

Land ownership transfer upon acquisition of real estate in Ukraine

From 29 November 2021, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine concerning the Unified Legal Share of a Land Plot and the Real Estate Object Located on It" (hereinafter – the Law) changes the ownership transfer procedure regarding the land located under real estate.

If the ownership is registered in the prescribed manner, all residential buildings, other buildings or structures, and objects of unfinished construction are considered as real estate by the legislator.

Note: the acquisition of the apartment buildings doesn't transfer the land ownership to the purchaser.

Details of the new procedure:

- by acquiring or inheriting real estate located on private land, the owner obtains the ownership of the land.

Note: when the owner changes, the land's purpose does not change;

- by acquiring or inheriting a part of real estate, the owner obtains the ownership of a land's share in proportion to his/her share in the real estate.

Note: the ownership of the land's share is transferred to the new owner in the amount belonged to the previous owner;

- if the acquired real estate is located on the land plot that is in use by the previous owner (by using the land hereinafter the legislator means the right of a lease, emphyteusis, superficies), the new owner obtains the right of use in the amount and on the terms specified for the previous owner of such an object. Moreover, it is not necessary to make changes to the land use agreement or obtain the consent of the landowner. The new owner of the real estate is only obliged to immediately notify the owner of the land in use.

Note: this does not apply to cases of separate share acquisition in real estate. In this case, the owner has the right to demand amendments to the land use agreement defining him/her as a co-lessee (co-user) of the land. Before such changes, the owner is obliged to reimburse the user part of the fee for land use in proportion to his/her share in the ownership;

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- documents confirming the real estate ownership are the basis for state registration of the ownership transfer or use of land plot, where the property is located, to the owner.

Note: this doesn't apply to cases when the share in the real estate in use is acquired;

- the contract of the real estate and relevant land plot acquisition must contain a cadastral number of this land plot.

Note: if only a share of the land will be transferred to the new real estate's owner, then such an agreement can be concluded only after the allocation of the land's part and its cadastral number assignment;

- when acquiring real estate located on state or communal land that is in another person's use, with a necessity to divide the land, the area of the formed land plot may not be less than the maximum size of the relevant land plots as defined by the Land Code of Ukraine.

Note: this doesn't apply to cases where the formation of the land plots of this size is impossible or doesn't comply with the law;

- when acquiring real estate located on state or communal land that is not in use, the owner is obliged to apply within 30 days from the date of state registration of the real estate ownership to the relevant executive or local self-government body with a request to transfer this land in his/her possession.

Note: the executive or local self-government body is obliged to transfer the land to the owner or lease the land plot following the procedure established by the Land Code of Ukraine. Failure to submit such a request in due time can't be the ground for denial to the new owner;

- if real estate located on private land is acquired by a person who can't own such land, that person has the right to demand from the land's owner the land's lease or superficies contract on terms determined by the new owner of the real estate.

Note: in this case, the Lessee or Superficiary is obliged to reimburse the land's owner the land fee paid by him under the law;

- if real estate located on land in permanent use is acquired by a person who can't obtain a land plot on such a right, such person obtains the land plot from the state or communal lands in ownership or lease. In this case, the person is obliged to apply within 30 days from the date of state registration of property ownership to the relevant executive or local self-government body with a request to transfer such land plot to his/her ownership or lease.

Note: the executive or local self-government body is obliged not later than 30 days from the date of the ownership state registration to terminate the right of the land's permanent use and transfer it to the ownership or lease to a new real estate owner. Failure to submit such a

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request can't be the ground for denial to the new owner;

- when acquiring a part of the real estate located on a land plot that is in permanent use, the owner has the right to use such land plot for access and maintenance of the real estate. The procedure of the land's use by the owner is determined by the agreement between him/her and the land user.

Note: if the owner and the land user can't agree on the procedure for using the relevant land plot, such procedure shall be determined by the executive or local self-government body under the powers defined by the Land Code of Ukraine.