

The Competence of General Meeting of Copartners of Proprietors of Habitation

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Abstract: In many apartment houses which are in management of partnership of proprietors of habitation, during carrying out of general meetings of copartners there are the problems connected by that initiators of carrying out of the specified meetings commit errors at forming of the agenda and determination of the questions brought for discussion of copartners of proprietors of habitation. The reason of similar errors consists that initiators of carrying out of meeting do not pay attention that the legislator differentiates the competence of general meeting of proprietors and the competence of general of copartners. In study, the researchers considers concept of the competence of body of the legal person and also does a conclusion that the competence of general meeting of copartners of proprietors of habitation is exclusive as the questions which are in conducting of general meeting of copartners of proprietors of habitation can not be transferred board to a partnership executive office. The researchers draws a conclusion that it is impossible to name the specified list of questions settling as the supreme body of management of partnership has the right to make decisions, including on the questions which have been not included in its competence.

Key words: The meeting decision, partnership of proprietors of habitation, general meeting of proprietors of premises, general meeting of copartners of proprietors of habitation, invalidity of the decision of meeting

INTRODUCTION

General meeting of copartners of proprietors of habitation, being the supreme body of management of partnership of proprietors of habitation possesses certain powers which are implemented within own competence.

MATERIALS AND METHODS

Under the competence (from an armour. *competentia* the accessory by right) is understood a circle of powers of any body either official or a circle of questions in which the given person possesses knowledge, experience.

In Russian, explanatory dictionary power is understood as the right of any activity officially given to somebody, business management (Ozhegov and Shvedova, 2007).

Tikhomirov M. Ju. suggests to understand set of the tasks established by regulatory legal acts as the competence, functions, the rights and obligations (powers) of state structures, public officials and also the persons performing administrative powers in commercial and non-profit organisations).

Really, Articleless 53, 55, 91, 103, etc. the Civil Code of the Russian Federation (1994) contain rate according to

which the competence of controls of legal bodies and also an order of accepting by them of decisions and performance from his name are determined by the civil legislation, special laws which regulate an order of the organisation and activity of corresponding kinds of legal bodies and also constituent documents of corresponding legal bodies.

Examples of the special laws regulating an order of the organisation and activity of separate kinds of legal bodies, concretising specified above position and controls of managing subjects determining to the competence (Abdreev and Tufetulov, 2014). federal laws "About joint stock companies" (Federal Law, 1996). "About restricted liability societies" (Federal Law, 1998). "About consumers' co-operative society", the Housing code and others are.

Thus, the competence of body of the legal person is understood as set established by the law or other legal act of the rights allowing bodies of the legal person to perform certain actions under the decision of questions of its internal organisation and on its representation outside, implementing, thus will of the most legal person and by that to acquire on behalf of and for it the civil rights and to accept from his name civil obligations (Mogilevsky, 2001).

RESULTS AND DISCUSSION

The competence of general meeting of copartners of proprietors of habitation is specified regarding 2 item 145 of the Housing code of the Russian Federation. The part of 2 item 147 of the Housing code of the Russian Federation in our opinion gives to our grounds to draw a conclusion that the competence of general meeting of copartners of proprietors of habitation is exclusive as the questions which are in conducting of general meeting of copartners of proprietors of habitation, cannot be transferred board to a partnership executive office.

Considering that the list of the questions carried to the competence of general meeting of copartners of proprietors of habitation, 2 item 145 of the Housing code established by a part can be expanded by the charter of partnership of proprietors of habitation and also that general meeting of copartners of proprietors of habitation has the right to solve the questions carried to the competence of board of partnership, the competence of general meeting of copartners of proprietors of habitation by analogy to the classification of the competence of joint stock companies offered by Glushetsky (1997) and Rubeko (2004), it is conditionally possible to divide on exclusive and alternative.

All questions carried to the competence of general meeting of copartners of proprietors of habitation, it is possible to divide into following three groups:

- Organizational the works connected with the organisation and functioning of controls of partnership of proprietors of habitation
- Property concerning ownerships, usings and orders common property in an apartment house and also attraction of additional money resources for normal functioning of partnership of proprietors of habitation
- Mixed comprising elements of both groups

So to organizational it is possible to carry following questions:

- Modification of the charter of partnership or the statement of the charter of partnership in a new wording
- Election of trustees of partnership and the preschedule termination of their powers
- Election of members of a revision committee (auditor) of partnership and the preschedule termination of their powers
- Election in the cases provided by the charter of partnership, the chairman of the board of partnership from among trustees of partnership and the preschedule termination of its powers

- The statement of the annual plan of the maintenance and common property repair in an apartment house, the report on accomplishment of such plan
- The statement of estimates of incomes and expenses of partnership on year, reports on execution of such estimates, audit reports (in case of carrying out of auditor checks)
- The annual statement about activity of board of partnership
- The statement of the conclusion of a revision committee (auditor) of partnership based on the results of testing the annual accounting (financial) reporting of partnership
- Consideration of complaints to actions of board of partnership, the chairman of the board of partnership and a revision committee (auditor) of partnership
- Accepting and change on representation of the chairman of the board of partnership of regulations of partnership concerning workers which obligations include the maintenance and common property repair in an apartment house, positions about payment of their work
- The statement of other internal documents of partnership
- Determination of rate of commission of trustees of partnership, including the chairman of the board of partnership

Property it is possible to carry to the category:

- An establishment of the size of obligatory payments and instalments of copartners
- The statement of an order of formation of reserve fund of partnership, other special funds of partnership, including funds on carrying out flowing and common property major repairs in an apartment house and their uses and also the statement of reports on use of such funds
- Decision-making on reception of extra means, including bank credits
- Determination of directions of use of the income of partnership economic activities

The mixed questions concern:

- Decision-making on reorganisation and partnership liquidation, liquidation committee appointment, the statement of intermediate and definitive liquidating balances
- Decision-making on creation of consolidations (associations, the unions) partnerships of proprietors of habitation

CONCLUSION

Thus, the list of the questions carried to the exclusive competence of general meeting of copartners, it is impossible to consider settling because decisions on them according to the current legislation cannot be accepted other controls of partnership. Accordingly, it is possible to speak about the latent exclusive competence of general meeting of members within the limits of a general power which is formed by special rates of the law which regulate concrete questions. The given circumstances are necessary for considering at development of the charter of partnership regarding determination of the competence of general meeting of copartners of proprietors of habitation in view of that it can result not only in provoking of infringements of the procedure connected with decision-making on them but also to narrowing of volume of powers of general meeting of copartners of proprietors of habitation.

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