

“Investing into Facilities Without Losing It Tomorrow”

VLADIVOSTOK, December 29, PrimaMedia. There are legal and quite reliable variants for business investment into municipal property facilities in Vladivostok. Kirill Vozisov, a partner of the Law Company “INMAR”, told about them during the Christmas meeting devoted to the results of real estate market development in the capital of Primorye in 2010, according to the report of PrimaMedia.

‘Vladivostok has municipal property facilities that are very attractive from investment standpoint. Private business companies want to finance them, but the problem is that it is not always legal’, as Kirill Vozisov noted.

The lawyer gave a brief review of legal ways to establish partnership between business and authoritative structures in this respect and singled out the ones that are the most promising for business in present situation.

The lawyer started with rejecting privatization, trust agreement and joint ventures due to many problems and lack of perspective in their case. These mechanisms appear to have some significant disadvantages concerning investment into municipal property premises. ‘It is impossible to privatize socially significant facilities’, Vozisov pointed out. ‘Nowadays many Russian city administrations fight for returning sports grounds, hospitals, pre-schools, that were sold earlier and turned into trade facilities by businessmen’.

One of the most attractive investment ways for the lawyer is an investment contract.

‘Let’s imagine that some Municipal Unitary Enterprise has a facility – it may be an unfinished construction or a poor condition building. A legal body can turn to the municipal institution with an offer to reconstruct the facility. In exchange for that a part of the building will be transferred to this legal body, the other part will remain in municipal possession’.

Investment agreement is a legal and promising procedure that is ignored by municipal authorities due to existing negative court practice. In most cases there are two main arguments in court. The first one is that the administration can not be a party of the agreement with an objective to get profit. However, the aim of this agreement is not profit-getting, but facilities reconstruction. The second court argument is that by entering into this agreement its parties violate privatization law that does not provide usage of such an agreement. Nevertheless, there is a law on investment activity that regulates all of these questions. Thus, if the investment agreement is concluded openly via tender. It is possible to use.

One more legal and attractive way of investment into municipal facilities is a concession agreement. ‘It is based on the municipal body transferring a facility to a legal entity for a fixed period, and the other party has a right to reconstruct and use it without having an ownership title’, Kirill Vozisov explains. ‘And the term is not limited by law. Frankly speaking, this method has only one disadvantage: an investor who finances this facility shall understand that he will not become its owner’. Besides, it’s necessary to take into account the facility function: you can not make a mall out of a hospital. All the contract statements shall be very precise.

The use of these two methods is fully legal and safe.

Private business sector may not be afraid that tomorrow the facility will be taken away, as Kirill Vozisov concluded.

The article is provided by the correspondent of PrimaMedia on the basis of CJSC “Law Company “INMAR” partner’s report; further information:

<http://primamedia.ru/news/vladivostok/29.12.2010/143504/kirill-vozisov-vlozhit-dengi-v-ob-ekt-i-ne-poteryat-ego-zavtra.html>