



**NEW AMENDMENTS TO THE
LAW ON THE REGISTRATION PROCEDURE
WITH THE CADASTER OF
REAL ESTATE AND UTILITY LINES**

New amendments to the Law on the Registration Procedure with the Cadaster of Real Estate and Utility Lines

Publisher: JPM Janković Popović Mitić
NBGP Apartmani, Vladimira Popovića 6
www.jpmm.rs

Autor: Ivan Petrović, Partner and Marija Vukčević, Senior Associate
Design and prepress: JPM Janković Popović Mitić
Copyright: © JPM Janković Popović Mitić 2019. All rights reserved.

Disclaimer:

The sole purpose of this publication is to provide information about specific topics.
It makes no claims to completeness and does not constitute legal advice.
The information it contains is no substitute for specific legal advice.

If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at JPM Jankovic Popovic Mitic.

On 25 April 2019 the National Assembly of the Republic of Serbia adopted the Law on the amendments to the Law on the Registration Procedure with the Cadaster of Real Estate and Utility Lines ("Official Gazette of RS", no. 31/2019), which amendments came into force on 30 April 2019.

The Law on the amendments to the Law on the Registration Procedure with the Cadaster of Real Estate and Utility Lines ("Official Gazette of RS", no. 31/2019) (the "Law"), which came into force on 30 April 2019, brought certain changes with regard to the procedure for registration with the Cadaster Services for Real Estate, all of which are in connection with the matter of expropriation of a real estate.

More precisely, the Law brings three following changes:

1. Limitation of the admissible annotations with regard to expropriated real estate or the real estate obtained through administrative transfer;
2. Giving the priority status for deciding on registration entry of annotation on existence of the decision on expropriation of a real estate; and
3. (Deletion of certain annotation entries with the Cadaster Registry before the Law came into force, with regard to the expropriated real estate/ real estate regarding which the title is registered on the basis of the decision on administrative transfer, as well as of annotation entries of mortgage on such real estate.

1. Limitation of the admissible annotations with regard to expropriated real estate or the real estate obtained through administrative transfer

Law sets forth in its Article 15, paragraph 1, the list of admissible annotations, meaning that it prescribes numerous clauses of circumstances and/or facts which are considered as relevant for the establishment, modification, termination or transfer of proprietary rights to real estate, relating to the title holder, real estate itself or to legal relations regarding the real estate.

The novelty introduced by latest Law is that some annotations listed in Article 15, paragraph 1, cannot be registered with regard to a real estate when the proprietary right to such real estate is registered on the basis of final and binding decision on expropriation of the same, or on the basis of final and binding decision on administrative transfer of a real estate.

The following annotations are excluded for the real estate obtained through a final and binding decision on expropriation, i.e. final and binding decision on administrative transfer:

- Annotations of the existence of administrative court procedure against second instance administrative decision on registration in Real Estate Cadaster Registry, except in case of administrative decision the subject of which is deciding on annotation of the existence of legal dispute;
- Annotations of the existence of court dispute initiated on the basis of claims specified under the Law;
- Annotations of the existence of the decision on prohibition of alienation and encumbrance of the real estate; and
- Other annotations prescribed under the law.



2. Priority status for deciding on registration of annotation on existence of the decision on expropriation of a real estate

The Law sets forth in Article 31, paragraphs 1 and 2, the general rule that regulates the order in which the competent Cadastral Registry Office shall process submitted registration requests, prescribing that the requests shall be resolved in order in which they have been received in the Cadastral Registry Office.

However, paragraph 3 of the mentioned Article 31 sets forth exceptions from this general rule, prescribing that certain requests for registration have priority, i.e. that they shall be processed and decided before other requests that fall under the scope of the abovementioned general rule, regardless of the time line of their receipt in the Cadaster Registry Office.

The novelty of the Law is that this priority status is now also established in favor of registration entries based on the laws and/or regulations regulating the matter of expropriation.

3. Deletion of certain annotation entries with the Cadaster Registry before the Law came into force, with regard to the expropriated real estate/real estate regarding which the title is registered on the basis of the decision on administrative transfer, as well as of annotations of mortgage on such real estate.

The Law sets forth a new provision that prescribes that:

- a) all annotations with regard to the expropriated real estate/ real estate regarding which the title is registered on the basis of the decision on administrative transfer, which annotations were registered before the Law came into force, on one hand, and which are now excluded under the Law with regard to such real estate under Article 15 of the Law, on the other hand; as well as
- b) the annotations of mortgage on the expropriated real estate, shall be deleted with regard to the expropriated real estate and transferred, i.e. entered against the real estate granted as remuneration/compensation for expropriation, or against other personal property of the previous owner of the expropriated real estate.

The purpose of this provision is to:

- ensure proper enforcement of the rule of inadmissibility of certain annotations with regard to expropriated real estate/ real estate regarding which the title is registered on the basis of the decision on administrative transfer under the Law; and to
- ensure harmonization with the provision of Article 63 of the Law on Expropriation ("Official Gazette of RS", no. 53/95, "Official Gazette of the Federal Republic of Yugoslavia", no. 16/2001 – the decision of the Federal Constitutional Court and "Official Gazette of RS", no. 20/2009, 55/2013 – the decision of the Constitutional Court and 106/2016 – authentic interpretation), that prescribes that the mortgages established on the real estate that is subject of expropriation shall be transferred to the real estate granted as remuneration/compensation for expropriation, or other personal property of the previous owner of the expropriated real estate.



JPM

JANKOVIĆ POPOVIĆ MITIĆ

Vladimira Popovića 6 | NBGP Apartmani
11070 Beograd | Srbija | tel: +381 11 207 6850
fax: +381/11/207-6899
www.jpm.rs