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LEGAL REGULATION OF THE ZONING AREAS IN KAZAKHSTAN

Annotation. This article examines the problems of legal regulation of zoning in Kazakhstan. Analyzed a number of legal acts of the Republic of Kazakhstan, is directly related to the legal regulation of zoning as determining the area of land to establish their purpose and usage. To ensure the sustainable use and protection of land at the present stage, a clear, concrete forming legal methods of land management mechanisms.

Keywords: zoning, land tenure, land category, area zones, land law.

Тірек сөздері: аймақтау, жер қатынастары, жер категориялары, аймақтық зоналар, жер заңнамасы.

Ключевые слова: зонирование, земельные отношения, категории земель, территориальные зоны, земельное законодательство.

Kazakhstan has the largest land resources. The total land area of 272 million hectares. In connection with this land relations in Kazakhstan – a very interesting and topical issue. The object of land relations is all the land within the territory of the Republic of Kazakhstan, individual land no matter that they are located and the legal basis of their assigned to individual actors as well as the right to land and land shares.

Statewide legislation is in the Kazakh legal system one of the fastest growing industries of the legislation. There is an ongoing intensive legislative work in the settlement of the land relations.

Increased emphasis on legal regulation of relations concerning zoning, due to the fact that the current for many decades the system of determining the legal regime of land no longer meets modern requirements.

Prior to the adoption of the Land Code of the Republic of Kazakhstan was considered that a legal regime of land just enough to hold the intended purpose of land division into certain categories. Zoning seen as a support tool for clarifying the legal regime of separate territories.

At the moment, given the new developments in the legal regulation of land relations, a set of rules on zoning areas should be assessed as an independent legal institution.

In today's land laws are woven approaches to regulation of land relations inherent in the market and of planning and administrative economy. In particular, it is shown in the simultaneous application of the rules on the division of land into categories and zoning areas.

Rules on zoning areas are crucial in determining the legal regime of land, which in turn plays a crucial role in the issue of the limitations of land rights.

To date, the zoning is in conformity with bad reconcile the rules contained in the Land Code of the Republic of Kazakhstan, the Republic of Kazakhstan Law «On architectural, planning and construction

activities in the Republic of Kazakhstan» Law of the Republic of Kazakhstan «On Specially Protected Natural Territories» and others.

Zoning is the definition of the territory of the land to establish their purpose and usage (Article 8, p. 1 Land Code) [1]. Zoning has two interrelated processes, one of which is to divide the territory into zones with each zone demarcation, the other - in the definition within each of these areas of the legal regime of land, as well as all that is above and below their surface.

Zoning in the Republic of Kazakhstan – Business specific and difficult. Formation of territorial zones often a distinctive originality. To solve the problems of zoning in our country adversely affected by two closely related factors:

- lack of theory and practice is more or less established views on zoning;
- absence of a comprehensive and coherent legislation on zoning areas.

Sometimes it seems, and rightly so, that the zoning is carried out haphazardly. Settlements on lands provided zoning throughout, as the lands of other categories of territorial zones recognized only a few tracts of land. Territorial zone may include tracts of land belonging to different categories of land or territorial zone may relate directly to land two or more categories. In some cases, the very territorial zone is an area subject to zoning. For example, the National Park, being territorial area is divided into functional areas, which are themselves recognized territorial zones.

The only category of land, the boundaries of which can be clearly established by law, are land settlements. Question of the boundaries of other categories of land still remains open. To prove ownership of the land plot to one category or another is often difficult.

Sometimes the division of land for a certain category of species essentially means the allocation of territorial zones. For example, the land of specially protected natural territories and objects are divided into:

- land protected areas, including therapeutic areas and resorts;
- land of the environment;
- recreational land;
- land of historical and cultural significance;
- other high-value land [2].

It is important to remember that the legal regime of land should be determined based solely on the norms of land categories. The leading role of the zoning regulations territories seems obvious, since they determine the legal regime of the territorial zones, regardless of whether they belong to a particular category of land.

With the apparent trend of the legislator to implement the legal regulation of zoning in land laws should recognize the priority rules of the Land Code of the Republic of Kazakhstan.

The main directions of architecture, urban planning and construction activities are:

- spatial organization of the settlement and distribution of productive forces;
- planning, construction and reconstruction of cities, towns and other rural settlements and their systems, functional areas and territories;
- preservation, restoration and protection of historical and cultural heritage, monuments of urban planning, architecture and art, landscapes and other securities in the architectural – urban development for territories in accordance with the Law of the Republic of Kazakhstan «On protection and use of historical and cultural heritage»;
- planning organization resorts and other recreational areas;
- development and implementation of urban development programs, design, construction, reconstruction, restoration, modernization, overhaul and improvement of facilities and complexes, formation and development of social, engineering and transport infrastructure, protection of areas of natural hazards and industrial processes;
- inspection and certification of design – survey work;
- the oversight function for the urban development areas development, quality of construction production of construction materials, components and structures;
- licensing in architecture - urban development activities;
- research, development, approval and introduction of state standards in the field of architecture, urban planning and construction;
- the training of professionals in the field of architecture and urban planning;

– other activities related to the creation or conversion of habitat by means of architecture and urban planning [3].

But we must not lose sight of the fact that the law of the Republic of Kazakhstan «On architectural, planning and construction activities in the Republic of Kazakhstan» is much broader than the Land Code of the Republic of Kazakhstan, identifies issues of zoning. As long as the land law will be gaps in the legal regulation of relations in the field of zoning, the need application of the law of the Republic of Kazakhstan «On architectural, planning and construction activities in the Republic of Kazakhstan».

Land Code of the Republic of Kazakhstan only mentions the permitted use and zoning documents. The answers to questions about what is meant by the permitted use and that should be considered zoning documents, can be found in the law of the Republic of Kazakhstan «On architectural, planning and construction activities in the Republic of Kazakhstan». Permitted use in urban planning legislation is proposed that:

- use of real estate in accordance with planning regulations;
- restrictions on the use of real estate, established in accordance with law;
- easements.

Statewide legislation to regulate relations in the field of protection and use of land settlements refers to the need for the implementation of an activity in accordance with town planning documents.

In the application of the Land Code of the Republic of Kazakhstan should be considered and other requirements of the law of the Republic of Kazakhstan «On architectural, planning and construction activities in the Republic of Kazakhstan». For example, when the Land Law states urban and rural settlements, then under them according to the town planning legislation means, respectively, towns and villages, as well as villages, towns, villages and other rural settlements.

In conclusion, it must be said that the severity, complexity and the complexity of the issues of zoning require a cautious approach to the legal regulation of the respective relations. However, this situation should not be construed as an excuse «protracted legal». On how quickly and competently in the country will be introduced modern approaches to the determination of the legal regime of land depends directly on the problem of forming civilized mechanisms of land management. World practice shows that at the present stage it is better zoning is no way to ensure the rational use and protection of land.

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Резюме

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ҚАЗАҚСТАН РЕСПУБЛИКАСЫ ЖЕР КӨЛЕМІН АЙМАҚТАУДЫ ҚҰҚЫҚТЫҚ РЕТТЕУ

Мақалада ҚР жер көлемін аймақтауды құқықтық реттеудің мәселелері қарастырылған. ҚР бірқатар құқықтық актілер, яғни жер аумағын анықтау үшін аймақтауға қатысы бар, олардың пайдалану және белгілеу үшін қажетті актілер сарапталды. Тұрақты пайдалануды қамтамасыз ету үшін және қазіргі таңда жерді қорғау үшін жер ресурстарын басқарудың құқықтық әдістерін құру қажет.

Тірек сөздері: аймақтау, жер қатынастары, жер категориялары, аймақтық зоналар, жер заңнамасы.

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ПРАВОВОЕ РЕГУЛИРОВАНИЕ ЗОНИРОВАНИЯ ТЕРРИТОРИЙ РК

В статье рассматриваются проблемы правового регулирования зонирования в РК. Проанализированы ряд правовых актов Республики Казахстан, имеющие прямое отношение к правовому регулированию зонирования для определения площади земли, чтобы установить их назначение и использование. В целях обеспечения устойчивого использования и охраны земель на современном этапе необходимо четкое формирование правовых методов механизмов управления земельными ресурсами.

Ключевые слова: зонирование, земельные отношения, категории земель, территориальные зоны, земельное законодательство.

Поступила 26.03.2014г.