на квартири і проаналізовано процес приватизації житлових будинків.

### Приватизация квартир в Латвии

В. Паршова, А. Сидельска, И. Янкава

В Латвии собственность на квартиры является отдельным видом недвижимого имущества. Разделение жилых домов на собственные квартиры и их приватизация стали основательной реформой жилого фонда. Приведено юридическое обоснование формирования собственности на квартиры и проанализирован процесс приватизации жилых домов.

### Privatisation of residential properties in Latvia

V. Parsova, A. Sidelska, I. Jankava

In Latvia residential property is determined as an individual type of real property. Splitting of dwelling houses into apartments and their privatisation was fundamental reform of housing fund. The article describes legal basement of formation of residential property and analyses dwelling houses privatisation process.