

POLAND

30 November 1991

Proclamation on Land Use Management, Expropriation Law

Paragraph 1. Pursuant to Article 12 of the Law dated 29 September 1990 on Amending the Law on Land Use Management and Expropriation of Real Estate (DZIENNIK USTAW [Dz. U.], No. 79, Item No. 404). the Appendix to the present Proclamation contains the uniform text of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate (Dz. U., No. 22, Item No. 99), with allowance for the amendments incorporated by:

- 1) Law dated 16 July 1987 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz. U., No. 21, Item No. 124),
- 2) Law dated 13 July 1988 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 24, Item No. 170),
- 3) Law dated 24 February 1989 on Certain Conditions of Consolidating the National Economy and On Amending Certain Laws (Dz. U., No. 10, Item No. 57), with the above amendments being incorporated in the uniform text introduced by the Proclamation dated 1 March 1989 of the minister of land use management and construction (Dz. U., No. 14, Item No. 74), and by:
- 4) Law dated 17 May 1989 on the Relationship Between the State and the Catholic Church in the Polish People's Republic (Dz. U., No. 29, Item No. 154),
- 5) Law dated 24 February 1990 on Certain Practical Aspects of Social Security for Private Farmers and Their Family Members in 1990 (Dz. U., No. 14, Item No. 90),
- 6) Law dated 17 May 1990 on the Division of the Tasks and Powers Defined in Specific Laws Among Gmina Bodies and Offices of the Government Administration, and on Amending Certain Laws (Dz. U., No. 34, Item No. 198, and No. 43, Item No. 253),
- 7) Law dated 29 September 1990 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz. U., No. 79, Item No. 464),
- 8) Law dated 14 December 1990 on the Abolition and Dissolution of Certain Funds (Dz. U., No. 89, Item No. 517),
- 9) Law dated 12 January 1991 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz. U., No. 9, Item No. 29), as well as the amendments ensuing from the regulations issued prior to the publication date of the uniform text, upon preserving continuous numbering of chapters, articles, paragraphs, and points.

Paragraph 2. The uniform text of the law provided in the Appendix to the present proclamation does not comprise:

- 1) Article 98, 99 (Points 2 and 3), and 101 of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate (Dz. U., No. 22, Item No. 99), to wit:

"Article 98. In the Law dated 4 July 1947 on Amending the Decree dated 25 November 1936 of

the President of the Republic on the Relationship Between the State and the Evangelical-Augsburg Church in the Polish Republic (Dz. U., No. 52, Item No. 272), in Article 2, Paragraph 1, the third and fourth sentences are crossed out.

"Article 99. In the Law dated 23 April 1963 on the Civil Code (Dz. U., No. 16, Item No. 93, 1964: No. 27, Item No. 252, 1971; No. 19, Item No. 122, 1976; No. 11, Item No. 81, No. 19, Item No. 147, and No. 30, Item No. 210, 1982; and No. 45, Item No. 242, 1984), the following amendments are incorporated:

"2) In Article 232, Paragraph 1, the parenthesized 'state areas' is crossed out.

"3) In the title of Book II, 'area' used in the appropriate number and case is crossed out and 'land' used in the appropriate number and case is inserted in lieu thereof.

"Article 101. The present law takes effect on 1 August 1985, with the proviso that the provisions governing fees for usufruct and perpetual usufruct applying on the day the present law take effect as of 1 January 1986."

2) Article 11 of the Law dated 16 July 1987 on Amending the Housing Law (Dz. U., No. 21, Item No. 124), to wit:

"Article 11. The present law takes effect on 1 January 1988."

3) Articles 2 and 5 of the law dated 13 July 1988 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz. U., No. 24, Item No. 170), to wit:

"Article 2. Proceedings still in progress on the day the present law takes effect are continued on the basis of the provisions of the present law."

"Article 5. The present law takes effect on the day of its publication."

4) Article 17 of the Law dated 24 February 1989 on Certain Conditions for Consolidating the National Economy and on Amending Certain Laws (Dz. U., No. 10, Item No. 57), to wit:

"Article 17. The present law takes effect on the day of its publication, with the proviso that Articles 1 and 2 and Articles 4*7 are binding until 31 December 1990."

5) Article 77 of the Law dated 17 May 1989 on the Relationship Between the State and the Catholic Church in the Polish People's Republic (Dz. U., No. 29,) Item No. 154), to wit:

"Article 77. The present law takes effect on the day of its publication."

6) Article 12 of the Law dated 24 February 1990 on Certain Aspects of the Operation of Social Insurance of Private Farmers and Their Family Members in 1990 (Dz. U., No. 14, Item 90), to wit:

"Article 12. The present law takes effect on the day of its publication and is retroactive to 1 January 1990, with the exception of the provisions of:

"1) Article 6, Points 10, 18, 20-22, and Article 9, which take effect on 1 April 1990.

"2) Article 6. Point 4b, and Point 9, which take effect on 1 July 1990."

7) Articles 2-11 and Article 13 of the Law dated 29 September 1990 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz. U., No. 79, Item No. 464), to wit:

"Article 2.1. Land owned by the State Treasury or by a gmina [township] (or an intergmina association), with the exception of the land owned by the State Land Fund, which on the effective date of the present law is being administered by state legal entities other than the State Treasury, becomes on that date, by virtue of law, the object of perpetual usufruct. This does not infringe upon the rights of third parties. The rights of the state farms to the State Treasury-owned land which they administer on the effective date of the present law are regulated by a separate law.

"2.2. Buildings and other objects as well as the housing located on land owned by the State Treasury or by a gmina (or an intergmina association), which on the effective date of the present law are administered by legal entities, become the property of these entities on said date, by virtue of law. The acquisition of the title of ownership by these entities takes place in return for a fee, unless these buildings or other objects were erected or acquired with the funds of these entities.

"2.3. The acquisition of the right to the perpetual usufruct of the lands referred to in Paragraph 1 and of the ownership of the buildings, other objects, and housing referred to in Paragraph 2 is affirmed by the decision of the voivode with respect to real estate owned by the State Treasury, or by the decision of a gmina board with respect to gmina-owned real estate. That decision also specifies the duration of the perpetual usufruct, upon adhering to the guidelines contained in Article 236 of the Civil Code.

"2.4. Land owned by the State Treasury or by a gmina (or an intergmina association) which was, on the effective date of the present law, underused by legal entities, or by organizational units lacking legal entity, shall remain used by these entities or units.

"2.5. Buildings and other objects and housing located on land owned by the State Treasury or by a gmina (or intergmina association) which were, on the effective date of the present law, used by legal entities, or by organizational units lacking legal entity, shall remain used by these entities or units.

"2.6. The fees for administering the buildings and other objects and housing are, upon deducting the benefits accruing to the user, credited to the purchase price of the property referred to in Paragraph 2.

"2.7. The provisions of Paragraph 6 apply correspondingly in the event of the sale of buildings and other objects and housing to the existing user.

"2.8. The use referred to in Paragraphs 4 and 5 is governed by the provisions governing administration.

"2.9. The provisions of Paragraphs 1 and 2 do not infringe upon the provisions of Article 8 of the Law dated 10 May 1990 -- Regulations Introducing the Law on Local Governments and the Law on Local-Government Employees (Dz. U., No. 32, Item No. 191, and No. 43, Item No. 253).

"Article 3. Real estate acquired by state legal entities following the effective date of the Law

dated 31 January 1989 on Amending the Law on the Civil Code (Dz.U., No. 3, Item No. 11) constitutes the property of these entities as of the moment of its acquisition.

"Article 4. Real estate owned by the State Treasury or by a gmina (intergmina association) which, on the effective date of the present law, is administered by state or municipal organizational units lacking legal entity, remains administered by these units.

"Article 5.1. Proceedings instituted but not completed before the effective date of the present law are continued pursuant to its provisions.

"5.2. Final decisions on fees issued before the effective date of the present law remain binding. In these matters the provisions of Article 47b (Article 43 under the continuous numbering adopted in the uniform text) apply.

"5.3. Fees for administering land allocated for purposes of national defense and national security are not collected until 31 December 1990.

"Article 6. With regard to the land which was, prior to the effective date of the present law, under perpetual usufruct, administration, or lease, and for which the timetable for commencing or completing its buildup is not established, the district office of the general government administration in the case of the land owned by the State Treasury, or the gmina board (or board of the intergmina association) in the case of gmina-owned land, stipulates that timetable by issuing a decision on taking into consideration the nature of the construction project and the extent of land development, should that timetable be not agreed upon contractually within six months from the effective date of the present law.

"Article 7. The unpaid balance of the compensation still due for expropriated real estate on the effective date of the present law is to be paid in a lump sum, upon its reappraisal, not later than within six months from the effective date of the present law. Interest is payable on delays or postponements of the payment of compensation, under the guidelines of the Civil Code.

"Article 8.1. A person who has, on the basis of a construction permit, erected with his or her own funds a garage on land owned by the State Treasury, or owned by a gmina (intergmina association), as well as the successor in right of that person, has the right to acquire the title to the ownership of that garage or to perpetual usufruct from this garage, if he or she is leasing said garage. The acquisition of the garage does not involve the payment of a fee, and it takes place on the demand of the interested party.

"8.2. The acquisition of ownership of a garage built on the basis of a construction permit for a temporary site hinges on the consonance between its location and the local master plan binding at the time the title of ownership is requested.

"Article 9.1. A person who has, with the owner's consent, renovated or expanded a building owned by the State Treasury or a gmina so as to result in distinct separate premises is, if purchasing said premises, credited with the expenses incurred on the renovation or expansion minus the cost of depreciation, with the purchase price reduced accordingly.

"9.2. The provisions of Paragraph 1 do not apply if the hire or tenancy contract specifies otherwise.

"Article 10. In the Civil Code, in Article 599, Paragraph 2, and in Article 600, Paragraph 2, 'to

the gmina' is inserted after 'to the State Treasury.'

"Article 11. In the Code of Civil Procedure, in Article 1025, Paragraph 1, Point 4, 'of the State' is struck out and 'of the State Treasury or the gmina' is inserted in lieu thereof."

"Article 13. The present law takes effect 14 days after its publication."

8) Article 27 of the Law dated 14 December 1990 on the Abolition and Dissolution of Certain Funds (Dz. U., No. 89, Item No. 517), to wit:

"Article 27. The present law takes effect on 1 January 1991, with the exception of Articles 5 and 14, which take effect on the day of publication."

9) Article 2 of the Law dated 12 January 1991 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz. U., No. 9, Item No. 29), to wit:

"Article 2. The present law takes effect on the day of its publication and is retroactive to 1 January 1991."

Paragraph 3. The uniform text of the law given in the Appendix to the present proclamation also does not comprise -- inasmuch as they have expired -- the following provisions:

1) Article 87, Paragraph 4, and Article 99, Points 1 and 4, of the Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate (Dz.U., No. 22, Item No. 99), to wit:

"Article 87.4. The possessors referred to in Paragraph 2 are exempt from the first fee constituting a multiple of the annual fees if they submit applications for transfer of title to the land by 31 December 1988.

"Article 99. In the Law dated 23 April 1964 on the Civil Code (Dz.U., No. 16, Item No. 93, 1964; No. 27, Item No. 252, 1971; No. 19, Item No. 122, 1976; No. 11, Item No. 81, No. 19, Item No. 147, and No. 30, Item No. 210, 1982; and No. 45, Item No. 242, 1984), the following amendments are incorporated:

"1) In Article 231, Paragraph 3, insert 'or transfer the title to the real estate in return for a consideration' after 'for perpetual usufruct.'"

"4) The existing text of Article 283 is denoted as Paragraph 1 and the following Paragraph 2 is added:

"(Paragraph 2) 'An executive order of the Council of Ministers shall define the guidelines and procedure for the transfer, between entities of the socialized sector, of title to state-owned cropland and forested land as well as to certain other land located in areas earmarked in land use plans for agricultural or forestry purposes; said executive order shall also define the powers of the pertinent agencies in such cases.'"

2) Article 3 of the Law dated 13 July 1988 on Amending the Law on Land Use Management and Expropriation of Real Estate (Dz.U., No. 24, Item No. 170), to wit:

"Article 3. In the Decree dated 13 June 1956 on the State Geoderic and Cartographic Service (Dz.U., No. 25, Item No. 115, 1956; and No. 44, Item No. 200, 1983; and No. 33, Item No. 180),

Article 18 is reworded as follows:

"Article 18.1. Matters relating to boundaries of real estate and keeping registers of land and buildings, irrespective of their purpose, belong within the competences of:

"1) The minister of land use management and construction, with regard to municipal areas.

"2) The minister of agriculture, forestry, and food industry, with regard to gmina areas.

"18.2. Matters relating to the subdivision of real estate belong within the competences of:

"1) The minister of land use management and construction with regard to built-up land and land earmarked for construction.

"2) the minister of agriculture, forestry, and food industry, with regard to all other land."

Minister of Land Use Management and Construction: A. Glapinski

Appendix to the Proclamation dated 28 February 1991 of the Ministry of Land Use Management and Construction (Item No. 127)

[Uniform text of the] Law dated 29 April 1985 on Land Use Management and Expropriation of Real Estate

Chapter I. General Provisions

Article 1.1. The present law defines the guidelines for the:

1) Use of built-up land and land earmarked for buildup in land use plans, hereinafter referred to as "land": buildup as construed by the present law consists of structures and facilities for the functioning of cities and rural areas as well as other structures and facilities of national or regional importance.

2) Expropriation of real estate.

1.2. The guidelines for land use specified in the present law do not apply to the built-up land that is part of farms or that is linked to state forestry establishments and located in the areas earmarked in land use plans exclusively for agricultural or silvacultural purposes.

Article 2.1. The use of land owned by the State Treasury belongs within the competences of the voivodes and district offices of the general government administration, while the use of gmina-owned land belongs within the competences of gmina councils and gmina boards.

2.2. The expropriation of real estate belongs within the competences of the district offices of the general government administration.

Article 3.1. The provisions governing the gminas apply correspondingly to intergmina associations.

3.2. Premises as construed by the present law also include garages that are component parts of buildings.

Article 4.1. Land owned by the State Treasury or by a gmina may be sold to legal entities and individuals or transferred thereto for perpetual usufruct, use, leasing, or tenancy, with the proviso of Paragraphs 6 and 7. Land may also be sold or transferred for perpetual usufruct, use, leasing, or tenancy to more than one entity or individual.

4.2. Land owned by the State Treasury may also be transferred on a fee-exempt basis, by virtue of an agreement, to the ownership of a gmina or loaned or transferred thereto, also on a fee-exempt basis, for perpetual usufruct, or for use, while gmina-owned land may be transferred on a fee-exempt basis, by virtue of an agreement, to the ownership of the State Treasury or another gmina, or it may be loaned or transferred on a fee-exempt basis for perpetual usufruct or for use to the State Treasury or another gmina; the transfer of land ownership is governed by the regulations governing transfer of property ownership.

4.3. The land referred to in Paragraph 1 may be sold or transferred for perpetual usufruct, use, leasing, or tenancy to foreigners with the proviso of Paragraph 7. Sale and transfer for perpetual usufruct in such cases requires the approval of the minister of internal affairs and is governed by the Law dated 24 March 1920 on the Acquisition of Real Estate by Foreigners (Dz.U., No. 24, Item No. 202, 1933; No. 41, Item No. 325, 1988; and No. 79, Item No. 466, 1990).

4.4. Land owned by the State Treasury may be transferred on fee-exempt basis to administration by organizational units lacking legal entity, while gmina-owned land may be transferred on fee-exempt basis for administration by communal organizational units lacking legal entity.

4.5. The land referred to in Paragraph 1 may be loaned for a short period of time to legal entities, individuals, and state and communal units lacking legal entity.

4.6. Legal entities and individuals engaging in charitable, guardianship, cultural, medical, educational, sports, and tourist activities may be sold the land referred to in Paragraph 1 at a reduced price or they may be given such land on a fee-exempt basis for the purpose of perpetual usufruct therefrom or for use thereof for nonprofit operations.

4.7. Land owned by the State Treasury may be, on the principle of reciprocity, sold or transferred for perpetual usufruct, use, leasing, or tenancy, to the diplomatic missions or consular offices of foreign countries, and to other missions and institutions enjoying similar privileges and immunities by virtue of international laws, agreements, or universally binding customs.

4.8. The sale or transfer for perpetual usufruct of land owned by the State Treasury or a gmina, with the proviso of Paragraphs 6 and 7 and Article 23, Paragraph 4, as well as the sale of vacant buildings and other vacant facilities or premises owned by the State Treasury or a gmina, takes place by means of an auction organized pursuant to the guidelines established by the minister of land use management and construction.

4.9. Land owned by the State Treasury or a gmina may be exchanged for land owned by, or whose perpetual usufruct is enjoyed by, legal entities or individuals.

Article 5. Land owned by the State Treasury or a gmina may be encumbered by limited rights on property. Such land may also constitute in-kind contributions by partners to companies governed by the commercial law.

Article 6. Real estate transferred for perpetual usufruct may be sold to its perpetual usufructuary at a price determined pursuant to the provisions of Article 39. An application in this matter may

be submitted by the perpetual usufructuary, the gmina board, or the district office of the general government administration.

Article 7. Matters not regulated in the present law are governed by the provisions of the Civil Code.

Article 8. The sale of land owned by the State Treasury or a gmina, or its transfer for perpetual usufruct, use, leasing, or tenancy, when such land is located on the territory of:

1) Seaports and coastal zones -- requires consultation with the government agency proper for maritime affairs.

2) Mining areas -- requires consultation with the proper district mining office.

3) Mineral deposits subject to mining law, for which a mining area has not been zoned, and mineral and other deposits not subject to mining law -- requires consultation with the government agency proper for geologic affairs.

4) National parks -- requires consultation with the proper national park director.

Article 9.1. State organizational units which lack legal entity, including also offices of the general government administration, purchase real estate on the basis of a contract on behalf of the State Treasury, which thus becomes the owner, while communal [gmina] organizational units lacking legal entity purchase real estate on the basis of a contract on behalf of the gmina, which thus becomes the owner.

9.2. Real estate acquired on the basis of a contract by state or communal organizational units lacking legal entity is administered by these units.

Article 10.1. The subdivision of real estate may take place if it is consonant with the local land use plan.

10.2. Irrespective of the terms of the local land use plan, real estate may be subdivided for the purpose of:

1) Abolishing co-ownership of real estate when the latter is built up with two or more single-family houses or with other residential buildings or with residential buildings jointly with farm structures relating to a private farm, when the subdivision is intended to separate dwellings for each of the co-owners along with the land needed to properly utilize these dwellings.

2) Separating the land needed for the proper utilization of a house or a building erected in good faith by its existing possessor.

3) Separating the land acquired through acquisitive prescription.

10.3. Subdivision of real estate is based on a ruling of the district office of the general government administration approving the subdivision proposal.

10.4. The provisions of Paragraph 3 do not apply to subdivisions subject to judicial rulings. If the admissibility of subdivision hinges on the stipulations of the local land use plan (Paragraph 1), the court consults on this matter the district office of the general government administration.

10.5. As regards real estate subject to subdivision on the request of the owner, the part of said real estate that is set aside for building streets becomes the property of the gmina on the day on which the decision or ruling on the subdivision becomes final or validated, in return for compensation determined in accordance with the guidelines applying to the expropriation of real estate.

Chapter II. Land Reserves

Article 11.1. Gminas may set aside land reserves for the buildup of cities and villages, and in particular for organized multifamily housing construction and the attendant structures and facilities on areas earmarked for this purpose in local land use plans.

11.2. Organized multifamily housing construction is construed as the construction of multifamily apartment buildings of a housing-project nature, implemented on the land developed for this purpose by the gmina.

11.3. The boundaries of the land earmarked for organized multifamily housing construction are determined by resolutions passed by gmina councils.

11.4. Drafts of the resolutions referred to in Paragraph 3 are subject to public viewing for 21 days at the offices of the gmina board, upon notifying interested persons in writing.

11.5. During the public viewing referred to in Paragraph 4, interested persons may submit proposals, comments and reservations concerning the draft resolution. When considering the resolution, the gmina council examines the submitted proposals, comments, and reservations and decides how to resolve them. Such decisions are communicated to the interested persons.

Article 12. Gmina boards acquire land for land reserves, order geodetic studies of such land along with proposals for its development and subdivision, and have utility mains and lines installed in such reserve land.

Article 13.1. The boundaries of the real estate acquired by the State Treasury or a gmina are taken to be as per their existing legal status or, if such status cannot be ascertained, according to the pertinent entries in the land registers.

13.2. In the event of a boundary dispute, the activities relating to the acquisition of real estate are not suspended, and interested persons may only sue for financial compensation in a court of law.

Article 14.1. Gmina councils may pass resolutions defining the boundaries of the land set aside for concentrated single-family home building on the territory set aside for this purpose in local land use plans.

14.2. Build-up parts of real estate may not be bound by the resolutions referred to in Paragraph 1 without the consent of their proprietors or perpetual usufructuaries.

14.3. Real estate located within the boundaries referred to in Paragraph 1 is subject to integration of fragmented holdings and subdivision into building lots.

14.4. Proceedings to determine the boundaries of the land earmarked for concentrated single-family home building are instituted:

1) Upon the proposal of the owners or perpetual usufructuaries of the real estate of which more than 50 percent is located within the boundaries referred to in Paragraph 1.

2) Ex officio, if the surface area of the gmina-owned real estate accounts for more than 10 percent of the surface area of the land located within the boundaries referred to in Paragraph 1.

14.5. Owners and perpetual usufructuaries of the real estate referred to in Paragraph 3 elect from among themselves a council of participants in the integration, endowed with advisory powers in proceedings for the integration of fragmented land holdings. The size of the council should depend on the number of the persons involved in said integration, but it should not exceed 10. If the number of persons involved is fewer than 10, no council is elected.

14.6. Concentrated single-family home building is construed to mean the organized erection of at least 10 single-family homes on the land located within the boundaries referred to in Paragraph 1.

Article 15.1. The resolution passed by a gmina council to define the boundaries of the land earmarked for concentrated single-family home building contains:

1) Geodetically defined boundaries of the land earmarked for concentrated single-family home building.

2) Geodetic project of the integration of fragmented holdings and the subdivision of the real estate into building lots.

3) Register of real estate, indicating both previous status and new status, inclusive of the building lots allocated to the participants in the integration of fragmented holdings in return for the real estate they had owned or held in perpetual usufruct.

4) Kinds of technical facilities planned, their construction schedule, and funding sources.

5) A ruling on the amounts of compensation to be paid for the land transferred to the gmina's ownership.

6) Information on the amounts of frontage fees encumbering discrete building lots.

15.2. The draft resolution referred to in Paragraph 1 is subject to evaluation by the council of participants in the integration of fragmented holdings as well as to public viewing for 21 days at the offices of the gmina board, with these persons being corresponding notified in writing.

15.3. During its public viewing, interested persons may submit proposals, comments, and reservations concerning the draft resolution. In their proposals, interested persons may specify the building lots they desire to acquire in return for the real estate they own, when such real estate is subject to integration of fragmented holdings and subdivision. The proposals, comments, and reservations submitted are subject to evaluation by the council of participants in the integrative process.

15.4. The gmina council passing the resolution consults the council of participants in the integrative process, examines the submitted proposals, comments, and reservations, and notifies interested persons in writing about its decision.

Article 16.1. The surface area of any real estate subjected to integration of fragmented holdings and subdivision is reduced by the surface area needed for streets and squares. This reduction in area is in direct proportion to the area of the real estate concerned and to the overall area of the land set aside for streets and squares.

16.2. In return for contributing the real estate subject to integration and subsequent subdivision into building lots, the owner or perpetual usufructuary is correspondingly assigned the title to or perpetual usufruct of a number of these building lots whose aggregate surface area corresponds to the surface area of the his original real estate minus the area deducted pursuant to Paragraph 1. If a strictly equitable exchange is not feasible, the difference is settled in cash. The exchange of the ownership or perpetual usufruct of the original real estate for ownership or perpetual usufruct of building lots takes place pursuant to the resolution referred to in Article 14, Paragraph 1.

16.3. The owners or perpetual usufructuaries of the real estate subjected to integration of fragmented holdings and subdivision should be insofar as possible assigned the building lots referred to in Paragraph 2 entirely or partially on the area of their original real estate.

16.4. Land that is not included in the building lots assigned under the provisions of Paragraph 2 to the previous owners or perpetual usufructuaries, and in particular land set aside for streets and squares, becomes, by virtue of law, the property of the gmina on the day on which the resolution of the gmina council on the boundaries of the land earmarked for concentrated single-family home building becomes valid and legal.

16.5. For the land that is transferred to the ownership of the gmina, as well as for the facilities which the previous owner or perpetual usufructuary is unable to remove, and also for trees and bushes, compensation is paid pursuant to the binding guidelines on the expropriation of real estate. The expense of the compensation is borne by the gmina.

16.6. Persons who are assigned building lots are obligated to pay the gmina frontage fees that correspond to the increase in the value of these lots compared with the previously owned real estate on which they are situated. When assessing the value of that previously owned real estate, no allowance is made for the value of the facilities, trees, and bushes referred to in Paragraph 5 if their owner or usufructuary has been paid compensation for them.

Article 17.1. The gmina council resolution referred to in Article 14, Paragraph 1, is the basis for making suitable entries in land registers, establishing new land registers for the land transferred to the gmina's ownership, and emending the land and building records.

17.2. The easements of land applying to the real estate concerned are abolished if they are not needed on the building lots subdivided from that real estate. All other easements and liens on the real estate are transferred to the building lots assigned to the previous owners or perpetual usufructuaries of that real estate.

17.3. Emendations of entries in land and mortgage registers and the establishment of new land registers are implemented on the recommendation of the gmina.

17.4. The expenses associated with the integration of fragmented land holdings and subdivision of the integrated whole into building lots are borne by the participants in the proceeding proportionately to the area of the real estate parcels they owned.

Article 18. The Council of Ministers shall define in an executive order the guidelines and procedure for determining the boundaries of the land earmarked for concentrated single-family home building, the fragmented real estate holdings to be integrated and then subdivided into building lots, the transfer of the ownership or perpetual usufruct of real estate to the ownership or perpetual usufruct of the subdivided building lots, the selection and activities of the council of participants in the integration of fragmented holdings, the amounts of frontage fees, and cost accounting.

Chapter III. Sale or Transfer for Perpetual Usufruct, Use, Lease, Tenancy, or Loan of Real Estate Owned by the State Treasury or by a Gmina

Article 19.1. The sale or transfer for perpetual usufruct, use, lease, tenancy, or loan of the real estate owned by the State Treasury or by a gmina requires concluding a contract. The transfer of land for perpetual usufruct on the basis of a contract must be entered in a land register.

Article 20. The transfer of built-up land for perpetual usufruct is performed concurrently with the sale of the buildings and other facilities located on that land.

Article 21.1. Dwellings in buildings owned by the State Treasury or by a gmina are sold concurrently with the sale or transfer for perpetual usufruct of an attached land area needed for the rational maintenance of the building.

21.2. Parts of the buildings referred to in Paragraph 1 and other facilities which do not serve exclusively for use by any single owner are jointly owned by the owners of discrete dwellings in a building, in proportions corresponding to the dwelling areas they own individually in the building; the same proportions apply to the attached land sold or transferred for perpetual usufruct.

21.3. Until the sale by the State Treasury or by a gmina of all the dwellings located in a building owned by the State Treasury or by a gmina is consummated, the renovation, overhaul, or expansion of the building by private individuals with the object of augmenting the number of dwellings therein has to be approved by the pertinent district office of the general government administration with regard to buildings owned by the State Treasury, or by the gmina board with regard to gmina-owned buildings. The pertinent construction permits are granted pursuant to the provisions of the Construction Law.

21.4. Upon the completion of the renovation, overhaul, or expansion referred to in Paragraph 3, the district office of the general government administration with respect to real estate owned by the State Treasury and the gmina council with respect to gmina-owned real estate shall issue a ruling that will change correspondingly the size of the shares in the building and in the appertaining land, or in the perpetual usufruct therefrom, owned by the owners of individual dwellings.

21.5. In the event that the ruling referred to in Paragraph 4 results in decreasing the share owned in a building, in the appertaining land, or in the perpetual usufruct from the latter, the owners of individual dwellings are entitled to a compensation whose amount is determined in accordance with the guidelines binding for the expropriation of real estate. In the event that the above-mentioned ruling results in increasing said share, the owners of discrete dwelling in the buildings are not assessed an additional fee.

21.6. The final ruling referred to in Paragraph 4 is the basis for correspondingly revising the land

register.

21.7. The sale of a tenant-occupied or leased dwelling may be made only to the tenant or lease concerned, or to a close person named by the tenant or leasee and living in the same household, at a price equal to the assessed value of the dwelling as determined pursuant to Article 38.

21.8. The right to name a close person does not apply to a tenant residing in a dwelling pursuant to the regulations governing the billeting of the Armed Forces.

21.9. The voivode with respect to a building owned by the State Treasury or the gmina council with respect to a gmina-owned building may specify the criteria for designating for sale dwellings in such a building.

21.10. The Council of Ministers specifies in an executive order which single-family homes or dwellings in apartment buildings may be sold even when their dwelling area or number of rooms exceed the norms applying to these homes and dwellings under separate regulations.

Article 22. In the event of the sale or transfer for perpetual usufruct of land on which stands an architectural landmark, the purchaser is obligated to repair or renovate that landmark within a time limit specified in the contract and to maintain it in a suitable condition.

Article 23.1. The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, makes public the list of real estate holdings available for sale or transfer for perpetual usufruct, use, lease, or tenancy. Said list is posted for six weeks in the premises of the district office or the gmina board.

23.2. The list referred to in Paragraph 1 specifies:

- 1) The real estate and the corresponding land register entry.
- 2) Designation of the real estate according to land and building records.
- 3) Surface area of the real estate.
- 4) Description of the real estate.
- 5) Designation of the real estate in the local land use plan, and the related buildup plan.
- 6) Deadlines for commencing and completing the buildup.
- 7) Form of sale or transfer of real estate.
- 8) Price of land, building, facilities, and premises.
- 9) Applicable fees and time intervals for their payment.
- 10) Requirements for changing the price of the real estate and the applicable fees.

23.3. Tenants or leases are notified in writing that the premises have been designated for sale and that they have priority in purchasing the premises they occupy.

23.4. Former owners of real estate appropriated on behalf of the State Treasury of their heirs have priority in buying said real estate if they offer a price equal to the value of that real estate as appraised by the procedure stipulated in Article 38. The provisions of Paragraph 3 apply correspondingly, unless the address of the former owner of real estate is unknown.

Article 24.1. The agencies referred to in Article 23, Paragraph 1, issue public announcements of auctions not earlier than after the expiration of the period of time specified for the display of the list of real estate. The auction announcement provides the same information as that contained in the list referred to in Article 23, Paragraph 2. The announcement does not list the real estate which the persons referred to in Article 23, Paragraph 4, have applied to buy, as well as the real estate referred to in Article 4, Paragraphs 5, 6, and 7.

24.2. If the sale or transfer for perpetual usufruct of real estate has not been consummated during the first auction, a second auction is organized and the minimum price of the real estate specified during the first auction is lowered.

24.3. If the sale or transfer for perpetual usufruct of real estate has not been consummated during its second auction either, the real estate may be sold or transferred for perpetual usufruct in the absence of a third auction.

24.4. The agencies referred to in Article 23, Paragraph 1, are obligated, within one month from the day the buyer of real estate is identified, to request a notarial office to notarize the sale contract with that buyer. If the designated buyer of real estate fails to show up at the notarial office on the day and at the hour specified, said agencies may refrain from signing the contract.

Article 25.1. A legal entity or an individual who becomes the perpetual usufructuary of land owned by the State Treasury or by a gmina, or his legal successor, should manage that land by the procedure and following the timetable specified in the contract, should a timetable be specified there. If the management of the land consists in its buildup, the laying of foundations is considered to be the commencement and the erection of the closed building shell is considered to be the completion.

25.2. The timetable referred to in Paragraph 1 may be extended if the failure to adhere to it was caused by circumstances beyond the control of the purchaser of the land.

Article 26.1. Perpetual usufruct expires upon the expiration of the period of time specified in the contract or upon the revocation of the contract prior to the expiration of that period.

26.2. The district office of the general government administration with respect to land owned by the State Treasury and the gmina board with respect to gmina-owned land may issue a ruling revoking the contract and seizing the land pursuant to Article 240 of the Civil Code.

26.3. The revocation of the contract for the transfer of perpetual usufruct and the order to seize land may also be determined upon in the event that the buildings and facilities transferred for perpetual usufruct together with the land are not properly maintained.

26.4. The right to perpetual usufruct may be expropriated.

Article 27.1. Unless otherwise specified by the contract for perpetual usufruct, the real estate concerned is free of all encumbrances or liens. Furthermore, the contract may not eliminate any

easement needed to use the land to which the easement is linked.

27.2. Persons with limited property rights to the real estate concerned may, within a year reckoning from the date they are notified that the contract for transfer of perpetual usufruct has been concluded, submit to the local office of the general government administration with respect to land owned by the State Treasury, or to the gmina board with respect to gmina-owned land, claims for compensation pursuant to the guidelines governing the expropriation of real estate.

27.3. Compensation payable to two or more persons is, in the event of disagreement on the proposed disbursement procedure, deposited with a court of law with the object of dividing it between or among the eligible claimants.

27.4. The deletion from land registers of the liens and encumbrances referred to in Paragraph 1 takes place upon the request of the buyer as well as of the local office of the general government administration or the gmina board.

Article 28. The provisions of Articles 25 and 27 apply correspondingly to the land sold by the district office of the general government administration or by the gmina board.

Article 29. In the event of failure to implement the obligations referred to in Article 22, or failure to implement or extend the timetable referred to in Article 25, Paragraph 1, the district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, may require the owner to transfer the ownership of the acquired building lot to, correspondingly the State Treasury or the gmina, upon suitable compensation that may not, however, be higher than the compensation payable in the event of expropriation of that real estate.

Article 30. In the event of the lease or tenancy of land owned by the State Treasury or by a gmina, its present leasee or tenant has priority in buying that land, provided that he or she has held lease or tenancy to that land for a period of more than 10 years.

Article 31.1. If the administration by a state organizational unit or by a gmina of a built-up parcel of real estate that comprises a multifamily apartment building standing on land owned by the State Treasury or by a gmina, when some of the apartments have been sold, has not been dispensed with by the co-owners pursuant to the Civil Code, the share of the individual owners in the expenditures on maintenance and repair may not exceed the rental fee charged for the equivalents of their apartments, as determined according to the rate schedule specified by the Council of Ministers, without charging higher fees for the ownership of a dwelling area larger than the applicable norm.

31.2. In addition to the expenditures referred to in Paragraph 1, apartment owners pay the fees for the supply of cold and hot water, central heating, and the use of a collective television antenna.

31.3. The provisions of Paragraphs 1 and 2 apply to dwelling units irrespective of the date on which the sales contract is signed, and irrespective of the language of the notarized agreements on the share of owners in the cost of maintenance and repair.

31.4. The provisions of Paragraph 1 do not apply to premises other than residential. The share of the owners of nonresidential premises in the cost of maintenance and repair is defined in the agreement concluded among all such owners [in a building].

31.5. The Council of Ministers issues executive orders defining:

1) The detailed guidelines and procedure for the transfer of land for perpetual usufruct, the sale of real estate owned by the State Treasury or by a gmina, the method of payment of the sales price, the settlement of accounts associated with the revocation of a contract for perpetual usufruct and sale, and the share of individual owners of premises in the cost of maintenance and repair of a building, with allowance for the guidelines specified in Paragraph 1.

2) The specific obligations of state organizational units or gminas administering built-up land which is owned by the State Treasury or by a gmina, with regard to the administration of a building and its maintenance and repair, and the procedure for transferring the administration of a multifamily apartment building to the owners of apartments therein after administration by these units expires or is eliminated by the owners of apartments in the building.

31.6. The minister of justice in consultation with the minister of finance issues executive orders specifying lower fee rates for the notarial and judicial activities involved in the transfer of land for perpetual usufruct or the sale of real estate owned by the State Treasury or by a gmina.

Article 32. The sale of building lots on which stand residential homes and farm buildings, on private farms, as well as of lots designated for such buildup (cultivable land plots) is, if the sale includes land belonging to the farm, or if the sale takes place on behalf of the farm owner, governed by the regulations governing the sale of state real estate as regards the procedure, terms, and price.

Chapter IV. Administration of Real Estate Owned by the State Treasury or by a Gmina

Article 33.1. State and communal organizational units which lack legal entity status administer land assigned to them or acquired by them, together with the buildings and facilities permanently linked to that land, when such land is owned by, correspondingly, the State Treasury or by a gmina.

33.2. State organizational units which lack legal entity status are assigned to administer land owned by the State Treasury pursuant to a decision of the district office of the general government administration, or on the basis of a transfer contract signed between such units with the permission of that office, or on the basis of the contract referred to in Article 9, Paragraph 2. This provision applies correspondingly to communal [gmina] organizational units lacking legal entity status.

33.3. State and communal organizational units which lack legal entity status avail themselves of the real estate they administer in consonance with the requirements of proper management. To that extent, they may, following special regulations, modify the existing buildup and erect new structures.

Article 34. The ruling or contract referred to in Article 33 defines the location of the real estate, its surface area and boundaries, and the terms and duration of its administration, which may not be specified, or which may be specified for a period of not more than 10 years, however. The ruling specifies the manner in which real estate is to be utilized.

Article 35.1. The administration of real estate ceases upon the expiration of the period for which it was instituted, and in the event it is instituted for an unspecified period, it ceases upon the

deadline specified in the ruling on the expiration of administration, serving to terminate the activities of the administrator of the real estate concerned.

35.2. The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, may rule on the expiration of the administration instituted for an unspecified period. or prior to the expiration of the period for which it was instituted:

- 1) In the event it is found that the real estate entirely or partially does not require an administrator or is being utilized not in accord with its purpose.
- 2) If the manner in which the real estate is utilized affects the ambient environment adversely to an extent that threatens life, health, or property.
- 3) If the land use plan is altered so as to prevent further utilization of the real estate in its entirety or part in the traditional manner, and if the administrator does not consent to changing the manner in which the real estate is utilized.

35.3. The ruling to revoke administration by the organizational units of:

- 1) The Ministry of National Defense -- requires approval by the voivode in consultation with the minister of national defense or an authorized agency.
- 2) The Ministry of Internal Affairs -- requires approval by the voivode in consultation with the minister of internal affairs or an authorized agency.

Article 36. A state or communal organizational unit that lacks legal entity status and that administers real estate is obligated to submit to the district office of the general government administration or to the gmina board, as the case may be, a recommendation for the transfer thereto of the whole or part of the real estate which is no longer needed by the unit.

Article 37. The Council of Ministers issues an executive order defining the guidelines and procedure for assigning the administration of real estate owned by the State Treasury or by a gmina, to state or communal organizational units lacking legal entity status, as well as for the transfer of real estate between or among these units and for the related settlements of accounts.

Chapter V. Appraising the Value of the Real Estate Owned by the State Treasury or by Gminas and Determining the Fees for Perpetual Usufruct, Administration, Etc.

Article 38.1. Experts summoned and entered by the voivode on the voivodship list as well as other persons with qualifications for appraising the value of real estate appraise the value of undeveloped and developed land as well as of the buildings and other structures and premises located on that land.

38.2. The value of land is appraised on taking into consideration the current land prices, the outlays incurred, the purpose of the land according to the local land use plan, its location, and the extent to which it is developed, i.e., provided with utilities and utility mains and otherwise colonized.

38.3. The value of buildings and other facilities and premises is appraised as a function of the cost of their reproduction minus the degree of their depreciation.

38.4. The value of the buildings and other facilities designated for dismantling or liquidation is appraised according to the value of the materials remaining after the dismantling.

Article 39.1. The value of land, buildings, and other facilities and premises, is appraised at a level not lower than their value determined in accordance with Article 38.

39.2. The price of land, buildings, and other facilities and premises that are sold or transferred for perpetual usufruct by means of an auction is the price established during that auction.

39.3. Information on the prices referred to in Paragraph 1 is contained in the list referred to in Article 23. Paragraph 2.

Article 40.1. The amount of the annual fee for the perpetual usufruct from or administration of land zoned for housing, educational, or medical construction, as well as of land earmarked for construction of facilities relating to preventive health care, social services, and charitable organizations, and further of zoned residential land is 1 percent of the price established pursuant to Article 39.

40.2. The amount of the annual fee for the administration of land used for purposes of national defense and national security is 0.3 percent of the price established pursuant to Article 39. The Council of Ministers shall issue an executive order defining the kinds of land deemed necessary for purposes of national defense and national security.

40.3. The amount of the annual fee for the perpetual usufruct from or administration of any undeveloped or developed land not mentioned in Paragraph 1 is 3 percent of the price established pursuant to Article 39. This fee may be increased by a voivode's executive order with respect to land owned by the State Treasury, or by a gmina council's resolution with respect to gmina-owned land.

40.4. The following are reduced:

- 1) The sales price of facilities entered in the registry of architectural landmarks -- by 50 percent.
- 2) The fee for perpetual usufruct to the land enclosed within the boundaries specified in the landmark-classification ruling -- by 50 percent.

The district office of the general government administration with respect to real estate owned by the State Treasury, or the gmina board with respect to gmina-owned real estate, may reduce still further the price referred to in Point 1 or the fee referred to in Point 2, up to and inclusive of entirely dispensing with that price.

40.5. The Council of Ministers shall, upon consulting the appropriate Sejm committees, issue an executive order defining the guidelines and procedure for assessing fees for perpetual usufruct from and administration of land as well as the guidelines for fee reductions with respect to perpetual usufruct from land acquired or being acquired for the purpose of housing construction, as well as from land acquired or being acquired for religious purposes.

Article 41.1. Fees for perpetual usufruct and administration are assessed in the form of annual fees, with the proviso that the first annual fee may not be higher than 25 percent of the assessed value or lower than 15 percent thereof. Information on fees for perpetual usufruct is contained in

the list referred to in Article 23, Paragraph 1.

41.2. Pensioners and annuitants whose sole source of income is a retirement pension or an annuity are eligible for a 50 percent fee rebate if they are perpetual usufructuaries.

41.3. The Council of Ministers shall issue an executive order defining the guidelines and procedure for granting the rebate referred to in Paragraph 2 with regard to members of housing cooperatives.

Article 42.1. The value of land, buildings, and other facilities and premises, as well as the fees for land transferred for perpetual usufruct are specified in the contract referred to in Article 19, Paragraph 1.

42.2. The value of land, buildings, and other facilities and premises that are owned by the State Treasury or by a gmina, as well as the fees for administering said land, buildings, and other facilities and premises, are determined by the appropriate district offices of the general government administration, or by the appropriate gmina board, in the ruling on transfer for administration.

Article 43.1. The value of undeveloped and developed land, which is the basis for fee assessment, may be reappraised owing to a change in land prices over periods of not less than one year.

43.2. The value of land transferred for perpetual usufruct is reappraised by a declaration of the district office of the general government with regard to land owned by the State Treasury, or of the gmina board with regard to gmina-owned land.

43.3. The value of land transferred for administration is reappraised by a ruling of the district office of the general government administration with respect to land owned by the State Treasury, or the gmina board with respect to gmina-owned land.

Article 44.1. Land owners are obligated to bear part of the cost of the construction of gas, power, and other municipal utilities in proportion to the rise in the value of their real estate due to said construction (frontage fees).

44.2. The provisions of Paragraph 1 apply correspondingly to the perpetual usufructuaries who enjoy the usufruct of a land plot without being obligated to pay a fee therefor, or who made a lump-sum fee payment for the entire period of perpetual usufruct.

44.3. The value of voluntary services or voluntary financial or in-kind payments contributed to community projects for utility construction is credited to the fees referred to in Paragraph 1.

44.4. The Council of Ministers shall issue an executive order defining the guidelines for the assessment of individual contributions for the purposes referred to in Paragraph 1, the payment procedure, and the rules for granting rebates.

Article 45.1. If a land use plan or a contract or an official ruling entails the obligation of commencing or completing the buildup of a land parcel within a specified period of time, or if it entails the obligation of otherwise developing the land parcel, should said obligation be not fulfilled within that time limit, the district office of the general government administration with respect to land owned by the State Treasury, or the gmina board with respect to gmina-owned

land may assess additional annual fees irrespective of the annual fees ensuing from the other provisions of the present law and from the regulations governing the protection of agricultural and forest land. The laying of foundations is construed as the commencement of construction.

45.2. The Council of Ministers shall issue an executive order defining the guidelines and procedure for assessing the fees referred to in Paragraph 1.

Chapter 6. Expropriation of Real Estate

Article 46.1. The provisions of the present chapter apply in cases in which public welfare cannot be promoted without curtailing or revoking the right to the ownership of real estate on behalf of the State Treasury or of a gmina and the real estate cannot be contractually acquired.

46.2. Real estate may be expropriated on behalf of the State Treasury or of a gmina if this is indispensable for the following purposes:

- 1) The construction and maintenance of roads and public transportation facilities, structures and facilities needed to operate communications systems, environmental protection, premises for public offices, communal water intakes, liquid waste treatment, and the erection of flood levees.
- 2) The construction and maintenance of elementary schools, hospitals, welfare homes, sanitary facilities, and cemeteries.
- 3) The construction and maintenance of structures and facilities indispensable to national defense and to assuring public safety, inclusive of the construction and maintenance of penitentiaries and reform schools.
- 4) Organized multifamily housing construction.
- 5) Other evident public purposes.

46.3. The initiation of expropriation proceedings should be preceded by negotiations with the real estate owner with the object of concluding a contract for the purchase of the real estate.

Article 47.1. The expropriation of real estate consists in the revocation or curtailment by means of a legal ruling of the ownership or other property right to the real estate.

47.2. The entire real estate parcel or only a part thereof may be subject to expropriation.

47.3. In the event that public purposes require only a part of real estate parcel and the remainder of the parcel is not suitable for rational utilization in accord with its traditional purpose, its owner may demand that the entire parcel be subjected to expropriation proceedings.

47.4. Expropriated real estate may not be used for other purposes than those specified in the expropriation ruling, unless it cannot be restituted by the procedure defined in Article 69 owing to refusal of the previous owner or his legal successor to take it back.

Article 48.1. Expropriation, compensation, granting of replacement real estate, and restitution of real estate are ruled upon by the district office of the general government administration following a hearing.

48.2. Expropriation proceedings are not governed by the provisions of administrative settlement.

Article 49.1. Expropriation proceedings may be instituted ex officio or on the recommendation of the gmina board only if the real estate in question cannot be acquired by means of a contract.

49.2. The gmina board is obligated to append to its recommendation for expropriation of real estate a record of the negotiations conducted with its owner for the purpose of acquiring it by means of a contract.

49.3. Expropriation proceedings may be initiated following the ineffective expiration of the time limit for concluding the contract referred to in Paragraph 1, as specified by the district office of the general government administration in the notice it addresses to the owner or perpetual usufructuary of the real estate. Said time limit may not be shorter than three months.

Article 50.1. Real estate may be expropriated only on behalf of the State Treasury or a gmina.

50.2. Land owned by the State Treasury may not be expropriated.

Article 51. The expropriation recommendation should specify:

1) Real estate with reference to the pertinent entry in the land register or records, if the latter are available.

2) The purpose of the expropriation, with a rationale for the acquisition of the real estate for that purpose.

3) The surface area of the real estate concerned, or, if the expropriation is to apply to only part of that real estate, the surface area of both that part and the whole.

4) The manner in which the real estate has been utilized so far, and a description of its component parts.

5) Premises which should be provided to persons currently availing themselves of the buildings and premises earmarked for expropriation, and the manner in which these replacement premises shall be provided.

6) The identity of the owner, or of the possessor of the real estate if other than the owner.

7) A record of the negotiations held with the owner for the purpose of acquiring the real estate, as well as other circumstances rendering it impossible to conclude a purchase contract, inclusive of the possibilities for providing the replacement real estate referred to in Article 61.

51.2. The recommendation should come with the following attachments:

1) A ruling on the siting of the investment project.

2) A map of the expropriated area specifying the surface area and borders of the real estate or of the parts thereof included in that area; if the expropriation recommendation concerns more than 50 percent of the area of the real estate concerned as a whole, the map should show the remaining part of the real estate.

3) A certified copy of the entry in the land register attesting to the right to ownership of the real estate concerned, along with records of any liens on the real estate or, if the real estate is not entered in the land register, a certified copy or copies of documents attesting to the right of ownership of the real estate and the existing liens, or

4) A certification from the proper state notarial office to the effect that the real estate in question is not entered in any land register, along with an extract from land and building records identifying the possessor of the real estate.

Article 52.1. The office which rules on the expropriation files with the proper state notarial office an application for including in the land register an entry mentioning that expropriation proceedings were initiated, or, if there is no mention of the real estate in the land register, an application for including the notice of expropriation in the existing archival documents.

52.2. Changes in the legal status of the real estate concerned, made after the entry on the initiation of expropriation proceedings is made in the land register, or after a copy of the notice of expropriation is included in the pertinent archival documents, have no effect on the form and amount of compensation.

52.3. In the event that the expropriation recommendation is disallowed, the office which rules on the expropriation is obligated to delete from the land register or records the entry or notice on the initiation of expropriation proceedings.

Article 53.1. The expropriation ruling should specify in particular:

1) The object of expropriation and the property rights encumbering the expropriated real estate which remain in effect.

2) The location and area of the real estate and the name of its owner in accordance with the guidelines for making entries in the land register, along with information on the applicable land register, and in the event of the absence of mention of the real estate in the land register or in archival documents, the name of the existing possessor according to the actual status of possession.

3) The name of the recommending person and the purpose of the expropriation.

4) The amount of compensation.

5) The names and addresses of persons eligible for the compensation.

6) A detailed factual and legal rationale.

7) An instruction on means of appeal.

53.2. The basis for expropriating real estate that is not entered in a land register or in archival documents is constituted by land and building records. The compensation assessed for such real estate is deposited with a court of law.

53.3. The office which rules on expropriation may, with the consent of the existing owner of the real estate, postpone the assessment of compensation for three months from the date the expropriation ruling is issued, and thereupon to issue a separate ruling on compensation. In this

case, compensation is determined in accordance with the prices applying on the day when the compensation ruling is issued.

Article 54.1. In the event that the need arises to prevent any danger, loss, or inconvenience to owners or users of adjoining land due to the expropriation and novel use of the expropriated real estate, the district office of the general government administration specifies in its expropriation ruling the necessary easements and imposes the obligation of the construction and maintenance of suitable facilities by the new perpetual usufructuary, owner, administrator, or user.

54.2. Individuals who sustain losses on the adjoining land owing to the expropriation ruling are eligible for compensation.

Article 55.1. Real estate is expropriated in return for a compensation. The compensation is paid in a lump sum.

55.2. Compensation is paid within not more than 14 days from the date of the expropriation ruling, or from the date on which the ruling referred to in Article 53, Paragraph 3, becomes final.

55.3. The value of the compensation specified in the ruling may be reappraised in consonance with the prices prevailing on the day the compensation is paid.

55.4. The consequences of delays in the payment of compensation are governed by the corresponding provisions of the Civil Code.

Article 56.1. The amount of the compensation should correspond to the value of the expropriated real estate.

56.2. When determining the compensation for agricultural or forest land, allowance is made for its location, quality of soil or timber stand, the presence of equipment and facilities promoting agricultural production or silviculture, and land reclamation measures.

56.3. When determining compensation for land not mentioned in Paragraph 2, allowance is made for its location and degree of development.

56.4. As the need arises, compensation may be determined upon consulting experts or other persons referred to in Article 38, Paragraph 1.

Article 57. In the event that the right to perpetual usufruct is expropriated, the corresponding compensation is determined in the same way as for the ownership of land, with the proviso that the amount of the compensation should be tailored to the actual duration of the perpetual usufruct.

Article 58.1. Compensation for curtailment of the right of ownership should correspond to the percentile decrease in the value of the real estate -- a value that is assessed in consonance with the guidelines of Article 56.

58.2. If the curtailment of the right of ownership does not result in reducing the value of the real estate, but merely results in loss of proceeds therefrom, the compensation should not be more than tenfold the annual value of the lost proceeds.

58.4. Compensation for the revocation or curtailment of property rights other than the right of

ownership of the real estate may not exceed the amount of the compensation payable for the revocation of the right of ownership.

Article 59.1. Compensation for the planting, cultivation, and harvesting forfeited by the owner owing to expropriation should correspond to the value of the anticipated harvest according to the current market prices minus the potential expenditures of the owner on harvesting operations. The owner is also eligible for reimbursement for the expense of implementing agrotechnical operations.

59.2. Compensation for perennial cropland should cover the outlays linked to its location, the outlays on cultivation until the first harvest, and the value of the proceeds forfeited owing to the expropriation, as reckoned until the end of the entire fruit-bearing period. This compensation is reduced by the sum total of annual depreciation over the years of cultivation of the plantation from the first year of fruit-bearing until the day of expropriation.

59.3. Compensation for a forest stand is determined according to the value of timber or according to the expenses on afforestation and cultivation borne by the owner.

Article 60.1. Compensation for permanent structures and facilities linked to the land should correspond to the cost of reproducing them minus the extent of their depreciation on expropriation day.

60.2. The provisions of Paragraph 1 apply correspondingly to premises constituting a separate property.

60.3. The Council of Ministers may, in particularly warranted cases, issue executive orders establishing guidelines for determining compensation on more favorable terms than those specified in Paragraph 1.

Article 61.1. The owner of expropriated real estate should be, insofar as possible, granted on demand, by way of compensation, an appropriate replacement real estate.

61.2. The value of the replacement real estate should correspond to the value of the expropriated real estate. Any differences in value are equalized through payment of financial compensation.

61.3. The value of the replacement real estate is determined in accordance with the guidelines for determining compensation for expropriated real estate.

Article 62.1. If the expropriation concerns land under the buildings constituting a farmstead and if no replacement cannot be found for such land, and if the relocation of the farm's buildings and structures is necessary and economically warranted, at the owner's request the expenses of such relocation are defrayed from the State Budget or from the gmina budget depending on whose behalf the land is expropriated.

62.2. If the relocation of the buildings in their present form is not admissible or feasible owing to their condition or other considerations, then, on the owner's request, the expense of erecting new buildings is defrayed from the State Budget or from the gmina budget depending on whose behalf the land is expropriated. The provisions of Article 61, Paragraph 2, apply correspondingly.

Article 63.1. When determining the compensation, the liens with which the expropriated real

estate is encumbered by the State Treasury, the gmina, or the banks, are deducted from the value of the expropriated real estate.

63.2. Liens of such creditors as the State Treasury, the gmina, and the banks are amortized if they exceed the value of the expropriated real estate.

Article 64.1. If the expropriated real estate is encumbered by property rights of third parties as specified in the land register or archival documents, compensation may be paid to authorized persons upon their presentation of written consent to the compensation. In the absence of such consent, the amount of compensation due, or the part thereof needed to satisfy claims, should be deposited with the court of law proper for the location of the real estate, with the object of distributing that amount among the authorized recipients; the distribution follows the provisions governing the distribution of payments resulting from execution concerning real property.

64.2. The amount of compensation payable should likewise be deposited with a court of law in the event that the authorized recipient refuses to accept the compensation, or if the payment of the compensation to the authorized recipient is encountering obstacles.

Article 65.1. The transfer of the right to ownership of real estate to the State Treasury or to a gmina takes place on the day on which the expropriation ruling becomes final.

65.2. The execution of the expropriation ruling may not occur prior to the assignment of replacement real estate, granted pursuant to Article 61, Paragraph 1, to the expropriated owner. The transfer of the right to ownership of replacement real estate takes place on the day on which the ruling conferring the ownership of that estate becomes final.

65.3. Until it is utilized for the purposes for which it was acquired, the expropriated real estate should be, upon the request of its former owner, left in his possession on terms to be stipulated in a lease contract.

Article 66.1. The final expropriation ruling is the basis for making appropriate entries in the land register. To this end, the office issuing the ruling transmits a copy of its final ruling to the proper state notarial office.

66.2. Once the transfer of ownership of real estate is recorded in the land register, the property rights encumbering it are subject to annulment, with the exception of those which the expropriation ruling specifies as binding.

66.3. The duty of exempting replacement real estate from encumbrances rests on the district office of the general government administration.

Article 67. Upon initiating the expropriation proceedings but before issuing the expropriation ruling, the district office of the general government administration may grant permission for an immediate occupation of the real estate concerned if this is warranted by special considerations and if the delay would gravely injure public interest.

Article 68. If the expropriation ruling becomes final during the vegetative season and if not more than five months remain until harvest time, the real estate should be left in the hands of its heretofore owner with the object of enabling him to harvest crops.

Article 69.1. Expropriated real estate is entirely and partially subject to restitution to its former

owner or his legal successor upon request if it is no longer needed for the purposes defined in the expropriation ruling.

69.2. The ruling to return real estate to its former owner should specify settling the accounts between the State Treasury or a gmina and the person to whom the real estate is returned.

69.3. The Council of Ministers issues an executive order defining the guidelines and procedure for the settlement of accounts in the event of restitution of expropriated real estate.

69.4. The provisions of Paragraph 1 also apply to real estate transferred to the ownership of the State Treasury under the provisions of the Law dated 31 January 1961 on Rural Construction Areas (Dz.U., No. 27, Item No. 216, 1969; No. 49, Item No. 312, 1972; and No. 22, Item No. 99, 1985) and the Law dated 6 July 1972 on Areas under Single-Family Home Building and Land Plots and on the Subdivision of Real Estate in Cities and Settlements (Dz.U., No. 27, Item No. 192, 1972; No. 48, Item No. 282, 1973; and No. 22, Item No. 99, 1985) and to the real estate expropriated on behalf of state and cooperative farming enterprises, as well as to the land expropriated under separate regulations in connection with the needs of the Tatry National Park.

Article 70.1. The installation, pursuant to investment siting decisions, of drains, conduits, and facilities serving for the transmission of fluids, steam, gases, and electrical energy, as well as of communications and signaling equipment, and also of other underground or surface equipment needed to utilize these conduits and facilities, requires a permit from the district office of the general government administration. Before the permit can be issued, negotiations should be held with the owner of the real estate in question in order to obtain his consent to the execution of the above work.

70.2. The real estate owner is obligated to provide persons and organizations obligated to perform the activities relating to the maintenance and upkeep of the conduits and facilities referred to in Paragraph 1 with access to the real estate in question.

70.3. If the installation of conduits and facilities makes it impossible for the owner of the real estate to continue to derive proceeds from his property in the traditional manner, the real estate is subject to expropriation under the guidelines and by the procedure specified in the present law.

Article 71.1. The district office of the general government administration may permit a state or a communal organizational unit to temporarily occupy real estate with the object of extracting therefrom, in return for financial compensation, the materials (e.g., stones, gravel, and sand) needed to build and maintain highways and waterways as well as for national defense.

71.2. The permit referred to in Paragraph 1 should define the scope and terms of the utilization of the right granted.

71.3. If the activities referred to in Paragraph 1 result in devastating the real estate concerned, it is subject to expropriation on the request of the person whose real estate was temporarily occupied.

Article 72. In the event of a force majeure or an urgent need to avert substantial damage, a voivode may permit a temporary occupation of real estate for a period of not more than six months.

Article 73. The permits referred to in Article 70, Paragraph 1, Article 71, Paragraph 1, and

Article 72 may be granted only if the real estate owner does not give his consent to the activities mentioned in these provisions.

Article 74.1. The real estate owner is entitled to receive, from the organizational unit temporarily occupying the real estate, compensation for any losses resulting from that occupation and from the activities referred to in Articles 67, 70, Paragraph 1, Article 71, Paragraph 1, and Article 72.

74.2. The amount of the compensation is, in the event of the absence of an understanding between the parties, determined by the district office of the general government administration upon following the guidelines applying to the expropriation of real estate.

74.3. Compensation for losses relating to planting, cultivation, and harvest should be determined and paid within two months from the date on which losses were incurred, while compensation for other losses should be paid within three months from the date the occupation of real estate is discontinued. If the amount of compensation is determined in the form of a ruling, the time limit for paying the compensation begins with the day on which that ruling becomes final.

Article 75. The provisions of Articles 70-74 apply correspondingly to perpetual usufruct from and the administration and use of real estate.

Chapter 7. The Right of Preemption

Article 76.1. The gmina board has the right of preemption in the event of sale of real estate previously acquired from the State Treasury or from a gmina or transferred for perpetual usufruct, should said real estate not be built up under a buildup permit.

76.2. The right of preemption does not apply if the sale is consummated on behalf of persons authorized to be the legal successors of the person making the sale.

76.3. In real estate transactions between or among legal entities of the same church or of the same religious association, the gmina's right of preemption does not apply.

Article 77. The owner of the real estate referred to in Article 76 may sell it to a third party only on condition that the gmina board does not exercise its right of preemption.

Article 78.1. The right of preemption may be exercised within three months from the date the gmina board receives notice of the terms of the sales contract.

78.2. The duty of notifying the gmina board belongs to the state notarial office at which the sale contract is drafted.

78.3. A declaration of the gmina board on [its intent to] exercise of its right of preemption should be presented in the form of a notarial act. Once this declaration is received, the real estate becomes the property of the gmina.

Article 79. The right of preemption is exercised in return for a price agreed upon between the parties in the sales contract.

Chapter 8. Interim and Final Provisions

Article 80.1. State land used by state organizational units on the effective date of the present law

becomes administered by these units.

80.2. For possessors of land owned by the State Treasury or by a gmina, who on 1 August 1988 cannot show that they have land-transfer documents issued in the legally prescribed form, and who fail to apply by 31 December 1988 for a settlement of their legal status, the land in their possession shall be transferred to them for administration, use, or perpetual usufruct. The transfer takes place pursuant to a ruling of the district office of the general government administration with regard to land owned by the State Treasury, or of the gmina boards with regard to gmina-owned land. Rulings of this kind are issued without requiring prior applications for land transfer, within the bounds defined by the boundary and fixed lines in local land use plans or in implementation plans.

80.3. A ruling issued on the matter referred to in Paragraph 2 is the basis for making an entry in a land register.

Article 81.1. Persons who, owing to the outbreak of the war in 1939, left immovable property on land not included in the present territory of the Polish state, and who, by virtue of the international agreements concluded by the Polish state, are to be paid the equivalent value of the property left abroad, are credited with the value of that property when charged fees for perpetual usufruct from land owned by the State Treasury, and the prices they have to pay for Treasury-owned buildings lots and the houses, buildings, or premises located on these lots, as well as for Treasury-owned agricultural real property, are correspondingly reduced.

81.2. In the event of the crediting of the immovable property referred to in Paragraph 1, the provisions of Paragraphs 25 and 26 do not apply.

81.3. The crediting of the immovable property referred to in Paragraph 1 is done on behalf of the owner of that property or by an authorized heir whom he designates.

81.4. In the event of the demise of the owner of immovable property left abroad, the rights ensuing from Paragraph 1 belong jointly to all of his heirs or to one heir named by qualified persons.

81.5. The crediting of the value of immovable property referred to in Paragraph 1 takes place upon the application of a qualified person, submitted not later than by 31 December 1992. In the event of failure to submit the application by that deadline, the rights ensuing from Paragraph 1 expire.

81.6. The Council of Ministers defines by means of an executive order the manner in which the value of the immovable property left in territory which is not part of the present territory of the Polish State is credited to the fees for perpetual usufruct or to the purchase prices of Treasury-owned building lots and the buildings, houses, or premises standing thereon, as well as to the purchase prices of Treasury-owned agricultural real estate. Said order also shall define the procedure for assessing the value of that abandoned property.

Article 82.1. On the effective date of the present law will expire the rights to compensation for expropriated land, buildings, and other component parts of real estate, envisaged in Article 7, Paragraphs 4 and 5, and Article 8, of the Decree dated 26 October 1945 on the Ownership and Use of Land Within the Boundaries of the Capital City of Warsaw.

82.2. Previous owners of lots that are built up with single-family homes, small apartment

buildings, and buildings with not more than 20 rooms, as well as of buildings whose dwellings had been individually owned prior to 21 November 1945 and buildings which had prior to that date been owned by housing cooperatives, or their legal successors, may submit by 31 December 1988 applications for perpetual usufruct from such land. Rulings on granting the right to perpetual usufruct from the abovementioned lots as well as on restoring the buildings to their owners, are made by the district office of the general government administration with regard to land owned by the State Treasury and by the gmina board with regard to gmina-owned land.

82.3. Only one parcel of real estate may be restored to the ownership of any private individual.

82.4. The provisions of Paragraph 2 apply correspondingly to places of workshop, monasteries; convents, and other ecclesiastical real estate used in its entirety by former owners or their legal successors. If such real estate is used only partially, the provisions of Paragraph 2 can apply only to that partial extent.

82.5. The provisions of Paragraph 5 do not apply to land transferred for perpetual usufruct to persons other than its former owners, and to land transferred for use.

Article 83.1. The provisions of the present law concerning compensation for expropriated property apply correspondingly to compensation for farms located on the land which, pursuant to the Decree dated 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw (Dz.U., No. 50, Item zno. 279) became owned by the state, if its previous owners or their legal successors managing the farms had been deprived of actual possession of these farms after 5 April 1958.

83.2. The provisions of the present law concerning compensation for expropriated property apply correspondingly to any single-family homes that became owned by the state after 5 April 1958, as well as to building lots that, prior to the effective date of the decree referred to in Paragraph 1, could be used for single-family home building, if their owners or legal successors of these owners had been deprived of actual possession of that building lot after 5 April 1958. As part of the compensation granted, the previous owner or his legal successors may be assigned for perpetual usufruct a building lot suitable for erecting a single-family home.

Article 84.1. Land owned by the State Treasury which is located in municipal areas but earmarked in land use plans for agricultural use, as well as the Treasury-owned land which has not been transferred for administration, use, or perpetual usufruct, becomes included in the State Land Fund.

84.2. Fees for the use of and perpetual usufruct from the land referred to in Paragraph 1 constitute the revenues of the State Land Fund as of the effective date of the present law.

Article 85.1. Building lots owned by private individuals and established as a result of a subdivision executed in consonance with the regulations and with the local land use plan, should be built up within the time limit specified in the ruling on the subdivision.

85.2. The time limit referred to in Paragraph 1 may be extended. In the event of failure to adhere to the time-table for commencing and completing the construction, Articles 29 and 45 apply.

Article 86. The guidelines and procedure for the expropriation or takeover of real estate defined in special regulations remain binding.

Article 87.1. Proceedings initiated but not completed by a final ruling on compensation prior to the effective date of the present law are continued on the basis of its provisions upon utilizing the evidence gathered.

87.2. Final rulings on transfer of land for perpetual usufruct or on identifying the prospective buyer of a building lot in a rural area, issued prior to the effective date of the present law, constitute the basis for concluding a corresponding contract for perpetual usufruct or sale of the building lot.

Article 88.1. Real estate which became owned by the state under Article 2 of the Law dated 4 July 1947 on Amending the Decree dated 15 November 1936 of the President of the Republic on the Relationship Between the State and the Evangelical-Augsburg Church in the Polish Republic (Dz.U., No. 52, Item No. 272), may be subdivided to isolate discrete facilities or parts thereof with the object of transferring them to the ownership of religious associations, with priority to be given to the needs of the Evangelical [Protestant] population.

88.2. Rulings on isolating the facilities referred to in Paragraph 1 or their parts with the object of transferring them to religious associations are issued by the voivode in consultation with the minister-chief of the Office of the Council of Ministers.

88.3. The provisions of Paragraph 1 apply if the application for the transfer of the facility or of a part thereof is submitted to the proper local office of the state administration by 31 December 1988.

88.4. Perpetual usufruct from land transferred to religious associations is exempt from fees.

Article 89. The following are hereby declared null and void:

1) The Decree dated 8 March 1946 on Abandoned and Post-German Property (Dz.U., No. 13, Item No. 87, and No. 72, Item No. 395, 1946; No. 19, Item No. 77, and No. 66, Item No. 402, 1947; No. 57, Item No. 454, 1948; and No. 13, Item No. 95, 1969).

2) The Decree dated 21 September 1950 on the Demarcation of Real Estate Owned by the State Treasury or Real Estate Acquired With the Object of Fulfilling National Economic Plans (Dz.U., No. 44, Item No. 398).

3) The Law dated 12 March 1958 on the Guidelines and Procedure for the Expropriation of Real Estate (Dz.U., No. 10, Item No. 64, 1974; and No. 11, Item No. 79, 1982).

4) The Law dated 31 January 1961 on Rural Construction Sites (Dz.U., No. 27, Item No. 216, 1969; and No. 49, Item No. 312, 1972);

5) The Law dated 14 July 1961 on Land Management in Cities and Housing Projects (Dz.U., No. 22, Item No. 159, 1969; No. 27, Item No. 193, 1972; and No. 14, Item No. 84, 1974).

6) The Law dated 6 July 1972 on Areas for Single-Family Home Building and Land Plots and on the Subdivision of Real Estate in Cities and Housing Projects (Dz.U., No. 27, Item No. 192, 1972; and No. 48, Item No. 282).

LANGUAGE: ENGLISH

COUNTRY: Poland

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