

TO: Clients and Friends of the Firm
FR: Frishberg & Partners
RE: Land Appraisal

I. Introduction

The Law of Ukraine No. 1378-IV “On Appraisal of Land,” dated December 11, 2003 (hereinafter referred to as the “Law”), entered into effect as of January 13, 2004, and was subjected to minor amendments in June of the same year. The Law describes several types of land appraisal, including monetary appraisal and the comparative appraisal of natural soil qualities, economic appraisal (i.e., appraisal of land as a natural resource, means of production in agriculture and forestry and based on indicators characterizing productivity of land, efficacy of their use and returns (profitability) per area unit). The Law states its principal objective as the protection of the lawful interests of the state and other entities in connection with land appraisal matters, as well as the provision of information with respect to taxation and the land market.

Monetary appraisal is further divided into (i) expert monetary appraisal (i.e., the result of a defined value of a land plot and the rights associated therewith) and (ii) normative monetary appraisal (i.e., capitalized rental (income) generated from a land plot). The method of defining the value of an object of appraisal and the sequence of appraisal procedures, which allow the realization of specific methodological approach is beyond the scope of this legal review.

The Law identifies the following “subjects of appraisal activity,” which may officially carry out appraisal activity in Ukraine:

1. state executive bodies and bodies of local self-governance, which carry out administrative management in the sphere of appraisal;
2. legal entities and natural persons interested in practicing land appraisal, provided they obtain the relevant certificate of an expert appraisal;
3. legal entities, which employ certified expert appraisers and possess a license to carry out appraisal activity;

4. the legal entities and natural persons, which are registered business entities or entrepreneurs and which have obtained proper licenses according to the procedure established by law.

Article 13 of the Law provides a list of instances when monetary land appraisal is mandatory by law and, specifically, when determining:

- a) the amount of land tax;
- b) the size of lease payments for state-owned and communally-owned land plots;
- c) the amount of state duties in connection with the exchange, inheritance or gift of land parcels pursuant to law;
- d) losses in agricultural and forestry production;
- e) the indicators and mechanisms of economic stimulation for the rational use and preservation of lands.

In addition, expert monetary land appraisal must be carried out whenever:

- a) alienating and insuring state-owned or community-owned land plots;
- b) pledging land plots according to the law;
- c) determining investment contributions upon the realization of investment projects for land improvement;
- d) determining the value of state-owned and/or communally-owned land plots upon the contribution of such land plots into the authorized capital of a company;
- e) determining the value of a land plot for purposes of the reorganization, bankruptcy or liquidation of a company, which is the owner of such land plot and in which the state or a community holds a share;
- f) identifying the share of the state or a territorial community in jointly owned land plots;
- g) reflecting the value of land plots and the right to use land plots in accounting according to Ukrainian legislation;

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